# PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

## Public Bill Committee

# TAXATION (CROSS-BORDER TRADE) BILL

*Fourth Sitting*

*Thursday 25 January 2018*

*(Afternoon)*

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Clauses 8 to 12 agreed to.
Schedule 3 agreed to.
Adjourned till Tuesday 30 January at twenty-five minutes past Nine o'clock.
Written evidence reported to the House.


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PBC (Bill 128) 2017 - 2019

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**not later than**

**Monday 29 January 2018**

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**The Committee consisted of the following Members:**

*Chairs:* Ms Karen Buck, † Mrs Anne Main

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Chapman, Douglas *(Dunfermline and West Fife)* (SNP)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Davies, Chris *(Brecon and Radnorshire)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Hair, Kirstene *(Angus)* (Con)
† Hardy, Emma *(Kingston upon Hull West and Hessle)* (Lab)
† Hill, Mike *(Hartlepool)* (Lab)
† Kwarteng, Kwasi *(Spelthorne)* (Con)
† Menzies, Mark *(Fylde)* (Con)
† Morris, Grahame *(Easington)* (Lab)
Reynolds, Jonathan *(Stalybridge and Hyde)* (Lab/Co-op)
† Rowley, Lee *(North East Derbyshire)* (Con)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Parliamentary Under-Secretary of State for International Trade)*
† Sturdy, Julian *(York Outer)* (Con)
† Wragg, Mr William *(Hazel Grove)* (Con)

Colin Lee, Gail Bartlett, *Committee Clerks*

**† attended the Committee**

# Public Bill Committee

*Thursday 25 January 2018*

*(Afternoon)*

[MRS ANNE MAIN *in the Chair*]

## Taxation (Cross-border Trade) Bill

2 pm

**The Chair:** It is quite warm in the room, so if any right hon. and hon. Members would like to remove their jackets, please feel free.

### Clause 8

THE CUSTOMS TARIFF

*Question proposed,* That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to discuss the following:

Amendment 7, in clause 32, page 19, line 14, leave out subsections (2) to (4).

*This amendment is consequential on NC1.*

Amendment 8, in clause 32, page 19, line 31, leave out

'other than regulations to which subsection (2) applies'.

*This amendment is consequential on NC1.*

New clause 1—*Setting the customs tariff: enhanced parliamentary procedure*—

(1) This section applies to—

(a) the first regulations to be made under section 8, and

(b) any other regulations to be made under that section the effect of which is an increase in the amount of import duty payable under the customs tariff in a standard case (within the meaning of that section).

(2) No regulations to which this section applies may be made by the Treasury in exercise of the duty in section 8(1) except in accordance with the steps set out in this section.

(3) The first step is that a Minister of the Crown must lay before the House of Commons a draft of the regulations that it is proposed be made

(4) The second step is that a Minister of the Crown must make a motion for a resolution in the House of Commons setting out, in respect of proposed regulations of which a draft has been laid in accordance with subsection (3)—

(a) the rate of import duty applicable to goods falling within a code given in regulations previously made under section 8 or in the draft of the regulations laid in accordance with subsection (3);

(b) anything of a kind mentioned in section 8(3)(a) or (b) by reference to which the amount of any import duty applicable to any goods is proposed to be determined; and

(c) the meaning of any relevant expression used in the motion.

(5) The third step is that the House of Commons passes a resolution arising from the motion made in the form specified in subsection (4) (whether in the form of that motion or as amended).

(6) The fourth step is that the regulations that may then be made must, in respect of any matters specified in subsection (4)(a) to (c), give effect to the terms of the resolution referred to in subsection (5).

*This new clause establishes a system of enhanced parliamentary procedure for regulations setting the customs tariff, with a requirement for the House of Commons to pass an amendable resolution authorising the rate of import duty on particular goods.*

**Peter Dowd** (Bootle) (Lab): It is a pleasure to see you in the Chair, Mrs Main.

The new clause establishes a system of enhanced parliamentary procedure for regulations setting the customs tariff, with a requirement for the House of Commons to pass an amendable resolution authorising the rate of import duty on particular goods. It requires a vote in the House of Commons to authorise the rate of import duty on particular goods through enhanced parliamentary procedure. The details are set out in the new clause—it is indeed quite detailed.

I do not consider asking for normal parliamentary oversight to be a controversial request, as shocking as that might seem to the Government. They have made it clear that this is a money Bill and will therefore avoid proper scrutiny in the House of Lords. I sound like a stuck record, but Parliament's ability to scrutinise has been a theme since the general election.

That concession highlights a key point, however: this is Parliament's power of the purse. That convention dates back to Charles II and ensures that taxes cannot be collected without the consent of the Commons. We should be deeply concerned about this Bill getting through because we were not alert to or cognisant of the significant issues that face us. In all the melée of Brexit, the EU (Withdrawal) Bill, this Bill, the Trade Bill and the other Bills that will come through, we must assert our right as parliamentarians to hold the Government to account, particularly when it comes to taxes.

The raising and lowering of tariffs is effectively the taxation of goods coming into the country. It will bring revenue to the Exchequer that will have a significant impact on public finances and departmental budgets, not to mention the economy as a whole. I could push further on the £350 million a week for the NHS, but I will not on this occasion—I know the Minister will be pleased.

**The Financial Secretary to the Treasury (Mel Stride):** Thank you for not mentioning it.

**Peter Dowd:** The Opposition believe that, just as changes to tax are brought in in the form of a money Bill, so should changes to tariffs and customs duty. That is practical, reasonable and very responsible, if I may say so. We are not suggesting that there should be a vote every time that a tariff is raised or lowered; instead we envisage the Government regularly introducing to Parliament a list of changes for Members to scrutinise and vote on.

The alternative to a democratic and open process is the hoarding of power in the Treasury or the Department for International Trade, which alone will set the UK's future customs tariffs. The workings and logic behind their decisions will be largely unknown, and hidden from the scrutiny of the House. That is the theme of our amendments with regard to the Select Committees.

The Minister says that Select Committees will be able to bring the Minister in, question them and have a chat with them, but I am afraid that is not strong enough.

This is the biggest constitutional change we have had for as long as anyone can remember, and it is incumbent on us to ensure that when we have major shifts in power between the Executive and the Commons, we can challenge them. I think a confident Government would acknowledge that. I would not use the word "concede", but I think a Government, who were confident in their own abilities—

**Nic Dakin** (Scunthorpe) (Lab): Strong and stable.

**Peter Dowd:** I refuse to use the phrase "strong and stable", but if the Government had confidence in their policies, they would not shy away, in any way, from the proposals that we have set out. I am interested to hear what the Minister says about them. In the oral evidence sessions, several witnesses expressed concern, and were reluctant to agree that the lines of communication between businesses, between organisations, between agencies and so on were conducive to getting a proper hearing. I think Members most probably got that message from the witnesses. Communication lines are there, but in a sense no one is at home; that is certainly the perception that I got.

Customs tariffs will be unamendable and unchangeable except, in effect, at the whims of the Chancellor and a Trade Secretary. It may well be that those individual Ministers are very open to dialogue and persuasion, and are in listening mode. Then again, they might not be, and this Parliament has always challenged the whim of whoever might be in power. *[Interruption.]*

**The Chair:** Order. I am sure the hon. Member for York Outer (Julian Sturdy) knows where the off switch is. Perhaps he would like to find it?

**Peter Dowd:** The Government have done precisely the same thing in relation to scrutiny—they have turned it off.

As I said, we cannot allow this to be left to the whims of a Minister, because as has been suggested in the last day or two, the amount of Ministers coming and going has been vast, and it is causing a certain amount of dissonance in the operation of Government from what I can gather, and from what the report says. So, we cannot have a system that is at the whim of this dissonance, so to speak, in two or three years' time—whichever party is in power.

Ultimately, this comes back to the phrase by James Otis, which must have been quoted millions of times in the House in the three or four centuries since it was spoken: "No taxation without representation", because that leads to tyranny.

**Kirsty Blackman** (Aberdeen North) (SNP): It is a pleasure to be here and to have you in the Chair this afternoon, Mrs Main. We support new clause 1, which has been tabled by the Opposition, and we would be happy to support it if they decide to put it to the vote.

I have concerns about clause 8 because of the deficiencies that we discussed earlier. I hope that, by Report, the Government will have come back to some of the suggestions that the official Opposition and the Scottish National party have made, and given them some level of consideration. Although clause 8 has deficiencies, it is my working assumption that even if we were in a customs union—which would be my preferred option—we would still need to set our tariffs and to lodge those schedules with the World Trade Organisation, so, even in the event of the UK being in a customs union with the EU, I imagine that there would still be a requirement for the Government to have the power to set tariffs.

On that basis, clause 8 is necessary whether or not the Government decide to come out of the customs union or to pursue a customs union. So, although it is deficient, we need to do something. It would be useful if the Minister was to say that he might consider coming back on Report to some of our amendments—even if he said he would consider it, that would be incredibly helpful—but as I said, we will support Labour's new clause.

**Mel Stride:** It is a pleasure to serve under your chairmanship, Mrs Main. I thank the hon. Member for Bootle for his remarks. His usual brilliance was enhanced by an unknown quality of being able to summon dramatic music to enhance his comments. He gets better and better, the longer we hear from him.

The hon. Gentleman raised various general points, including the fact that this is, in effect, a Finance Bill and therefore will not be amended in the House of Lords. There are good reasons for that. There is a very, very long tradition for Bills that relate substantially to tax and the rating of charges to be handled in that way—both by this Government and by Labour, when it was in government.

**Nic Dakin:** But the Bill does go into the House of Lords, and I am sure that the Government will be listening carefully to what their lordships say.

**Mel Stride:** The Government of course listen to everybody who has an opinion—or, should I say, a relevant opinion; a rational opinion, even—on the matter in hand, and we will continue to do so.

The hon. Member for Bootle raised the obvious and important point that with Brexit in the round, we are looking at a big constitutional change—I think that was the expression he used—which is undoubtedly true. However, he seized on that known fact to suggest that in the narrow case of the change in the duties on specific goods, we should therefore have a highly augmented level of scrutiny. I do not think that the two things are linked. The Bill deals narrowly with duties, and more robust scrutiny is suggested through the affirmative statutory instruments for the first introduction of the tariff and for all duties that are changed in an upward direction afterwards. He stated that there will be a huge change, but the Bill's purpose is to narrow down that change wherever we can, not least regarding our tariff arrangements.

**Peter Dowd:** I understand exactly where the Financial Secretary is coming from. Given the level of change and the surety that we must give people that these matters are being carefully and assiduously considered, the parts are in a way greater than the sum. Does he therefore agree that it is important to send a message that Parliament—appropriately, through a proper mechanism, and not through ministerial diktat—should be able to

*[Peter Dowd]*

consider these matters in more detail than it can under the mechanisms and frameworks being provided by the Government?

**Mel Stride:** The hon. Gentleman has eloquently revisited the points that he made in his opening remarks. We have a narrow scope for the tariff's introduction, with all the thousands and thousands of different categories, duties, goods and so on that will be contained within it. It allows for provision to vary those duties. As I mentioned, we have said that when the tariff and all the duties that are under it are introduced—and indeed, when the duties are increased, or the Government seek to increase them—the affirmative procedure will be in place. Given the narrowness of the scope of the regulations and the fact that enhanced scrutiny will be in place through the affirmative procedure, I hope that the hon. Gentleman feels that that will be enough under the circumstances.

Before I deal with the specifics of clause 8 and the new clause, I will respond to the hon. Member for Aberdeen North. She exhorted me to consider her pleas carefully—how could I possibly not, under those circumstances? I can reassure her. As we were discussing earlier, I had haggis for lunch, with some mashed potato and swede, and I now have the "Braveheart" spirit—although that did not end all that well, did it? However, fortified with that spirit I will do my utmost, as I would in any case, and consider the amendments very carefully. I am sure that the hon. Lady will return to the matters on Report.

2.15 pm

Clause 8 requires the Treasury to establish and maintain a customs tariff. The rates of duties set under the clause will apply to goods from every country, unless varied by another clause. It enables the implementation of a range of tariff options so that the UK can respond to changes in the global trading environment, now and in the future.

The UK currently applies duty to imports to the UK under the Union customs code. The UK's standard duty rates, as a member of the EU, are contained within the common external tariff. When we leave the EU, the Bill will require the Treasury to establish and maintain a customs tariff that will, among other things, specify the rate of import duty applicable to goods.

The UK is working with the WTO to establish the UK's bound tariff schedule. The bound tariff schedule sets the maximum rate of import duty that a country may apply to imports; the UK can then choose what rate to apply, provided it is at or below the bound rate. Import duty rates specified under the clause must be consistent with those international obligations.

Clause 8 sets out what must be contained in the customs tariff. The customs tariff is a system by which goods are classified and given codes and an applicable rate of import duty and contains rules for determining the amount of import duty applicable. That enables the UK to classify goods and determine the amount of import duty that they should be subject to.

The clause allows the UK to calculate the amount of any import duty due. That could be by reference to the value of the goods, the weight or volume of the goods, or any other measure of their quantity or size. The Treasury must have regard to any recommendation from the Secretary of State as to the rate of import duty applicable under the customs tariff. That is because the tariff is an important lever of trade policy, as well as a fiscal lever with impacts on the domestic economy.

We carefully considered what would be the appropriate level of parliamentary scrutiny for regulations made under the clause. As I have explained, the first regulations made under clause 8 and any subsequent regulations that increase the rate of import duty payable in a standard case will be subject to the made affirmative procedure and will therefore cease to have effect after a prescribed number of days unless formally approved by Parliament.

Our import duty rates will have a wide-ranging impact on the economy, and it is therefore right that the Secretary of State and the Treasury, when recommending and setting the rate of import duty, should have regard to the interests of UK consumers, the desirability of promoting the UK's external trade, and maintaining and promoting UK productivity.

New clause 1 and the consequential amendments 7 and 8 would put in place additional parliamentary processes for setting the tariff. For indirect tax matters, it is common to have framework primary legislation supplemented by secondary legislation. The Bill introduces a comprehensive framework for a new stand-alone customs regime, which will be underpinned by detailed and technical secondary legislation. The Bill ensures that the scrutiny procedures that apply to the exercise of each power are appropriate and proportionate, taking into account the technicality of the regulations and the frequency with which they are likely to be made.

The tariff is long and complex, with more than 17,000 different types of good, and potentially subject to regular amendments. For example, the Commission currently makes daily changes to the tariff, some of which would, if the Government continued to take that approach, fall into the scope of the additional procedure. That is simply not practical. For the tariff powers under clause 8, the made affirmative procedure will apply the first time the tariff is set, and for any increases in duty payable under the tariff in a standard case. The negative procedure will otherwise apply.

*Question put and agreed to.*

*Clause 8 accordingly ordered to stand part of the Bill.*

## Clause 9

### Preferential rates: arrangements with countries or territories outside UK

**Kirsty Blackman:** I beg to move amendment 107, in clause 9, page 6, line 24, leave out "may make regulations" and insert

"must make regulations following consultation with relevant stakeholders".

*This amendment requires the Treasury to consult relevant stakeholders before making regulations giving effect to an arrangement for a preferential tariff.*

To explain the reasoning behind our amendment I need to mention a couple of things in the clause. It is headed, "Preferential rates: arrangements with countries or territories outside UK" and the explanatory note explains more about those:

"This clause broadly covers any arrangements, international agreements or memoranda of understanding".

Therefore it relates to whenever there is a move away from a most favoured nation tariff into a free trade agreement, or some other form of preferential tariff rate.

This short amendment would make two changes to the Government's intentions around the clause. First, it would leave out "may make regulations" and insert "must make regulations". In subsection (1), the Bill states that,

"the Treasury may make regulations to give effect to the provision made by the arrangements".

If there has been an international agreement, surely the Treasury must make regulations, because that would be sensible. That is the first change we suggest.

The second change we suggest is on consultation. It is clear that there has not been the right level of consultation. The Government have said that if they are varying the rate of import duty downwards rather than upwards, there should be a less rigorous procedure, but if the rate of import duty is varied downwards, that may have a greater effect on our local producers and manufacturers. The amendment asks for there to be "consultation with relevant stakeholders" in advance of not just international agreements, but any of these changes.

When the Government are deciding to make international regulations, it would be useful if they first consulted the House using the existing processes. I understand that most Governments across the world make trade regulations with the authority of the House, rather than simply by the authority of the Executive. In the absence of those kinds of changes, which are outside the scope of the Bill, we are asking for the Government to definitely make the regulations—if they are bound by an international treaty or agreement, it would be sensible to do so—but to consult with relevant stakeholders. We want to put that duty of consultation on the Government.

**Peter Dowd:** The points that the hon. Lady makes hit the nail on the head in relation to engaging with those who will be affected by the legislation. I fully understand where she is coming from.

The clause allows the Government to introduce through regulations a lower preferential rate of duty applying to goods originating from specific territories. It also covers a broad range of situations, including arrangements between the UK and a British overseas territory, free trade agreements negotiated with Britain and other countries, and a possible customs arrangement with a large economic regional organisation such as the European Union. Preferential trade agreements comprise a variety of arrangements that favour member parties over non-members by extending tariff and non-tariff preferences. PTAs, particularly free trade agreements, have proliferated in recent years. In the post-war period, the EU has developed the largest network of PTAs in the world. The explanatory notes state:

"The ability to use a preferential rate under an arrangement may be subject to any conditions specified in the arrangement, including…quotas, rules of origin or safeguard measures."

Given that context, it is important that stakeholders are taken into account, as the hon. Lady says. There could be a wide range of stakeholders, and the proposal suggested by the Minister did not go far enough. He almost seemed to suggest that everybody is included, but everybody is not included if the Secretary of State does not want to include them. The clause presents another example of the litany of delegated powers found throughout the Bill. The Treasury takes immense powers without proper consultation right across the board.

Clause 9 is beyond vague when it comes to explaining what consideration the Treasury will make when introducing regulations that will pave the way for offering preferential rates. The clause leaves a range of questions unanswered, particularly around the test that the Treasury will put in place before preferential rates can be included.

I am sure that all members of the Committee agree that reciprocal preferential rates are the foundation of free trade agreements. Again, that goes to the heart of who is to be consulted on this one, and the clause gives a free hand to introduce regulations that will create preferential rates and seem to open the door to the Treasury to—

**The Chair:** Order. This is a narrow debate on amendment 107. There will be a debate on clause stand part later. I ask the hon. Gentleman to confine his remarks to the amendment proposed.

**Peter Dowd:** I will, Mrs Main, and I will come back to the clause later if that is appropriate. I am just trying to support the contention made by the hon. Member for Aberdeen North that stakeholders are crucial to making the measure work. Having tried to set out the context, I am happy to sit down and to come back later to talk about the clause more generally. However, I support the hon. Lady's contention.

**Mel Stride:** As the hon. Member for Aberdeen North has said, the amendment seeks to do two things. It would require the Treasury to consult before giving effect to a trade arrangement that has been agreed with another territory or country, and to make regulations in such circumstances.

To take the first of the points, any consultation on regulations made under clause 9 would not be meaningful as the Government would not be in a position to take account of the views received without withdrawing or renegotiating the agreement reached. As set out in the trade White Paper, the Government have committed to engaging stakeholders throughout the process of negotiating new trade arrangements.

On the proposed requirement for the Treasury to make regulations, it goes without saying that the Government are required to meet their international obligations in the trade agreements that they have entered into. The word "may" is used, however, because there might be unforeseen circumstances that make it inappropriate for the Treasury to be obliged to lay regulations. As I say, however, the Government will of course be bound their international obligations.

On that basis, I urge the Committee to reject the amendment.

**Kirsty Blackman:** I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Question proposed,* That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to consider:

New clause 2—*Preferential rates under arrangements: enhanced parliamentary procedure*—

(1) This section applies to—

(a) the first regulations to be made under section 9 in respect of a country or territory outside the United Kingdom, and

(b) any other regulations under that section the effect of which is an increase in the amount of import duty applicable to any goods set by any regulations to which paragraph (a) applies.

(2) No regulations to which this section applies may be made by the Treasury in exercise of the power in section 9(1) except in accordance with the steps set out in this section.

(3) The first step is that a Minister of the Crown must lay before the House of Commons—

(a) a statement of the terms of the arrangements made with the government of the country or territory outside the United Kingdom; and

(b) a draft of the regulations that it is proposed be made.

(4) The second step is that a Minister of the Crown must make a motion for a resolution in the House of Commons setting out, in respect of proposed regulations of which a draft has been laid in accordance with subsection (3)(b), the rate of import duty applicable to goods, or any description of goods, originating from the country or territory.

(5) The third step is that the House of Commons passes a resolution arising from the motion made in the form specified in subsection (4) (whether in the form of that motion or as amended).

(6) The fourth step is that the regulations that may then be made must, in respect of any matters specified in subsection (4), give effect to the terms of the resolution referred to in subsection (5).

*This new clause establishes a system of enhanced parliamentary procedure for regulations setting lower import duties as a result of an arrangement made with the government of another country or territory, with a requirement for the House of Commons to pass an amendable resolution authorising the rate of import duty on particular goods.*

**Peter Dowd:** My new clause 2 would require a vote in the House on regulations that lower import duties as a result of an arrangement between the Government and another country. I will wrap that up with speaking to the clause in general, with your permission, Mrs Main.

The powers the Government have given themselves under the Bill to offer preferential rates to other countries through free trade agreements, and with no regard to the House of Commons, should concern us all. I will return time after time to the theme of parliamentary accountability. The lowering of import duties, if done carelessly and without consultation of key industries, can have disastrous economic consequences that can destroy whole sectors and cost jobs and livelihoods. The Government have made it clear that this is a money Bill, as I said earlier, and will therefore not be subject to further scrutiny.

In that regard, the raising and lowering of tariffs are in effect the taxation of goods coming into the country. As far as I am concerned, it is crucial that we maintain frictionless negotiation of free trade agreements, instead of risking the scenario that I am afraid the Bill will almost inevitably enable or provide for. It appears that the powers outlined in the clause, as in other clauses, comprise a huge accretion of power to the Treasury, which will give it a hegemony in Parliament, notwithstanding the issue of negative or affirmative resolutions. Ministers will be left to their own devices to introduce regulations where they see fit, with no parliamentary oversight of any significance, and no requirement to consult industry or the relevant stakeholders that the changes will affect. Similarly, there is no inkling about what considerations or conditions the Treasury will agree to when it comes to entering into preferential rate agreements, particularly whether industries will be protected by the use of quotas or rules of origin.

2.30 pm

There are two types of rules of origin: non-preferential rules of origin, which apply under World Trade Organisation rules in the absence of a preferential trade arrangement—for example between the EU and the USA—and preferential rules of origin, which apply to countries that have concluded a preferential trade arrangement. The latter apply to trade with countries with which the EU has an FTA, such as South Korea and Switzerland, and to non-EU members of the EEA, such as Norway. Under such agreements, only originating products are given preferential tariff treatment. Each preferential agreement specifies a set of rules of origin, which has a direct impact on processing times, customs duty and, perhaps just as importantly, the domestic market. That was touched on in some detail in the witness evidence.

Preferential trading agreements generally specify a minimum percentage of own-origin product for a product to qualify. The calculation of own-origin is currently EU-wide. Post-Brexit, unless an appropriate arrangement is reached with the EU, it will be only UK-produced components that will be deemed own-origin. That could cause a problem for the car manufacturing industry, where it is normal in the sector for a country to have 60% of own-origin product in the export content. In the UK, that is usually around 10%, with a maximum of about 43%. Therefore, will we be able to deem UK car parts as UK origin?

Similarly, in relation to our future trade deal with the EU, the question of preferential rates is important when considering the proof of origin. Leaving aside the obvious difficulties of consignments that incorporate parts that are sourced from multiple countries when certifying origin, once the UK leaves the EU, it is highly possible that the UK and the EU could differ on the preferential duty rates that they give to products from certain countries, and they would need to document the origin for that purpose.

Let us consider for a minute an export situation where a UK business is exporting goods to a customer in a country that allows preferential duty rates for goods of EU origin, but not to the same extent for the UK. The foreign customer would demand that the EU origin of any included parts is certified, so that they can at least pay some at the lower duty rate. The UK business would then need to ensure that it gets that EU origin certified to pass the certification to its foreign customer. The rules of origin that the Treasury will set through regulation alone present huge difficulties for stakeholders in the UK, who will have to face the challenge of deciding whether qualifying as EU origin will be more important than qualifying as UK origin. This consideration will likely be based on where manufacturers' key markets are.

The second difficulty will be in the reorganisation of manufacture supply chains, moving either from Europe into the UK or out of the UK. Again, that will depend on how UK manufacturers currently structure their business and the agreements that the Government reach

with the EU and other countries. In both these instances, there need to be clear lines of communication between the Government and UK manufacturers and producers. We keep coming back to the point made by the hon. Member for Aberdeen North. Her amendment would have required the Treasury to consult relevant stakeholders and it is regrettable that it failed. I hope the Government take on the spirit of her suggestion.

The consideration of concerns of key stakeholders could be the difference between the Treasury issuing a preferential rate that upends a whole industry and costs the UK economy thousands of jobs, and the Treasury pausing and choosing not to follow through on that. If the Treasury was forced to consult with key stakeholders, they would have an opportunity to make the case against whatever crude economic test the Treasury has set. After all, UK manufacturing remains a huge employer, employing 8% of the UK workforce, amounting to almost 3 million jobs. Those jobs are distributed across the country and are in key industries such as minerals and ceramics, paper, steel, glass and glass products, chemicals and other fertilisers. We had representation just two days ago from witnesses who were deeply concerned for their industries, including steel, which my hon. Friend the Member for Scunthorpe is also deeply concerned about. Ideally, the Opposition would favour a mechanism of consultation that goes beyond written evidence. We would like to see a situation where Ministers consult in a much wider sense—I take that point.

As far as we are concerned, as we leave the European Union and undertake free trade agreements with countries all over the world, we want to avoid situations where arrangements do not work—a situation that could see the UK Government negotiate a free trade agreement with America, with part of the agreement being a preferential rate being given to US machine parts entering the UK. While the Treasury may see the economic benefits of businesses being able to access cheaper machine parts, in that scenario it does not take the consideration of UK machine part suppliers into account. The UK machine part suppliers are then undercut by the flooding of cheap machine parts from the US. That in turn would lead to job losses, and the loss of a whole industry and all the knowledge and skills that go with it. We have seen so much of that over the past three decades, and the Bill potentially makes the situation worse.

**Nic Dakin:** Does my hon. Friend think that, in line with the Government's industrial strategy, it would be a missed opportunity if we end up hollowing out UK industry in the way that he describes, rather than securing its future as we all wish to do?

**Peter Dowd:** My hon. Friend makes a very important point. There is a danger that we are walking into this with a bit of a fuzz around us. We just do not know the impact this will have on us. If the Government do not get it right, as in spot-on, it is potentially very dangerous for our industries. That is why we are concerned, which is another of our themes in relation to the Bill: one is about democratic accountability, and the other is about how the Bill will protect our vital industries, from manufacturing right the way through the whole ream.

The scenario I referred to earlier is far from absurd and reflects the reality that, when it comes to negotiating and signing free trade agreements, there are always winners and losers, particularly when negotiating with countries that are larger both in population and economic size.

The free trade agreement negotiated between Australia and the United States in 2004 was negotiated in a relatively quick period, and it was so bad that officials refused to recommend it to the Australian Parliament. John Howard, the then Prime Minister, was forced into signing it by President George W. Bush, who essentially reminded him of the close security collaboration between the two countries. After signing, John Howard was often and repeatedly chided by political opponents who would shout, "Where's the beef?"—a reference to the failure of the free trade agreement to stimulate beef exports for Australia.

We do not want to be in that situation. The UK could easily find itself in a similar scenario whereby we will offer preferential rates to the USA or China, with little in return. In November, we had Wilbur Ross, the US Commerce Secretary, saying that the UK retaining EU regulations on chemicals, genetically modified crops and food safety would represent "landmines" for a potential deal. The Secretary of State for International Trade is reported to have given him private assurances that this would not be a problem.

Stakeholders could find themselves shut out of the process. The Opposition's concerns are not scaremongering, particularly when we have a Secretary of State who has already made it clear that he supports a race to the bottom, with cheaper consumer goods and weaker regulations and standards. Again, our witnesses spoke about how it is not consumer against producer—the two are almost interchangeable. If we look at the trade remedies outlined in the Bill, we see the Government have ensured there is a clear economic interest test for the Treasury to follow that does not consider the interests of UK manufacturers or key industries, which is unique among most World Trade Organisation countries.

If this Bill and the Trade Bill remain unamended, the Treasury will have to take the advice only of the Secretary of State in that regard, but it will receive a recommendation from a Trade Remedies Authority that will be appointed by the Secretary of State and no doubt made up only of people he trusts—that does not mean that anyone else does—unless its composition is amended in the Trade Bill. We saw that only yesterday, with a vote in the House of Commons in relation to the Electoral Commission. Parliament is entitled to express a view on such appointments, but in this case I do not think we will get that capacity. It certainly does not seem to be in the Bill. Key stakeholders will therefore bear the brunt of any changes to tariffs and again effectively be shut out of the process.

Those key stakeholders will be at the mercy of a Secretary of State who appears to be desperately attempting to negotiate free trade agreements at any cost and potentially to pay a price that most of us would not be prepared to pay. If hon. Members do not have the ability to challenge it, the Treasury will also have a free hand to introduce regulations that will set the framework for the lowering of tariffs which, if we are not careful, will change the UK economy as we know it. I exhort the Committee to think carefully on the proposals in the Bill and to take into account what we say in our new clause.

**Kirsty Blackman:** New clause 2 is, for a variety of reasons, one of the most important measures we will discuss in the three days of debate we will have on the Bill. The clause is very important. I mentioned earlier that reducing tariff rates could have a significant impact on manufacturers in the United Kingdom as well as on agricultural producers, which is a major concern, particularly in more rural parts of the UK.

This measure looks at preferential rates under conditions specified in an arrangement including, for example, quotas, rules of origin and safeguard measures. It is about not just reducing tariff rates for the total number of goods coming in from one country, but reducing the number of those under a certain quota or having a differential rate, depending on the amount of goods coming in—it is a bit more complicated than it may look.

The UK Government will go away and negotiate trade deals with other countries, and the Bill will allow the Treasury to put regulations into place. The UK Government would be more likely to negotiate better trade deals if they knew that they had to justify them to Parliament, get its approval and go through a more rigorous approval process after that. Given the concerns that the Scottish National party has raised consistently about changes that this and previous Governments have made in different areas that we feel have negatively affected either our constituents or manufacturers, producers and companies who work in the United Kingdom, and in Scotland specifically, we do not trust the Government to go away and negotiate trade deals that will be good for outlying parts of the UK, particularly those not in the south-east of England.

If Ministers had to justify themselves to Parliament more—if they had to convince us that they had struck a good deal—it may be that when they were sitting round the negotiating table, they would come up with a better deal because Parliament would be more likely to approve it. That is why new clause 2 is important. Any move by any country away from most-favoured-nation tariffs could have an impact on companies that work in our country as well as on consumers. As parliamentarians, we want to provide a level of protection for them, which is why we will support new clause 2.

2.45 pm

**Mel Stride:** Clause 9 allows the Treasury to implement preferential trade arrangements on the recommendation of the Secretary of State. That will enable the rate of import duty applied to goods originating from a territory covered by a preferential arrangement to be lower than the standard rate.

The clause ensures that the tariff-related part of any new or existing free trade agreement can be implemented and enables the UK to continue the treatment that the British overseas territories currently receive. The Bill does not give the Government powers to sign such agreements but to implement the tariff parts of them.

The clause is essential to ensuring that the UK can implement any tariff outcome from negotiations with the EU. The Prime Minister has been clear that our aim is to secure a tariff-free trade deal with the EU. As a member of the EU, the UK is part of around 40 free trade agreements with countries and territories outside the European Union. When the UK leaves the EU, the Government are committed to seeking continuity in our trade relationships, including those covered by the EU's FTAs or other EU preferential arrangements.

**Kirsty Blackman:** How is that going?

**Mel Stride:** That is a specific question for the Department for International Trade, but think all the indications are that we have been out speaking to many potential trading partners.

**Kirsty Blackman:** And current trading partners?

**Mel Stride:** Current trading partners and others. Obviously, as an EU member, we are bound not to enter into any other arrangements prior to our departure, but I am confident that we are having appropriate conversations at this stage of our withdrawal.

In addition, as set out in the trade White Paper, after leaving the EU, the UK will have the opportunity to

"look to forge new and ambitious trade relationships with our partners around the world".

Clause 9 provides a basis for those aims.

The clause enables the UK to implement preferential import duties on goods originating in territories covered by a preferential arrangement. That will cover arrangements made bilaterally with a Government of another territory. A recent example is the comprehensive economic and trade agreement between the EU and Canada.

The Bill refers to making arrangements to allow preferential rates of import duties to apply before an agreement is ratified. That is common when implementing FTAs and is the case under the comprehensive economic and trade agreement, which has been provisionally adopted but is not yet fully ratified.

The clause will also enable the UK to continue to provide preferential tariff treatment to those British overseas territories, including the British Virgin Islands and the Falkland Islands, that currently receive that access under the EU via the overseas association decision.

As I was looking through new clause 2 during the hon. Member for Bootle remarks, my eagle eye spotted what I think is an error. Although subsection (1)(a) of the new clause would do what is intended—that the first regulations to be made under clause 9 will be subject to the provisions of the new clause—the explanatory statement and the points made in his speech suggest that subsection (1)(b) should relate to instances where there has been a lowering of import duties. In fact, as currently drafted, subsection (1)(b) refers to

"the effect of which is an increase in the amount of import duty".

I can only imagine that that is a drafting error or has been lifted from new clause 1, which does refer to the increase in import duties. However, I fully understand what the hon. Gentleman intended, and I will deal with new clause 2 on the basis of its intention and of the way in which he describes it in the explanatory statement.

The new clause would put in place an additional parliamentary process for regulations giving preferential import duty arrangements to other countries. As I previously set out, for indirect tax matters, it is common to have framework primary legislation supplemented by secondary legislation. The Bill introduces a comprehensive framework for a new stand-alone customs regime. It ensures

that the scrutiny and procedures that apply to the exercise of each power are appropriate and proportionate, taking into account the technicality of the regulations, the frequency with which they are likely to be made and how quickly the law may need to be changed.

Clause 9 allows the Treasury to give effect to the tariff section of trade arrangements once they have been negotiated. It is therefore appropriate and proportionate for the negative procedure to apply. Any delays in implementing preferential duties in trade arrangements could have significant impacts on UK supply chains or exporters who rely on the arrangements. As set out in the trade White Paper the Government are considering how to ensure that the process for negotiating new trade deals is transparent, efficient and effective, and we will ensure that Parliament is engaged throughout.

**Anneliese Dodds** (Oxford East) (Lab/Co-op): It is a pleasure to see you in the Chair, Mrs Main. I have a couple of questions for the Minister. I am grateful for his comments. He seemed to suggest that the appropriate time to consider these matters might be at the time of ratification of any preferential trade agreement and that the provisions are merely enabling. How will we be able to scrutinise at that stage? Will we be able to have a developed and involved discussion at that stage? My understanding is that we would not be able to do that.

In his opening remarks—perhaps this is unfair—the Minister referred to the existing preferential trade arrangements that we have with the overseas territories and the EU and those between the EU and other countries, but, as many others have mentioned, we could be concluding new trade arrangements, particularly with the US, and there are all the concomitant problems that that might cause as well as potential opportunities. Have the Government considered whether the scope of the clause could be reduced so that it relates only to areas where we already have preferential trade arrangements?

**Mel Stride:** There are a couple of important points to make here. This particular clause enables the Government to put into effect the tariff-related elements of an FTA, for example. When it comes to the points that the hon. Lady understandably makes about treaties that we may enter into with other countries or with countries with which we already have existing arrangements that we wish to continue on our departure from the European Union, those kinds of debates and issues do not rest within this clause. As the trade White Paper sets out, they rest with the Government whose duty it is to make sure that we consult during the negotiation of those treaties so that we conclude them in an appropriate manner.

**Anneliese Dodds:** I find that very helpful because it has clarified that there is not a detailed parliamentary process for us to consider the matters that are covered by the clause. We believe that they will not be scrutinised in an appropriate and thoroughly democratic manner. Also, there will not be much opportunity for parliamentarians to engage with the issues raised by free trade agreements.

**Mel Stride:** I do not think my response to the hon. Lady earlier suggested that there would not be any parliamentary scrutiny of the provisions in clause 9. Indeed there will be, as she knows. If we are going to change duties or introduce tariffs, such matters will be subject to secondary legislation and statutory instruments in the normal manner.

**Anneliese Dodds:** I did not say "any". I said that there would not be scrutiny of the type that is necessary and of an appropriate thoroughness, which would not be of a one-shot nature whereby it is difficult to have the kind of debate that we all think is necessary, given the impact that the provisions could have on major sectors of our industry.

*Question put and agreed to.*

*Clause 9 accordingly ordered to stand part of the Bill.*

## Clause 10

### Preferential rates given unilaterally

**Kirsty Blackman:** I beg to move amendment 108, in clause 10, page 6, line 35, at end insert—

"(1A) The Secretary of State must consult on a proposed version of any regulations to be made under this section before making them."

*This amendment requires the Treasury to consult prior to making regulations establishing preferential rates for developing countries.*

The amendment is about consulting on a proposed version of any regulations to be made under the section before making them. This would make sure that relevant people are consulted in advance, specifically in the case of unilateral preferences. The Minister previously argued about the processes that are gone through in advance of the signing of international agreements, but those are slightly different in relation to this clause. We are specifically talking about consultation. Again, we have been clear that there is not enough consultation throughout, and more consultation would be appropriate.

As amendment 108 is about unilateral preferences, we think that consultation is necessary. It is absolutely clear that unilateral preferences, particularly those relating to these provisions, and the reasons for unilateral preferences, are good—they are sensible in relation to our least developed countries—but we must also ensure that relevant stakeholders are consulted.

**Anneliese Dodds:** I agree with much of what the hon. Lady said. We heard on Tuesday some of businesses' concerns about consultation even relative to the Bill. It is important, when we move on to its exact provisions, that we have proper consultative mechanisms. I have certainly benefited hugely from the input into the process around the Bill and information from the Fairtrade Foundation and Traidcraft. If this Government are truly committed to policy coherence for development, it is important that they ensure that non-governmental organisations with expertise on the ground in international development can comment on preferential trade decisions, which could have a significant impact on different nations.

I was encouraged by what the Minister said to me when we talked about ensuring policy coherence for development when it comes to tax treaties. We need to ensure that that is the reality for our preferential trading regimes as well. One way to do that is by having appropriate consultation with experts in the area.

*[Anneliese Dodds]*

Finally, the Library note to the Bill, which was enormously useful as always, says that,

"the Government argues that the negative procedure is appropriate here as regulations might be lengthy, technical, frequently changed, not yet known and/or administrative."

The note goes on to indicate what the EU process is for such schemes. It is quite different from what the Government propose:

"The regulations setting out the current EU scheme…were adopted by the EU Parliament and Council",

meaning that there was debate within both those organisations. Our country is represented in the Council, and our MEPs represent us in the European Parliament. Then there are

"provisions allowing technical/routine updates through Commission delegated regulations."

Again, delegated regulations can involve thorough scrutiny. I suggest that in many ways, it is far easier for an MEP to trigger a debate on a piece of delegated legislation on the Floor of the European Parliament than for an MP to do so in the British Parliament, certainly when the negative procedure is used, but also, potentially, when the affirmative procedure is used, given the arithmetic of Committees mentioned by the hon. Member for Aberdeen North. It is enormously important that we have proper scrutiny of such provisions. One way of embedding that is by having appropriate consultation. We support the amendment.

**The Parliamentary Under-Secretary of State for International Trade (Graham Stuart):** It is a great pleasure to serve under your chairmanship, Mrs Main. It is an intimidating task that falls to me. I see many familiar faces, all pretty experienced and used to being in Bill Committees, as well as the Rolls-Royce Minister to my left. Fortunately, I am backed by the most extraordinary sea of talent behind me, as well as having on my right a much improved Treasury Whip, compared with his predecessor.

Amendment 108 seeks to create a statutory duty to consult on regulations relating to unilateral trade preferences for developing countries. The Government sought views on unilateral preferences as part of the trade White Paper and proposed creating a trade preference scheme that, as a minimum, maintains the preferential market access of countries in the EU's generalised scheme of preferences, or GSP. The Government regularly engage with stakeholders on the issue, and—I can undertake—will continue to do so in future.

3 pm

However, the scheme must be regularly updated to adapt to global changes. That is to reflect, among other things, objective criteria such as the development level of beneficiary countries and trade flows of different products. A statutory duty to consult on all such changes would delay the efficient operation of the scheme. It could reduce the effectiveness of unilateral preferences for around 70 developing countries. I do not think that the hon. Member for Aberdeen North would want to see that happen. I therefore ask her to withdraw the amendment, although I understand why they were tabled —to probe the Government on this important issue.

**Kirsty Blackman:** I appreciate the Minister speaking on these matters in Committee, and I welcome him to his place. He is absolutely right about the importance of the preferential trade agreements, but perhaps we had a slight misunderstanding. I am not suggesting that opposition to such agreements would be likely. It is just that some organisations such as Fairtrade and Traidcraft have been in touch with us, and they might have better insight into what is happening on the ground in some of those countries. They might be able to provide more information to ensure that the preferential tariffs being provided unilaterally are the most appropriate ones.

The amendment is not about trying to create a blockage in the system. My reason for moving it is not about protecting our industries, but about ensuring that the best possible preferences are put in place for those countries that most need them. That is more likely to happen if there is an opportunity—a requirement, I suppose—for the Government to consult, in particular those bodies and organisations working in the country which can be absolutely clear about the best way forward for any trade deals.

If the Minister is clear that he will consult, that is useful. However, I intend to press the amendment to a vote.

**Graham Stuart:** I am disappointed that the hon. Lady will press for a Division, not because the points she has made are not important, not because the Government should not consult and listen to those voices, and not because we should not seek to improve our programme of support for developing countries, but because to put consultation in at that particular point in the process will not deliver the outcome that she desires and might in fact cause damage to the very system that we all want to see improved and working properly after having taken such consultation.

We are in regular contact with external stakeholders. We hold roundtables with representatives of civil society, business and academia, and we have received about 20 responses on trade with developing countries as part of the White Paper consultation. We have heard support from some of the organisations that the hon. Lady mentioned for creating a UK preference scheme, and an understanding of our approach to maintaining in the first instance existing levels of market access as we leave the EU. In effect, we are replicating the system we have now. In the oral evidence earlier this week, the Committee heard someone from the Fairtrade Foundation say of the measure:

"It takes the best bits of current EU policy and brings them over into UK policy."—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 21, Q23.]

In some areas, stakeholders have suggested changes for the future, including extending to more countries, simplifying rules and adding more products. All of that can be considered by Government. I suggest to the hon. Lady that it is not too late not to press this amendment to the vote, because I do not think it is appropriate, although I take on board entirely the points she is making.

**Kirsty Blackman:** I still intend to press this to a vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 8, Noes 10.

**Division No. 4]**

**AYES**

Blackman, Kirsty
Chapman, Douglas
Dakin, Nic
Dodds, Anneliese

Dowd, Peter
Hardy, Emma
Hill, Mike
Morris, Grahame

**NOES**

Davies, Chris
Hair, Kirstene
Kwarteng, Kwasi
Menzies, Mark
Rowley, Lee
Rutley, David
Stride, rh Mel
Stuart, Graham
Sturdy, Julian
Wragg, Mr William

*Question accordingly negatived.*

**Kirsty Blackman:** I beg to move amendment 109, in clause 10, page 7, line 5, at end insert "and—

(c) may make provision about the restoration or reinstatement of the nil rate band."

*This amendment places beyond doubt that regulations may reinstate the nil rate band after suspension or withdrawal.*

This amendment comes from the Law Society of Scotland. It was a kind of tidying-up exercise that we suggest would be helpful in the clause. Clause 10(3)(b) allows the trade preference scheme to

"make provision about the suspension and withdrawal of the application of the nil rate."

I am sure this is unintentional, but it does not make provision to reinstate or restore the nil-rate band, if it is necessary to do so. It is just a slight technical change suggested by the Law Society of Scotland, allowing for the restoration of the nil-rate band if that is what the Government need to do.

**Anneliese Dodds:** This seems like a sensible amendment, particularly because accessing that nil rate is crucial for so many nations. If there is ambiguity around the conditions, they need to be clarified. Definition, initially, as a least-developed country, is partly with reference to vulnerability to economic shocks. Inability to access that nil-rate, or inability have it reinstated when it should be, could cause economic shocks. As we know, the value of access to the nil-rate to UK markets for least-developed countries is incredibly important—it is £323 million a year. It is important that we have no ambiguity and are absolutely crystal clear.

**Graham Stuart:** As we have heard, the amendment seeks to clarify that the regulations may provide for the restoration or reinstatement of the nil rate of import duty to least-developed countries where this has been suspended or withdrawn. It is clearly important that we can reinstate preferential rates of import duty after they have been suspended or withdrawn, but the Government do not believe that the amendment is required. The existing power enables the withdrawal or suspension of preferences to least-developed countries to be partial and reversible. That is in line with the general principles relating to regulation-making powers. It goes to show that even when you deal with lawyers as eminent as those at the Law Society of Scotland, they sometimes get it wrong, even technically.

The Government intend to use the power to suspend sparingly and, if used, we will work with the relevant country with a view to reinstating preferences as soon as is appropriate. For trade preferences to be effective, they must be relatively stable, so that businesses have confidence to make decisions to import from beneficiary countries. I therefore ask the hon. Member for Aberdeen North to withdraw the amendments and give a categorical assurance that a provision to do what they suggest is already in place.

**Kirsty Blackman:** Having looked at subsection (2), I still do not think it is particularly clear. It says that the scheme can make provision about the withdrawal, but then does not make clear that it can be reinstated. I will not press it to a vote because I hope the Government will table an amendment on Report to make it clear that they have the ability to reinstate the rate. I would not like a situation in which the Government were unable to do so because there was a challenge around the language used in the law. The amendment seeks to make it as unambiguous as possible. The hon. Member for Oxford East was absolutely clear on the importance of nil rates, particularly in relation to economic shocks. SNP Members would echo that. I am not going to press it to a vote, but I would appreciate it if the Minister would consider returning to the matter on Report. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Question proposed,* That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to discuss the following:

Amendment 80, in schedule 3, page 57, line 18, at end insert "among other things".

*This amendment provides that the Secretary of State may have regard to things other than the classification of least developed countries by the UN in amending the list in Part 2 of Schedule 3.*

That schedule 3 be the Third schedule to the Bill.

Amendment 10, in clause 32, page 19, line 32, after "which" insert

"section (Preferential rates given unilaterally: enhanced parliamentary procedure, etc) (7) applies and".

*This amendment is consequential on NC4.*

New clause 4—*Preferential rates given unilaterally: enhanced parliamentary procedure, etc*—

(1) No regulations may be made by the Treasury in exercise of the power in section 10(1) except in accordance with the steps set out in subsections (2) and (4) to (6).

(2) The first step is that a Minister of the Crown must lay before the House of Commons—

(a) a statement on the matters specified in subsection (3); and

(b) a draft of the regulations that it is proposed be made.

(3) Those matters are the reasons for—

(a) the proposed application and non-application of the scheme to each country listed in Parts 2 and 3 of Schedule 3;

(b) any proposed conditions for the application of the lower rates or nil rate, and

(c) any proposed provisions about the variation, suspension and withdrawal of the application of the lower rates or nil rate.

(4) The second step is that a Minister of the Crown must make a motion for a resolution in the House of Commons setting out, in respect of proposed regulations of which a draft has been laid in accordance with subsection (2)(b)—

(a) each country to which the proposed regulations apply;

(b) the proposed conditions for the application of the lower rates or nil rate, and

(c) the proposed provisions about the variation, suspension and withdrawal of the application of the lower rates or nil rate.

(5) The third step is that the House of Commons passes a resolution arising from the motion made in the form specified in subsection (4) (whether in the form of that motion or as amended).

(6) The fourth step is that the regulations that may then be made must, in respect of any matters specified in subsection (4), give effect to the terms of the resolution referred to in subsection (5).

(7) No regulations may be made under the following provisions unless a draft has been laid before and approved by a resolution of the House of Commons—

(a) section 10(4)(a) (meaning of "arms and ammunition");

(b) paragraph 2(1) of Schedule 3 (power to add or remove countries from lists in that Schedule).

*This new clause establishes a system of enhanced parliamentary procedure for regulations setting lower import duties for eligible developing countries, with a requirement for the House of Commons to pass an amendable resolution authorising the key provisions of the proposed regulations, and also requires that certain other regulations are subject to the affirmative procedure.*

**Graham Stuart:** Clause 10 ensures that the UK can operate a unilateral trade preference scheme when the UK leaves the EU. It will provide the powers to implement a scheme that will enable the reduction of import duty on goods originating from developing countries. By legislating now, we can ensure continuity for businesses both in the UK and in those countries when the UK leaves the EU.

As you know, Mrs Main, the UK has a long-standing commitment to support developing countries to reduce poverty through trade. One important way to do that is to offer preferential access for their exports to the UK. Trade preferences will also provide opportunities for UK businesses, while enabling UK consumers to benefit from lower product prices. In 2016, the UK imported £19.1 billion of goods from countries receiving trade preferences.

The UK currently provides trade preferences through the EU's generalised scheme of preferences. Under GSP, the product coverage and import duty rates for countries vary depending on their development levels and trade flows. The granting of a unilateral preference to facilitate the trade of developing countries should, under WTO rules, be based on objective criteria. The European Commission regularly updates EU legislation to reflect that. Examples include making changes to a country's economic circumstances, or to the list of products in respect of which a country receives a preference. After the UK leaves the EU, similar legislative powers will be needed to establish and manage an effective trade preference scheme. Clause 10 provides for a power to create a trade preference scheme for eligible developing countries.

It is intended that the UK scheme will have tiers of preferences for groups of countries with different economic characteristics. The UK will reduce to zero the import duty on goods originating from the 48 least developed countries, except for the import of arms and ammunitions, which is called "everything but arms". That fulfils an international commitment made in the UN sustainable development goals, and will provide vital support to the world's poorest countries.

To maintain continuity at the point of exit, in the first instance the UK intends to mirror the EU's scheme, which includes two further tiers, known as standard GSP and GSP-plus. The standard tier will reduce import duty on the majority of goods. The enhanced GSP-plus tier will reduce to zero the import duty applicable to those goods covered by the standard tier when such goods originate from economically vulnerable countries that make commitments on human and labour rights, environmental protection and good governance.

The trade preference scheme will allow for the variation, suspension and withdrawal of trade preferences in certain circumstances. For example, where the import of a good threatens serious injury to UK business, the preferential rate could be amended or revert to the standard customs tariff rate. That would take place following discussion with the specialised, expert Trade Remedies Authority. Importantly, a preference may also be varied or withdrawn from a country in response to serious and systematic human rights violations.

Schedule 3 lists the countries that are eligible to receive unilateral trade preferences. It is an objective list based on economic criteria. Countries in part 2 of schedule 3 are currently or recently classified by the UN as least-developed countries. Countries included in part 3 have not been classified by the World Bank as upper middle income or above for the last three consecutive years. Not all of the countries on the list will actually receive the trade preferences. Some of the eligible countries will trade with the UK under a different arrangement, such as a free trade agreement. In such a case, it is intended that the FTA terms will apply to that country instead. Schedule 3 gives the Secretary of State the power to amend the list of eligible developing countries when a country's economic characteristics change. It is important that a UK preference scheme can react swiftly in such circumstances.

Amendment 80 will allow the Secretary of State to consider things beyond the UN's classification of least-developed countries when deciding which countries must be provided with a nil rate of import duty. When determining whether a country is least developed, the Secretary of State must have regard to its classification by the UN but, importantly, other relevant considerations may be taken into account. The amendment is therefore unnecessary.

3.15 pm

For a country to be included in part 3 of the schedule, it must be similarly situated in terms of economic characteristics to the other countries on the list. In deciding whether it is similarly situated, the Secretary of State must have regard to the international classifications of the World Bank. By using those objective economic criteria, we are ensuring that our trade preference scheme is targeted at the countries that need it most, while also complying with international law.

Finally, new clause 4 and consequential amendment 10 would put in place an enhanced parliamentary process for setting the lower import duties under a trade preference scheme, and a standard affirmative procedure for specifying the meaning of the term "arms and ammunition", and updating the list of eligible developing countries.

For indirect tax matters, it is common to have framework primary legislation supplemented by secondary legislation using either the affirmative or negative procedure. That is the approach that the Government have used in the Bill, in the normal way. No other tax policy uses an enhanced procedure such as that set out in the amendment, and there is no justification for going against that precedent for import duty-related provisions, particularly with respect to duty reductions that will assist developing

countries. Therefore the Government believe that the proposed new parliamentary processes would unduly occupy Parliament's time and, more importantly, hamper the UK's ability to respond swiftly to future developments and ensure that the poorest countries are being supported in the most appropriate way.

By creating the trade preference scheme, the Government are providing certainty to businesses and our developing country partners as we leave the EU.

**Anneliese Dodds:** It is a pleasure to see the Minister in such a prominent role now. In his role as a Whip, he was of course fundamental to the operation of all the discussions that we have had in this Committee room, but it is good to see him speaking on these issues.

As the Minister intimated, the amendment relates to part 4 of schedule 3, which sets out the conditions under which amendments can be made to parts 2 and 3, including the lists of least developed countries and other countries eligible for preferential trading schemes. Colleagues will be aware that those schemes arose out of the work of the United Nations Conference on Trade and Development, which from the 1960s onwards argued for improved market access for developing countries as a means of fostering their economic development. The so-called generalised system of preferences was adopted in 1968.

The whole point about that—the Minister alluded to it—is that a generalised system of preference, just as with a customs union like that of the EU, is allowed as an exemption from the most favoured nation rules within the WTO. Those rules stipulate that no country can have a preferential trade agreement with any other country that is not offered to every other member of the WTO. It is therefore enormously important to have the ability to deviate from WTO rules to promote development.

As the Minister suggested, the arrangements have over time developed at EU level into, effectively, three different layers of preferential scheme for developing countries: the everything-but-arms approach, which applies to the least developed countries; the generalised system of preferences—GSP—and then GSP-plus which, as the Minister said, offers additional favourable terms to those countries fulfilling environmental and good governance requirements.

Will the Minister clarify one issue relating to GSP-plus, and my reading of the existing Bill, with regard to classification as another eligible developing country under part 3 of schedule 3? I thought that the Bill referred to the Secretary of State developing regulations with a view to

"among other things…classification by the World Bank"

and that those "other things" were not just economic factors but human rights and environmental considerations, as is the case with the GSP-plus system in the EU. I think that was what he intended to say, but it was not crystal clear and it would be helpful if he would clarify it.

Our amendment is focused not on the arrangements for GSP and GSP-plus countries, which I believe are all gathered under part 4 but, in practice, on the least-developed country regime—the successor to everything-but-arms, which the Government say they want us to take on board. It is positive that the Bill provides the possibility for a three-year transition period, so that countries currently described as least-developed countries can remain in the scheme for another three years, as a graduation period. However, particularly with regard to current EU developments, it seems that in the Bill, the Government are missing out on an important opportunity.

The Minister was correct to say that the current everything-but-arms regime does not explicitly include reference to human rights and the environment or other criteria, but there is pressure at EU level for those factors to be taken much more closely into account. Our country could play a key role in that. That is very important when we look at how the everything-but-arms process has worked in practice.

A very good case study is the sugar trade in Cambodia. The sugar industry in Cambodia has grown exponentially over recent times due to changes in the overall sugar price, but also due to the imposition of a preferential trading regime. That has not led to sustainable development. Instead, very large global conglomerates have captured much of the market. Ninety seven per cent. of Cambodia's sugar exports went to the EU in 2012. Tate & Lyle bought 99% of those, and companies linked to it—or some of those which it has now sold off—were controlling much of the new sugar plantations in Cambodia.

Those plantations have been enormously controversial because they have involved the wholescale removal of families from their smallholdings. Many people illegally transferred into Thailand because the sugar plantations forced them off the land. The growth in the industry has not led to an increase in people's incomes. In fact, the opposite has happened: it has led to many people becoming destitute who formerly were able to live at subsistence level at least. Some families from Cambodia have even taken cases against Tate & Lyle to our High Court because they were dispossessed of their land and are no longer able to live sustainably.

Other changes occurred around sugar in the EU—minimum pricing and its removal—but surely, given that example, we should think about whether we need to do more to try to stop developments of the kind that existed under the everything-but-arms initiative from occurring in any UK-specific schemes. There is certainly an argument in the development community about whether it is appropriate for human rights matters to be taken into account in trade deals. Particularly in the sugar market, very large corporations are making a huge benefit, but that has not led to a more sustainable income for ordinary people—quite the opposite.

In addition, it is important that other factors can be taken into account in these classifications and in determining whether countries should be on the list. Three years is a good graduation period but it may be necessary for some countries to have longer, especially if they are subject to a particular economic or other problem.

Furthermore, I understand that there are cases where countries have used additional considerations in relation to classification under these kinds of regimes. Norway has said that if a country is not classified as a least-developed country but is part of a customs union with other least-developed countries, it is a good thing because it promotes regional integration. That nation is also likely to share many trade characteristics with the least-developed countries, and therefore should be able to be allotted trade preferences on the same basis. Norway at least believes that it does not need a waiver from the WTO for that—not only is that not being actioned by the

*[Anneliese Dodds]*

WTO, but Norway believes that it does not even need to approach the WTO for a waiver. We could be more ambitious in that regard, and I hope that as a result the Minister takes our suggestion on board.

**Graham Stuart:** I thank the hon. Lady for her passionate espousal of a number of interesting issues. I will respond as best I can, but my three weeks in this post probably does not match her many years of expertise.

As highlighted, clause 10 and schedule 3 ensure that the UK can operate a unilateral trade preference scheme when the UK leaves the EU, supporting our long-standing commitment to support developing countries. The group of least-developed countries, as set out in schedule 3, are among the poorest in the world. As I said, providing nil-rate import duty access to goods from those countries helps them to reduce poverty through trade and is part of the UN's sustainable development goals. Clause 10 enshrines that in UK law, ensuring that the commitment will be maintained in future. The clause is not prescriptive about the level of import duty for other eligible developing countries—they are listed in part 3 of schedule 3—that are not designated as least developed. However, as I have mentioned and as the Government set out in the trade White Paper, the Government's policy intention is to ensure continuity at the point of exiting the EU by replicating the market access of all countries currently part of the EU's generalised scheme of preferences.

I take on board the fact that the hon. Lady talked about being more ambitious. We have said that, as a Government, we wish to be more ambitious, but we need to bring into place in this country continuity from the existing system and give assurance and confidence that we are not opening up. If we open up the issues more widely, we will create uncertainty as to what we will continue—we may be strengthening in some areas; we might weaken in others. I therefore ask the hon. Lady to accept that I need to think and talk to her over time about some of the issues that she has raised. We do want to be more ambitious in the future, but for now, we believe that the right thing to do is to have continuity with the existing system and bring that as effectively as we can into UK law.

The amendment proposes that changes to schedule 3 be done by the affirmative procedure. As I have mentioned, eligible developing countries will be determined with regard to the classification by the World Bank or UN. The Government need to be able to react promptly to a country's change in economic circumstances. Similarly, the power to specify the meaning of the term "arms and ammunition" is intended to allow the preference scheme to adopt the same nomenclature enabled through clause 8 for the customs tariff, which will itself be constrained by international nomenclature.

As I said, our intention is closely to replicate the EU's preference scheme, including the GSP-plus tier. That is the enhanced tier of preferences available for economically vulnerable countries that ratify the international conventions I have mentioned. We expect beneficiary countries to continue to respect the conditions in GSP-plus, including meeting those international obligations. Those conditions will be set out in secondary legislation, as clause 10(2)(b) allows.

The question is asked why we would give preference to Cambodia even though land disputes have occurred following the EU's everything-but-arms access. A key objective of the UK is building the UK's prosperity by increasing exports and investment and promoting sustainable global growth. Greater prosperity leads to greater stability. We are aware that the Government of Cambodia have taken steps to improve their issue of economic land concessions, such as introducing a compensation process. Furthermore, the Ministry of Environment cancelled more than 20% of all economic land concessions. For now, therefore, we continue to work through the EU's GSP monitoring system, and we seek to bring the existing system into UK law.

**Peter Dowd:** I rise to speak to the Opposition's new clause 4 and will also touch on schedule 3, if I may. We do want to require a vote in the House of Commons on the giving of preferential rates unilaterally to developing countries—I do not mean in relation to amendment 80, but in future. We can all agree that the Government have a responsibility to ensure that our trade policy works for everyone, including the poorest in society, and how tariffs are set has an important bearing on that.

The Minister was very clear and comprehensive about the Government's direction of travel. I welcome him to his position—as a former Whip, he has come out of the darkness into the light—but I also agree that the current Government Whip, the hon. Member for Macclesfield, is much better.

3.30 pm

Interestingly, the Minister referred to the Financial Secretary as a Rolls-Royce. Given the uncertainty of the current climate, if he was a Rolls-Royce and he left the country, he might come back with a quota on his leg, a surcharge on his arm and a tariff on his foot. He might even have to pay VAT when he came back from his holidays. That probably goes to the heart of the confusion.

But back to the matter in hand. We can all agree that the Government have the responsibility to ensure that our trade policy works for everybody, including the poorest. How tariffs are set has some bearing on that. Inevitably, that involves compromise and trade-offs, with significant implications for businesses, consumers and employees. Proper parliamentary oversight is vital. The UK has the opportunity to establish itself as a leader in embedding in its trade policies environmental protection, action on climate change, human rights, tackling inequality and the delivery of the sustainable development goals.

I take the spirit of what the Minister said. Inevitably, there will be a certain amount of scepticism about this issue. I fear that if we are not careful, trade policy, far from being responsible, may become a free trade free-for-all, leaving many developing countries behind. We have to hold the Government to account. For developing countries that are offered preferential rates, the guidance will be drafted by the Treasury with strict economic interests in mind. That will not necessarily lend itself to the ethical considerations that we and many others—including many Government Members, I suspect—would like to see in relation to our future trade policy. That is not to mention the constitutional issue, which I have touched on. The Government rightly pointed out that this is a

money Bill, and as we pointed out, that means the Lords will fail to properly scrutinise it. I accept that we are where we are, but in such situations it is all the more important that the Commons is able to scrutinise it.

I assert that we really do need that level of scrutiny. Raising and lowering tariffs is effectively taxation of goods coming into the country, and that is my preference. The Opposition believe that, just as a money Bill can make changes to tax, it should also be able to make changes to tariffs and customs. We believe that that is practical and reasonable. We are not talking about votes on every single item, but that level of scrutiny is important with regard to the significant issue of the unilateral offering of preferential rates to developing countries.

Schedule 3 focuses on giving preferential rates unilaterally to developing countries. It outlines the approved list of least developed countries that would be eligible for the scheme, as well as a list of other developing countries that could also be eligible for preferential rates. Under unilateral preference rates, developing countries are entitled to duty-free and quota-free access for all imports except weapons, as has been said.

The schedule goes to the heart of the UK's future policy and the central question of whether we should set conditions under which developing countries are eligible for unilateral preference rates. As far as I am concerned, the reality of the UK's future trade policy is not simply one of crude accounting of the economic interests of the UK and domestic manufacturers. We also have to consider developing countries and the revolutionary impact that free trade can have by dramatically changing lives. If Committee members look at the least developed countries as outlined in part 2 of schedule 3, they will see a list of the poorest countries in the world. Some are plagued with not only dire economic circumstances, but corruption, poor human rights records and dictatorship.

In the debates surrounding the giving of unilateral preference rates, there are two schools of thought. One suggests that free trade in itself aids developing countries, as it brings with it social and democratic reform and encourages the spread of economic freedoms as a precursor to democratic freedom. The second school of thought argues that democratic reform and good governance should come before the reward of free trade agreements, effectively encouraging behavioural change. That debate will go on. This is not necessarily an opportunity for us to have that debate, but we should bear those issues in mind as we move into this new age. It is not necessarily an opportunity for a refresh or a reconsideration, but an opportunity to consider those issues. I am saying that we should not forget them.

As with other trade policies, the UK's current generalised scheme of preferences for developing countries is managed and controlled by the EU, and the EU's generalised scheme of preferences has three objectives: to contribute to poverty eradication by expanding exports from countries in need; to promote sustainable development and good governance; and to ensure that the EU's financial and economic interests are safeguarded. Those objectives are all perfectly understandable and laudable.

The EU has historically considered serious and systematic violations of human rights, including labour rights, as grounds for the suspension of unilateral preferences granted to developing countries under its generalised scheme of preferences. That is why Myanmar, which is on the list of least developed countries, had its preference scheme revoked in 1997 due to the persistent violation of international conventions on forced labour. The EU restored the preference scheme in 2013, but understandably it is reconsidering that decision in light of the ethnic cleansing of the Rohingya taking place in Myanmar today.

In addition to the negative conditionality, whereby countries can forfeit their trade preferences on human rights grounds, the EU preference scheme also has a form of positive conditionality in its enhanced generalised scheme of preferences that is reserved for eligible countries that do not fall into the least developed category. Under that enhanced preference scheme, certain eligible developing countries qualify for greater access to the EU market if they ratify and comply with 27 international conventions on human rights, labour rights, sustainable development and good governance. Only nine countries are on that list: Armenia, Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Pakistan, Paraguay, the Philippines and Sri Lanka.

At the general election, we made a commitment to maintain duty-free and quota-free access for all exports from the least developed countries. The Government confirmed after the election that they would do the same. We have also stated that we will seek to develop a non-reciprocal preference scheme that ensures that eligible developed countries do not lose access to the UK market as a result of Brexit. However, the question of how closely we align a future generalised scheme of preferences to that of the EU remains unanswered. Given its complexity, it is unsurprising that the Government have in effect chosen to offer little detail in the schedule other than the list.

The issue is not clearcut. It is above my pay scale, but it raises larger ramifications that delve into the realms of foreign policy and international development more broadly and the question whether our trade policies should be linked or possibly subservient to British foreign policy interests or entirely independent of them. We do not want to get into a situation where the tail is wagging the dog. There is an important question that the Government must address in due course: should the UK have a selective trade policy in a world based on defined values and ideals or do we take a different approach? That is an approach that the Government have failed to define, and it needs to be reconsidered.

**Graham Stuart:** I will respond to some of the points that the hon. Member for Bootle has just made. I pay tribute to him for featuring so well. He must be another fine engine, if not a Rolls-Royce. I have certainly heard him purr in this Committee Room on many an occasion. As with my right hon. Friend the Financial Secretary, I have admired the style and content he has presented.

The hon. Gentleman raised the issue of whether the trade preferences will undermine human and labour rights. The UK has a long-standing commitment to universal human rights, and that will be reflected in our trade preference scheme. As part of transitioning EU arrangements, we will maintain a similar approach to human rights commitments in UK trade policy.

The hon. Gentleman raised Burma, based on the Rohingya situation, and mentioned the fact that the EU has, after all, suspended Burma before. I agree that this is an important issue. The UK is deeply concerned by the violence taking place in Rakhine state. The UK has been a leader in responding to the crisis in terms

*[Graham Stuart]*

of both speed and size, helping to meet the urgent humanitarian needs that have arisen. For now, we continue to work through the EU's GSP monitoring system. Under a UK scheme, it will be possible for countries to have their preferences suspended, although we intend to reserve suspension powers for serious and systematic human rights violations.

We must make sure that when we act, it is always to tackle the problems in those developing countries, and that the long list that was laid out—including climate change, forestry and various aspects of human rights—is not used as an excuse for protectionism of interests in this country while we are morally posing ourselves as helping those in developing countries. That is why the presumption is that we should let them trade with us; however, in serious cases we should act. I hope that both this Committee and the House can continue to take that proportionate and balanced approach.

On the clauses that the hon. Gentleman says give too much power to the Government, and on the question whether there is sufficient parliamentary scrutiny and due process in setting up this preference scheme, I would say that these powers are moderate and entirely necessary to create and maintain a trade preference scheme for developing countries, which is a goal that we all share. The overarching principles of the preference scheme are set out in primary legislation. That is important. Parliament will have the opportunity to debate the inclusion of these principles and powers throughout the passage of the Bill. Parliament will later have the opportunity to consider regulations setting details of the scheme. The scheme will need to be updated regularly. As economies grow or contract, their eligibility for trade preferences will change over time. We must ensure that the legislation is kept up to date to ensure that we trade on fair terms and avoid challenge from the WTO.

I did not respond earlier to the point made by the hon. Member for Oxford East about amendment 80 and why the Secretary of State cannot consider factors other than the UN's classification when deciding which countries are least developed. The Government have chosen to enshrine in UK law the obligation to provide nil-rate import duty to least developed countries. This meets a commitment the UK made in the UN sustainable development goals to implement duty-free market access for LDCs. As a result, there needs to be significant certainty on the list of LDCs in part 2 of schedule 3, because it is in primary legislation that this legal duty will be in place. Therefore it is right that the Secretary of State is closely bound to the internationally recognised UN classification. The distinction in language between sub-paragraphs (2) and (3) in part 4 of schedule 3 reinforces this point.

As a final remark, I will quote the Fairtrade Foundation, which said that

"from the perspective of developing countries, where in some instances there is a high dependency on the UK market…changes to tariffs could make or break the livelihoods of producers. If you were to ask for a vote on every single tariff change, that would not be workable, so this is about finding the right balance".—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 19, Q21.]

Being balanced and proportionate is the basis of the Government approach, and I ask the Opposition not to press their proposed amendments.

*Question put and agreed to.*

*Clause 10 accordingly ordered to stand part of the Bill.*

*Schedule 3 agreed to.*

## Clause 11

### Quotas

3.45 pm

*Question proposed,* That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to discuss the following:

Amendment 11, in clause 32, page 19, line 32, after "which" insert

"section *(Quotas: enhanced parliamentary procedure, etc)*(7) applies and".

*This amendment is consequential on NC3.*

New clause 3—*Quotas: enhanced parliamentary procedure, etc*—

(1) No regulations may be made by the Treasury in exercise of the power in section 11(1) except in accordance with the steps set out in subsections (2) and (4) to (6).

(2) The first step is that a Minister of the Crown must lay before the House of Commons—

(a) a statement on the matters specified in subsection (3); and

(b) a draft of the regulations that it is proposed be made.

(3) Those matters are—

(a) in respect of any case where the condition in section 11(2)(a) is met, a statement of the terms of the arrangements made with the government of the country or territory outside the United Kingdom;

(b) in respect of any case where the condition in section 11(2)(b) is met, a statement of the reasons why the Treasury consider it is appropriate for the goods concerned to be subject to a quota.

(4) The second step is that a Minister of the Crown must make a motion for a resolution in the House of Commons setting out, in respect of proposed regulations of which a draft has been laid in accordance with subsection (2)(b)—

(a) the amount of import duty proposed to be applicable to any goods that are or are proposed to be subject to a quota; and

(b) the factors by reference to which a quota is to be determined.

(5) The third step is that the House of Commons passes a resolution arising from the motion made in the form specified in subsection (4) (whether in the form of that motion or as amended).

(6) The fourth step is that the regulations that may then be made must, in respect of any matters specified in subsection (4), give effect to the terms of the resolution referred to in subsection (5).

(7) No regulations may be made making provision on the matters in section 11(3)(c) unless a draft has been laid before and approved by a resolution of the House of Commons.

*This new clause establishes a system of enhanced parliamentary procedure for regulations setting quotas under Clause 11, with a requirement for the House of Commons to pass an amendable resolution authorising the key provisions of the proposed regulations, and also requires that regulations establishing a licensing or allocation system are subject to the affirmative procedure.*

**Mel Stride:** Clause 11 makes provision for the purpose of establishing an independent quota regime for the United Kingdom. The clause specifies the circumstances in which a quota may be established and gives the Treasury the power to make regulations concerning the administration of the quota regime.

A range of tariff and quota regimes currently govern imports into the UK. The EU currently notifies more than 140 tariff rate quotas to the WTO. TRQs allow specified quantities of a product to be imported at a lower or zero tariff rate. They are often used where the introduction of particular products to the domestic market raises specific policy sensitivities, for example in the case of agricultural produce. Depending on the nature of the goods in question, TRQs may be administered in a number of ways, such as on a first come, first served basis, via a licence system or on a traditional/newcomer basis.

Clause 11 establishes the general rule that a quota may be set only if arrangements, such as a free trade agreement, have been made with another territory outside the UK for that purpose, or if the Treasury has determined that it is appropriate that the goods in question be subject to a quota. In addition, clause 11 gives a power to make regulations concerning the administration of the quota, the conditions subject to which the quota has effect, how the amount of the quota is to be determined and conditions of eligibility, including, where appropriate, a requirement that the quota be subject to a licensing system.

Any power to make regulations that make a quota subject to a licensing system are exercisable by the Secretary of State, and any other power to make regulations under clause 11 is exercisable by the Treasury, having regard to any recommendation made by the Secretary of State. As can be seen, clause 11 does not set specific quotas, but rather seeks to maintain the effect of the general framework by which quotas are set and administered under EU law. Maintaining the framework will help minimise any disruptions to trade as the UK establishes an independent customs regime.

New clause 3 and consequential amendment 11 seek to put in place additional parliamentary procedures for setting the amount of duty applicable to goods subject to a quota. The Bill introduces a comprehensive framework for a new stand-alone customs regime, which will be underpinned by detailed and technical secondary legislation. As I have said in relation to other, similar proposed amendments, the Bill ensures that the scrutiny procedures that apply to the exercise of each power are appropriate and proportionate, taking into account the complexity of the regulations.

Tariff rate quotas are complex and varied in terms of how they arise and how they are administered. Regulations related to tariff rate quotas are lengthy. They will include, among other things, administrative provisions for the opening and management of quotas, conversion factors and details on import licence applications. For the powers under clause 11, the negative procedure will apply, which the Government consider appropriate and proportionate. The procedure provides a sufficient level of parliamentary scrutiny while having regard to the technical and administrative nature of quota regulations.

TRQs are an integral part of the UK's existing customs regime, particularly for agricultural imports. Clause 11 sets out the necessary provisions to allow us to establish the UK's quota regime post-EU exit. I therefore commend the clause to the Committee.

**Kirsty Blackman:** Quotas have concerned us for some time, particularly the question of how they will happen post-Brexit. I understand what the Minister is saying, and I have read the clause and understood what it says about the regulations and how quotas will be put in place by this Government, but I am still not entirely clear how those quotas will be decided in advance and what circumstances will be used to decide an appropriate level of quota. I am not sure if the plan is for that to follow in regulations. I have tried to work it out from the legislation before us; it may be in the Trade Bill rather than this Bill.

Quotas are important, particularly on agricultural products. If our farmers can only produce a certain percentage of the beef consumed, we must allow a certain amount of beef into this country, but not so much that our farmers will be squeezed. We must protect our farms here. It is about ensuring balance.

The UK and the EU Commission agreed in September 2017 how they would divide the quotas currently in place. They agreed that the tariff rate quotas lodged with the WTO would be divided on the basis of consumption. For example, there is a tariff rate quota for sugar cane. Sugar cane is consumed mainly by the UK—the EU generally uses not sugar cane but sugar beet, which it grows itself—so it makes sense for a more significant proportion of the quota to go to the UK than to the EU. Division by consumption seems like a relatively sensible way to do it.

**Julian Sturdy** (York Outer) (Con): Actually, a lot of sugar beet is produced in the UK, as well as in Europe.

**Kirsty Blackman:** That is absolutely the case, but generally the sugar cane that comes into the UK and the EU is consumed in the UK; very little of it is consumed in the EU. This is specifically about the consumption of sugar cane, rather than about the production of sugar beet. I understood that probably most of the sugar beet produced in the UK is not for human consumption, but I could be wrong in that regard. I am happy to chat to the hon. Gentleman afterwards, if he is keen.

**Julian Sturdy:** I will have to be careful what I say here but, without promoting British Sugar too much, if someone sees Silver Spoon in the supermarket, that is British sugar produced by British Sugar.

**Kirsty Blackman:** I thank the hon. Gentleman for that clarification. I appreciate that his knowledge of sugar is better than mine.

On quotas in particular, the situation is that the UK and the EU Commission have now decided how to divide the quotas and the amount that is lodged as a schedule with the WTO. However, in September 2017, Uruguay, Canada, Thailand, Argentina, Brazil, New Zealand and the US wrote a letter to say that they contested the way in which the UK and the Commission had decided to divide up the quotas, and that they had a concern about the decision taken. I can understand that concern.

For example, let us say that beef is coming into the UK and the EU. If we have a collapse in the beef market in one of those places, the beef cannot simply be redistributed to other countries. That is particularly so

*[Kirsty Blackman]*

in the case of the UK. If the UK ends up with a tenth of the EU's quota for beef, and the quota allows for 100 tonnes of beef, 10 tonnes of that are a quota allocated to the UK. If something strange happens in the UK, everyone decides that they do not want beef burgers or steaks any more and the market collapses, the country exporting the beef to the UK cannot just send it to another country, because the UK schedule will be the UK schedule alone.

I can therefore understand why countries are unhappy with how that division is working and why they have come back to say that they do not think it is a technical rectification. That is a serious thing in the WTO, because if the change of quota is not a technical rectification but a modification of the schedule, it needs to go through more of a process in order to be agreed.

My big concern is that none of that seems to be in this legislation. None of the way in which the UK Government will be dealing with the WTO on quotas or defending itself against challenges brought to the WTO seems to be in the Bill. While I am on the subject, to throw the cat among the pigeons, I have not seen anything in the European Union (Withdrawal) Bill, in this Bill or in the Trade Bill that gives the UK Government the power to lodge schedules with the WTO. I hope the UK Government have not missed that and it is written somewhere in one of the pieces of legislation, because it would be rather unfortunate if the UK Government were, post-Brexit, unable to lodge schedules with the WTO or to have its most favoured nation tariffs lodged with the WTO.

I hope that that power is in one of the pieces of legislation—I am happy for the Minister to come back to me and mention it afterwards—because clearly we want to be in a situation in which, post-Brexit, the UK continues to be a functioning country and is able to have tariffs, not just preferential ones but most favoured nation ones as well. Generally, I have concerns about the provisions on quotas because I am not sure that they adequately fulfil all the things that the UK will need to do on quotas.

I have thrown an awful lot of things at the Minister—not literally, I hasten to add for anyone reading this later—and I am happy for some of them to be dealt with at a future sitting. My concern, however, is that because we are leaving the EU and doing so in a short period of time, so legislation has been hastily drafted, some things might be missing. If that is indeed missing, that would be amusing because it is pretty fundamental going forward. I will appreciate the Minister's providing some clarification, if he can, on the clause.

**Peter Dowd:** Our new clause 3 would require the House of Commons to pass an amendable resolution authorising the key provisions of the proposed regulations. It would also require that regulations establishing a licensing or allocation system are subject to the affirmative procedure.

As with the other related new clause we have discussed today, there are four steps set out in our proposed process. First, the Minister lays a statement to the House along with the draft regulation that is proposed to be made. Secondly, the Minister lays a motion setting out the various duties and tariffs that the Government wish to impose. Thirdly, the House would have to pass a resolution on that motion. Finally, the regulations will be made. Amendment 11 is consequential on the above, making a small technical change to clause 32 to accommodate our proposals.

Ultimately, however, we are less concerned with the exact steps for any process for ensuring parliamentary oversight. We just want to see that the Government are acting on the principle that Parliament should have an extended role in scrutinising the changes in this regard. As I have said previously in relation to the other clauses, we seek to guarantee an enhanced parliamentary process. The logic is pretty undisputable. The Government have tabled this Bill as a financial Bill, as I referred to earlier on. In that regard, the House of Lords does not have any capacity to scrutinise it and the Commons does not have the same capacity it usually would. We ask, therefore, that as in all other financial matters a case is presented to the House for a debate and a vote.

It would be a very unfortunate outcome if the Treasury was to acquire powers to alter the rate of taxation without such basic democratic processes. The Government really should think a little longer than this—it is not a short-term matter. It is of course more conceivable that they may be in opposition sooner than they think. They should be looking to construct a fair process for scrutiny, with, in effect, cross-party agreement as to what that would be, in the light of this significant change that we are about to face in one way or another, maybe within the next 12 months or so, possibly a little longer, but the reality is that we are facing change. This House has to face up to the fact that scrutiny processes need looking at, especially with regard to finance.

**Mel Stride:** The hon. Member for Aberdeen North rightly raises the issues around quotas. First, we have to work out what those quotas will be. We have existing arrangements through the European Union and we are currently in discussions regarding, as she has suggested, how the various quotas should be allocated, whether that be on the basis of consumption, or consumption and other issues that we might consider. The point I would make on that is that this Bill is enabling, in that sense, rather than prescribing or seeking to suggest any particular outcome to those discussions.

In the hon. Lady's second point she raised an example of 100 tonnes or 100,000 tonnes of beef, and a certain amount coming by way of a quota to the UK, and then circumstances of that changing not to our liking, and asked what we would do in such a situation. That prompts the question as to where the quota itself originated.

**Kirsty Blackman:** I am sorry; I was obviously not particularly clear when I was making that case. I was suggesting that this was why third countries are upset about how the division might work, because 90 plus 10 is not the same as 100 in a bigger area, because they cannot just redistribute that in the event of a market collapse in the UK, because the 10 is for the UK and they cannot just send that to the EU, because the quota for the EU is now only 90.

**Mel Stride:** I think I have the gist of the point. In terms of the overarching point about what one would do if the arrangements come to be seen, in the way they are measured, as being inappropriate, that prompts the question where the quotas originate in the first place.

If it is in the schedule of concessions at the WTO, I guess we would have to revisit that aspect of it. If it comes from provisions within a free trade agreement, I guess we would attempt to renegotiate that aspect, or perhaps trigger some provisions within that agreement to resolve the issue at hand. If it was a so-called autonomous quota in which we had decided to implement a quota regime or quotas at the request of a third country, I imagine that we would be able to reverse or change that in some way through secondary legislation as well, depending on the precise nature of that agreement.

4 pm

The final point relates to our being in a quota situation or a situation of imports coming in at a rate that we were uncomfortable with. We will come on to other provisions in the Bill on trade remedies around safeguarding, which might be relevant. It is important to recognise that this is an enabling Bill rather than one that attempts to answer all the legitimate questions that the hon. Lady has posed.

The hon. Member for Bootle and I have gone round the issue of enhanced procedure a few times.

**Peter Dowd:** Yes.

**Mel Stride:** I am grateful to the hon. Gentleman for reasserting his arguments, but our arguments remain as I set out in my earlier remarks.

*Question put and agreed to.*

*Clause 11 accordingly ordered to stand part of the Bill.*

### Clause 12

TARIFF SUSPENSION

**Peter Dowd:** I beg to move amendment 5, in clause 12, page 8, line 40, at end insert—

"(6) No regulations may be made under this section unless a draft has been laid before and approved by a resolution of the House of Commons."

*This amendment requires regulations under Clause 12 to be subject to the affirmative procedure.*

**The Chair:** With this it will be convenient to discuss the following:

Clause 12 stand part.

Amendment 9, in clause 32, page 19, line 32, after "regulations" insert "under section 12 and".

*This amendment is consequential on Amendment 5.*

**Peter Dowd:** I am pleased that the Minister is getting the drift of our line after several hours—*[Interruption.]*—I hear the Minister saying "with much repetition" from a sedentary position, but I do not think it is as repetitive as the Government's refusal to give Parliament scrutiny. It is a persistent "No, no, no" from the Government, and that is dangerous. I do not say that as a Labour Member per se; I say that as a democrat. It is crucial that Government Members recognise that. I am sure some of them do, because these things come back to bite Members when they are in a different position. I exhort them to listen to what we say—no matter how often I say it.

**The Chair:** Order. I suggest that the hon. Gentleman's comments should be pertinent to the part of the Bill that he is discussing, rather than a reiteration of points that have already been made.

**Peter Dowd:** I understand that, Mrs Main. Amendment 5 is another amendment pertinent to the clause, in that it continues to wish to hold the Government to account. That is not just the view of the Opposition, but of the House of Lords Delegated Powers and Regulatory Reform Committee, which I have referred to before. It says that the Bill involves a "massive transfer of power" that gives Ministers over 150 powers to make tax law for individuals and businesses. Those laws will run to thousands upon thousands of pages, with little opportunity for us to scrutinise them. The Treasury's delegated powers memorandum alone, which sets out in detail all those law-making powers, runs to 174 pages.

The Fairtrade Foundation has raised concerns over the use of delegated powers in the Bill around the setting of tariffs and the establishment of rules of origin. That relates to developing countries—we touched on them earlier—where, in some instances, there is a high dependency on the UK market and where there are products with tight margins, so changes to tariffs could make or break the livelihoods of producers.

The Hansard Society also rightly pointed out in its evidence that unless the Government can give a compelling reason, all Henry VIII powers should be subject to the affirmative procedure, which the Delegated Powers and Regulatory Reform Committee is also in full agreement with. Mr Blackwell from the Hansard Society does not see any evidence in the delegated powers memorandum that justifies the Government avoiding an affirmative procedure. Nor does the Hansard Society understand the Government's justification and distinction between the use of urgent and non-urgent powers.

I will continue to repeat that this House is entitled to scrutinise the Government appropriately and as much as it wants within the confines of procedures. I wish that the Government would listen not only to the Opposition but to virtually every organisation out there who tells them that in these times of significant change, the Government should open their arms to scrutiny and challenge and not shut the door in our faces.

**Mel Stride:** Clause 12 provides for an exception to the application of the standard rate of duty as set under clause 8. It allows some or all of the import duty that would otherwise be charged on specified goods to be waived for a specified period of time. The primary purpose of a tariff suspension is to facilitate domestic production by ensuring that businesses have access to the supplies that they need. A similar exception to the application of the standard rate of duty exists under the Union customs code. A suspension could be introduced on the Government's own initiative, or after a request for one: for example, from a business.

Suspensions are usually applied to certain types of goods. Any goods that will be subject to a suspension will be specified by regulations. For example, under the current arrangements suspensions are generally granted only where the good is a raw material or unfinished product, which will be used by UK manufacturers; where no competing domestic product exists; and where the goods covered by the suspension are subject to a significant amount of duty. In other words, the suspension would have a material benefit for UK industry.

A suspension of duty would apply for a given period of time that could be extended. Where a continuation of

*[Mel Stride]*

a suspension implies a lasting need to import a certain product at a reduced or zero rate, the Government would look to reduce the standard rate of duty. To be consistent with WTO rules, a suspension on any given good must be granted equally to every country and supplier. Regulations made pursuant to the clause will be subject to the negative procedure.

Amendment 5 and consequential amendment 9 to clause 32 change the proposed parliamentary procedure for regulations relating to tariff suspensions from the negative procedure to the draft affirmative procedure. The Government believe that the scrutiny procedures that apply to the exercise of each power in the Bill are appropriate and proportionate, taking into account the length and technical complexity of the regulations and the frequency with which they are likely to be made.

For tariff suspensions, the negative procedure is both appropriate and proportionate. The power in clause 12 only permits the standard rate of import duty to be temporarily lowered and could not be used to increase the rate. Delays in implementation of suspensions owing to the use of the draft affirmative procedure would only be to the detriment of UK manufacturers.

I will provide an example that might be pertinent to our debate. The suspensions are likely to be numerous and detailed. For example, in the last round of EU suspensions, a UK business successfully applied for a tariff suspension on a specific type of gearbox with a hydraulic torque converter, with at least eight gears and an engine torque of 300 newton metres or more. It is the kind of gearbox I might have in my Rolls-Royce car, perhaps. It is not clear that such a level of detail would benefit from a greater level of parliamentary debate, despite the fact that we have debated Rolls-Royces, and by extension gearboxes, to some degree in this debate today.

In short, the clause is a crucial part of the overall import duty regime, allowing the Government to take action to support manufacturers in the United Kingdom. I therefore move that the clause stand part of the Bill.

**Peter Dowd:** Given the time, I will spare the Committee further scrutiny. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 12 ordered to stand part of the Bill.*

*Ordered*, That further consideration be now adjourned. —*(David Rutley.)*

4.9 pm

*Adjourned till Tuesday 30 January at twenty-five minutes past Nine o'clock.*

## Written evidence reported to the House

TCTB07 Honda Motor Europe