PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

European Committee B

EU-SINGAPORE FREE TRADE AGREEMENT (FTA) AND INVESTMENT PROTECTION AGREEMENT (IPA)

Monday 10 September 2018

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not later than

Friday 14 September 2018

The Committee consisted of the following Members:

Chair: Sir Henry Bellingham

† Churchill, Jo *(Bury St Edmunds)* (Con)
† Gardiner, Barry *(Brent North)* (Lab)
† Glindon, Mary *(North Tyneside)* (Lab)
† Grant, Mrs Helen *(Maidstone and The Weald)* (Con)
Hoey, Kate *(Vauxhall)* (Lab)
† Hollingbery, George *(Minister for Trade Policy)*
† Leslie, Mr Chris *(Nottingham East)* (Lab/Co-op)
† Lopez, Julia *(Hornchurch and Upminster)* (Con)
† Peacock, Stephanie *(Barnsley East)* (Lab)
† Powell, Lucy *(Manchester Central)* (Lab/Co-op)
† Seely, Mr Bob *(Isle of Wight)* (Con)
† Tomlinson, Michael *(Mid Dorset and North Poole)* (Con)
† Wood, Mike *(Dudley South)* (Con)

Gail Poulton, *Committee Clerk*

† attended the Committee

European Committee B

Monday 10 September 2018

[Sir Henry Bellingham *in the Chair*]

EU-Singapore Free Trade Agreement (FTA) and Investment Protection Agreement (IPA)

4.30 pm

The Chair: Before we begin, I will briefly outline the procedure for European Committees. First, a member of the European Scrutiny Committee—in this case, Mr Tomlinson—will make a statement of no more than five minutes on the Committee's decision to refer the documents for debate. The Minister will then make a statement for up to 10 minutes. Members of the Committee may not make interventions during either statement. Questions to the Minister will follow. The Minister's statement and subsequent questions may take up to one hour. The Minister will then move the motion on the Order Paper and the debate will take place. We must conclude our proceedings by 7 pm. I call Mr Tomlinson.

Michael Tomlinson (Mid Dorset and North Poole) (Con): It is a real pleasure to serve under your chairmanship, Sir Henry.

The EU's proposed free trade agreement and investment protection agreement with Singapore are expected to be signed on 18 or 19 October. We thank the Government for tabling this debate, particularly given the timing and the timetable, because it is imperative that Parliament has the opportunity to scrutinise and have its say on the Government's position on the new EU trade and investment agreements, which obviously continue to generate interest inside and outside this House.

Let me first point out the broader Brexit implications of the proposed FTA considered by the European Scrutiny Committee. First, the Government reiterate their commitment to securing the continuity of the EU FTAs after we leave the EU. Under the draft withdrawal agreement, the EU intends to notify third parties that the UK is to be treated as a member state for the purposes of international agreements for the duration of the implementation period. However, the question that remains unanswered is whether the Government consider this notification or request to third countries wholly sufficient to secure the benefit of these EU bilateral agreements for UK businesses and consumers. We note Singapore's agreement in principle to the continuity of trade relations during any implementation period. How and when will that be translated into a legally binding commitment?

Turning to the expected benefits of the FTA, the Government have assessed that the FTA will increase GDP by £95 million each year. Bilateral exports are expected to increase by nearly £300 million, and imports by just over £600 million, in the long run. Can the Minister explain how the expected £300 million trade deficit with Singapore will generate the £95 million per annum benefit? In particular, which UK firms or sectors are likely to be most affected?

The Minister states that the Government are working towards new bilateral agreements with Singapore after the end of the implementation period. Are the Government seeking a copy and paste job of the EU negotiated deal, or a more ambitious deal? When will the Government consult UK stakeholders on a new agreement and publish an accompanying revised impact assessment? Furthermore, and importantly, how might the Chequers plan have an impact on the UK's ability to strike a more ambitious trade deal with Singapore after Brexit? Clarification on cross-border trading relationships with Singapore and other countries in a no-deal scenario—in which there is no withdrawal agreement and no implementation period—is also required. For example, what costs will UK businesses and consumers face if the UK reverts to World Trade Organisation most favoured nation trading terms with Singapore?

Turning to the proposed investment protection agreement, one of the most controversial issues in recent EU trade agreement negotiations, including those with Singapore, has been proposals involving investor-state dispute settlement mechanisms and the new version, investment court systems, which allow investors to sue Governments in independent arbitration tribunals. The Minister considers that ratification of the proposed investment agreement is unlikely to happen until after the end of any implementation period, so that will not apply to the UK. However, the Government remain silent on what sort of investment protection and dispute resolution mechanisms they would include in future agreements. With just six months until the UK's exit from the EU, when do they expect to determine their position on this fundamental aspect of post-exit relations with third countries? For the reasons set out in the Committee's report—we note the Minister's response of 19 July—the issues require urgent clarification.

The Committee has also highlighted the need for transparency in, and effective scrutiny of, trade deals—both EU-negotiated deals and deals negotiated in the future. Will there be more or fewer opportunities than at present for parliamentary scrutiny and public accountability with respect to trade deals after Brexit, and if so why? For example, further to the Secretary of State's oral statement to Parliament on 16 July, how does the proposed outline approach to new trade agreement negotiations before formal negotiations begin compare with the Commission's negotiating directives, and to what extent will Parliament be involved in setting or amending such approaches?

Those are the main issues raised by the Select Committee. I look forward to the debate. It is good to see the Minister in his place, and I look forward to his responses.

4.36 pm

The Minister for Trade Policy (George Hollingbery): It is a pleasure to serve under your chairmanship, Mr Bellingham. I am delighted to be here today to debate the EU-Singapore trade and investment agreements ahead of votes in Council on signature and conclusion. The EU has negotiated a broad and ambitious package with Singapore, which offers tangible benefits to the United Kingdom. The Government have long supported efforts to strengthen trade relations with Singapore, and I welcome the opportunity today to set out what was negotiated and what the Government's future plans are with respect to Singapore when we leave the European Union.

As I have said before, free trade plays a vital role in stimulating economic growth, creating jobs and providing greater consumer choice and confidence. The Government are clear that the UK will continue to be a beacon of support for free trade globally. We will continue to support the EU's ambitious trade agenda while we remain an EU member state. That includes some 40 trade agreements, including that with Singapore. As we leave the EU, UK support for those agreements will send a positive message about our commitment to global free trade.

Hon. Members will have seen from the Government's detailed and comprehensive impact assessment that, as my hon. Friend the Member for Mid Dorset and North Poole said, the EU-Singapore FTA is estimated to be worth up to £95 million annually to the UK's GDP in the long run. As he noted, UK imports are indeed due to grow by approximately £600 million per year in the long run. That will mean consumers benefiting from lower prices, and businesses from reduced input costs. That, in turn, will help businesses proudly to export and champion their final products around the world.

Imports and their associated gains can and do contribute positively to GDP, as in the case of the EU-Singapore FTA. As I have already noted, it is estimated that those gains, in addition to the nearly £300 million increase in UK exports driven strongly by UK services, will result in a long-term benefit to UK GDP of £95 million per annum.

Singapore is already one of the most open markets globally, regularly featuring towards the top of the World Bank's "Ease of Doing Business" awards. The gains from the FTA are not on the scale of other EU trade agreements of similar scope and depth, such as the Comprehensive Economic and Trade Agreement or the EU-Japan Economic Partnership Agreement, because of the nature of the business environment and trade. Nevertheless, there are tangible benefits for the UK, in addition to long-term benefits associated with fostering closer ties with a leading member of the Association of South East Asian Nations, whose region is expected to continue to experience strong economic growth. Indeed, as my Department never fails to point out on occasions such as this, some 90% of the world's growth is going to happen outwith the European Union in the future.

I want to make it clear today, as I and the Government have done previously with respect to other EU trade agreements, that the delivery of public health services and public utilities is safeguarded in the trade in services aspect of all EU free trade agreements, including with Singapore. For the avoidance of any doubt, that includes the NHS, for the UK; it will remain in the domain of UK Governments, not our trade partners, to control. As confirmation of that, I direct Members to chapter 8 of the free trade agreement and chapter 2 of the investor protection agreement, where it is made real. I also want to make it clear that commitment to labour rights and environmental standards is explicitly referenced in the agreement, and neither party will seek to reduce those thresholds to boost trade. In that respect, I refer Members to chapter 12 of the free trade agreement.

I am confident that the benefits of the free trade agreement can be enjoyed with a clear conscience, with British businesses free to tap into the Singaporean market with ever greater ease and to benefit from greater access across a range of service sectors, improved access to Singapore Government procurement markets, increased protection for intellectual property rights and, among other areas, the removal of remaining tariffs in Singapore, such as for stout beer, in which the UK has a long tradition of excellence to rival even the biggest players—as I am sure you agree, Mr Bellingham.

The FTA is accompanied by the EU-Singapore investment protection agreement. Unlike the FTA, the IPA will require ratification by all member states before it comes into force. The Commission has been clear that it does not intend to provisionally apply any aspects of the agreement before that. The IPA contains the Commission's preferred model of investor-state dispute settlement mechanism—the investment court system.

It is not envisaged that the IPA will enter into force before the UK's exit from the EU in March 2019 nor, in fact, before the end of the implementation period. Other EU trade agreements that have required ratification by member states in addition to EU conclusion and third-country ratification have taken several years to enter into force following signature, such as the EU-Korea FTA, which took close to five years for all members states to ratify.

Although it is not anticipated that the IPA will apply to the UK as we move to leave the EU, the Government have no intention of getting in the way of the EU embarking on the process of signing and concluding the IPA. We intend to vote in favour of signature and conclusion of the IPA when we support signature and conclusion of the FTA next month.

With regards to future investment policy, we continue to review our trade and investment policy more generally, and are considering a wide range of options in the design of future bilateral trade and investment agreements. Of course, the UK-Singapore bilateral investment treaty is still in existence, but it is worth pointing out that in the years that it has existed, since 1975, it has never been used.

I turn now to the Government's future ambitions for our trade relations with Singapore once we have left the EU. As has been communicated extensively, the EU and the UK agreed at the March European Council that international agreements that the UK is party to through its EU membership should continue to apply to the UK during the implementation period. Text to that effect has been agreed in the draft withdrawal agreement. On that basis, the EU-Singapore FTA will apply to the UK during the implementation period once it has entered into force, although, as I said, it is not envisaged that the IPA will enter into force in time to apply during the implementation period. The EU is due to notify third countries of that approach, and the Government are satisfied that legal clarity for that approach is sufficiently underpinned by international law and practice, including by the provisions of the withdrawal agreement itself.

At a bilateral meeting with the Prime Minister at the Commonwealth Heads of Government meeting in April, and in the accompanying public statement, Singapore's Prime Minister Lee welcomed the approach of providing continuity during the implementation period. That was further confirmed during the Secretary of State's recent visit to Singapore. The Government are working towards new bilateral arrangements with Singapore that will ensure continuity for the effects of the EU-Singapore FTA beyond the implementation period via a straightforward technical process.

[George Hollingbery]

A dialogue with Singapore also seeks to address our future approach to investment protection and investor-state dispute settlement. We are working with our Singaporean partners on the best way to achieve that. The existing UK-Singapore bilateral investment treaty otherwise remains operational, as I have pointed out.

Although it is only right that our immediate priority is to secure continuity of trade agreements, Singapore is like-minded with the UK in its ambitions for free trade, so a transition deal with Singapore also provides a firm basis for developing trade arrangements further in future. That is fully in line with the model set out in the White Paper, under which the UK will be able to pursue an ambitious bilateral trade agenda that takes full advantage of the flexibility that is proposed for the future economic partnership.

On 16 July, the Government put forward proposals about the future parliamentary scrutiny of UK trade policy when we have left the EU. The package includes a strengthening of collaboration and consultation with all corners of this great country and a range of stakeholder demographics with a vested interest, including consumers, civil society and business. We also recently released four online public consultations on our intention to seek free trade agreements with the United States, Australia and New Zealand, as well as on our interest in the UK's potential accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership—CPTPP—of which Singapore is a key member. I want all voices to be heard to ensure that our future trade policy works for everyone, and I encourage anyone interested to take part in those consultations. We will also consult with the devolved authorities and many other interested parties.

While the UK remains an EU member state, the Government remain committed to working with Parliament, via engagement with the European scrutiny Committees, to facilitate thorough scrutiny of EU trade agreements. That is particularly the case for EU-only agreements, such as the EU-Singapore FTA that we are looking at today and others that Parliament will not be required to debate and vote on, in the absence of the need for member state ratification. It is partly for this reason that I am pleased to be here to debate the Singapore agreements ahead of their signature.

In line with the Government's commitment to transparency, my Department will continue to work with the European scrutiny Committees to identify appropriate ways to ensure thorough scrutiny of EU legislation and agreements both now and during the implementation period. In line with that, the Government are continuing negotiations regarding the UK's and EU's rights and responsibilities during the implementation period, including on the UK's continued access to EU documents.

While we are not yet in a position to formally announce arrangements, I can be clear that the Government support a strong scrutiny process and will continue to support and facilitate this for as long as EU legislation continues to affect the UK. The Government will engage in dialogue with the Committees as to how this may best be achieved on the basis of the detailed arrangements for the period agreed between the UK and the EU. I understand that official-level discussions have already begun and that the Department for Exiting the European Union will write to the European Scrutiny Committee presently to take this matter further.

To conclude, I thank Committee members, and Parliament more generally, for their engagement in this debate. We have the opportunity today to demonstrate strong support for free trade. The EU-Singapore FTA is an excellent agreement for the UK that will benefit UK exporters, importers and consumers, and Singapore has committed to transitioning it when we leave the EU. The Government will continue to engage with Singapore on other trade-related matters, including future investment arrangements.

I am confident that we will be able to build strong ties with an important player in the ASEAN region and a key ally in support of global free trade now and in the future. I look forward to the opportunity to support the signing and conclusion of the agreements when the Council votes later in October.

The Chair: We now have until 5.36 pm for questions. Are there no questions? In that case, I call the Minister to move the motion.

Motion made, and Question proposed,

That the Committee takes note of European Union Document No. 7966/18 on the signature of the proposed agreement along with Addenda numbered 1 to 13 and European Union Document No. 7967/18 on the conclusion of the proposed agreement along with Addenda numbered 1 to 13; welcomes the proposed signature and conclusion, on behalf of the EU, of the EU-Singapore Free Trade Agreement; further notes European Union Document No. 7973/18 on the signature of the proposed agreement along with Addenda numbered 1 to 2 and European Union Document No. 7974/18 on the conclusion of the proposed agreement along with Addenda numbered 1 to 2; and further notes the signature and conclusion of the proposed Investment Protection Agreement between the EU and its Member States and Singapore.—*(George Hollingbery.)*

4.48 pm

Barry Gardiner (Brent North) (Lab): It is always a pleasure to serve under your chairmanship, Sir Henry. I congratulate the hon. Member for Mid Dorset and North Poole and his Committee on the estimable questions that they put to the Minister, and I am grateful to follow him. This is another important debate that sets out, in part, our post-Brexit future.

However, we are again here at the behest not of the Government but of the European Scrutiny Committee, which has directed that the House be afforded an opportunity to debate this trade agreement, which may well define our future relationship with Singapore after we leave the EU—if the Government succeed in rolling over the trade agreements that we currently have by virtue of being an EU member state.

The European Scrutiny Committee refused to clear the Government to sign these trade agreements precisely because it considered that

"both proposed agreements…have significant legal and policy implications for the UK, both whilst a member of the EU and after its exit".

While the debate is therefore welcome, let us be clear that this opportunity does not give Members the capacity to properly scrutinise the agreements, nor does it give Parliament any capacity to shape this or any future trade agreement between the UK and Singapore. Parliament should have had this debate prior to negotiations on these agreements commencing in 2010.

The agreements initially formed a single agreement, concluded in 2014, but they were split out and presented as separate agreements in 2018 as a result of widespread public opposition to the European Union's approach to mixed trade agreements and particularly, of course, to the controversial inclusion of investor-state dispute settlement mechanisms. I note in passing that the Minister said that the ICS was the Commission's preferred method of dealing with those. If he were to read the European Scrutiny Committee's "Thirty-fourth Report of Session 2017-19", he would see at paragraph 1.38 that in fact

"the Commission considers that the ICS fails to deal with the need to maintain consistency of case law and will also become a financial and human resource drain on the EU as the number of individual investment courts established under each new FTA multiplies."

That is why, in September 2017,

"the Commission put forward a proposal for the opening of negotiations"

on "a multilateral investment court". Therefore, I do not think it is correct to say that the ICS was the preferred model; the Minister may care to reflect on that.

To fast-track components of the initial agreement, we now have these two separate but interrelated agreements before us today. It would therefore be sensible, logical and transparent if this Committee were empowered to consider them separately, but the Government have not organised the business to facilitate that end, and the controversial aspects of the initial agreement remain as they were. Were it possible to vote separately on the free trade agreement, it is highly probable that that element would sail through the Committee unopposed. The investment protection agreement, however, is bedevilled with both the policy and the legal problems that even those not inveterately opposed to ISDS mechanisms as such might still consider so potentially injurious as to persuade them to reject the IPA as a whole.

Singapore has historically been an important trading partner for the United Kingdom. The strait of Singapore is one of the world's most important shipping channels, and its deep waters and safe harbour have seen Singapore become the world's second busiest maritime port, accounting for one fifth of the world's shipping container traffic. And as one of the region's few Commonwealth members, with English being one of the country's four official languages and with a legal system largely based on common law, it is no surprise that it remains an important trading partner for the UK.

More than half our exports to south-east Asia—specifically, the ASEAN countries—are shipped through Singapore. They were worth about £5.6 billion in 2014, with our top exports consisting of machinery and transport equipment, business services, financial and insurance services, miscellaneous manufactured articles, transport services, chemicals, food and beverages and so on. Singapore is our 16th largest export partner country—it is the eighth, if the EU is counted as a single export market—and accounted for 1.6% of all our exports last year.

The UK has maintained a healthy trade surplus with Singapore, with our exports doubling imports in 2017, according to figures from the Office for National Statistics. Furthermore, the UK is currently the largest EU investor in Singapore and the fifth largest total source of foreign direct investment in Singapore, with investments worth more than £30 billion at the end of 2014. Conversely, half of Singapore's FDI in the EU goes into the UK.

Labour Members want to see the UK's trade with the rest of the world growing. We want to help British businesses to take advantage of opportunities to export overseas, and to encourage investment in our domestic industries. We want to see free trade agreements that open up market access for British businesses, that protect and elevate rights and standards and that do not inhibit or erode the capacity of Governments to legislate in the public interest. We are pro-trade and pro-investment and believe that protecting, preserving and promoting the UK economy and jobs should be key priorities for any and all of our trade negotiations. However, those are criteria to be evaluated and applied; they are not just labels to be stuck on to any and every trade agreement available, on the false assumption that a rise in GDP per se will increase the wealth and wellbeing of the country as a whole. It is perfectly possible for GDP to rise in a country and for equality to be diminished, so it is incumbent on us to properly scrutinise the deal, as we are supposed to be doing.

British businesses already export freely and substantially to Singapore where the legal system, regulations and standards are similar to ours. Singapore is often listed at the top of the World Bank rankings as the easiest place to do business—it is currently second. According to the Department for International Trade, more than 1,000 British businesses have an established presence in Singapore and more than 30,000 British nationals reside in the city state. In his response letter to the European Scrutiny Committee, the Minister says:

"The EUSFTA will enable businesses to trade under preferences and as a result benefit from a reduction in tariffs and Non-Tariff Measure…costs, making it cheaper to export to Singapore. Businesses will also benefit from cheaper imports from Singapore. The elimination of tariffs and NTMs will make UK businesses more competitive in the Singaporean market."

Singapore has famously long since taken an open approach to trade with very few tariffs on imports. In fact, well over 99% of imports to Singapore are tariff-free. According to the Department for International Trade, only six product lines are subject to tariffs, and they are alcoholic drinks. The Government's impact assessment recognises that:

"UK exports of goods to Singapore face few tariffs. Most of the gain to GDP is from the removal of regulatory non-tariff measures in services and goods that can impede trade."

However, what those non-tariff measures are and the extent to which they might impede trade for British businesses is not analysed in any further detail.

What we do know is that the UK and Singapore have a common history, shared language, common law and legal system and, according to the DIT, similar technical standards. Although it is acknowledged that an FTA with Singapore might offer some insurance in the extremely unlikely scenario that Singapore decides to impose tariffs at the upper end of its WTO bound schedules, the extent to which the trade agreement removes tariffs and non-tariff barriers might be more benefit to Singaporean goods exporters to the EU and other businesses across the EU, which do not already enjoy the same volume of trade with Singapore that British businesses do.

Clearly, our burgeoning exports of Scotch whisky will benefit from the removal of the only tariffs imposed by Singapore on our goods, which is most welcome, but the obvious question is, who benefits and how? The Government have suggested that there will be an increase

[Barry Gardiner]

in UK exports to Singapore of £296 million, but have not conducted a proper calculation or carried out any assessment as to what sectors stand to benefit. Paragraph 7.6 of the impact assessment admits that no proper assessment has been carried out of the benefits of the trade agreement to the United Kingdom.

Instead, the Government have conducted an arbitrary calculation on the basis of our existing share of EU trade with Singapore, which has declined over the past decade. The Government have simply looked to the EU-wide impact assessment conducted by the European Commission and said, "That'll do," and apportioned the same to the UK without any proper analysis of their own about the future. On the same basis, they have suggested that there will be an increase in imports of some £607 million, which will have a substantial impact on our current trade surplus with Singapore. By their analysis, our balance of trade is projected to worsen.

Will the Minister tell us which sectors he anticipates will be most affected? Paragraph 7.32 of the impact assessment notes:

"Due to increased competition from Singaporean firms it is possible that some less efficient UK firms may have to exit the market",

as he reiterated in his response to the European Scrutiny Committee. Does he not believe that it would be proper and prudent to consider which sectors are at risk? A cursory glance at Singapore's top exports suggests that the country's primary goods exports include machinery and equipment, petroleum, chemicals and miscellaneous manufactured articles. However, Singapore has positioned itself as Asia's leading wealth management centre and a burgeoning financial services centre. While the Government's impact assessment gives no indication of how many jobs might be lost or in which sectors and firms—although it says that some may be—we might expect this impact to be felt most keenly in those sectors of our economy. I would be grateful if the Minister commented on that in his reply.

Those points are not mere Opposition cavilling. In fact, the Regulatory Policy Committee, in its report of 29 June, made trenchant criticisms in precisely this area, saying:

"The assessment should provide a more balanced analysis on the effects of competition resulting from trade liberalisation. For example, the Department states that UK firms will benefit from being able to bid for Singapore public procurement contracts but does not mention the increased competition for UK public procurement contracts resulting from EUSFTA. The Department outlines the impacts of greater market access between the UK and Singapore but does not mention the impacts on the UK of greater market access between the EU and Singapore. The assessment should provide a discussion of how the EUSFTA could lead to Singapore competing with the UK for EU business. In the RPC's initial review notice, the Department was asked to consider possible costs to the UK of greater market access such as skilled labour migration and/or greater competition for EU public procurement contracts. The Department did not include a discussion of these costs. The assessment would have benefited from providing a more balanced perspective on the costs and benefits of greater market access."

Regarding job losses, the Regulatory Policy Committee said:

"The assessment acknowledges that UK businesses may become less price competitive and experience a fall in domestic production. The Department should provide analysis of which sectors would be most affected by increased competition. It would have also been beneficial had the Department acknowledge possible increases in UK unemployment (especially for certain skills) as a result of increased competition faced by UK firms. The Department expects imports from Singapore to increase by £607 million in the long-run. Given the size of the potential increase in imports the assessment would have benefited from a more detailed analysis of how this could impact UK firms."

On the balance of trade, that Committee said:

"The Department argues that the FTA has a positive impact on UK GDP despite the fact that increases in UK imports (£607 million in the long run) are expected to be greater than increases in UK exports (£296 million in the long run). It does not provide a clear explanation of its reasons for believing this to be the case within the IA, but has provided relevant evidence in subsequent correspondence."

The Minister should have faced up to these questions. Some of them were presented by the hon. Member for Mid Dorset and North Poole.

The listing of geographical indications is another matter, and one that this Government seem minded to forget or ignore. If the Government were serious about growing our exports and opening up opportunities for British businesses overseas, one might imagine that they would follow the example set by other nations and seek protections for our famous products. We saw precisely zero geographical indications listed by the UK in the Canada trade agreement. The Singapore agreement lists just one. Certainly, it is right that Scotch whisky should be afforded protected status in the Singaporean agreement. However, what about all our other famous quality produce—Scottish salmon, Welsh lamb and beef, Jersey Royal potatoes, Stilton cheese and many more—which qualifies for protected status but which the Government have not sought to protect? The Government have made a choice. They would prefer a flood of cheaper imports, even if that would destroy those sectors and put an end to some of our special heritage producers.

Trade negotiations are always about balancing consumer and producer interests, but many now believe that the Government have got that balance wrong. They are prioritising reductions in consumer prices over economic growth, export growth and jobs growth. Having conducted no assessment of the existing non-tariff barriers to trade, and having failed to carry out a meaningful review of the impact of the trade agreement on our economy as a whole, the Government have instead focused on the potential costs to businesses of reading the trade agreement. Annex D of the impact assessment suggests that the only costs to business will be as a result of the time it will take people to read the text. The Minister should know that that is being openly laughed at by trade commentators and analysts. That the Department has expended time and resource on calculating how long it took to read the agreement, but has not committed any resource to investigating what it will mean for jobs in the United Kingdom, is farcical. It is no substitute for a proper analysis of the real impact on business. Perhaps the Minister will tell us what formal consultation his Department has undertaken with business that has led it to conclude that reading time is the real issue to be faced in relation to the trade agreement with Singapore. The Minister knows that after Brexit he cannot simply divvy up any EU impact assessment and pluck future specific UK figures from general EU ones. Why does his Department not undertake proper assessments now?

Under the terms of the draft withdrawal agreement the Government have sought to ensure that the deal with Singapore, among others, will continue to apply to the UK even once we have ceased to be members of the EU, until the end of the transition period. However, the legal application of that remains entirely unclear, and the House has been given little confidence that the Government believe they may be able to ensure such participation in the relevant trade agreements, or that a corresponding future trade agreement can be concluded in short order between the UK and those third countries. Have the Government received formal confirmation that the UK can participate in the trade agreements in question during the withdrawal period—from Singapore or, indeed, any of the third countries with which the EU has an agreement? Have the Government received formal confirmation from Singapore that it will not seek to negotiate any substantive changes to the terms of the agreement? Do they consider that it is, in fact, the best agreement for the future trade relationship between the UK and Singapore, rather than the EU and Singapore?

I now come to the investment protection agreement: the initial agreement between the EU and Singapore was referred to the European Court of Justice, which ruled in May 2017 that it touched on matters that were in the competence of member states and not of the EU operating under the common commercial policy. Specifically, the Court found that portfolio investment and investor protection aspects of trade agreements could not be concluded by the Commission without having been ratified by each member state at national and regional level, where appropriate. That followed widespread public outcry and political opposition across the European Union. Famously the Walloon Parliament in Belgium refused to ratify the trade agreement with Canada, because of concerns about its investment aspects—in particular the investor-state dispute settlement mechanism. That is now repackaged as the investment court system. Belgium has referred the matter to the European Court of Justice, to seek a ruling as to whether the investment court system is even compatible with EU law. Neither France, Germany nor the Netherlands have ratified that agreement, with the Dutch Government waiting on the ECJ ruling before determining how to proceed. In Germany, the issue is being heard before their domestic constitutional courts to determine whether the ICS is compatible with the German constitution.

It is because the progress of the investor protection aspects of the agreement with Singapore face the same opposition in principle, and lengthy delay in ratification, that the EU has seen fit to split out the agreement into two separate documents, such that a free trade agreement can be ratified post-haste, leaving the investment protection agreement to one side. The investment protection agreement contains an ISDS mechanism in the form of the investment court system, which has already been heavily criticised in the EU-Canada agreement.

ISDS mechanisms give superior legal rights only to foreign investors to raise disputes against Governments in order to petition for compensation where their profits, or even potential profits, are impacted by legislative or public policy decisions. This effectively allows companies to sue Governments when they legislate in the public interest—for example, when introducing plain packaging for cigarettes, national insurance, minimum wages or the banning of fossil fuels. These provisions have become increasingly commonplace in new generation trade agreements, resulting in widespread international public outcry against deals such as the Transatlantic Trade and Investment Partnership, the Trans-Pacific Partnership and the Comprehensive Economic and Trade Agreement.

It has always seemed to me a curious irony that the Conservative party opposes the ECJ on the grounds that it is a supranational court, but sees no fundamental problem in allowing foreign investors the right to challenge and strike out domestic legislation introduced in the public interest through a supranational court—power and rights specifically not afforded to our domestic companies. The proliferation of ISDS can encourage treaty shopping, whereby investors restructure their activities and establish them in countries where they may benefit from ISDS mechanisms should they seek to effect policy change or to petition for compensation.

It is increasingly likely that the UK could face costly and damaging dispute proceedings as more and more foreign investors are given such powers under these agreements, including the EU-Singapore investment protection agreement. The very threat of facing such a case, and the often substantial costs involved, even when the chance of winning is in the Government's favour, can clearly deter Governments from pursuing actions in the public interest—a "regulatory chill" effect.

It is not only European Governments who have expressed concerns about ISDS; many international Governments have refused to accept such chapters in trade agreements. South Africa, India and New Zealand have all stated their opposition to them, and New Zealand has gone so far as to sign side letters with five counter-signatories to the Trans-Pacific Partnership disapplying the ISDS provisions included in that agreement. Their rationale is that their respective domestic court systems are adequately capable of settling any disputes.

Indeed, if our courts are sufficient for British companies, why should they not be considered so for foreign investors too? The UK's has long been considered a safe legal system and, a significant proportion of global trade is governed by legal documents indicating the UK as the applicable legal jurisdiction. Why, in any event, should British taxpayers be on the hook for the ordinary commercial risks faced by foreign investors?

Recognising the flaws in the arbitration model of ISDS, the European Commission moved to a court-based system—the investment court system. That goes only some of the way to mitigating the risk of spurious claims being brought forward and ruled upon by pay-per-case arbitrators but does nothing whatever to address the perverse superior legal rights afforded to foreign investors, nor the underlying threat to public services and the ability of our Government to implement policy or to legislate in the public interest.

Furthermore, the UK has already entered into a bilateral investment treaty with Singapore, which came into force on 22 July 1975. The Minister advised the European Scrutiny Committee that that agreement would be suspended should the EU-Singapore IPA come into force. Should the UK leave the EU prior to the IPA coming into force, what will be the governing agreement for the UK's future relationship with Singapore? Will the Minister confirm that he is proposing to increase the protection afforded to Singapore companies wishing to challenge the UK Government from 10 years in the

[Barry Gardiner]

current bilateral investment treaty to 20 years, the sunset clause in the new agreement? It seems patently absurd to sign a document into force when the Minister admits:

"It is not anticipated that the IPA will be ratified by all Member States, concluded by the EU and have entered into force before the UK's exit from the EU, or indeed by the end of the Implementation Period."

The problem is far greater than the Minister seems to realise. The IPA is a mixed competence agreement requiring ratification in each of the EU member states individually. The ratification process will not commence until after the European Parliament has completed its own ratification of the agreement. The European Parliament vote is scheduled for 2019, so the national ratification process will not commence across the European Union until after the UK has left the EU.

We must remember that even if the EU's trade agreements continue to apply to the UK during the transition period, the UK will no longer participate in the structures of the EU during that period. Worse still, the Government's Trade Bill gives them the power to turn signed EU agreements into UK agreements even before they have been ratified by the EU, so at the end of 2020 we could be left in the absurd position whereby the EU-Singapore IPA has not been ratified but the UK has already copied its provisions into a UK-Singapore IPA, to replace our existing UK-Singapore BIT, and we are enforcing it unilaterally. Is it the Minister's intention that we should be bound none the less by the EU-Singapore IPA even if that agreement should come into force years after we have left the EU?

Of course, that remains somewhat dependent on the findings of the ECJ as to whether the investment court system and ISDS provisions are even compatible with EU law. Will the Minister tell us what assessment his Department has carried out in respect of that and precisely what it would mean for any agreement that the UK has entered into? In particular, if the UK has ratified such an agreement, exercising our own competence, as is the case with this agreement, could the agreement continue to apply even if struck down by the ECJ and thus no longer applicable across the remaining EU member states?

Clearly a number of substantive issues have not been properly addressed thus far by the Government. The European Scrutiny Committee has quite properly sought clarification, but sadly the Government have not seen fit to respond properly and fully to those concerns. Parliament must be afforded an opportunity for a timely and informed debate on our trade agreements and future trade relations with other countries. Such a debate must be supported by clear facts about: market growth opportunities; which barriers to trade are being removed or lowered; which sectors stand to gain or to lose; the impact on jobs in this country; and the rights afforded to foreign investors.

That said, we believe that the Singapore free trade agreement as it currently stands could be a model for a future UK-Singapore relationship. Had we been voting on that agreement alone, we would have supported the Government's decision to proceed with signing the agreement despite the appalling lack of facts and coherent analysis from the Government. That they have bundled that agreement together with the investment protection agreement, despite the clear policy and legal problems presented, means that we cannot possibly vote in favour of the motion.

5.19 pm

Mr Chris Leslie (Nottingham East) (Lab/Co-op): I had not intended to speak, but I have a number of criticisms of the Government. On the Brexit process, for instance, whether we keep existing free trade agreements or make new ones, will it be possible for agreements to be rolled over in time for exit day? I have real doubts about the Department's commitment to securing the arrangements for that.

The contribution by my hon. Friend the Member for Brent North prompts me to query the conclusions he has reached. He takes a similar stance on this agreement as he took to our trade agreements with Canada and Japan. As a party, we cannot take a purist, oppositionalist view to all potential trade agreements. No trade agreements are perfect. They all involve some degree of compromise. By no means do I say that the Singapore-European Union free trade agreement is perfect—I am sure, were we all individually in charge, we would all have far greater insight than the negotiators and be able to secure a far better deal—but I am worried that there are real firms, real jobs and a real economy in the real world that may be affected if we turned our face against all proposed trade agreements. It is therefore not responsible to oppose a motion that simply welcomes the proposed signature and conclusion of the EU-Singapore free trade agreement.

The motion notes the signature of the IPA. As I understand it, the Singapore-EU IPA is similar to the Canadian arrangement and far superior to that which was mooted in the proposed TTIP agreement with the United States. A number of objections were made to that, but as I see it, the proposal we are debating is more transparent and would have less impact on public procurement. We have to weigh up this whole question in the round.

At best, my hon. Friend may not be seeing the wood for the trees. If we turn our face against all future trade agreements, we may inhibit the trading gains and growth that we may be able to secure for our constituents. At worst, we are allowing the anti-trade ideological zeal from some quarters on the left to infect us against free trade arrangements more generally. It would be terribly damaging to allow the Labour party to get into that stance.

Barry Gardiner: I have delayed the Committee quite enough, so I do not propose to intervene for long, but I hope my hon. Friend understands that I made it clear that we in the Labour party would support the free trade agreement element of what we are discussing. We believe the Government have not handled the matter correctly. We believe that the impact assessment should have been much better, and that a number of questions rightly raised by the European Scrutiny Committee, which the hon. Member for Mid Dorset and North Poole put forward, should have been addressed much earlier. Having said that, we would support the free trade agreement element. There is no dispute whatsoever between my hon. Friend and I on that matter. We must enhance trade and let business in this country thrive, for the sake of our economy, jobs and growth.

However, the Government bundled the IPA in this way. They could have separated it out. In fact, the European Union has tried to separate these things out. This Government have not. That is their failing. They cannot expect us to swallow something that is, in policy terms and in logical, logistical and chronological terms, legally problematic along with the free trade agreement, which otherwise we would have accepted.

Mr Leslie: I heard my hon. Friend's argument the first time. As I said, we can take an absolute view—that unless we get 100% perfection in every area, we will vote against things—but we also need to take a view on our responsibilities with our vote. If my hon. Friend's very powerful speech persuaded all Committee members to take the same view that he did, the UK would turn down the ratification of the EU-Singapore free trade agreement and the British contribution, as we try to negotiate amicable and cordial relationships with the rest of the EU, would be to say "Get lost!" to the EU-Singapore trade arrangement. At this particular time, it would not be prudent, diplomatic or wise, especially as we are leaving, for the UK to sabotage the EU's trade arrangements with Singapore. I happen to think that we should support a Singapore-UK free trade agreement in these terms—I am glad to hear him say that. Obviously, I would want that to be rolled over.

This agreement is an important link to the ASEAN economies; it has net benefits for our constituents. As Vic Feather, the famous trade unionist from Bradford, once said, "If your boy comes home from school with 99 out of 100, don't hit him over the head." Sometimes we need to accept that there are gains to be had from being responsible and taking the best that might be on offer. Sure, it could be better and improved, but a responsible approach to trade at this particularly sensitive time in our negotiations with the European Union would not be to block the EU-Singapore trade deal. My hon. Friend may be right that it is a bit mischievous for the Government potentially to wrap these things together in the motion, but the motion is simply a "take note" motion. There are other ways and means of raising these particular issues. I am not minded to oppose the motion before the Committee.

5.27 pm

George Hollingbery: I would like to correct the record if I may, Sir Henry, because I called you Mr Bellingham throughout my remarks, which I am sure others noticed but I am afraid I did not, and I apologise.

With the leave of the Committee, I will respond briefly to the points raised by the hon. Member for Brent North. Non-tariff measures are very important, but it is not our analysis that they are better for Singapore than they are for the UK in these agreements. I refer the hon. Gentleman to graph 5 in paragraph 1.30 of the economic impact assessment, where he will find a considerable number of areas where Singapore imposes non-tariff measures—for example, instruments, clocks, recorders and reproducers, vehicles, aircraft and vessels, machinery and electrical equipment, base metals and articles, textiles and articles, and paper and paperboard.

The list goes on and on. Hon. Members may not have this document to hand, but by comparison there is another graph that shows the number of non-tariff measures applied by the UK on Singapore. There are almost none at all that we can evidence. The impact assessment absolutely does assess that, and it is quite clear to me on reading it that there are many more measures to be washed away by Singapore than there are by the UK. I will give a few more examples. Banks will be able to increase the numbers of branches, which was previously controlled. Insurance sales will be able to be made online in ways that were not possible before because of regulations. Substantial procurement opportunities will be opened up that hitherto did not exist because the entities being addressed were not included in the procurement schedule. There are all sorts of areas where the FTA opens up opportunities for British business.

On the sectors most affected by increased imports, I do not have the evidence to hand to give the hon. Gentleman, but my impression is that a good deal of what will occur in this area is import substitution, because an awful lot of what Singapore supplies to the UK is intermediate goods that go on to make other goods. I would expect the impact to be greater on substitution than on British companies. That is not to deny that there will be an impact; indeed, the impact assessment addresses that. I should probably say to him that the costs identified in the impact assessment, which he finds so risible, are about the cost of compliance or using the FTA. They are not costs to the British economy; they are simply the costs to businesses of taking on board the FTA and understanding it so that they can participate in that market. The actual net costs, as the FTA will affect the United Kingdom because of potential job losses and reductions in GDP, are accounted for in the £95 million figure. Therefore, they are properly modelled.

There are issues with the model, and I would not disagree with the hon. Gentleman that it is not entirely ideal, but the effects for the UK consumer and businesses as a whole, and for UK GDP, are undoubtedly positive. Furthermore, the estimates use bound figures for the liberalisation of services; basically, all they do is lock in calculations as to the certainty of the old rules now being completely complied with. They do not look at the potential for new services coming into the Singaporean market from UK companies and, despite the fact that this is a sensible, reasonable and rational estimate of £95 million, we believe that if we really bottom out, there are potentially much greater benefits to be had.

The hon. Gentleman asked questions about the participation agreements and whether they are confirmed in the EU mechanism, which I think I addressed in my opening remarks. The answer to the question about changes to the agreement, and whether we will use clause 2 powers from the Trade Bill to radically change this agreement, is unequivocally no. The clause 2 powers are there to transition agreements. That is not to say that there will not be some circumstances where it might be appropriate to use clause 2 powers to change that agreement; if they change slightly, if there are bodies that arise and fall away, that might well be something that we would look at in the future. However, it would be by far and away our preference to use clause 2 powers for transition alone. I do not rule out the fact that clause 2 powers exist and can be used for further work at a later date.

[George Hollingbery]

If and when it is agreed that both sides in this bilateral relationship feel it is appropriate for more work to be done on a future trade agreement that would substantially modify what has been transitioned for the sake of continuity for business and consumers, that will almost certainly come back as a future trade agreement and will therefore engender all the mechanisms that the Government have described around those. That would be made clear at the time; we make no judgment at the moment, but that mechanism exists to look at new free trade agreements and the Government will come forward with proposals at the time for what they want to do.

Of course, the clause 2 powers also carry with them substantial obligations to inform Parliament about how an agreement has changed, what the substantial nature of that change is and how any delegated legislation will enact the changes described. Parliament will remain totally informed of any changes that the Government propose under clause 2 powers. That is the compromise that was reached on the new clause 6 argument, which the hon. Gentleman will well recall. I believe the House accepted that as a sensible, transparent way of dealing with this issue, and of course it must be agreed in both Houses. If we have a new free trade agreement, that will undoubtedly come forward under the new mechanism that the Government have described, some elements of which are still being developed.

Barry Gardiner: I appreciate that the Minister is trying to answer the specifics of the questions I have posed. Do I take it that what he has just said is confirmation that the Government have not received formal confirmation from Singapore that Singapore will not seek to negotiate any substantive changes to the terms of this agreement? If that is the case, given that we have an existing bilateral investment treaty with Singapore, does he not see that there is a certain convolution—to put it no more strongly—in moving from an existing bilateral investment treaty to a future treaty that we are seeking to take as a roll-over now, which will then be subject to further clauses of negotiation to be a substantive further treaty in due course? Does he not see that as a somewhat otiose methodology?

George Hollingbery: I think all I want to add is that we currently have the bilateral investment treaty in place and any future trade agreements or any changes will go through the mechanisms. On our attitude to future investment treaties that go along with the free trade agreement, the thinking is not set on either side and those negotiations continue. I understand the hon. Gentleman's concern, but I do not believe it is a concern; I believe it is very straightforward. The Singaporean Government, through the Prime Minister, have made very clear indications to us that they will be willing to accept a technical replication and then—at a future date yet to be agreed and through conversations yet to be had—we will discuss future arrangements, but nothing is set in stone in that way.

On investment protection arrangements more generally, Committee members will know very well why these exist. If one signs free trade agreements and one wants one's companies to be able to invest in a foreign territory where there is the slightest question about the rule of law in that area—I do not necessarily apply that to Singapore in any way, shape or form, but there are plenty of companies out there looking for that level of confidence, which is a good thing to put in place—or simply if a company or investor decides to make an investment in a third-party country whose Government have undertaken to have in place certain arrangements that the business relies upon, then it seems reasonable to have in place some mechanism to pursue a dispute where promises have not been kept, if the investment was made on the basis that certain regulations or agreements would be implemented in a certain way.

I think this is probably just a difference of principle between us. It seems to me that the Labour party has an issue with this. I believe that such a mechanism makes it a great deal easier for companies to consider investing abroad, and I would have thought that it was something that we would want to encourage.

I thank the hon. Member for Nottingham East for his comments. I will be happy to engage with him on the rolling-over of existing trade agreements at some stage—although I note that I already have, in the International Trade Committee last week; in which case I will finally wrap up.

Today we have discussed the benefits of the EU-Singapore FTA. We have also heard the reservations and concerns of hon. Members. I truly believe that the FTA is a positive agreement for the UK, and that it is in our national interest to see that it is signed and concluded. Although it is not anticipated that the IPA will apply to the UK before we leave the EU or during the implementation period, it is only right that the UK ensures that fellow member states can get on with the business of ratifying the agreement by supporting signature and conclusion of this agreement. After all, we remain members of the European Union and we have obligations that we must fulfil.

As the UK asserts its position as a global champion of free trade, now and as we leave the EU, we will continue to play an active and supportive role in the development and delivery of EU trade policy. We will also continue to work together to ensure continuity of our trading relationship as we leave the EU. I have been clear about the Government's commitment to engaging further with Parliament as we develop our independent trade policy, and we will continue to work with stakeholders across the whole of the UK. I commend the Government's motion to the Committee and urge members to support it.

Question put.

The Committee divided: Ayes 8, Noes 3.

Division No. 1]

AYES

Churchill, Jo	Lopez, Julia
Grant, Mrs Helen	Seely, Mr Bob
Hollingbery, George	Tomlinson, Michael
Leslie, Mr Chris	Wood, Mike

NOES

Gardiner, Barry	Peacock, Stephanie
Glindon, Mary	

Question accordingly agreed to.

Resolved,

That the Committee takes note of European Union Document No. 7966/18 on the signature of the proposed agreement along with Addenda numbered 1 to 13 and European Union Document No. 7967/18 on the conclusion of the proposed agreement along with Addenda numbered 1 to 13; welcomes the proposed signature and conclusion, on behalf of the EU, of the EU-Singapore Free Trade Agreement; further notes European Union Document No. 7973/18 on the signature of the proposed agreement along with Addenda numbered 1 to 2 and European Union Document No. 7974/18 on the conclusion of the proposed agreement along with Addenda numbered 1 to 2; and further notes the signature and conclusion of the proposed Investment Protection Agreement between the EU and its Member States and Singapore.

5.39 pm

Committee rose.