PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

European Committee B

EU-CANADA COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Monday 6 February 2017

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Friday 10 February 2017

The Committee consisted of the following Members:

Chair: Sir Edward Leigh

† Ahmed-Sheikh, Ms Tasmina *(Ochil and South Perthshire)* (SNP)
† Cleverly, James *(Braintree)* (Con)
† Davies, Byron *(Gower)* (Con)
† Davies, Geraint *(Swansea West)* (Lab/Co-op)
† Elmore, Chris *(Ogmore)* (Lab/Co-op)
† Gardiner, Barry *(Brent North)* (Lab)
† Grant, Peter *(Glenrothes)* (SNP)
† Hands, Greg *(Minister for Trade and Investment)*
Leslie, Chris *(Nottingham East)* (Lab/Co-op)
† Menzies, Mark *(Fylde)* (Con)
† Tomlinson, Michael *(Mid Dorset and North Poole)* (Con)
† Whately, Helen *(Faversham and Mid Kent)* (Con)
† Wheeler, Heather *(South Derbyshire)* (Con)

Gavin O'Leary, *Committee Clerk*

† attended the Committee

The following also attended (Standing Order No. 119(6)):

Hollinrake, Kevin *(Thirsk and Malton)* (Con)

European Committee B

Monday 6 February 2017

[Sir Edward Leigh *in the Chair*]

EU-Canada Comprehensive Economic and Trade Agreement

4.30 pm

The Chair: Before we begin, it may be helpful if I remind Members of the procedure in European Committees. The whole proceedings must conclude no later than two and a half hours after we start. I shall start by calling a member of the European Scrutiny Committee to make a brief statement about that Committee's decision to refer these documents for debate. I shall then call the Minister to make a statement, which will be followed by questions for up to an hour, although I have discretion to extend that by up to half an hour, if there is an appetite. The Committee will then debate the Government's motion, and I shall put the question on that motion when either the debate or the time available is exhausted, whichever comes first. There is an amendment, which we shall come to at the debate stage, after questions.

Does a member of the European Scrutiny Committee wish to make a brief explanatory statement about the decision to refer the documents to this Committee?

4.31 pm

Geraint Davies (Swansea West) (Lab/Co-op): It is my great pleasure to serve under your chairmanship, Sir Edward. Having served with you on the Public Accounts Committee after 2001, I know how important parliamentary scrutiny and establishing costs and benefits are to you, and the European Scrutiny Committee shares that perspective.

The EU's ambitious free trade agreement with Canada is due to be considered by the European Parliament only next week, on 15 February. It is therefore unfortunate that, despite the European Scrutiny Committee's repeated requests since September last year for a debate on the Floor of the House, it has only been possible to schedule a debate today, some three and a half months after the Government agreed to the decisions authorising the EU to sign the provisional comprehensive economic and trade agreement, and that we are having that debate in Committee, rather than on the Floor of the House.

The Government's agreement to those decisions constituted an override of parliamentary scrutiny. The European Scrutiny Committee summoned the Secretary of State to an emergency evidence session immediately afterwards to explain matters, and he gave various undertakings. However, the failure to schedule a debate on this significant trade deal in good time means that the House has lost an important opportunity to scrutinise and have a say on the Government's position on the comprehensive economic and trade agreement, which has generated so much interest here and across Europe.

I will start with the broader Brexit implications that the European Scrutiny Committee considered. CETA is the EU's most ambitious free trade agreement to date and will, among other things, lead to the elimination of almost all tariffs on most goods, open up trade in services and enable mutual recognition of professional qualifications. Much of the agreement will be provisionally applied, and the Government tell us that UK consumers and businesses will see immediate benefits. However, what will happen after we leave the EU? Do the Government have plans to ensure that we continue with CETA, or will we need a new deal after we leave?

The questions of competence that arise in respect of many EU agreements with third countries are particularly acute with CETA. The Commission originally wanted the EU to act alone in entering this agreement with Canada. It accepted that CETA should be a mixed agreement, entered into by both the EU and the member states in their own right, only following pressure from member states. The European Scrutiny Committee is concerned that there should be clear and transparent delineation of the extent to which the EU has exercised its competence in signing the agreement and the extent to which member states have exercised theirs. That question is important for three reasons: first, to support the Government's policy that the EU should act only where it has exclusive competence; secondly, to counter the Commission's clear wish to limit member states' involvement in such agreements; and thirdly, to facilitate any exercise of disentanglement that Brexit requires.

This fraught issue will be affected by the outcome of litigation that will be considered later this year in the European Court of Justice on the Singapore free trade agreement. It is also relevant to determining the procedure for concluding future agreements, including between the post-Brexit UK and the EU.

The Committee has been concerned to identify precisely who can trigger and terminate provisional application of CETA. That is important, given the controversy that CETA has aroused, and the uncertainty as to whether it will ever be ratified. For reasons set out in the Committee's report, that matter has not been satisfactorily resolved.

To move on to the prospective benefits of CETA, the Government have stated that it would bring about £1.3 billion of economic benefit to the UK. However, the Minister has not addressed our question—I hope he will—about which sectors might be expected to incur losses. Given the concerns expressed in the UK and other countries about the vulnerability of certain sectors, it is important that the Government should demonstrate transparency on that point, especially as they are talking about different sector arrangements with the EU, post-Brexit.

CETA's provisions for the investment court system, or ICS, have generated particular controversy, and the Government should confirm whether they will come into effect on ratification by all member states, or by each member state, irrespective of, or subject to, the Singapore judgment. In addition, as Belgium has signalled its interest in referring the ICS mechanism to the European Court of Justice for a ruling on its compatibility with the EU treaties, the Minister should inform us whether he thinks the view of the Court is necessary and beneficial and should have been requested much earlier by the Commission.

I have outlined the main issues and concerns raised by the European Scrutiny Committee since September, and they are reflected in the amendment that I have tabled. I am sure that hon. Members will have much to add, and I look forward to the Minister's response.

4.37 pm

The Minister for Trade and Investment (Greg Hands): Welcome to the Chair, Sir Edward. I believe that it is my first time serving under your chairmanship. I am pleased to have the opportunity to discuss the comprehensive economic and trade agreement today. I apologise for the fact that the parliamentary calendar has meant that we were unable to have this debate in the Chamber of the House of Commons, as we had hoped to. My officials, however, worked hard with business managers in the House, at a busy time for Parliament, to agree time for this debate prior to next week's vote, on 15 February, on CETA in the European Parliament. I am pleased that we have the chance to hold this debate today, within the appropriate timetable.

The Government are clear that CETA is a good trade deal for the United Kingdom that will promote jobs and growth and help our businesses to develop and strengthen trade links with Canada, which is an important Commonwealth partner and a like-minded country on many issues. It is an important achievement, given that it is one of the most ambitious and comprehensive agreements that the EU has concluded with a major economic partner to date.

The agreement is consistent with the UK's objectives in trade policy and with relevant wider policy goals. It is well balanced and ambitious, and will provide substantial gains for all parties on market access and rules. It will significantly improve business opportunities for UK companies in Canada by increasing our ability to access Canadian goods, services and procurement markets.

It is estimated that the deal could be worth as much as £1.3 billion per annum to the UK while we are a member of the European Union. Those benefits will be across a range of sectors. To provide a few examples, the agreement will remove all tariffs on industrial products and substantially benefit the UK's wines and spirits industry by removing not only tariffs into Canada, but behind-the-border barriers that have limited our companies' access in the past. It will benefit our life sciences industries, giving them greater protection for research-based pharmaceutical products.

By opening markets in that way, CETA will support jobs and growth in the UK and bring further benefits for British consumers. It has the potential to keep prices down and provide consumers with a greater choice of quality products. It is critically important that the UK continues to do all it can to support such agreements while we remain in the EU. Not only will we directly benefit from such agreements while we remain a member, but we will also benefit from the more open and prosperous trading environment that agreements such as CETA provide for the global economy. By supporting agreements such as CETA we demonstrate to the world that we remain, and will remain, the strongest global advocate for free markets and free trade. That is fundamental to the prosperity of the United Kingdom and the world economy, and is a key part of the Government's vision for a truly global Britain.

The Government look forward to the successful passage of the CETA agreement in the European Parliament following the vote that is scheduled for 15 February, and the provisional application of the agreement in the coming months. Following the vote in the European Parliament and the start of provisional application, the Government will move towards ratifying the agreement on a timely basis, but the exact timetable is not yet decided. We will look at the parliamentary timetable and listen to the plans of other member states when deciding on a timetable for ratification in our Parliament.

It is worth clarifying that only those areas of the agreement that fall solely within EU competence will be provisionally applied. Those areas of the agreement that are within member states' or mixed competence will not. Those areas of CETA will still require ratification by the UK and other member states before they come into effect. Those areas not being provisionally applied include a large part of the chapter on investment; the areas being provisionally applied relate only to foreign direct investment. In particular, the investment court system of arbitration referred to by the hon. Member for Swansea West is not being provisionally applied.

I know that the investment court system is one of the areas of CETA over which hon. Members have raised concerns. I look forward to discussing that further and answering any questions today. I would also like to highlight that the right of member states to regulate in their own markets is reiterated throughout the agreement. The agreement provides that member states will not have to reduce their labour and environmental standards to encourage trade and investment. Nothing in CETA prevents the UK and other member states from regulating in the pursuit of legitimate public policy objectives, such as the health of their citizens. That is in line with the Government's clear position that protecting the NHS is of the utmost importance to the UK.

To conclude, I welcome the increased scrutiny of free trade from both Parliament and the public, and the opportunity to make the case for free trade in times of uncertainty. We will take advantage of all the opportunities available to us to ensure that Britain becomes a global leader in free trade once we leave the European Union. We will look to build on our trade and investment links with key trading partners around the world, including Canada. We are aiming to increase our ability to access markets, with a trade policy that has a global outlook, in order to ensure the prosperity of our nation in the years ahead.

The Chair: I will now take questions to the Minister, which will be brief because there will be an opportunity for debate later. I am happy to take supplementary questions.

Barry Gardiner (Brent North) (Lab): First, I would like the Minister to clarify a point. He said that nothing stops us protecting the NHS. Of course, he will be aware that, uniquely, CETA adopts a negative list approach. The German Government have incorporated their health service in that negative list to protect it, but the UK Government did not see fit to do the same. They reserved that for private ambulance services, but not for the NHS. Will the Minister explain why that was the case?

Greg Hands: The Government have always been clear that protecting our NHS is of the utmost importance. It is important to understand that nothing in CETA prevents the UK, or other member states, including Germany, from regulating in pursuit of legitimate public policy objectives such as those relating to the NHS. CETA will

[Greg Hands]

not force or incite Governments to privatise or deregulate public services, and nothing in CETA will prevent any Government from reversing any decision to privatise in those sectors. Moreover, the joint interpretative instrument that was agreed by the European Union—by the Commission—and Canada in October affirms

"the right of governments, at all levels, to provide and support the provision of services that they consider public services including in areas such as public health and education, social services and housing and the collection, purification and distribution of water."

Barry Gardiner: The Minister will know that although the joint interpretative instrument has legal force, it does not supersede the agreement. He talked about taking back into public ownership any aspect that had been privatised; will he explain further how the ratchet mechanism works? That seems to be in place precisely to stop any country doing exactly what he has just said.

Greg Hands: I thank the hon. Gentleman for the follow-up question, but he has no need for concern in this space. The October joint interpretative instrument is a clarification of what was already in the agreement, which is clear: the NHS will be protected by our right to regulate. Other member states have those same rights.

The Chair: Mr Gardiner, any further questions?

Barry Gardiner: Many, Sir Edward. Further to my question on the NHS, will the Minister explain why the German Government and other Governments saw fit to protect their health services in their entirety, while the British Government felt the need to protect private ambulance services by listing them in the annexe, but not the health service as a whole? That is the key question. What was the rationale for that? If he believes that health services are protected under the generality of the agreement, why did he bother specifying private ambulance services?

Greg Hands: The simple answer is that it was not necessary to put that in the JII. For the benefit of the Opposition—I know there is a lot of public interest in this—I will repeat the six points to make about protections taken with regard to the NHS in CETA. First, as I have said, simply nothing in CETA would require the UK to privatise public services. Secondly, CETA contains a reservation allowing EU member states to impose a public monopoly on services considered, at national or local level, to be public utilities, including in the health sector, so even if public services are contracted out or privatised, the Government would remain able to impose a public monopoly.

Thirdly, Government procurement decisions relating to sensitive public services such as the health service are excluded from the scope of CETA. Fourthly, CETA contains EU-wide reservations specifically designed to protect particularly sensitive public services, such as health and education, ensuring that the Government may act as they consider appropriate in relation to such services when they receive public funding. Fifthly, in particular areas, the UK has taken a number of UK-specific reservations that go beyond those applying to other member states. For example, as the hon. Gentleman rightly pointed out, the UK retains the right to take any measures that it sees fit concerning privately funded ambulances, because that right is not explicitly stated in the rest of the agreement—they are not a public utility.

Sixthly, CETA contains general exceptions that allow parties to take measures necessary to protect certain key public interests, including public health. Those are the six key protections. There is a specific reservation for services considered as public utilities that overrides the ratchet mechanism. Other reservations are also relevant in this space.

Barry Gardiner: I have to say that I am not satisfied with the Minister's explanation, and nor indeed with what he said about the ratchet mechanism. I trust that we will have a chance to debate those issues. Will he provide more information on how the Government intend to transition CETA to apply to the UK once we have left the EU? He was right that the mixed investment part of the agreement would not apply in the provisional application, but he did not explain what transitional arrangements he is looking at to apply the agreement in the UK after we have left the EU.

Greg Hands: I thank the hon. Gentleman for that question, which allows us the opportunity to explore the matter. However, we do have to bear in mind that, with regard to what transitioning might be done, that is looking fairly far into the future. We are looking to maintain existing commitments, which I think would necessarily be less complex than starting from scratch, in places where such commitments are appropriate. We will seek to achieve continuity in our trade and investment relationships with third countries, including those covered by EU free trade agreements and other preferential arrangements.

Barry Gardiner: I am grateful to the Minister for that reply. Does he accept that because CETA was negotiated as an EU-Canada agreement, there will be areas in which what would be most beneficial to the UK has been sacrificed for the benefit of the rest of the EU, because that was the basis of the negotiation? Therefore, given that we will shortly be coming out of the EU, would it not actually be better for us to have a separate bilateral treaty? No doubt CETA could provide the basis of much of what would be contained in that. To sign ourselves up now to elements negotiated to our detriment and for the betterment of other countries in Europe would seem rather comical.

Greg Hands: Inevitably, a future UK-Canada free trade agreement or similar things would balance taking what is already there or agreed between Canada and the European Union and seeking to do something specific to the UK. Clearly at some point in the future there will be a balance to strike between continuity and seeking advantages for the UK compared to the previous agreement. However, that is a discussion for the future. The Government are strongly supportive of CETA, and at the moment we are looking to get it through the European Parliament for it to have its provisional application. The UK remains strongly supportive of CETA going through, as part of our message overall that the UK is a strong supporter of global free trade. The Prime Minister herself has said that the UK will be the most passionate, compelling and convincing advocate of global free trade, and we see CETA as part of that key agenda.

Barry Gardiner *rose—*

The Chair: Mr Gardiner, would you mind if I make this the last question from you, because others want to come in? You can always come in later.

Barry Gardiner: Of course, Sir Edward. To pick up on what the Minister has said, I think he accepts the basic premise that CETA was an EU-negotiated treaty and therefore some aspects of it will have been negotiated for other countries' benefit and to our detriment. He then said that we are firm supporters of free trade—I totally agree with him that we want fair and open trade, because that is to all our benefit—but he has failed to articulate how we will be in a position to renegotiate the basis of the agreement we will have entered into under the European Union. The ratchet mechanism will still apply. He seems to think that once we have left the European Union we will be able simply to renegotiate the treaties we had, but that would be to an investor's detriment; it would be to the detriment of Canada, which had already negotiated a better deal with us when we were part of the EU. It is very unlikely that it would concede to that. Indeed, the ratchet mechanism is there precisely to stop that.

Greg Hands: I simply do not accept the hon. Gentleman's premise that the UK sacrificed some key interests on the altar of getting an EU-wide common position before going into these complex and intricate negotiations. The important thing is that CETA would no longer apply after we leave. Having negotiated at an EU level can form a basis but there is nothing to stop us negotiating our own deal thereafter.

Michael Tomlinson (Mid Dorset and North Poole) (Con): It is a pleasure to serve under your chairmanship, Sir Edward. A number of the points I was going to make have already been made and, breaking with tradition, I will not repeat them. However, the Minister said that this is a good trade deal. I would like to know what the implication is especially for the UK and an EU free trade deal post-Brexit. We will be looking for own free trade deal, so will this be used as a model?

Greg Hands: I thank my hon. Friend for asking that very good question. The answer is yes, of course there will be some benefits in looking at the deal and its benefits once we are outside the EU. We remain strongly supportive of the deal. It is UK Government policy to support CETA going through, so of course we welcome it. We would of course look at that as the basis for a future deal. Notwithstanding that, it does not prevent us from having the flexibility also to look at the deal afresh.

Ms Tasmina Ahmed-Sheikh (Ochil and South Perthshire) (SNP): It is a pleasure to serve under your chairmanship, Sir Edward. I am grateful to the Minister for his opening remarks. In October the Secretary of State for International Trade apologised to the Committee as there had been no debate before the decision was made in the Council in relation to this agreement, and he promised that time would be made. We then had another apology from the Secretary of State to the International Trade Committee last week, again proffering excuses in relation to timetables.

There is no doubt that this matter should be debated on the Floor of the House. It is not good enough for a deal of such a nature to be debated in this manner. I simply do not buy the excuse of timetabling. I have sat through business questions week after week, and we have had discussions about business collapsing because there has not been enough business going on. It is not good enough to use timetabling as an excuse for this matter not to be debated as it should be.

I say that not just for our benefit. Scotland is, of course, a trading nation and there are many businesses in Scotland that have welcomed this agreement. That does not mean that it should not be scrutinised. In the light of what I call the brief Brexit White Paper, which refers to CETA, we are now looking at a different relationship. The Government will be negotiating trade deals in their own right. It does not bode well if the Government intend to proceed by doing it on their own, without seeking authority, approval and discussion. Hon. Members will have something positive to offer that might be quite instructive in negotiations. It does not bode well if this is the way the Government are to proceed. I ask the Minister to reconsider an opportunity for this matter to be debated on the Floor of the House, because that is the respect the House deserves.

Greg Hands: I thank the hon. Lady for that intervention. We warmly welcome parliamentary scrutiny of trade and of this agreement. Those points were made by the Secretary of State when he appeared at some length before the European Scrutiny Committee in October. To go back to the history, the European Scrutiny Committee referred the documents on 7 September, before the European Council meeting on 18 October, with barely two parliamentary sitting weeks in which to get that debate in place. It was not possible. The Committee decided to release the scrutiny override on the signature of the agreement but not on the provisional acceptance and not on the conclusion of the agreement.

When it came to the European Council meeting, of course all three decisions were taken together as a package, so it was not possible for us to, as it were, sign up to the signature of the agreement; it was "take it or leave it" on all three parts. It was decided that it was strongly in the UK national interest for us to agree to it, rather than follow the route that was ultimately taken by Belgium, among others—although it also signed up.

The Secretary of State appeared before the European Scrutiny Committee on 26 October at a stand-alone hearing, at which the hon. Member for Swansea West was definitely present, to give extensive evidence on the reasons for what happened. We have all worked very hard with business managers, and I am sure that you, Sir Edward, will have noticed other things that have come along to take charge of aspects of the parliamentary business calendar, such as the two days last week taken by the debate on article 50, or the important three-day debate under way downstairs at this moment on the EU (Notification of Withdrawal) Bill.

The Secretary of State has at all points set out his strong preference for a debate on the Floor of the House, and we would of course prefer that and welcome the scrutiny. However, it has simply not been possible, given the limited number of days in the parliamentary calendar, for us to do that. I am confident that the right thing is for us to debate the issue in Committee, giving Parliament the chance to scrutinise the agreement in advance of the European Parliament debate during the parliamentary recess on 15 February.

Ms Ahmed-Sheikh: I am sure that the Minister agrees that it is reasonable for us to expect the Secretary of State to have a handle on the business to come before Parliament over a period of time. That was promised on two separate occasions. Does the Minister agree that at the very least we should be able to rely on Secretaries of State to keep their promises to the House?

Greg Hands: As I have already explained, and as you will know, Sir Edward, I was deputy Chief Whip for some time.

The Chair: How could I forget it?

Greg Hands: You will certainly know that there is pressure on the parliamentary business calendar, Sir Edward. A certain number of days are given over for Opposition day debates. Both Opposition parties have had numerous occasions on Opposition days—17 since last summer, I think—to choose the treaty as a topic. You will know, Sir Edward, about the pressure on the parliamentary calendar in unforeseen circumstances, such as the judgment of the Supreme Court.

The Chair: Order. I do not know why the Minister constantly has to pray in aid the Chair. Get on with your own arguments. Is that it?

Greg Hands: That was it.

The Chair: Good.

Geraint Davies: I want to press the Minister on this point: there have been two Back-Bench business debates—one in November and one the previous November. There was a consensus on a vote in both debates that the international trade agreements—the transatlantic trade and investment partnership and CETA—should be scrutinised across Parliament in full parliamentary debates. With respect to the timetabling of the present matter, there have been three and a half months since the provisional agreement of CETA. There was a prior opportunity for the Government to call a debate. They could have done so in the knowledge that the Council of Foreign Ministers was going to sign. The Government could have timetabled it.

Instead, the Secretary of State was dragged kicking into the European Scrutiny Committee by the hon. Member for Stone (Sir William Cash), who demanded answers. At that point the Secretary of State said he would ensure that there was a full debate in Parliament, which he has not done. Now the issue has been hidden under the cloud of Brexit, so the media and others will take no notice of something that, if ICS goes forward, is a threat to our democracy, human rights and the rule of law. Will he answer the timetabling point again, and when he does will he also say whether he supports the ICS in principle?

Greg Hands: As I have already said, the ICS is not part of the provisional application.

Geraint Davies: Do you support it?

Greg Hands: Let me deal with the hon. Gentleman's point about the two Back-Bench business debates. As I understand it, they were not actually about CETA at all; they were about TTIP, which is not the agreement we are considering today. The European Parliament has pushed back its own debate on CETA to 15 February, which is significantly later than when it originally intended to debate and vote on this agreement. We are ensuring that our debate in the House of Commons takes place in advance of the European Parliament's debate. That is the right thing to do, and I am confident that Members will back the decision today to go ahead with the provisional application of this agreement.

Geraint Davies: On a point of information, the debates were about international trade agreements and embraced TTIP and CETA. May I press the Minister on whether he agrees with ICS? He stated that it would not be applied, but does that not depend on how the Singapore agreement goes? He said that labour and environmental standards would not be reduced, but could they be increased, in particular with the advent of ICS? ICS would empower transnational companies, through arbitration courts, to sue the Government if they introduced new laws such as a tax on sugar to protect public health, or constraints on the effect that fracking could have on water quality, due to the extra cost or lost benefits resulting from those laws? According to him, the ICS provisions will not be ratified yet, but does he agree with ICS in principle?

Greg Hands: Let me try to take each of those two points. The UK has had its reservations about ICS, but importantly, that is part of the negotiation. We want and expect to see the details of ICS thrashed out in the coming months. The Commission and the Council have pledged to keep talking, and we are not alone in having reservations about ICS. We believe it is important to have investor protection in these agreements.

As for any decision to increase regulation, that comes back to nation states having the right to regulate. A right to regulate means an ability to decrease or increase regulation in accordance with whatever a Government and Parliament think is an appropriate course of action.

Geraint Davies: On saying that we will sign up to CETA and then do our own thing after Brexit, is the Minister aware that when CETA is fully signed, it will tie us into the agreement for 20 years and bind future Governments? We cannot just jump up and say, "We will have another agreement", quite apart from the fact that it will be a worse agreement, because we have less negotiating power than the EU. Will he confirm that this is a 20-year agreement, and that he can give no firm undertaking that we can exit it?

Greg Hands: I thank the hon. Gentleman for his question. I will say two things. First, it does not stand to reason at all that the UK standing alone would negotiate a worse agreement than the European Union; he makes a massive set of assumptions there. Secondly, the 20-year provision relates only to investments made while CETA is in force in the UK, which there may or may not be, and while the UK is still party to CETA.

Geraint Davies *rose—*

The Chair: One more question.

Geraint Davies: If we sign up to CETA and existing investors' rights continue for 20 years, a fracking company that comes from the United States via a Canadian

subsidiary could be subject to the capital tax concessions of 75% now in place for frackers, and to loose planning restrictions that meant that frackers could frack under your house, Sir Edward. Does the Minister agree that if a future Government decided that the planning constraints and tax concessions were too lenient, and wanted to focus on renewables, in line with the Paris agreement, the frackers could sue the Government, within a 20-year timeframe, for lost profit under ICS?

Greg Hands: That is an extremely hypothetical case. Let me be absolutely clear: CETA will no longer apply to the UK if it has been only provisionally applied. Only once CETA has been ratified by all EU member states and Canada can it be brought into force. Investments made during provisional application will not benefit from that sunset clause. The hon. Gentleman's case is very unlikely to happen.

Peter Grant (Glenrothes) (SNP): May I first ask the Minister to clarify two points on the documents? Will he make it crystal clear that there is nothing in them that will cause any risk of our losing our publicly owned NHS?

Greg Hands: I am confident. The Government take the NHS extremely seriously. We believe ourselves to be the party of the NHS, and the protections for the NHS are absolutely clear. Those were made clear not just by ourselves but by the Canadians and by Cecilia Malmström, the EU's Trade Commissioner. To be fair, she said this in relation to TTIP rather than CETA, but she made it plain that the protections for the NHS in that agreement would be clear. I am confident that the NHS will remain protected.

Peter Grant: The Minister niftily changed an absolute assurance to "confidence". This may depend on how much confidence we have in the Government. My second point has not yet been raised: will the Minister tell us in how many instances the UK Government have asked for Scottish produce to be given the protection of geographical status? I think "protected names" is the terminology used in CETA. Those are massively important to a lot of producers in Scotland and elsewhere. How many of those names were put forward by the UK Government for inclusion under CETA?

Greg Hands: Let me come back on that specific point, but I will mention the importance of CETA to a lot of Scottish industries. There will be a big benefit, for example, for the Scotch whisky industry in Scotland, which as we know is hugely important for the UK as a whole; it will be able to be sold in Canada with no tariffs. That will be very important progress. That is just one industry; a host of other industries across the UK, including Scotland, will benefit from this agreement.

Peter Grant: I am being advised from a sedentary position that Scotch whisky should thank the UK Government; I think that the Chancellor of the Exchequer should thank Scotland for the bonus to his coffers, but that might be a discussion for another time. I want to pick up on the question asked earlier. A lot of people will find it difficult to understand why the Government are telling us that as soon as we are out of the EU, there will be a queue of major economic powers battering at the door to sign better trade deals than we could ever get under the EU, while at the same time Ministers have had to override waiver after waiver of scrutiny to get this deal signed as quickly as possible. Does the Minister understand that, if this deal is better than we could get after Brexit, it raises big questions about what kind of deal we can get from anybody else after Brexit?

Greg Hands: I thank the hon. Gentleman for that question. I come back to his earlier question on UK foodstuffs to be added to the list for protected geographical indicators. The Government consulted relevant trade associations when CETA was being negotiated in 2011. At that time, no protected product was being exported to Canada in large enough quantities to be included on the proposed list of protected geographical indicators. However, CETA provides a mechanism for products to be added to the list of protected products. The Government recognise the benefits from protecting the best of our traditional and geographical food products, and will continue to work with producers to ensure appropriate protections are in place, now and in the future.

To respond to the hon. Gentleman's question about better trading arrangements, we will have to wait and see. Article 50 has not even been triggered yet; we are still members of the EU. It is not possible for us to sign future free trade agreements while we are still a member of the EU. We are confident that the UK will be in a good position to negotiate future free trade agreements, but let us not jump the gun, and let us consider today what useful work the UK can do, in supporting agreements such as CETA, to show the importance that the UK attaches to the global free trade agenda.

Peter Grant: After its meeting on 12 October, the European Scrutiny Committee, of which I was a member at the time, agreed to a conditional waiver on the first part of the process, which is signing the treaty, but explicitly withheld consent for the other two parts. I want to ask first about the conditional waiver. One of the conditions was that the promised—not asked for, but promised—debate on the Floor on the House would be scheduled urgently. Does the Minister accept that this debate does not comply with that condition, and that even after we finish our deliberations this evening, the Government will still be in breach of the conditions of the scrutiny waiver?

Greg Hands: I have explained at some length the process that has got us from September to today. I am satisfied that the Secretary of State and the Department have put in considerable effort to enable us to have this debate today, in advance of the European Parliament debate, which is next week, during our parliamentary recess. This is a great opportunity—we have two and a half hours scheduled for today's debate—to give the agreement proper scrutiny. I am satisfied that we have done what is in our power to make sure that is the case. I look forward to the debate.

Peter Grant *rose—*

Barry Gardiner *rose—*

The Chair: I will let Mr Gardiner in, and if there is time, Mr Grant can always ask another question.

Barry Gardiner: I want to pick up on the idea that the Secretary of State has done everything that could be reasonably required of him. He appeared before the

[Barry Gardiner]

European Scrutiny Committee on 26 October, which was after he had given the commitments on 7 September. He stated that he was "very happy" to have the debate on the Floor of the House. He claimed that the failure to set a date for the debate had been owing to a scheduling problem in the parliamentary calendar. In reality, as a freedom of information request submitted by my office revealed, the Government had not been delayed by a scheduling problem in the parliamentary calendar; in fact, the first time that the Department for International Trade had even approached the business managers to discuss a potential debate on CETA was on 25 October, precisely one day before the Secretary of State was due to appear before the Committee and account for his failure to schedule that debate.

Worse still, the email trail shows departmental officials asking whether they actually needed to set a date for a CETA debate at all, or whether it might be enough just to tell the Chairman of the European Scrutiny Committee that

"they were in the process of scheduling a debate".

The email actually reads:

"What advice would you give would it be better to have an actual date or do you think we can just tell the chair we are in the process of scheduling a debate."

The Chair: That is quite a long question. Shall we stop it there and let the Minister reply?

Greg Hands: I really do feel that I have already answered these questions. The hon. Member for Glenrothes, or perhaps the hon. Member for Swansea West, said that the Secretary of State was dragged before the European Scrutiny Committee. May I say that my right hon. Friend appeared just six days after the signing of the agreement, and could hardly have been quicker? That happened very quickly after scrutiny had to be overridden for the reasons that I explained: at the European Council, it would have been damaging for the UK to have appeared to obstruct CETA. That would have damaged our relations with the Commission and the EU member states, and greatly damaged our relations with Canada, one of our most important partners in the world, not just for trade but on security and other matters.

My right hon. Friend spoke to the Chairman of the European Scrutiny Committee on a number of occasions at that time, to explain what he was doing. He made a considerable effort to make sure that the Committee was brought into that decision process. We have today's debate, and it might be time now, Sir Edward, to move to consider the substance of the debate, rather than these process arguments. After all, we are having the debate in advance of the European Parliament debate on 15 February.

Barry Gardiner *rose—*

The Chair: Time is running out, and we have dealt with the issue in quite a lot of detail. I think we should think about moving on to the substance, Mr. Gardiner.

Peter Grant: On a point of order, Sir Edward. Do not Standing Orders provide for an hour for questions? I understand that if the Committee wants to suspend the Standing Order—

The Chair: It is entirely up to you, but you have not got very long left. There is quite a lot of substance to debate, but you can take up the time exactly as you want.

Barry Gardiner: I do want to address all the issues of substance. The joint interpretive instrument was prayed in aid by the Minister but, of course, that says that the right to regulate applies only to procurement conditions that do not represent unnecessary barriers to trade.

Does the Minister consider that that is a proper restriction of the right to regulate, given that the trade dispute panels, as he well knows, have interpreted that word "necessity"—the necessity test—very narrowly in the past? Therefore, to pray it in aid as showing there will be no restriction is fine-tuning the interpretation in a way that experience would belie.

Greg Hands: I repeat that the JII is there to help as an addition to the agreement. It is agreed as an extra rider, as it were, to that agreement. The agreement itself provides for the right to regulate for parties and national Governments, including for the environment, public health, public ownership and all those other important issues. I think that, in his fears about the JII, the hon. Gentleman is chasing after something that does not exist.

Barry Gardiner: What were the UK's reservations about the ICS?

Greg Hands: I have already talked about some of the concerns that the UK has had over some time in relation to the ICS. For example, some things still need clarification, such as how the arbiters are chosen, the cost of the ICS, the appointments and all of those kinds of things. Those will be matters for the future for the ICS. I repeat that the ICS is not a part of what is being provisionally applied; that is, what is in front of us today.

Barry Gardiner: Would the ICS not operate with general exceptions, rather than with country-specific reservation?

Greg Hands: Can I answer the hon. Gentleman's specific point on the ICS in a moment?

Geraint Davies: The Minister said his reservations about the ICS were about costs and choosing arbitrators and so on. He did not suggest that there was anything intrinsically wrong with the ICS. Does he agree with me that it is intrinsically unnecessary because investors are protected in Britain and Europe by three tiers of law: national, European law and the European Court of Human Rights? Similarly and in parallel in Canada, investors are protected by provincial courts, appeal courts and the Canadian Supreme Court.

Those established systems of public and contract law have protected trade between Canada and the EU in the past. The problem with the arbitration courts is that they are unnecessary, apart from the fact that they may be inherently dangerous to our democracy.

Greg Hands: Let me repeat that the ICS has not been provisionally applied. I know that I keep having to say that but it is an important point in relation to today's debate. CETA confirms the right of state parties to regulate in the public interest. Non-discriminatory action

by states should not give rise to a successful investor claim in the first place. A lot of the hon. Gentleman's fears are not well grounded.

Tribunals can only award compensation to investors in the event of a breach of the agreement being proven. The ICS cannot force a state to amend or remove legislation. With this kind of thing, in a general sense it is important for there to be investor protection in trade agreements. How precisely that is done will be a matter for debate later. I will repeat that it is not part of what is being provisionally applied in this agreement.

Geraint Davies: With respect, the Minister has just said that arbitration courts cannot overturn legislation. What about the case of Ethyl *v.* Canada, which overturned a law to protect public health? What about the case of Metalclad *v.* Mexico? The authorities' attempt to stop planning permission for a landfill that was polluting an entire town was overturned by an arbitration panel. The list goes on: the case of Cargill *v.* Mexico overturns a soft drinks tax of the sort that the right hon. Member for Tatton (Mr Osborne) was trying to introduce here. There are consistent international examples of arbitration courts overturning publicly agreed, democratically agreed laws. What the right hon. Gentleman is saying is not true.

Greg Hands: I am not aware of the specific cases the hon. Gentleman cites. I do not believe that we in the UK have been forced to change our regulation or our legal system as the result of an arbitration. The ICS cannot require us to change our laws; it is only a compensatory mechanism. Finally, I repeat that that is not what is provisionally applied under the CETA agreement.

Geraint Davies *rose—*

The Chair: One more, Mr Davies.

Geraint Davies: Changing the subject, during the European Scrutiny Committee hearing the Minister and the Secretary of State said that the driving force behind signing up was our desire not to damage our relations with the EU and Canada, rather than the detail of whether the agreements might have a negative impact on our industries and, more important, our rights to decide. On the Minister's final point, the issue here is that fining countries that pass laws to protect their citizens, public health, the environment or rights at work is intimidatory—it is the fine, the pressure, the cost. The ICS does not come in and literally write legislation. It says, "If the Government introduce a fizzy drinks tax, we will penalise you, so don't. Let people have diabetes and die early."

Greg Hands: It would have to be proved that that is a discriminatory action against a particular company, which I am not clear would be the case in the example the hon. Gentleman gives.

Let me return to the point about not wishing to damage relations with Canada. May I ask the hon. Gentleman—

The Chair: No, you cannot ask him anything. You can answer.

Greg Hands: That is a fair point, Sir Edward. Let me instead ask members of the Committee to consider what the situation would have been on 18 October had it been not the Walloons who said no to the provisional agreement, but the UK. Bear in mind that the Government's position is that we want this country to be at the global forefront of promoting free trade. Had it been the UK, which had been party to the negotiations for many years, that said no on 18 October—no to Canada, no to the Commission, no to Cecilia Malmström—it would have been catastrophic for our international relations and our trading relations. The Government's position was and remains that this is a good agreement. Even though we are leaving the European Union, I cannot stress enough how important it is for us that CETA is passed and comes into effect.

I happened to note that earlier in the week the Opposition tabled a different amendment, one that was opposed to CETA—the actual content of CETA—rather than the procedural aspects and the lack of time, which the amendment before us today deals with. I ask all members of the Committee to consider whether we are believers in global free trade and want to have a good free trade agreement with Canada. I strongly believe it is in our country's interests to do so, and I have yet to hear that from the official Opposition.

Barry Gardiner: On a point of clarification, Sir Edward.

The Chair: What is a point of clarification?

Barry Gardiner: Clarification that the Minister has heard that from the official Opposition today, because I stated it in the very first question I asked.

The Chair: I will take that as a question for the Minister.

Greg Hands: The answer is this, Sir Edward. Starting "Line 10, leave out from "part;" to end and insert", this amendment in the name of the hon. Member for Swansea West continues: "regrets the signature and the provisional application in the coming months of the Comprehensive Economic and Trade Agreement; is of the opinion that the provisions regarding the Investment Court System are potentially harmful as they have the potential to empower corporate trade interests to the detriment of public bodies protecting the environment, food safety, public health and social rights". This amendment expresses regret about the signature and the provisional application, even though the hon. Gentleman was a member of the European Scrutiny Committee that, at its meeting in September, agreed that the treaty should be signed.

Geraint Davies *rose—*

The Chair: As you have been mentioned, Mr Davies, you may have the chance to ask another question.

Geraint Davies: On a point of order, Sir Edward. Is it in order for members of the Government to have access to the Public Bill Office when people are considering prospective amendments? That amendment was never put. This is outrageous! It is spying. This is a very serious point.

The Chair: I am advised that that is not a matter for the Chair.

Geraint Davies: Okay, then I will go on and ask a question. I will take up the matter with the House authorities. It is disgraceful.

The previous draft amendment, which the Minister read out, expressed concern about the implementation of the investment court system. There is enormous concern about this across Europe, which is why it has been taken out of the agreement and put to one side. Such expressions have been made across the Council of Europe, representing 830 million people, which passed a legal affairs resolution only the week before last stating that the ICS should at least be amended to be in accordance with the European Court of Human Rights, that there should be a one-year opt-out, and that fines should be strictly limited to actual damages. There is nothing anti-CETA about that amendment. It says that there are concerns, so there should be a debate. It is outrageous that the Minister got hold of that somehow—perhaps he can tell us who leaked it?

Greg Hands: Sir Edward, as I understand it, amendments can be tabled in the Public Bill Office and withdrawn, which is what I understand the status of the amendment I read out to have been. It was tabled, and it is perfectly possible for people to go in and see what amendments have been tabled. Contrary to what the hon. Gentleman says, the amendment does express regret about the signature and the provisional application. I think the onus is on the official Opposition to work out what their position is on CETA. Are they in favour of CETA or against it?

Peter Grant: May I refer the Minister to the resolution of the House of 17 November 1998, which prohibits Ministers from giving agreement to decisions in the European Council while they are still under scrutiny, and in particular to the paragraph that allows a Minister to take that action in certain circumstances? In the case of a proposal that is awaiting consideration by the House, the Minister is required to

"explain his reasons…to the House"—

not to the Scrutiny Committee but to the House—

"at the first opportunity after giving agreement."

Agreement was given on 18 October. On what date was the statement to the House made?

Greg Hands: I am not sure that I fully followed that, but on why the UK overrode scrutiny at the European Council on 18 October, the Secretary of State wrote to the Committee to outline what he intended to do, given the fact that the three motions were to be taken as a package. He then appeared before the Select Committee as soon as possible—really as soon as possible—after that European Council, in this case on 26 October. The European Council that took place on 18 October ultimately led to the signing on 20 October. You will recall, Sir Edward, the delay caused by the Walloons seeking further clarification.

As for the provisions of the 1998 resolution, it is not entirely clear to me whether that refers to the House as whole or to the European Scrutiny Committee, which acts on behalf of the House in these matters. I am happy to write to the hon. Gentleman setting out some clarification. I was not a Member of the House in 1998, but I am happy to write to him to outline the impact of that measure on our interactions since it was passed.

Barry Gardiner *rose—*

The Chair: We are running out of time, but I could extend the time and cut into the debate on the motion. Would you like to ask one more little question, Mr Gardiner, and then we can perhaps finish this part of the sitting on time and go into the debate?

Barry Gardiner: Thank you, Sir Edward. Perhaps the Minister could provide information on whether any comparison has been made between the risk from the investor-state dispute mechanism under our pre-existing bilateral investment treaties and the risk from the ICS established under CETA? Of course, 98.5% of our bilateral investment treaties in force are with non-OECD countries, and 61.45% of those treaties are so old that they predate the World Trade Organisation. There needs to have been an impact assessment of the risk from the ICS. Can the Minister assure us that that has been done? Which criteria were used in assessing the risks from the ICS? How did they compare with the risks under pre-existing bilateral treaties?

The Chair: Minister, you have two minutes.

Greg Hands: I thank the hon. Gentleman for that question. If it is all right with him, I will write to him in some detail in response to those detailed questions about whether a risk assessment has been undertaken or not.

The Chair: That is the end of the time for questions. We will now proceed to the debate on the motion. I must inform the Committee that I have selected the amendment in the name of Geraint Davies.

Motion made, and Question proposed,

That the Committee takes note of European Union Document No. 10968/16 and Addenda 1to 16, a Proposal for a Council Decision on the signing of the Comprehensive Economic and Trade Agreement (CETA) between Canada of the one part, and the European Union and its Member States, of the other part; further takes note of European Union Document No. 10969/16 and Addenda 1 to 16, a Proposal for a Council Decision on the provisional application of the Comprehensive Economic and Trade Agreement between Canada of the one part, and the European Union and its Member States, of the other part; further takes note of European Union Document No. 10970/16 and Addenda 1 to 16, a Proposal for a Council Decision on the conclusion of the Comprehensive Economic and Trade Agreement between Canada of the one part, and the European Union and its Member States, of the other part; welcomes the signature of the Comprehensive Economic and Trade Agreement in October 2016; looks forward to provisional application in the coming months; and notes that this is a mixed agreement which must be laid before Parliament for at least 21 sitting days without the House having resolved that it should not be ratified before the United Kingdom can ratify it.—(*Greg Hands.*)

5.36 pm

Geraint Davies: On the Minister's point that he saw a previous draft of the amendment, may I say that the problem with the procedure has been that there has not been proper scrutiny or sufficient parliamentary time to discuss the matter? At the final moment, I was alerted, as a member of the European Scrutiny Committee, to the fact that I would be speaking on behalf of the Committee and that I had a few hours to table an amendment. The main concerns that have been expressed across Europe on this issue have been about the ICS, so I quickly drafted an amendment that basically pointed to the concerns about that. The Minister has rightly

pointed out that that has now been put to one side and that it will be ratified separately. Basically, the amendment said that there were concerns about that and that we wanted a full parliamentary debate and to move forward. That amendment was withdrawn.

May I turn to the amendment on the table, rather than the draft scribble that I did in the heat of the night, having been told that there was a tight deadline on amendments being tabled? This amendment says that we welcome

"the prospect of enhanced trading relations between the United Kingdom and Canada".

Let us be clear: we on the Labour Benches want more trade. We want harmonised trade and market access, but we do not want a new system of laws to be introduced for multinational companies to fine democratically elected Governments, whether they are in Canada or across Europe, in respect of laws that are passed to protect citizens in relation to public health, the environment and rights at work. That is the concern.

However, that part of our concern is not in the amendment. The amendment simply reflects the position of the European Scrutiny Committee, whose focus is on proper scrutiny. In essence, the amendment says that the Secretary of State should fulfil his obligation and his promise to the Committee to have a full debate, because fundamental issues are involved. I appreciate that people will not all agree on these things, but that is the point of democracy and debate. I appreciate the Opposition may have a view, or there may be breaks in different parts of the Opposition. We may disagree or agree, but that is not the point. The point is that this is of fundamental importance not just to our economy but to the services and democracy that we enjoy.

Am I right, Sir Edward, in thinking that I should give my entire contribution now?

The Chair: Yes, that is right.

Geraint Davies: Thank you, Sir Edward.

The view of the European Scrutiny Committee is that in the light of the unfortunate lack of scrutiny, all members of the Committee should find it in their heart and mind to add the words in the amendment to the motion so that we can all come together and agree it. The Government might say, "Sorry, we don't want more scrutiny; we want to take control, but we want to take it in the corner without other people having any involvement", but I am afraid that I will certainly not vote for a motion that does not require extra scrutiny, given that the Secretary of State has given a solemn undertaking to provide it.

I will give some of the reasons for further scrutiny given the concerns about CETA, particularly when the ICS is introduced to it. The key debate in Europe has been about why we need the ICS, and the answer that has been given is that it is to protect investors. However, we must ask how investors are protected at the moment. Are they adequately protected? The answer is that they are. In Europe they are protected by county courts, national courts and national law, European law and the European Court of Human Rights. In Canada there are provincial courts, appeal courts and the Supreme Court. The United States has a similar legal system. It is not surprising that our long-established systems of public law, contract law and commercial law balance the interests of the investor against the wider public interest.

That is particularly important in examples such as the balance of investor and environmental interest in fracking. Or perhaps an investor such as a fizzy drinks manufacturer might come along and the Government might say, as the right hon. Member for Tatton (Mr Osborne) did, "Actually, we're about bit worried about diabetes and obesity; 45% of sugar consumption by teenagers is from fizzy drinks, so we'll put a tax on them." If that went to court, the court could say, "We've got to balance the public interest with investor interest". However, an arbitration court is all about the interest of the investor and whether a particular law has had an impact on the future profitability of a legitimate investor. In the narrow case in Mexico that I mentioned, of course the court, using that narrow definition of investor interest, ruled that the tax had reduced the investor's sales and profitability, and the public had to pay the price. That is outrageous, and we should not just nod that sort of thing through.

We have systems of law that protect both the investors and the public. The precursor to the ICS—the so-called investor-state dispute settlement—was introduced in 1957 in an agreement between Germany and Pakistan, because the Germans thought that there was some risk to their investment. I do not have anything against arbitration courts per se if they are about, for instance, European countries investing in high-risk countries with undeveloped judiciaries and unstable political environments. That means that investors can take necessary risk and the arbitration court can take a view on unreasonable sequestration.

That is not what we are talking about here. We are talking about mature economies, judiciaries and democracies that already trade enormous amounts of goods and services. The great advantage of CETA is that it will pave the way for the regulation and harmonisation of standards—there are concerns about standards, incidentally, but I will come to that in a moment. The opportunity is something like 0.5% of GDP, so it is not overwhelming. Most of the problems are about tariffs, but the big problem has been about the ICS. I know that the Minister says we have set that to one side, but it will be a problem downstream. Issues such as this are fundamental to democracy, the rule of law and human rights, so we will need a proper debate. If the ICS comes in downstream and intimidates Governments into not introducing laws to protect their citizens, it will be a major problem for democracy itself. That is why there has been such a big debate among the 47 countries of the Council of Europe, above and beyond the European Union.

Barry Gardiner: I am listening carefully to my hon. Friend's points and I agree with a great deal of what he says. Does he consider that there is an irony in the fact that we are leaving the European Union in order to come out from supranational institutions that can override national Parliaments and courts, yet at the very same moment we appear to be signing up to an agreement that will give us a supranational court that sits over us?

Geraint Davies: More than an irony—a tragedy. The view of some, apparently, is that we should move out of the orbit of the European Court of Human Rights, which supports the fundamental values of human rights, democracy and the rule of law, and into the orbit of

[Geraint Davies]

arbitration courts whose basic remit relates to the interests of the investor, as opposed to the wider interests of the environment. If the Minister has looked at the detail of the chapters of CETA, he will have observed that the investor chapter is armed with arbitration courts that trump national and international law, but that there are no such teeth in the environment chapter, for instance. There is no enforceability of the Paris agreement that we have all signed up to in order to save the planet. Nor, for that matter, is there any enforceability of labour rights.

We need a debate, because ICS is down the road—I accept that it has not yet come in and we can do the other bits first, but there is a concern that that is an unnecessary and dangerous prospect. I do not want to run through hundreds of cases, but there was a famous case in which Obama said to TransCanada, "We don't want this sand oil pipeline coming in from Canada to the US, because it is a breach of the Paris agreement." As I understand it, the case has now been dropped because Donald Trump has taken over the presidency, but TransCanada was going to sue the US for $15 billion. My hon. Friend the Member for Brent North mentioned ratcheting and reassurances about health services; there was a case in which Slovakia attempted to renationalise part of its health service and was penalised in court with fines. Hon. Members may remember that at the last election the Labour party stood up and said that it wanted to freeze energy prices; one may or may not like that idea, but Argentina was sued for $1 billion under ISDS by energy companies from America and Europe for doing exactly that. Philip Morris, famously, has been pursuing a case against Australia and Uruguay to stop plain tobacco packaging, which was introduced to reduce deaths from cancer.

The problem with these courts is that they are secret, they have a narrow remit, they are run by commercial lawyers, they are inconsistent in outcomes and they do not normally have appeals. Under the new ICS they will have appeals, but they will not adopt the doctrine of precedent, so one court's verdict may not inform the next court. The Council of Europe, which I mentioned earlier, has therefore said, "Hold on—we are very concerned about the investment court system, but if and when it does come in, it should be subject, as a minimum, to a number of constraints. In accordance with the European Court of Human Rights, there should be one-year opt-outs with six-year investor protection, and there should be actual damages rather than the fantasy projections of profit that have been sued for."

I have already mentioned the problems with secrecy and lack of accountability. The Secretary of State seemed to think that it was marvellous that we should be able to go into a library on our own and have a look at the CETA documents, without taking photocopies. Obviously, no one can really understand what they are looking at and gain a meaningful view in the amount of time they are given. It seems to have been a bit of a joke, to put it mildly.

There are other issues that the Minister may want to respond to. There is widespread concern about European standards, for example, in relation to genetically modified food and other food standards, so can he give us any assurances that we will not be slipping to the lowest common denominator in health and equality standards? There are concerns that the precautionary principle, which has been a principle of EU law, has not in fact been instilled into CETA.

People are also concerned that there is a move away from openness in clinical trials. As Members may be aware, the clinical trials directive requires pharmaceutical companies to go public with the outcomes of their clinical trials. As I understand it, CETA will give private companies the right to withhold the outcomes of clinical trials. For example, if a company such as the one that manufactured thalidomide found that half the trials for a certain drug were negative and half were positive, it could publish only the half that were positive. What does the Minister have to say about that? What about the issues relating to trade secrets in CETA? He may think that these are minor points, but I want some reassurance.

I am trying to make the case that, given that there are so many issues, we need a proper debate. Parliamentarians are concerned. When we look at VW fixing emissions, for example, we see that there are new opportunities in CETA for trade secrets. If an employee blows the whistle because they discover that their company is harming public health, for example with diesel emissions, or a drug that harms babies—whatever it is—they can be punished by the company. These are issues of concern that require clarity and debate.

There are concerns about labour rights and whether there will be an assurance that International Labour Organisation conventions will be fulfilled. There are concerns about level playing fields and whether procurement will be equal and apposite. There are concerns about winners and losers, which the European Scrutiny Committee has also debated. We are told that there will be an overall GDP gain of something like 0.5%, but which sectors will win and which will lose? Will small companies lose out? The Prime Minister has already said that she will back certain winners, so perhaps motor manufacturers will get a good deal, but there is some fear that Welsh lamb producers could face a 40% tariff after Brexit. We also have the concern, raised by my hon. Friend the Member for Brent North, about geographical indicators. Welsh lamb was not a geographical indicator originally, so in theory someone could sell in Britain lamb that had been produced in Canada and call it Welsh lamb. That is a real problem.

Ms Ahmed-Sheikh: It is important to be clear that no one in this debate is against trade—quite the opposite. What we are talking about is the fact that many Members wanted an opportunity to debate this because they have postbags full of letters from people with experience in a variety of areas that they wish to bring to the fore so that they can inform the UK Government's future trade policy and also voice their concerns. This is not about having a debate for debate's sake, which feels like what we are doing here; this is about the Government missing an opportunity genuinely to listen to Members who have received representations from constituents who have knowledge in these different areas, some of which the hon. Gentleman has referred to, which are worth hearing. That is why this is just not up to standard.

Geraint Davies: I thank the hon. Lady for making that excellent point. I must say that, even though this debate has been buried in a foxhole, I have received

hundreds of emails from people across the country saying, "At least you're doing something about it" in having this sitting. I appreciate that that is better than nothing, but this is such a big issue that we need a wider debate.

The Sun carried a half-page article under the headline, "EU deal will give pasties a pasting", because there is reasonable concern about the Cornish pasty and geographical indicators. The Italians and the French have been slightly quicker off the mark in registering champagne, various sorts of cheeses and pastas and all the rest of it, than us. We have caught up a bit, but there need to be clear undertakings that there will be new geographical indicators so that we can have protection. We know that the Americans and Canadians are used to global brands, while we are more used to a European approach, so those issues need to be talked about.

The issue of transparency and scrutiny needs to be talked about as this agreement will be the forerunner to the Transatlantic Trade and Investment Partnership, if it is ever revived, which depends on Donald, of course. This agreement could be a blueprint for global trade. If it is to be, it needs to embrace not only the best in trade, transparency and harmonisation, but the best in ensuring that trade is compatible with our environmental imperatives to deliver the Paris agreement and human rights as well.

You will be glad to hear, Sir Edward, that I shall close my remarks here. I simply wanted to lay down some markers that this issue is crucial to all parliamentarians—not just across Britain, but across Europe and Canada. We need a proper debate, which we were promised. We want to give this agreement our blessing, subject to that ratification by the House of Commons. That is why I am speaking to this reasonable amendment, which accords with what the European Scrutiny Committee has said. People should not say, "We don't support this because we heard that you were thinking of a different amendment to start with." That has nothing to do with this amendment, which is about scrutiny, democracy, accountability and upholding our rights, rather than nodding them away.

The Chair: The Minister could speak now, but I think I will call Mr Gardiner and then Mr Grant. However, they must allow the Minister at least 15 minutes to reply. Is that all right with the Minister?

Greg Hands: Yes.

5.57 pm

Barry Gardiner: Thank you, Sir Edward. I welcome the opportunity, under your chairmanship, to address the Committee in this important and long overdue debate. My hon. Friend the Member for Swansea West speaks here for the European Scrutiny Committee. I speak for the official Opposition, and I am delighted to support the cross-party amendment tabled by me, my hon. Friend and the hon. Member for Glenrothes.

For the avoidance of any doubt—there was doubt, because the Minister tried to sow it—the Labour party believes in an open, fair system of trade. Trade is one of the most effective means of creating shared prosperity and decent jobs. From the very first, when free trade was a radical cause in British politics, my party argued for open markets in the crisis years of the 1920s and '30s, as mounting calls for protectionism led the world towards disaster.

We understand the power of fair and open trade today. We share the dream of the vast majority of people around the world who want closer ties between countries. We want to build trade links, not protectionist walls. Trade is one of the most important mechanisms for binding peoples together, but we want trade agreements that respect—

Greg Hands: Does the hon. Gentleman agree with his party leader, who described free trade as a dogma?

Barry Gardiner: I am not interested in university debating points ad hominem. Free trade has become narrowed in its interpretation. The right hon. Gentleman will have noticed that I have focused on the benefits that an open and fair trading system can bring, and that is what we want, but we want trade agreements that respect sovereignty and that benefit little companies, not just major corporations. We want trade agreements that make our society a more, not less, equal place. That is why I am delighted to support the amendment tabled by my hon. Friend the Member for Swansea West.

I want to deal with the process first. I will try to be brief because we talked a great deal about this issue during the questions. The failure to bring consideration of CETA to a full debate on the Floor of the House should be a matter of not only regret by the Government, but deep disquiet for hon. Members from all parties. The job in front of the Committee today is very clear. It is not to decide whether CETA should proceed or not. It is to decide whether it is appropriate, given all the concerns there are about CETA, that the Secretary of State should honour the promise and commitment he gave to the House in his written statement and to the European Scrutiny Committee and that we should debate this on the Floor of the House.

I welcome the fact that we have finally today been given the opportunity to discuss this issue, but I cannot help but record that at its meeting on 7 September last year the European Scrutiny Committee recommended CETA for an early debate on the Floor of the House. It did so in view of the unprecedented public interest shown in this new generation of international trade agreements and the complex legal and policy issues raised for the UK. The Committee granted the Government a waiver to allow them to sign CETA at the EU Council of Ministers, but that waiver was conditional upon the promised debate being scheduled urgently to take place on the Floor of the House and at the very latest, it said, before the provisional application of CETA.

As I said, the Secretary of State appeared before the Committee on 26 October. He said that that he was "very happy" to have that debate on the Floor of the House and claimed that the failure to do so had been the result of scheduling problems in the parliamentary calendar. In reality, as the freedom of information request I referred to earlier showed, the Government had not been delayed by a scheduling problem in the parliamentary calendar at all. In fact, the first time the Secretary of State's Department even approached the business managers to discuss a potential debate on CETA was 25 October—one day before the Secretary of State was due to appear before the European Scrutiny Committee to account for his failure to do so.

"What advice would you give"—

[Barry Gardiner]

the Department asked—

"would it be better to have an actual date or do you think we can just tell the chair we are in the process of scheduling a debate".

That does not sound like a Secretary of State committed to full parliamentary scrutiny and to keeping his promise. The Government confirmed in their subsequent letter of 30 November that they recognised a debate on the Floor of the House of Commons to be "of the utmost importance".

Michael Tomlinson: Earlier in the Committee, the hon. Gentleman asked many questions about the process, but we are now in the debate. All Members of Parliament are entitled to attend the Committee and debate the matter, although not all Members are entitled to vote. I agree with him that it is regrettable we are not there; we are here. Should we get on with the debate?

Barry Gardiner: The hon. Gentleman is right that all Members of the House have the right to attend the Committee, but he will have noticed that this one and only opportunity for them to do so was deliberately timetabled at the same time that the European Union (Notification of Withdrawal) Bill is being considered in Committee on the Floor of the House. I do not believe that is a coincidence. I do not believe that is a mistake. I believe that it is part of a deliberate attempt to stop proper scrutiny. The hon. Gentleman talks about scrutiny and about moving this debate on to substantive issues within CETA, but the debate on the motion and amendment is precisely about whether this matter should go to the Floor of the House. That is why the process is important. We need to see that proper process has been kept, and sadly it has not.

Geraint Davies: Will my hon. Friend give way?

Barry Gardiner: I want to respect the Chair's stricture.

Geraint Davies: Does my hon. Friend agree that in the three and a half months that the Government have had to hold the debate, this is probably the best time for them to have it in terms of hiding bad news under the noise of the Brexit debate? This is clearly pre-planned to stop proper scrutiny, public debate and media coverage.

Barry Gardiner: I wholeheartedly agree. We must now move forward. The Government said that it was of the utmost importance to have the debate on the Floor of the House, yet we find ourselves 68 days later with a debate up in Committee Room 10.

The European Scrutiny Committee issued the Government with a waiver, to allow them to sign CETA at the Council of Ministers. The Committee made it clear that the waiver did not extend to the provisional application or conclusion of CETA. The Secretary of State chose to disregard the Committee. We have heard from the Minister today the reason why: because it was bundled. It is important that we hear from him whether the UK made any objection or moved any procedural motion during the Council of Ministers to unbundle it, so that the Secretary of State could observe the protocols that he had undertaken to the Committee.

I can only concur with the Chairman of the European Scrutiny Committee, who said that it was a "serious" breach when the Secretary of State failed to honour the waiver he had been given. That stands in stark contrast to the many statements made by the Government in recent days to assure us of their commitment to respecting parliamentary scrutiny and accountability.

In the same vein, there has been a marked failure to present CETA for consultation before the devolved Administrations, despite the fact that their Departments are all listed in the annex of entities covered by the public procurement rules of CETA and are thus exposed to CETA's strictures on central and sub-central Government entities alike. I call on the Government to remedy that failure as a matter of urgency, before initiating the process for ratification of CETA in the House. I hope that the Minister feels that he can give an undertaking on at least that level.

With regard to process, the Government failed to meet their own successive promises to bring CETA forward for a full debate on the Floor of the House. The Secretary of State was, at best, disingenuous in the statements made to the Chairman of the European Scrutiny Committee. He explicitly broke the waiver that the Committee had given to him, when he approved both the provisional application and the conclusion of CETA, and his Department has failed to engage with and consult the devolved Administrations in respect of an agreement that has specific application to them. Those are serious procedural failures that show a disregard for the proper scrutiny of Parliament, and they provide, in themselves, a compelling case for the Committee now to insist that the Government bring that full debate to the Commons. However, there are substantive reasons as well as procedural ones and, in many respects, they are more compelling.

I turn, therefore, to the content of CETA. It will be a surprise to the Committee to learn that the Government have not commissioned any research on what the impact of CETA might be on the UK economy. That should be a matter of concern, because the Government have repeatedly claimed, as the Minister did in his opening remarks, that CETA will bring up to £1.3 billion extra to the UK economy. Let me straightaway say that I would be the first to cheer if that were a credible prospect, but the Government admitted in their explanatory memorandum of July 2016 that it simply took a projection of overall gains to the EU and divided it by the UK's share of EU GDP to come up with that figure. That is back-of-an-envelope calculation. It has to qualify as one of the crudest and least credible methodologies ever adopted to project the impact of a major trade agreement.

Only one study to date has disaggregated the prospective impacts of CETA on individual EU member states, and it concluded that countries such as France, Germany and Italy would indeed see an increase in their exports as a result of CETA. However, the study is clear that the UK would experience a decrease in both its exports and its balance of trade. At a time when the UK balance of trade is already under so much pressure, the very possibility that we might suffer a loss of exports should give us pause for proper scrutiny. At the very least, a proper impact assessment of how the agreement will specifically

affect the UK needs to be conducted. That further underlines the need for the promised debate on the Floor of the House.

Members will also be surprised to learn that the Government have failed to list in annex 20 to the agreement a single one of the dozens of great British food products that qualify for protected geographical status. The UK is the only major EU member state that failed to secure such protection in CETA for its food businesses. The "Geographical Indications" annex of CETA is page after page of products listed for protection by France, Germany, Italy, Greece, Spain, Romania, Austria, Hungary and the rest, but there is not a single one from the UK. There is no protection for Scotch beef, Scotch lamb, Scottish farmed salmon, Welsh beef, Welsh lamb, Cornish pasties, west country farmhouse cheddar, blue Stilton, or white for that matter. More than 50 other British products that should qualify for protected geographical status are simply not protected. How can the Secretary of State have failed to protect a single one of our products under CETA? No wonder he does not want the matter to be discussed on the Floor of the House of Commons.

CETA is also remarkable in its complete disregard for the interests of small and medium-sized enterprises. Even TTIP contained a dedicated chapter outlining the support measures that the EU and the USA would introduce for SMEs. By contrast, in all the 2,255 pages of CETA there is not one single commitment to further the export interests of SMEs.

In recent times, we have heard much talk of the Government's commitment to parliamentary sovereignty. The Prime Minister has declared that leaving the EU will allow Britain to be a fully independent, sovereign country once again, no longer subject to

"supranational institutions that can override national parliaments and courts."

Likewise, the Secretary of State for International Trade has given us his vision of

"Britain as an independent sovereign nation, with a parliament beholden to no one".

Yet, if we look at last week's White Paper, it spelled things out very clearly. It has an annex about CETA—it creates a framework of supranational institutions that are precisely designed to override national Parliaments and courts. Along with the CETA Joint Committee, which will have binding powers over sovereign Parliaments in future, CETA includes the investment court system, the latest form of the ISDS mechanism, to allow foreign investors to sue host Governments over public policy measures that undermine their profits. Under CETA, a foreign company will have the right to bypass the domestic courts and avail itself of its own privileged commercial judicial system to challenge any regulatory reforms that run counter to its "legitimate expectations" as a profit-making enterprise, claiming vast sums in compensation even when Parliament has approved the reforms.

We in the Labour party are opposed to any system that grants foreign investors private justice in their own private courts. As noted in the charter for progressive trade deals that we adopted last year, we uphold the basic principle of equality before the law, which requires foreign investors to abide by the same rules as everyone else, in the same judicial system as everyone else. Foreign investors can have full confidence in the British legal systems to obtain redress where their interests have been unfairly harmed, and the British people can have confidence that the courts will then balance the competing interests of foreign companies and the public good when making their judgments. A company, however, does not even have to win its case in the investor court system to undermine UK sovereignty. The very threat of a legal challenge and the scale of both costs and potential damages can make Governments back away from regulation that would be in the public interest, and can exert its own regulatory chill on Government plans for new legislation. It was a legal technicality that prevented Philip Morris from obtaining billions of dollars of compensation that it sought in its case against Australia's law on plain packaging for cigarettes. That did not stop other countries backing away from introducing similar measures for fear of being hit with their own claims.

The Chair: Order. Mr Gardiner, this is a very comprehensive speech, and very well written, but you will think of others, won't you?

Barry Gardiner: Indeed, and it is almost finished, Sir.

The Chair: But you will think of others, will you not?

Barry Gardiner: Indeed.

Canadian companies have been among the most litigious in using the ISDS powers that exist in other treaties, yet we have learned from parliamentary questions that the Government have failed to conduct any risk assessment of the potential threats of investor-state challenges to health or the environment. That is another reason for the Committee to insist upon a full parliamentary debate on the issue. Such risk assessments are absolutely standard in other countries preparing to adopt ISDS provisions in their trade or investment agreements, and the Minister really must explain why no such impact assessment was conducted.

It is not just Canadian firms that will be able to use CETA to challenge social and environmental protections. Around 80% of the 13,000 US companies that operate in the UK have active subsidiaries operating in Canada, through which they will be able to bring ISDS claims, using the new CETA investment court system. That means that, overnight, 10,000 US firms will gain the right to sue the UK over any new social, environmental or public health regulations that might adversely affect their profits in future.

In that way, CETA will open the floodgates to precisely the wave of suits that the UK Government were warned about in the cost-benefit analysis that they commissioned from the London School of Economics back in 2013. That study made it clear that providing north American investors with privileged rights would bring no benefits whatsoever to the UK economy, but would incur "considerable" monetary costs to the UK taxpayer, as well as significant political costs.

The investment court system has been rejected by the European Association of Judges, which represents 44 national associations, and by the German Magistrates Association. More than 100 legal scholars from European universities have issued a strongly worded statement warning that the inclusion of such powers in CETA would undermine not only the rule of law but the very principles upon which our democracies are founded.

[Barry Gardiner]

On the other side of the Atlantic, a group of Canadian lawyers with direct experience of investor-state disputes have published a letter outlining the threats that the investment court system poses—

"the undermining of democratic regulation, the special privileging of foreign investors, the lack of judicial independence and procedural fairness in the adjudicative process, and the lack of respect for domestic courts and domestic institutions.

Those are serious charges that deserve to be debated in full on the Floor of the House of Commons, as was promised.

CETA departs from all previous EU trade agreements in being the first in which the EU has accepted the high-risk negative list approach to scheduling our service sectors. Under that approach, all sectors that are not explicitly exempted are automatically committed to binding liberalisation, including future services that have not even been invented yet. My hon. Friend the Member for Swansea West gave certain examples. One might consider the potential ban on microbeads in cosmetics as another thing done for the public good that could open the Government up to a suit.

The adoption of the negative list method in CETA marks a significant departure from the EU's previous use of the positive list approach, whereby only sectors actively listed for inclusion are subject to the rules and disciplines of the agreement. CETA introduces the standstill and ratchet mechanisms, which prevent countries from reversing liberalisation commitments already made in their service sectors, whether now or in the future. The standstill clause states that Governments forfeit the sovereign right to introduce any reforms that could reverse the level of market liberalisation registered in CETA. The "ratchet" clause goes even further, in that future Governments will lose the right to reverse liberalisation measures that might be introduced in years to come.

There has been much concern about whether our public services are vulnerable to attack from the far-reaching provisions of CETA. Trade lawyers from within and without the European Commission have cast serious doubts on the validity of the repeated assurances that public services such as the NHS are safe. Suffice it to say that on the European side, the only sectors definitively carved out of CETA are audio-visual services—in deference to the French exception culturelle—and certain air services. There is no disagreement that health, education, post, rail and waste water services are all covered by CETA.

Individual EU member states were permitted to register their national reservations in the two service annexes to CETA. To compensate for the lack of certainty surrounding the status of public services, the German Government took out a comprehensive reservation to ensure that all their health and social services would be fully protected from the threat of market liberalisation under CETA. The UK Government entered reservations for certain aspects of privately funded health and social services only, including privately funded ambulances, but they failed to protect the core functions of the NHS.

Going into the full intricacies of this complex issue would take us beyond the time that we have available this afternoon, but the lack of clarity plaguing the situation is yet another argument for the fuller debate on CETA on the Floor of the House that we were promised. I simply mention that the official impact assessment carried out for the European Commission at the start of negotiations included a specific warning that health and education services should be exempted from any investor-state dispute disciplines adopted in CETA. The fact that the recommendation was not taken up in the negotiations or the legal scrubbing that delivered the final CETA text is yet another reason why we must avoid rushing into an agreement that could see us bound to a deal that may well be in the best interests of our fellow European countries, but not our own. Indeed, hon. Members might consider that it would be better to conclude a separate deal with Canada when we have the legal capacity to do so on our own, outside the EU.

Those are some of the most pressing concerns we have on CETA, but I will make one final observation. The Secretary of State for International Trade stated last week that he intends to adopt all the EU's free trade agreements into stand-alone UK treaties with the trading partners in question. The Canadian Government, for their part, said that they see CETA as the baseline for any future UK-Canada trade deals. Moreover, Ministers in this country have suggested that CETA could even provide the blueprint for a future UK-EU trade deal.

All those considerations underline the critical importance of getting it right on CETA. They underline the critical danger of not submitting the agreement to the full level of scrutiny that it deserves. There is still time for the CETA debate to be scheduled on the Floor of the House, as we were promised, and for parallel consultations to be held with the devolved Administrations before the provisional application of CETA comes into effect. That was the original chronology stipulated by the European Scrutiny Committee. Certainly the process of ratification must not be initiated in this country before Parliament has had the opportunity to decide on this issue, so I support the amendment.

6.23 pm

Peter Grant: Will you remind me how much time we have left, Sir Edward?

The Chair: The debate must stop at 7 pm and it is only fair to give the Minister at least 15 minutes to reply.

Peter Grant: I think that means I have as long as the hon. Member for Brent North had after starting to come to his conclusions, so I will try and keep by comments brief.

The Minister asked what the Opposition's view of CETA was. Well, there is not just one Opposition—even on this small Committee there are at least two Oppositions, and possibly more, but we will see later. The Scottish National party's position on trade is that we want it. We form the Government of a country whose exports are worth almost £30 billion a year, excluding oil and gas—that counts as Scottish produce when it is bad news but not when it is good news. That is equivalent to about £100 a week exported for every man, woman and child in the country.

We can do that because we have confidence in our producers to compete on a level playing field with anybody anywhere in the world on quality, whether in food and drink, which have been mentioned, our tourism provision or invisible exports such as higher education.

Scotland has nothing to fear from fair trade, which is why we are staying in the single market even after some Members here have chosen to leave, but we have to ensure that removing barriers to fair trade does not create opportunities for the destruction or hijacking of important public services. I welcome the assurances that the Minister has given us today, but I still want to hear them given to the entire House of Commons, not simply because I think that is what should happen, but because a Minister of the Crown promised that it would happen.

The Minister and some of his colleagues on the Government Benches keep talking about debating the process as if that did not matter. We should remember that the European Parliament, the Court of Justice and the European Commission are processes. If we are not interested in processes, why are we going through the chaos of Brexit to change the process by which our laws are made and interpreted? The process matters. Strange though this may seem coming from somebody who, as hon. Members will have gathered, is not a great fan of this place, I think that the principle of Ministers' accountability to Parliament is so important that I would be prepared to see a delay in a trade deal that I was 100% in favour of if that would ensure proper parliamentary scrutiny. When I am here, I am not just speaking for myself. When the whole House is assembled, we are all speaking for others, and those others have raised significant concerns, whether they are well founded, based on misinformation or based on good information. Those concerns can be addressed without scuppering the whole treaty.

This issue is too important to be discussed late on a Monday evening in an upstairs Committee room in the House of Commons. I had a look at the BBC website a few minutes ago. There are 11 different headlines on the politics page, but this debate does not feature—that is how successfully it has been hidden away. I cannot see into the minds of the managers of the Government's business. It might just be a coincidence that we got notified of the date, time and place of this meeting on exactly the same day as the programme motion for Committee stage of the Withdrawal from the European Union (Article 50) Bill appeared on the Order Paper. It might just be a coincidence that after five months of waiting for an urgent debate, it suddenly gets programmed for a day on which nobody but nobody is going to be paying the slightest bit of attention to it.

If the Minister is concerned that delaying the signing of CETA will somehow damage Britain's reputation in trade circles around the world, what does it do to the Government's reputation when a Minister goes before a Select Committee and says that he agrees that there needs to be an urgent debate before the full House of Commons, yet months later it still has not happened, and then another Minister comes along and says, "Well, yes, the Secretary of State gave that commitment, but it really doesn't matter because we're far too busy getting out of the European Union to worry about parliamentary democracy"? I do not think anything can make us too busy for that.

I simply do not believe that it is purely due to a lack of time that after five months we have not had an urgent debate on a major issue that has caused a lot of concern to well-meaning, sincere and genuine citizens the length and breadth of these islands. I simply do not believe that, if the Government wanted to schedule a debate on the Floor of the House at some point since 7 September, they could not have found a way of doing so. If that is not the case, and if five months genuinely was not long enough to schedule a three-hour debate on the Floor of the House, we should remember that the same Government tell us that they can negotiate an entirely new relationship with 27 different countries in just under 18 months. If that does not send a chill down the spine, I do not know what will.

Incidentally, I do not care what amendments the hon. Member for Swansea West doodled down, submitted and decided not to follow through with. Perhaps Government Members should think more about articles that were written about the case for staying in the European Union, which were somehow never published, by someone who had a kind of road-to-Damascus conversion and is now one of the most enthusiastic supporters of Brexit. We should remember that he has also changed his opinion about Donald Trump since he got elected to the presidency.

We are not debating amendments that were drafted and never submitted or amendments that were submitted and then withdrawn; we are debating the amendment before us. I ask this of Conservative Members. I know that the Government and the Whips have told them what they want to do, but if they seriously believe that a major reason for exiting the European Union was to restore parliamentary democracy—I will not refer to parliamentary sovereignty, because that does not exist equally in all four parts of these islands—and if they want to restore parliamentary supremacy over Europe, surely we should also be maintaining parliamentary supremacy over Ministers of the Crown.

This is not an isolated case. I have sat beside the hon. Member for Swansea West many times in the European Scrutiny Committee, and I have lost count of the number of times that that Committee, which has a built-in Government majority, has savaged Ministers one after the other for their complete failure to show any respect whatever for the due processes of the House. If the Government do not like the processes, they are perfectly entitled to bring forward changes and to ask the House to agree to them.

Geraint Davies: Does the hon. Gentleman agree that if our Chairman, the hon. Member for Stone, were here, he would demand a full debate and full scrutiny, as we do today?

Peter Grant: I am grateful for that intervention. I rather suspect that the hon. Member for Stone is more than capable of speaking for himself. We disagree significantly on a number of issues, but on this issue he and I agree entirely. Given that he has never opposed any of his Committee's reports, and that we have had report after report severely criticising the Government for failure to bring important matters of public policy forward for debate, either in Committee or in the House, it is reasonable to take it that not only the Chair, but members of that Committee across the parties, agree that the Government, for far too long, have not been interested in being held to account by the House of Commons.

I make a final plea to those on the Government Benches. I am not asking them to support the amendment because I want to give the Government a going over,

[Peter Grant]

because, quite frankly, they are doing that well enough themselves just now. I am not doing it because I want to block the treaty, because my view is that, with a few changes, the treaty could be a good thing for the vast majority of people on these islands. I am asking them to do it because it is what they believe in.

Tory Members are taking us out of the EU. Some of them did not support that at the referendum, but last week only one Member on the Tory Benches voted against the Bill, so they are now accepting that the UK is leaving the EU, and a major purpose in doing that is to restore what they term parliamentary sovereignty. If they are not prepared to stand up for parliamentary sovereignty when it relates to Ministers in the UK Government, we have no chance of restoring parliamentary democracy anywhere else. I make a final plea: please do what you know is the right thing to do. We are not talking about holding things up. We are simply talking about giving the House of Commons its proper place in oversight over Government decisions that will continue to affect all our lives, and the lives of future generations for many decades to come.

6.32 pm

Greg Hands: We have had a good, wide-ranging and lengthy debate, which I welcome. I would like to address some of the important issues raised by members of the Committee, but first I make it clear that the NHS is not at risk from CETA. That is of fundamental importance to the Government. A careful assessment of the legal protections was carried out by lawyers, and we ensured that we were fully satisfied that the NHS is not at risk.

Nothing in CETA prevents the pursuit of legitimate public policy objectives, such as protecting the NHS. To reinforce that point, CETA does not get in the way of our sovereignty on any such matters. The joint interpretive instrument clearly states that the parties have the right to regulate in this manner. The UK can choose to protect public health—by regulating fizzy drinks, for example; that was one of the issues raised earlier. Linked to that is the fact that Governments are also allowed to protect labour rights—

Geraint Davies: Will the Minister give way?

Greg Hands: I am going to make progress first. There are a lot of points to answer after two hours of debate.

Linked to that is the fact that Governments are also allowed to protect labour rights and human rights. A fair, non-discriminatory and proportionate action taken by a member state Government, including to protect human rights, would not breach investment protection. Governments are also able to take action to protect the environment as they see fit. I want to restate that this Government support transparency and proper scrutiny of the agreement. We have followed the usual procedure and engaged extensively with the scrutiny Committees in both Houses, as I outlined. I will add more detail in a moment. Crucially, we have worked hard to secure this debate in advance of the vote on CETA in the European Parliament on 15 February.

To be clear, the Committee requested the debate on 7 September, ahead of the conference recess, which, as we all know, ran from 15 September to 10 October, so it was not possible to schedule the debate before then. CETA was fast-moving, and was originally scheduled for agreement at the end of September. It was only later on that it slipped to 18 October, and eventually 20 October. I hope that the hon. Member for Brent North understands that it has not been possible to schedule the debate on this timetable. The Government have, as has been noted, opened a TTIP reading room for parliamentarians; that is not dissimilar to the operations of the European Parliament. We warmly welcome that ability of Members of Parliament to engage. We have also written proactively to the scrutiny Committees in both Houses on the subject of ongoing trade negotiations; that goes back some time.

The Government are fully committed to transparency and consulting with a wide range of stakeholders during trade negotiations, including the devolved Administrations, while recognising that trade policy is reserved to the United Kingdom. We have provided updates to the devolved Administrations during the process, and my Department looks forward to consulting with them going forward.

On the investment court system of arbitration, the UK welcomes the investment protection provisions in CETA. We also welcome the clear statement of the right of Governments to regulate. We support the inclusion of dispute settlement provisions. It is important for there to be a dispute settlement procedure, but we continue to have concerns about the cost and effectiveness of the proposed ICS. The UK will continue to work with other member states to improve the system.

Geraint Davies: If we must have a dispute settlement system, how is it that we have had successful trade between Canada and the EU based on the fact that we have national courts, European law and the European Court of Human Rights in Europe, and provincial courts, the Supreme Court and appeal courts in Canada? Investors are happy. We do not need the system. No case has been made.

Greg Hands: Foreign investment is incredibly important to this country. It is also important that we protect our investors in markets such as Canada. It is important that we ensure those things are protected, while also protecting the right of member states and Parliament to legislate as they see fit, and the right to regulate. The UK will continue to work with other member states to improve the system. I restate that crucially, the ICS is not being provisionally applied here. Parliament and the UK will therefore have the option further to debate and scrutinise the system, and CETA in its entirety, as part of the ratification process.

In the time available, I will deal with as many of the many points raised as I can. The hon. Member for Brent North asked why there has been no impact assessment of ICS or its predecessor, ISDS. The answer is that ISDS has been in operation for some time. The UK Government have never had a successful case taken against us. All the cases listed earlier were not actions against the UK Government. I reinforce that the system does not, will not and cannot supersede national laws.

Barry Gardiner: Will the Minister give way?

Greg Hands: I am going to make a bit more progress, because a lot of points have already been raised. We had an extensive question-and-answer session and extensive speeches that I need to respond to, to be fair.

A question was asked about the methodology for the £1.3 billion figure, which is what the UK will likely gain from the agreement once it is fully in operation. Contrary to what the hon. Gentleman said, that was not produced simply by restating EU estimates. The figure is the result of modelling commissioned by the Government during the course of the negotiations, and it shows broad benefits across a range of sectors.

Barry Gardiner: I must ask the Minister to let me intervene.

Greg Hands: Of course.

Barry Gardiner: I refer to the explanatory memorandum of July last year, which explicitly states the way in which the figure was calculated. I can find the exact reference.

The Chair: Let the Minister get on with it.

Barry Gardiner: It is the Department for International Trade's "Explanatory Memorandum on European Union Document: Proposal for a Council Decision on the provisional application of the Comprehensive Economic and Trade Agreement between Canada of the one part, and the European Union and its Member States, of the other part", from July 2016.

Greg Hands: The figure of £1.3 billion may be the same one that the hon. Gentleman cites, but I am confident that my figure is the result of modelling commissioned by the Government.

I was asked whether environmental standards can be increased. Article 24.3 of CETA specifically provides that parties are free to establish their own environmental standards. The hon. Member for Swansea West raised fracking. Contrary to what he said, CETA does not get in the way of the right to regulate. Exactly as we would expect, it does not give fracking companies the right to invest in the UK if they are in breach of UK national laws.

Geraint Davies: Will the Minister give way?

Greg Hands: No, because I am worried about finishing within the time limit.

Crucially, the mere loss of profit is not sufficient to ground a claim in the ICS process. Even if it were, it would not require us to change our laws. Why did we not raise reservations, as other countries did, and protect our public services? Well, we do have a few reservations in CETA, but we have never been subject to a trade dispute concerning public services. We are confident that if one arose, we would defend it.

On geographic indicators, CETA allows for future protection of geographic status, as I have already said. When the negotiations took place in 2011, there was insufficient trade in specific goods for us to qualify. However, it is incredibly important to think about the impact that CETA will have on our ability to export key UK products. I mentioned Scotch whisky earlier; UK cheeses will now be able to enter the Canadian market free of tariffs or other barriers. There will also be zero tariffs on industrial goods. There are a host of things, and all of them will be of immense benefit to the UK and all its constituent parts.

We have delivered on our undertaking to have a debate on CETA. The hon. Member for Brent North was right to draw attention to the European Scrutiny Committee's request for a debate before the provisional application of CETA at the very latest, but there has not yet been provisional application; that is subject to the European Parliament's vote on 15 February. Nor has the matter fully progressed through the Canadian Parliament. We are fully in conformity with the European Scrutiny Committee's request. I urge Members to vote against the amendment.

I am glad that the hon. Member for Swansea West raised previous debates on international trade treaties. One fascinating aspect of this debate is where the official Opposition stand on these subjects. I am glad that he mentioned his debate on 15 January 2015, because two of the then Back Benchers who featured in that debate were the right hon. Members for Islington North (Jeremy Corbyn), and for Hayes and Harlington (John McDonnell), who spoke out very strongly against TTIP and against this kind of international trade treaty.

Geraint Davies: The Minister will also remember the right hon. Member for Hitchin and Harpenden (Mr Lilley) speaking strongly against this proposal, with reference to national sovereignty and interference. All sorts of people take all sorts of angles on this; that is why we need a debate. All we are saying is, "Have a debate", because we cannot agree. It is absolutely outrageous to railroad democracy in this way, and it is a recipe for future railroading.

Greg Hands: I note that we have already had two and a quarter hours tonight—there has been quite a good debate. The hon. Gentleman is right that concerns have been voiced, but there is not necessarily outright opposition. We, too, have concerns about ICS, and I have raised some of them tonight. However, I have to point out that he is wholly opposed to CETA. At least, that is what he said last week.

Geraint Davies: I am not.

The Chair: Mr Davies, you are murmuring a lot. You'd better give way to him, Minister, because I do not want him to blow up; it could be messy.

Geraint Davies: In essence, I am in favour of free trade, and I think CETA and TTIP could be blueprints for future trade. The issue is to get them right, and not to give them special powers whereby transnational companies can undermine our democracy and liberties.

Greg Hands: I am not going to dwell on this for too long. We heard this evening the hon. Member for Brent North make what sounded like a very long speech against the agreement; it now turns out that he is in favour of it. The hon. Member for Swansea West was strongly against it last week and called for debates on this subject previously, in which the leader of his party and the shadow Chancellor appeared with him. The hon. Member for Nottingham East, who is a member of the International Trade Committee, is not here this

[Greg Hands]

evening but may well have a different view. As for the Labour Whip, who knows where Labour Whips stand these days on party policy?

I have two other points. The hon. Member for Brent North talked about a study showing that apparently the UK would suffer a loss of exports. He carefully did not mention what that study was. I suspect it is the Tufts University study, which uses an approach that is useful for analysing a number of global macroeconomic issues, but is not suitable for trade policy analysis. The ICS is not a supranational court. It cannot override or amend national laws and is, in any case, not subject to provisional application. I urge all Committee members to support the original motion proposed by the Government.

Geraint Davies: Will the Minister give way?

Greg Hands: No, I will not. It was not possible to schedule a debate ahead of the extraordinary Foreign Affairs Council trade meeting on 18 October. It was strongly in the interests of the UK to signal political agreement at that Council. We worked hard to secure this debate—in advance, crucially, of the vote on CETA in the European Parliament on 15 February. Owing to the pressures of the legislative timetable, it has not been possible to have this debate in the main Chamber of the House, for reasons that are clear if Members look at the Annunciator.

I am pleased that we have had this opportunity to debate this important matter within the appropriate timetable. I urge the Committee to vote against the amendment. The Government are strongly committed to engaging further with Parliament as we move towards ratification of the agreement on a timely basis. I commend the Government's motion to the Committee, and urge Members to support the motion and oppose the amendment.

Amendment proposed: line 10, leave out from "part;" to end and insert

"welcomes the prospect of enhanced trading relations between the United Kingdom and Canada; is disappointed that the Government has so far failed to provide a full debate on the floor of the House as recommended by the European Scrutiny Committee; notes that this is a mixed agreement which must be laid before Parliament for at least 21 sitting days, without the House having resolved that it should not be ratified, before the United Kingdom can ratify it; and believes that the Government should provide an opportunity for the House to come to a decision on this issue following a full debate on the floor of the House in advance of ratification."—*(Geraint Davies.)*

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 7.

Division No. 1]

AYES

Ahmed-Sheikh, Ms Tasmina	Gardiner, Barry
Davies, Geraint	
Elmore, Chris	Grant, Peter

NOES

Cleverly, James	Tomlinson, Michael
Davies, Byron	
Hands, rh Greg	Whately, Helen
Menzies, Mark	Wheeler, Heather

Question accordingly negatived.

Main Question put and agreed to.

Resolved,

That the Committee takes note of European Union Document No. 10968/16 and Addenda 1 to 16, a Proposal for a Council Decision on the signing of the Comprehensive Economic and Trade Agreement (CETA) between Canada of the one part, and the European Union and its Member States, of the other part; further takes note of European Union Document No. 10969/16 and Addenda 1 to 16, a Proposal for a Council Decision on the provisional application of the Comprehensive Economic and Trade Agreement between Canada of the one part, and the European Union and its Member States, of the other part; further takes note of European Union Document No. 10970/16 and Addenda 1 to 16, a Proposal for a Council Decision on the conclusion of the Comprehensive Economic and Trade Agreement between Canada of the one part, and the European Union and its Member States, of the other part; welcomes the signature of the Comprehensive Economic and Trade Agreement in October 2016; looks forward to provisional application in the coming months; and notes that this is a mixed agreement which must be laid before Parliament for at least 21 sitting days without the House having resolved that it should not be ratified before the United Kingdom can ratify it.

6.49 pm

Committee rose.