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GENERAL COMMITTEES

Public Bill Committee

TAXATION (CROSS-BORDER TRADE) BILL

Third Sitting

Thursday 25 January 2018

(Morning)

CONTENTS

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Monday 29 January 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 25 January 2018

(Morning)

[Karen Buck *in the Chair*]

Taxation (Cross-border Trade) Bill

11.30 am

The Chair: Good morning, everybody. Before we start, I will read out a few paragraphs about Committee arrangements. Some people are extremely familiar with all of this and a few are not, so just bear with me. As a general rule, I and my fellow Chair do not intend to call starred amendments, which have not been tabled with adequate notice. The required notice period in Public Bill Committees is three working days. Therefore amendments should be tabled by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for consideration on Tuesday.

Not everyone is familiar with the procedure of Public Bill Committees, so let me briefly explain how we will proceed. The selection list for today's sitting, which is available in the room, shows how the amendments selected for debate have been grouped together for debate. Amendments grouped together are generally on the same or a similar and related issue. The Member who has put their name to the lead amendment in the group is called first. Other Members are then free to catch my eye in order to speak to the amendments in that group. A Member may speak more than once depending on the subjects under discussion.

At the end of the debate on a group of amendments, I will call the Member who moved the lead amendment again. Before they sit down, they will need to indicate whether they wish to withdraw the amendment or seek a decision. If any Member wishes to press any other amendments in the group to a Division, they will need to let me know. I will work on the assumption that the Government wish the Committee to reach a decision on all Government amendments.

Please note that decisions on amendments take place not in the order that they are debated, but in the order in which they appear on the amendment paper. Decisions on new clauses will therefore be taken at the conclusion of the line by line consideration of the Bill. Where it is not already indicated on the selection list, Mrs Main and I will use our discretion to decide whether to allow a separate stand part debate on individual clauses or individual schedules.

Clause stand part debates begin with the Chair proposing the Question, "That the clause stand part of the Bill." There is no need for the Minister, or any other Member, to move that a clause stand part of the Bill. We now move to line by line consideration of the Bill.

Clause 1

Charge to import duty

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

The Chair: With this it will be convenient to discuss clause 2 stand part.

The Financial Secretary to the Treasury (Mel Stride): Good morning, Ms Buck; it is a pleasure to serve under your chairmanship. It is also a pleasure to see some familiar faces on the Opposition Benches as we debate this important Bill.

Clause 1 provides that customs duty is to be charged with reference to the import of goods into the United Kingdom, in accordance with part 1 of this Bill; part 1, of course, deals with import duty. As members of the Committee will be aware, the UK's current customs duty regime is set out in EU law. That legislation will cease to apply to the United Kingdom following our departure from the EU. This Bill makes provision for the establishment of a UK customs duty regime. The regime established by this Bill seeks as far as possible to replicate the effects of the existing EU provision. The aim of doing so is to ensure that on day one, operators who currently pay EU customs duty will see very little change in the process that is to apply following the establishment of the new UK regime. Clause 1 establishes the new charge to tax and provides that import duty is to be chargeable. Such a provision is a fundamental requirement of any tax regime.

Clause 2 provides the definition of chargeable goods, a term used throughout the provisions relating to import duty. The concept of goods being chargeable is fundamental to any import duty regime and therefore its meaning needs to be set out explicitly on the face of the Bill. As I explained, part 1 of the Bill sets out the UK's new regime for import duty, which will be needed once we complete the process of withdrawal from the European Union. In doing so, it takes as its starting point the EU legislation, which currently provides the rules for import duty, and replicates them within domestic legislation. The virtue of doing so is that the majority of importers will see no change to the process by which they pay import duty. This principle applies to rules for determining which goods are liable for import duty or, to use the language of clause 2, to the way in which "chargeable goods" are defined.

Clause 2 is relatively straightforward. It sets out the basis upon which customs duty is to be charged. Clearly not all goods are liable for customs duty. The most obvious examples are goods that were made in the United Kingdom and have never left the country, or goods from abroad on which duty has already been paid. Clause 2 therefore uses the concept of domestic goods to define when goods are not to be treated as chargeable for the purposes of customs duty. It sets out that chargeable goods are any goods that are not domestic goods.

Domestic goods are defined in clause 33, and Members will have the opportunity to consider that definition in greater detail later in Committee. In essence, domestic goods are any goods on which no import duty is due,

either because any duty has already been paid or because they were manufactured in, or originate in, the United Kingdom.

Clause 2 is straightforward. The concept of goods being chargeable forms a fundamental cornerstone of the UK's import duty regime. I therefore recommend that both clauses stand part of the Bill.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3

OBLIGATION TO DECLARE GOODS FOR A CUSTOMS PROCEDURE ON IMPORT

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

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

That schedule 1 be the First schedule to the Bill.

That schedule 2 be the Second schedule to the Bill.

Mel Stride: Clause 3 does two important things: first, it establishes an obligation to declare goods that are imported into the United Kingdom; and, secondly, it introduces the concept of declaring goods for a specific customs procedure. Those are the basic building blocks of the UK's new import duty regime.

The need to declare goods for a customs procedure is fundamental to any import duty regime. The procedure for which goods are declared determines when liability to import duty arises. The clause goes on to introduce another fundamental part of a customs regime—the customs procedures for which chargeable goods may be declared.

The purpose of importing goods may be to make them available for use in the UK, in which case they can be declared for a procedure known as free circulation, at which point they incur a charge to import duty. However, it is not always the intention to make goods freely available when they are imported into the United Kingdom. Goods are often brought to the UK for different reasons, such as to put them into customs warehouses for the time being, or to transport them through the UK on the way to another destination outside the country. In situations such as those, a business may declare the goods for a special customs procedure.

Special procedures either defer when a liability to import duty is incurred, or reduce the rate of import duty applicable to goods, provided of course the relevant conditions have been satisfied. Without those procedures, a business would have no option but to declare imported goods for the free circulation procedure and incur any import duty up front.

UK businesses currently rely extensively on special procedures, which together provide reliefs worth hundreds of millions of pounds each month. The provision made by the clause is supplemented by the detailed rules set out in schedules 1 and 2, to which I shall now turn.

Schedule 1 sets out the obligations to present and declare goods to customs on import. Many of the matters covered are of an administrative nature, such as the information that a declaration must contain or the time limits for when it must be made. I am sure that the Committee would not wish me to explain all those matters in detail, but I should highlight one important matter in which I think the Committee will be interested.

Paragraph 3 of the schedule enables Her Majesty's Revenue and Customs to specify when goods must be declared before they are imported into the UK. That is an important point. Steps might be needed to reduce the risk of disrupting the flow of traffic at locations where goods need to be cleared quickly through customs. An obvious case in point is a port such as Dover, where significant amounts of goods arrive on roll-on roll-off ferries. It would clearly be of great help, in a situation such as that, to require the goods in question to be declared before their arrival at the port. That situation is therefore addressed by the schedule.

Schedule 2 deals with special customs procedures. There are five in all, namely: storage, transit, inward processing, authorised use and temporary admission. I will briefly describe their purpose.

A storage procedure allows imported goods to be stored without incurring liability to import duty. The goods must be kept in an approved facility, such as a customs warehouse or a free zone. There are currently no free zones in the UK, but should an area be so designated, provision may be made under the Bill for its operation.

A transit procedure allows goods to move between two places in the UK without incurring import duty. For example, goods from another country can pass through the UK en route to another destination, or goods within the UK can move from a customs warehouse to a port for re-export without needing to be declared for free circulation.

An inward processing procedure allows goods to be imported into the UK with the purpose of undergoing a qualifying processing activity without incurring a charge to import duty at that point. Once the procedure is discharged, goods may be exported without any import duty being due. Alternatively, a business may decide to declare the processed goods for free circulation in the UK and incur duty at that point.

An authorised use procedure is designed to assist certain industries by allowing a zero or reduced rate of import duty to apply to goods brought to the UK for a specific use. Finally, a temporary admission procedure allows for a relief from import duty for goods that enter the UK temporarily and for a particular reason. For example, that procedure applies when artworks situated overseas are brought to the UK on loan for display in a public gallery.

Taken together, the special procedures I have outlined exist to support trade fluidity and facilitate the movement of goods into the UK. Provision made by and under schedule 2 will allow HMRC to operate these special procedures. The obligation to declare imported goods is essential to an effective customs regime, and an effective customs regime must include special procedures that offer businesses in the UK the simplifications and reliefs that they rely on.

Kirsty Blackman (Aberdeen North) (SNP): It is a pleasure to serve on the Committee, and to take part in the scrutiny of this important piece of legislation.

[Kirsty Blackman]

The Minister is right to talk about the administrative nature of the clause and its associated schedules. It appears to be the Government's position that the UK will choose to leave the customs union. We are not yet clear whether they will pursue another form of customs union with the EU, but if they do not, or if they do not manage to get a customs union with the EU, it is likely that significantly more customs declarations will be required because we will not have those coming from the EU.

My concern about the clause arises from Tuesday's oral evidence sessions, and it would be useful for the Minister to provide an update on that. Various organisations expressed concerns about the resourcing of HMRC and Border Force. Border Force is the first line for many imports, ensuring that customs declarations are made appropriately and that all appropriate processes are followed.

On HMRC, the concern was that no customs officers will be based north of Glasgow or Edinburgh. If goods are coming in to places such as Inverness, it is a three-hour drive for people to get there and look at those goods. What assessment has the Minister made of the extra resourcing that HMRC will need to fulfil the obligations in the clause and the schedules? Reasonable concerns have been expressed by businesses and organisations.

Mel Stride: I welcome the hon. Lady to the Committee and thank her for that initial contribution.

In terms of where the final deal with the European Union lands, whether we have a form of customs union with the remaining 27 members is subject to negotiation. The Government have made it clear that we wish the end point to be the facilitation of trade between ourselves and the remaining 27 members of the customs union. The Bill provides for that end point to be as close as possible to the existing rules and regulations around the Union customs code; that is very much what the Bill seeks to achieve. At the same time, the Bill retains the flexibility to ensure that we can put into effect the necessary and appropriate measures no matter where the deal lands—or, indeed, if there were to be no deal at all with the European Union, as we certainly do not expect.

The hon. Lady raised the important issue of HMRC resourcing. As we move towards our day one scenario—whatever that may finally look like—I assure her that the Government are vigorously engaged not just with issues around HMRC's human resource requirements, but with other infrastructure requirements, whether for hard infrastructure or information technology systems such as the Customs Declaration Service, which will be important.

To address her particular issue, the head of HMRC has made it clear that his feeling is that we will need between 3,000 and 5,000 additional staff across HMRC to ensure that we cover off, wherever the day one deal lands. For an organisation of well in excess of 50,000 personnel, such an increment in staffing, particularly given that some will be reallocated rather than entirely new recruits, is perfectly manageable.

11.45 am

In terms of the money required to ensure that we are ready, in the Budget the Chancellor allocated £3 billion—£1.5 billion for each of the next two years—to ensure that we are sufficiently resourced. We are currently in conversation with HMRC to establish what further additional financial assistance it requires.

Anneliese Dodds (Oxford East) (Lab/Co-op): I am grateful to you for being in the Chair, Ms Buck. If I may, I will question the Minister on his explanation. I am grateful for it, but on Tuesday we learned that after HMRC's ongoing restructuring programme there will not be a single HMRC hub north of Edinburgh and Glasgow, nor will there be one anywhere along the south coast, including Dover. We heard ample evidence in the witness sessions that that is the busiest and most concerning port from the point of view of customs procedures going wrong. In the light of that evidence, should we reconsider that HMRC reorganisation programme?

Mel Stride: I welcome the hon. Lady to the Committee. She mentions the location of the new HMRC hubs as they are rolled out, and I will make two important points. First, Border Force, which is very much part of the frontline, is in the Home Office's remit, not HMRC's. Secondly, proximity to the hubs or otherwise is not critical in determining whether HMRC provides the support that Border Force and other agencies require. The absence of a hub close to a need does not mean that HMRC staff cannot be in proximity to that point; they do not need to be based constantly at any one hub.

Peter Dowd (Bootle) (Lab): May I pick up on that? I will not repeat what my hon. Friend the Member for Oxford East said, but try to reinforce the seriousness of the evidence witnesses gave on Tuesday. Mr Runswick said:

> "HMRC is closing offices in places such as Southampton…So we think that there will be a real struggle to deliver the work that HMRC does with Border Force in that situation. My union believes that HMRC should pause the office closure programme until it is clear what the Government will need HMRC to do in a post-Brexit situation."—[*Official Report, Taxation (Cross-Border Trade) Public Bill Committee,* 23 January 2018; c. 37, Q45.]

I want to tease out a little more from the Minister. Does he recognise that argument at all? It seems to be business as usual.

Mel Stride: I welcome the hon. Gentleman to the Committee. He reiterates the point that the hon. Lady just made, so I will spare the Committee a repeat of every element of my answer. However, specifically with relation to the points made in the evidence session by Mr Runswick, the trade unions have been resistant to the changes to HMRC wholesale, right across the piece. Therefore, when it comes to arguments about whether HMRC can be effective in clamping down on avoidance, evasion and non-compliance, bringing in tax yield and so on, the argument has been run that we need a number of offices in multiple locations to do that.

The critical answer is that the very nature of running an efficient tax system and customs regime needs technology, the right skills and the right people. That lends itself to having a concentration of such individuals in hubs, where skills and IT can be developed and brought in to be effective. Without repeating my answer to the hon. Gentleman's hon. Friend, the Government and HMRC

are clear that the configurations of the new hubs will lend themselves to appropriately support the new customs regime.

Kirsty Blackman: Other than the resourcing, which the Minister has fully addressed, I am concerned about the geographical issue. We do not want people to be a number of hours' drive from the customs officials. Can the Minister give us some comfort that even though there might not be hubs in the area, there will be customs officers based closely and able to respond on a 24-hour basis?

Mel Stride: I can certainly assure the hon. Lady that the situation as it will pertain when we move to the new hubs—we are making some assumptions about what exactly the end point of the negotiations will be—will be sufficient to make sure we have a customs regime that works, that is low friction, and keeps trade moving and raises revenues on the duties that we may or may not apply.

Emma Hardy (Kingston upon Hull West and Hessle) (Lab): On resourcing, to add to the points already made, I want to double-check this because the first time I saw it I did not believe it was true, but it is. In December you asked for volunteers to be deployed to help plug the gaps in the UK's Border Force. There had already been an acknowledgment that it did not have the number of people needed and you called for volunteers, which was opposed by Conservative MPs, who said they did not want to see a return to a Dad's Army protecting the UK. Are you still planning to plug the gap with volunteers or will people be employed?

Mel Stride: I will take the hon. Lady's references to "you" as not meaning the Chair of this Committee, but me. The issue that she has raised, which ran in the press a few weeks ago, relates to an issue for the Home Office and Border Force, not HMRC. It is outside the immediate scope of this Bill. I know that at least one Minister in the Home Office was able to refute those suggestions, but I will not dwell on that in this Committee.

Nic Dakin (Scunthorpe) (Lab): The other thing that came out in the evidence was the concern about the loss of experience at a critical time. Is the Minister giving us a strong assurance—I think he is—that there will not be any problems as we move forward? If there are any problems, the Minister and HMRC will be jointly and severally responsible.

Mel Stride: I thank the hon. Member for his very helpful intervention. Of course Ministers have responsibilities for the areas that they oversee. I can assure the hon. Gentleman that I have had discussions with HMRC staff, including the head of HMRC, and we have looked specifically at the right mix of skills and people, so I am confident that we will have the right team in place to meet the challenges ahead.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Schedules 1 and 2 agreed to.

Clause 4

WHEN LIABILITY TO IMPORT DUTY INCURRED

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

Mel Stride: The clause determines when a liability to import duty is incurred. This is a necessary part of establishing a stand-alone customs regime as both businesses and HMRC need to know the point at which any money is due. The clause sets out a framework for determining the point at which liability to import duty is incurred. The general rule for importers wishing to release their goods for free circulation—that is, to discharge all customs obligations—is that the liability is incurred when HMRC accepts their declaration. For example, if a business were importing electronic goods from east Asia and declared the goods for free circulation, the liability for import duty would arise when HMRC accepts that declaration.

Similarly, the general rule when importing something under the temporary admission or authorised use procedures is that liability is incurred when HMRC accepts the declaration, but at a reduced rate. However, to facilitate trade and support businesses, liability can be deferred. In cases where goods are declared for a transit procedure, inward processing or a storage procedure, liability does not occur at the point when HMRC accepts the declaration, although liability may arise at a later date. The clause also makes further provisions governing these situations, including the consequences for liability purposes of the incorrect usage of the special procedures or their breach. The clause makes it clear when liability to import duty is incurred.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

GOODS NOT PRESENTED TO CUSTOMS OR CUSTOMS DECLARATION NOT MADE

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

Mel Stride: Clause 5 deals with cases where goods imported into the UK are either not presented or not declared to HMRC. Where that is the case, it provides for the goods to be liable for forfeiture. It is essential to have rules that cater for situations in which someone fails to meet their obligations when they import goods into the UK. The clause provides such a rule: it makes imported goods liable to forfeiture if they have not been presented or declared to HMRC. That simply mirrors the existing position in EU law that applies in such cases.

The clause also makes it clear that such goods remain liable to import duty at the same time that they are liable to forfeiture. It is essential that appropriate sanctions are in place to deal with failure to meet the requirements of the import duty regime. That is what clause 5 provides in cases where goods are not present or declared to HMRC.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

PERSON LIABLE TO IMPORT DUTY

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

The Chair: With this it will be convenient to discuss clause 7 stand part.

Mel Stride: Clause 6 establishes who is liable to pay any import duty on goods imported into the United Kingdom. It is essential to establish who is obliged to actually pay import duty when it becomes due. The clause establishes the series of rules that do just that.

The rules set out by the clause illustrate a fundamental principle of the import duty regime, namely the link between the making of a customs declaration and the liability to pay an import duty that might be due. In cases where procedures have been followed correctly and the information provided is accurate, the liability for duty falls upon the person named on the declaration, or on whose behalf the goods have been declared. That could be the importer of the goods and/or an agent appointed to act for them. The basic rule is supplemented by other rules that apply in less straightforward circumstances: for instance, in cases where goods are not declared, the liability to pay duty falls on the person who is in possession or control of the goods when they arrive in the UK.

The clause also caters for other situations in which the rules have not been followed. They include cases where someone has provided false information when they make a declaration, or where they have not followed obligations imposed upon them, such as those that are imposed when goods are subject to a special customs procedure. In such cases, a person who has provided false information or who has breached the obligation can be liable for import duty. The clause also makes it clear that where the liability falls to two or more persons, the clause provides that they are jointly and severally liable for the import duty. It is essential to establish who is liable to pay import duty in all circumstances in which such liability arises. That includes making those who provide false information in connection with declarations liable for import duty.

Clause 7 contains no powers, but introduces the clauses in the Bill that will be used to set the amount of import duty applicable. The customs tariff will apply in all cases, but may be amended or adjusted to change the standard rate of duty in certain circumstances. The clauses referred to in this clause ensure that. The customs tariff will set out the rate of duty applicable to imports of goods into the United Kingdom. The tariff is made up of import duty rates for product categories. The standard customs tariff that the UK currently applies as a member of the EU is made up of more than 17,000 tariff lines.

The customs tariff established under clause 8 will contain the duty rates that apply to all imports from every country unless varied by another clause. The following clauses in the Bill enable the variation of the standard rate of import duty. For example, the UK will be able to reduce import duty when goods are imported under a preferential trade agreement, where preferential rates are granted unilaterally to developing countries. Parliament will also be able to reduce duty rates for applying a tariff suspension or relief, such as for items imported for educational, scientific or cultural purposes.

There are also circumstances where we may apply higher duties. For example, additional import duties can be applied when imports are causing injury to UK industry, as long as such additional duties are applied in line with our obligations as a member of the World Trade Organisation.

Clause 7 introduces the provisions under which we will establish our own tariff regime on leaving the EU. I suggest that clauses 6 and 7 stand part of the Bill.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8

THE CUSTOMS TARIFF

12 noon

Kirsty Blackman: I beg to move amendment 104, in clause 8, page 5, line 27, after "other", insert "relevant".

This amendment requires the Government to classify goods in regulations giving effect to the customs tariff only in relation to relevant factors.

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

Amendment 105, in clause 8, page 5, line 38, after first "the", insert "number".

This amendment clarifies that goods may be defined for the purposes of the import tariff simply by reference to their number.

Amendment 118, in clause 39, page 27, line 5, after second "to", insert "number".

This amendment clarifies that goods may be defined for the purposes of the export tariff simply by reference to their number.

Kirsty Blackman: I mentioned during Second Reading that the Law Society of Scotland had produced a paper on the Bill, and I offered to provide the Minister with a copy. If he does not yet have one, I am still happy to do that. The paper explains more fully the rationale behind these three amendments.

The amendments are not necessarily about changing the tack of the Bill; they are about making better law and ensuring that the law is clearer. I will quote a short extract from the paper submitted by the Law Society of Scotland. It states that,

"the power under clause 8(1)(a) to classify goods 'according to their nature, origin or any other factor' is a very broad one. At the very least, this should be limited to 'any other relevant factor' but it would be preferable to limit the scope of this provision by giving an indication of the types of factor which might be appropriate in this context."

So, in our amendment, we have taken up the "very least" option suggested by the Law Society of Scotland. It seems a bit extreme for the Minister to be able to make changes or decisions on "any" factors, some of which may not be relevant. Adding the word "relevant" would ensure that, under the clause, the Minister was stuck to making changes or decisions in relation to relevant factors. It is simply a small technical change that would tighten up the way the law is written.

Similarly, amendments 105 and 118 are very small technical changes that the Law Society of Scotland suggests would be preferable or useful additions to the clause. It suggests that clause 8(3)(b) say, "the number, weight or volume of the goods or any other measure of their quantity or size." Again, the aim is just to tighten up the language and ensure that the laws that we are starting off with in this wonderful Brexit Britain are as good and clear as possible and can be interpreted, if they need to be—by a court, for example—in the best possible way. As I said, they are very small technical changes, and I would appreciate it if the Minister would consider them.

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

The UK currently applies duty to imports to the UK under the Union customs code. The standard duty rates of the UK, as a member of the EU, are contained in the common external tariff. When we leave the EU, this Bill will require the Treasury to establish and maintain a customs tariff that will, among other things, specify the rate of import duty applicable to goods. The UK is working with the WTO to establish the UK's bound tariff schedule. That schedule sets the maximum rate of import duty that a country may apply to imports. The UK can then choose what rate to apply, provided it is at or below the bound rate. Import duty rates specified under this clause must be consistent with those international obligations.

Clause 8 sets out what must be contained in the customs—

The Chair: Order. May I remind the Minister that there will be an opportunity for a general debate on clause 8, but not necessarily at this point? He should be responding specifically to the amendment.

Mel Stride: I am sorry, Ms Buck. I assumed that we were also debating that clause 8 stand part. My apologies. I will turn specifically to the amendments tabled by the hon. Member for Aberdeen North. Although she may see them as clarifying matters, the Government's view is that they are additional and unnecessary amendments to areas where no further clarification is required.

Kirsty Blackman: Just to be clear, it is not just me who sees them as necessary in terms of clarification; it is the Law Society of Scotland, which, I assume, knows quite a lot about the law, and therefore feels that these are appropriate changes that would be helpful in terms of the actual law.

Mel Stride: I thank the hon. Lady for that intervention and I fully appreciate that she is taking up recommendations made by the Law Society of Scotland, but let me comment on the two fundamental points she has raised.

First, relating to the relevance—that relevant considerations should be taken into account. The relevance of having the word "relevant" in there, prompts the question whether anybody would ever take decisions based on things that were entirely irrelevant, or at least not relevant. If one went down the road suggested by the hon. Lady, the word "relevant" would probably be inserted in multiple places throughout all the legislation that we ever pass in this House. It is understood that rational Ministers and others would take relevant decisions, rather than irrelevant decisions.

Secondly, before I go too far down this tongue-twisting route—

Anneliese Dodds *rose—*

Mel Stride: Will the hon. Lady indulge me for a second? Parliament—through secondary legislation and in many cases in this Bill—will have the opportunity to test whether any of these measures are being taken on the basis not only of relevant considerations, but of all sorts of other considerations that will be taken into account as to whether these measures that come forward should proceed.

As to the specific point about the amendment relating to the insertion of the numbers, that clause already refers to reference or consideration being made of the quantity of the goods concerned. I think the meaning of the word "number" is, in that context, subsumed by the meaning of the word "quantity". The Government have received the opinion that the clause already does that which the hon. Lady would like to see it do, namely ensure that the number of goods is also relevant to the function of that particular clause in the legislation.

Anneliese Dodds: It is just a brief—the Minister may feel, facetious—comment, but in the Help-to-Save regulations that we recently discussed there is reference to sufficient proof of death from a GP being required. The Government apparently felt that the word "sufficient" was necessary in that context, but most people would think it was not necessary if there is proof of death. Therefore, if an expert body such as the Law Society of Scotland feels that a word such as "relevant" is required, perhaps I would take its word for it.

Mel Stride: I am not a legal expert. I obviously appreciate that different words have different meanings in different legal contexts, but from the Government's point of view, we are satisfied that there is not a requirement to have the word "relevant" inserted. That would be superfluous—to throw in another term—as would be the insertion of the word "number", for reasons I have given to the hon. Member for Aberdeen North, because it would not affect the functioning or meaning of that clause.

Kirsty Blackman: I am not going to press the Minister on the word "number", but on the word "relevant", I think the Minister dug a hole when he was talking about "rational" Chancellors or Ministers in the Treasury. We are looking at ensuring that this regulation is future-proof, ensuring that if a Minister is not as reasonable as the one standing here, we can ensure that they are held to making relevant regulation. The clause states:

"The Treasury must make regulations establishing, and maintaining in force, a system which…classifies goods according to their nature, origin or any other factor".

[Kirsty Blackman]

The Government are asking for this House to give them a significant level of delegated authority. They are asking for us to trust the Government, or any future Government that come after, in relation to making these regulations. In this case they are asking us to trust the Treasury. I think the Government can understand why there may be a lack of trust at the moment, given that we have been promised things that have not been followed through on. It would not be too much to ask to insert the word "relevant" into that clause, so that in future, if we do not have as rational a Minister as this one, we can ensure that they have to make the regulations on the classification of goods on relevant factors, rather than on ones that may be irrelevant.

Mel Stride: I reiterate that the Government are not in the business of taking irrelevant factors into account when they make decisions. I give that assurance equally in respect of the Opposition and other parties when they are or have been in government.

The hon. Lady also raises the issue of delegated legislation. At the introduction of the tariff, delegated legislation will be in the form of an affirmative statutory instrument that will be fully considered by a Committee, passed or otherwise by it and agreed to or otherwise by the House. A higher level of delegated legislative scrutiny will also apply to every occasion on which a duty is increased, as opposed to decreased. There is provision in the Bill for a higher level of scrutiny for the introduction of the tariff and for elements of its operation thereafter.

Kirsty Blackman: I thank the Minister. I would like to press amendment 104, but not the other two in the group.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 1]

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.

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): I beg to move amendment 1, in clause 8, page 6, line 1, 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 import duty.

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

Amendment 78, in clause 8, page 6, line 6, 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 import duty.

Amendment 106, in clause 8, page 6, line 6, 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 customs tariff in its standard form.

Jonathan Reynolds: This amendment requires the Treasury to have regard to the interests of manufacturers in considering the rate of import duty. UK manufacturing makes a vital contribution to the British economy each year. According to House of Commons Library research published in 2017, it accounted for 8% of jobs in the UK, which is 2.7 million; £177 billion of economic output, which is 10% of the UK's total; and 57% of UK imports, to the value of £243 billion. On a personal note, I remain one of the vice-chairs of the all-party parliamentary group on manufacturing. In my constituency, those figures are roughly double the national average.

Manufacturing industry is significantly exposed to Brexit in a number of ways, the first of which is the export relationship. The UK exported goods worth £134 billion to the EU in 2015. In other ways, manufacturing industry is more reliant on imports, as many goods are imported to be used in the manufacturing supply chain. It is well known that the UK has a negative balance of trade at present; in 2016, that deficit was £98.7 billion.

Secondly, keeping the supply chain flowing freely is essential and time-critical. For example, while giving evidence to the International Trade Committee in February 2017, Nissan said that its Sunderland plant—a place very close to my heart because that is where I grew up—holds only half a day's stock and uses 5 million parts a day, 60% of which are imported. As such, Nissan has said that any disruption to its supply chains would be "a disaster".

Thirdly, supply chain imports are also heavily exposed to movements in the price of sterling, which has become considerably more volatile since the referendum result, with the pound losing 15% of its value against the euro between June and October 2016. Sterling's weakness against the euro continues, with the pound still 14% below its pre-referendum levels.

12.15 pm

The fact that the UK is a member of the EU single market and customs union means that, at present, there are no tariffs on goods traded between member states. There are no quotas or limits on the quantity of goods that can be traded between member states. Non-tariff barriers to trade have been eliminated, which means that there are common technical specifications and labelling requirements throughout the EU, and all member states set the same tariffs for goods imported into the EU from non-EU countries. The result is that there is almost no need for customs checks for goods entering from the EU.

So we cannot underestimate the scale of the shift that is about to take place. There are major decisions to be made about how we approach trade remedies and duties, to allow British manufacturing to continue to succeed.

For the first time in decades, those decisions will be taken away from the EU's collective decision-making bodies and made here in the UK. It is therefore of central importance that we listen to what manufacturers are saying, as they navigate this process in parallel with the legislative movements we are making today.

The representatives of manufacturing industry who helpfully attended the evidence session on Tuesday 23 January, amply illustrated why this consultative approach is important by raising considerations best understood by those operating directly at the coalface. As Dr Laura Cohen of the British Ceramic Confederation explained, the ceramics industry holds major hesitations about the Bill, and those will need to be addressed as secondary legislation is introduced. The first of those is in regard to dumping. Dumping is a major issue, which the EU is working to combat, and which has in the past had a major impact on many aspects of the UK, most recently the UK steel industry, which I will go into more detail about shortly. As Dr Cohen highlighted, there are pressing concerns in her industry about how the dumping margin will be measured, and there is currently no methodology at all in the Bill in relation to that. Significant EU activity is currently under way with regard to dumping, but the challenge that we have is that because our policies on this issue have been led by the EU, the UK needs to develop its own institutional knowledge in this area.

As Ian Cranshaw of the Chemical Industries Association explained during the last evidence session, in his consultation with one German company it noted that it had no trade remedy personnel in the UK at all, and if it wanted advice on how to deal with a trade remedy issue, would need to consult headquarters in Germany. Obviously it would be wrong to extrapolate that the UK has no policy expertise at all in trade remedies, but it is worth noting that as our policies in this area have historically been developed in tandem with the EU, it stands to reason that we may need to invest in more capacity to ensure that we have the right bank of knowledge and expertise.

Ian Cranshaw noted that the exception is UK Steel, which has been active on this issue in recent years. That is because the UK steel industry has been especially vulnerable to dumping. Perhaps the most notable example was Tata Steel's well-publicised difficulties in 2016, which were in part owing to imports of cheap Chinese steel. Some media commentators alleged that the UK was part of a blocking minority of member states that had resisted EU efforts to toughen anti-dumping legislation that would have allowed for retaliatory tariffs.

Nic Dakin: My hon. Friend is setting out the case for the measures he is arguing for very strongly. He may or may not agree, but it seems to me that it is important that, when considering what to do, the actions he is talking about need to be taken.

Jonathan Reynolds: I agree. Every member of the Committee will recognise my hon. Friend's constituency interest and expertise in this area. I felt that the evidence that UK Steel gave us earlier in the week was particularly helpful in being prescriptive as to where it believes the Bill falls short. As an industry, it is especially susceptible to gaps in trade remedy legislation given the historic damage that dumping has done to the sector.

Nic Dakin: The opportunity of leaving the European Union ought to be to speed up these processes, and to give greater confidence to the industry rather than less confidence.

Jonathan Reynolds: That is absolutely the case. Gareth Stace from UK Steel told us last Tuesday:

"The Government can promise anything they like, but more than a third of all tariffs in place affect the steel sector and it hits us hard, therefore, if this system, when it comes out, is not appropriate for what it is trying to do."—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 68-69, Q105.]

That will clearly result in huge problems for the sector.

UK Steel's main reservation with the Bill is the lack of detail, as my hon. Friend has said, which is present on a number of fronts where it believes the industry needs more certainty. Secondary legislation is being relied upon to provide a huge amount of the practical information we need. One of UK Steel's specific concerns is around investigations relating to the dumping of foreign subsidies that can cause injury to UK industry. As related by Dr Cohen in her testimony, to which I referred earlier, there is no information on how dumping margins are to be calculated.

UK Steel goes further and sets out a list of other considerations that should be taken into account, including how to assess whether a UK industry has been injured; how to determine if such injury has been caused by the dumped or subsidised imports; what principles may be used in defining the products covered by an investigation; how subsidies can be defined; what evidence an industry needs to produce to trigger an investigation; how to conduct an investigation, including any time limits; and how to require guarantees to cover possible future duties when provisional measures are required. It is a long list and I could go on, but in the interests of the Committee's time I will not. However, it serves to illustrate the point that there are a number of multi-layered and complex considerations to take into account.

I also want to underline that this is not a matter of protectionism. As Gareth Stace also made clear in Tuesday's evidence session:

"The steel sector thrives on free, liberalised trade. A third of all steel produced in the world is traded across borders."—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 67, Q104.]

At present there are zero tariffs between developed nations for steel trade. It was his belief that, without trade remedies, there will be an increase in protectionism, as they are essential to allowing free trade to take place. I thoroughly endorse that message.

The upshot of such deputations is that manufacturers are not asking for special measures from the outset, but pointing out that we are on the cusp of a complex world post-Brexit and they need more detail. It has been the Government's choice not to include such detail in the Bill and it is too late to make that change now. It is clear, however, that the lack of certainty that results has not been optimal for our manufacturing sector and has inhibited its ability to make plans and prepare for the future.

As UK Steel has highlighted, the legislation lays out the bare minimum needed, delegating all detail to secondary legislation. It is true that we are on a tight timeline for negotiations, but there is a wealth of global legislation

[Jonathan Reynolds]

that could have been drawn upon to help inform the Bill, such as the US Tariff Act of 1930, the Canadian Special Import Measures Act, the EU Regulations 2016/1036—

The Chair: Order. The Member is straying slightly outside the remit of the amendment and needs to bring it back.

Jonathan Reynolds: Well, Ms Buck, I am just pointing out that it was possible to put in detail. If that is not in the Bill, we have to have amendments that allow for the detail to be included.

The Chair: Pointing out needs to be done within the scope of the amendment.

Jonathan Reynolds: The Opposition are asking for the Government to offer reassurance to manufacturers by enshrining consultation into subsequent procedures. Clearly there are a great many things to consider, which may be made clear only by close consultation with the industries themselves. We are concerned that there is potential for an abuse of power by subjugating the process to secondary legislation, which is subject to considerably less parliamentary scrutiny. For the final time, I refer to UK Steel's words:

"UK industry needs to be able to ascertain what its rights in domestic courts will be to challenge the decisions of the Trade Remedies Authority and the Secretary of State"—

The Chair: Order. I repeat that talking about the secondary legislation matter is not within the scope of the amendment. Please come back to the scope of the amendment.

Jonathan Reynolds: Okay. I will take your advice on that, Ms Buck.

Over the course of the Committee's remaining days, given the amendments we are due to consider, I believe there will be a fuller debate about the issues I have mentioned. However, as things stand, we appear to be shackled to this process and it is therefore vital to enshrine a right of consultation for manufacturers to guarantee the future of UK industry and the 2.7 million jobs bound up within it. No one wants to see a Brexit underpinned by a race to the bottom, leaving the UK susceptible to a repeat of the events that punished Tata Steel in 2016. We cannot risk these being repeated in the rest of the UK manufacturing sector. Parliament must work with and listen to those on the front line, consider their input and let them guide us on what we need to succeed as a global economy in a post-Brexit world, drawing on existing best practice from around the world.

I call on the Committee to support the Opposition's amendment, to enshrine the right to consultation, to protect British jobs and British manufacturing, and to guarantee that our post-Brexit economy does not leave British industry out in the cold.

Kirsty Blackman: This aspect of the clause is about

"considering the rate of import duty that ought to apply to any goods",

and we have tabled amendments. The Government have chosen not to include in this provision a reference to "any other factor" or even the preferable "any other relevant factor", but have laid down a number of factors that they are believe are relevant in this case. Both the Scottish National party and the official Opposition, with amendments 1, 78 and 106, are trying to increase the number of factors that will be considered when the rate of import duty that ought to apply is being considered. The clause already includes

"the interests of consumers…the desirability of maintaining and promoting…external trade…the desirability of maintaining and promoting productivity…and…the extent to which the goods concerned are subject to competition."

On amendment 1, I associate myself with many of the shadow Minister's remarks about the importance of manufacturing. It has been concerning that the Government have not taken into account the interests of manufacturing in many of the actions that they have taken. Therefore, it would be useful for the House to have the comfort that the Government would have to consider the importance of manufacturing when they were making these decisions.

The Scottish Government are in a much better place in that, in relation to steel and Tata Steel specifically, we have saved the Lanarkshire plants, and we have worked with BiFab. If the UK Government had previously taken actions like that, we would be in the much better position of feeling that they would be likely to protect the interests of manufacturing. We are therefore happy to associate ourselves with the Labour amendment.

Amendment 78 has been suggested by Traidcraft. I will talk about exactly why Traidcraft says that it is important. The UK has signed up to the sustainable development goals. They are incredibly important for the future of the world—for our children and our children's children—in ensuring that there is sustainable development. Traidcraft says:

"It is therefore vital that consideration of sustainable development is contained in primary legislation to avoid the potential for the UK to inadvertently contravene its global commitments…If sustainable development were added to this list it would ensure the Government were able to fulfil its global commitments."

That is a strong message from Traidcraft about this aspect of the clause. Because, as I said, the Minister has not included in it "any other relevant factor", we want to be clear that the Government are protecting the interests of manufacturers, but also the interests of the future of the planet.

Amendment 106 is in my name and that of my hon. Friend the Member for Dunfermline and West Fife. Again, the factors that the Minister is required to consider when setting the rate of import duty are not wide enough. We suggest including a reference to the public interest generally, so that the Minister and the Treasury, in making these decisions, would be required to look at whether the public interest generally would be served by the rate of import duty that they were imposing.

All three proposals are relevant considerations for the long-term future of manufacturing which, given the not-very-good productivity in the UK, is hugely necessary and something that we need to protect. I do not know how anybody could argue with looking at sustainable development, given that the future of our planet is at stake. On the point about the public interest in general, we are all here to represent our constituents—we are

here to ensure that their views are heard in this place—so it is completely reasonable that the Minister and the Treasury, in making any rules under this aspect of the clause, would consider the public interest generally, as well as the other four factors already mentioned.

Nic Dakin: In opening the debate, the Minister helpfully said that the intention was to introduce things in a way that did not disrupt things that were currently going on. The advantage of amendment 1 is that it would help to bring that about by adding in "the interests of manufacturers" as part of the test. It would give confidence to manufacturing areas.

I speak as somebody who represents a steel town. The confidence of manufacturers and the people who work there, who are also significant consumers in the local economy, is important because those manufacturing sectors desperately need investment in capital and in new ways of working to remain competitive in a competitive world.

The Minister and the Government would do well to consider that, because it would assist in delivering continuity—the outcome that the Minister set out at the beginning—and the confidence necessary for the investment we need. We cannot delay investment, although that might happen, because that would mean delayed opportunity. One of the Government's overriding responsibilities is to put confidence into the system so that the risks of leaving the European Union are diminished and the opportunities are enhanced.

12.30 pm

Anneliese Dodds: I shall speak to amendment 78, which has already been referred to. To be clear, we already have a list in the Bill of different considerations that ought to apply when calculating the rate of import duty for goods in a standard case, which includes,

"the interests of consumers…maintaining and promoting the external trade…maintaining and promoting productivity…the extent to which the goods concerned are subject to competition."

That is why we suggest that we should have a holistic look at other matters that should be considered.

That is particularly important when it comes to the calculation of import duties with a view to environmental sustainability. When the current chief co-ordinator at the World Trade Organisation, Christiane Kraus, was at the World Bank, she spelled out reasons why environmental considerations might be relevant to the setting of trade parameters, in the absence of other mechanisms for promoting global environmental common goods. We may well be entering a period where it is very difficult to get international agreements on environmental matters, not least because of the direction of the American Administration, so it seems sensible to retain the possibility of so-called eco-tariffs in the Bill.

In addition, even inside the EU's customs regime, there is evidence of illegal waste trading. Revelations from the Environmental Investigations Agency concerning the toxic trade in cathode ray tubes from the UK to Nigeria and Ghana make for very disturbing reading.

It is absolutely appropriate that we refer to sustainable development in relation to import duties, and to refer to it in this clause would rectify the fact that there is no mention in the rest of the Bill—I was very surprised by this—of the many factors relating to sustainable development that are otherwise covered by the EU customs regime. There is no mention of the environment, aside from the competitive environment; of forestry, aside from in relation to trading stamp schemes; or of chemicals, waste or wildlife. That is a significant departure from the EU customs regime.

The EU's rules around authorised economic operators indicate that, for a company to become a member of that scheme, it needs to show that it does not have a record of serious infringements, including infringements against environmental legislation. EU legislation is clear that that status can be suspended if there is a threat to public safety, the protection of public health or the environment.

Many other areas in the customs regime that reference or have cross-connections with accompanying EU legislation are not picked up in the Bill. EU forest law enforcement, governance and trade—FLEGT—covers a licensing scheme for timber. That is relevant to import duty costs, because the importer is liable for the cost of the verification of any licences and of the translation of any paperwork related to its enforcement. Illegal, unreported and unregulated fishing is strictly controlled through EU regulation. Trans-boundary shipments of waste must comply with the 2006 EU waste shipment regulation.

The CITES treaty applies to wildlife, so we would still be covered by that when we leave the EU, but the EU goes further—that is incorporated in the overall customs regime. For example, there are regulations about documentation and labelling and a longer list of species upon which import controls are applied for the EU compared with under CITES. Finally, when it comes to measures about trade in environmentally-damaging chemicals, we have EU-level quotas on ozone-depleting substances and carbon-producing F-gases, and a notification procedure for other potentially dangerous chemicals.

I accept that in all those areas we could be asking for lots of different amendments to try to rectify some of these problems—I am sure Members will try—but having that environmental sustainability criterion for assessing import duties in the Bill, and placing it near the start, will raise its profile, which the Government sadly seem not to have considered at all when putting the Bill together. That is worrying given the prominence of these matters within the EU's existing customs regime.

Peter Dowd: It is a pleasure to serve under your stewardship, Mrs Buck. I hope that, as in the sessions on the Finance Bill, we will have a major climbdown—the Minister and other members of the Committee will note that from that Bill.

The SNP amendment 106 would require the Government to have regard to the public interest in considering the rate of customs tariffs on our exit. It would add a public interest test to the four existing conditions that the Bill requires the Treasury to have regard to when deciding to apply customs tariffs to goods entering the United Kingdom. Those existing conditions in the Bill are the interests of consumers, the desirability of promoting external trade, the desirability of promoting productivity in the UK and the extent to which goods are subject to competition.

Members will note that, throughout the passage of the Bill, we have been seeking to ensure parliamentary scrutiny. We will continue to do so. In one of the

[Peter Dowd]

evidence sessions, we heard from one witness, Kathleen Walker Shaw, the European officer of the GMB union, who said that she spent many evenings drafting her union's response to the trade White Paper only to find eight hours later that the Bills had been published. I think that it is fair to say that that was not a particularly isolated view in the session.

The Opposition have concerns about the specifics of the SNP amendment, which means we take a slightly different approach. We believe that, in key sections of the Bill, the public interest is being used as a mechanism to widen the powers of the Secretary of State. That is perhaps most pronounced in schedule 4, which empowers the Secretary of State to reject a recommendation of the Trade Remedies Authority based upon a belief that it is not in the public interest. I respect people's beliefs, but in this forum they have to be based on evidence, and I am not sure that we will get much of that. We have tabled a number of amendments of our own, and I want to dwell on them.

It is incumbent on me to point out that public interest is not defined in the Bill. That leaves a good deal of room for manoeuvre for the Secretary of State to determine the public interest, without appropriate parameters about precisely what it means. Precision is not one of the endearing features of the Bill. We are happy for the Government to have powers to take the public interest into account in certain circumstances, but only on the basis that it is concretely defined in primary legislation. That is yet another lacuna in the Bill, and a stubborn point that will be addressed time and again in these proceedings.

The Minister used the example of national security in the evidence session on Tuesday. That does seem a useful definition of public interest, and we believe that national security should provide an explicit limit to the definition of public interest in the Bill. We know, after all, that the Secretary of State has some novel ideas about what the public interest might be. They are views that ostensibly focus on the needs of the consumer over the producer. However, it has to be said that that is a one-dimensional approach taken by the Government, which was laid bare in the witness session. In response to the Financial Secretary's question about consumers potentially being disadvantaged compared to producers, Ms Crawford responded:

"Consumers are also workers who are employed in some of these industries, and they will not benefit from having unfair trade practice disadvantage them and the quality of their goods. That is something we must bear in mind."—[*Official Report, Taxation (Cross-border Trade) Public Bill Committee,* 23 January 2018; c. 42, Q53.]

That is a more sophisticated definitional approach than the Government's.

Although we support the efforts of the Scottish National party to introduce checks and balances, we have concerns at this stage. In that regard, we cannot support the amendment. I hope the hon. Member for Aberdeen North will take our statement in good faith.

Mel Stride: We have had a wide-ranging debate on this group of amendments, much of which covers matters that we will come to later in the Bill. I will focus my remarks on the details of the amendments and the clause.

The hon. Member for Scunthorpe rightly pointed out that I said earlier that the Government's intention was to ensure that we had a minimum of change in the regime, for the obvious reason of providing familiarity and certainty to businesses. That is an important point and it is why clause 8(5) takes precedent from the Treaty on the Functioning of the European Union. It is very much grounded in where we currently are, as opposed to venturing out to pastures new, some of which would be unfortunate or inappropriate, or so the Opposition would have us believe.

The hon. Member for Oxford East mentioned authorised economic operators, which we will come to in clause 22, to make the general point that a number of things do not appear in the Bill, such as our habitats and various other things in existing EU legislation. On AEOs, the Bill introduces powers in clause 22 that will allow us to address exactly those elements when HMRC and the Treasury come to lay regulations as to, for example, what qualifications there might be to become registered as a certified AEO. Those kinds of issues can be picked up at that time and scrutinised further by the House.

The meat of clause 8 is in subsection (5), which states:

"In considering the rate of import duty that ought to apply to any goods in a standard case, the Treasury must have regard to…(a) the interests of consumers in the United Kingdom"

and

"(b) the desirability of maintaining and promoting the external trade of the United Kingdom".

It is hard to see how that would not have to take into account the manufacturing element and the health of the manufacturing sector. Subsection (5)(c) states that the Treasury must have regard to

"the desirability of maintaining and promoting productivity in the United Kingdom,"

It is very difficult to see how the manufacturing sector, which represents around 10% of the UK economy, could be entirely ignored or in any sense neglected. Subsection (5)(d) states that the Treasury must have regard to

"the extent to which the goods concerned are subject to competition."

I suggest that manufacturing would be core to any decisions on the setting of duties made in that context.

Subsection (6) states:

"In considering the rate of import duty that ought to apply to any goods in a standard case, the Treasury must also have regard to any recommendation about the rate made to them by the Secretary of State."

As the Committee will know, the term "Secretary of State" refers to any Secretary of State in any Department, so on concerns relating to sustainable development, the relevant Department—

Kirsty Blackman: Actually, subsection (7) goes on to say that the Secretary of State

"must have regard to the matters set out in subsection (5)(a) to (d)",

and not to other factors such as sustainable development.

Mel Stride: The hon. Lady has pre-empted my next point. Although subsection (7) does say that, it does not say that the Secretary of State cannot have regard to any other matter—it does not exclude. It would be strange if a Secretary of State was told that they had to

have regard to those four aspects when considering an issue and they took that to mean that they could not consider any other aspect. I draw the Committee's attention to that aspect of the Bill.

On the specific case of sustainable development, we will debate and scrutinise the provisions in the Bill that accommodate setting up our unilateral trade preferences, which are extremely important in the context of sustainable development. On those grounds, I urge the Committee to reject the amendments.

12.45 pm

Kirsty Blackman: Specifically on what the Minister has said, it is clear from various evidence we have received that the Government have not chosen simply to replicate things such as the Union customs code. In some places they have chosen to replicate it, but in others they have chosen not to. The concern is that the Government's judgment has not been great in choosing which parts to replicate and which parts not to replicate. The measure has clearly been drafted in a hurry. From the Minister's argument in relation to what the Secretary of State would have regard to, it is clear that this section of the legislation has not been particularly well thought through.

Opposition Members are not asking for unreasonable things. Having regard to sustainable development is completely reasonable. If the Minister is clear that that will be looked at anyway, or if the Secretary of State decides to get involved in any decision, it does not cost anything to add that into the Bill. If the Minister is clear that the Government will consider the interests of manufacturers because they are integral, it does not cost anything to add that into the Bill. It would be useful and helpful to businesses and would be a nice sign of confidence in businesses. It would be great for the Government to not just talk about increasing productivity, but to say to manufacturers, "We will support you and ensure that your interests are protected." If the Minister is clear that such things are going to happen anyway, it would not cost the Government anything and they would lose nothing, but it would ensure that people feel more positively about the Bill.

Mel Stride: I will be brief because the Committee is anxious to make progress and move on to some important clauses. I will not repeat the earlier comments that I made other than the overarching comment, which is that the provisions in the Bill as drawn are very broad and will pick up on the concerns that the hon. Lady has raised.

Jonathan Reynolds: I appreciate the Minister's response and his words of reassurance, but if he were being fair-minded he would acknowledge that there is still significant uncertainty and concern in UK industry, particularly in the manufacturing sector. As the evidence session showed the other day, there are more known unknowns than anything else in this area, and amendments that seek to mitigate that and provide more reassurance are reasonable and prudent, so we would like to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 2]

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.

Jonathan Reynolds: I beg to move amendment 2, in clause 8, page 6, line 9, at end insert—

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

(c) 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 the rate of import duty.

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

Amendment 3, in clause 11, page 8, line 18, at end insert—

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

(c) 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 the rate of import duty.

Amendment 4, in clause 12, page 8, line 40, at end insert—

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

(c) 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 set lower rates of import duty.

Jonathan Reynolds: I will endeavour to take a little less time on amendment 2, Ms Buck. My enthusiasm and enjoyment of a Bill Committee perhaps gets the better of me at times.

The amendment would require the Treasury to have regard to the recommendations of any relevant Select Committee or those contained in a resolution of the House of Commons in considering the rate of import duty. This goes to the heart of how the Bill is constructed and how we will seek to scrutinise it. For reasons we have already covered, the Bill is very much an outline framework Bill, the details of which must be added at a later date. That relates to the way in which the negotiations have progressed. We must think about how to ensure that there is no democratic deficit in how the detail of

[Jonathan Reynolds]

the Bill is filled in, and that the core objective of Brexit—greater democratic control for the House of Commons—is achieved.

The Opposition recognise the need for the Government to make the necessary preparations to create the UK's customs and tariff regimes post-Brexit, but we do not accept that that means allowing the Government to concentrate all those powers in the Executive. It is the Opposition's view that, in this instance, the Conservative interpretation of taking back control has simply meant moving it from Brussels to Whitehall. That is true not just of this Bill but of many parts of the Brexit legislation. In our view, tariffs should undergo the same parliamentary process as taxation, with similar levels of parliamentary scrutiny.

In the evidence sessions on Tuesday, we heard about the sheer diversity of areas that could be affected and that will need input into the detail of the Bill. We believe that Select Committees could play a crucial parliamentary role in providing some of that detail. If the Select Committees were allowed to engage with a wide range of stakeholders to contribute to the Government's evidence base, we believe that it would widen the debate. It would also provide for a critical role in holding the Government to account. Select Committees' ability to compel witnesses to appear to give evidence would allow them to interrogate Ministers about the consequences of some of the details of the secondary legislation and process as it unfolds, which could be invaluable. It could also help build political consensus by identifying common ground between different groups of politicians, which is especially important given how divisive Brexit has been thus far.

Lastly, Select Committees could engage with the media and public, which would be a key contribution to the transparency of the process, accountability and scrutiny. Where there is potential in the Bill for trade decisions to be made seemingly unilaterally by the Secretary of State, having public and transparent debates through parliamentary Select Committees could be critical. I therefore urge the Committee to vote in favour of the amendment, which would be a significant step towards ensuring that we make every effort to handle this once-in-a-generation event with the parliamentary scrutiny, accountability and checks and balances that it demands.

Kirsty Blackman: I have previously complained about the composition of Public Bill Committees, given the UK Government's gerrymandering so that they can have a majority in Bill Committees despite not having a majority in the House. The change would mean that scrutiny would be done effectively, and not just by Committees with a majority of Government representatives who will win every vote by 10 to nine. The amendment is incredibly important and would ensure effective and appropriate scrutiny, and make for better legislation.

Mel Stride: Amendment 2 would require the Treasury to consider recommendations made by a relevant Select Committee or a resolution of the House of Commons when considering the rate of import duty that ought to apply in the standard case.

The Treasury will listen closely to recommendations from a range of interested parties, including relevant Select Committees and, of course, Members of the House. In addition, Select Committees already have the power to question Ministers on policy within their departmental remit, and the Treasury will answer any questions from relevant Select Committees. Therefore, the Government believe that it is not necessary to include that in the Bill.

Amendment 3 would place the same obligation on the Treasury when considering what provisions to include in regulations related to quotas, such as determining the rate of import duty applicable to goods that are subject to quotas, and amendment 4 would introduce that requirement when making regulations concerning tariff suspensions. For the same reasons that I set out in relation to amendment 2, the Government do not believe that it is necessary to include such provisions in the Bill.

I have one final point in response to the point made by the hon. Member for Aberdeen North about scrutiny and needing provisions in the Bill. This Bill will, of course, have Report stage, which will be an opportunity for scrutiny by a far wider group than a Committee on which the Government might typically have a majority of one. Every Member of the House will have an opportunity to participate in that debate and consideration of further amendments.

Peter Dowd: The amendments seek to ensure that the Treasury must have regard to any Select Committee recommendations or House of Commons resolutions in two circumstances: first, when setting the rate of import duty on a specified good; and secondly, when lowering the rate of import duty on specific goods. Through the amendments, we seek to improve the mechanisms of accountability and ensure that any decision taken by the Treasury on duties and tariffs is taken on the basis of a democratic approach to the management of our economy, with a full and proper place for Parliament and its constituent parts.

We want the UK to have a full and functioning customs system in place when we leave the European Union. The powers transferred in the Bill give the Chancellor, the Secretary of State or others the ability to restructure the entire economy at a few strokes of a pen, without any consultation with those affected by changes to our customs regime. That is deeply concerning for anybody.

Since the Government failed to win a majority at the recent general election, we have seen numerous attempts to centralise power within ministerial portfolios, reducing the role of Parliament and the scrutiny of Government decisions, as has been alluded to on a number of occasions today. The Bill is yet another example of that trend. As the Lords Delegated Powers and Regulatory Reform Committee made clear, the current trend is towards a "massive transfer of power" to the Executive and away from Parliament. Every parliamentarian in this room should be deeply concerned about that because, at the end of the day, we get £75,000 a year to come here and scrutinise the Government and we are not being allowed to. We are therefore seeking to introduce the checks and balances necessary to ensure that a future customs framework and its operation continue to have proper democratic scrutiny and oversight. Stakeholders should be brought into the process.

The amendments would introduce an advisory capacity for Select Committees or the House in the process of determining import duties. That would broaden the number of those who have a democratic role in supporting

and informing decision-making. That is what we are here for. Currently, as the Lords Committee made clear, the Bill provides 150 separate powers to make tax law. We are merely suggesting that widening the number of parliamentarians who can influence those decisions is a matter of building a genuinely rigorous democratic process.

Crucially, as hon. Members are aware, Select Committees are made up of Members from across the House. That cross-party approach can only support a proper decision-making process on the important issue of customs tariffs. We hope therefore that Members will consider the benefits of including the expertise of a Committee or the House in general within the vital process of examining evidence and providing independent advice—the Government may not wish to hear that advice, but it should nevertheless be given to them. Ultimately, that can only help to support the work of the Treasury in achieving the best outcome, regardless of party concerned.

It is reasonable in distillation to assert that Mr Blackwell from the Hansard Society said that there is a problem that

"the balance between Parliament and the Executive...has always been on the side of the Executive"—[*Official Report, Taxation (Cross-border) Public Bill Committee,* 23 January 2018; c. 51, Q71.]

This is a chance to rebalance that. Given the extent of delegation to Ministers set up in this Bill and other Brexit Bills, the role of Parliament is being downgraded. The Government know that; Members in this room know that; consumers know that; and producers know that and the public know that. The Government should think on that. Frankly, they should come clean, have the courage of their convictions, acknowledge it publicly and, in so doing, stop hiding behind what for many people are the vagaries of procedure—negative, affirmative and so on. We ask the Committee to support our amendments today in the interests of democratic scrutiny.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 3]

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.

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

12.59 pm

Adjourned till this day at Two o'clock.