



HOUSE OF LORDS

The Select Committee on the European Union

Sub-Committee C (External Affairs)

Inquiry on

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

Evidence Session No. 2

Heard in Public

Questions 9 - 22

THURSDAY 31 OCTOBER 2013

10.30 am

Witnesses: Professor Jim Rollo and Professor Simon Evenett

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.
2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.
3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 7 days of receipt.

Members present

Lord Tugendhat (Chairman)
Baroness Bonham-Carter of Yarnbury
Baroness Coussins
Lord Foulkes of Cumnock
Baroness Henig
Lord Jopling
Lord Lamont of Lerwick
Lord Maclennan of Rogart
Lord Radice
Earl of Sandwich
Lord Trimble
Baroness Young of Hornsey

Examination of Witnesses

Professor Jim Rollo, University of Sussex, and **Professor Simon Evenett**, University of St Gallen

Q9 The Chairman: Welcome, Professor Rollo—it is a long time since we have sat across the table from each other—and Professor Evenett. I do not think you and I have sat across the table from each other before. As you know, this is part of our formal inquiry into the Transatlantic Trade and Investment Partnership. It is on the record. We are very grateful to you for coming to give us the benefit of your wisdom and experience. We have a number of questions, but if you wish to make an opening statement, please do. If not, we can crack straight on.

Professor Rollo: I would like to say two very brief things in introduction in the sense of what I bring to this issue. The most current stuff is work I have done for the Department for International Development on the potential impact of TTIP on low income developing countries, a particular group but nonetheless a fairly large sample.

The second thing is that I worked on this topic in the 1990s when the same set of agendas was around and some of the same political context, so I perhaps have some thoughts on what the difference is now. Those are the two things I would bring to the party.

The Chairman: We interviewed Lord Brittan earlier. He reflected back, and I think it is quite useful.

Professor Evenett: Perhaps in the same spirit, there are two things I bring to this. First, recently I worked with a group of researchers in different sectors looking at the potential for further regulatory co-operation. We went sector by sector through those issues, which is of course relevant for this discussion. Secondly, the first eight years of my career was spent watching trade policy very closely in Washington DC, and I can bring a transatlantic perspective to that.

The Chairman: I should say one other thing. By all means answer whichever questions you wish but do not feel obliged to have both people answer all questions if you agree with what the other person has said. You do not have to give a full account. I will kick off. How strong is the current level of regulatory co-operation between the EU and the US, and how likely do you feel it is that TTIP will make substantial progress in that regard? If it does, in which sectors would you favour an approach of mutual recognition of regulation or harmonisation and why? That is an all-embracing question.

Professor Evenett: I have found that the level of regulatory co-operation varies considerably across sectors and, indeed, the regulators will always tell you that they co-operate. What they actually do is much less than that. It always sounds much more than it is. They are quite happy to talk about best practices and about what they do, but they are rarely very happy to come up with common rules or procedures to facilitate co-operation during enforcement and the like. Sector by sector, we find in many cases that the level of co-operation, in any meaningful sense, is close to zero, and has remained that way. I think we should remember

that we created independent regulators to take politics out of regulation, and as a result we have created a whole group of non-cosmopolitan regulators who have no intention of co-operating with others. They see their role as regulating within their own jurisdiction. Finally, they are also exceptionally suspicious of trade and policy types and trade negotiators who they think would sell their mothers for a good deal. As a result, the relationships typically between these independent regulators and the trade ministries are often very limited.

Given that background, we should not be surprised to see that the talk about regulatory co-operation initiatives is beginning to fizzle out in the context of TTIP. The Americans have not even decided which sectors they are going to put on the table for potential future regulatory co-operation, and both sides have made demands of the other side that are implausible, given their constitutional legal structures. In that sense, I am afraid, it is a bit like a Russian doll: this part of the agenda is getting smaller and smaller as the months go on.

The next milestone will be in December, when the Americans are supposed to tell us which sectors they are going to facilitate co-operation in and discuss. I expect that a lot of smoke will be emitted at that time, that we will learn very little and that we will see that there is not much to this.

The Chairman: Lord Lamont would like to ask you a question before I turn to Professor Rollo.

Q10 Lord Lamont of Lerwick: That is a very interesting and rather shocking answer, but looking at this not just as the EU/US, am I completely wrong in thinking that the WTO tries to create some sort of forum for co-operation between regulators, and that the theory was that regulation should be discussed in the WTO forum?

Professor Evenett: Again, the WTO has agreements in certain areas where co-operation is encouraged, but one does not see the WTO used as a place where regulators come together in order to craft new rules. In many of the cases where rules have been proposed

at the WTO for regulations, such as in the area of competition law, the independent regulators have deliberately sought to circumvent the WTO and create their own independent international initiative, which they control. I would argue that the WTO's contribution to serious regulatory convergence and harmonisation has been quite limited.

The Chairman: I think Lord Maclennan wants to ask a question and then I will ask Professor Rollo.

Lord Maclennan of Rogart: Is the opposition to regulatory co-operation entirely controllable by the regulatory agencies or could there be political pressure upon them to come up with a different approach?

Professor Evenett: Changing the status quo would require very senior political leaders to signal that they would be prepared to change the law and in some cases to change personnel at these key regulators if they were not to co-operate. That is quite hard to pull off, certainly in the United States context where the Administration does not write laws—Congress does—and each of these congressional committees that oversees a regulator sees it as their regulator, and so what one gets from those regulators is often what the congressional committee in charge of them wants. So it would be rather a tall order to be able to pull that off. There is much talk of a need for very senior political commitment to various aspects of this negotiation, but when it comes down to the regulatory side I think you will see that it is missing.

Professor Rollo: I want to say two things. One is that what Simon has said certainly chimes with the experience that we have had subsequent to the mutual recognition agreements that were made in the 1990s and so on. Those have not worked well in the transatlantic context and have not expanded fast, as I think people hoped in the 1990s. To that extent, I certainly agree very much with what has just been said. I think the political commitment issue is the key one, and that is going to be hard to manage in Brussels let alone in Washington.

Particularly when you get towards issues such as food safety and so on, which are extremely neuralgic on both sides of the Atlantic for almost directly opposite reasons, it is going to be very hard.

Q11 Lord Trimble: I would like to look at investment for a moment. If there is a TTIP, is it likely to increase foreign direct investment? Is it likely to change existing patterns of foreign direct investment? What would be the impact or the character of a strong investment chapter? Is it likely to have any impact on the behaviour of multinationals, for example?

Professor Rollo: I do not think either of us wants to answer that question particularly. It is an extraordinarily complicated area and the data on what the regulatory issues are that change the atmosphere for investors are very poor. You can make very broad statements. If we look at what happened around the formation of the single market, there was a big increase in direct investment. I think that was more about the questions of predictability of the regulatory regimes, and the trade regime for that matter. But those were fixed, so firms could plan better and make perhaps more rational decisions about where they are going to locate. From that background, the past seems to suggest that if there was a significant transatlantic agreement that had real content in terms of liberalising both trade and regulatory issues, you would reasonably expect firms to react to that. But I am afraid I cannot be more precise than that.

There is some stuff around on the sorts of barriers there are to direct investment, and even within the EU there are very different regimes in place. I think it is right to say that the OECD data, such as they are, tend to show the UK as being pretty liberal on this front and others being less so, including some aspects of the US regimes, civil aviation being an obvious example.

Professor Evenett: We do know that in the automobile and car sectors there have been signals from European manufacturers that they would expand their investments in the United States should this deal go through, with the intention of exporting back to Europe from the lower-cost southern US states. In that sector, which is of course an important sector, there have been clear indications from the corporate sector about what they wish to do.

I would add one other point, which is that no one wants to make an investment expecting eventually to undertake legal action in the court, so in that sense I expect that the investment decisions will be driven by market, size and regulatory framework considerations. Therefore that tends to put the investor-state dispute settlement clauses in a slightly different light. They are perhaps not the drivers of investment that one might think.

My final observation is that we run into an interesting bureaucratic imperative here. As I am sure you are aware, the latest treaty in the EU gives the Commission the competence to negotiate in the area of investment and, I think, the Commission wants to play with its new toy, so I fully expect that it will try, if only to establish the precedent elsewhere. Let us not forget that it is trying to negotiate such a deal with China. I think it would be a little loath to leave a US deal without serious investment provisions.

Lord Trimble: If they were going to play with their new toy, what would they do?

Professor Evenett: I think they would want to establish the principle that from now on these trade and investment agreements would have substantial investment provisions in them, if only to establish their primacy in this area. In previous times, when we have given greater competences to Brussels in the area of trade, that is exactly what we have seen. I think you would see it again in the area of investment.

Lord Trimble: What would the impact be of the things they would want to do?

Professor Evenett: That is unclear. Indeed, as Professor Rollo has said, this is not an area where we have very strong evidence of the impact of investment provisions, per se. If you were to talk about effects, there is not much to go on.

Lord Radice: I was going to ask an idiot question. What would a strong investment chapter look like? What does it mean?

Professor Evenett: There would be several aspects to it. First, there are provisions relating to the openness of a foreign jurisdiction to investments: the so-called pre-establishment provisions, allowing for investments in certain sectors of the economy, for example. Then there would be provisions concerning the treatment of investors once they have invested, and that is where the investor-state dispute settlement comes in. Those provisions apply then. Normally those chapters have those two features in them and they are the key aspects.

Q12 Lord Jopling: Let us turn to how the negotiation might deal with the problem of getting better access to US government procurement programmes. We have been told by our Government that there is currently a standoff over that situation but ultimately with state-level procurement. How will that roll out, and do you see any prospect of the US Administration tackling the problem of opening up state procurement as well? Do you think it has the appetite to take the States on, and if it did, what are the prospects of success?

Professor Evenett: Let me start by saying that public procurement negotiations are typically a straight negotiation of reciprocal access to each other's markets, so if Europe wants to get a lot it is going to have to give a lot. That is how that negotiation will unfold. You rightly note that there are levels of government and each level spends money. In the United States case, the states would have to be encouraged to be part of this deal, in which case we would have to ask what is in it for them on a state by state procurement basis. That would be exceptionally difficult to pull off. The previous experience we had at the WTO with the

government procurement agreement, when it was negotiated in the Uruguay round, suggested that only a few US states were prepared to sign up to these obligations. So we would have to make it very attractive for them as well. It is not just a matter of negotiating with Washington but perhaps with the states with the biggest procurement markets that Europe is interested in. It would have to be good for each one of those decision-makers and there would be very little leverage that Washington could exercise over those states, such is their constitutional structure on this matter. That would be quite difficult. That ultimately means that the negotiation will come down to access to each other's central government contracts. Then there is the question of the appetite there for that.

Lord Jopling: Are there any other carrots?

Professor Evenett: Probably not. I think this negotiation will be seen very much as a balanced one within procurement. In principle one could say to the states, "There is so much else you are going to get from this particular agreement", but as our embassy in Washington has pointed out in a report, which they circulated detailing the state by state benefits of the TTIP, only 10 US states gain substantially from this negotiation. So unless they are the ones whose state procurement purchases we want to seek access to, we might not have much leverage.

Lord Maclennan of Rogart: Would there be any possibility of bringing into these negotiations requirements about transparency of costs, which might assist mutual procurement or enable both the EU and the states in the United States to recognise and have made public what the savings are?

Professor Evenett: I hope you are right. I hope the people would be interested in value for money. Indeed, one can understand that as a compelling argument to be made. There is also another argument that we run up against, which is, "Our dollars should be used for our firms to create jobs in our state". That reality might be a little hard to overcome. I would

firmly support anything to increase transparency of these in this area, because we found shocking examples of overpricing of government contracts on both sides of the Atlantic when that has happened.

Professor Rollo: I would add only one thing. Professor Evenett talked about central government to central government, but the EU does not really have the equivalent of the Federal Government in the US. Some recent work on measures of how much public demand is met from imports suggests that is a very variable performance right across the EU. Based on those data, it is arguable that the EU is not quite as liberal as it thinks it is on public procurement, because it is partly run through the state aids end of the story. The other end is open tendering and so on. How it is implemented on the ground matters quite a lot in all this, and whatever we do in these agreements it will be a matter of opening up these issues and hoping that behaviour will change over time.

I think Simon is right: the Union has to think about which states it would really want to do a deal with, and whether they are open to it. In some sense, they may have to have a separate approach to them. I do not quite know how that works with the constitutional norms involved in these sorts of negotiations, but some of the states are going to have to be in the room at some point.

The Chairman: Yes. There is something essentially unreciprocal about 28 central Governments on one side and one central Government on the other side.

Q13 Baroness Young of Hornsey: It has been suggested that there will be a convergence to lower standards in both the environment and labour market, and that seems to be based on an assumption that the US has lower standards in those areas than the EU. But we also heard last week that in some areas of the environment and labour, US standards are higher. Whatever the case is, how do you think convergence will go? Will it go up? Will

it go down? Will there be some effective compromises? How will that work in those particular areas?

Professor Rollo: You are quite right: you cannot have a single categorisation of one side having a higher quality regulation than the other. Again, for example, there are quite a lot of environmental regulations. It happens at the state level in the US, so again you have to aim for that. It will be a messy compromise. It is very hard to understand what people want to do. When we did our work on what the impact might be for developing countries, we were basing ourselves on the high-level working group report, because none of the negotiating agendas were out or public. If you read that report on the regulatory side, it is very full of aspiration but it is not very full of concrete. My guess is that, like the way we did it in the EU, it will take time. Doors will be opened a bit and then a bit further and harmonisation will arrive. For example, there are some signs that the US is warming to aspects of the REACH directive, which they complained very bitterly about when the EU was both drafting and legislating it, because some of the issues in it are issues that they now feel they need to deal with with their own industry.

These are quite open areas and I do not think there will be very formal agreements at this point. There will be a lot more on the co-operation side, which sounds weak but the door needs to be opened somehow on some of these issues.

The Chairman: As a general principle, would it not be true to say that each side thinks that the other side's standards are lower and that that underlies the way they approach these matters?

Professor Rollo: I think that feeds back to the original point Simon was making about regulators. The regulators have their view. Most regulation is put there for some reason of public policy, and that justification is extremely important to the regulator because that is how they judge what the right behaviour is in particular circumstances. Even though they

may be aiming in some broad sense for very similar outcomes, the local legal and constitutional situation determines how they act in certain circumstances. That means that they see the other side doing things that they would think were perhaps close to illegal in this. So those issues are ones that are quite hard to harmonise in any strong way, certainly initially. As we say, again, within the EU we have the single market. It goes way beyond anything that has been conceived of in this context, although there are hints about the same sorts of arguments. We do not have anything like complete harmonisation in a lot of these areas. On environment we have directives so that there can be locally higher standards than those implied in other directives, and so on. There are all sorts of rules and governance structures that will have to be brought together.

Baroness Young of Hornsey: Professor Evenett, did you want to say something?

Professor Evenett: I was just going to answer your point. I think that people who are very concerned about the race to the bottom and the falling standards have very effectively organised themselves and their position. I think that will act as a break on widespread deregulation, and together with the inertia that Professor Rollo talked about with respect to regulatory practices, will ensure that this negotiation will not lead to the gutting of major regulations. I would not worry about.

Q14 Lord Lamont of Lerwick: I will, if I may, generalise my question rather than as it is put here. What do you think of the prospects for the financial sector? What are the upsides there?

Professor Evenett: In the preparation that I did for this meeting, it has become very clear that on the US side the key regulators are extremely reluctant about, if not outright opposed to, the inclusion of the financial sector in this negotiation. In fact the US trade representative refers to co-operation in this area going on in parallel with TTIP, not as part of TTIP. The opposition there comes from the key regulators: the Securities and Exchange

Commission, as well as the US Treasury. Unless there is a strong presidential intervention I think they will prevail over the Office of the United States Trade Representative, in which case the financial sector part of this particular package is likely to be very thin.

Lord Lamont of Lerwick: Do you agree with that?

Professor Rollo: I have nothing to add to that. It seems a pretty good summary.

Lord Lamont of Lerwick: The Canadian agreement provides some precedent to this, does it not? What areas do you think could have gained?

Professor Evenett: From what I have read, in the area of pharmaceuticals, food and drug regulations—

Lord Lamont of Lerwick: Sorry, I meant in the financial.

Professor Evenett: In the financial sector, sorry. Could have gained?

Lord Lamont of Lerwick: Yes. If you were able to influence the American regulators, where would you say you would like them to think again?

Professor Evenett: I think it is all in the implementation of Dodd-Frank, which is where you would want the Americans to think again, because this is a colossal piece of legislation for transforming the regulation of the financial sector. The framework was put in place in the legislation, yet so much of the details were deliberately left for the post-legislative phase, and that is where all the action is taking place. If I were to try to influence the process that is what I would want to influence. In my judgment, the regulatory agencies over there are not going to let us anywhere near that.

The Chairman: I think that is the end of the financial sector, is it not? Can I take a question out of order for a moment? You were about to answer a different question. The question you were about to answer appears on our list, which is: what are the most important benefits and costs associated with TTIP for the following three sectors: financial services, which I think you have dealt with, automotive, and UK agriculture, food and drink. I

think that follows on from Lord Lamont's question. You were just about to answer it before you were asked it, as it were.

Professor Evenett: Sorry for jumping the gun. From the study which BIS commissioned, it seems that the UK automobile sector will see quite a nice increase in output and in exports. So there appears to be potential there. In the area of food and beverages, we also see estimated gains, which are positive. Perhaps it is the second biggest sector in terms of gains. So at least in terms of empirical studies, there is some hope for benefits. In the food and beverages sector, as I was about to say, it appears that the US regulators are open to some type of collaboration to help streamline the regulatory processes. Then again, that is very much driven by the Food and Drug Administration, and if there is a change in its leadership we may get a different position from the Americans.

Professor Rollo: I have two general points to make. Automobiles is an area where there is liable to significant impact, simply because even though we say that on average the tariffs in this relationship are small, there are tariff peaks around, and in automobiles there are quite a few tariffs around 10%. That is a non-trivial number. I think we would expect to see impacts from that point on both sides because the EU tariffs on automobiles are also in that range.

Lord Lamont of Lerwick: What about the exact figure? It is about 10%, is it?

Professor Rollo: It is about 10%. It varies very much by line and it varies according to whether it is automobile parts or completed vehicles. That is a set of issues.

The agricultural end of food production is quite open. Again, there are a lot of remaining barriers to trade on both sides of a fairly traditional sort. We in no sense liberalised agriculture in the Uruguay round and tariffs remain extremely high in that area. Negotiating them in any direction that looks like down is going to run into a lot of opposition on both sides of the Atlantic. Again, the food safety issues are pretty major in this. The American farmers' organisations seem to think that the precautionary principle is a personal plot

against them. That is one of the problems with regulation more generally: what to one side looks like protectionism to the other side looks like good public policy. Those different flavours to it determine just what the lobbying will go for. It is possible that there could be big benefits in the food and agriculture side, but there will be a lot of opposition to individual bits of it. As always with trade policy you are down in deep detail, at 10, 12-digit product levels, which means at a level of perhaps 20,000 products in trade. So you are looking at very individual issues. It matters a lot to the people who are badly affected.

The Chairman: Lord Jopling has a supplementary question, and I will ask a supplementary as well.

Q15 Lord Jopling: The answer to the question you put is that the attitude of the Europeans is protectionist. There is no argument about it. But that is not the question I want to ask. I get the feeling that some of these statistics over the benefit to the European Union may be a bit dog-eared. Have you considered the impact of energy inputs into industry on both sides of the Atlantic and the US, with the extraordinary reduction in energy costs from fracking and the prospect here in the UK? We have just been told in the last two weeks that energy prices could double over the next few years. Are those two trends, which go in opposite directions, likely to screw up the figures of the advantages to the European sector in this negotiation?

Professor Evenett: There is something to what you say. Indeed, it was implied a little by my earlier answer concerning the automobile sector. One of the reasons why the automobile sector is so keen on investing in the United States after this deal is done is precisely because they expect energy costs to be much lower. On a separate track from this particular deal, there is going to be the question of energy prices and their evolution over time. As you say, they are likely to come down substantially, certainly on that side of the Atlantic. The impact of that price reduction may well create far greater gains and changes in trade flows than this

agreement ever will. So that might be the first order issue: the price of that energy might be a far bigger issue than TTIP will be.

Professor Rollo: The bottom line is that this will happen anyway. This is not connected to TTIP in any sense. Other structural changes in the world economy, as well those changes, will all have their impact on this against that background. I am not a modeller so I am not going to try to go at it that way. To that extent, in the policy experiments that have been done on this, these issues are there in the background, but they are not being explicitly modelled.

The Chairman: My question falls now. Lady Coussins has two rather related questions.

Q16 Baroness Coussins: The first question is to do with the investor-state dispute mechanism. In the submissions that we have received from trade union and consumer organisations, the view has been expressed quite strongly that if this deal happens it should not need to include a dispute mechanism like this, as previous deals have, because we are talking this time about places where there are well established, sophisticated legal systems. Their concern appears to be that an additional layer for legal dispute could put an unacceptable amount of power in corporate hands to challenge public policy. I wondered what you think of that position and whether it is conceivable that a TTIP could happen without a dispute mechanism, and that any issues that needed to be resolved could be resolved through existing legal systems, not to mention what the WTO might have to offer in terms of resolution.

The Chairman: Which of you would like to lead?

Professor Rollo: Let me say something that is not a very detailed response to what you are saying. I think there is a set of issues around dispute settlement that goes wider than just the context of direct investment, and it has often been a major issue in big preferential trading agreements about where the disputes will be settled. One of the other problems that we

have is that these preferential arrangements have inevitable impacts on the WTO and its role and standing. If the WTO could come in as the dispute settlement mechanism for these agreements, that would be one way of trying to deal with part of the drifting that is going on in the multilateral system, at least in my judgment at this point. That is not an answer to the very specific question, because frankly I have no competence on that.

Professor Evenett: Perhaps I can say two things. First, these investor-state dispute procedures, which of course empower an investor—this is what makes them different from the WTO, which is state to state—can be designed in lots of different ways. It is my understanding that the Germans are not very happy with the idea of including such a provision because it would be weaker than what they like to put in their traditional bilateral investment treaties, whereas other European states are worried about the wave of litigation that they fear could come. I think much depends on how you design these things: what grounds you allow for disputes to be raised, what levels of compensation can be paid, the terms upon which those disputes are evaluated and who does them. There is a lot in the design that could be done in a way that would mitigate some of these fears.

The second observation I would make is on likelihood, as I suggested earlier. We face a bit of a challenge here. I think the US Congress will insist on this. At the same time, the opponents to these clauses have done an excellent job in raising the issues, and I think their concerns will be heard. We will have to find a compromise that relates specifically to the design of this. It might not be a matter of whether we have one of these clauses but how we structure it and design it in a way that minimises the fears of those who believe that this is a backdoor way of gutting regulation, which is what I believe the trade unions and some of the NGOs have argued.

The Chairman: Lord Foulkes has a supplementary question.

Lord Foulkes of Cumnock: No, it is after the other question.

Q17 Baroness Coussins: My other question was to do with social impact assessment. We have seen lots of economic impact assessments that all come with a caveat about the best case scenario—and the more we hear, the more unachievable they all seem—but we have not seen anything that looks like a social impact assessment. Indeed, we have been told by people who have registered objections that there has not been one. Could there be one at this stage, or would it be just as fantastical as some of the economic assessments, and if not now, when?

Professor Evenett: I think it would be very hard to do any serious, comprehensive social impact assessment without seeing the proposed text. The devil is in the detail in all these areas, and you really need to have something specific before you if you are going to assess it. That means in effect that any such assessment would have to be done after the deal was initialled, and I can understand the concerns of people who raise social matters that once the deal is initialled it is very hard to go back on. So we have a bit of a conundrum here. I fully understand the concern.

Lord Foulkes of Cumnock: I want to ask another somewhat different question before we go on to the political and global context. I am slightly overwhelmed by the size of Professor Evenett's file, which reflects the huge detail of this question. I am worried that if we just go ahead we will end up with a big compendium report that makes lots and lots of comments about hundreds of different aspects of this TTIP. What do you think we could usefully spend our time looking at and making suggestions that might just make some kind of impact and might just be helpful for the UK Government, in particular? What should we focus on? What should we concentrate on to be effective?

Professor Evenett: I have the file. I suppose I have to start.

Lord Foulkes of Cumnock: I was going to put it on Professor Rollo.

Professor Rollo: I am a little thinner.

Professor Evenett: I am struck by the lack of realism in the discussion about regulatory convergence. I think I hinted at some scepticism in that regard. I think it would be very helpful if you were able to discuss what is practically very likely here. What would it take to facilitate regulatory convergence and to facilitate reducing unnecessary burdens on business? If you are able to identify in key sectors where there is a substantial amount of trade where opportunities for convergence could arise, that would be very valuable. I think this is going to come down to the art of the possible, and at that moment I am getting a sense that people have big picture ideas that are not particularly practical. That might be an area where a useful contribution could be made.

Lord Foulkes of Cumnock: I would like to hear Professor Rollo on this, because he has given a lot of advice to the UK Government over a long period of time and it would be helpful.

Professor Rollo: That is the key point in this. In a report I did for someone else I came to the very last paragraph and said, "Of course, it may never happen". All the reasons for it not happening are the same reasons for it not happening the last time, so you have to ask what is different in that context. I think Simon is precisely right. First, this is going to be really difficult. It is not hard to see that. There are a lot of cheerleaders for it at the moment and a big buzz, but we have to get down to the hard pounding that is any sort of trade negotiation, and I will be very, very impressed if we can do a really complicated and detailed agreement by 2015 on that basis. What the Committee could do very helpfully for people is to pick out the difficult issues and what would constitute the first constructive steps. Lots of these agreements have best endeavours and sunrise clauses that say, in effect, "We will have another look at this in a few years' time". That is a bit weak, but there may be other things that one can say more precisely on the basis of the evidence you have had from sectoral and regulatory interests.

The Chairman: Thank you, that is very helpful.

Lord Foulkes of Cumnock: That is very helpful, yes.

Q18 Lord Lamont of Lerwick: I wonder whether I could just go back a little to the very trenchant comments you made about convergence in the financial sector. In other sessions we have had, people have drawn a distinction between convergence and mutual recognition. I can understand the reluctance on convergence because you are talking about operating businesses that affect the overall financial stability of a country. One can see why people would be very reluctant to give that up. Mutual recognition might apply to, say, investment products: things that financial institutions sell in other markets. Is there any scope there? Do you see any distinction between the reluctance and convergence and mutual recognition, or is that a no go area too?

Professor Evenett: Let me be clear: I would like to differentiate between what I would like to see and what I think is going to happen. I am very sympathetic to the idea of increased cross-border competition and integration, so for those who advocate mutual recognition in areas I would like to see it. But I must say that when I turn to what is likely to happen, essentially I see in the financial sector a reluctance of regulators to trust the judgments and the procedures of other countries of regulators. In some cases, a regulator might also be unable to take a foreign regulator's judgment into account because they may be under a legal obligation at home to demonstrate that they are satisfied that something has been done or that certain conditions have been met. Even in the areas of mutual recognition, where I am quite sure if we looked hard enough we could find plenty of areas where you could make improvements, there may be other constraints that prevent that. I must say that in the preparation for this session I did not see, other than from the financial sector itself, many signals from financial regulators that they were willing to think of such solutions.

Lord Maclennan of Rogart: Professor Evenett, you do seem extremely pessimistic about the outcomes. Would it be helpful if politically we articulated some of the goals that are related not entirely to businesses but also to the consumers and those who would be concerned about cost saving, not only in the transatlantic context but in relationship to other competitive countries such as China? Can this not be brought out as a general principle? I am going back slightly to the questions about the social context.

Professor Evenett: Certainly, and my answer was going to go back to those as well. I think you could offer a certain degree of reassurance, because I do not think that social regulations and environmental regulations are going to be gutted, and that, as I said, is because those who support them are doing a very good job of defending them. I think one could offer reassurance there. I do not think we are going to see widespread reductions in consumer protection legislation either. I do not think that is on the table. Nobody wants to see that. So I can see that there is a group of constituencies one could offer reassurance to. There is another set of constituencies, which we should try to keep engaged in this initiative, or keep supporting this initiative if possible. Those are the people who see the value of this agreement for strategic reasons, trying to position the transatlantic powers as being able to help shape the rules for the global economy with the rise of the emerging markets. There is a group of people who would be very interested in that side of this particular initiative as well. In principle, there is a useful role that one could play there on this, but again when one goes from the objectives at 36,000 feet to the nuts and bolts, which is unfortunately what much of this file is full of, one sees a gap.

The Chairman: I think we have had some very useful exchanges here and I must say they fit very much with my own way of thinking, as I was sharing with the Committee before we began, but I think you have given us some substance. We have several questions to come, some of which have been answered to a large degree in the course of your previous

answers, but we will if we can try to work through them in the time left to us. Lord Sandwich has the first one.

Q19 Earl of Sandwich: Can we widen it again a little towards the other trade agreements? I am not talking about the transatlantic or Pacific ones but the global agreements such as Doha, EU, South Korea, NAFTA and so on. Is this going to be beneficial to Doha? Is it one side effect? How strong are protectionist tendencies now compared to those in those other talks? A supplementary question is: which industries are most likely to succeed in the long run? That is a bit wider than the other one.

Professor Rollo: Perhaps we can kick off on the question of what impact it has particularly for the multilateral system at this point. This is extremely awkward because it seems to me there is a feedback mechanism at work here, in the sense that you can date the big shift in attitudes to bilateral agreements such as this one to the failure of WTO Ministerial at Cancun when Robert Zoellick walked out saying, "I cannot do business with people here. I will go and find people I can do business with". Then, as no doubt you will hear from Lord Mandelson in a moment or two, the EU in 2008 moved into the same territory. This was driven by the lack of progress in Geneva to some extent. The moment their eyes moved to the bilaterals signalled that there was less interest in Geneva, and it seems to me that people have had no sense of urgency in Geneva probably since 2006-07.

I fear that we are in a process of sidelining the multilateral system in this context. Certainly the new director-general of the WTO has a pretty stiff task in front of him, just given the general environment. The Transpacific Partnership is another important part of it. In some ways that points to a larger issue in the context of global politics, which is of course the rise of China, and to a lesser extent the rise of India, and what that means in these terms. From my reading of it, to some extent the problems in Geneva arise precisely because the Chinese feel that they did enough in 2001 when they joined the WTO and do not want to do

anymore now. Others think, “This is a game about market access. If you are not going to give us more market access we do not want to play”. This is what this deal is about. In the end it is about market access.

One general point that must be clear is that the one group of people you can expect not to gain from any particular bilateral are those left out. If you are not in the room you are not going to get any share of the spoils in this context, to be brutally frank. That is the problem for developing countries in this context. It is not that in Geneva they are sitting around. They are in the rooms. They are not in the rooms for a transatlantic, which raises significant problems systemically in the story. They are not in a room for transpacific either.

The Chairman: Basically, the points you have just raised we were going to raise with you in questions 11, 12 and 13, and I do not know whether

Lord Radice: I would like to ask question 11. Apparently we have just had a successful agreement between Canada and the EU. Are there any lessons for TTIP from this? Is there any read across? Can you help us here?

Professor Rollo: The only thing I would say on that is the EU/Canada agreement is not as all encompassing and detailed as the proposals on the table for TTIP. I think it is the first agreement that the EU has done with another OECD member. It has not been in the context of enlargement or accession, so to that extent that says that it is possible to do that sort of deal. But Canada is smaller than the US in this context. It is a different scale of issue. I think it gives people confidence that some of the topics that will be difficult in the US can be dealt with. I also have to say that the whole thing stuttered last year. I think the Commission was quite surprised to find out that the Canadians were going to resist some of the things they wanted. If Canada, which is smaller and has smaller bargaining power and a smaller market, can resist, no doubt the US will be able to resist on things that are sensitive to it. So

the whole question of how you handle sensitive products and sensitive sectors in this is moot.

Q20 Baroness Henig: Can I just start off by saying thank you for giving us such a good healthy dose of realism? I really do think that you have brought us to the practicalities of the here and now, and I appreciated that. My particular interest is in China and to India, to a lesser extent. As you absolutely graphically say, neither China nor India are going to be in the room, yet China is such a global player and such a big exporter, so I am interested in how you think China is going to view these and what actions it is going to be looking to do itself to try to neutralise or make sure that it is not being got at. I know in America there is already a lot of anti-Chinese rhetoric.

Professor Rollo: We are not short of it here either. When I saw the TPP and the transatlantic coming up the agenda, my general feeling was that it was ABC—anyone but China—in that context. Clearly China will have its own policy, but it will probably feel that it has time on its side. In my time as an adviser in Whitehall, there were three countries that I always said it was bad to try to bet against because they usually pull things off. The US is one of those. Things may be difficult now, but I remember the 1970s and 1980s, when things were pretty bad in the US, and they bounced back. Japan was the problem then, not China, allegedly. Clearly China at every turn has negotiated some really difficult reform processes very well. The other one is Germany. Against that background, things will change over time and China will have its own policies at that point.

The Chairman: I think I cut you off inadvertently, Professor Evenett. Then Lady Bonham-Carter will come in.

Professor Evenett: Perhaps I can answer both together. There is one feature of this negotiation, which the Chinese will be very interested in, and that is that the EU and the US are very keen on writing tough rules on state-owned enterprises. Not because we have lots

of them but as a standard for others. So that is already being cooked up in the works. I think the Chinese will watch it for that reason. Ultimately the question the Chinese will be asking is, "Does this make us willing to deal? What is in it for us?". If the answer to that question does not change, it will not rush to join in.

The Canadian deal links to what we said earlier. One of the areas of the Canadian deal that appears to be quite creative is in the investor-state dispute settlement mechanism, so that is one area you might want to follow up on as well. The text of this deal is still not public, so we really cannot go into this too much, but it appears that that is one area. If you are also looking for other models of things to work on, it seems that the EU/South Korea deal had very interesting material on regulatory convergence, and it would be interesting to see to what extent that could provide the basis for some useful suggestions that you might want to consider.

Q21 Baroness Bonham-Carter of Yarnbury: I think Professor Rollo talked about the detrimental effect of developing countries. We have heard from people speaking to the UK Government that they think that TTIP will enlarge the pie and have a beneficial effect by creating a larger market place. I wonder what your view on that position is. I take your point that if you are not in the room, you are going to be at a disadvantage.

Professor Rollo: That is correct. The first thing I would say is that for a lot of developing countries, particularly low-income developing countries, the tariffs that might be removed in transatlantic trade are not trivial for the products in which they are competitive and which are currently their major exports. Here we are talking about textiles and clothing, footwear and so on, where the tariffs that are in play in transatlantic trade are typically of the order of 10% to 25%. Those are not small tariffs, so when people say there is no tariff problem that is not quite right. There are very localised tariff problems. That said, in those areas, the EU and the US are not competitive in each other's markets at this point. It is arguable that even a

10% or a 15% tariff preference would make that much difference to the underlying competitive position. So in the places where you expect to see losses, there might well be some but perhaps not.

On the regulatory front, there are two parts to it. If you had harmonisation, even if you harmonised on a higher level of protection, so to speak, it might still be outweighed by having the two markets together and the economies of scale in you conforming to that new harmonised regulation. It is costly to conform. If you have to conform to two different regulations, that is twice the cost, so there is a trade-off. As always with preferential agreements, there are costs and there are benefits and you have to look at the net figure. That is the issue. That is why economists, perhaps unusually, have to be very realistic because it depends on the circumstances.

If we go back just a stage, mutual recognition agreements are extremely difficult to do and to bring into effect, as we have seen within the EU. However, one of the problems that may face developing countries is that mutual recognition agreements can be strictly preferential: i.e. they can be bilateral and you exclude other countries. Some of you may be as old as I am and remember the discussions in around 1992 about fortress Europe and single market issues. By and large, the Union went down a road of being non-discriminatory in its application of mutual recognition. That was a big and important point, and that is something in the context of developing countries we have to worry about.

The other thing that we have to think about quite carefully—and it is hard to think about them—is the technicalities around rules of origin. Any preferential arrangement requires a rule of origin to determine who qualifies for the preference. When we were liberalising towards central Europe in the 1980s, we did something called accumulation of rules of origin, meaning that other countries in the group could sell to an intermediary and then on to the EU, and that would all count for the rule of origin and the preference. We may need

to be a bit creative in thinking about that for developing countries. I will stop there, because rules of origin are a very, very difficult area.

Baroness Bonham-Carter of Yarnbury: It is very interesting.

The Chairman: We have another witness waiting outside. Could I ask Lord Foulkes to wrap it up for us?

Q22 Lord Foulkes of Cumnock: Very quickly, some of us heard the cheerleaders for this agreement downstairs yesterday. As Baroness Henig said, you have brought some welcome realism. Some of the political hurdles on both sides of the Atlantic you have mentioned. Before you finish, are there any others that you would like to warn us about for this agreement to be concluded and to be ratified?

The Chairman: We would be very receptive to any further written evidence that you might wish to put to us.

Professor Rollo: We have touched on most of the issues that come up in this. The one thing I would say is that because in the 1990s we were very conscious of trying not to undermine the newly minted World Trade Organisation, I think people are less caring about that organisation at the moment. That is one of the things that may make it easier to do a deal rather than not. All the same things that were present then are present now, and it requires real political push on both sides of the Atlantic to deliver this.

Professor Evenett: In 30 seconds, on the US side follow Congress. Congress is the key player. It has the power on trade agreements and the committees in charge of all these regulators will determine whether or not co-operation happens. The messages from there are what you should follow. On our side of the Atlantic, watch Berlin.

Lord Foulkes of Cumnock: Berlin?

Professor Evenett: Berlin, because what is different now from in the past is that the Germans are very much behind this initiative. If they lose interest in this, I do not think the UK and Sweden can carry it.

The Chairman: You have really been very helpful indeed.

Lord Foulkes of Cumnock: Very helpful, yes.

The Chairman: It was a wonderful double act as well. Thank you both very much indeed.

Professor Rollo: I will treasure being called a realistic economist. It is almost a saying that most people think would be an oxymoron.