PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE BILL

Seventh Sitting

Tuesday 30 January 2018

(Evening)

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 3 February 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

Tuesday 30 January 2018

(Evening)

[Joan Ryan *in the Chair*]

Trade Bill

5.30 pm

The Chair: I call Hannah Bardell, who is not in her place—*[Interruption]*—unless she is!

Schedule 4

The Trade Remedies Authority

Hannah Bardell (Livingston) (SNP): I beg to move amendment 42, page 18, line 39, at end insert

"and to each devolved authority".

This amendment would require the TRA to send its annual report to each devolved authority.

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

Amendment 43, page 18, line 40, after "Parliament" insert

"and shall supply copies to—

(a) the Scottish Parliament,

(b) the Welsh Assembly, and

(c) the Northern Ireland Assembly."

This amendment would require the Secretary of State to supply copies of the annual report to the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly.

Amendment 24, page 18, line 40, at end insert

"no later than 1 August of the calendar year in which the last day of the financial year covered by the report falls".

This would ensure that the Secretary of State must lay the annual report of the Trade Remedies Authority before Parliament within a reasonable time frame.

Amendment 25, page 18, line 40, at end insert—

"Recommendation reports

31A (1) The TRA must prepare a report on each of the individual recommendations it makes to the Secretary of State in connection with the conduct of an international trade dispute.

(2) The report must accompany the recommendation submitted to the Secretary of State.

(3) The Secretary of State must lay the report before Parliament as soon as reasonably practicable, and not later than five days from the time it is submitted to the Secretary of State by the TRA."

This would ensures that Parliament is kept informed, in a timely fashion, of the individual recommendations made by the Trade Remedies Authority to the Secretary of State in connection with cases of dumping, foreign subsidies and import increases causing injury to UK producers.

Hannah Bardell: I apologise for my lateness, Ms Ryan. I will be brief, because I know that time is of the essence. Amendments 42 and 43 are fairly straightforward, and seem to me to be a sensible and rational approach. Amendment 42 would require the Trade Remedies Authority to send an annual report to each of the devolved authorities; it is vital that we have those reports. Similarly, amendment 43 would require the Secretary of State to supply copies of the annual report to the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly. In doing so, I hope that Ministers will also consider appearing, as they already do, before their Committees, particularly in relation to trade remedies. I cannot imagine why there would be opposition to that; it seems like an entirely sensible approach. I hope that the amendments will command support across the Committee.

Bill Esterson (Sefton Central) (Lab): I will speak to amendments 24 and 25, which stand in my name and those of my hon. Friends. As the explanatory statement makes clear, the amendments would ensure that our Parliament is kept informed in a timely fashion about the work of the Trade Remedies Authority.

Parliament should be able to scrutinise the work of the TRA to ensure that it is working in the best interests of the UK economy and UK producers. Such requirements are nothing new in the realm of trade remedies. At European Union level, the Commission is obliged to report to the European Parliament and to give MEPs statistics on the cases opened and the number of measures adopted. Members of this Parliament should be given the same information from our TRA once it is up and running, so that they can scrutinise its work. MPs should be able to see how many cases have been initiated and measures adopted and so judge whether the TRA is taking measures to defend our industries or mostly putting consumer interests first at the expense of British producers, jobs and the regions.

Tom Reynolds of the British Ceramic Confederation pointed out that he would be more comfortable if there were a more rigorous approach for parliamentarians to get involved in the setting of the rules for the system. Just as in the rest of the Bill, the Government propose nothing in the schedule about parliamentary oversight or scrutiny of the TRA. Yet again, they want to make decisions that will have profound impacts on key sectors of British industry, thousands of jobs and many regions, behind closed doors and without any scrutiny or accountability to Parliament. The Minister and his colleagues might talk the talk on returning sovereignty to this Parliament, but when it comes to it, they once again fail to respect the very principles of parliamentary democracy.

Giving parliamentarians oversight powers over the work of the TRA will ensure proper scrutiny and accountability. A weak trade remedies regime is of benefit to nobody in our country. If anybody thinks that having a weak regime will open up trade opportunities with international partners, they are mistaken. Partner countries will take advantage of that, and we will once again see the loss of jobs, as we did in the steel sector in 2015 and 2016. It is only right that this House gets to scrutinise the work of the TRA to make sure that it is doing its job properly.

The Minister for Trade Policy (Greg Hands): Welcome back to the Chair, Ms Ryan. May I start by congratulating the hon. Member for Livingston on redefining the term "moving an amendment"? She was actually in motion as she did it, so I commend her on her dexterity.

It is important that we create an independent and objective investigation process in which businesses and consumers will have full confidence, as I referred to previously. For this reason we are setting up the TRA as an arm's length body with the appropriate degree of separation from the Department for International Trade. The Trade Bill requires the TRA to produce an annual report on the performance of its functions during each financial year. That must then be sent to the Secretary of State, who must lay the report before Parliament.

Let me deal with the four amendments. Amendments 42 and 43 are concerned with the sharing of the reports, requiring the TRA to submit annual reports on the performance of its functions to each devolved Administration, in addition to sharing copies with the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly. Much as I strongly endorse our consulting with and involving devolved Administrations at all stages of this process, and expect the TRA to pay due heed to the devolved Administrations and to involve them as well, I must tell the hon. Lady that the amendments are unnecessary. The Bill already requires the Secretary of State to lay a copy of the TRA's annual report before the UK Parliament, and at that point it will be a publicly available document for all to see right across the United Kingdom, including in Scotland, Wales and Northern Ireland.

Amendment 24 is on the annual report itself. The Bill already requires the annual report to be produced

"as soon as reasonably practicable after the end of the financial year to which it relates."

The amendment, which seeks to impose an arbitrary fixed deadline for when the TRA is required to produce the report, is therefore also unnecessary. We are balancing giving the TRA a statutory requirement to produce the report on time, while recognising the importance of safeguarding operational flexibility, which is particularly important for a new organisation.

Amendment 25, on the investigation report, is interesting. I have referred a few times to the Taxation (Cross-border Trade) Bill, which is in Committee in another room. As laid out in that Bill, the TRA will be responsible for making recommendations on trade remedies cases to the Secretary of State. However, the amendment could lead to recommendations made by the TRA being released publicly before the Secretary of State has reached a final decision. Indeed, it is unlikely that the Secretary of State would make the decision in five days given the potential need to consult across Government. In my view, this could undermine the impartiality of trade remedies recommendations by increasing lobbying of Ministers by any parties affected by the TRA's recommendations, be they producers, consumers or other stakeholders.

Faisal Rashid (Warrington South) (Lab): Does the right hon. Gentleman agree that the amendment seeks a role for MPs that is akin to the role that MEPs have with regard to trade remedies?

Greg Hands: I thank the hon. Gentleman for that intervention. It is right that MPs have a role and that the TRA reports to Parliament. That is why the TRA publishes the annual report and is answerable to the Secretary of State, who is answerable to Parliament. Publishing the TRA's recommendations before the Secretary of State has made the decision based on them is not a good idea, for reasons I will outline.

Barry Gardiner (Brent North) (Lab): Does that explain why the Government were so backward in making representations to the US International Trade Commission with respect to Bombardier? The Minister said that it would be inappropriate to lobby such an organisation. Is it the Government's position that it is inappropriate for lobbying to take place when a trade remedies authority is considering whether dumping has taken place or what remedies might be appropriate? Is that his approach to defending British industry when it faces trade defence measures abroad?

Greg Hands: The hon. Gentleman is confusing different processes. The British Government made extensive representations to the parties and the ITC during the investigation process in the United States. That is the key difference. Of course people will be expected to make representations during the investigation process in the UK, but my point was about publication of the TRA's recommendations between the investigation process and the Secretary of State's pronouncement.

In any case, I dispute the hon. Gentleman's point. The UK Government have put in enormous efforts: my boss, the Secretary of State for International Trade, spoke at length with Wilbur Ross, and the Business Secretary also made representations. Very extensive and successful representations were made to US authorities, to Boeing and other companies, and to the US Administration.

Amendment 25 could lead to unnecessary disruption of the market in the key period between the TRA's recommendations and the Secretary of State's decision.

Barry Gardiner: Will the Minister give way?

Greg Hands: Let me make a little more progress.

Amendment 25 could delay the Secretary of State's decision. The evidence base for the TRA's recommendations should be made available to the public after, not before, the Secretary of State accepts or rejects them, as required by World Trade Organisation agreement. That is the right time for the evidence base to be put in the public domain.

Barry Gardiner *rose—*

Greg Hands: I will take a late intervention from the hon. Gentleman.

Barry Gardiner: It is only the one he deferred a few moments ago. I am grateful to the Minister, because he has engaged in debate and the Committee has been the better for it. However, he mentions the appropriate point for intervention. The American situation involved two decisions: the US Department of Commerce made an initial determination and then the US International Trade Commission had to look at whether any damage had been caused and recommend any appropriate charges. The situation was somewhat akin to a recommendation being made to the Secretary of State and the Secretary of State deciding what to do about it. There is a real parallel here that the Minister is denying. As I am sure he acknowledges, amendment 24 would not set an arbitrary deadline; it would ensure that the Secretary of State laid the report before Parliament in a timely fashion.

5.45 pm

Greg Hands: May I end—again—by saying that I do not think it is right to make an exact comparison between the UK and US situations? As I said earlier,

[Greg Hands]

the design of the Trade Remedies Authority in the UK has been informed by international best practice, but it is fundamentally a different system. The right time for representations to be heard from businesses, consumers, MPs and other stakeholders is while evidence is being gathered, not between the TRA recommendation and the Secretary of State's determination. On that basis, I ask the hon. Member for Livingston to withdraw amendment 42.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 26]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

Amendment proposed: 43, page 18, line 40, after "Parliament" insert "and shall supply copies to—

(a) the Scottish Parliament,

(b) the Welsh Assembly, and

(c) the Northern Ireland Assembly."*—(Hannah Bardell.)*

This amendment would require the Secretary of State to supply copies of the annual report to the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 27]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

Amendment proposed: 24, page 18, line 40, at end insert

"no later than 1 August of the calendar year in which the last day of the financial year covered by the report falls".*—(Bill Esterson.)*

This would ensure that the Secretary of State must lay the annual report of the Trade Remedies Authority before Parliament within a reasonable time frame.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 28]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

Amendment proposed: 25, page 18, line 40, at end insert—

"Recommendation reports

31A (1) The TRA must prepare a report on each of the individual recommendations it makes to the Secretary of State in connection with the conduct of an international trade dispute.

(2) The report must accompany the recommendation submitted to the Secretary of State.

(3) The Secretary of State must lay the report before Parliament as soon as reasonably practicable, and not later than five days from the time it is submitted to the Secretary of State by the TRA."*—(Bill Esterson.)*

This would ensures that Parliament is kept informed, in a timely fashion, of the individual recommendations made by the Trade Remedies Authority to the Secretary of State in connection with cases of dumping, foreign subsidies and import increases causing injury to UK producers.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 29]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

Schedule 4 agreed to.

Clause 6 ordered to stand part of the Bill.

Clause 7

COLLECTION OF EXPORTER INFORMATION BY HMRC

Bill Esterson: I beg to move amendment 26, in clause 7, page 4, line 32, leave out subsection (1) and insert—

"(1) The Commissioners of Her Majesty's Revenue and Customs may, by regulations, request any person to provide, or make provision authorising officers of Her Majesty's Revenue and Customs to disclose, prescribed information for the purposes of assisting the Secretary of State to establish the number and identity of persons exporting goods and services from the United Kingdom".

This would ensure that, where HMRC already has this information, it may be shared with the Secretary of State.

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

Amendment 27, in clause 7, page 4, line 38, at end insert—

"(2A) For the purposes of subsection (1) "prescribed information" means the names and addresses of persons who have exported goods covered by a prescribed code."

This would ensure that the information to be collected pertains only to exports recognised as such for official purposes, in line with the Small Business Enterprise and Employment Act 2015.

Amendment 28, in clause 7, page 4, line 38, at end insert—

"(2A) For the purposes of subsection (2A) "prescribed code" means the commodity code or other identifier applied to a category of goods or services in connection with the preparation of statistics on exports from the United Kingdom (whether or not it is also applied for other purposes)."

This further qualifies what "prescribed information" means.

Amendment 29, in clause 7, page 5, line 3, at end insert—

"(3A) Regulations under subsection (1) may not make provision that could be made by regulations under section 10 of the Small Business Enterprise and Employment Act 2015."

This would avoid duplication, in respect of the collection of information from exporters, with the Small Business Enterprise and Employment Act 2015.

Amendment 32, in clause 8, page 5, line 17, leave out from "trade" to end of line 19.

This would remove the power granted by the Bill to Her Majesty's Revenue and Customs, or anyone acting on their behalf, to disclose information on United Kingdom exporters to any public and private body within or without the United Kingdom.

Bill Esterson: We recognise that it is essential to the efficient performance of the Department for International Trade and to the future delivery of trade policy that the Government have access to appropriate information about our imports and exports. We are also very aware of the impact on businesses, particularly small and medium-sized enterprises, of any increased burden in administration and mandatory reporting.

Clause 7 seeks to ensure that the Secretary of State may have access to such information, as collected by Her Majesty's Revenue and Customs, that would establish the number and identity of exporters. What exactly the information is that will be required is not disclosed and the clause does not limit HMRC in terms of what information may be sought, only setting out that the information may be used for

"the purpose of assisting the Secretary of State"

in his endeavour. HMRC could, in theory, use the power to request significant volumes of information that might be subsequently determined not to be needed for the purpose of assisting the Secretary of State, but that none the less requires disclosure under this provision.

This is not a trivial matter. Businesses and business organisations have expressed their concern about the provision, because much of this information is already collected by HMRC and businesses do not want to have to provide it more than once, because of the time that that would require and the impact it would have on their day-to-day operation.

That prompts the question of why powers must be awarded that would replicate that which is already being done. If existing legislation does not provide for the Secretary of State to access this data, one may very well understand the need to stipulate that such information may be shared with his Department. However, if such information exists already, the burden should not be put on businesses to furnish the same information in a different format, simply because of a failure to collate the information that is already in the possession of Government Departments or agencies.

That is why we tabled amendment 26, which would allow the Commissioners for Revenue and Customs to authorise their officers to disclose such information to the Secretary of State for the purposes described in the Bill, and amendment 29, which would prevent the potential creation of duplicate or conflicting regulations.

Amendment 29 recognises that section 10 of the Small Business, Enterprise and Employment Act 2015 contains provisions on the disclosure of exporter information by HMRC. SMEs are, after all, the backbone of our economy and we should encourage them to increase exports and not bog them down with tax forms and administration that may put some businesses off exporting.

Currently, much of the information is contained in the various documents and forms that must already be furnished to HMRC. For example, there is mandatory Intrastat reporting, which requires goods exporters to submit on a monthly basis details of goods and exports within the European Union, subject to minimum annual thresholds. Of course, that measure is enforceable by the European Union, but perhaps the Minister will confirm whether it will continue to be enforceable under the terms of the European Union (Withdrawal) Bill. I imagine a note will wing its way to him about that shortly. *[Interruption.]* He already knows—impressive. There is always a first time.

Similarly, VAT-registered exporters are required to supply HMRC with EC sales lists that detail their EU customers, the respective country codes and the value of goods supplied to them. On top of that, customs declarations must be made that record product codes, transport modes, duties levied and other relevant information for the purposes of accumulating information on the number and identity of exporters.

The much-trumpeted new customs declaration service will allegedly be operating by March 2019. Will the Government be incorporating this reporting requirement into it, or will additional systems be needed? In other words, how does the Minister intend to avoid duplication? HMRC has already acknowledged that there is a risk that the new customs declaration service is unlikely to be in place by exit day, so it will be phased in, which will result in limited functionality and scope when launched. That prompts the question about whether the new customs declaration service will be geared up in time for the reporting requirements of the Bill. Will the Government consider additional resources for HMRC to carry out additional duties for all these additional reporting requirements?

[Bill Esterson]

Our amendments recognise that where such information may not otherwise be available, regulations may be passed to require other persons to disclose it. However, the Government must clarify whom the Commissioners for Revenue and Customs may so instruct. The provision is extremely vague and potentially awards sweeping powers to HMRC to request information from persons entirely unconnected to an exporter or indeed trusted agents and advisers who might otherwise be bound by a duty of confidentiality.

Clearly, as some of our witnesses suggested, many existing reporting obligations are applicable to the export of goods rather than services. That gap needs to be addressed. Unlike goods exports, which have commodity codes for export purposes, there are not the same proper definitions and appropriate attributable codes for services, which means that it is difficult to determine when a service becomes an export. If the Minister does not have the full detail on that, I will not be entirely surprised, but perhaps it is something for his officials to persist with. The service exports to which these provisions will apply must be qualified, particularly as the definition of what constitutes a service may be vague. Many businesses have significant group operations and may provide services between subsidiaries, which would be treated as intra-group charges. Do the Government intend to inflate service export figures by including those details?

Amendments 27 and 28 are designed to prevent services that should not or would not be considered to be exports from being considered such by requiring that only exports with appropriate codes and identifiers can be considered for those purposes; that includes new codes where needed. However, we also recognise and welcome efforts by HMRC to tackle abusive transfer pricing and aggressive tax planning. Can the Minister tell us whether HMRC will use that information for such purposes in addition?

6 pm

Greg Hands: I thank the hon. Gentleman for his set of questions, which I will answer as far as I can. Let me start with why we need the data collection and sharing powers.

It is important that the Government have a more comprehensive understanding of UK exporters. The powers will allow the Trade Remedies Authority to fulfil its function by using full and proper data on the UK business population. They will also equip my Department with robust data to develop trade plans globally, and help us better to understand the impact of future trade agreements and policies so that we can direct our resources appropriately. Ultimately, that will provide better value for money for the taxpayer by enabling more targeted approaches to Government intervention and support for existing and potential exporters.

Clause 8 sets out the powers necessary for HMRC to share the data with the Department for International Trade and other Departments and organisations, for those bodies to carry out their public functions related to trade. I will come to the points raised by the hon. Gentleman in a moment, but those powers need to be wide enough to be able to withstand future institutional developments, so the clause will also allow HMRC to share the data with, for example: other bodies that DIT sets up to cover specific functions, such as the Trade Remedies Authority; bodies that carry out a public trade function, to ensure that the UK is able to put in place and maintain an independent trade policy as we leave the EU; and bodies outside the United Kingdom, such as the World Trade Organisation, with which the UK will be obligated to share data as part of our international obligations. That is currently done through the European Union; there is no change to the effect of that provision.

Amendment 32 would restrict the Government's ability to take on functions related to trade formerly carried out by the European Commission, such as those related to trade remedies. You will know, Ms Ryan, that the European Commission currently does trade remedies investigations, a lot of which are data-driven. The amendment would hinder our ability to take such a data-driven approach ourselves.

Amendment 26 duplicates in clause 7 the necessary data sharing powers already set out in clause 8. Looking ahead to this country leaving the European Union, the amendment's requirement to seek HMRC commissioner approval before any data is shared would also restrict the Government's ability to share data at speed. It may be necessary, for example, to share data with the Trade Remedies Authority quickly or immediately when dealing with a trade defence case. I would not want the Trade Remedies Authority to be prevented from taking urgent action—sharing data about an important trade remedy quickly and efficiently, for example—in relation to a sector such as steel or ceramics because the Opposition had imposed an artificial delaying power with their requirement to seek HMRC commissioner approval before any data is shared.

Faisal Rashid: I understand what the Minister says about speed and things that have to be done, but many businesses, particularly small businesses, often struggle to stay on top of their reporting and administration requirements. There is a risk that any increased burden on them could put them off exporting. How do the Government intend to collect this information while ensuring that they do not place an unfair burden on small businesses?

Greg Hands: First, in the long run, small businesses will benefit from the Government being informed by a full set of data on the exporter community. It is difficult for the Government to set policy in relation to exporters without having a full picture of how many exporters there are and in which sectors. In the medium to long run, our ability to collect that data would help small businesses considerably. Secondly, the provision of that data will of course be voluntary. If a small business did not want to participate, for whatever reason, it would not be compelled to do so. It is very important to recognise that.

Anna McMorrin (Cardiff North) (Lab) *rose—*

Matt Western (Warwick and Leamington) (Lab) *rose—*

Greg Hands: I give way first to the hon. Member for Cardiff North.

Anna McMorrin: What does the Minister intend to do with the information that is collected? Also, what international bodies do the Government believe that

information—much of which may be commercially sensitive—should be shared with, and why should they require such data?

Greg Hands: On the international bodies, I refer the hon. Lady particularly to the WTO, with which we are actually obliged to share a lot of that data. Much of that data sharing is currently done through the EU, but once we are outside the EU we will be obliged to share that data with the WTO on a stand-alone basis. Domestically, sharing a lot of the data with the Trade Remedies Authority will enable it to be well informed as it looks at the impact of alleged dumping on UK domestic industry, which is, after all, the purpose of the TRA.

I will take an intervention from the hon. Member for Warwick and Leamington. *[Interruption.]* Oh, he had the same intervention.

Matt Western: Similar.

Greg Hands: It is good to see people thinking similarly. Sharing data quickly and immediately may be necessary for, as I say, the TRA dealing with a trade defence case, or where data is immediately required in a fast-moving future trade agreement negotiation.

Clause 7 sets out the powers needed for the Government to collect data to establish the number and identity of UK businesses exporting goods and services. Amendments 26, 27 and 28 would narrow the ability of the Government, both now and in the future, to determine what data we wish to collect and how we may collect it. The Government should retain the ability to determine in the future what relevant trade information they may need to request from businesses, although I stress that providing that information is voluntary. At this time, we are not able to anticipate precisely what those needs will be.

On some of the individual points, I think the hon. Member for Sefton Central claimed that HMRC is unrestricted in what data it can source. I stress that the power in the Bill is to request information. The Treasury will specify what information will be requested, and will do so by regulations that will come before Parliament. There is no obligation on businesses to provide that information, although we say, and strongly believe, that it is in their interests to do so, to help to inform the Government's export policy.

On additional resources at HMRC, I rather feel that that might be a debate for another day in another place. However, the resources given to HMRC post Brexit to deal with Brexit are already there. Various announcements have been made by the Chancellor of the Exchequer and the Chief Secretary to the Treasury over the last 18 months on that. I point out that the power has been assessed and its likely cost looked at. It has been deemed to be relatively inexpensive and overall will not add a cost burden on HMRC.

On inflating exporter numbers, I do not think that that would be accurate. The hon. Gentleman seems to think that there is some kind of Government plot to artificially boost the number of exporters, so that we can suddenly say what a great job we have done because the number has gone up. No—the purpose of collecting the data is to have an accurate picture of the number of exporters. For example, we know there are 5.7 million private sector businesses in the UK. HMRC collects export data from 1.9 million VAT-registered businesses. There are 2.2 million VAT-registered businesses in the UK. We therefore think that the Government do not collect any export data from about 4 million UK businesses. That is what we want to do. Our analysis suggests about 300,000 businesses in the UK could and should export but do not do so. The key is to find where those businesses are and encourage them to export, so that the UK does a much better job on exports.

The hon. Gentleman asked whether Intrastat will continue. When the UK leaves the EU, Intrastat will not be applicable for exports and will not continue in this case. Finally, there were questions relating to the interaction with the Small Business, Enterprise and Employment Act 2015. Similar to my response to amendments 26 to 28, the Government should retain the ability to determine in the future what relevant trade information they may need to request from businesses. At this time, we are not able to anticipate that precisely, but I have given some indication of the sort of areas we might look at and what all those needs would be.

Amendment 29 refers to powers in section 10 of the 2015 Act. Those powers relate to disclosure of existing exporter information by HMRC officials and therefore are not directly relevant to the powers in clause 7 relating to the collection of data. In other words, it is different data. Bearing all of this in mind, I ask the hon. Members not to press their amendment.

Bill Esterson: I thank the Minister for his answers. I was puzzled by one thing. Why does the Bill not specify that the data would be for sharing with the Trade Remedies Authority if that is the primary purpose in collecting it at this point? He says there will be other organisations, but it is a bit odd that the Bill does not say as much.

Our concern—a concern that comes from business—is about giving HMRC the power to request. That is an interesting phrase. Anyone who has had any dealings with HMRC as a business tends to experience that as a fairly strong power to request. If we asked most people who run businesses, they would say it is a bit more than a power to request; they interpret it as not having any choice in the matter. That is one of our big concerns, and I hope the Minister will take that on board.

The Minister made the point that this is about the medium to long run and there will be improvements for smaller firms over that period. By implication, that leaves out the short term. I would welcome a brief intervention to confirm the implication I gathered from what he said—that there may be a hit or an increase in the demands and burdens on smaller firms while the new system is settling down. I will give way to him if that is what he thinks is going to happen.

Greg Hands: I thank the hon. Gentleman for allowing me to intervene. I do not accept that there will be an increase in the burdens for anybody involved in this process, because it is a voluntary and essentially very limited process. I would say to him that the data could be extremely helpful in informing Government policy, and that is why he should withdraw his amendment.

Bill Esterson: I am grateful for that clarification. We are keen to avoid unnecessary reporting requirements and an adverse impact, especially on smaller firms, as this country needs them to do well in trade and exports.

[Bill Esterson]

We are supportive of the right approach and the right level of data collection in achieving such an objective. In that spirit, I will not press amendments 26 to 28. We will press amendment 29 to a vote because we still think it is important to avoid the duplication of powers in the 2015 Act. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 29, in clause 7, page 5, line 3, at end insert—

"(3A) Regulations under subsection (1) may not make provision that could be made by regulations under section 10 of the Small Business Enterprise and Employment Act 2015."—*(Bill Esterson.)*

This would avoid duplication, in respect of the collection of information from exporters, with the Small Business Enterprise and Employment Act 2015.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 30]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

6.15 pm

Bill Esterson: I beg to move amendment 30, in clause 7, page 5, line 4, leave out subsections (4) and (5).

This would remove the Henry VIII power allowing for the modification of an Act of Parliament in respect of the collection of exporter information.

The Chair: With this it will be convenient to discuss amendment 31, in clause 7, page 5, line 10, leave out subsection (6) and insert—

"(6) Any statutory instrument containing regulations under subsection (3) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

This would require Treasury regulations that make provision for exporters to supply information on their exports of goods or services to be subject to the affirmative resolution procedure.

Bill Esterson: The amendments would remove yet more Henry VIII powers, this time bestowed on Her Majesty's Revenue and Customs and allowing for regulations to be made that may modify primary legislation. Using the powers, HMRC may change the nature of the information being sought under the regulations and the persons from whom such information may be requested, such that the resultant requirements on business may ultimately be substantially different from the scope implied under the clause. We are entirely opposed to the use of Henry VIII powers, as we have repeatedly said, and we do not believe it appropriate that any agent of Government has the powers to amend primary legislation by way of secondary legislation.

Amendment 31 would ensure that any regulation to which clause 7 applied must be subject to the affirmative procedure in this House, giving Parliament the proper opportunity to scrutinise any changes. There can be no good reason for allowing Henry VIII powers or the negative procedure to be used in those circumstances. I mentioned in my speech on the previous group of amendments the Small Business, Enterprise and Employment Act 2015 but it is worth drawing the Committee's attention to section 10 of that Act, in particular subsection (6), where such regulations are subject to the affirmative procedure. Logic and consistency might suggest that that would be appropriate in this Bill too. Perhaps the Minister will explain why that was appropriate in the 2015 Act but is not in this one, despite the similar circumstances. In advance of the 2015 Act, HMRC published an explanatory memorandum on the use of the powers, noting that such information could well be sensitive and thus recognising a need to limit the scope of the information collected and subsequently shared:

"This is deliberately tightly drawn and specifies the categories of information that may be disclosed under the regulations, and is limited to less sensitive but nonetheless useful information."

That brings us to amendment 32, which would remove HMRC's power to share the information freely with other bodies or institutions, whether in the United Kingdom or overseas. We recognise the need to accumulate comprehensive statistics. We are mindful of the evidence from our witnesses, Professor Alan Winters of the UK Trade Policy Observatory and Anastassia Beliakova of the British Chambers of Commerce, both of whom called for the greater sharing of information. However, that is not the same as calling for the sharing of commercially sensitive information. In the light of HMRC's explanatory memorandum to the 2015 Act, such sharing must be subject to limitations to prevent sensitive information from being shared freely.

The Chair: Order. We debated amendment 32 under the previous group of amendments and are now debating amendments 30 and 31. The hon. Gentleman needs to confine himself to comments on those amendments. I hope that is helpful.

Bill Esterson: Thank you for bringing me back on track, Ms Ryan.

I trust that the Committee recognises the impact that poor application of those powers might have on businesses. It may even result in entirely opposite outcomes to those intended. I look forward to hearing the Minister's response to such concerns. I hope that he will address my questions about how some of the powers will be exercised and what measures will be put in place to protect our exporters.

Greg Hands: The clause sets out the powers that will enable the Government to establish for the first time ever the number and identity of UK businesses exporting goods and services. HMRC currently collects export data from approximately 70% of the 2.2 million businesses that are registered for VAT. As I said earlier, there are 5.7 million private sector businesses in the UK. That means we do not collect export data from about 4 million businesses. Our data does not include certain sectors, smaller enterprises and many exporters of services.

Why is it important that the Government have a more comprehensive understanding of UK exporters? First, the information will allow the Trade Remedies Authority to fulfil its function using full and proper data on the UK business population. Secondly, it will equip my Department with robust data to develop trade plans globally and will help us better to understand the impact of future trade agreements and policies in order to direct our resources appropriately. Ultimately, it will all provide better value for money for the taxpayer by enabling more targeted approaches to Government intervention and support for existing and potential exporters.

We are not able to anticipate all the data that we might need in future, including for those functions that I have just described to the hon. Gentleman. It is therefore vital that we retain the ability to specify the type of information to collect now and in the future to ensure that the Government are able to discharge fully all relevant trade functions.

Should amendment 30 be passed, it would not be possible to collect trade data through the tax return. We do not know whether the collection of such currently unknown data might, for example, require the modification of an Act of Parliament. I confirm to the hon. Gentleman that at such time as the Government specify what information we wish to collect and how we will collect it, we will return to this House, as is already set out in clause 7(5). I also assure him that any information collected and the way we request it will be done in such a way as to cause minimal cost to Government and business. I therefore ask him to withdraw his amendment.

Bill Esterson: I wish to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 31]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

Clause 7 ordered to stand part of the Bill.

Clauses 8 to 12 ordered to stand part of the Bill.

New Clause 3

REVIEWS OF GRANDFATHERED TRADE AGREEMENTS: JOINT MINISTERIAL COMMITTEE SUB-COMMITTEE

"(1) The Joint Ministerial Committee shall establish a sub-committee to review the effects upon the devolved nations of any international trade agreement which is in force and for which regulations have been made under section 2(1) of this Act.

(2) The sub-committee shall have power to supply, with the consent of the full Joint Ministerial Committee, documents setting out its conclusions to the devolved assemblies.

(3) In this section, "the Joint Ministerial Committee" means the body set up in accordance with Supplementary Agreement A of the Memorandum of Understanding on Devolution, between Her Majesty's Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive Committee." —(*Alan Brown.*)

This new clause would create a sub-committee of the Joint Ministerial Committee, to review the effects on devolved nations of any international trade agreement implemented by powers in this Bill.

Brought up, and read the First time.

Alan Brown (Kilmarnock and Loudoun) (SNP): I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship again, Ms Ryan. The good news at this stage is that there are fewer notes written in advance—the Committee might be quite relieved about that. New clause 3 was originally drafted by colleagues from Plaid Cymru, and my hon. Friend the hon. Member for Livingston and I were more than happy to add our names in support. Actually, we have been completely vindicated on that given how events have panned out today. There have been no concessions to any Scottish Government or Welsh Government amendments. The Government voted down the Labour amendment that would have allowed impact analysis to be undertaken and at least understood. They have excluded any provisions for devolved authorities to be involved in the Trade Remedies Authority.

The new clause is quite simple: it seeks to propose a sub-committee of the Joint Ministerial Committee, to look at effects in the devolved nations of any international trade agreement implemented by the powers in the Bill. It is simple, effective and it does not create a whole new body, because it just creates a sub-committee of the existing JMC. In terms of administration, it should not be excessive, and so I ask members of the Committee to support the new clause.

Greg Hands: I can be brief. The Government have made it clear that they seek to maintain the effects of the UK's existing trade agreements. We make this commitment in relation to all parts of the United Kingdom, which means that we do not intend Scotland, Wales, Northern Ireland, or indeed England, to be disproportionately impacted by our transitioning of these agreements. As we have committed to seeking continuity in the effects of existing agreements, the impact of the transition should be neutral on all parts of the UK.

In relation to consultation with the devolved Administrations, as we have laid out frequently on Second Reading and in Committee, the Department for International Trade ensures that each of its Ministers, as well as directors and other senior officials, visit the devolved Administrations regularly and continually look for further opportunities to engage with a range of stakeholders across the UK.

Hannah Bardell: The Minister will forgive me if I find his comments somewhat ironic given what has been in the press over the last couple of days about impact assessments. Does it not seem reasonable that the Joint Ministerial Committee—which, as my hon. Friend says, is already in place—should have a sub-committee? He may think that as things stand there may not be an

[Hannah Bardell]

impact on the devolved nations, but I am sure that, like the rest of us, he does not have a crystal ball. Would it not make sense to put into legislation the ability for the devolved nations to have a sub-committee of the JMC to make it the best possible legislation that it can be?

6.30 pm

Greg Hands: I accept the hon. Lady's intervention, and she makes a case, but my point is that it is not necessary to have the review. These are existing agreements that, in a huge number of cases, are already in place. Some have been in place for a long time. The hon. Member for Kilmarnock and Loudoun says that an additional review process will be simple and effective, but I am not quite so sure. For example, the amendment makes neither reference to the intended product of such a review—how the review process would work—nor to the continued role of the devolved Administrations in the review after it has been reported.

I think it is much better that we stick with our position of consulting frequently and engaging with the devolved Administrations, without an extra review of agreements that are already in place. We have been clear that we will continue to engage with the devolved Administrations as we transition these agreements, therefore we do not need to commit this kind of review to legislation. I therefore ask the hon. Gentleman to withdraw the clause.

Barry Gardiner: It is appropriate to once again read out the long title of the Bill:

"To make provision about the implementation of international trade agreements".

Everything that the Minister is saying ignores that the scope of the Bill precisely admits that we should be able to put into statute the procedure that the hon. Members for Livingston and for Kilmarnock and Loudoun have suggested.

The Minister has told the Committee that the Government

"will continue to engage with the devolved Administrations as we transition our current agreements"

and that:

"The Department for International Trade engages regularly with the devolved Administrations".—[*Official Report, Trade Public Bill Committee,* 25 January 2018; c. 128.]

It is therefore surprising that the Government have not proposed any formal engagement procedure to ensure a statutory footing for consultation on the issues presented by the Bill—particularly given the Government's approach to consultation thus far, which has been little more than lip service and press releases. An example of that was when the consultation for the Bill closed on 6 November and the Bill was published a few hours later on the morning of 7 November.

Modern trade agreements have extensive coverage, with chapters setting out substantial provisions in a range of areas, many of which might well be considered to touch upon matters that otherwise would be within the competence of the devolved authorities. We have gone over this ground in previous sittings, when we considered how trade agreements impact on our fishing industry, food standards, services regulation, agriculture, public services, procurement and so on. The day-to-day oversight and administration thereof may be wholly within aspects of devolved competence; however, the obligations that arise from a trade agreement might require changes to the way that those matters are managed. A question might then arise regarding when such a matter ceases to be a trade matter within the exclusive competence of the UK and becomes a matter within the competence of the respective devolved Administration.

That is why many other countries have set out formal consultation frameworks with their own constituent administrations, which may also have a degree of devolved competence. Indeed, the United States has such an engagement process to ensure that state-level representations can be fed into the negotiating process—albeit it is a process that is subject to controversy in various states that have sought to implement a much more robust consultation process, and have derailed the extension of the fast-track trade negotiating authority.

Canada has a similar process in order to ensure that, once an agreement has been concluded using the federal Government's exclusive competence, it does not come unstuck at implementation stage. In his response to questions about the need for stakeholder engagement as early as possible in trade negotiations, our witness, Nick Ashton-Hart, noted that

"the political economy demands that you have the backing, as a negotiator, at home when you are sitting across the table from your counterparties and that they know that you have that…People know that you have to get to a sustainable deal also, and sometimes you have to do a concession at the right time to solve a problem in a domestic constituency for your counterparty".—[*Official Report, Trade Public Bill Committee,* 23 January 2018; c. 10, Q12.]

The hon. Member for Kilmarnock and Loudoun touched on the concerns raised by another of our witnesses, Professor Winters of the UK Trade Policy Observatory, who noted that we cannot have a situation in which a trade agreement might be unpicked once it had been concluded. Therefore, he 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.]

The United Kingdom is clearly not unique in facing this matter; that is also the experience of other countries, many of which the Secretary of State is alleged to have identified as prospective gold trading partners. Those very countries may well wish to see a similar framework formally constituted in the UK before we come to the negotiating table. The European Union levelled that request at Canada prior to commencing negotiations on the comprehensive economic and trade agreement. The JMC appears to be an entirely appropriate forum for such consultation in the UK's case. It would provide us with an off-the-shelf committee with the express purpose of seeking to avoid such complications.

The memorandum of understanding between the UK and the devolved Administrations notes that the four respective Administrations agreed

"to alert each other as soon as practicable to relevant developments within their areas of responsibility, wherever possible, prior to publication"—

of course, the GPA, which the Minister did not refer to, is one such case that is quite specifically about implementation within the devolved Administrations' competence—

"to give appropriate consideration to the views of the other administrations; and…to establish where appropriate arrangements that allow for policies for which responsibility is shared to be drawn up and developed jointly between the administrations."

Furthermore, in recognition that a commitment to engage may not be sufficient in certain cases, the memorandum of understanding sets out provisions for a formal consultation framework to ensure that engagement on such matters is more than just lip service.

Acknowledging that there will, of course, be matters relating to international issues that will touch on devolved matters, the memorandum of understanding requires the fullest possible engagement on such matters and sets out the framework for the Joint Ministerial Committee. Its terms of reference are

"to consider non-devolved matters which impinge on devolved responsibilities, and devolved matters which impinge on non-devolved responsibilities…where the UK Government and the devolved administrations so agree, to consider devolved matters if it is beneficial to discuss their respective treatment in the different parts of the United Kingdom…to keep the arrangements for liaison between the UK Government and the devolved administrations under review; and…to consider disputes between the administrations."

The Government could have considered their own appropriate framework or forum for a proper consultation process with the devolved authorities and other key stakeholders in advance of beginning trade negotiations. The Secretary of State has, for example, reconvened the Board of Trade, of which he has appointed himself the president. Of course, for the Board of Trade to be effective, it would likely require significant expansion of its membership. Currently, I believe it has the sum total of one person—namely, the Secretary of State himself.

The creation of a formal consultation forum is essential before and during the negotiating process. In that respect, we will support the new clause. Of course, I wish to draw the Committee's attention to our new clause 11—I hope it will be considered in a later sitting—which seeks to ensure that the JMC is convened for all trade agreements, including new trade agreements that correspond to existing EU agreements.

I hope that Government Members recognise from the Committee's deliberations that this Bill contains a serious threat to the powers of the devolved Administrations, and that the installation of an appropriate consultation procedure to address such matters will assist Ministers in concluding agreements. Although this amendment seeks to mitigate any complications that might present at implementation stage after an agreement has been concluded, the Bill still fails to address the very serious concerns about the dilution of the devolved authorities' powers in matters that may be considered within their devolved competence. In that respect, I ask the Government to address this matter either by supporting the new clause or by way of their own amendments to the Bill before it proceeds, with such amendments making clear that powers afforded to Ministers of the Crown under the Bill will not, and cannot, be used to undermine the rights and powers of the devolved Governments. If the Government do not seek to do that before the Bill progresses to its next stage, I assure the Minister that the Opposition will.

Greg Hands: Very briefly, in response to that long speech I have only three points to make. First, there is no serious threat to the devolved Administrations. What we are talking about is the transition of existing free trade agreements. The hon. Gentleman's points—his parallels with the United States and so on—seemed to relate entirely to future trade agreements and not to the continuity of existing trade agreements. I also point out to him that the Secretary of State for International Trade has not appointed himself President of the Board of Trade. The Prime Minister has appointed him President of the Board of Trade.

Most importantly, the Bill is all about continuity and the technical transition of existing free trade agreements. The hon. Gentleman's points seem to relate to future trade agreements, which will be a matter for another day.

Alan Brown: I take on board what the Minister says and know that logically it is correct in theory: this is just the roll-over of existing EU agreements into UK law. However, as the hon. Member for Brent North said, and as we heard from witnesses, there is still a risk that, even in trying to move over existing agreements, some matters come up for renegotiation. It is not crystal clear how matters will pan out and the new clause would at least give the protection of full analysis of the impact on the devolved nations in terms of any adjustments that end up happening in due process when we move over the existing agreements.

We have previously expressed our concerns about the UK Government getting competency in devolved matters, and the new clause would wrap up that aspect. For that reason, I will press the new clause to a vote.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 32]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

New Clause 8

REVIEW OF FREE TRADE AGREEMENTS

"(1) The Secretary of State shall lay before Parliament a review of the operation and impacts of each free trade agreement to which this Act applies.

(2) Each such review shall be laid before Parliament no later than ten years from the day on which the agreement comes into force.

(3) A further review of the operation of each agreement shall be laid no later than ten years after the day on which the previous such review was laid before Parliament.

(4) Each review shall be conducted by a credible body independent of government and shall include both qualitative and quantitative assessments of the impacts of the 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 review 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."—*(Judith Cummins.)*

This would establish a procedure for regular mandatory reviews of the operation and impacts of free trade agreements.

Brought up, and read the First time.

6.45 pm

Judith Cummins (Bradford South) (Lab): I beg to move, that the clause be read a Second time.

The new clause calls for a process of review to examine the operation and impacts of all free trade agreements to which the Bill applies. Once again, let me make it clear that this applies to those comprehensive free trade agreements that are notifiable under GATT article XXIV and GATS article V. It does not apply to the many other trade agreements that fall under the undefined category of clause 2(2)(b).

We have already pressed for sustainability impact assessments to be conducted in advance of the start of negotiations towards those future UK free trade agreements that do not have a corresponding EU agreement. The new clause calls for there to be a parallel process of review after our free trade agreements have been in force for 10 years, and subsequent reviews every 10 years thereafter, which is essential to see how the agreements have worked and their effects. It will apply to all free trade agreements that fall within the scope of the Bill.

The call for regular reviews mirrors our earlier call for sustainability impact assessments in respect of the sectors to be covered, which would be a full disaggregation of the economic and social impacts of each free trade agreement, including the various regional impacts in different parts of the UK, as well as the impact on human rights, the environment, animal welfare and the interests of developing countries. Although the sustainability impact assessments to be carried out prior to new negotiations are ex ante, the reviews should represent a parallel process as far as possible ex post.

We have resisted the call from some quarters to require the reviews to take place every five years. Although we are keen to ensure regular monitoring of the impacts of any free trade agreements, we believe it will be more effective, given their reach and potential long-term consequences, to undertake fully comprehensive reviews less frequently, although the new clause provides for the option of holding earlier reviews when there is obvious social or economic harm as a result of a particular agreement.

The UK has an opportunity to establish best practice when it comes to the evaluation of international trade agreements. The EU produces annual reports on the workings of free trade agreements and can mandate a specific focus where there are particular concerns. For instance, the EU-Korea free trade agreement requires its annual monitoring reports to focus on sensitive sectors in addition to the standard implementation review. The EU also commissions more comprehensive external evaluations on a less regular basis—a major evaluation of the same EU-Korea free trade agreement is currently being conducted by two independent German institutes. It is examining a wide range of economic, social and environmental impacts of the agreement, including its impact on developing countries.

In addition, many countries have subjected their bilateral investment treaties to a thoroughgoing review in light of problems encountered as a result of the inclusion of investor-state dispute settlement clauses in previous treaties. Those reviews have led a number of Governments to question their previous agreements and in some cases to introduce radical alterations to the investment protection regime. Bilateral investment treaties have typically been subject to fixed terms of duration, after which it is possible to terminate them unilaterally, with reduced notice.

The Government will appreciate the wisdom of setting up a longitudinal system so that we can learn from the experience of our free trade agreements. Setting up such a system at the moment when the UK once again reclaims responsibility for trade policy will allow us to build a comprehensive set of data through which to register what has worked best and what still needs to be improved.

Hannah Bardell: I commend the hon. Lady on an excellent speech and an excellent new clause. Given the mess that the Government have got themselves in over impact assessments—it is making headline news around the world and we are becoming an international embarrassment as a result—does she agree that putting it in legislation that Governments of whatever colour must make proper impact assessments relating to whatever trade deals they have now or in future is absolutely vital?

Judith Cummins: I wholeheartedly agree with the hon. Lady that this is a straightforward example of best practice. We have a unique opportunity to get this right from the outset, and our new clause would allow us to do just that.

Greg Hands: The trade White Paper stated that our future trade policy would be transparent and inclusive, and we are committed to working with Parliament and the wider public to ensure that that is the case. It is important that the potential effects of trade agreements are considered as part of our trade policy, which is why the Government already conduct impact assessments on EU trade agreements where appropriate. However, it is not appropriate to legislate for that requirement in this Bill, which deals only with our existing trade arrangements.

I have to say that the new clause is not particularly well thought through. It calls for a review on each of the 40-plus agreements not just once, but twice. In 10 years —renewable in 20 years—there could be 80 or more reviews of these agreements, most of which are already in operation. Come 2039, the new clause might entail the Government conducting a review of an agreement that by then would already have been in place for 40 years. Therefore, the new clause should be withdrawn; it is not necessary.

Judith Cummins: I am struck by how limited the Minister's ambition is for the UK. As I said in my speech, we have a unique opportunity to get this right and therefore I will press the new clause to a vote.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 33]

AYES

Bardell, Hannah	McMorrin, Anna
Brown, Alan	Rashid, Faisal
Cummins, Judith	Smith, Nick
Esterson, Bill	Western, Matt
Gardiner, Barry	

NOES

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

Question accordingly negatived.

New Clause 9

APPLICATION DURING TRANSITIONAL PERIOD

"(1) The Secretary of State shall, before exit day, lay before Parliament a report on the application of this Act during any transitional period agreed between the UK and the European Union in connection with the UK's withdrawal from the European Union.

(2) "Exit day" shall have the meaning accorded by section 14 of the European Union (Withdrawal) Act 2018."—*(Alan Brown.)*

This new clause would require the Secretary of State to lay a report before Parliament ahead of the UK's withdrawal from the European Union on the application of this Act during any transitional period agreed between the UK and the European Union

Brought up, and read the First time.

Alan Brown: I beg to move, That the clause be read a Second time.

The new clause is about how the Bill will be managed through the transitional period upon leaving the EU. To date, the Government have not clarified how a transitional period will affect the various legislation related to the UK's withdrawal from the EU. To be fair to the Government, there is an obvious reason why they have not clarified that: as yet, there are no arrangements in place in terms of a transitional agreement, so they do not know what form a transitional period will take, how long it will be or if there will actually be one.

Assuming that the extreme Tory Brexit is averted and a deal concluded with the EU that includes an agreement on a transitional period, the new clause requires the Secretary of State to lay a report before Parliament ahead of the UK's EU withdrawal on the application of this Bill during such a transitional period. The Minister might argue that the Bill relates only to existing EU agreements and to bringing legislation over. There have already been discussions about what happens if deals are signed but not ratified or further deals come on board with the EU. Those matters might need to be considered in terms of a transitional period, because they all relate to the terms of that period. This new clause aims to ensure that Parliament fully understands the impact of the transitional period and how the legislation will work.

Greg Hands: I am surprised that the official Opposition do not have anything to say to this clause. I thought that they took quite an interest in the application of the implementation period, but it appears not.

In any case, new clause 9 would require the Government to report to Parliament on how the Bill will be applied during the implementation period. I recognise the desire for clarity on how an implementation period will work and, specifically, how the powers in the Bill will be used in that period.

Irrespective of the exact terms of the implementation period, which need to be negotiated with the EU, as it stands the UK will no longer be part of existing EU FTAs or the government procurement agreement on leaving the EU. We will need the powers in the Bill to ensure continuity in our trading arrangements.

I also recognise the desire for clarity specifically on how trade remedies will work during an implementation period. We want to provide continuity to British industries, including retaining meaningful access to trade remedies.

Parliament will have plenty of opportunity to scrutinise an agreement between the UK and the EU, including on an implementation period. We have already committed to a vote on the final deal, and major policies in the withdrawal agreement will be enacted through primary legislation in the form of the withdrawal agreement and implementation Bill. I therefore ask the hon. Member for Kilmarnock and Loudoun to withdraw his new clause.

Barry Gardiner: The idea that the official Opposition have nothing to say on the matter is entirely wrong, but we have little to say because we agree with the new clause that is being proposed. We believe that it is eminently sensible. We are entering into a transition period, and it is right that Parliament should be brought up to date with what the Government's intentions are. The new clause would do that. It is perfectly sensible.

Alan Brown: I listened to the Minister, who says that there will be lots of opportunity to debate the implementation period elsewhere and that, ultimately, we will have the take-it-or-leave-it vote in Parliament, but I would rather have security on these matters in the Bill. For that reason, I will press the new clause to a vote.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 34]

AYES

Bardell, Hannah
Brown, Alan
Cummins, Judith
Esterson, Bill
Gardiner, Barry
McMorrin, Anna
Rashid, Faisal
Smith, Nick
Western, Matt

NOES

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

Question accordingly negatived.

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

6.59 pm

Adjourned till Thursday 1 February at half-past Eleven o'clock.

Written evidence reported to the House

TB15 Tom Reynolds, British Ceramic Confederation (Supplementary to oral evidence)

TB16 Dr Angela Polkey

TB17 Amnesty International UK

TB18 James Dippie

TB19 BioIndustry Association (BIA) and the Association of the British Pharmaceutical Industry (ABPI)

TB20 Scotch Whisky Association (Supplementary to oral evidence)

TB21 British Sugar

TB22 Leslie and Patricia Mackay

TB23 Tracy Roche

TB24 Dr Holger Hestermeyer (Supplementary to oral evidence)

TB25 Which? (Supplementary to oral evidence)

TB26 Sustain: the alliance for better food and farming

TB27 Gordon MacIntyre-Kemp, CEO, Business for Scotland (supplementary to oral evidence)