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Public Bill Committee

TAXATION (CROSS-BORDER TRADE) BILL

Eighth Sitting

Thursday 1 February 2018

(Afternoon)

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Monday 5 February 2018

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 1 February 2018

(Afternoon)

[Mrs Anne Main *in the Chair*]

Taxation (Cross-border Trade) Bill

Clause 39

Charge to export duty

2 pm

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): I beg to move amendment 13, in clause 39, page 27, line 12, at end insert—

"(aa) the interests of manufacturers in the United Kingdom,".

This amendment requires the Treasury to have regard to the interests of manufacturers in considering the rate of export duty.

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

Amendment 79, in clause 39, page 27, line 17, at end insert

"and

(e) the impacts on sustainable development."

This amendment requires the Treasury to have regard to the impacts on sustainable development in considering the rate of export duty.

Amendment 119, in clause 39, page 27, line 17, at end insert

"and

(e) the public interest."

This amendment requires the Treasury to have regard to the public interest in considering the rate of the export tariff.

Amendment 142, in clause 39, page 27, line 17, at end insert—

"(e) the interests of producers in the United Kingdom."

This amendment requires the Treasury to have regard to the interests of producers in the United Kingdom in considering the rate of export duty.

Amendment 143, in clause 39, page 27, line 17, at end insert—

"(e) the desirability of maintaining United Kingdom standards of food safety."

This amendment requires the Treasury to have regard to the desirability of maintaining United Kingdom standards of food safety in considering the rate of export duty.

Amendment 144, in clause 39, page 27, line 17, at end insert—

"(e) environmental protection."

This amendment requires the Treasury to have regard to environmental protection in considering the rate of export duty.

Amendment 145, in clause 39, page 27, line 17, at end insert—

"(e) the welfare requirements of animals as sentient beings."

This amendment requires the Treasury to have regard to the welfare requirements of animals as sentient beings in considering the rate of export duty.

Jonathan Reynolds: Welcome to the Chair for the final sitting of the Committee, Mrs Main.

As is explained in the explanatory notes, the Bill does not establish the rate of export duty, but the power to do so is contained in it so that it can be introduced subsequently through regulations made by the Treasury. As we discussed when considering amendment 1 to clause 8 during my first speech in Committee, it is vital to pay careful attention to the needs of manufacturers for the future of our economy. The Committee will be pleased to hear that I will not repeat that speech in its entirety, although I am sure colleagues would like to hear parts of it.

The representatives of the manufacturing industry to whom we spoke in our helpful evidence sessions on Tuesday 23 January amply illustrated why such a consultative approach is important, by raising many legitimate considerations to which answers are required. Given the amount of detail in the Bill that is left to secondary legislation, all manufacturers seek is minimal reassurance that their interests will be taken into account. They are not asking for special measures, but pointing out that we are on the cusp of a complex post-Brexit world and that clarity is needed as soon as possible. It has been the Government's choice not to include that in the Bill, as we have discussed, but we need some middle ground to address the resulting lack of certainty, given how it has inhibited the ability of UK industry to prepare for that future landscape.

As we draw towards the end of the Committee, I am only too aware that we are becoming increasingly committed to the process of adding detail by secondary legislation. That makes it even more important for the vital consultation with manufacturers to be enshrined in the Bill. We will not necessarily seek to press the amendment, but I hope that the Minister, through his comments, can provide reassurance for manufacturers at this stage.

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve under your chairmanship again, Mrs Main.

The amendment would add the interests of manufacturers to the list of factors the Secretary of State and the Treasury respectively must have regard to when recommending or imposing a rate of export duty. The Government acknowledge the wide-ranging impact that any future imposition of export duty could have on the UK economy and that of our trading partners. We would consider imposing an export duty only in wholly exceptional circumstances. Of course, in practice the Secretary of State and the Treasury would have regard to many factors. The provision requiring the Secretary of State and the Treasury to have regard to productivity, trade, consumer interests and competition is sufficient and broad enough to encapsulate the economic and strategic interests of the whole of the United Kingdom.

Taking into account the interests of manufacturers will often form part of the Secretary of State and Treasury's duty to consider how export duty will maintain and promote productivity in the UK, but it would be inappropriate to specify an exhaustive list of factors in the Bill. The Government believe that the scrutiny and procedure set out in the Bill are proportionate and enable us to respond quickly to exceptional circumstances to implement an export duty.

Amendment 79 would add the impacts on sustainable development to the list of factors the Secretary of State and Treasury must have regard to when respectively recommending a rate of export duty or considering whether to impose export duty, and the rate of duty applicable. Where relevant and possible, the Government will take into account the impact of export duty on sustainable development. However, it would be inappropriate to specify an exhaustive list in the Bill. Certain factors will be relevant in certain cases, and their importance may change over time.

Amendment 119 would add the public interest to the list of factors the Secretary of State and the Treasury must have regard to when respectively recommending a rate of export duty or considering whether to impose export duty, and the rate that should apply. The provision requiring the Treasury and the Secretary of State to have regard to productivity, trade, consumer interests and competition is sufficient to encapsulate the public interest by considering the economic and strategic interests of the whole of the UK.

Amendments 142 to 145 provide additional factors that the Treasury and Secretary of State must have regard to respectively when considering whether to impose export duty and the rate that should be applied. Clause 39(4) is broad enough to cover the economic and strategic interests of the UK. In particular, I question the necessity of considering food standards, environmental protection and the welfare of animals when setting a tax on goods leaving the United Kingdom. The amendments would not achieve the presumed aim of preserving standards in the UK. Lastly, the interests of producers are intrinsically linked with competition, productivity and the promotion of trade, which are already included in the Bill. I therefore urge hon. Members not to press the amendments.

Kirsty Blackman (Aberdeen North) (SNP): Thank you for chairing the Committee this afternoon, Mrs Main. I appreciate having the opportunity to speak, and want to speak in favour of all seven amendments in this group.

Amendment 13 is about the Government giving consideration to the interests of manufacturers, which we spoke about at length in relation to import duty. I have previously made the case about the disproportionate or differentiated geographical implications of some of the changes the Government are making and some of the rules that they will have. That is particularly important in relation to manufacturing interests, given that those are mainly in the north of England and in Scotland, rather than further south. I therefore feel that it is relevant to take this consideration into account.

We have received written evidence from organisations about sustainable development. They say that it is important for the Government to consider sustainable development when making decisions about import or export duty—we are obviously talking about export duty in this case—and the Government should do that.

Amendment 119, which appears in my name and that of my hon. Friend the Member for Dunfermline and West Fife, relates to the public interest. I am not sure that I agree with the Minister when he says that consumer interest and the interests of promoting external trade, productivity and competition adequately cover the entirety of public interest. I think that consumer interest is different from public interest in this regard, and a number of our constituents would agree if they came to discuss this issue with us.

Amendment 142 relates to producers. Again, there is a geographical bias towards the north and the more rural parts of the four nations of the United Kingdom. Producers are generally in places that are a bit further away from London, and they have a significant positive benefit on the areas that they are in. People tend to be employed in agricultural produce, for example, in areas where there are few other types of employment, so having regard to the interests of producers is important.

I take the Minister's point that the clause is about export duty rather than import duty, where food safety regulation may be more relevant. However, it is still relevant that the Government ensure that food safety is high up the agenda, given our conversations about trade deals, chlorinated chicken and the possible erosion of food safety now that the United Kingdom is planning to leave the EU and the food standards that come with it.

Amendment 144 is about environmental protection. Again, it would be a good statement of direction if the Government explicitly included environmental protection in anything that they do, given that America is not looking at implementing the Paris agreement. It is making negative changes that will impact on the future of the world for us, our children and our children's children. I would not want to see the United Kingdom go down a similar route in the erosion of environmental protection standards, so it is really important that this proposal is included.

Amendment 145 relates to the welfare of animals as sentient beings. Given that we have had discussions in the House about the sentience or otherwise of animals, and it seems that a number of Members across the House are less keen to stress that animals are sentient beings, it is important that we have this written into the Bill.

Although the Minister's comments were a bit helpful, they could have been more so. It would have been more helpful for the Minister to say, if he were so minded, that those factors will be considered when making the decision. In fact, we have a list of four factors that will be considered, and there is no opportunity for that to be wider. If the Bill said "any other relevant factor", for example, that would encapsulate them all and the Minister could stand up and say, "We will of course consider the public interest and the interests of food safety and of environmental protections when we are making these decisions." We would have a level of reassurance that those things will be taken into account.

All the amendments are important. I accept that they are specific to export duty, which is relatively unusual and pretty niche, but to have those things explicitly stated by the Minister in Committee or in the Bill would be incredibly useful, rather than the short list of four factors that does not allow for a wider consideration of the issues.

Mel Stride: I will respond because, as ever, the hon. Lady made some helpful comments.

On taking into account sustainable development and the interests of producers, I refer the hon. Lady to the point that she made herself, which is that the clause does not prohibit any of those matters being taken into account.

[Mel Stride]

The point I made earlier was that the Government certainly do not see the need to specifically reference those matters—or, indeed, the many other matters that the Committee and individual parliamentarians may feel are important in this context—in order that we do not have an exhaustive list, but rely on the common sense and good public policy making of the people who make such decisions.

Duties, whether they are import duties or export duties, which are potential though unlikely, are a slightly strange instrument to use in the food safety context. It would be much more appropriate for the Department for Environment, Food and Rural Affairs to look at those issues and use its powers to take action where clear breaches of food safety have occurred or are likely to occur.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to see you in the chair, Mrs Main. I am grateful to the Minister for those remarks. I want to focus on amendment 79 and press him a bit on sustainable development.

There is an important consideration here, which relates to our discussion earlier about what will happen if the UK leaves the EU without a deal and falls back on World Trade Organisation provisions—something I hope will not happen, but that the Government have not ruled out. The hon. Member for Aberdeen North asked the Under-Secretary of State for International Trade exactly where the powers are to create WTO schedules. I do not know if the Minister has the answer yet—perhaps we will find out later. There is a pertinent issue when it comes to laying those schedules if we have to accede to the WTO as a new member—that is, if we do not conclude a customs and trade arrangement that means we do not need to join separately. A number of the countries that have joined the WTO recently have found it difficult to apply the provisions of the general agreement on tariffs and trade that enable sustainable development, environmental considerations, human health and so on to outweigh having low or non-existent tariffs. When that has been offered to one country, it should therefore be offered to all.

China's recent dispute about raw materials is a pertinent example. As with all the most recent accessions to the WTO, when China acceded, it was required to submit commitments on export duty that bound it to keep export duty at its current rate or to reduce it in relation to different product lines. If that had been part of the general agreement on tariffs and trade, China would have been able to invoke the WTO's GATT provisions that say that human health can trump those other considerations, but because there were separate agreements, it was not allowed to invoke environmental considerations.

2.15 pm

That is relevant to this debate because if our Government ended up having to do the same kind of thing that China has had to do—to enter separately and to offer separate commitments around export duty—it is very important that they are able, within that, to adduce environmental considerations. Obviously, we are in a very different position to China, so we are not going to export raw materials to the same extent. I would also hope that our environmental protections would operate so that we would not have to rely on export duties to try to constrain the amount of raw materials that we export, which is effectively what China has been doing. It has been using export duties to try to bump up the costs of its exports, so that rare earths, for example, are not exported to the same extent.

Hopefully, we would have environmental rules that would stop us having to use the export duties system in that way, but I again recall—I am sorry to bore colleagues—that the tax system was used recently to compensate for the deficiencies of some of our environmental legislation. Presumably, it was not possible for the Environment Agency to apply a stiff enough penalty to stop people dumping waste illegally, so tax measures were used.

It could well be that at some point, we will want to use export duty to accomplish environmental goals. It is therefore important that the Government are aware of the significance of this issue. They might need to include a commitment to sustainable development as an explicit consideration in future trade policy, particularly if they have to make separate agreements with the WTO.

Kirsty Blackman: I want to follow up on the point about the WTO schedule. I appreciate that the Minister wrote to the Committee about it, but he did not answer the question that was asked, which was: where do the Government have the power to lodge schedules with the WTO? The question was not: where do the Government have the power to implement such schedules? That is the question that he answered; I appreciate that he answered it fully, but it was the wrong question.

As far as I am aware, the UK Government have not legislated to give themselves the power to lodge schedules with the WTO in this Bill, the Trade Bill or the European Union (Withdrawal) Bill. It is not about the implementation of them; it is about the lodging of them. As my colleague on the Labour Front Bench, the hon. Member for Oxford East, mentioned, there are concerns about the impact on sustainable development and such matters. It would be useful if the Minister were to follow up his letter with a further one that answers that question.

Mel Stride: I thank the hon. Members for Aberdeen North and for Oxford East for their contributions. On the issue of sustainable development, I can provide the Committee with reassurance that the Government take that area of policy extremely seriously. As the Committee will know, the UK Government have stated their commitments to the UN sustainable development goals that were agreed in September 2015. A publication released on 14 December 2017 outlined the Government's response to the UN SDGs and their relevance to individual departmental plans. Trade policy is explicitly referenced in five of those 17 goals.

The hon. Member for Oxford East asked me about the letter regarding WTO scheduling, upon which I believe she may still be waiting.

Anneliese Dodds: I am so sorry—I think it has been received.

Mel Stride: Oh, it has been received. I was going to say that if it had not been, she would receive it imminently. I am pleased that my desire has already been put into effect. I would also be very happy to write to the hon. Member for Aberdeen North about the various issues she raised regarding WTO accession.

Jonathan Reynolds: All the amendments relate, as ever, to the lack of detail in the Bill. The Minister has provided some words of reassurance, which are appreciated, but in the end it comes back to the point that very important details, which industry needs to plan, are missing from the Bill. However, I think that that point has been made, and for that reason I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Anneliese Dodds: I beg to move amendment 14, in clause 39, page 27, line 20, at end insert—

"() by a relevant select committee of the House of Commons, or

() contained in a resolution of the House of Commons."

This amendment requires the Treasury to have regard to recommendations of any relevant select committee of the House of Commons or contained in a resolution of the House of Commons in considering whether to exercise the power to impose export duty.

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

Clause stand part.

Amendment 15, in clause 40, page 27, line 35, leave out subsections (2) to (4).

This amendment is consequential on NC8.

Amendment 16, in clause 40, page 28, line 6, leave out "other than regulations to which subsection (2) applies".

This amendment is consequential on NC8.

Clause 40 stand part.

New clause 8—*Setting export duty: enhanced parliamentary procedure*—

"(1) This section applies to—

(a) the first regulations to be made under section 39, and

(b) any other regulations to be made under that section the effect of which is an increase in the amount of export duty payable.

(2) No regulations to which this section applies may be made by the Treasury in exercise of the power in section 39(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 export duty applicable to goods specified in the resolution;

(b) any proposed export tariff (within the meaning given in section 39(3)(a)); and

(c) any measure of quantity or size by reference to which it is proposed that the duty be charged.

(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 export duty, with a requirement for the House of Commons to pass an amendable resolution authorising the rate of export duty on particular goods and related matters.

Anneliese Dodds: I am sorry about the complexity of all the different amendments, but they reflect the Members' concerns about the Bill as it stands in these particular clauses. I will not speak at length, because many of the issues have already been covered in our previous discussions.

In relation to amendment 14, my hon. Friend the Member for Stalybridge and Hyde has already detailed why we think it would be appropriate to use the expertise and the opportunities for consensus building provided by the Select Committee system in the Bill. I will not go over those arguments again; suffice to say, I hope the Government will consider the arguments that my hon. Friend made, take the opportunity afforded by the Select Committee system and apply it here when it comes to setting export duty and scrutinising the setting of it.

We have covered many of the principles underlying amendments 15 and 16 and new clause 8. Again, we are asking for greater parliamentary scrutiny—this time in the area of export duties. I was thinking about how else I could try to persuade the Government of our arguments, and one issue I decided to focus on was that we have often heard the word "technical" applied to many of these measures. Of course, they are technical when they are about minimal changes to rates, or just alignments between different measures, but we need to appreciate that they can have a significant impact on our constituents, because there are winners and losers when we change the parameters of trade.

Capital is largely mobile, but workers often are not. Academic evidence shows that there can be considerable dislocation when there are changes to trade rules. It may well be the case that, in the past, those matters were often seen as technical, but they have had real-world implications. That is particularly important in our country, where the kind of active labour market measures that might have enabled labour to be more mobile when there are changes to duties that affect working patterns do not exist to the same extent that they do in many countries. Recent research by the Resolution Foundation suggests that people have become less mobile in their jobs, potentially because they do not have that help to alter jobs. It is important to consider these issues carefully when there are not those compensatory measures there for people who might be negatively affected by trade measures that alter the pattern of economic activity in our country.

It is absolutely right and proper that we seek appropriate parliamentary scrutiny of measures that could have a significant impact on the availability of manufacturing jobs, especially in our constituencies. I hope that the Government will bear that in mind. Yes, some of the measures could be described as technical, but they will certainly have impacts on our constituents, and we should all be aware of that while we discuss them.

Mel Stride: Clause 39 enables the UK to establish an export duty if it is considered appropriate to do so. Clause 40 sets the parliamentary procedure for doing so. An export duty is, as the name suggests, a tax on goods leaving the country. I used the term "considered appropriate to do so" quite deliberately. The EU has no standing export duty. Indeed, I believe the last time the EU imposed an export duty was in the late 1990s, in respect of wheat.

[Mel Stride]

However, the revised Union customs code, which came into force only in 2016, maintained the EU's ability to impose an export duty. The EU decided it still needed to maintain the option to impose one in the future. Therefore, in an implementation period, where the UK may be following the EU's common external tariff for a limited period of time, we may need to retain the ability to impose an export duty in case the EU chooses to apply one. In the longer term, it is right to maintain at least the option to establish one if the circumstances demand, just as the EU retained that flexibility when it overhauled its customs code. In allowing for an export duty, but not introducing one, these clauses reflect the status quo, except with a stronger role for Parliament in approving any future export duty.

Clause 39 allows for the imposition of a new export duty tax and for replication of any part of the customs regime in part 1 as may be necessary to administer it. In recognition of the exceptional nature of export duties, clause 40 specifies that the first regulations made under clause 39, imposing an export duty, are subject to the affirmative resolution procedure.

Amendment 14 would require the Treasury to consider recommendations about the imposition and rate of export duty made by a relevant Select Committee or contained in a resolution of the House of Commons when considering whether to impose export duty. The Treasury will listen closely to recommendations from a range of interested parties, including relevant Select Committees and Members of the House. In addition, Select Committees already have the power to question Ministers on the policy within their departmental remit. The Treasury will answer any questions from the relevant Select Committees.

The Bill will ensure that the Government can respond quickly to exceptional circumstances and impose an export duty, while still giving the House a vote through the made affirmative procedure. Therefore, the Government believe that it is not necessary to include this additional requirement in the Bill.

New clause 8 and consequential amendments 15 and 16 seek to put in place additional parliamentary processes for the introduction of, and any increase to, the rate of export duty. For indirect tax matters, it is common to have a framework in primary legislation supplemented by secondary legislation. The Bill introduces a comprehensive framework for a new stand-alone customs regime, which will be underpinned by the detailed and technical secondary legislation.

The Bill ensures that the scrutiny procedures applied 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. As currently drafted, the House of Commons would have a vote on regulations introducing export duty under the made affirmative procedure. The Government believe that to be appropriate and proportionate.

To sum up, although an export duty should be applied only in exceptional circumstances, it is right that the UK has the ability to impose one if it becomes necessary, including if the EU decides to impose one for a limited period while we may be aligned with the common external tariff.

Anneliese Dodds: I am grateful to the Minister for his commitment to respond to any questions that are levelled by Select Committees in this area. That is a positive commitment. It is an area that we will keep an eye on, but after the discussion we have just had, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 39 ordered to stand part of the Bill.

Peter Dowd (Bootle) (Lab): On a point of order, Mrs Main. I indicated earlier that I wanted to speak on amendments 142 to 145 to clause 39, on animal welfare and sentience. I have tried to get in, but if the opportunity has passed, so be it. We may therefore have to pursue it on Report. I want the Committee to recognise that I did wish to speak and did indicate that.

The Chair: I am sorry, but we have moved on.

Clause 40 ordered to stand part of the Bill.

Clause 41

ABOLITION OF ACQUISITION VAT AND EXTENSION OF IMPORT VAT

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

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

Amendment 133, in clause 42, page 30, line 1, leave out subsection (6) and 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 42 to be subject to the affirmative procedure.

Amendment 83, in clause 42, page 30, line 7, at end insert—

"(7A) No regulations may be made under this section after the end of the period of two years beginning with exit day."

This amendment, together with amendment 84, limits the duration of the delegated power under Clause 42 to the period ending two years after the United Kingdom leaves the European Union.

Amendment 84, in clause 42, page 30, line 8, at end insert—

"'exit day' has the meaning given by section 14(1) (interpretation) of the European Union (Withdrawal) Act 2018 and subsections (2) to (5) of that section apply to the term under this section as they apply to the term in that Act,"

See explanatory statement for amendment 83.

Clause 42 stand part.

Clause 43 stand part.

That schedule 8 be the Eighth schedule to the Bill.

2.30 pm

Mel Stride: Clause 41 will amend sections 1 and 15 of the Value Added Tax Act 1994 so that, on withdrawal from the EU single market, all goods entering the UK will be classified as imports. The clause will also maintain the existing link between the VAT and customs duty on imports.

VAT raised approximately £120 billion last year via 2.2 million VAT-registered traders—about 20% of the Exchequer's entire tax yield. It is therefore vital that our VAT system continues to operate effectively after EU exit, whatever the outcome. Part 3 of the Bill covers

value added tax and consists of three clauses that will be key to maintaining a fully functioning VAT system. The changes ultimately required will, of course, be dependent on the outcome of negotiations. Our intention, as outlined in our White Paper, is to keep VAT processes after our EU exit as close as possible to what they are now.

Under existing EU and UK rules for intra-EU trade in goods for VAT-registered businesses, the VAT on goods coming into the UK from the EU is known as acquisition VAT. Such goods are not subject to routine customs control or customs duty. Clause 41 will make changes key to ensuring that, in the absence of an agreement, goods entering the UK from the EU will continue to be subject to VAT. It will abolish the concept of acquisition for goods that enter the UK from the EU, classifying them as imports instead.

Clause 41 will also replace section 15 of the Value Added Tax Act, which determines when goods are imported for VAT purposes and who is liable for that VAT, with a new section 15. This change merely reflects the fact that the customs rules will be contained in UK rather than EU law. Time of importation and liability for import VAT will still be connected to the equivalent rules for import duty. No other changes will be made as a result of the clause.

Operating in conjunction with schedule 8, clause 41 will ensure that goods coming from the EU will be classified and treated as imports in the same way as goods entering the UK from the rest of the world. The application of import VAT will ensure a level playing field on which EU businesses do not have a competitive advantage over UK businesses.

As the Government outlined in our autumn Budget, VAT-registered businesses currently benefit from postponed accounting for VAT when importing goods from the EU. The Government recognise the importance of such arrangements to business because of the cash flow advantage they provide. We will take that into account when considering potential changes after EU exit and will look at options to mitigate any impact on cash flow.

Clause 42 will make changes that ensure that the status of EU law in relation to VAT is clear. The European Union (Withdrawal) Bill lays out the Government's general approach to EU legislation post-EU exit. On VAT, we need to take steps to ensure that the regime works effectively once we have left. The clause will result in EU legislation being retained in respect of VAT only where it is sensible to do so. The approach adopted is as we envisaged in the European Union (Withdrawal) Bill.

Clause 42 will disapply EU regulations that relate to VAT, except the VAT implementing regulation. In the main, those other regulations relate to single market reciprocal arrangements such as for exchange of information; depending on the outcome of negotiations, they will be superfluous after EU exit. Removal of EU legislation that is no longer required or is otherwise deficient is anticipated in the European Union (Withdrawal) Bill.

The clause will, however, retain the VAT implementing regulation as a tool to interpret EU-derived law. This is required for ongoing certainty and consistency of interpretation of the Value Added Tax Act, providing certainty to business and the Exchequer. Where appropriate, parts of the VAT implementing regulation can be removed by secondary legislation—for example, parts specific to EU transactions that, subject to negotiations, will not be required when the UK is no longer a member of the EU.

In line with the European Union (Withdrawal) Bill, clause 42 confirms that certain rights and obligations recognised before exit day will continue to apply for VAT, while rights and obligations no longer considered appropriate or relevant for UK VAT, such as those that relate purely to membership of the EU, may be disapplied or modified by regulations. The clause also reinforces that other provisions of the European Union (Withdrawal) Bill will apply, particularly clause 6, on "Interpretation of retained EU law". VAT law and policy has been developed to a significant extent through European case law, including through application of that case law in the UK courts, so UK legislation and policy are inextricably linked with the case law. The clause reinforces that EU principles and case law on VAT that were determined pre-EU exit will continue to apply when interpreting domestic VAT legislation. For example, it identifies the Halifax and Kittel principles of abuse, which have been instrumental in tackling avoidance and "missing trader" fraud and have protected billions of pounds of revenue.

Amendment 133 seeks to change the parliamentary procedure for the exercise of powers under clause 42 from negative to draft affirmative. The Bill ensures that the scrutiny procedures that apply to the exercise of each power are appropriate and proportionate. The procedures take into account the technicality of the regulations and the frequency with which they are likely to be made.

Clause 42 outlines how EU law relating to VAT will apply post-exit. The powers in clause 42 relate to residual rights, powers and obligations in relation to VAT incorporated by clause 4 of the European Union (Withdrawal) Bill and to the VAT implementing regulation. They are therefore limited to those specific areas. The EU law affected by those provisions reflects the fact that we are currently in the EU. Once we exit, some of it will no longer be relevant or could not be applied in its current format. Given the limited width of the powers in the clause, it is appropriate and proportionate that their exercise should be subject to the negative procedure. The Government therefore urge the Committee to resist amendment 133.

Amendments 83 and 84 seek to limit the duration of the delegated power under clause 42 to the period ending two years after the United Kingdom leaves the European Union. They are two of a number of amendments that would time-limit powers in the Bill. As the Committee is aware, the Bill is drafted to cater for a variety of long-term outcomes from negotiations on our future relationship with the EU. It is essential that we have a fully functioning VAT system on and after EU exit, including during any implementation period. The powers in clause 42 have a part in ensuring that we are able to achieve that. As we do not know the outcome of negotiations with the EU, or exactly when the final outcome will be confirmed, it would not be prudent to time-limit those powers at this stage. I therefore urge the Opposition not to press the amendments.

Clause 43 introduces schedule 8, which makes changes to the Value Added Tax Act 1994 and other consequential changes relating to VAT to take account of the UK's

[Mel Stride]

withdrawal from the EU, should they be needed. The principal VAT directive sets out the framework for the EU's VAT system. Unlike the EU's customs regime, there is little directly applicable legislation in the VAT sphere.

The VAT system in the UK is set out in the Value Added Tax Act 1994. The main body of the Act sets out the general rules, and the schedules set out the detail of areas such as the scope of tax reliefs and registration requirements. As is usual in tax law, the Act provides a range of powers for the detailed rules—in particular in relation to the administrative framework of the tax—to be set out in secondary legislation, of which the Value Added Tax Regulations 1995 are an example. That allows us to react quickly to changing circumstances or to threats to tax, or generally to ensure its effective administration and collection. Appropriate parliamentary scrutiny is provided for that secondary legislation. Statutory instruments that deal with the administration of tax are generally subject to the negative procedure, whereas those that make more fundamental changes are generally subject to the affirmative procedure. The changes made by schedule 8 are fully consistent with those principles.

The changes made by schedule 8 remove the many references to EU law and EU-specific rules and processes. In particular, they remove references to "acquisitions" and "dispatches", which would no longer apply to trade in goods with the EU. Instead, they would become "imports" and "exports". That requires the removal of numerous sections and schedules of the VAT Act associated with EU trade, and consequential amendments to many others. The VAT Act contains many existing powers, which schedule 8 amends to reflect those changes. Most changes are therefore necessary housekeeping to reflect changes to cross-border trade arising from our exit from the EU and changes in the Bill. They do not affect domestic trade or the underlying principles of the system.

However, there are some areas where, depending on the outcome of negotiations, more fundamental changes may be required. For example, there is a new power in relation to small parcels sent from abroad, to be used in the unlikely event of the contingency scenario. That enables the transfer of the liability to account for import VAT from the UK recipient to the overseas seller, and provides for the necessary administration and compliance framework. There is also a power to govern the VAT treatment of goods entering the UK from another territory in a UK customs union, which would allow for a modified treatment for trade with the EU if that is the result of negotiations.

In addition, there is a new provision that enables HMRC to obtain information from businesses so that it can share that with others, subject to appropriate safeguards, if doing so is part of an international VAT agreement. That would ensure that the UK can give effect to agreements that help combat international avoidance and evasion. That power can be used only if the agreement facilitates the administration, collection or enforcement of UK VAT. That mirrors the power for excise.

Clause 43 and the associated schedule 8 are necessary to maintain the UK's VAT system, provide certainty for the UK's cross-border trade and maintain revenue flows as we leave the EU. They also, along with other powers in the Bill, provide the ability to make changes to reflect the outcome of negotiations.

Peter Dowd: I hope the Minister does it with more feeling next time. That was a whip through the clauses, but I will read them. The fact that any of us have any sentience at all is wonderful. I also notice that the Minister's cut and paste button in relation to appropriate and proportionate has been in overdrive again.

This area of our future relationship with the European Union has been the subject of much public debate, because, like much of the Bill, part 3 is conditional upon the outcome of the Government's Brexit negotiations, which appeared to take a further turn for the worse this week. This section of the Bill provides a framework for a new VAT arrangement between the UK and EU member states, to be enacted should we need to do so. Clause 41 makes no provision for the abolition of acquisitions, as far as I can gather, as a taxable event for goods entering the UK from member states and, in the absence of a negotiated agreement, goods would be subject to import VAT.

Amendment 133 seeks to add the affirmative procedure to secondary regulations under clause 42. The clause sets out that the automatic conversion of EU law into UK law following exit from the European Union does not apply in matters relating to VAT. It also provides the Treasury with the power to exclude or modify any other EU rights, powers, liabilities, restrictions, remedies and procedures by statutory instrument, currently subject to the negative procedure. The amendment would ensure that the modification or exclusion of EU rights, powers, procedures and so on would be subject to affirmative resolution.

It is a fact that when we leave the European Union, we will leave the EU VAT area, and therefore we cannot be subject to the rules governing it, at least until further negotiations have taken place. That is why we have not chosen to table amendments to clause 41, which as I have outlined, sets out the major legal changes necessary to exit from the European Union, but have instead sought to ensure that any further regulations necessary are subject to the proper scrutiny—appropriate and proportionate proper scrutiny.

I would like the Committee to once again note that the amendment is in line with the recommendations made by the Delegated Powers and Regulatory Reform Committee, which explicitly called for the powers to be made affirmative, as we are seeking to do. The report says:

> "Clause 42(2) contains a wide power for the Treasury to amend VAT law which is retained EU law under clause 4 of the current European Union (Withdrawal) Bill...Regulations under these powers are subject to annulment in pursuance of a resolution of the House of Commons. Given the importance and scope of the powers in clauses 42 and 47, we do not consider that the regulations should only ever be subject to the negative procedure."

I again appeal to members of the Committee to heed the advice of the Delegated Powers Committee and support our amendment to introduce proper parliamentary scrutiny to regulations made under clause 42.

Amendments 83 and 84 relate to clause 42. They seek to add what are commonly known as sunset clauses to the provisions in clause 42 and would limit the duration of the delegated powers to the period ending two years after the United Kingdom leaves the European Union, which we think is appropriate and proportionate in the circumstances.

As was pointed out by the Delegated Powers and Regulatory Reform Committee, the Government's own White Paper, "Legislating for the United Kingdom's

withdrawal from the European Union", acknowledged the importance of time-limiting delegated powers where powers are not needed in perpetuity, so there seems to be a little bit of flip-flopping on that one from the Government. Indeed, clauses 7 to 9 of the European Union (Withdrawal) Bill contain important time limits on the use of delegated powers. There are no corresponding sunset clauses on the use of delegated powers in this Bill—there seems to be a bit of a pick-and-mix approach to scrutiny. Despite the Treasury's delegated powers memorandum acknowledging that the Bill has been drafted to cater for various contingencies that might never materialise—for example, if the UK left the EU without a negotiated agreement—we must have these scrutiny powers in place to keep checks on that one.

2.45 pm

The Delegated Powers and Regulatory Reform Committee proposed a time limit on the powers under clause 42. That is exactly what amendments 83 and 84 are intended to achieve. They would bring the Taxation (Cross-border Trade) Bill in line with the procedures currently proposed in the European Union (Withdrawal) Bill. If the Minister is unwilling to restrict the use of powers in this instance, perhaps he might explain why the Government believe the procedures to be appropriate for the European Union (Withdrawal) Bill but not for this one. There seems to be no possible justification for the powers being created under this Bill to last in perpetuity while those in the European Union (Withdrawal) Bill do not. It would be helpful if he could enlighten us on that particular question; I look forward, if I may say so, to his gymnastics in that regard.

Similarly, if it is true that these powers may be necessary at any point after the establishment of a functioning customs framework, perhaps the Minister can give us a specific example of how and under what circumstances they might be used—a masterclass, no doubt. Failing that, I should hope that the Government will see fit to include the sunset clauses we are proposing in amendments 83 and 84, which pose no threat to the proper establishment of a customs system, but merely ensure that the Bill does not confer unnecessary powers beyond a reasonable point.

Amendments 83 and 84 are all the more important given the unprecedented steps taken by the Government, in a shift of constitutional power that has been recognised right across the piece, including by many of the witnesses who came before us. I have repeated that issue already, and no doubt it will be repeated time and again. I may borrow the Minister's cut and paste button to repeat it—

Jonathan Reynolds: Two buttons.

Peter Dowd: Yes, two buttons: control and whatever it is. As I have mentioned, we are not alone in this view, which is shared by the Delegated Powers and Regulatory Reform Committee. The Government ought to respond to our genuine concerns in this matter, and we will persist in asking them until they do respond to our genuine concerns and those of other agencies, bodies, organisations and people.

Mel Stride: I am grateful to the hon. Gentleman for his invitation to do some gymnastics, but I do not think they will be necessary, because his questions are easily answered. He referred to my cut and paste button in respect of "appropriate" and "proportionate" and he is right; there is a cut and paste button for those terms, because they are extremely important. At the heart of this is his cut and paste button, in which he regularly says something along the lines of, "All we are asking for is appropriate scrutiny on these important matters." So the argument has gone back and forth over every area of the Bill as we have ranged across the various clauses.

Moving on to the hon. Gentleman's remarks about the House of Lords Delegated Powers and Regulatory Reform Committee and its comments on sunset clauses, and his specific question about why we would have sunset clauses in the context of the European Union (Withdrawal) Bill but they would not be appropriate in the case of this Bill, the answers are clear and require no gymnastics at all. They are that the aims of this Bill are different from those of other Brexit Bills.

For example, while the European Union (Withdrawal) Bill makes provision for day one, with the understanding that further primary legislation will be made to supplement it, this Bill will be required in order to maintain a functioning customs regime, an effective VAT regime—as we are currently discussing in the context of these clauses—and an excise regime on an ongoing basis. There is a fundamental distinction between bringing the EU acquis into UK law and handling that process, which is the principal rationale for the European Union (Withdrawal) Bill, and what is happening on a dynamic, ongoing basis in terms of a customs, VAT and excise regime.

Anneliese Dodds: Can I read from the Minister's remarks that the European Union (Withdrawal) Bill does not seek to create new institutions in, for example, environmental policy or other areas, which potentially need to be just as flexible in many ways as the taxation and customs system? I am struggling to grasp the essence of the Minister's distinction here. Maybe he could provide more information.

Mel Stride: I have made the point about the day one situation with the European Union (Withdrawal) Bill and the primary legislation, and so on, that will follow. I will resist the urge to start debating another Bill, other than to repeat the points I have made about this Bill. We are of necessity in the context of customs, customs duties, export duties, import duties, VAT, excise regimes and excise duty. We are dealing with a rapidly changing set of measures going forward. We are in the middle of a complex negotiation, the outcome of which is not clear at this particular moment. That is why in many instances in this Bill where we have had these ongoing repeated debates about whether a stiffer, tougher form of scrutiny is necessary, we feel that a balance has to be struck, which is appropriate and proportionate—to use my cut and paste button again—between the needs of parliamentary scrutiny where it is appropriate, and the ability to get on with the job and ensure that this country is match fit for life outside of the European Union in terms of its imports, exports and trade.

Anneliese Dodds: I am grateful to the Minister for his response. However, we have been informed that the reason why sunset clauses are appropriate in the EU (Withdrawal) Bill and not in this Bill is because this Bill needs a more dynamic system—if I understand the Minister's comments correctly—whereas that is not

[Anneliese Dodds]

necessary in the EU (Withdrawal) Bill. I am still struggling, because if we look at an area such as environmental legislation, we have the institutions that are created, the overall framework and then the calibration within it that would respond to scientific information—levels of pollution, for example. There is also an international context with different treaties. Perhaps this is something we could correspond about another time, but I am struggling to discern the fundamental qualitative difference between this policy area, which apparently cannot be amenable to sunset clauses, and those contained in the EU (Withdrawal) Bill.

Mel Stride: I will be brief, because we are beginning to go around in circles, but I am very happy to discuss any of these matters offline, or to receive a letter from the hon. Lady, on the points she has raised.

Peter Dowd: We will not press the clause to a vote, because we have persistently made this point all the time. I completely accept that it gets pretty tedious, but it gets pretty tedious from this side as well, when we keep on getting told that Parliament cannot have the scrutiny that it constitutionally and rightly deserves. We will come back to this point.

I have to say that other nations and democracies, much younger than this one, are perfectly capable of dealing with such issues, very detailed issues, without this sort of carte blanche approach that the Government seem to take, where they want to block every opportunity for us to scrutinise. They are not even prepared, when things might have calmed down in relation to the processes of exit, to give us the opportunity to check them via a sunset clause and that is deeply regrettable.

Question put and agreed to.

Clause 41 accordingly ordered to stand part of the Bill.

Clauses 42 and 43 ordered to stand part of the Bill.

Schedule 8 agreed to.

Clause 44

EXCISE DUTIES: POSTAL PACKETS SENT FROM OVERSEAS

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

Kirsty Blackman: I am not trying to wrong-foot the Minister, but I just want to make a brief statement in relation to postal packets from overseas. I have mentioned the issue in previous debates. I genuinely think that it will affect individuals living our constituencies across the four nations of the UK. People will be shocked when they see the changes coming in relation to excise duty. It is incumbent on the Government, when HMRC make the relevant regulations, that they are as widely publicised as possible, and that if possible, some transitional arrangement should be put in place on costs. If people suddenly find that their postal packets are subject to an incredible charge to which they were previously not subject, they will be pretty upset, and rightly so.

Whatever HMRC does on the issue, we ask the Minister to ensure that there is adequate publicity and that any charges put in place are proportionate and not excessive, because people will be incredibly upset and negatively affected.

Mel Stride: I thank the hon. Lady for those well-made observations. We certainly want to ensure that whatever transition there is to the new regime for small parcels is handled correctly, for exactly the reasons that she has given. I am very close to that as a Minister; in fact, I will meet Royal Mail next week to discuss exactly those points. I will, of course, be happy to share that information and take any further questions that she might have.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clause 45

GENERAL REGULATION MAKING POWER FOR EXCISE DUTY PURPOSES ETC

Jonathan Reynolds: I beg to move amendment 85, in clause 45, page 31, line 24, at end insert—

'(3A) The power to make regulations under this section—

(a) insofar as it is exercised to replicate or apply, with or without modifications, any EU regulations mentioned in section 47(1), ceases to have effect after the end of the period of two years beginning with exit day; and

(b) insofar as it is exercised to make provision of the kind described in subsection (2)(k), ceases to have effect after the end of period of five years beginning with exit day."

This amendment, together with Amendment 86, limits the duration of certain delegated powers under Clause 45 to periods aligned with other proposed limitations relating to withdrawal from the EU and to customs unions.

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

Amendment 86, in clause 45, page 31, line 25, at end insert—

""exit day" has the meaning given by section 14(1) (interpretation) of the European Union (Withdrawal) Act 2018 and subsections (2) to (5) of that section apply to the term under this section as they apply to the term in that Act."

See explanatory statement for Amendment 85.

Clause 45 stand part.

Amendment 135, in clause 48, page 33, line 29, at end insert—

"(5A) No regulations may be made under section 47 unless a draft has been laid before, and approved by a resolution of, the House of Commons."

This amendment requires regulations under Clause 47 to be subject to the affirmative procedure.

Amendment 136, in clause 48, page 33, line 30, leave out "47" and insert "46".

This amendment is consequential on Amendment 135.

Clause 48 stand part.

Jonathan Reynolds: The Member's explanatory statement for amendment 85 states:

"This amendment, together with Amendment 86, limits the duration of certain delegated powers under Clause 45 to periods aligned with other proposed limitations relating to withdrawal from the EU and to customs unions"

in parallel legislation. In many ways, it continues the conversation we had during debate on the last group.

Effectively, the amendment would introduce a sunset clause to clause 45: a measure to prevent the indefinite extension of delegated powers by HMRC commissioners where they relate to excise duty. We have discussed many times—in some ways, we have discussed it in every debate—the democratic implications of the Bill. The addition of sunset clauses has been proposed by many partners as a solution to the need to safeguard against potential abuses of the powers in the Bill. As has been said many times, the House of Lords Delegated Powers and Regulatory Reform Committee, in its report, said clearly that the Bill transfers substantial powers to the Executive—that is not in doubt on any side of this Committee. The question is whether they are proportionate and whether appropriate safeguards are in place.

I listened carefully to the Minister during discussion of the last set of amendments about the differences between the European Union (Withdrawal) Bill and this Bill, but I must say that I am not convinced that the differences are substantial enough to envisage a completely different set of amendments' appropriateness in terms of the use of sunset clauses. As the Lords Committee said,

"the Treasury's delegated powers memorandum acknowledges that the Bill has been drafted to cater for various contingencies that might never materialise, for example, if the UK leaves the EU without a negotiated agreement."

I do not agree that the European Union (Withdrawal) Bill and this Bill represent such wildly different circumstances that one set of amendments is appropriate for the other Bill but not for this one. The Opposition are firmly in agreement with the Lords Committee that a sunset clause is an appropriate manoeuvre to redress the balance of power. We must bear in mind that the use of delegated powers carries a risk of abuse by the Executive, which is not something the Opposition could ever support. Rather, it is our duty at this stage to check the powers of the Executive and ensure that we are not giving them carte blanche to change the balance of power permanently in their favour.

I also stress that the amendments offer generous provision in terms of timing. It varies for each item, with sunset clause terms of either two years or five years from EU exit day for the powers in question. That should give the Government ample opportunity to adapt, even if we face the nightmare "no deal" scenario. It makes little sense to the Opposition that such provisions are included in the European Union (Withdrawal) Bill, but that there are no corresponding provisions in this Bill. Adding these provisions to the Bill would be an important step in providing a much-needed check to delegated powers.

3 pm

Amendments 135 and 136 relate to the subsequent regulations relating to changing excise duty, and would make them subject to the affirmative procedure. The rationale is to add a necessary layer of democratic scrutiny to the extensive powers being granted to HMRC. I fear that Government and Opposition Members will never reach agreement on that point, and that we will perhaps have to return to it. However, we believe that that has been a consistent problem with the Bill, and we are duty bound to raise it.

Together, this group of amendments would make small but highly significant changes to help promote greater democracy, transparency, certainty and accountability in the Bill. Our intention is not to hamstring the Executive, but to ensure that checks and balances are maintained for those in power. As we decide on our new post-Brexit customs framework, we must guarantee a system that is constitutionally robust enough to deliver the democratic control that those who voted to leave the European Union sought.

Mel Stride: Clause 45 provides powers to make changes to ensure the UK has a fully functioning excise regime after EU exit. The powers mean that the UK will be able to implement a range of negotiated outcomes. They also ensure that, after EU exit, we retain the same ability to legislate for excise that we have now.

EU legislation impacts on a number of areas of the excise regime. One example is the existing holding and movement regime for excise goods, which is based on a framework set up by the European Union. It allows the free movement of goods while ensuring excise duty is collected in the country of consumption. The UK needs the ability to make changes to the excise regime to reflect a range of negotiated or non-negotiated outcomes. The power will also ensure that, after EU exit and the repeal of the European Communities Act 1972, we maintain the same ability to legislate for excise as we have now.

The clause gives the Government a power to make regulations generally for the purposes of excise duty on alcohol, tobacco and fuels. It includes, among other matters, when the excise duty becomes due, who will be liable for excise duty, reliefs and the rules around the holding and movement of excise goods. It also ensures that, after EU exit, the Government have the same ability to legislate for excise as they have now. It does not, however, enable HMRC to set excise duty rates.

The excise regime is largely set out in secondary legislation made under various existing powers. However, we can anticipate that the primary legislation that underpins it may need to be amended. The clause allows any regulations made under this section to amend or repeal primary legislation using secondary legislation. It does not allow secondary legislation to amend or repeal provisions in the Bill.

Any negotiated outcome could include key administrative features such as the collection, control, management and enforcement of excise duties. Changes could also be needed in those areas if there is no negotiated agreement. The goods it could be applied to are alcohol, tobacco and fuels.

On repeal of the 1972 Act, we will retain the legislation made under it, but we will no longer have the power to amend that legislation. Clause 45 will ensure there are no gaps in HMRC's powers to deliver the necessary changes to the excise regime as a consequence of EU exit. For example, the Government made consequential amendments to primary legislation in the last substantive overhaul of key excise secondary legislation in 2010. They relied on the powers provided for by the 1972 Act, which will not be available in future. The power could also be used to ensure that there are clear arrangements in place so that goods in transit between member states before EU exit are not subjected to additional controls or requirements after EU exit.

The power has, however, been limited in a number of ways. It does not allow any changes to duty rates. Clause 49 ensures that the power is no wider than

[Mel Stride]

necessary. It is limited to making provisions in respect of the excise duties on alcohol, tobacco and fuels. Those are the duties most impacted by EU legislation and EU exit. It is important that the Government can act quickly in case of changing circumstances, but it is also vital that Parliament is able to scrutinise the use of these powers. Clause 48 sets out the proposed scrutiny arrangements.

Amendments 85 and 86 seek to limit the duration of the power contained in clause 45 where it is exercised to replicate or apply EU regulations. They also intend to limit the duration of the power to make provision for excise duties in connection with the UK forming a customs union with other customs territories. The Government oppose the amendments. The Bill is drafted to cater for a range of long-term outcomes from negotiations on the future relationship with the EU. We do not yet know the outcome of negotiations with the EU or exactly when the final outcome will be confirmed. It would therefore not be prudent to include a sunsetting clause.

The clause provides the Government with the power to legislate for the excise regime to implement the outcome of negotiations. Just as importantly, it ensures that we can legislate for excise in the future—after exit—with the same flexibility we have now. It is essential that we have a fully functioning excise system on EU exit and the powers contained in the clause are necessary to achieve that.

If the amendments are accepted, after the relevant sunset period the Government's ability to legislate quickly to respond to changing circumstances and future business processes will be limited. For example, the current excise duty suspension arrangements secure the movement of goods through a number of different countries, potentially over a large geographical area. On leaving the EU, the movement of excise duty suspended goods may be permitted only within the territory of the UK. The clause may allow further simplifications for compliant traders if the risks to revenue are considered to be lower in the United Kingdom.

Amendment 85, relating to subsection (2)(k), refers to clause 31, which allows for arrangements that establish a customs union, as we debated, between the UK and territories outside the UK to be given effect by Order in Council. If the UK forms a customs union with any other customs territory, the Government may need to adapt the excise regime accordingly to ensure that the UK can enforce and maintain the operability of the excise duty regime. For example, if an arrangement is made with any territory where free movement of goods is allowed now or in the future, the UK may wish to ensure that excise duties can be controlled and collected without customs formalities at the border, as is now the case. The requirement to make such arrangements may not be limited to the period following EU negotiations or the implementation period.

Clause 48 sets the procedure for making regulations under clauses 44 to 47. The powers in clauses 44 to 47 are necessary to ensure the alcohol, tobacco and oils excise duty regimes continue to function as required after EU exit. The clause ensures the use of those powers is subject to appropriate scrutiny. It also includes provision to streamline procedures where the new excise powers are combined with some existing powers. That gives the Government the flexibility to make the changes to the excise regime needed after EU withdrawal. A smaller number of statutory instruments will therefore be required and the legislation will remain accessible to users.

Clause 48 sets the procedure for exercising the powers in clauses 44 to 47 and gives further detail to their scope. On procedure, the clause sets out four scenarios in which regulations made using the powers will be subject to the made-affirmative procedure: first, where the changes amend or repeal any Act of Parliament; secondly, where changes extend the descriptions of goods on which excise duty is chargeable; thirdly, where changes extend the cases in which stamping or marking of goods is required; and fourthly, where changes restrict any relief or rebate. In all other cases, the negative procedure applies. That is in line with the existing approach to excise regulation-making powers.

A large number of changes need to be made to excise secondary legislation to maintain a functioning excise regime after exit. The Government plan to use existing powers as well as the new powers in the Bill. Clause 48(7) will streamline procedures to allow existing excise powers and the new powers to be combined in some cases. The streamlining applies only if regulations made under the existing powers would be subject to the negative resolution procedure—not where the affirmative procedure is to be used. Such streamlining gives Government the ability to maintain a functioning excise system after EU withdrawal. It reduces the number of statutory instruments to be laid on the same subject matter, making more efficient use of parliamentary time and limiting fragmented legislation, which is harder for business and its advisers to follow.

In some cases, that will have the effect that some provisions that are currently subject to the negative resolution in the Lords and Commons will be subject to the negative procedure in the Commons only. However, Commons-only scrutiny is in line with the convention that tax legislation is not subject to Lords scrutiny. The majority of excise regulation-making powers created in recent times are similarly subject to Commons scrutiny only. For example: the alcohol wholesaler registration scheme, introduced in 2015; the raw tobacco approval scheme, introduced in 2016; and the remote gaming duty, introduced in 2014. Members can be assured that, if the Government combine powers, they will not do so to make a trivial provision only to remove Lords' scrutiny and bring this special procedure into play.

Amendments 135 and 136 seek to require that regulations made under clause 47 are subject to the draft affirmative procedure. Clause 47 gives the Government the power to exclude or modify EU rights, powers, liabilities and obligations relating to excise duty that continue to have effect in UK law after exit by operation of clause 4 of the European Union (Withdrawal) Bill. Some of those rights and obligations will no longer be appropriate after exit. Some may need amendments to deal with the outcome of negotiations with the EU. Therefore, this power has a part to play in ensuring that we have a fully functioning excise regime.

The power in clause 47 is targeted and proportionate. It is specific to the areas saved by clause 4 of the European Union (Withdrawal) Bill, and in addition, it may only be exercised in relation to excise duties on

alcohol, tobacco and fuel. It is appropriate and proportionate that the power should be subject to the negative procedure and not the affirmative procedure. That reflects the specific nature of the power in the clause and the speed with which regulations may be required.

The Bill ensures that the scrutiny procedures that are applied to the exercise of each power are appropriate and proportionate. They take into account the technicality of the regulations and the frequency with which they are likely to be made.

Clause 48 ensures that the scrutiny procedures that apply to the exercise of the powers in part 4 are appropriate and proportionate. As far as is practical, the procedure that applies to excise regulations made under these powers is in line with the approach to procedures on existing excise powers.

Jonathan Reynolds: There is clearly a fundamental difference of opinion about these clauses. We absolutely support the right and ability of the Government to possess the requisite powers on exit to set the regime that is required. What is in dispute is whether those powers should remain on the statute book for a long time.

It seems entirely reasonable that the Government could come back to legislate for the power that they need in future, rather than giving themselves such a fundamental transfer that changes the balance of power between Parliament and the Government, but we may have to return to that question. Further groups of amendments are on the selection list that cover sunset clauses, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 45 ordered to stand part of the Bill.

Clause 46 ordered to stand part of the Bill.

Clause 47

EU law relating to excise duty

Anneliese Dodds: I beg to move amendment 134, in clause 47, page 33, line 7, at end insert—

"(5) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(6) In this section, "exit day" has the meaning given by section 14(1) (interpretation) of the European Union (Withdrawal) Act 2018 and subsections (2) to (5) of that section apply to the term under this section as they apply to the term in that Act."

This amendment limits the duration of the delegated power under Clause 47 to the period ending two years after the United Kingdom leaves the European Union.

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

Clause 47 stand part.

Clauses 49 and 50 stand part.

That schedule 9 be the Ninth schedule to the Bill.

Anneliese Dodds: We have already discussed clause 47 to an extent, so I will just offer a couple of brief observations in relation to amendment 134. My reading of clause 47 is that it disapplies the European Union (Withdrawal) Bill provision that EU legislation should be copied into UK law, and empowers the Treasury to make alternative provisions on excise duty.

Some of our witnesses suggested that that could result in an unnecessarily complicated approach, and I do not feel that the Minister explained why the Government will not just retain the EU customs code during the transition period. The Minister has referred to a cut-and-paste approach. Yes, there is a lot of cutting, but then there is some spraying about of some elements and not others. It is perhaps not as well thought through as we might have hoped.

As with many Opposition amendments, amendment 134 asks the Government to include a sunset clause of two years for the application of these measures. We seek to ensure that the empowerment of the Treasury in these provisions is time limited. As my hon. Friend the Member for Stalybridge and Hyde said in relation to the sunset clause he discussed, the measures could be extended by Parliament if that was felt necessary, but having a sunset clause would prevent the inappropriate extension of the powers that the clause grants.

Mel Stride: Clause 47 makes changes that ensure that the status of EU law in relation to excise is clear. The European Union (Withdrawal) Bill lays out the Government's general approach to EU legislation after EU exit. We need to ensure the consistency and certainty of the existing excise and VAT regimes to ensure that they work effectively after exit.

Excise is an important contributor to national revenue—receipts for 2016-17 were around £48 billion—so it is important that we have clarity on the rules, including the status of EU law in relation to excise. The approach adopted by this clause is consistent with the European Union (Withdrawal) Bill. It results in EU legislation being retained only where it is sensible to do so in respect of excise. There is a similar provision for VAT in clause 42.

3.15 pm

Clause 47 disapplies EU regulations in relation to excise duty on goods along with directly applicable EU legislation linked to those regulations. In the main, the regulations relate to single market reciprocal arrangements, for example exchange of information for the excise movement and control system. In the absence of a negotiated agreement, they would be deficient after EU exit.

Removal of EU legislation that is no longer required is anticipated in the withdrawal Bill. The powers in clauses 45 and 51 would enable us, among other things, to re-introduce EU regulations where necessary with or without modifications, for example in the light of a negotiated agreement with the European Union.

In line with the European Union (Withdrawal) Bill, the clause confirms that rights and obligations recognised and available before exit day in domestic law will continue to apply for excise, but those rights and obligations that are no longer considered appropriate or relevant for excise may be disapplied by regulations. For example, that would include rights and obligations that relate purely to membership of the EU.

The clause also confirms that other provisions of the European Union (Withdrawal) Bill apply, in particular clause 6 in relation to interpretation of retained EU law.

Excise policy has been developed through European case law, including through application of that case law in the UK courts, so UK policy and case law are intrinsically linked. It puts beyond doubt that EU principles and case law determined before EU exit will continue to apply when interpreting domestic legislation on excise goods that have an EU source.

Amendment 134 seeks to limit the duration of the delegated power under clause 47 to the period ending two years after the United Kingdom leaves the European Union. It is one of a number of amendments to time-limit powers across the Bill. As members of the Committee are aware, the Bill is drafted to cater for a variety of long-term outcomes from negotiations on the future relationship with the EU. It is essential that we have a fully functioning excise system on exit. The powers in clause 47 have a part in ensuring that we have the ability to achieve that. As we do not know the outcome of the negotiations, nor exactly when the final outcome of the negotiations will be confirmed, it would not be prudent to time-limit these powers at this stage. For those reasons, I urge the Committee to resist the amendments.

Clause 50 introduces schedule 9, which makes changes to excise primary legislation in connection with the UK's withdrawal from the EU. Those mainly introduce housekeeping changes reflecting the departure of the UK from the EU, including changes to the Customs and Excise Management Act 1979, the Hydrocarbon Oils Duties Act 1979 and the Tobacco Products Duty Act 1979. These changes are needed to ensure that we have an operable excise regime on leaving the EU.

Several excise directives govern the rules on excise duty on goods in EU member states. In the UK, they are largely implemented through secondary legislation, but some obligations under EU law have been transposed into excise primary legislation. Changes are needed to reflect the departure of the UK from the EU, for instance to remove references to member states' laws and to adapt definitions. The changes made by clause 50 and schedule 9 are, to a large extent, conditional upon the outcome of exit negotiations. They are there to ensure that we have an operable regime upon withdrawal.

Among other changes, schedule 9 also includes provisions for the Treasury to set out in regulations definitions for private pleasure flying or private pleasure craft. There is no intention to change the meaning of the definitions. Instead, the changes would merely write the definitions directly into UK legislation rather than their being dependent upon EU legislation.

Clause 49 gives the definitions of excise duty and HMRC commissioners in relation to this part of the Bill. A number of taxes are known as excise duties and this clause defines the term "excise duty" and "HMRC Commissioners" for the purposes of clauses 44 to 48. It ensures that the substantial powers in part 4, which covers excise, go no further than necessary and relate only to excise duties on goods.

The clause confines the application of clauses 44 to 48 to matters relating to excise duty on goods—alcohol, tobacco and fuels. Those are the excise duties most affected by EU exit. Part 4 therefore does not apply to air passenger duty and the duties on gambling, for example. Those are entirely domestic and so are less affected by the UK's withdrawal from the EU.

Additionally, the clause defines the term "HMRC Commissioners". For the operation of part 4, it is necessary to define these terms. The limited definition of excise duty ensures that the provisions in this part go no further than is necessary and relate only to excise duties on goods that are most affected by EU exit. I therefore urge that the clause stands part of the Bill.

Anneliese Dodds: I am grateful to the Minister for those helpful clarifications. I note in particular his determination that the provisions should foster continuity with existing provisions in the short term. That seems very sensible. I hope that, even if the Government are not willing to accept Labour's call for sunset clauses, they will at least take on board our concerns that there must be appropriate ongoing scrutiny of the measures. Above all, they must not go beyond the scope of ensuring that there is an operable regime following whatever negotiations they have.

Many of those areas are very important for our constituents. I am sure that the Minister will remember the discussion that we had around tobacco excise recently in the Finance Bill. I had concerns about the stripping away of public health support for people to stop smoking, at the same time that duties are going up, and about the implications there might be for low-income people. We need to make sure when there is a fundamental change that we have the ability to properly debate and discuss it in the House. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 47 ordered to stand part of the Bill.

Clauses 48 to 50 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clause 51

POWER TO MAKE PROVISION IN RELATION TO VAT OR DUTIES OF CUSTOMS OR EXCISE

Kirsty Blackman: I beg to move amendment 120, in clause 51, page 34, line 39, leave out second "appropriate" and insert "necessary".

This amendment provides that the power to make regulations about VAT, customs duty and excise duty in consequence of UK withdrawal from the EU is only exercised when it is necessary to do so.

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

Amendment 97, in clause 51, page 35, line 4, at end insert—

"(c) may not be made after 29 March 2021.

'(2A) The Secretary of State may by regulations amend the date in paragraph (1)(c) to ensure that the day specified is at day that any transition period related to the United Kingdom's withdrawal from the European Union comes to an end.

(2B) A statutory instrument containing regulations under subsection (2A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

This amendment inserts a sunset provision that disallows any regulations to be made under Clause 51 after 29 March 2021, while also allowing the Secretary of State to alter that date, by regulations subject to the affirmative procedure, in the event that this is not the date on which any transition period following the United Kingdom's withdrawal from the European Union comes to an end.

Amendment 98, in clause 51, page 35, line 10, after "section" insert ", apart from regulations under subsection (2A),".

This amendment is consequential to Amendment 97.

Amendment 99, in clause 51, page 35, line 25, after "apply" insert ", apart from regulations under subsection (2A),".

This amendment is consequential to Amendment 97.

Amendment 87, in clause 51, page 35, line 38, at end insert—

"(10) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(11) In this section, "exit day" has the meaning given by section 14(1) (interpretation) of the European Union (Withdrawal) Act 2018 and subsections (2) to (5) of that section apply to the term under this section as they apply to the term in that Act."

This amendment limits the duration of the delegated power under Clause 51 to the period ending two years after the United Kingdom leaves the European Union.

Clause stand part.

Amendment 88, in clause 52, page 36, line 32, at end insert—

"(7A) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(7B) In this section, "exit day" has the meaning given by section 14(1) (interpretation) of the European Union (Withdrawal) Act 2018 and subsections (2) to (5) of that section apply to the term under this section as they apply to the term in that Act."

This amendment limits the duration of the delegated power under Clause 52 to the period ending two years after the United Kingdom leaves the European Union.

Clause 52 stand part.

Clause 53 stand part.

Kirsty Blackman: I will speak to amendments 120 and 97 and skim over consequential amendments 98 and 99. I will also mention Labour amendments 87 and 88.

Amendment 120 is an old discussion that we had with the Minister earlier in the debate. We ask for the second "appropriate" to be left out and replaced with "necessary". That would mean that the powers to make the provision in relation to VAT or customs or excise duties would be made as the appropriate Minister considered necessary in consequence of, or otherwise in connection with, the withdrawal of the UK from the EU.

We have had the discussion before about whether it is best to have "appropriate" or "necessary" in these sections, but it would be sensible for Ministers to make a regulation that they thought was necessary rather than appropriate. The former is a stronger word—the Law Society of Scotland believes that it is a stronger word and has a more appropriate legal definition in this regard. It would be good if the Minister would consider making the change we are asking for in amendment 120.

On the first part of clause 51, I have heard concerns about some of the stuff that has not been written into UK law either through this Bill or possibly the European Union (Withdrawal) Bill. The shipwork end-use relief from customs duty is in EU law—it is a relief that people who bring things in for use offshore have from customs duty. It is written into EU law, but I have not been able to find in this Bill where it is written into UK law —perhaps it is in the European Union (Withdrawal) Bill. The offshore industry rely on it heavily and it would make a big difference, specifically on charges.

The shipwork end-use relief is relied on only for imports coming from third countries, but given that imports from the EU would now be potentially subject to customs duty, if the Government do not manage to get a deal to be in a customs union, it will become more applicable and will apply to many more products and goods coming through. It will be necessary to write that into UK law at some point, and I would very much appreciate a commitment from the Minister on that. A lot of companies that transport goods offshore, which particularly affects my constituency, would appreciate knowing the direction of travel in relation to this relief.

Amendment 97—the Scottish National party amendment that would apply a sunset clause to clause 51—serves a dual purpose. It submits that there should be a sunset clause and makes the case that regulations may not be made under the clause after 29 March 2021, but it would also change the procedures for the making of regulations, asking that they are made using the draft affirmative procedure. As we have discussed at some length, the draft affirmative procedure would be better than either the negative procedure or the made affirmative procedure. It would mean that no changes are made before Parliament has the opportunity to scrutinise them because they would be laid in draft rather than created and then consulted on with Members. That is why we are asking for both of those changes.

Although this is my first chance to talk about sunset clauses, we have had a fairly lengthy debate on them and they have been covered by various Members. Labour Front Benchers asked earlier why sunset clauses should be applicable to the European Union (Withdrawal) Bill but not this Bill. Even though they are separate pieces of legislation, I actually believe that, in this Bill, it is reasonable for Ministers to have one process relating to the setting up of a customs or an excise regime, and for that process to be different ever after. That is why a sunset clause would be a good change in that regard.

If future Governments are to make such changes, they should be subject to more parliamentary scrutiny. I have said to the Minister previously but remind him that the Conservative party will not be in government forever—I hope not—and in that case they will be sitting in opposition, unable appropriately or extensively to scrutinise the measures. That is a major concern given that the delegated powers in the Bill allow for the Government to make radical changes without the need for much in the way of parliamentary scrutiny.

I am sure the Government do not intend to give a future Labour Government a free rein drastically to alter the customs regime, but unfortunately the way the Bill is written would give them that right. I get the impression that I would be more likely to favour the Labour party's customs regime than the Conservative party's, but none the less no Executive should have the power to do all those things by using such things as the negative procedure. The made affirmative procedure is not even strong enough in some cases.

Labour amendments 87 and 88 are grouped with other amendments on sunset clauses. If they put the amendments to the vote, I will support them, because I believe a sunset clause is appropriate for the provisions made in clause 51.

Jonathan Reynolds: I wish to speak for what I will believe will be the final time in Committee. [Hon. Members: "Oh."] There is always Report stage; we know the procedure here. I will speak to amendments 87 and 88, which relate to clauses 51 and 52. The explanatory statement for amendment 87 reads:

"This amendment limits the duration of the delegated power under Clause 51 to the period ending two years after the United Kingdom leaves the European Union."

[Jonathan Reynolds]

Amendment 88 would apply the same limits to the powers entitled under clause 52.

These are obviously a fairly similar set of arguments to those we have just heard relating to clause 45, but I think we have clearly established that there are strong reservations about the use of delegated powers under the Bill and its democratic implications. The famous House of Lords Delegated Powers and Regulatory Reform Committee said specifically in its report that clause 51, which relates to VAT or duties of customs or excise, is such that a sunset clause would be possible and welcome. As the Lords report said, clause 51 contains a very wide power that, in the words of the Treasury itself

"is necessary to ensure that the Treasury and Secretary of State have the ability to deal with the consequences of withdrawal from the EU and to maintain fully functioning and legally operable customs, VAT and excise regimes in a range of scenarios".

It is about withdrawal from the EU, yet the powers would give considerable scope to the Executive to shape the regime for many years, perhaps decades, into the future. That is surely why a recommendation for a sunset clause relating to clause 51 is appropriate.

3.30 pm

I will briefly refer to the testimony of Mr Joel Blackwell of the Hansard Society to the Committee regarding clause 51. He stressed that a sunset clause amendment was suitable, that the clause's powers are not required to be used in perpetuity, and that similar sunset clauses to those included in clauses 7 to 9 of the European Union (Withdrawal) Bill would bring consistency and thus make "perfect sense". He supported the view of the Lords Committee.

Nic Dakin (Scunthorpe) (Lab): Is it not important that the Government take account of the evidence we have had from the Hansard Society supporting protections from whoever happens to be in Government in the future?

Jonathan Reynolds: I firmly agree. Members on both sides of the Committee have referred to the testimony the Hansard Society gave in the evidence sessions. It is not just the Opposition who have concerns. I would very much like to be a real, not shadow, Treasury Minister one day. Even then, we would require the proper checks and balances to be in place. It still seems counter-intuitive to include time limits in the overall European Union (Withdrawal) Bill but not in today's Bill, when the principles we have established apply similarly to both. As with our other arguments on sunset clauses, we do not see how the Government can justify the use of the powers in the clause in perpetuity. We have established that that should not happen, and the Government have not yet been able to refute that case.

I emphasise again that we all have a duty to check the powers of the Executive and to ensure that we do not allow them to change the balance of power permanently in their favour. The time period of two years should be generous enough to fill any gap in provisions that may come about from the end of delegated powers through other channels. Sunset clauses provide a vital check on delegated powers, and I urge members on both sides of the Committee to support the amendment to help to mitigate the constitutional risks introduced by the Bill.

Peter Dowd: It is important that we deal with the question raised by the amendment regarding sunset clauses. The Government originally did not want any of the sunset clauses in the European Union (Withdrawal) Bill, but they were required or forced—people can call it what they will—by hon. Members from across the parties to put in sunset clauses. We were told at the time that the inclusion of a sunset clause in that Bill would result in the end of civilisation as we know it. Of course, someone threw a bucket of water over the Government, and they freshened up and realised that they were not going to get away with not having sunset clauses.

The Government have persisted in Committee—they might be doing the same with the Trade Bill—to argue against sunset clauses. They would have us believe that sunset clauses are some foreign or alien concept in parliamentary democracies. Well, they are not. There were even sunset clauses in the nuclear deal with Iran. Sunset clauses exist in all sorts of legislation, including treaties—and we have some 3,000 treaties. They exist right across the piece in legislation. Indeed, the coalition Government, when introducing the Enterprise and Regulatory Reform Act 2013, basically insisted on sunset clauses to reduce the legislative burden. When it suits the Government to have a sunset clause, they will have a sunset clause; in fact, they introduced an Act to have sunset clauses. They are now telling us that sunset clauses are outrageous, and will somehow mess up the whole VAT regime.

Other countries have sunset clauses. For example, sunset clauses in Texas mean that, after 10 or 12 years, some agencies will cease to exist unless they can prove their appropriateness, consistency and status. They have to go through that process. Even organisations have sunset clauses applied to them and they have to show how relevant they are.

The Prevention of Terrorism Act 2005 had a sunset clause. In the past, sunset clauses have been applied to the effectiveness of legislation, and yet we are now being told today that they are somehow outrageous and that the whole Government will grind to a halt if we have them.

Some Canadian legislation—in fact, a whole range of Canadian legislation—has an automatic five-year sunset clause. The Canadians manage perfectly well with sunset clauses. The question is: are this Government so fearful of a sunset clause, so fearful of challenge and so fearful of scrutiny, particularly in relation to this amendment, that they do not want sunset clauses?

There are even sunset clauses in Australia, and they seem to manage. Australia has general sunset clauses; they are not even specific. They have sunset clauses for whole swathes of legislation and they manage perfectly well. South Korea also has sunset clauses. Perhaps that is why it has such a booming economy—because the sunset clauses mean that, time after time, they test and challenge. The only sunset clause in North Korea, no doubt, is the sunset on democracy. We do not want that; we want sunset clauses for the powers this Government have taken for themselves.

Jonathan Reynolds: My hon. Friend is making a fantastic speech about the applicability of sunset clauses around the world. Again, however, we have to get back to this point: if the Government still need these powers after the sunset clause is done and the powers no longer

exist, they simply have to come back to Parliament. It is not the case that they do not have the power to deal with things; a strong, united Government, with a parliamentary majority, would quite easily be able to come back and put on the statute book anything they needed. That argument simply has not been addressed by the Government.

The Chair: Order. Before I call Mr Peter Dowd, I will say that we are all immensely interested in South Korea, Texas, Australia and all the other places he has listed, but could he get back to this particular amendment?

Peter Dowd: I was trying to show that in this case there is a requirement for a sunset clause. It is absolutely crucial that we have sunset clauses and I am trying to show—I know that you will appreciate this, Mrs Main—that they are capable of being delivered.

Nic Dakin: Is not having a sunset clause in place definite evidence of Parliament taking back control, not just now but into the future?

Peter Dowd: That is spot on. We have raised that issue time after time. Having sunset clauses and taking control back is a sign of a confident Government who are strong and stable and know their direction of travel. That is why I am sure that every Government Member of the Committee will support the amendment's specific proposal for a sunset clause.

The Parliamentary Under-Secretary of State for International Trade (Graham Stuart): I just want to pay tribute to the hon. Gentleman and to the Labour party, because Labour does not just talk about sunset clauses; it actually works on them. And it is noticeable, frankly, that with real momentum behind sunset clauses, moderate leaders, councillors and moderate MPs are being hounded out. That is a true sunset clause.

The Chair: Again, Mr Dowd, we will stick to what we are talking about here.

Peter Dowd: We want transparency and openness, and that is why we are demanding sunset clauses, unlike the Under-Secretary of State, who would like this House to be as dark as Erebus. We want a sunset clause, and Parliament, the people and the Hansard Society all demand a sunset clause. We insist on sunset clauses and we will persist in insisting on them.

Mel Stride: Clause 51 confers a power on the Treasury or the Secretary of State to make regulations for VAT, customs or excise in consequence of, or otherwise in connection with, the UK's withdrawal from the EU.

The Bill contains a comprehensive set of provisions to establish a stand-alone customs regime and to ensure that VAT and excise legislation will function as required on EU exit. The Bill does that through a mixture of primary legislation and powers to make subordinate legislation. Together the provisions will allow us to deal with a range of negotiated scenarios, as well as to prepare for a non-negotiated scenario. That will ensure that the UK's customs, VAT and excise regimes function as required upon EU exit and thereafter.

The UK's future arrangements for customs, VAT and excise will become completely clear only when negotiations are concluded. We cannot of course be certain what the detailed arrangements to be agreed will be, which is why the power in the clause is drafted as it is and why it is not possible to give an exhaustive list of the situations in which the power may be used. For example, we will need to use it to implement agreements with the EU that might involve alternative provisions to those made in the Bill, such as different amendments to those made to the VAT Act 1994 by schedule 8. Equally, the power will need to be used to address deficiencies similar to those dealt with in clause 7 of the EU (Withdrawal) Bill, to amend existing legislation to ensure that it is consistent with replacement domestic legislation; to legislate for policy decisions made in preparation for, or as a result of, a non-negotiated scenario; to transition existing EU trade remedy measures; or to legislate to deal with unforeseen developments arising from EU exit.

It must be noted that that the power is not an unlimited one: the scope of the power is, first, limited to VAT, customs and excise legislation; and, secondly, to changes that are made in consequence of, or otherwise in connection with, EU exit. As changes potentially required as a consequence of, or in connection with, EU exit may relate to primary legislation, the power extends to amending primary legislation, including the Bill. Given that we need to prepare for or implement a range of outcomes, including those that may differ from those set out in the Bill, it is appropriate that the power permits the Bill itself to be amended.

The affirmative procedure will be required for any use of the power to amend primary legislation in consequence of, or otherwise in connection with, EU exit. Any regulation that makes changes to primary legislation will have to be approved by the House of Commons if it is to have effect beyond the 28-day period starting from the day it is laid. That is unless clause 52 applies, in which case the relevant period extends to 60 days. The clause itself will make no changes but confers a power on the Treasury, or the Secretary of State, to make changes in the future in consequence of, or otherwise in connection with, EU exit.

Amendment 120 seeks to ensure that the power to make regulations under the clause is exercised only when it is necessary to do so. The Government oppose the amendment because it limits their ability to prepare effectively for EU withdrawal. The Bill is drafted to cater for a variety of long-term outcomes from negotiations on the future relationship with the EU.

In that context, the power is necessary to ensure that the UK can deal with a range of possible consequences of, or matters arising in connection with, EU withdrawal, and maintain fully functioning customs, VAT and excise regimes in a range of scenarios. Changing the wording to "necessary" may narrow the power in such a way that the Government cannot prepare effectively for EU withdrawal. That is because some of the uses for the power may be appropriate, but it may be hard or cumbersome to prove that they are necessary. For example, policy decisions may be made in consequence of, or in connection with, EU withdrawal where one option is chosen over others. That is "appropriate", but it may be said that they are not "necessary", since one option is not necessary in the sense that other options are available.

Anneliese Dodds: Surely in that case it would be possible to specify that one of the two options will be chosen and that that is a necessary choice between the two. I am struggling to grasp the need to avoid the word "necessary".

Mel Stride: The point I would make to the hon. Lady is that if we had more than one option, one of them may be appropriate but not necessary, because if we chose that particular option there would necessarily be another option that could be chosen. The essential point is that the word "necessary" is not necessary, but in fact unhelpful—*[Interruption.]*

The Chair: Order. The Minister is making a very valuable point.

Mel Stride: It is difficult to sound exciting or entertaining when discussing a single word.

The Chair: But you are succeeding.

Mel Stride: There are moments. Amendment 97 inserts a sunset provision disallowing regulations to be made under the clause after 29 March 2021, while also allowing the Secretary of State to alter the date so that the date of sunset relates to the day of the end of a transition period. Amendments 98 and 99 are consequential to amendment 97. The Government oppose the amendments because they too would limit our ability to prepare effectively for EU withdrawal. We do not yet know the outcome of negotiations with the EU. Therefore, it would not be prudent to include a sunsetting clause at this stage.

3.45 pm

Although the amendments provide for a way to extend the period during which regulations may be made under this power, the Government's ability to deal quickly with developments in negotiations would be limited. Regulations may need to be made under the power to deal with unforeseen developments quickly. For example, an agreement with the EU relating to VAT, customs or excise may be reached very close to 29 March 2021, and there may not be enough time to make and lay the relevant draft regulations between the conclusion of that agreement and 29 March 2021. Regulations may therefore need to be made after 29 March 2021, but under the amendment, they could not be, which would limit the ability of the Government to prepare for and react quickly to last-minute developments. The risk is that the UK will not be able to maintain operable customs, VAT and excise regimes if there are last-minute developments in negotiations close to the end of the implementation period.

Amendment 87 seeks to limit the duration of the delegated power under clause 51 to the period ending two years after the United Kingdom leaves the EU. The Government oppose the amendment as it too would limit the Government's ability to prepare effectively for withdrawal. The points that I have made in relation to previous amendments also apply here. We do not yet know the outcome of negotiations with the EU, so it would not be prudent to include a sunsetting clause at this stage. Furthermore, the power is not unfettered. It has a built-in safeguard, which is that regulations can only be made in consequence of, or in connection with, the withdrawal of the UK from the EU.

Clause 52 allows subordinate legislation to be made containing a provision that it is to have effect on a day appointed by the Treasury in regulations. It also amplifies existing powers to make subordinate legislation to permit supplementary, incidental or consequential provisions, and transitional or transitory provision or savings to be made. The Bill provides for the creation of a stand-alone customs regime and ensures that the VAT and excise regimes operate as required after leaving the EU.

A number of pieces of subordinate legislation will be made by statutory instrument, in connection with, or as a consequence of, the UK's withdrawal from the EU. For some instruments, it will not be known if they are required, as they make provision for alternative outcomes of negotiations. Alternatively, for some instruments, it may not be known when they will be required. The power in clause 52 will ensure that subordinate legislation can be made and laid before Parliament even when it reflects policy that is subject to change due to ongoing negotiations. That will permit the Government to carry out the necessary contingency planning. Instruments can be considered by the House some months prior to exit day. When the final shape of the policy or the date of commencement becomes clear, a day can be appointed for the right subordinate legislation to come into effect, and the subordinate legislation that reflects alternative options can be either revoked or not commenced.

As the subordinate legislation requiring negative procedure will already have received parliamentary scrutiny when it is made and laid, this power to appoint a day of commencement will make demands on parliamentary time close to exit day easier to manage. Once the subordinate legislation has been made and laid, and scrutinised, it will just remain to appoint a day to commence the right subordinate legislation at the right time, once those outcomes are known.

As is conventional for such instruments, the appointment of the day of commencement is not subject to parliamentary scrutiny, since the scrutiny of the instrument has already occurred. For an affirmative instrument, the Government will need to pass a resolution approving it within 60 days of any its provisions coming into force. Because it is expected that instruments are likely to come into force around exit day, when the House will be very busy, the Government consider it appropriate to extend the period for approval to be granted to 60 days.

HMRC and the Treasury have a large number of powers under which they can make subordinate legislation relating to VAT, customs or excise. Some of those powers confer the power to make supplementary, incidental or consequential provision, and transitional or transitory provision or savings; others do not. In the context of the UK's withdrawal from the EU, such powers are important as they provide the ability to ensure a smooth and orderly exit. For example, they may be used to make provision for transactions or movements of goods that begin pre-exit and end post-exit. The clause introduces the procedures for commencing subordinate legislation concerning VAT, excise or customs, which may be used if the person making the legislation considers it appropriate in consequence of, or otherwise in connection with, EU withdrawal.

Rather than the subordinate legislation itself containing a commencement date, as is usual, the day on which it comes into effect can be appointed by another regulation. Some subordinate legislation will be subject to the

28-days made affirmative procedure. That is, it will cease to have effect unless approved by the House within 28 days of being made. If, under this clause, such subordinate legislation comes into effect on a day appointed by another regulation, that period is extended from 28 to 60 days from the date of any of its provisions coming into force. This extended period is to take account of the pressure on parliamentary time that is expected around the day of exit, which is when the subordinate legislation is expected to take effect. The clause also amplifies existing powers, so that the Government can ensure a smooth and orderly transition from the current regime for customs, VAT and excise to the regime post-exit.

Amendment 88 seeks to limit the period during which regulations may be made under clause 52 to two years after the UK leaves the European Union. As I have set out, the clause grants the powers necessary to ensure that the Government can plan for alternative scenarios by allowing for the commencement by regulation of subordinate legislation for VAT customs or excise, as and when necessary. The power will enable a smooth and orderly withdrawal from the EU for the purposes of VAT, customs and excise by extending existing powers to include the making of supplementary, incidental or consequential provision and transitional or transitory provision or savings. The clause will enable the UK to engage in appropriate contingency planning by allowing subordinate legislation to be made and laid well in advance of exit.

Clause 53 defines excise duty for the purposes of part 5 of the Bill. As in part 4, it is defined as

"any excise duty under…the Alcoholic Liquor Duties Act 1979…the Hydrocarbon Oil Duties Act 1979, or…the Tobacco Products Duty Act 1979."

The definition excludes some domestic excise duties, such as air passenger duty and betting and gaming duties. The clause tailors the scope of the powers set out in part 5 to what is necessary and ensures that they can be exercised only in relation to those excise duties that are most regulated by EU law and most affected by the UK's withdrawal from the European Union.

The hon. Member for Aberdeen North asked about shipwork end-use duty relief. Clause 19, which we have already debated, deals with reliefs. I believe that secondary legislation under that clause could deal with the issues she raised, but I will certainly look into the matter and come back to her.

Kirsty Blackman: I am feeling slightly sorry for you, Mrs Main—having to chair a Committee that erupts into riotous laughter, which is most unusual for a customs Bill Committee. I appreciated the Minister's speech, but I think he is losing his oomph somewhat—[Hon. Members: "Oh!"]—although I am sure he will find it again.

We are reaching the end of our discussions. I am sure all members of the Committee are quite glad about that, because I am not sure how much more we can discuss sunset clauses. However, I have a few more points to raise about our amendments. Amendment 120 would replace the second "appropriate" in clause 51(1) with the word "necessary", because otherwise Ministers will be given an incredible level of power to use their own discretion to decide what is appropriate. We have raised concerns before about the level of power that such clauses give Ministers. Changing "appropriate" to "necessary" would allay some of those concerns: it would be a stronger test and would require a stronger case from Ministers. I think that is a reasonable request.

Before I move on to Executive privilege more generally, may I address something the Minister said? When he raised his concerns about having a sunset clause that specified a date of 29 March 2021, he said that the agreement might be made very close to that date. That is incredibly worrying, given that we do not yet have any agreement or any idea what things will look like on exit day. The Government and the EU look likely to push the matter as close to the wire as possible, because it seems that there is an awful lot of distance to travel—particularly since the Government do not actually know what they want. If businesses face the same situation approaching 29 March 2021, after a two-year transition process—if the Minister wants to call it an implementation process, that is absolutely fine—and two years after having gone through a crazy period when they had no idea what was coming round the corner, that will be a major problem for them. It will be a major problem for productivity, as has been mentioned throughout. It is incredibly worrying that, at the end of a two-year transition period, we might still not be clear about exactly how things will look a very short period afterwards.

On what the hon. Member for Stalybridge and Hyde said about the duty to check the powers of the Executive and not to alter the balance, I argue that we actually do need to alter the balance. I find this job incredibly frustrating in a number of ways because of the extreme power of the Executive. In a lot of cases, they do not have to use their parliamentary majority—they do not currently have one—because they have Executive privilege to do a number of things that I do not believe they should have the power to do. In many cases, only Ministers are able to table amendments, programme motions and so on, because the Executive have that power. They also have the power to set the agenda. That means that, for parliamentarians outwith the Government—whether they are on the Government Back Benches or in opposition—things are more difficult.

The current system of Executive privilege is completely unbalanced. It should be shifted towards the Government having to use their parliamentary majority to do things. That would make this a better place. I am shocked that more parliamentarians are not as enraged as I am by that, and that it is not brought up in the House more often. It is not a good way to run a Parliament, and it should be changed.

That is important in relation to the Bill because the absence of sunset clauses gives Ministers powers in perpetuity that I do not believe they should have in perpetuity. In some cases, I do not think they should have them at all; they should have to be adequately scrutinised by Parliament and have to get measures through votes. The absence of sunset clauses gives Ministers powers for ever more, and I do not believe that should happen. It may be that, 10 years down the line, a Minister decides that something relates to the UK leaving the EU and therefore makes what he thinks is an appropriate change. I do not believe that should continue to be possible.

That is particularly important in respect of clause 51. I can see some of the arguments the Government may make about other clauses—they may say the changes they permit are just tinkering with technical regulations

[Kirsty Blackman]

in relation to VAT, customs or excise duties—but in this clause Ministers give themselves power to make more fundamental changes. That completely fails the people who voted for Brexit to take back control. The Government say they intend to support that view and to assist people with taking back control, but what they are doing here absolutely will not achieve that aim; it will concentrate power for ever more in the hands of the Executive. The Government need to think carefully about that.

Mel Stride: I thank the hon. Lady for her contribution. I will not rehearse the entertaining conversation we had about "appropriate" and "necessary", but I understand her points. However, I maintain that there is a logical, lexical complication with—*[Interruption.]* Yes, I am getting drawn back into the debate again. I do not want to go there.

The second, pertinent point the hon. Lady raised was that the Bill, by not having the sunset clauses that she seeks, conjures up the possibility of us catering for a very late deal. Although it does indeed allow for that eventuality, that is not the same as us suggesting that we expect it to happen. We are balancing the likelihood of a very late deal, which I suggest is extremely low, with the consequences of that happening, which would be significant. In a sense, it is almost analogous to why we insure our house. We do not expect it to go up in flames during our lifetime, but given the consequences of that happening, it is prudent to insure. On that basis, we are applying the same kind of principle in this particular situation.

4 pm

Kirsty Blackman: I reserve the right to bring the amendment back on Report because it is incredibly important, but I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 51 ordered to stand part of the Bill.

Clauses 52 and 53 ordered to stand part of the Bill.

Clause 54

Consequential and transitional provision

Kirsty Blackman: I beg to move amendment 100, in clause 54, page 37, line 5, leave out the second "appropriate" and insert "necessary"

This amendment ensures that regulations making consequential and transitional provision may only be made when necessary.

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

Amendment 101, in clause 54, page 37, line 14, leave out the second "appropriate" and insert "necessary"

This amendment ensures that regulations making consequential and transitional provision may only be made when necessary.

Clause stand part.

Kirsty Blackman: I confess I am also losing my oomph—[Hon. Members: "Never!"]—when it comes to talking about the differences between "appropriate" and "necessary". *[Interruption.]*

The Chair: Order. The hon. Lady is seeking to make her views known, and I would like to hear her.

Kirsty Blackman: Thank you, Mrs Main. Both amendments would change the word "appropriate" to "necessary". The first amendment relates to the powers that Ministers have over changing statutory instruments. The second also relates to statutory instruments, but in terms of transitional, transitory or saving provisions. We have previously rehearsed why I think "necessary" is a better word to use in these circumstances. The Minister thinks "appropriate" is better, so I imagine he will not need to speak for long in responding to my amendments.

Mel Stride: I will be brief. I am aware—it is one reason why I have been speaking fairly rapidly—that we still have a little to get through, and I do not want to deprive the Opposition of the opportunity to fully scrutinise what remains of the Bill. Clause 54 confers a power on the Treasury or the Secretary of State to make provision in consequence of the Bill. As the hon. Lady might expect, the Government do not feel that the amendments are either appropriate or necessary. On that basis, I hope she will consider withdrawing it.

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

Amendment, by leave, withdrawn.

Clause 54 ordered to stand part of the Bill.

Clause 55

Commencement

Anneliese Dodds: I beg to move amendment 17, in clause 55, page 38, line 15, leave out

"on the day on which this Act is passed"

and insert

"when the condition in section (Pre-commencement review: resource implications for HMRC) is met"

This amendment is consequential on NC9.

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

Amendment 20, in clause 55, page 38, leave out line 23 and insert—

'(1A) Section (Pre-commencement review: resource implications for HMRC)and this Part come into force on the day on which this Act is passed."

This amendment is consequential on NC9.

New clause 9—*Pre-commencement review: resource implications for HMRC*—

'(1) The condition in this section is met when—

(a) HMRC Commissioners have carried out a review in accordance with the provisions of this section, and

(b) the Chancellor of the Exchequer has laid a report of that review before the House of Commons.

(2) The review by the Commissioners under this section must consider—

(a) the staff requirements for implementation of the provisions of this Act,

(b) the extent to which provision has been made to meet those requirements;

(c) the information technology requirements for implementation of the provisions of this Act, and

(d) the level of certainty about the meeting of the requirements considered in accordance with paragraph (c).

(3) The review shall have regard to information provided by the Treasury and the Secretary of State about the likely outcome of negotiations between the United Kingdom Government and the European Union."

This new clause requires HMRC to provide an assessment of the staffing and IT requirements for implementing the provisions of the Bill, and the prospects of those requirements being met prior to commencement of the main provisions of the Bill.

Anneliese Dodds: To make things totally clear, amendments 17 and 20 are consequential on new clause 9, so I will focus on that. The new clause would insert provision for pre-commencement review into the Bill. That relates to clause 55, which is about the conditions for commencement. We have asked for the HMRC commissioners to carry out a review that the Chancellor of the Exchequer would then lay before the House. We have asked for that review to examine a number of areas, such as whether the appropriate staffing requirements have been met for the Bill to be implemented properly, the extent to which information technology is ready for implementing the Bill's provisions and the extent to which the Government believe that all the requirements in the Bill have been met.

The new clause is necessary for a variety of reasons; I will not go through all of them, because we covered some of the material when we talked on Tuesday about a review of resources in relation to the authorised economic operators scheme and the SNP amendment. None the less, there are matters that it is important this Committee covers before we finish. We heard some compelling evidence from witnesses last week who talked about changes that have occurred within HMRC and the resourcing of the customs element of HMRC. In particular, they talked about how a helpline for businesses with customs problems had been removed, the potential impacts of the new regionalised system for HMRC, and how the removal of local offices would mean that HMRC staff will no longer have a physical presence in Scotland north of Glasgow and Edinburgh, and none on the whole south coast of England. The Minister responded by saying that of course customs officials would be able to travel. Yes, that is definitely the case, but as someone who has frequently had to get to Dover by road and by public transport, I can say that that is often not easy. There are significant concerns about that.

There are also continuing worries about whether staff numbers are appropriate. We had a little bit of discussion about that at close of play on Tuesday, again in relation to an SNP amendment. The Minister said then that it was possible that, to deal with the requirements of the Government's approach, the number of customs officers might increase from 5,000, according to figures submitted to the World Customs Organisation, by between 3,000 and 5,000. Let us say that they increase by 5,000 to 10,000, doubling the current number. I have redone the calculations that I did last Tuesday. That would mean that every British customs officer would still be required to process about 7,700 customs declarations a year. That is still substantially more than their counterparts in other countries: 20 times more than in Australia, six times more than in America, almost twice as many as in Norway and about 20% more than their Swiss counterparts, who seem to process the largest number after the UK, by my calculations on comparable countries. That is without the many additional declarations that might come if the Government decide not to form part of a customs union with the rest of the EU. Therefore, there are legitimate questions to ask about whether HMRC really has the capacity to deliver what is being asked of it.

That is particularly important today. I understand that there are leaked documents suggesting that the EU is concerned that the UK might seek to undercut standards, particularly on taxation requirements. I am not sure whether it mentions customs in that regard, but it is important for the UK to send out a strong message that we want to uphold standards—particularly on something like customs, where there is the potential for a large amount of fraud that could affect other countries, but also on many allied problems mentioned by our witnesses, such as phytosanitary measures, veterinary standards, control of illegal trafficking of goods and so forth. I hope that the Government will give us a strong commitment to properly review resources. We need more than what we have already.

Kirsty Blackman: I completely agree with everything that the hon. Lady is saying. It is important for businesses to have certainty about how the extra resourcing will work—if there is extra resourcing—so that they will know how to interact and have confidence that the system will work after exit or implementation day.

Anneliese Dodds: I am grateful for the hon. Lady's support. Due to the changes to the deployment of HMRC in Scotland, the issue is very relevant to many of her constituents. I am pleased that the Government seem to be moving in the right direction. We have a commitment to more staff, which is positive, and the Minister's responses to my written questions seem to focus more on additional numbers and less on redeployment, as they did in the concerning responses previously. Surely, given the potentially increased amount of activity that a new customs regime would necessitate, we need to be on stronger ground if we are to avoid a difficult time for British businesses and retaliatory measures from the rest of the EU if it feels that we are not upholding our obligations.

Mel Stride: Amendments 17 and 20 and new clause 9 seek to require HMRC to review its staffing and IT requirements, with the Chancellor to report that to Parliament before commencement. The Government oppose the amendments. It is not appropriate to legislate to require such a review, because HMRC staffing and IT requirements largely depend on the outcome of the negotiations with the EU and the details of the new customs regime, which will be set out in secondary legislation.

I assure the Committee that the Government are preparing for every possible outcome, and the activities required by the amendments are already happening as part of HMRC's business planning. I am in discussions with HMRC on a regular basis, including with the head of HMRC, on the details of how we will ensure we have the technology in place.

We have had a number of conversations in Committee about the customs declaration service and the challenges of all the additional declarations that that system may

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yet have to handle, as well as the hon. Lady's points on personnel. I am aware of the points she made on access to the various ports, given the changes to the structure of offices in the transformation programme that HMRC is undergoing. She is correct that the figure we will be looking at in terms of additional personnel is between 3,000 and 5,000. I suspect it will be nearer the upper limit than the lower limit, but those decisions are imminent. I hope that those reassurances will lead her not to move her new clause and to withdraw the consequential amendments.

Anneliese Dodds: I am grateful to the Minister for those clarifications and commitments, particularly on staffing. It is good to hear that the Government are considering ensuring that there are sufficient human resources. However, as I hopefully made clear in my remarks, I am concerned that, from an international perspective, we will still be under capacity. There may be reasons for that, but I would like the Government to explain them. We seem to be radically below par compared with other comparable nations.

When it comes to IT, the Government have now accepted that there are many challenges, and I understand that the CHIEF—customs handling of important and export freight—system will now be run on for a period. That is sensible, but it would have been good to get that agreement earlier, because not having that assurance before caused business some concern. Obviously, the CDS programme was announced before the European referendum—it has been a long-running process—but it is important that we recognise the additional pressure that that switchover will put on services at the very time a new customs regime might be coming in. I will not press the amendment, but we may move the new clause, as with a number of other new clauses. I am grateful to the Minister for those clarifications, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Peter Dowd: I beg to move amendment 18, in clause 55, page 38, line 15, leave out

"on the day on which this Act is passed"

and insert

"when the condition in section (Pre-commencement review: effects on frictionless trade with European Union) is met".

This amendment is consequential on NC10.

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

Amendment 21, in clause 55, page 38, leave out line 23 and insert—

"(1A) Section (Pre-commencement review: effects on frictionless trade with European Union) and this Part come into force on the day on which this Act is passed."

This amendment is consequential on NC10.

New clause 10—*Pre-commencement review: effects on frictionless trade with European Union*—

"(1) The condition in this section is met when—

(a) the Treasury has carried out a review in accordance with the provisions of this section, and

(b) the Chancellor of the Exchequer has laid a report of that review before the House of Commons.

(2) The review by the Treasury under this section must consider the likely effects of implementation of the provisions of this Act on the prospects for frictionless trade with the European Union after the United Kingdom's withdrawal from the European Union.

(3) The review must consider separately the matters specified under subsection (2) in relation to—

(a) circumstances in which there is no withdrawal agreement with the European Union (within the meaning of section 9 of the European Union (Withdrawal) Act 2018),

(b) any implementation or transitional period after the United Kingdom's withdrawal from the European Union, and

(c) the period subsequent to that specified in paragraph (b).

(4) The review shall have regard to information provided by the Secretary of State about the likely outcome of negotiations between the United Kingdom Government and the European Union."

This new clause requires the Treasury to provide an assessment of the effects of implementation of the Bill on the prospects for frictionless trade staffing and IT requirements for implementing the provisions of the Bill, and the prospects of those requirements being met prior to commencement of the main provisions of the Bill.

Peter Dowd: The proposals seek to provide commencement for various provisions in the Bill under parts 1 to 5. New clause 10 seeks to require the Treasury to carry out a pre-commencement review considering the likely effects of the implementation of the provisions of the Bill on the prospects for frictionless trade within the EU after the United Kingdom's withdrawal from the EU.

The review should also consider circumstances in which there is no agreement with the EU and an implementation or transitional period after the UK's withdrawal. It would also have regard to information provided by the Secretary of State about the likely outcome of negotiations between the UK and the EU. As the explanatory statement that accompanies the new clause makes clear, we seek to ensure that the Treasury makes a proper assessment of the impact of the implementation of the Bill on staffing and IT requirements in the context of maximising frictionless trade across the UK border.

In evidence to the Committee, the Public and Commercial Services Union commented on staffing, which the new clause seeks to ensure is properly addressed, as my hon. Friend the Member for Oxford East also indicated. Since 2006, the number of HMRC staff has roughly halved, from more than 100,000 staff members to 56,000, and the proposed office closures suggest that more might be on the way. It is not just PCS that is concerned. Anastassia Beliakova said:

"Another concern…is that there is an evidenced shortage of staff dedicated to goods checks. That has been ongoing for a number of years, and questions are being asked about whether there is sufficient resource and focus allocated to goods checks and support. Those questions will become much more acute with all the coming changes."—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 4, Q1.]

At the end of the day, it is incumbent on the Government to hear what we have to say and act before it is too late to enable frictionless trade, which is one of their primary concerns.

4.15 pm

Kirsty Blackman: I will be brief. Jeremy White from the Chartered Institute of Taxation said:

"The only frictionless trade known to man is customs union."—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 28, Q33.]

I wholeheartedly agree. The Scottish National party's position is and has always been that we should remain in the customs union with the EU. That is the only sensible way of eliminating all barriers to frictionless trade.

The thing about having a free trade agreement that removes tariffs is that tariffs are not the only barriers to trade. They are not the only thing to cause friction at borders and problems for companies and individuals. The non-tariff barrier issues include things like stacking lorries, which we heard about in relation to the issue of roll-on/roll-off; how companies and organisations will make customs declarations; the digitalisation or not of customs declarations; and the standardisation of rules of origin, which is the biggest issue relating to the customs union. Those who are exporting to the EU will have to complete rules of origin documentation, having never had to do it before. If we do not have a shared external tariff, that will happen.

I am absolutely clear that this is a good new clause. We need frictionless trade with the European Union, but I am clear that the only way to achieve that is by being in the customs union.

Mel Stride: Amendments 18 and 21 to clause 55 and new clause 10 seek to require the Treasury to review the likely effects of the Bill on frictionless trade with the EU, and for the Chancellor to report that to Parliament before commencement. I assure the Committee that the Government are committed to providing information on the impact once the outcome of the negotiations is clearer.

We believe that putting those requirements on the face of the Bill is unnecessary. Any changes will be set out in secondary legislation, and Parliament will of course have the ability to consider, scrutinise and decide upon the content of that legislation in the normal way. Furthermore, any review that is carried out before the outcome of the negotiations will necessarily be somewhat speculative.

Peter Dowd: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Peter Dowd: I beg to move amendment 19, in clause 55, page 38, line 15, leave out

"on the day on which this Act is passed"

and insert

"when the condition in section (Pre-commencement review: effects on border experience) is met".

This amendment is consequential on NC11.

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

Amendment 22, in clause 55, page 38, leave out line 23 and insert—

"(1A) Section (Pre-commencement review: effects on border experience)and this Part come into force on the day on which this Act is passed."

This amendment is consequential on NC11.

New clause 11—*Pre-commencement review: effects on border experience—*

"(1) The condition in this section is met when—

(a) HMRC Commissioners have carried out a review in accordance with the provisions of this section, and

(b) the Chancellor of the Exchequer has laid a report of that review before the House of Commons.

(2) The review by the Commissioners under this section must consider the likely effects of implementation of the provisions of this Act on the border experience of importers and exporters and those engaged in associated economic activities.

(3) The review must consider separately likely effects on the border experience of those importing goods from or exporting goods to the European Union.

(4) The review must consider the matters specified under subsection (3) in relation to—

(a) circumstances in which there is no withdrawal agreement with the European Union (within the meaning of section 9 of the European Union (Withdrawal) Act 2018),

(b) any implementation or transitional period after the United Kingdom's withdrawal from the European Union, and

(c) the period subsequent to that specified in paragraph (b).

(5) The review shall have regard to information provided by the Secretary of State about the likely outcome of negotiations between the United Kingdom Government and the European Union."

This new clause requires HMRC to provide an assessment of the effects of implementation of the Bill on the border experience of importers and exporters and those engaged in associated economic activities, with particular reference to trade with the European Union, prior to commencement of the main provisions of the Bill.

Peter Dowd: The amendment seeks to oblige HMRC commissioners to carry out a pre-commencement review of the effect on the border experience. The Chancellor of the Exchequer will then be mandated to lay a report of that review before the House.

The reasoning behind new clause 11 is simple: we are facing a shift of enormous magnitude, which demands a corresponding change in our approach to how we practically handle the processing of customs at the border. The change comes at the same time as existing resource challenges to HMRC. We are concerned and will continue to be so about the issue of provision to the appropriate authorities. I have made that point to the Minister time and again, and I hope he listens to what we are saying, even at this late stage.

Kirsty Blackman: I have significant concerns about the way this clause is going to work, given that the UK Government's priority in the Border Force has been immigration rather than customs staff. Therefore, there has been an erosion of the customs staff who have got experience and understanding of the frontline. I am not yet convinced. Although the Government are talking about putting extra people into HMRC, I have not heard enough about equivalent extra staff being put into the Border Force so that it can appropriately police things in relation to customs. I have significant concerns about the border experience, and I note that that is not just on the south coast of England. We have borders when things come in on international flights or ports outside the south coast of England. It needs to be taken over the whole geographical spread of the United Kingdom.

Mel Stride: Amendments 19 and 22 to clause 55 and new clause 11 seek to require HMRC to review the likely effects of the Bill on the border experience of importers and exporters, and those engaged in associated

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economic activities, and the Chancellor to report that to Parliament before commencement of the Bill. The reasons why the Government will resist them are similar to the reasons given for resisting the last group of amendments. It is not appropriate to legislate for such a review, because the experience of businesses at the border will depend on the outcome of the negotiations with the EU, the resulting details of the new customs regime and the resulting changes needed to maintain a fully functioning and legally operable VAT and excise regimes.

To respond to the specific points the hon. Member for Aberdeen North made about the Border Force, it is absolutely vital, as she has suggested, that we have appropriate resource. Of course, that is a Home Office matter and not within the direct remit of HMRC or the immediate scope of the Bill, but I reassure her that we are working across Government and closely with the Home Office to ensure that, whatever occurs in the negotiation and whatever the results for our day one arrangements, we will be ready in terms of both the Border Force and Customs and Excise.

Peter Dowd: The Minister has heard what I have to say. We will not be pressing the amendment, although we will press the new clause. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kirsty Blackman: I beg to move amendment 102, in clause 55, page 38, line 17, after "(2)", insert "and (2A)".

This amendment paves the way for amendment 103.

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

Amendment 103, in clause 55, page 38, line 32, at end insert—

"(2A) The following provisions come into force on such day as the Secretary of State may be regulations under this section appoint—

(a) section 41 (abolition of acquisition VAT and extension of import VAT),

(b) section 42 (EU law related to VAT), and

(c) section 43 and Schedule 8 (VAT amendment connected with withdrawal from EU).

(2B) Regulations under subsection (2A) may not be made until the Secretary of State has laid before the House of Commons an impact assessment that considers—

(a) the effect of leaving the EU VAT area on the lawful importation of goods into the United Kingdom from the European Union, and

(b) the effect of abolishing acquisition VAT and extending import VAT on the lawful importation of goods into the United Kingdom from the European Union."

The effect of this amendment would require the UK Government to make an impact assessment on the effects of leaving the EU VAT Area before any system of upfront import VAT could be applied to goods lawfully being imported into the UK from the European Union under EU Law.

New clause 13—*VAT deferral scheme*—

"(1) This section applies if it appears to the Secretary of State that the United Kingdom will cease to be a member of the European Union taxation and customs union.

(2) The Secretary of State must by regulations introduce a domestic deferral scheme for UK importers.

(3) In designing a scheme under subsection (2), the Secretary of State must consult with whichever relevant stakeholders deemed by the Secretary of State to be appropriate.

(4) Regulations under subsection (2) may be made only if a draft of the regulations has been laid before, and approved by resolution of, the House of Commons."

This new clause ensures that in the event that the UK is no longer a member of the EU VAT area, the Secretary of State must by draft affirmative regulation introduce a VAT deferral scheme.

Kirsty Blackman: This is the last section on which I will be moving anything. Amendment 102 is a consequential amendment and relates to amendment 103. Amendment 103 requires an impact assessment to take place on the changes of the EU VAT area, as we have rehearsed, and the move from acquisition VAT to import VAT.

I am neither convinced nor clear that the Government have adequately undertaken an assessment of the impact. Some 132,000 new businesses will come into paying import VAT for the first time. I do not know that the Government are aware of how much of an impact that will have on those businesses. I am not yet at the stage where I believe the Government have done enough impact assessments.

I was pleased that the Minister talked earlier about looking sympathetically at having a system of VAT deferral or something of that sort to improve cashflow issues for businesses. I appreciate his saying that and look forward to more details about how that will work, so that businesses can make adequate plans. That is not the only issue that occurs on leaving the EU VAT area. For the other issues mentioned earlier, for example on triangulation simplification where companies would have to register for VAT in more countries, I am again not convinced that the Government have adequately assessed the impact they will have on businesses. They are therefore not in a position to explain that impact to businesses and assist them in mitigating it.

On new clause 13, I appreciate that the Minister has said he is sympathetic to making changes on the VAT deferral scheme, but I intend to press new clause 13 to a vote so that it is written on the Bill and is not just words from the Minister that the Government agree to a VAT deferral scheme. The new clause would ensure that. I do not intend to push amendments 102 and 103 to the vote, but I may seek to return to amendment 103 on Report.

Mel Stride: I will start by addressing new clause 13. The hon. Lady will be aware that the issue of the potential move from acquisition VAT to import VAT and its effect on cash flow for businesses was raised by the Chancellor in the autumn Budget. We are very aware of that, as the Chancellor has indicated.

On Second Reading, from memory, I was intervened on by my right hon. Friend the Member for Loughborough (Nicky Morgan), the Chair of the Treasury Committee, who raised the same issue. Prior to that, I had had a meeting with her to discuss the matter in some detail. I was able to provide her with an assurance on the Floor of the House that was sympathetic—I think that word was used—to the issue. We certainly do not wish for a situation in which we are significantly damaging businesses as a consequence of any changes. Indeed, in this debate I have clarified that, under the terms of section 38 of the Value Added Tax Act 1994, we have the powers to

make the kind of changes that my right hon. Friend and I would probably agree are appropriate.

I am grateful to the hon. Lady for not pressing amendments 102 and 103, which seek to prevent the Government legislating for a future outside the EU VAT area before we produce an impact assessment on the effects that leaving the EU will have on imports.

Peter Dowd: I welcome that point. I would speak to the amendment but I will not, given the time. Does the Minister have any indication what the timetable might be for that structure in relation to deferrals, or can he come back to us?

Mel Stride: That question prompts another question: at what point do we reach that matter in the negotiations with the European Union? It is not possible to answer that question because it depends on when we get our deal and where the parameters around VAT, imports and exports are. All those matters land in that negotiation. I reiterate the reassurance that we have the ability and the powers within the VAT Act to act accordingly and we have a firm intention to ensure that we deal with the concern we have all identified.

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

Amendment, by leave, withdrawn.

Clause 55 ordered to stand part of the Bill.

Clause 56 ordered to stand part of the Bill.

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)."—*(Peter Dowd.)*

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.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 25]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

4.30 pm

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).'—(*Peter Dowd.*)

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.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 26]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

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.'—*(Peter Dowd.)*

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.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 27]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

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).'—*(Peter Dowd.)*

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.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 28]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

New Clause 5

DUMPING OF GOODS AND RELATED ACTIVITIES: ENHANCED PARLIAMENTARY PROCEDURE, ETC.

'(1) No regulations may be made by the Secretary of State in exercise of the power in section 13(5) except in accordance with the steps set out in subsections (2) to (5).

(2) 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.

(3) 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), the amount of import duty proposed to be applicable to any goods that are or are proposed to be subject to a quota.

(4) 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).

(5) 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).

(6) 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) paragraph 1(3) of Schedule 4 (definitions and determinations in relation to goods being "dumped");

(b) paragraph 5 of Schedule 4 (determination of certain matters relating to "injury" to a UK industry);

(c) paragraph 26(1) of Schedule 4 (provision for suspension of anti-dumping or anti-subsidy remedies);

(d) paragraph (1)(2)(c) of Schedule 5 (defining a "significant" increase)

(e) paragraph 2 of Schedule 5 (definitions relating to "serious injury" to a UK industry);

(f) paragraph 22(1) of Schedule 5 (provision for suspension of safeguarding remedies).'—*(Peter Dowd.)*

This new clause establishes a system of enhanced parliamentary procedure for regulations setting quotas under Clause 13 to give effect to recommendations of the TRA, with a requirement for the House of Commons to pass an amendable resolution authorising the quota provisions of the proposed regulations, and also requires that certain regulations under Schedules 4 and 5 are subject to the affirmative procedure.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 29]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

New Clause 9

PRE-COMMENCEMENT REVIEW: RESOURCE IMPLICATIONS FOR HMRC

'(1) The condition in this section is met when—

(a) HMRC Commissioners have carried out a review in accordance with the provisions of this section, and

(b) the Chancellor of the Exchequer has laid a report of that review before the House of Commons.

(2) The review by the Commissioners under this section must consider—

(a) the staff requirements for implementation of the provisions of this Act,

(b) the extent to which provision has been made to meet those requirements;

(c) the information technology requirements for implementation of the provisions of this Act, and

(d) the level of certainty about the meeting of the requirements considered in accordance with paragraph (c).

(3) The review shall have regard to information provided by the Treasury and the Secretary of State about the likely outcome of negotiations between the United Kingdom Government and the European Union.'—*(Peter Dowd.)*

This new clause requires HMRC to provide an assessment of the staffing and IT requirements for implementing the provisions of the Bill, and the prospects of those requirements being met prior to commencement of the main provisions of the Bill.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 30]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

New Clause 13

VAT DEFERRAL SCHEME

"(1) This section applies if it appears to the Secretary of State that the United Kingdom will cease to be a member of the European Union taxation and customs union.

(2) The Secretary of State must by regulations introduce a domestic deferral scheme for UK importers.

(3) In designing a scheme under subsection (2), the Secretary of State must consult with whichever relevant stakeholders deemed by the Secretary of State to be appropriate.

(4) Regulations under subsection (2) may be made only if a draft of the regulations has been laid before, and approved by resolution of, the House of Commons."—*(Kirsty Blackman.)*

This new clause ensures that in the event that the UK is no longer a member of the EU VAT area, the Secretary of State must by draft affirmative regulation introduce a VAT deferral scheme.—(Kirsty Blackman.)

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 10.

Division No. 31]

AYES

Blackman, Kirsty	Hardy, Emma
Chapman, Douglas	Hill, Mike
Dakin, Nic	Morris, Grahame
Dodds, Anneliese	Reynolds, Jonathan
Dowd, Peter	

NOES

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

Question accordingly negatived.

Mel Stride: On a point of order, Mrs Main. Is this an appropriate moment to say a few words to thank the Committee? Perhaps I should begin by thanking you, Mrs Main, and Ms Buck, for the exemplary and impartial way in which you have both chaired our proceedings. I also thank all members of the Committee for the convivial and positive way in which we have conducted our proceedings, occasionally with a little levity creeping in, which is always a nice sign, I think.

The Chair: Only when necessary.

Mel Stride: Yes, Mrs Main, necessary and appropriate levity has been put into our proceedings. I thank all Members for their contributions, as I always say on this occasion, particularly those on our side. When my hon. Friend the Member for York Outer intervened, that was a stellar and special moment. It was a highlight on our side of the Committee.

I thank the Opposition Front-Bench spokesperson, the hon. Member for Bootle, before he disappears into the sunset—probably under the auspices of his own sunset clause. I thank him for his usual good humour. His Henry VIII quote was particularly good, but I am convinced that, as with all the others, he probably just makes them up. I can assure the hon. Member for Aberdeen North I will get my oomph back on Report. My mojo will be in fine form. I thank the hon. Member for Oxford East for the assiduous approach that she has taken to her duties on the Committee and for not mentioning on this occasion the dead dog and the bicycle, for which I am ever so grateful.

I thank the Treasury and HMRC, in particular my officials, Tom Doherty, Matthew Parry, Emily Marsh and Fraser Eccles, for all the support that they have given to me personally, and the other Departments, the Department for International Trade and the Department for Environment, Food and Rural Affairs, that have contributed to the process. I thank our new Minister, the Under-Secretary of State for International Trade, my hon. Friend the Member for Beverley and Holderness, who put in a fabulous performance on his first Committee as a Minister, with great force and great style. I thank the Whips on both sides, who are the unsung heroes. I always thank the Whips because I care about my future and my career.

I thank *Hansard* and the Doorkeepers. I also extend a heartfelt thank you from the whole Committee to the witnesses who appeared before us—perhaps specifically to Joel Blackwell, who has emerged as the most celebrated witness of our proceedings. I thank them all for having contributed in such a positive way.

Peter Dowd: Further to that point of order, Mrs Main. I thank you and Ms Buck for the eloquence in which you have chaired the meeting, and for your forbearance. I thank the Clerks, *Hansard* and the Doorkeepers for their sterling work; they have even more forbearance. I thank colleagues who have undertaken scrutiny in a forensic, good-humoured and professional fashion, and that includes the Members on the Government Benches. I also thank all our staff, Sam Goodman, Tom Peters, Sophia Morrell and Jack Jenkins, for their hard work on the Bill.

The whole debate has been pretty commensurate and pretty good. I finish with a couple of things: the Government epitaph will be "Down with sunsets!"; and, finally, "Parting is such sweet sorrow".

Kirsty Blackman: Further to that point of order, Mrs Main. In addition to the other thanks, I think this has been a very good debate and we have spoken in a lot of detail about a huge variety of issues, because the Bill covers a number of different things. The amount of knowledge expressed in the room has been a good display of what Parliament can do when it is doing something in the right way.

In particular, I say a huge amount of thanks to the Clerks, who have been absolutely invaluable in their support to me. I could not have done this without them—they have been fantastic, so I thank them so much.

Graham Stuart: Further to that point of order, Mrs Main. I will not repeat all the thanks that my right hon. Friend the Financial Secretary so eloquently made. I agreed with every word he said. Obviously, as the new boy on the block I thank him for his support, and I thank the Committee for being indulgent of me. In fact, the astonishing amiability and amicability of Opposition colleagues even in the face of my tetchiness is something on which I shall have to reflect over the weekend.

I thank all the Department for International Trade staff who supported me in work on the Bill. With HMT, we are bringing forward a piece of legislation that has been subject to good humoured but forensic scrutiny, not only from witnesses but from members of the Committee. I thank all the staff, Clerks and others for their support.

Bill to be reported, without amendment.

4.42 pm

Committee rose.

Written evidence reported to the House

TCTB16 ACITA (Automated Customs and International Trade Association)

TCTB17 Motorcycle Industry Association (MCIA)