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Public Bill Committee

TRADE BILL

Fourth Sitting

Thursday 25 January 2018

(Afternoon)

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Monday 29 January 2018

The Committee consisted of the following Members:

Chairs: † Philip Davies, Joan Ryan, James Gray, Sir David Crausby

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Cummins, Judith *(Bradford South)* (Lab)
† Esterson, Bill *(Sefton Central)* (Lab)
† Gardiner, Barry *(Brent North)* (Lab)
† Hands, Greg *(Minister for Trade Policy)*
† Hughes, Eddie *(Walsall North)* (Con)
† Keegan, Gillian *(Chichester)* (Con)
† McMorrin, Anna *(Cardiff North)* (Lab)
† Prisk, Mr Mark *(Hertford and Stortford)* (Con)
† Pursglove, Tom *(Corby)* (Con)
Rashid, Faisal *(Warrington South)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stewart, Iain *(Milton Keynes South)* (Con)
Vickers, Martin *(Cleethorpes)* (Con)
† Western, Matt *(Warwick and Leamington)* (Lab)
† Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*
† Wood, Mike *(Dudley South)* (Con)

Kenneth Fox, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 25 January 2018

(Afternoon)

[Philip Davies *in the Chair*]

Trade Bill

2 pm

The Chair: We now begin line-by-line consideration of the Bill. The selection list for today's sitting, which is available in the room, shows how the selected amendments have been grouped for debate. Grouped amendments generally deal with the same or similar issues. Please note that decisions on amendments take place not in the order they are debated, but in the order they appear on the amendment paper. The selection list shows the order of debate; decisions will be taken when we come to the clause an amendment affects.

I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following debates on relevant amendments, but it will certainly help if right hon. and hon. Members, including Ministers and shadow Ministers, stand if they wish to speak on clause stand part.

Clause 1

Implementation of the Agreement on Government Procurement

Hannah Bardell (Livingston) (SNP): I beg to move amendment 33, in clause 1, page 1, line 15, at end insert—

"(1A) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of the Scottish Ministers (within the meaning given in paragraph 7 of Schedule 1), unless the Scottish Ministers consent.

(1B) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of the Welsh Ministers (within the meaning given in paragraph 8 of Schedule 1), unless the Welsh Ministers consent."

This amendment would ensure that the consent of the Scottish Ministers or Welsh Ministers is required for any regulations that deal with matters within the competence of devolved authorities in Scotland and Wales.

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

Amendment 34, in clause 2, page 2, line 40, at end insert—

"(7A) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of the Scottish Ministers (within the meaning given in paragraph 7 of Schedule 1), unless the Scottish Ministers consent.

(7B) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of the Welsh Ministers (within the meaning given in paragraph 8 of Schedule 1), unless the Welsh Ministers consent."

This amendment would ensure that the consent of the Scottish Ministers or Welsh Ministers is required for any regulations that deal with matters within the competence of devolved authorities in Scotland and Wales.

Amendment 36, in schedule 1, page 7, line 24, at end insert—

"(4) This paragraph does not apply to regulations made under section 1(1) or 2(1) by the Scottish Ministers or the Welsh Ministers."

This amendment would give the Scottish and Welsh Ministers power, by regulation, to amend direct EU legislation that forms part of domestic law on and after exit day in devolved areas.

Amendment 37, in schedule 1, page 8, line 5, at end insert—

"(4) This paragraph does not apply to regulations made under section 1(1) or 2(1) by the Scottish Ministers or the Welsh Ministers.

Requirement for consultation in certain circumstances

3A (1) No regulations may be made by the Scottish Ministers or the Welsh Ministers acting alone under section 1(1) or 2(1) so far as the regulations are to come into force before exit day unless the regulations are, to that extent, made after consulting with a Minister of the Crown.

(2) No regulations may be made by the Scottish Ministers or the Welsh Ministers acting alone under section 2(1) so far as the regulations make provision about any quota arrangements or are incompatible with any such arrangements unless the regulations are, to that extent, made after consulting with a Minister of the Crown.

(3) In sub-paragraph (2) 'quota arrangements' has the same meaning as in paragraph 3."

This amendment would replace the requirement for the Scottish and Welsh Ministers to obtain the consent of the UK Government when acting alone under section 1(1) or 2(1) with the need to consult before making such regulations.

Hannah Bardell: It is a pleasure to kick off what I think we all agree is a hugely important debate. We are pleased that the amendments were selected.

It is important to say at the outset that our amendments to clauses 1 and 2 would ensure that the principles of devolution are safeguarded in the Bill as the UK leaves the EU. Just over 20 years have passed since devolution, and it is important to pause for thought. There has been a lot of discussion—on Second Reading and in the public discourse—about how the cross-party agreement that brought us devolution and the Parliaments and Assemblies of the devolved nations of the UK all those years ago is threatened. Much in the Bill drives a coach and horses through the cross-party agreements that brought huge changes to the devolved nations of the UK. I say to fervent defenders of the United Kingdom that by threatening devolution and devolved powers—the Scottish National party has set out 111 areas in which they are under threat—the Bill threatens to undermine the Union.

We agree with the provision in clause 1 that aims to ensure continued access to Government procurement markets after the UK leaves the EU, but we believe that UK Ministers should have to seek consent, not just to consult. During our debates on the European Union (Withdrawal) Bill, the Prime Minister promised that the devolved nations of the UK would be consulted. As we know, it has not been possible to seek proper consultation in Northern Ireland because of the situation there; we look forward to seeing what happens in Northern Ireland and what threat that poses. However, I think it is fair to say that the devolved nations do not really feel that consultation has happened. For us, consultation and consent are absolutely the bottom line.

Amendment 33 would ensure that the consent of the Scottish Ministers or the Welsh Ministers is required for any regulations made under clause 1 that deal with matters within the competence of devolved authorities in Scotland or Wales. The Library briefing for the Bill states:

> "If responsibilities for much of procurement law move from the EU to the UK with Brexit, there are questions about who takes on these responsibilities. At present, responsibilities for procurement are generally either devolved or set at the EU level."

The devolved legislatures in Scotland and Wales implement EU directives directly.

Let me draw on a specific example. Procurement is probably quite a dry and technical subject to many people, but it is very important. Back in 2008, we had a big challenge with superbugs and sickness in hospitals in Scotland, as did much of the UK. Through Government procurement measures, we were able to take contracts with private firms back under Government control. That was absolutely vital. If our amendments are not agreed to and we are unable to guarantee our procurement rights, there is a risk that they will be lost in the 111 areas I mentioned.

My Labour colleagues should think very carefully, given that it was their party that was instrumental in devolution. Labour should be congratulated on that. Labour Members must reflect on the impact of the Bill and the opportunity presented by the amendments, which have been laid with a degree of cross-party consensus and support. If we choose to push the amendment to a vote—obviously we will listen to the full debate—it would be excellent to have their support, and perhaps that of some Government Members. They might deem the promises made to Scotland in the past to lead not leave the UK, to be an equal partner—all those words and rhetoric—to be not rhetoric, but something that Members actually stand by.

On amendment 34, we agree with the provision in clause 2 that aims to provide continuity to existing trade deals that the UK is part of by virtue of its EU membership. There are about 40 trade deals, with more than 60 countries. We have heard a huge amount of evidence from a number of different organisations, including today from Devro, a company that makes sausage skins—we might argue that there will be no breakfast after Brexit if Devro is not able to produce the skins for sausages. We also heard from Hologic, a company I visited some time ago that operates in my Livingston constituency. Its representative spoke about the importance of consultation and consent and the involvement of the devolved nations.

We believe that UK Ministers ought to seek the consent of devolved Ministers when amending the law in devolved areas. The amendment would assure that the consent of Scottish or Welsh Ministers is required for any regulations made under the provisions of clause 2 that deal with matters within the competence of devolved authorities in Scotland and Wales.

I ask colleagues on both sides of the Committee to think about when trade deals are being negotiated. I know the Bill is about transferring current deals across, but it is also about what happens beyond that; it is about the framework that is put in place and ensuring that that framework is good and robust for everybody in the UK, wherever their business is and wherever they live. It is incredible to think that we would not get support, particularly from our Labour colleagues, on ensuring that the devolved Administration in Wales, whoever that may be, would have a say and would be able to give consent on the decisions that are made for those businesses.

Mr Mark Prisk (Hertford and Stortford) (Con): Let us say a major treaty was going forward that was in the interests of Scottish whisky, for example. Is it the hon. Lady's position that Welsh Ministers should be able to veto that?

Hannah Bardell: Those are things that can be discussed. I am not going to draw on particular areas—if it were Welsh lamb, for example, should we have a veto?—and say that we should be interfering. I would like to think that if it came to that situation, the Welsh Government—whoever was in power in Wales—would take a sensible approach and realise it was the right thing that the Government in Scotland, whichever colour they may be, should be able to consent and be consulted on the products of their nation. We should have an even hand across the UK.

Mr Prisk: I note that the hon. Lady said no to that. In other words, as it stands, what she is saying about consent means that the treaty in question could not go forward. I put the question to her again: what if there was a major interest in Scotland that, under her amendment, was vetoed by Welsh Ministers? Is that what she intends?

Hannah Bardell: No, that absolutely is not the intention. We all live in a world at the moment where we can put scenarios forward and say this or that might happen.

Mr Prisk: That is the point of this Committee.

Hannah Bardell: And the point of the amendments is that in relation to goods coming from whichever part of the UK, we do not create a democratic deficit. That is what the Bill creates. The amendment rectifies that.

Bill Esterson (Sefton Central) (Lab): I am proud of the Labour Government's role in delivering devolution to Scotland and Wales, and I appreciate the hon. Lady mentioning that role. Can she set out when she sees there is a need for the consent of the devolved Administrations and when there is a need to consult them? Perhaps she could give some examples to demonstrate the difference.

Hannah Bardell: To be honest, the point is that we have the powers and we can have that discussion on an issue-by-issue basis. We have many examples of where we have worked well with the UK Government on trade and on rights, but we can consider other things—workers' rights, for example. I know that when the Bill that became the Trade Union Act 2016 came to Parliament, many Members in the hon. Gentleman's party and in other parties had huge problems with it, and it was hotly debated and discussed. Unfortunately, what we have seen is a rolling-back, despite the fact that there was opposition.

If we turn that on its head and say, "Could there be vetoes from other parts of the UK?" or, "Could we be in a position where one country is blocking a trade deal on

[Hannah Bardell]

a particular product over another within the United Kingdom?", I would like to think that people will not use those powers in the way that the UK Government have often used their powers to impose legislation on devolved nations against their will. The whole point is that the rights, protections and opportunities, the access to and membership of the single market and the customs union are so vital to Wales, Scotland and the rest of the UK that we must not row back on those things and not give the devolved nations the opportunity to consent and be consulted. We could pick any particular issue and we could all have a discussion about whether there should be consent or consultation. The point is that we have the powers and they are powers for a purpose, and we should not have powers taken away.

Amendment 36 would amend schedule 1, which provides that Scottish and Welsh Ministers have

"No power to modify retained direct EU legislation etc.",

such as EU regulations, or to make regulations that would create inconsistencies with any modifications to retained law that the UK Government have made, even in devolved areas. However, those restrictions are not being placed on UK Ministers. We believe that, as a matter of principle, devolved Ministers should have the same power in respect of matters falling within devolved competence as UK Ministers are being given. That is not is an unreasonable request. We are in a Union and we have devolved powers and devolved Governments; Ministers in each of those countries should have the same power as any UK Minister. Amendment 36 would remove the restrictions placed on the Scottish and Welsh Ministers' ability to amend directly applicable EU law incorporated into UK law, bringing the powers into line with those being given to UK Ministers.

Amendment 37 would replace requirements imposed on Scottish and Welsh Ministers to seek UK Ministers' consent when

"acting alone under section 1(1) or 2(1)"

with a requirement to consult UK Ministers before making those provisions. We have heard from stakeholders on this matter. I am sorry I was not here at the earlier evidence sessions; I was at the Council of Europe, but I have watched and read the contributions that were made. As we know, stakeholders were invited to give evidence and discuss their concerns. Chris Southworth from the International Chamber of Commerce UK said,

"Overall...I would be concerned if I were in the devolved Administrations. There is specifically no opportunity for the devolved Administrations—or the regions, I have to say—to feed into decisions on trade. I would be very concerned about that, particularly in the devolved Administrations, where there are vulnerabilities on a whole range of different industries."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 35, Q80.]

That is not SNP Members or Members of other parties just making political points; it is what we have heard in the Committee.

Today, we heard Elspeth Macdonald from Food Standards Scotland say that one of the reasons her organisation is supporting the Scottish Government on withholding a legislative consent motion is that it feels there could be a lowering of food and drink standards. Given that Scotland's food and drink industry has grown at twice the rate of that of the rest of the UK and is a leading light of our exports, that is something.

2.15 pm

On Scotch whisky, an interesting point was raised by a number of hon. Members about the vital place of geographical indicators. I know that no Minister in the UK Government wants Scotch to lose its GI; I absolutely believe that. However, we have to ask ourselves this question: once we get into trade deals and into a situation where these things are being debated and we are going back and forth, with a number of competing priorities, how do we know that, without the protections of the EU, those things will not be denigrated? We simply do not. The thought of it happening and of the impact it would have seems incredible, but Sarah Dickson said that the Scottish Whisky Association was having to look at what the impact would be. It is spending vital time, money and energy on all of this—unnecessarily, I would argue.

Michael Clancy of the Law Society of Scotland said:

"There is clearly an issue about how the Sewel convention or legislative consent convention is interpreted in respect of that…any proposals in UK Parliament legislation that seek to alter the legislative competence of the Parliament or of Scottish Ministers require the consent of the Parliament."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 56, Q107.]

Professor Winters, from the UK Trade Policy Observatory, said,

"Parliament and the devolved Administrations need to have an important role in setting mandates, and there need to be consultation and information during the process."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 58, Q111.]

In written evidence, of which we received a huge amount, the Fairtrade Foundation, Trade Justice Movement, Global Justice Now and Traidcraft all clearly expressed the need for devolved Administrations and Chambers to be given a formal role in the UK's future trade policy. I have met with about 50 different businesses and volunteer organisations in the last eight months, and all agree not only that the threat is significant, but that the devolved nations should have that vital role. They did not all necessarily agree that we should have the right to veto, but many of them could see it from our perspective.

I hope that our Labour colleagues will take our amendments in the positive spirit in which they are intended. Devolution has delivered for all the devolved nations. It has brought us greater rights and protections and a unique and distinctive voice in the world. While Brexit sadly diminishes the UK's reputation in the world, it would also diminish the powers of the devolved nations. We cannot let that happen.

Alan Brown (Kilmarnock and Loudoun) (SNP): It is a pleasure to serve under your chairmanship, Mr Davies. I will make a few remarks on the principle of devolution and the amendment that has been tabled.

During one of the evidence sessions the hon. Member for Corby threw out the proposition that Opposition Members should not have voted against Second Reading of the Bill, even though we believed it to be flawed. He suggested that we should have voted for it and tabled amendments in Committee. Well, the proof will be in the pudding now. How many amendments will the Government back? Will we be back at square one and left with a flawed Bill?

The blunt reality is that both the Welsh and Scottish Governments have said they will withhold their legislative consent motions if the Bill remains as it stands, so it

certainly needs amending if it is to get buy-in from the Scottish and Welsh Governments. Our amendments were drafted in agreement with the two devolved Administrations. That is why, as my hon. Friend the Member for Livingston said, it is slightly disappointing that Labour MPs have not backed an amendment that was drafted by the Welsh Government.

We also heard in the evidence sessions a number of witnesses agree that the Bill in its current format excludes input from the devolved Administrations. As a result, agreements could be forced on devolved Administrations. The UK Government can legislate and make regulations that affect devolved competences. During the witness sessions we heard about tariff rates and quotas, which could be an issue; the subdivision of quotas within the UK will need to be considered, as will rules on origin. That is why it is critical, in the spirit of co-operation, that the devolved Administrations have to give consent to agreements or regulations that the UK Government put forward.

We are constantly told that the Scottish Parliament is the most powerful devolved Parliament in the world, but that is incorrect. We heard during our evidence sessions about the devolved Government of Wallonia in Belgium, which was able to veto the entire comprehensive economic and trade agreement with Canada. That is a devolved Parliament with real power. It is vital that we hold on to and do not allow any erosion of the powers of the Scottish Parliament and the Welsh Assembly.

We were promised that clause 11 of the European Union (Withdrawal) Bill would be amended to protect the devolved nations. That did not happen. That is why we need to amend this Bill and to get agreement from the UK Government that they are willing to work with the Scottish Parliament and the Welsh Assembly. It is essential that their competences are protected.

I think that is all I need to say in support of the amendments. I am interested to hear what the Minister has to say.

Barry Gardiner (Brent North) (Lab): It is good to have you back in the Chair, Mr Davies. I look forward to the Committee making progress under your guidance.

The Labour party brought forward and delivered the devolution settlements when it was in government, so we absolutely support the rights and powers that are conferred on the devolved Administrations by their respective devolution settlements. Matters of devolved competence must not be subject to overreach by Ministers of the Crown who seek to amend or overrule the will of the people, as expressed through their devolved Governments. For Labour, that is absolutely the starting point of this debate. We believe that the powers of those devolved Governments must be enforced and, indeed, reinforced where appropriate.

That said, we have real concerns about some of the implications of this group of amendments in the context of implementing our legally binding obligations under international law. The amendments might, in effect, create a veto power, which in turn might result in the UK failing to deliver on its binding obligations under a treaty. We have a conundrum. Often in Committees like this we have what are, in effect, set-piece debates, but this is a real debate about a profoundly complex constitutional issue, which I do not think will be easily resolved. Let me try to set out what I think is at the heart of it.

I pay tribute to the hon. Member for Hertford and Stortford, whose question went to the heart of the matter. Interestingly, the spokesperson for the SNP, the hon. Member for Livingston, used the words consult and consent in the same sentence as if they were interchangeable. The difficulty is that, in law and in effect, they are not.

Hannah Bardell: Will the hon. Gentleman give way on that point?

Barry Gardiner: I will happily give way after I have made a little more progress. I do not seek a point-scoring debate, because we have to get to the heart of some extremely technical and complicated issues, but I will of course give way in due course if the hon. Lady wishes me to.

In respect of the devolution settlements, trade agreements and the negotiation thereof remain exclusively reserved to the UK Government. International treaties are also the exclusive reserve of the UK Government. I have no doubt that the devolved Governments recognise that and supported that approach when the relevant devolution Acts were passed. Our membership of the European Union has meant that the competence for trade has been exercised by the EU under the common commercial policy—in effect, it has been taken up a level from the UK Government to the EU. That relationship has meant that no devolved Government—nor, indeed, the national UK Government—has been able to legislate in any way that contravenes EU law. In respect of trade agreements, that has meant that we have amended our domestic legislation where required to align it with the terms of agreements concluded on our behalf by the European Union. No devolved Government therefore has any effective veto on the implementation of those agreements, nor have they ever had such a veto.

Of course, the Bill prepares us for life outside the European Union, when that common commercial policy will no longer apply and the competence for trade will be returned to the United Kingdom. Similarly, the obligation on the devolved authorities to ensure compliance with EU law may also no longer apply. That, in effect is the crux of the issue.

The amendments would, in some respects, extend upwards powers of devolved Governments that they might not currently have in respect of international trade agreements. It was telling to hear from the gentleman from Business for Scotland this morning—I am delighted that you managed to squeeze me in to ask my question at the last minute, Mr Davies. In his response to whether the Scottish Government or a devolved Assembly should, in effect, have the right to consent regarding the content of the trade agreement, with reference to his chlorine-washed chicken example, he said that, yes, he thought there should be a consent power at that level.

Whether the Bill is about an agreement with America is completely by the bye. That was a thought experiment to show the sort of situation that could arise. If we want to bring it slightly closer to home, we could talk specifically about one of the agreements the Minister proposes to have a corresponding agreement with through the good offices of the Bill: CETA. Of course, one of Canada's main objectives when negotiating with the European Union was to be able to get chlorine-washed beef and chicken into the European market. It failed in that

[Barry Gardiner]

endeavour, because that was not agreed to by the European Union in the eventual treaty. However, it is not beyond the wit of any of us—we heard this on many occasions from our witnesses—to construct a situation in which Canada might do what other countries at such a juncture might do, which is seek to reopen the negotiations in a particular way to its advantage, to try specifically to achieve with the European Union that which previously it had not been able to.

That brings the example much closer to home, and to the Bill in particular. The key point is that, as was said by Business for Scotland's witness, the Scottish Government's view is that they should have the power of consent to the substantive measures of the international treaty. We recognise that there are clear implications for what might be set out in the international trade agreements on matters of devolved competence. Agricultural policy, food safety, fisheries, the environment and so on are all areas that are touched upon by modern trade agreements. They are all areas where trade agreements will of course have an impact.

2.30 pm

We tend to talk about trade agreements as if they are only about tariffs and quotas, but that is a very old-fashioned view of what a trade agreement is about. In the modern world, they are much more about non-tariff measures, often referred to as non-tariff barriers. Those non-tariff measures are the very standards of food safety and certification and so on that we believe make for the sort of society in which we want to live. That is why we have those regulations. The thought that they can be affected at the level of international trade by the substantive embodiments in the agreements is something that we have to understand ramifies throughout every layer of our society.

The Bill ostensibly seeks to replicate the terms of agreements that we are currently party to, albeit with notable exceptions—I am sure the Minister does not wish to replicate all of the terms of the treaties with Norway or Turkey, for obvious red-line reasons that his Government have made very clear to the public. However, the Government are asking us to take in good faith their word that the new agreements will be the same as those that are currently in place. Many witnesses told us this week that they are sceptical about that and believed that it was not a given.

In the explanatory notes to the Bill, there is explicit provision made where the Government accept that there can be substantive changes. That is one of the reasons that they have put the very strong powers into the Bill—the Henry VIII powers that Ministers would have—in the event that such substantive changes were necessary.

The agreements must be different. They will of course be "legally distinct", as the Government recognise in the explanatory notes, but may also be "substantively" and substantially different, as they have also recognised. The existing agreements with Turkey or Norway, for example, cannot simply be rolled over. In respect of other agreements, where EU bodies are referred to or have been established for regulatory oversight, those will have to be replaced. Those are the substantive changes that will be made. All those changes may well be in areas that are currently recognised as devolved competences.

Hannah Bardell: I take on board the hon. Gentleman's point. The notion of consent is an interesting one. Let me just expand a little on my take on it. The idea of consent—not just consultation—for us is that we cannot have certain aspects of our regulatory framework, or deals done, that go against the principle of devolution.

The memorandum of understanding concordat from devolution was binding

"in law, but promises cooperation on exchanging information, formulating UK foreign policy, negotiating treaties and implementing treaty obligations."

In our view, the Bill goes across that.

For the sake of argument, say that Scotland or Wales could not give consent to a trade agreement. That would force the UK Government to go back and look at why consent could not be given, and hopefully bring something forward. If we only have the power of consultation—we could argue that consultation is not really a power—we are at the mercy of whatever the UK Government of the day do. It could be argued that the power of consent is absolutely vital in negotiating trade deals.

Barry Gardiner: It is not that I do not understand the force of the position the hon. Lady is taking and the way in which she is trying to express it, but of course those powers are powers that the devolved Administrations do not currently possess vis-à-vis the European Union. That is why, as I said, the levels at which we consider this, and the change in those levels, are absolutely material to the discussion we have today.

The hon. Lady is absolutely right to say that if the substance of a trade agreement or any of the corresponding agreements that the Minister is seeking to roll over from our existing EU trade agreement is substantively changed, it may well have an impact on areas that are devolved competences. But that is the substance of what is agreed at the international level. Trade is a reserved matter. Treaties are a reserved matter. Therefore, the question of the implementation comes in two ways. I do not want to depart from my notes too much, but I am seeking to respond to the hon. Lady's intervention in the spirit in which she made it.

The difficulty is that our legislative language is poor. We talk about implementing an international agreement in UK law and we also talk about implementing the terms of the agreement within the devolved competence. It is very easy to have a confusion about which implementation we are talking about. I will progress the argument, because it seems to me that it is not cut and dried. There are serious issues here that we need to consider as a Committee.

I cannot say that I normally say this, but I very much look forward to listening to what the Minister says on this occasion, because I trust he has had the benefit not only of parliamentary counsel, but of constitutional legislators, who will have looked at the matter very carefully when they saw the amendments. I look to what the Minister is going to say in the Committee to guide us on these matters.

Picking up from where I left off talking about the substantive changes, new institutions may be required—institutions that might otherwise be within the devolved competence of the Scottish and Welsh Governments. That simply arises from the changes that will be made to the free trade agreements, because they might specify

the European Food Safety Authority and that would need to be changed. New institutions may have to be established to fulfil the competences that the European Food Safety Authority or any other such agency had, and they would have to be designated in the roll-over Bill.

Of course, it may be that the Minister specifies the Food Standards Agency in England as the body that will now make the specifications. It might be better to use Food Standards Scotland, which we heard from earlier today. It is absolutely right that there is a process of consultation between the devolved Administrations and the Minister at that point to say, "You're proposing to specify that body, but actually there are far more relevant skills in this other body." Consultation is absolutely essential to try to ensure that they get this right.

Hannah Bardell: Will the hon. Gentleman give way?

Barry Gardiner: In one moment. I hope the hon. Lady will intervene in a moment, because this is the question I think she may wish to respond to. Imagine a situation where Wales said, "We believe our agency should be the certification body," Scotland said, "No, it should be our agency," and because both had the power of consent and not simply the right to consultation, the Minister and the UK were unable to fulfil our international obligations under an international treaty.

The hon. Lady may say, "Surely no devolved Ministers would be so pig-headed as to say, 'It's got to be ours.'" The Westminster Minister may well be the one who is being pig-headed—who knows? However, I cannot imagine that it is right for the Committee to pass an amendment that could give rise to a situation in which we were unable to fulfil our international treaty obligations.

Hannah Bardell: I guess the simple answer is that they would have to consult each other. I argue that what is proposed drives a coach and horses through many aspects of devolution, and others also have serious concerns. If the hon. Gentleman believes that there is an overreach in the amendments, what answers does he propose? Given the supposed "consultation" that was part of the European Union (Withdrawal) Bill process, does he really have faith in that aspect of today's legislation? I know that I do not.

Barry Gardiner: I said at the beginning that I was not going to engage in point scoring, so I will not take up the hon. Lady's invitation to beat the Minister over the head about the lack of consultation. The witnesses have amply displayed their dissatisfaction with the consultation process, but she has, in effect, made my point for me. She said, "Well, they would have to consult." Of course they would; that is why I believe that it is vital that consultation with the devolved Administrations is statutorily required, in a way that is not transparent on the face of the Bill. Consent, however, which could bring about the sort of impasse I referred to, should not be built into the legislation.

It is one thing to imagine legislation working in a benign, perfect scenario where people have good will, are engaging with each other and want to come to an agreement. Sadly, that is not always the case, and we must make our legislation such that it survives not only when things go right, but when things go wrong and a way through an impasse is necessary. The danger in the amendments is the reaching upwards into what would currently be seen as the competence and the rights of the European Union to negotiate the substance of those trade agreements. That is why I am fearful of the route down which the amendments would take us.

Alan Brown: Has the hon. Gentleman discussed this with the Welsh Government, and explained that his concerns about the devolved Administrations "reaching upwards", in his description, outweigh his concerns about the UK Government being able to impose regulations on them?

Barry Gardiner: Yes, of course I have. I went down to Cardiff just last Friday to meet the Minister there and some political advisers. We talked through precisely these issues, and I have done the same with Welsh colleagues here. On Monday, I even met the special adviser from the Scottish National party group here. I have also spoken with my own Scots colleagues. I think that there is a recognition that we are dealing with genuinely difficult constitutional matters. That is why we have a difficult job as a Committee.

2.45 pm

This is not easy. It is not straightforward; we are charting completely new territory in our UK legislative framework. It will affect the legislative framework within the devolved Administrations as we go forward, but it will also affect our international legal obligations. The UK Government might, for example, use powers under the Bill to agree standards or regulations for particular goods that diverge from what exists in the corresponding agreement of the EU. If doing so ensured speedy trade deals, one could certainly see that there might well be an appetite within Government to do so. It is not beyond the realms of possibility that our counterparties to the agreements might seek to pursue more advantageous terms for their domestic producers, knowing that we are in a hurry to get deals done.

We are extremely concerned that the Bill allows the Government to agree such divergence and implement changes with no scrutiny and no real prospect of challenge. We will obviously return to such matters later, but any such changes might contrast starkly with the regulations and standards enforced by the devolved Governments, so it is right that those devolved Governments should have a say in what is agreed internationally.

Ministers of the Crown should not be afforded the power to implement such changes without being required to consult the devolved authorities. That would be absolutely wrong. However, if a UK Minister seeks to intervene and change the method of implementation by a devolved Administration, that is the how, rather than the what, in respect of the international agreement being implemented. At that point, because the Minister would be overreaching down into the existing competences —the existing things that are exercised by the devolved Administration—and changing something, it is absolutely right that the devolved authority should have the power and the right to consent, and not simply to be consulted. That is ministerial overreach from Westminster and interference in the competences of the devolved Administration.

We must distinguish between the two. The question is whether these are matters of devolved competence. At what stage does procurement, food safety or fisheries

stop being a matter of trade and international agreements —reserved matters—and become a matter of devolved competence? What cannot be allowed is for agreements between the UK and another country to be subject to a veto at the point when the treaty is enacted in UK law. That could result in the UK being unable to fulfil its international treaty obligations.

Sometimes it is useful to extrapolate into thought experiments, Mr Davies, so I hope that you will allow me to pick out some hypothetical examples that might illustrate the points that are vital to this debate. On the government procurement agreement, which the hon. Member for Livingston discussed, the powers to implement the GPA contained in the Bill relate to two agreements and, in consequence, to the accession of any other party to those agreements. The Government have said that they want to join the GPA on existing terms. I might say that we should actually look at our schedules—we might take a lesson from some of the other countries that have introduced annexes that protect their small businesses and local suppliers in a way that we do not—but the Government have made their view on the GPA clear: they want to roll over the existing schedules.

Under the Bill, they would also have the power to make amendments in implementing the agreement if another country acceded to the GPA. The GPA is, of course, a plurilateral agreement, not a multilateral agreement, at the World Trade Organisation. I think that 14 WTO members are currently members of the GPA. What would the Government actually do? What does the Bill envisage the Government doing? In effect, the Government would issue something—it might be a statutory instrument, a regulation or just guidance—saying, "Add Xanadu to the list of countries that you, as a devolved Administration, have to include in your procurement."

Do the Scottish Government really need the power of consent to do that? That would be ludicrous. One can hardly envisage that they would ever use it, but it sets up the principle that here is something that is a substantive requirement upon our Government to do, in order to implement an international treaty in UK law. Whether any devolved Administration would ever use that power of consent to say, "No, no, no—you cannot put Xanadu on the list of countries whose companies we have to open up our procurement arrangements to," is not the issue; the issue is the principle.

The principle is that there has been a reaching upwards to that level of international law and treaties by the devolved Administrations. If that logic applies to amendment 33, the first the hon. Member for Livingston spoke to, it also applies to the others. That means that when it comes to such substantive changes as we have considered in food safety, agriculture or other matters, that principle would be established, meaning that they could also reach up and say, "No, we veto the substantive element of this treaty."

Let us pursue a couple of examples to draw that out. I am grateful to the Committee for its indulgence on this; I seek it only because these are phenomenally important and difficult issues that we are grappling with.

Imagine that Xanadu had an animal welfare regime that was far more stringent than our own and that stipulated rules regarding chicken farming requiring far less chicken-population density per square metre and controls on buildings and temperatures. Perhaps a fictional devolved Government had a very different view on the conditions within which chicken may be farmed that would be at odds with that. An agreement reached between the UK and Xanadu could be concluded on different terms to the corresponding EU agreement, and might see the UK agreeing that chicken farming standards would be elevated to meet those of Xanadu. Our fictional devolved Government might object on the grounds that such matters, regardless of the fact that it is the UK Government's exclusive right to negotiate the agreement, become a devolved competence at implementation in their law. As such, they would refuse to give their consent. What then?

Let us imagine a different scenario.

Hannah Bardell: Will the hon. Gentleman give way on that scenario?

Barry Gardiner: I will give both scenarios, and then the hon. Lady can choose.

Our fictional country, Xanadu, has very relaxed laws about the rearing and sale of chicken for consumption. In Xanadu, chickens may be hormone-fed, genetically modified or chlorine-washed prior to slaughter for consumption. In the UK, one of the devolved Governments may have a particularly robust animal framework code, coupled with robust agriculture and food standards regulations, which would not allow for the production or consumption of such chickens. What happens if the UK agrees terms with this country that ultimately liberalise trade in chickens between our nations, such that hormone-fed, genetically modified, chlorine-washed chicken is allowed to be imported into the UK and sold on the shelves of our supermarkets for consumption by British citizens?

The devolved Government would argue, "These are matters of devolved competence, and we have right of consent regarding the implementation of the agreement, especially as it conflicts greatly with our standards." They might also think, "There is no way we are allowing these products on to our shelves, and we will not give our consent." In that example, I would probably be cheering and saying, "Good for them. We don't want those chickens on our supermarket shelves." However, the point is that if the agreement had been made, we would be bound by the obligations under it, whichever way they went—whichever example we use.

Failure to implement would result in remedial action being pursued by Xanadu. Indeed, many such countries might not even come to the negotiating table if they had significant concerns about potential consent reserve functions distorting their access to the market on terms that had been agreed at state-to-state level. When we heard from the witnesses this morning, the example of Canada was used. We have already seen that the provinces in Canada are brought in at the beginning of the process precisely to get round countries' reluctance to engage in trade agreement negotiations without certainty that devolved Administrations cannot veto what is agreed.

The hon. Member for Livingston asked me whether I had spoken to my Welsh counterparts and I explained that I had, as well as to two of my Scottish counterparts. We have also spoken with the House of Commons constitutional law experts. They explained to us that they cannot answer the question. They do not know. They have recognised that this is a problem, and that

neither the Bill nor the amendment address the issue in a way that would prevent our reaching the situation that I have tried to articulate.

We have spoken with House of Commons trade experts, and have similarly drawn a blank. They advised us that the matter has not been considered because it was not an issue before. They said they had just not come across it. What everyone has recognised is that there must absolutely be consultation in advance, to ensure that no trade agreements come unstuck if a veto is exercisable at a later stage. Also, how will the UK Government ensure that the provisions of a concluded trade agreement are implemented across the United Kingdom, as they are bound to by their obligations under international treaties?

The Bill fails to set out how the Government intend to resolve the issues. It does not define what implementation frameworks will be constructed to mitigate the extent of conflicts between the powers of the UK Government and the devolved competence of the devolved authorities. It does not differentiate between the incorporation of the terms of the agreement into UK law and how that might be considered to be separate from implementation at a devolved level. It does not set out what consultation processes will be instituted to address those issues early on, and to ensure that the interests and experience of the devolved Administrations are represented at the negotiation stage to avoid any conflict at implementation stage.

Of course the devolved Governments must have a say in the process. They must have the capacity to scrutinise it to ensure that it is compatible. The Government's approach to consultation has not been what it should. Ad-hoc meetings between the Secretary of State and representatives of the devolved Governments cannot be considered a formal consultation process, even if the Secretary of State donned his President of the Board of Trade hat for them.

It is our view that a formal consultation role must be established for each of the devolved authorities and, indeed, for a much wider group of stakeholders with an interest in the outcomes of any trade agreement. Their views are essential in ensuring not only that any future implementation issues are addressed up front, but that their constituent interests, be they commercial or public, are properly considered before negotiations begin and as negotiations progress. It is our view that the Government must be obliged formally to consider and respond to representations made through that stakeholder engagement process, whatever those might look like.

3 pm

We fundamentally believe that the powers of the devolved Governments must be respected with regard to how agreements are implemented, and that the devolved Governments must be consulted prior to the terms of international trade agreements being agreed, but we cannot allow a situation in which the devolved Governments have the power to say what will be implemented once an agreement has been concluded. We therefore will not support this group of amendments. However, we will listen very carefully to what the Minister says, and will at a later stage bring forward amendments, if he does not, to protect properly the rights of the devolved authorities in matters of devolved competence. We will also seek to ensure that a robust consultation framework is put in place before any such agreements are concluded.

The Minister for Trade Policy (Greg Hands): Let me start by saying what a pleasure it is to serve under your chairmanship, Mr Davies.

The UK Government have made clear their commitment to working closely with the devolved Administrations to deliver an approach to future trade agreements that works for the whole UK and reflects the needs and individual circumstances of England, Scotland, Wales and Northern Ireland. We have been clear that we will continue to engage with the devolved Administrations as we transition our current agreements, and that we will work together to prevent disruption to UK business and consumers. The Department for International Trade engages regularly with the devolved Administrations: DIT Ministers and senior officials visit the devolved nations frequently and engage devolved Governments and stakeholders right across the UK.

Let me turn to amendments 33 and 34. The concurrent powers in the Bill that allow either devolved Administrations or the UK Government to implement in areas of devolved competence will ensure that, where it makes practical sense, it is possible for regulations to be made once for the whole UK.

Judith Cummins (Bradford South) (Lab): What does the Minister think are the best examples of things under the government procurement agreement that would be matters of devolved competence?

Greg Hands: If I understand the hon. Lady correctly, she asks about signing up to the GPA and the schedules to the GPA. I might add that, contrary to what the hon. Member for Brent North said, the UK's joining the GPA will actually be subject to a separate process in Parliament. There might be a question about which authority within these islands has a right to administer a particular part of the GPA. For example, the relevant Scottish body might be the right body in Scotland, the relevant UK body in England, the relevant Welsh body in Wales, and so on.

The approach I described is essential for providing continuity to UK businesses, workers and consumers. As set out in our recent trade White Paper—this is the nub of the argument—we will not normally use these powers to amend legislation in devolved areas without the consent of the relevant devolved Administration, and we will certainly never do so without first consulting them. It is crucial to understand that.

Bill Esterson: My hon. Friend the shadow Secretary of State made the point that there is nothing in the Bill about a formal consultation. Does the Minister accept that point, and does he accept the need for such a formal process in the Bill?

Greg Hands: It is crucial to draw out what we are talking about. This is about transitioning existing agreements that are already in effect right across the United Kingdom. As I have already laid out, the Secretary of State and I have met the devolved Administrations in different capacities and in different ways. Our officials have certainly exchanged a lot of views on that.

I will come on to where we are with future trade agreements in a moment. Our intention is to involve fully devolved Administrations, devolved Parliaments and so on in that process.

Bill Esterson: On Second Reading, the Minister acknowledged that there may well be changes to those existing agreements. In the case of Norway and Turkey, can he confirm that that would almost certainly have to happen? Otherwise, they would cross the Government's red lines. What consultation does he anticipate in those situations?

Greg Hands: As you know, Mr Davies, perhaps better than anyone, it certainly it is not for me to suggest what may or may not happen as part of the ongoing negotiations with the European Union. Clearly, aspects of the European economic area agreement will be dependent on those. It is our intention for there to be no substantive changes in those agreements as we go forward and transition. It is very important to understand that.

Hannah Bardell: Is that not at the heart of the issue? The Minister does not know what may happen in the future, or what may have to be traded off so that we can tread water and stay where we are. The power of consent is, in some ways, a negative power and a threat, but it means that a negotiation and an agreement have to be reached by all the devolved Administrations. Until now, consultation has not been a very positive experience for Scotland and the other devolved Administrations.

Greg Hands: We made a commitment in the trade White Paper to not normally use these powers in areas of devolved competence without consultation. I repeat that commitment to continuing that consultative process as we go forward. That commitment can be heard loud and clear.

Hannah Bardell: I try to speak on behalf of my constituents and others in Scotland. "Not normally" is, quite frankly, not good enough. The Minister might be as good as his word, but what about future Governments and future Ministers?

Greg Hands: I know that the hon. Lady takes up issues for her constituents—she and I have meetings about particular issues in her constituency. I repeat that we would not normally use these powers, and we would never do so without consultation. I will refer to some of the other reasons, which have been alluded to by my hon. Friend the Member for Hertford and Stortford, and by the hon. Member for Brent North, why we will not go down the road of requiring consent. We would not normally use the powers, but it is very important that we do not require consent to use them. That is a very serious commitment, which should offer the hon. Lady reassurance.

Amendment 36 seeks to remove the restriction on devolved Administrations amending direct retained EU law. Some EU law applies directly and uniformly across all EU member states without needing to be implemented in domestic legislation. On the day that we exit the EU, that type of EU law will be converted into what will be called retained direct EU law.

As the Government's guiding principle is that no new barriers to living and doing business in our own Union should be created on exiting the EU, it is right that there should be only a co-ordinated set of changes made to that type of law, in order to maximise continuity and certainty for businesses and consumers. We are committed to consulting the devolved Administrations on the most appropriate way to legislate in areas of retained direct EU law that have effect in otherwise devolved areas.

Regarding amendment 37, we also consider it right that where measures affect the whole UK, such as quota arrangements or the use of powers in clauses 1 and 2, before we exit the EU, decisions are taken at UK level before the devolved Administration can take the measures.

Let me turn to some of the individual points raised. The hon. Member for Livingston asked whether a proper consultation could not be sought in Northern Ireland. It is important to recognise that, for reasons of arithmetic, there is not a Northern Irish Member on the Committee, but I will try to answer her point. We are working hard, as she will know—I think she will agree—to restore devolved Government in Northern Ireland as soon as possible. We are committed to working to ensure that Northern Ireland's interests are represented in the meantime. The Department for International Trade engages with officials in Northern Ireland on a regular basis.

The hon. Lady also asked whether the GPA allows Governments to nationalise or privatise anything, whether for procurement or any other purposes. The UK Government will be bound to open up procurement markets only to the extent they have committed to do so in the new schedule to the government procurement agreement as lodged with the WTO. That will preserve the present position in relation to procurement in areas such as the NHS.

I think the hon. Lady asserted that procurement is devolved. This is a complicated area. The UK Government accept that some procurement is devolved, and the Scottish Government have made some regulations about procurement. However, the UK Government's position is that procurement is an activity for devolution purposes rather than a subject matter. In other words, whether a procurement is devolved or reserved depends on the functions of the public body carrying it out. I think the saying is that if the public body answers to part of the Scottish Government, it might be devolved, but if it is a UK body of Her Majesty's Government that operates in Scotland, it is likely not to be devolved.

The hon. Member for Kilmarnock and Loudoun referenced the power that Wallonia has. I am familiar with such arguments: I think the hon. Member for Brent North debated that at some length in relation to CETA in February last year. To be clear, I expect he knows that the UK and Belgium have very different constitutional arrangements. Foreign relations are the responsibility of the UK Government under each of the devolution settlements.

The hon. Member for Brent North made some interesting points. For the first third or so of his speech, I thought I was coming close to being in complete agreement with him—at least in his thrust that the proposal in the amendment to have in effect a veto power for the devolved Administrations would make the whole endeavour unworkable. He is right. He made reference, as I will, to the short, succinct intervention by my hon. Friend the Member for Hertford and Stortford about the potential for a Welsh Government veto over something that was felt to be particularly important in Scotland. That, or vice versa, is a very real example. Our approach is best: not normally to use the powers to amend legislation in devolved areas without consent, and never without consultation with the devolved Administration.

I was surprised by the approach taken by the hon. Member for Brent North. It was my impression that the amendments were drafted by the Scottish and Welsh Governments together. Therefore, much as I welcome him saying that he will not vote for the amendment, it surprised me a little that he seems to be at odds with the Welsh Government viewpoint. Anyway, I am glad that he may be joining us on this occasion.

In terms of the GPA and rolling over the existing schedule, yes, that is the intention, but—I repeat—the terms on which the UK enters the GPA in our own right will be subject to a separate vote in Parliament. The Constitutional Reform and Governance Act 2010 applies to the terms of the UK's new membership of the GPA —in other words, it is possible to bring a vote in Parliament on the terms under which the UK will join the GPA.

Barry Gardiner: The Minister just assured the Committee that there will be a vote on accession to the GPA. I am surprised that he says he can assure the Committee of that, because the procedure of the Constitutional Reform and Governance Act 2010 does not ensure that there will be a vote at all. CRAGA procedure is precisely the statutory instantiation of the Ponsonby rule of 1924, which means that all the Government need to do is lay the text of the agreement before Parliament for 21 days. Unless Her Majesty's official Opposition, or any of the Opposition parties, raise that as an objection in an Opposition day debate, it goes through—that is if they are granted an Opposition day motion within that 21 sitting days, which is by no means guaranteed. You will recall, Mr Davies, that between 27 January and September 2017, the Government did not grant the Opposition a single Opposition day debate. Even if they were to object through an Opposition day, the Minister would simply have to acknowledge it, re-table the text, and it would lie on the Table for another 21 days. Unless we went through the same process, there is no process for the Opposition to amend or vote unless we are given an Opposition day debate.

3.15 pm

Greg Hands: I know the hon. Gentleman has a particular fascination with the Ponsonby rule of 1924, but I remind him that that rule was made otiose by his own party's legislation—the Constitutional Reform and Governance Act. I went back and checked. Mr Davies, you and I were in Parliament at that time as Members of the Opposition—

Barry Gardiner: In 1924?

Greg Hands: In 2010. The hon. Gentleman supported that Act. That is why I was careful to clarify that it is possible to bring forward a vote on the UK's terms of entry into the GPA. For all those reasons, I ask the hon. Member for Livingston to withdraw her amendment.

Anna McMorrin (Cardiff North) (Lab): The UK Government must have meaningful engagement with devolved Administrations about the shape of the UK's future customs and tariff regime post-Brexit. That has not been the case so far. Just like the EU (Withdrawal) Bill, the Trade Bill puts restrictions on the Executive capacity of the Scottish and Welsh Governments, while placing no restrictions on the capacity of the UK Government.

Essentially, under the Bill, UK Ministers will be able to legislate in devolved areas without consent from Welsh or Scottish Ministers. That is an overt power grab and a rolling back of devolution. I am proud to have played a part in bringing devolution about in Wales 20 years ago. It is vital that we maintain what devolution was set up to deliver: a proud and confident nation.

It is also disappointing that there is no provision for the Trade Remedies Authority to have any input from devolved nations. It is important for it to be an independent and impartial body, separate from the Government, but it must also represent all parts of the UK, including Wales and Scotland.

It is important to remember that in the trade White Paper, the UK Government stated that the Bill would have provisions for UK Ministers to seek consent from Welsh and Scottish Ministers when making secondary legislation under the Bill, but that has now disappeared.

In 2016, First Minister Carwyn Jones told the Welsh Assembly's External Affairs and Additional Legislation Committee that it was "hugely important" for devolved Administrations and legislatures to have a say in the negotiation of future agreements that would have an impact on Wales. He gave the specific example of a free trade agreement with New Zealand:

> "The impact of that might be to remove the current controls that exist on the import of New Zealand lamb. If they were to go, that would clearly be a great difficulty for Welsh lamb producers. That issue might not be as apparent in Whitehall as it is in Wales, and that's one example there of why it's important that the views of the devolved Governments are understood and the interests of the devolved nations are respected."

It is not new. We are not advocating new devolved powers. It is not even about extending devolution. It is about preserving devolution. It is important to remember that there are restrictions on competence. The devolved settlements of both Wales and Scotland ensure that both Welsh and Scottish Ministers cannot legislate in ways that interfere with UK international obligations. That comes under the Government of Wales Act 2006, specifically sections 82 and 114. It simply cannot legislate to interfere.

Hannah Bardell: The hon. Lady is making an excellent speech and highlighting the importance of the devolution journey we have travelled. Particularly on the devolution settlement, does she agree that there might be challenges if this amendment passes—it is about consent? As she says, it is written into the devolution settlements and that agreement would have to be reached to ensure that that legislation is passed. Does she agree that it would be absolutely in the interests of devolution, and in the interests of Scotland, Wales and Northern Ireland, that those amendments pass today?

Anna McMorrin: It is absolutely about consent, agreement and consultation. Essentially it is about not rolling back on the devolution settlement. Amending the Bill to explicitly ask for the consent of devolved Administrations for secondary legislation under the Bill would therefore not interfere with that, nor would it amount to a veto power.

As I already said, what was already drafted in the UK Government's White Paper should be in the Bill. Consent and consultation are at the very heart of devolution. If there is secondary legislation being made within an area that is currently within devolved competence, the devolved Administrations and Welsh Ministers must give consent

[Anna McMorrin]

and ensure the democratically elected Welsh Assembly or Scottish Parliament is able to debate it. That is why I agree with the principle underlying the amendments, as agreed by both the Welsh and Scottish Governments.

Professor Jones, a Welsh political expert, told the Select Committee on Public Administration and Constitutional Affairs:

"We see the UK Government in effect reintroducing a kind of conferred powers model where it will decide which bits of the powers returning from Brussels will be conferred on the Welsh Government… That—in the context of this constant churn and change—looks one-sided and objectionable."

The most disappointing aspect of this Bill's disregard for devolution is that the UK Government know it is completely unacceptable.

Mr Prisk: It is excellent to have a Member from Wales speaking. Naturally we have heard from the hon. Member for Livingston, the Scottish Member who is moving this amendment. Do I take it from what the hon. Member for Cardiff North is saying that she supports the principle and therefore will be supporting the hon. Lady's amendment?

Anna McMorrin: As I said, I absolutely support this principle, which has been agreed jointly with the Welsh Government and the Scottish Government.

Ministers, Conservative MPs and civil servants privately acknowledge how extremely ill-advised it is to remove the power of devolved Governments over devolved areas. Clearly the issue is one of trust: trust to exercise devolved powers responsibly; trust to carry out measures that represent the people of Wales and Scotland; and trust to provide meaningful scrutiny of legislation. As it stands, under this Bill, and after Brexit, the devolved Governments will be at the mercy of Whitehall, which will have complete control of all areas, including those which are currently devolved. That is called rolling back devolution. As set out in the Government's White Paper, devolved Governments must have the right to give consent to secondary legislation in areas of devolved competence.

Hannah Bardell: I have listened carefully to hon. Members. I am not saying that there are not areas of concern, and I understand that we are in unchartered territory. I am sure when we look back, when the history books are written, how we have handled this matter will probably not reflect well on politicians, but we have had a good and detailed discussion.

I pay tribute to the hon. Member for Cardiff North. She has been extremely brave in standing up to say what she has said. She has stood up for her country and for the devolution settlement and the devolved nations. I commend her for that, and for her point about conferred powers and the evidence given in the Brexit Committee. That is really about protecting and preserving devolution.

I understand that the UK Government might have concerns about losing their grip on power, but they have to understand that for generations the people of Scotland, Wales and Northern Ireland have had power wielded over them at times by the UK Government, and devolution sought to move forward from that to create a more consensual approach across the UK. That has been absolutely vital in the development of our society and of how we see ourselves as nations and as the UK. As a result, internationally, we have been looked on as a world-leading model for how different nations in a union can share power.

I believe in Scottish independence and that we could sort all this out if Scotland had all the powers of a fully devolved nation. I appreciate that that is not necessarily going to happen straightaway. However, if the UK Government and the Conservatives continue on this road by stopping and encroaching on the devolved powers of Scotland and the other nations, Scottish independence is increasingly likely. They should bear in mind as we leave the EU the creation of a situation in which consent is required.

I understand the point made by the Labour spokesperson, the hon. Member for Brent North, about Xanadu, chickens and so on. I would make a point in return that UK Ministers will have power that Scottish Ministers and those from other devolved Administrations do not. Why should they be allowed to wield those powers and encroach on the powers of devolution? If we have the power of consent and there is a concern that something may not be agreed to, surely instead of being concerned about not adhering to our international obligations, it would not be beyond the wit of those Ministers and that Government to go back to the devolved nations to ask, "What will it take for you to give your consent and reach an agreement?" I am sure that that is entirely plausible.

I appreciate that we are in uncharted territory, but unfortunately those in government have got too used to having power over the other nations. If they are not willing to listen to and concede the points being made not just by us politicians but by people outside—organisations, trade bodies, law societies—who say that that is encroaching on the powers of devolution, that will be at their peril. That is absolutely something that will befall them. I will not withdraw my amendment and will press it to a vote.

3.30 pm

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 9.

Division No. 1]

AYES

Bardell, Hannah	Brown, Alan

NOES

Badenoch, Mrs Kemi	Pursglove, Tom
Hands, rh Greg	Stewart, Iain
Hughes, Eddie	Whittaker, Craig
Keegan, Gillian	Wood, Mike
Prisk, Mr Mark	

Question accordingly negatived.

Clause 1 ordered to stand part of the Bill.

Clause 2

Implementation of international trade agreements

Barry Gardiner: I beg to move amendment 4, in clause 2, page 2, line 7, leave out "subsections (3) to (5)" and insert "subsections (2A) and (5)."

This is consequential upon Amendment 3.

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

Amendment 3, in clause 2, page 2, line 12, at end insert—

"(2A) Regulations under subsection (1) to make provision for the purpose of implementing an international trade agreement may only be made if—

(a) the provisions of section [Parliamentary scrutiny of free trade agreements before signature] were complied with before the United Kingdom had ratified the agreement;

(b) the requirements under subsection (3) and under paragraph 2A of Schedule 2 have been met;

(c) the requirements under subsection (4) have been met; or

(d) the requirements under subparagraph 2(1A) of Schedule 2 have been met."

This would expand Clause 2 to include international trade agreements that do not correspond to a prior or existing EU trade agreement. Sub-paragraph (d) would link to Amendment 20.

New clause 4—*Parliamentary scrutiny of free trade agreements before signature—*

"(1) The United Kingdom may not become a signatory to a free trade agreement which does not meet the criteria under section 2(3) unless—

(a) before entering negotiations on the proposed agreement, the Secretary of State has laid before Parliament a sustainability impact assessment carried out following consultation as prescribed by section [Sustainability impact assessments];

(b) both Houses of Parliament have passed a resolution authorising the Secretary of State to enter negotiations on the proposed agreement as prescribed by section [Parliamentary consent to launch of trade negotiations];

(c) during the course of negotiations, the text of the agreement as so far agreed or consolidated has been made available as prescribed by section [Availability of agreement texts];

(d) the Secretary of State has, within ten sitting days of the close of each round of negotiations on the proposed agreement, laid before Parliament a statement detailing the progress made in each area of the negotiations and the obstacles still remaining at the close of that round;

(e) the text of the agreement in the form to which it is proposed that the United Kingdom should become a signatory has been made available to Parliament for a period of 21 sitting days; and

(f) a resolution has been passed by the House of Commons approving the Secretary of State's intention to sign the agreement."

This would establish a procedure for parliamentary scrutiny before signature of free trade agreements that do not correspond to a prior or existing EU free trade agreement.

New clause 5—*Sustainability impact assessments—*

"(1) A sustainability impact assessment laid before Parliament under section [Parliamentary scrutiny of free trade agreements before signature](1)(a) shall be carried out following consultation.

(2) A consultation under subsection (1) shall—

(a) be carried out in line with any guidance or code of practice on consultations issued by Her Majesty's Government, and

(b) actively seek the views of—

(i) Scottish Ministers,

(ii) Welsh Ministers,

(iii) a Northern Ireland devolved authority,

(iv) representatives of businesses and trade unions in sectors which, in the opinion of the Secretary of State, are likely to be affected by the proposed international trade agreement, and

(v) any other person or organisation which appears to the Secretary of State to be representative of interests affected by the proposed international trade agreement.

(3) The Secretary of State shall ensure that public bodies, non-governmental organisations and the public may be made aware of the consultation by circulating and publishing details of it prominently on relevant government websites.

(4) A sustainability impact assessment under subsection (1) shall be conducted by a credible body independent of government and shall include both qualitative and quantitative assessments of the potential impacts of the proposed trade agreement, including as a minimum—

(a) the economic impacts on individual sectors of the economy, including, but not restricted to—

(i) the impacts on the quantity and quality of employment,

(ii) the various regional impacts across the different parts of the UK,

(iii) the impacts on small and medium-sized enterprises, and

(iv) the impacts on vulnerable economic groups;

(b) the social impacts, including but not restricted to—

(i) the impacts on public services, wages, labour standards, social dialogue, health and safety at work, public health, food safety, social protection, consumer protection and information, and

(ii) the government's duties under the Equality Act 2010;

(c) the impacts on human rights, including but not restricted to—

(i) workers' rights,

(ii) women's rights,

(iii) cultural rights and

(iv) all UK obligations under international human rights law;

(d) the impacts on the environment, including but not restricted to—

(i) the need to protect and preserve the oceans,

(ii) biodiversity,

(iii) the rural environment and air quality, and

(iv) the need to meet the UK's international obligations to combat climate change;

(e) the impacts on animal welfare, including but not restricted to the impacts on animal welfare in food production, both as it relates to food produced in the UK and as it relates to food imported into the UK from other countries; and

(f) the economic, social, cultural, food security and environmental interests of those countries considered to be developing countries for the purposes of clause 10 of the Taxation (Cross-border Trade) Act 2018, as defined in Schedule 3 to that Act and as amended by regulations.

(5) The elements of the sustainability impact assessment to be undertaken under (4)(f) must be sufficiently disaggregated so as to capture the full range of impacts on different groups of developing countries, and must include both direct and indirect impacts, such as loss of market share through trade diversion or preference erosion.

(6) A sustainability impact assessment under subsection (1) shall include recommendations for possible action to maximise any positive impacts and to prevent or offset any negative impacts foreseen, including the possible limitation of the negotiating mandate so as to exclude those sectors most at risk from the proposed trade agreement."

This would establish the process of consultation for, and the required content of, sustainability impact assessments for free trade agreements that do not correspond to a prior or existing EU free trade agreement.

New clause 6—*Parliamentary consent to launch of trade negotiations*—

"(1) The Secretary of State shall not commence negotiations relating to a free trade agreement which does not meet the criteria under section 2(3) unless all provisions of this section have been satisfied.

(2) A Minister of the Crown shall lay before Parliament a draft of a negotiating mandate relating to the proposed international trade agreement.

(3) The draft mandate under subsection (2) shall set out—

(a) all fields and sectors to be included in the proposed negotiations;

(b) the principles to underpin the proposed negotiations;

(c) any limits on the proposed negotiations, including sectors to be excluded from the proposed negotiations; and

(d) the desired outcomes from the proposed negotiations.

(4) No sooner than 21 sitting days after the draft of the negotiating mandate has been laid under subsection (2), the Secretary of State shall make a motion for a resolution in the House of Commons in respect of the draft, setting out the elements listed in subsection (3).

(5) A motion for a resolution under subsection (4) shall be made in such a way as to permit amendment of any of the elements prescribed under subsection (3).

(6) A motion to enable consideration of the negotiating mandate shall be laid before the House of Lords.

(7) The terms of any negotiating mandate authorised by a resolution under subsection (4) shall be binding upon the Secretary of State and anyone acting on his or her behalf in the course of negotiation."

This would establish the procedure by which Parliament would agree a negotiating mandate for free trade agreements that do not correspond to a prior or existing EU free trade agreement.

New clause 7—*Availability of agreement texts*—

"(1) The text of any proposed international trade agreement which is being negotiated shall, so far as it is agreed or consolidated, be made publicly available within ten days of the close of each round of negotiations.

(2) Every—

(a) document submitted formally by the United Kingdom government to the negotiations, and

(b) agenda for each new round of negotiations

shall be made publicly available by the Secretary of State.

(3) All other documents relating to the negotiations and not falling within the descriptions provided in subsections (1) and (2) shall be made publicly available by the Secretary of State, subject to subsection (4).

(4) The Secretary of State may withhold from publication any document of a kind falling within the description in subsection (3) but must publish a statement of the reasons for doing so.

(5) In the case of any document withheld under subsection (4), the Secretary of State shall provide full and unfettered access to that document to—

(a) any select committee of either House of Parliament to which, in the opinion of the Secretary of State, the proposed agreement is relevant, and

(b) any other person or body which the Secretary of State may authorise.

(6) In the case of a document to which access is provided under subsection (5), the Secretary of State may specify conditions under which the text shall be made available.

(7) The Secretary of State shall maintain an online public register of all documents published under subsections (1), (2) and (3) or withheld under subsection (4)."

This would establish the procedure by which the agreed or consolidated texts of, and other documents relating to, international trade agreements would be made available during the process of negotiation.

Barry Gardiner: Earlier today, Members of the Committee may have tapped into their emails. If they are like me, they would have received 1,700 emails in less than 24 hours, because we are members of this Bill Committee.

The email was clearly a standard email. The subject heading was, "Amend the Trade Bill to protect democracy", and it began, "Dear Trade Bill Committee Member…", which is why I assume that most hon. Members in the Committee have received it. It has probably taken us all a great deal of time to sift through, perhaps from some of the child protection cases that have been brought before us and need urgent attention. That in itself is a concern. However, the fact that 1,700 people have emailed each one of us about this Bill shows the level of public concern that exists about its failings.

The Member's explanatory statements make clear that these two amendments together have the effect of expanding the remit of clause 2, to include those international trade agreements that do not correspond to a prior or existing EU trade agreement. That means that they would have the effect of expanding the remit of the Bill itself, to include all the trade agreements that the UK will negotiate with its trading partners or, as we would see it, they would have the effect of restoring the Bill to its proper proportions.

On Second Reading, I mentioned that we believe the Bill to be highly negligent in restricting its focus only to those future UK international trade agreements where a corresponding EU trade agreement already exists. The Government repeatedly told us that the Bill would provide the basis for this country's future trade policy once we had left the EU. The background notes to the Queen's Speech of last June were unequivocal in stating:

"The Bill will put in place the essential and necessary legislative framework to allow the UK to operate its own independent trade policy upon exit from the European Union."

Matt Western (Warwick and Leamington) (Lab): Does my hon. Friend agree that this is a key piece of legislation? As he has been articulating, the amount of public interest in it—not just simply through the democratic process—shows that the public are seeking far greater scrutiny and visibility of the trading negotiations and legislation to be formulated and widened through the Bill. There is an expectation that it should be, and there is a void in the Bill. As was mentioned by the witness from the CBI, this is such an important opportunity and there is an expectation that scrutiny and consultation should be included.

Barry Gardiner: Yes, I absolutely concur with my hon. Friend. That is precisely what those of our constituents who wrote to us earlier today were getting at. The gentleman from the CBI who gave evidence only two days ago posed a very pertinent question to the Minister on two occasions—at the beginning and the very end of his remarks. He pointed out that the Minister and the Government have said repeatedly that they will bring forward legislation in the future to put in place what we now think should be here. They give no assurances of that though. What the CBI, supported by the International Chambers of Commerce, said was: if not now, then when?

The Minister is keen to suggest the importance of passing this Bill is that we are pressed for time, and

we are. But if we are pressed for time on the need to have trade agreements that correspond to existing agreements in place by the time we leave the European Union, surely we are also pressed for time if we are to have, as the Government have suggested they could have on day one, new trade agreements in place ready to go. Where is the legislation to facilitate that? This should be that legislation and it is not.

By choosing to focus solely on providing continuity with pre-existing EU trade agreements, the Bill has gone back on the promise that the Government made in the Queen's Speech, and in other places on other occasions. The opening words of the Bill identify its scope perfectly clearly:

"A Bill to make provision about the implementation of international trade agreements".

My hon. Friend the Member for Sefton Central tried to elicit comment on that point from the witnesses this morning. The Bill bears no qualification to suggest that we should be focusing only on a subset of the broader whole. The issue before us is explicitly the implementation of the UK's future international trade agreements, which is why we consider the two amendments to be essential to restoring the Bill to its correct proportions right from the outset.

It was highly revealing that several witnesses from the business community voiced their concern at the failure of the Bill to address so many essential aspects of our future trade policy, which are precisely the aspects on which their members desperately want clarity, so that they can start making the necessary investments and operational decisions on how to take on board the new realities. Was it not depressing to hear business leader after business leader in our witness sessions saying that, because there is not that clarity, businesses are now having to execute their plan B? They are being precipitated into taking decisions to make investments abroad in order to safeguard their trading future. That is not good for this country, yet in this Bill we could set out clearly how we will achieve that.

I was concerned and taken aback to hear how angry some businesses are about the Government's mishandling of the whole process of informing them what the Bill is about and the Government's abject failure to take on board any of the business community's input into the official consultation. It came up time and again. It is hardly surprising when we consider that the Bill was already printed before the consultation on the White Paper informing it had run its course. The consultation closed on 6 November, and when we went into the Table Office on the morning of 7 November, copies of the Bill were available.

Hannah Bardell: I absolutely agree with what the hon. Gentleman is saying. Does he share my concern that when it comes to involving businesses, trade bodies and organisations in trade agreements, the Government have huge lessons to learn from the mishandling of the process and the anger? The British Retail Consortium was absolutely infuriated by how the process had been done. Businesses, individuals and trade bodies had been asked to spend staff time, effort and money feeding into a consultation, but there was no space. As he said, the Bill was printed before the consultation had even finished. That is an appalling way to treat businesses and trade bodies, and an appalling way to govern.

Barry Gardiner: I absolutely agree. It was shameful. The Cabinet Office circulates principles of Government consultation that make it clear that, when they consult, they should take notice of the responses. Nobody can persuade me that between 12 midnight on 6 November last year and 8 o'clock the following morning, all the consultation responses had been sifted, considered, documented and incorporated into the ministerial view that emerged in the Bill as printed. That is not consultation.

In that regard, we should all commend the representative of the CBI who spoke to us and gave the understatement of the year in his answer to my question during the second witness session on the Government's mishandling of the consultation process. When he ventured his verdict, he said after much thought and deliberation that

"the optics were not ideal."—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 34, Q79.]

They really were not.

I confess that I was not prepared for the level of anger from business in our oral evidence sessions, as industry representatives lined up alongside trade unions, civil society, legislators and academics to announce—to denounce, actually—the Government's failure on every aspect of this Bill.

Matt Western: Does my hon. Friend agree that it is not simply the failure to consult that has frustrated and angered so many in the business community? As we heard earlier, many businesses are so worried and uncertain about the future that they are having to take out extensive warehousing facilities. We have seen that across the southern part of the UK, where warehousing is now at a super-premium because they do not know what is happening, what is going on or what is around the corner. That is coming at a great cost to UK businesses.

3.45 pm

Barry Gardiner: Of course, my hon. Friend is absolutely right. As was stressed this morning in our latest evidence session, in what I think were the witness's words, businesses say, "We want clarity." At every turn, that is what the Government have denied them. We see the reports that businesses, industry and sectoral organisations are producing. We have read of the disconnect between the Administration and the business community. Many individuals have made the same point to me in private meetings, but it was quite remarkable to hear in this public forum just how deeply business feels betrayed as a result of the Government's determination to do it their way and go it alone.

Government Ministers have promised, in the least convincing way, that the UK's future trade agreements will remain to be talked about at some unspecified point in the future. I think the Scotch Whisky Association said that the "missing piece of the puzzle" was when that would happen. It was instructive to hear the evidence from the representative of the International Chamber of Commerce UK, who pointed out just how inadequate the Government's commitments in that regard have been. He noted that the Government have given no indication of whether this mythical debate over our future trade policy will be a random chat, a formal consultation or a second piece of legislation. We do not know what it will be, and we do not know when—or if—it will be.

[Barry Gardiner]

Given the Government's record leading up to the publication of this Bill, it is small wonder that no one is prepared to give Ministers the benefit of the doubt. Since the consultation here was so bad, why should people trust that the Minister will do what he has suggested—I would not say promised—he will do? That is why we need to talk about the implementation of all the UK's international trade agreements now, when we have the Trade Bill in front of us, not in some future world that the Secretary of State might imagine—

Greg Hands: Will the hon. Gentleman give way?

Barry Gardiner: I will give way to the Minister if he can give a promise or commitment from the Government to this Committee, and a date by which such legislation will be introduced.

Greg Hands: I understand the thrust of the hon. Gentleman's argument, but does he not agree that if we were to agree to these amendments and new clauses today, we would be effectively pre-empting the ongoing consultation on what Britain will do on future trade agreements? That is the key thing to understand. On future trade agreements, we would wish to consult further; passing these new clauses and amendments today would be cutting that process short.

Barry Gardiner: Mr Davies, I have long admired this Minister's chutzpah. The chutzpah of somebody to say, "Although I, as the Government, have completely abrogated my responsibility to get this Bill right, and you the Opposition have decided to fulfil my role for me, to try to put it right and get the stuff in place, if we passed your amendments we would not have consulted on them"! What complete, spurious nonsense. Let us have a grown-up debate, because that is not one; it really is not. It trivialises the work of this Committee and the important work that Government must do in scrutinising our future framework for trade negotiations. Mr Davies, I will calm down and try to get back to the essence of what we are doing here.

Mr Prisk: Will the hon. Gentleman give way?

Barry Gardiner: I am grateful to the hon. Gentleman for giving me the opportunity to lower my blood pressure after the Minister's intervention.

Mr Prisk: I will do my best, but he may not take that view when he calms down and the blood pressure starts to ebb. My understanding on Second Reading and in earlier debates was that the crux of Labour Members' worries—on this Committee and in the House generally—was that the Bill's problem is that it reaches far too wide. Why, then, propose amendments that extend its remit even further? Do the Opposition want a narrow or a wide Bill, and if it is too wide, why extend it?

Barry Gardiner: A plausible case. Elements of the Bill go far too wide, including the Henry VIII powers, which we will come on to later. We believe that the way in which the Government have sought to use Henry VIII powers in this legislation is too wide and unacceptable. The hon. Gentleman is right: that was one of the subjects of debate in our Second Reading deliberations. One other key criticism made by many Labour Members in that debate was that the Bill not only did the few things that it did badly, but failed entirely to do the one thing that it should have done properly. That is, to quote the Queen's Speech policy paper, to

"put in place the essential and necessary legislative framework to allow the UK to operate its own independent trade policy upon exit from the European Union."

There are many deficiencies in the Bill. Some relate to the widening of powers that it gives to Government, whereas others relate to the narrowness of the Bill.

Matt Western: Are we not simply taking the opportunity to ensure that this important legislation is comprehensive? It is about widening the remit of the Bill as regards the coverage of trade agreements without widening the powers of a select few.

Barry Gardiner: I am very grateful to my hon. Friend for saying incisively what I was trying to convey to the hon. Member for Hertford and Stortford. My hon. Friend is entirely right. We want a comprehensive Bill that is fit for purpose and does the job that business expects it to do. This Bill does not do that. We want it to do what the Queen's Speech promised it would, but we do not want the Government to use the Bill to abuse their powers and widen the powers available to them.

Let me speak first to amendment 3, so that what we seek to achieve through it is clear. The amendment expands the Bill through paragraphs (a) to (d) to include new trade agreements that do not correspond to any prior or existing EU agreement. Paragraph (a) relates to free trade agreements as defined in the Bill under clause 2(7): namely, agreements that are notifiable under the relevant articles of the principal WTO goods and services agreements—that is, article XXIV of the general agreement on tariffs and trade and article V of the general agreement on trade in services. Paragraph (d) relates to international trade agreements that the Bill leaves undefined as being "other than a free trade agreement."

Dr Lorand Bartels, a witness on the first day of the Committee, noted in his oral evidence the Bill's failure to define that second category. We will certainly endeavour to address that failure through a subsequent amendment to the Bill. For both categories of trade agreement, our amendments point ahead to the requirements of parliamentary scrutiny that will pertain to them. Let me say at this juncture that we consider the two types of trade agreement to be materially different in that regard.

As we heard from numerous witnesses, the modern generation of free trade agreements are comprehensive in scope. They range far beyond the narrow focus on mutual tariff reduction that characterised the multilateral trade agreements negotiated under the auspices of GATT in the 40 years after the second world war. They reach behind the border to address regulatory issues at the heart of our society, including issues of public health, social standards, labour rights and environmental standards, among many others. Those were precisely the reasons why we had such a comprehensive debate on the amendments proposed by the hon. Member for Livingston.

These are international treaties that introduce binding obligations on future generations and thus cannot be repealed as domestic legislation can be repealed. That is why in all our interventions we have proceeded according

to the principle that there must be maximum parliamentary scrutiny and democratic oversight of free trade agreements to ensure that we get them right, rather than storing up the prospect of irreparable harm at a later date.

The other international trade agreements covered by the Bill, to use its phrase—that is, the ones that are not free trade agreements—include such ancillary agreements as mutual recognition agreements, according to the explanatory notes. There are many more such agreements, and they tend to be far more narrowly focused than free trade agreements, so we have proceeded on the assumption that they will not require the same level of parliamentary scrutiny. That is a deliberately pragmatic approach I have adopted to ensure that future Administrations can make progress in agreeing such deals where necessary, but we will ensure that there is sufficient potential for scrutiny in all cases to guard against any potential harm from those other agreements.

As well as drawing in the new UK trade agreements that do not correspond to a prior or existing EU trade agreement, amendment 3 speaks to the new UK trade agreements that correspond to a prior or existing EU trade agreement—that is, the ones that the Government would like to restrict us to in this Bill. Again, let us agree from the outset that they will be new trade agreements, even if they correspond to agreements that the EU had previously negotiated with the third country in question. Ministers have done their level best to suggest that the new UK agreements will just be rolled over or grandfathered from the pre-existing EU deals. The delegated powers memorandum issued alongside the Bill by the Department for International Trade is unequivocal: these will be new agreements, on two counts. First, the agreements will be legally distinct from any pre-existing trade deals the EU may have negotiated—that was underlined by witnesses to the Committee, such as Dr Holger Hestermeyer—and secondly, and even more important, these new trade agreements may include

"substantial amendments, including new obligations."

It is vital to read the Bill on this point. To qualify for the waiving of scrutiny foreseen in the Bill, a UK trade agreement need bear no resemblance whatever to the EU agreement it seeks to replace. Do I think the Government are likely to waive that scrutiny? No. Is the legislation effective in allowing the Government to do that? Yes. Under clause 2(3) and (4), there is no requirement for the UK agreement to match or mirror the EU's existing agreement in any way, shape or form. It can be a wholly new departure with wholly new obligations, since all the Bill requires is that the other signatory and the European Union were signatories to a free trade agreement—not a corresponding one or a similar one, but "a free trade agreement"—before Brexit takes effect.

4 pm

As the Bill stands, it is open season for the Government to negotiate what it likes behind closed doors, and then smuggle the implementing regulations through Parliament without the need for a debate or vote of any sort. I hope that hon. Members on the Committee will find that incredible, and democratically unacceptable.

Matt Western: If I recall correctly, Dr Holger Hestermeyer talked about not only scrutiny, but the importance of having impact assessments alongside the consultation, as these are, as my hon. Friend was explaining, essentially new agreements being put in place.

Barry Gardiner: Again, my hon. Friend makes a very important point. We heard from our witnesses about the importance of understanding what we are doing before we rush out and do it. My remarks on this afternoon's legislation have been extremely cautious in many respects, because I think that legislation is important. It is particularly important in this area, because we are talking about internationally binding obligations that are extremely difficult for us, as a country, to reverse. That is precisely why my hon. Friend's point is so essential. We need proper impact assessments before we have our mandates established and before negotiations are concluded.

We heard in the first evidence session that there is every likelihood that the UK's trading partners will regard the negotiation of new trade agreements as an opportunity to re-open the provisions that they had previously negotiated with the EU. Those agreements were designed to meet the interests of all 28 member states of the European Union, and the relative weight of the EU in the negotiations that informed them means that the third country in question would have been pressed into making sacrifices that it might not choose to make when acting alone in forming a bilateral relationship with the UK.

Discussions on those countries' new agreements with the UK are taking place now. I know that the Government are respectful of the EU treaties and are not trying to negotiate at the moment, but they are having fairly detailed discussions. The Minister, in his sedentary position, remains immobile but a smirk is creeping across his face. Those discussions are taking place behind closed doors, so we do not know what the Government have already said, and what they have said they would be prepared to trade away. Make no mistake: the Government are keen to ensure that they get deals done. This whole endeavour is a different way of approaching our trading future, and the credibility of the Government's position politically relies on being able to conclude deals swiftly. We must be very wary of negotiations done in secret in order to achieve quick results for political convenience to save the Government's blushes.

We know that we are talking about new agreements, which could well include substantial new obligations on the part of the UK. That is why the Government's suggestion that they should be granted the powers to smuggle the implementing regulations past Parliament with no provision for scrutiny is so outrageous. The need for a proper parliamentary oversight process for such agreements was alluded to by our witnesses, Jude Kirton-Darling, the rapporteur on the EU Trade Committee, and Dr Brigid Fowler from the Hansard Society. They stressed that point repeatedly in their oral evidence to the Committee, as did so many other witnesses. To that end, paragraph (b) in amendment 3 looks ahead to the enhanced scrutiny procedures that we will propose under schedule 2 to replace the negative resolution procedure envisaged by the Bill as it currently stands.

Amendment 4 is consequential on amendment 3 and would require any regulations made under clause 2(1) of the Bill to be subject to the provisions not of subsections (3) to (5), as at present, but of subsection (2A), which would be introduced via amendment 3, and subsection (5), which speaks across to the Treasury's powers to set tariffs under the Taxation (Cross-border Trade) Bill currently going through Committee in parallel with this Bill.

[Barry Gardiner]

Together with amendments 3 and 4, I would like to speak to the four new clauses that they bring into play, namely new clauses 4 to 7. New clause 4 is the top-line clause, because it outlines the stages of what we consider to be a proper parliamentary procedure for scrutiny and oversight of free trade agreements before signature. Once again, let me underline that the procedure is designed to apply to free trade agreements, not to other international trade agreements referred to in the Bill under clause 2(2)(b).

Equally, let me emphasise the importance of the words "before signature" in the title of the new clause. We have deliberately designed a procedure so that Parliament has the opportunity to debate and direct trade negotiations in the early stages, rather than protesting once it is too late. We will surely be supported by the Government in that, given how publicly the Secretary of State has rued the loss of legitimacy that led to the failure of the TTIP negotiations between the EU and the USA. Nick Dearden from Global Justice Now touched on exactly that point in our first evidence session.

Our aim in bringing forward the maximum possible scrutiny and oversight before signing is to ensure that Parliament can amend and improve free trade agreements where they are found to be wanting. That is infinitely preferable to a system whereby Members are presented with negotiated agreements on a "take it or leave it" basis, thus risking the loss of an entire agreement and all the vital export opportunities that go with it simply because there was no possibility of excising or amending one or two of the offending provisions.

In oral evidence, Dr Hestermeyer referred to the system in Germany, where Parliament is involved early on in the proceedings precisely so that it can direct the federal Government in respect of trade negotiations, even though their negotiations are carried out by the European Commission. We want a constructive procedure that focuses on the best possible outcomes for our future trade agreements, not one where the whole ship is spoiled for a ha'p'orth of tar.

I will run through, in plain English, the six stages we have set out and then expand on them as necessary as they have been placed in the amendments, as subsequent new clauses hang off the overview clause. The first is the need for a sustainability impact assessment before the launch of negotiations towards a free trade agreement. The second is the need for Parliament to be involved in setting the mandate for the objectives of the negotiations. The third is the need for transparency—and, in particular, access to negotiating texts—while the negotiations are being conducted. The fourth is the need for regular progress reports to Parliament after each round of negotiations. The fifth is the submission to Parliament of the full text of the agreement as negotiated before its signing. The sixth is a resolution from the House of Commons to give the Secretary of State the green light to sign the agreement.

The first step in any proper procedure towards negotiating a free trade agreement is to undertake a sustainability impact assessment to identify the opportunities and risks that the agreement might present. Nick Ashton-Hart spoke of the importance of that in his oral evidence to the Committee. Carrying out a sustainability impact assessment is already a standard requirement for every new set of EU trade negotiations, and the methodology for conducting such assessments has been developed considerably over the years. Our new clause 5 provides basic instructions as to what a sustainability impact assessment should include at a minimum. For those who want to take the methodological issue further, the European Commission published in 2016 the second edition of its "Handbook for trade sustainability impact assessment", which I refer the Minister to and is freely available online.

Crucially, our blueprint for what a sustainability impact assessment should include relates not only to the content of the assessment, but to the process that lies behind it. Any impact assessment must incorporate consultation with the devolved Administrations and with representatives of all those businesses and trade unions that are likely to be affected, as well as offering the opportunity for all other bodies to contribute to it.

We have also written into the new clause that the consultation must be in line with the existing code of practice for Whitehall consultations—something that we might usually consider unnecessary to include in legislation. Given the extraordinary mishandling of the consultation prior to this Bill, there obviously needs to be a reminder that every consultation should follow the rules.

The assessment needs to cover the economic impacts of any trade agreement, and importantly those impacts need to be disaggregated both geographically and by sector. The consequences for jobs, small and medium-sized enterprises and vulnerable economic groups are particularly significant, as free trade agreements have sometimes been to the disadvantage of all but the most powerful economic actors.

Alan Brown: Apologies, but I just want to take the hon. Gentleman back slightly. I agree with his suggestion that sustainability impact assessments should be carried out and should seek the views of the devolved Governments. What does he suggest happens if a sustainability impact assessment shows a negative impact on one of the devolved Administrations? Given that there is no requirement for consent, how would that be resolved?

Barry Gardiner: I am very happy to take that comment on board, but I do not want to get sucked back into our previous debate—I know that you would not let me anyway, Mr Davies.

That is precisely what an economic impact assessment is there to do: to show up those areas of the economy that might benefit and those that might be losers from an international trade agreement. It is then a matter for the Government, and a responsible Government should be trying to balance the interests around all of the United Kingdom to spread wealth and prosperity throughout all of the parts of these islands.

The other day, I was deeply affected to see a graph that I had not seen before and is specifically relevant to the hon. Gentleman's point. In the top right-hand quadrant were those countries where both GDP and average income are growing. In the bottom left-hand quadrant were those countries where both GDP and average income are declining. In the top left-hand quadrant were those countries where GDP is declining but average income is growing. In the bottom right-hand quadrant were those countries where GDP is increasing but average income is declining. There was only one country in that

bottom right-hand quadrant: the United Kingdom. That is a disgrace. That is a shame. It shows precisely why we need economic impact assessments. As many trade agreements have shown over the years, it is possible to increase the GDP of a country through a trade agreement while the people of the country become poorer. That is why we must take these deliberations so seriously. That is why putting these strictures in place is a vital part of what a responsible Government must do in relation to our future trade policy.

4.15 pm

The social, human rights and environmental impacts must be included, as must the impacts on animal welfare—an area in which I hope we are able to develop higher standards than have pertained until now. There is also a special requirement to report on the potential impacts of any new trade agreement on the countries of the global south. That must include both direct and indirect impacts, so as to incorporate those countries' potential loss of market share as a result of trade diversion or preference erosion. To take an easy example, that would be key in the event that the UK sought to grant preferential access to Brazilian sugar exports without proper consideration of what that meant for small-scale sugar cane farmers in Caribbean countries that rely on their existing preferential access to the UK market. The better the terms we offered Brazil, the greater the challenge would be for exporters in the Caribbean.

In that example, we might still choose to offer Brazil preferential access, but a sustainability impact assessment would outline in advance the full consequences of our choice. Crucially, under our proposals, it would also offer advice on flanking measures that we might adopt to mitigate negative impacts on the Caribbean cane farmers. If we are to have a trade policy that is integrated with our international development policy and our industrial strategy, we need to ensure that impact assessments are properly carried out and comprehensive.

The second stage in our procedure for negotiating a wholly new free trade agreement is for Parliament to authorise the commencement of trade negotiations by means of a mandate to the Government outlining the goals and objectives of those negotiations. A requirement for such a mandate is set out in broad terms in our new clause 6, "Parliamentary consent to launch of trade negotiations". That is standard procedure for all trade agreements negotiated at European level, so we would simply transpose the process from Brussels to Westminster in the light of our taking back responsibility for our trade policy post-Brexit.

At European level, the Commission submits a draft mandate to the Council of Ministers for its consideration, amendment and approval. We propose that the same process should be adopted in the UK, with Parliament as the sovereign governance body in place of the Council of Ministers. Once that mandate was established, it would be binding on our national trade negotiators and would represent a yardstick against which to measure progress and, ultimately, the success or otherwise of the negotiations.

The third stage of our proposed procedure relates to transparency of negotiations and is developed in new clause 7, "Availability of agreement texts". Let me make it clear that we do not believe that transparency should be restricted solely to those trade agreements for which there is no corresponding EU agreement already in place. This is such a fundamental requirement for basic democratic oversight that it should apply to all international trade agreements as a matter of course, and the new clause is written so that it applies to all categories of trade agreement, without exception.

The Government's record in this regard leaves much to be desired. It took almost a year of pressing the Secretary of State before we were granted minimal access to the text of the TTIP between the EU and the USA. By the time we—Members of Parliament—were granted access, the TTIP negotiations had already been suspended and the whole exercise was redundant. As if that indignity were not enough, the exchange of letters between the Government and the US Trade Representative's office before Christmas revealed that the Government have already given assurances to President Trump's Administration that Members of this House will be denied access to all information on the substance of trade talks shared within the UK-US working group.

The Second Reading debate was instructive: when summing up, the Minister said that that applied only to confidential information. No. It was all information, and they then deemed that all information would be confidential—a three-card trick. May I say how extraordinary it was to hear the Minister for Trade Policy speak to the situation? The information will be held in confidence for four years after the conclusion of the working group—that is the commitment that the Secretary of State has given to the United States—but, without the slightest hint of irony, the Minister for Trade Policy somehow managed to make the following words come out of his mouth:

> "In fact, the letters reaffirm our commitment to a transparent and inclusive process with specific reference to Parliament."—[*Official Report*, 9 January 2018; Vol. 634, c. 281.]

They do not, they did not and they cannot. I have heard of Orwellian newspeak, but it takes a particularly brazen disregard for the customary meaning of the English language to claim that keeping information confidential represents a commitment to transparency.

The Government's obsession with secrecy should not be confused with a desire to conceal our negotiating hand from the Americans. The provisions agreed by the Secretary of State are expressly designed to deny British MPs and the wider public any knowledge of what has already been discussed with the United States representatives. In other words, the Secretary of State will not tell us what he has already told them.

I am not dwelling on this as an academic point for some future occasion. The UK-US working group is real and is already meeting to scope out the future parameters of a trade deal, yet there is absolutely no information forthcoming whatever as to what it is discussing; nor is there any information on any other working groups that the Government have set up. We do not believe that it is acceptable to keep MPs in the dark in that way. The Labour party made a manifesto commitment to transparency in future trade negotiations, and we believe the Government should also honour that principle in their relationship not just with Parliament but with the people of this country.

The fourth stage is the right for Parliament to be kept informed during the course of ongoing trade negotiations by means of regular progress reports after each round of talks. The importance of parliamentarians being

kept up to date in this way was stressed by Jude Kirton-Darling in her oral evidence to the Committee. She spoke of the benefit to MEPs of having regular engagement with the EU Trade Commissioner after each round of talks across the various agreements being negotiated by the EU at any one time. There is no new clause accompanying that provision, as the requirement is clear and simple.

We have suggested a written report laid before Parliament within 10 days of the end of each round of talks detailing both progress made in each area of the negotiations and the obstacles still remaining at the end of the round. Indeed, we would consider that to be good practice for the Secretary of State to adopt on a unilateral basis in relation to the existing trade talks that his Department has initiated in the various working groups already in existence.

The fifth and sixth stages of our proposed procedure deal with the final stages leading to the signing of a trade agreement. Again, let me reiterate how important it is for Parliament to be fully involved at that early stage so as to be able to influence the final text of any agreement for the better. To that end, our procedure stipulates that the final text be laid before Parliament for 21 sitting days and that a resolution must be passed by the House of Commons before the Secretary of State may proceed with signing.

Taken together, the six stages of that procedure mean that we have front-loaded parliamentary scrutiny to the earliest possible stage of negotiations. That in turn means that the ratification process after signature can go ahead under the Constitutional Reform and Governance Act 2010, and that the incorporation of the new trade agreement into UK law can follow as it has always done, bearing in mind that the UK is a dualist state.

Relying on CRAGA without that prior oversight is entirely unacceptable, as we have stressed on numerous occasions already, and we entirely reject the Government's spurious contention that CRAGA provides Parliament with an opportunity to subject international trade agreements to sufficient scrutiny. It does not. The Government know it does not. The House of Commons Library has affirmed it does not. That is why it is so vital to the future of our democracy that we introduce our new provisions for parliamentary scrutiny now.

In response to the Minister's remarks about CRAGA being passed through this House under a Labour Government: I voted for it, but that was in the days when the scrutiny levels in the EU already existed. Scrutiny was then passed down to this Parliament, where the European Scrutiny Committee, under the powerful microscope of the hon. Member for Stone (Sir William Cash), would examine forensically the contents passed from Europe. All that scrutiny and accountability are being dispensed with—they are being washed away. That is why CRAGA, which was important then, is not now available. CRAGA has been denuded of all that.

Greg Hands: I think that the hon. Gentleman is saying that he is very satisfied with the current system of EU scrutiny in relation to EU trade agreements.

Barry Gardiner: I am pointing out to the Minister, in response to his earlier remarks, the reason I voted for CRAGA then. I think I am right in saying that while his party voted against CRAGA, which it is now relying upon so heavily—there is an irony there—he did not turn up for the vote. I turned up for the vote and I voted for it, but because it was subject to all the scrutiny procedures that were already in place from the EU. The situation has changed.

Mr Prisk: I have listened very carefully to the six stages of assessment. I do not have a problem with the principle that there should be a thorough process, but the amendments and new clauses ignore one tiny detail: next March, we leave the European Union. All business representatives, particularly of businesses in my constituency, have said that they need to know what happens on 1 April. How will it be possible for any of these existing trade agreements, which is what the Bill is about, to be transferred across under his proposal? How many years will businesses have to wait?

Barry Gardiner: In fact, they would not have to wait. I have great respect for the hon. Gentleman and I know he speaks with real experience in these matters, having been a trade Minister. I ask him to look at what we have proposed: we have tried to introduce the bifurcation at a high level in the legislation. We have put the proposals in at that point. Of course, they would have an impact on all the new free trade agreements. We are trying to ensure that for new free trade agreements, this is the proper process of scrutiny that will come into place. On the corresponding agreements—where the EU already has an agreement—there will be a streamlined procedure, but one that is still subject to appropriate parliamentary scrutiny, particularly where those agreements have been substantially amended.

Let me conclude this section of my remarks by repeating that we have tabled the amendments and new clauses to establish a procedure for new free trade agreements that do not correspond to any prior EU agreement—that is the point I just made to the hon. Member for Hertford and Stortford. I was struck by how forcefully the representatives of business made the case to the Committee in our final oral evidence session on 23 January that there needs to be substantially greater consultation on the new trade agreements that the Government are negotiating, which correspond to prior EU agreements. Wherever those EU agreements are modified to incorporate new obligations, those obligations must be highlighted and presented to Parliament, to business and to the country as a whole, for proper debate, proper scrutiny and proper accountability. We will precisely return to the issue of scrutiny for these new replacement UK agreements as we go through the rest of the Bill.

4.30 pm

Greg Hands: The Government have been clear that we do not seek to renegotiate existing trade agreements. In leaving the EU, we seek to maintain continuity in our existing trade and investment relationships. As such, we seek no change in the effects of our existing agreements as we leave the European Union. Therefore, special review procedures, as proposed in new clause 8, for example, are unnecessary.

The powers in the Bill will be used only to transition the existing trade agreements that the EU has signed up to prior to exit day. The Bill does not relate to the negotiation, signature or implementation of future free trade agreements. We have taken that approach for a specific reason: we want Parliament to play a vital role in the scrutiny of future trade agreements, as it always

has done. In the trade White Paper, we made it clear that our future trade policy must be transparent and inclusive, and that Parliament will be engaged throughout the process. We will continue to respect the role of Parliament when agreeing the terms of future trade agreements.

Bill Esterson: Is the Minister giving us an undertaking that there will be an affirmative or super-affirmative scrutiny process in Parliament on the new trade agreements?

Greg Hands: All that will be considered in due course. We will bring forward proposals in the coming months on how Parliament will interact with future trade agreements.

Hannah Bardell: Will the Minister give a definition of "due course" and say what his vision is? Many external organisations and hon. Members have expressed about the structures in this place and Delegated Legislation Committees. I have sat on those Committees and I know they are not sufficient to allow proper scrutiny of the thousands of statutory instruments and regulations that will have to be dealt with, or to allow Parliament and its Members to have a say on them and be confident that they will be able to scrutinise what has been decided.

Greg Hands: We want a clear and significant role for Parliament in the scrutiny of future trade agreements. Returning to my intervention on the hon. Member for Brent North, the amendments and new clauses would pre-empt those arrangements before we have been able to consider properly what we are doing and to consult on that.

On 5 January, the Government published a response to the trade White Paper, which covered a number of things—of course, not everything that was in the White Paper is in the Bill. We will consider the views expressed in that consultation as we develop proposals regarding the role of Parliament in respect of future trade negotiations.

Hannah Bardell: A number of deficiencies have been highlighted. Does the Minister think that some of the deficiencies in the Bill, and the fact that he is having to tell us that some things will come later—I appreciate that he has great integrity and the best intentions—relate to the fact that the Bill was published before the consultation period ended? Is that the reason why some aspects of the Bill are so deficient?

Greg Hands: As I have stressed, consultation on future trade policy is ongoing. It is not dependent solely on the trade White Paper. We are consulting by speaking with partners, businesses, the devolved Administrations and other stakeholders constantly as we seek to bring forward proposals on our future trade policy. However, as I have explained, we consciously decided to make this Bill about our current trading arrangements and ensuring that they can be transitioned properly into UK law.

Therefore, these amendments pre-empt the full consideration of the 7,429 responses received during that consultation and of the views expressed inside and outside the House. It is right that we take the appropriate amount of time to develop a range of proposals that ensures that Parliament, the devolved Administrations, devolved legislatures and a wide range of stakeholders, including business and civil society, are engaged throughout the negotiating process.

The hon. Member for Brent North made a fascinating speech on what the UK's future trade policy might look like, but that is not what we are deciding today. He said that Government can smuggle new trade agreements through Parliament without a vote. No. The implementation powers in clause 2 are exercisable by negative procedure statutory instruments. These are subject to a vote in either House of Parliament, if the regulations are objected to by parliamentarians. Parliament has the right to vote on the implementation of transitionally adopted trade agreements, if it so desires.

Barry Gardiner: The Minister must be more straightforward with the Committee. We have already been over this ground. He knows that the negative procedure does not make provision for anything but the grace and favour of the Government in giving Her Majesty's Opposition an opportunity to object. There is no necessity at all for a debate or vote on the Floor of the House. He must be straightforward about that.

Greg Hands: Again, I stress that Parliament has the right to vote on the implementation, but we also must remember that these will be agreements that are substantively the same as the current agreements. The reason I intervened on the hon. Gentleman—when I think he confirmed he was quite content with the existing EU scrutiny procedures—is that of course all of those agreements have been through the existing EU scrutiny procedures. I was not necessarily with him in the Chamber or upstairs each time one of those EU trade agreements went through, I think he was satisfied with those procedures at the time.

Bill Esterson: Is the Minister categorically saying that there will be no changes to the agreements that we are describing as corresponding agreements before they come through?

Greg Hands: I refer the hon. Gentleman to the evidence of the International Trade Committee, if that is in order. We had a good round about this at the Select Committee yesterday—some of the members of the Select Committee are here or are at least members of the Bill Committee—and we are quite clear that 70-plus partners have been engaged in this process. All 70-plus have agreed in principle; none has raised objections in principle to doing this. There is no reason that they necessarily would want to change the substance. They need continuity in their trading arrangements in the same way that we do.

The hon. Member for Brent North claimed that a wide range of stakeholders provided oral evidence calling for greater scrutiny mechanisms for future approved trade agreements. I think that was a fair comment. There were a number of views on how our future scrutiny arrangements might be, but I think the evidence session showed just how varied and complex the views on this matter are. It is right that we take the time to think through our options carefully. Let us not rush ahead and put in place arrangements that may not be fit for purpose. That is why we will be returning to future trade agreements in the future.

[Greg Hands]

We will return to Parliament with proposals on future free trade agreements, on which we will seek views in due course. Accepting these amendments and new clauses would frustrate our ability to fully consider all of the issues and options in the round. I therefore ask the hon. Member for Brent North to withdraw the amendment.

Barry Gardiner: I will try to extract the crumbs of comfort from the Minister's remarks. He has said that he recognises that there is a role for greater parliamentary scrutiny of our trade arrangements and that these are matters to which we should return in due course. He has also suggested that we should be able to have a proper consultation on the future trading arrangements. Those are things that I take as good will on the part of the Minister.

I propose not to press these amendments, but I make it clear to the Minister that, at a later stage in the passage of this legislation, he should table his own amendments to do what the Bill says it is about and what Her Majesty in the Gracious Speech to Parliament said it was going to be about. If he does that, I will be very happy. I will see him as a man of his word, and will be looking forward to going through what I assume will be a very similar text to the one I have tried to present to the Committee today.

I will not press these amendments today, but I put the Government on notice that it is time for them to act and to come forward with their own proposals. If they do not, these Opposition measures will return at a later stage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned. *—(Craig Whittaker.)*

4.41 pm

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

Written evidence reported to the House

TB11 St Andrews TTIP Action Group

TB12 Trade Justice Scotland coalition

TB13 Liberty

TB14 Professor Alan Winters, Professor of Economics and Director of the UK Trade Policy Observatory (UKTPO) in the University of Sussex