

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## TRADE BILL

*Eighth Sitting*

*Thursday 1 February 2018*

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New clauses considered.  
Bill to be reported, without amendment.  
Written evidence reported to the House.

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**Monday 5 February 2018**

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**The Committee consisted of the following Members:**

*Chairs:* † PHILIP DAVIES, JOAN RYAN, JAMES GRAY, SIR DAVID CRAUSBY

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

## Public Bill Committee

Thursday 1 February 2018

[PHILIP DAVIES *in the Chair*]

### Trade Bill

11.30 am

**The Chair:** We resume line-by-line consideration of the Bill. Proceedings must finish by 2 pm. The selection list for the sitting is available in the room.

#### New Clause 10

##### HMRC: IMPACT

“No later than 12 months after this Act has come into force, the Secretary of State shall lay a report before Parliament on the impact of the provisions of sections 7 and 8 of this Act on the expenditure and staffing of HMRC.”—(*Alan Brown.*)

*This new clause would require the Secretary of State to lay a report before Parliament on the impact of Part 3 of this Act on the expenditure and staffing of HMRC.*

*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, Mr Davies. I will try to assist the Committee with concluding proceedings before 2 pm.

The new clause is all about the Bill’s impact on Her Majesty’s Revenue and Customs. The history so far is that, instead of taking back control, the Brexit process appears to be an interdepartmental bun fight for resources, both cash and human. Right now, there is a Brexit gravy train for consultants, and experts are suddenly back in demand. That was confirmed by the Chancellor, when in the autumn Budget he allocated a further £3 billion over the next two years to Brexit preparations.

Brexit will cause an unprecedented rise in workload for HMRC, whatever customs and tariff arrangements are made. In addition, goods traded with the EU will need to be accounted for as international exports. That is all happening at a time when, as all Members know, the Tory Government are slashing staff and closing HMRC offices across the nations of the UK.

At the same time, HMRC is launching a new customs declaration service, starting in August 2018, with the intention that it will be implemented in full by January 2019. That will replace the customs handling of import and export freight system, which is nearly 25 years old and cannot be easily adapted to new requirements. I think everyone on the Committee will be cynical about that—who has ever heard of a massive IT project that goes live on time and is easily adaptable to suit future processes?

There are serious concerns about whether the system can be put in place properly just a few months before Brexit, given that customs declarations are expected to more than triple once the UK leaves the EU. The National Audit Office has said that the number of customs

declarations could increase from 55 million to 255 million if tax and duties must be collected on trade between the UK and EU.

**Hannah Bardell** (Livingston) (SNP): My hon. Friend is making an excellent speech. Does he agree that what we have seen across the UK, including from the National Audit Office and the Public Accounts Committee, is huge criticism of the UK Government’s change programme? In my constituency, they want to centralise the Livingston HMRC office to Edinburgh. There will be a devastating impact on communities and the continuity of services will be impacted just a moment before these other plans take place. The Government should rethink the process wholesale.

**Alan Brown:** It will come as no surprise that I completely agree with my hon. Friend. The closing of HMRC offices is yet another example of the left hand not knowing what the right hand is doing and of a complete lack of strategic thinking.

Jon Thompson, the chief executive of HMRC, has warned that border and tax checks post-Brexit could require an additional 5,000 staff, with new customs checks costing the taxpayer up to £800 million. Given the uncertainty about future customs arrangements, the fact that HMRC is already undertaking a system overhaul, that the number of declarations could increase fourfold and that transitional arrangements are still unknown, it makes complete sense to assess the impact on HMRC, which is responsible for the taxing and checking of trade that will arise from the Bill.

The new clause would allow for greater parliamentary scrutiny and force an internal departmental impact assessment. This week alone has shown that it takes much effort to force the Government’s hand on impact assessments and for them to be up front about what the impact of Brexit will be. That is why I move the new clause.

**Bill Esterson** (Sefton Central) (Lab): Welcome back to the Chair, Mr Davies.

May I say how much I agree with the comments of the hon. Member for Kilmarnock and Loudoun? The impact of HMRC closures, which the hon. Member for Livingston mentioned, on communities and on those losing their jobs was well stated. The same is true of my constituency, with the closures in Bootle and Liverpool.

The Minister advised the Committee in an earlier sitting that

“the resources given to HMRC post Brexit to deal with Brexit are already there.”

He also said 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.”—[*Official Report, Trade Public Bill Committee, 30 January 2018; c. 261.*]

I therefore trust that Government Members will support the new clause, as the hon. Member for Kilmarnock and Loudoun said. The Opposition will support it.

Of course, the Minister may well see fit to release the cost analysis he referred to in order to allay not only our concerns but those of the business community about the impact of additional duties on HMRC, given the significant task it faces in preparing for Brexit and in the light of the up to 40% cuts in staffing levels it has

faced over recent years. The Minister referred to funding that has been made available to HMRC to support its preparedness to be Brexit ready. Will he tell us what that funding is, or confirm that it is the £250 million that the Government have made available to the cross-departmental and inter-agency border planning group?

**Faisal Rashid** (Warrington South) (Lab): Does my hon. Friend share my concern that HMRC is already significantly understaffed? There have been widespread complaints over the last two years about poor customer service and the closure of hundreds of offices across the country.

**Bill Esterson:** Absolutely. I know that many of my hon. Friend's constituents in Warrington are affected by those closures. We clearly cannot on the one hand see cutbacks, and on the other hand expect an expansion of HMRC's work commitments.

The Public Accounts Committee recently published its report, following an inquiry into our Brexit readiness, in respect of the border planning group. It raised concerns that

“HM Treasury's usual business model is inadequate for allocating Brexit funding to departments who are forced to operate together, at pace, to a hard deadline.”

That seems pretty clear to me. When giving evidence to that Committee, representatives of the relevant bodies on the border planning group explained that funding was released on a case-by-case basis, and demonstrated that much of the funding had yet to be drawn down.

HMRC is still wrangling with HM Treasury over a £7.3 million drawdown to cover upgrades to the CHIEF customs system—I think that is what the hon. Member for Kilmarnock and Loudoun was referring to—in order to level up functionality. HMRC also told the Committee that it was not expecting any shift in the risk profile of goods coming into the UK from the EU, and that it had “no evidence to suggest” that there would be increased trade flows with non-EU countries after Brexit. Will the Minister confirm whether his Department's assessment matches that of HMRC, and that our standards and regulations will match entirely those of the EU, such that the risk profile of goods in or out remains the same?

HMRC has planned operating resources for no change after we leave the EU, per the evidence it gave to the PAC. Will the Minister confirm that it is Government policy for there to be no change in the regulations? Will he also confirm whether HMRC was right to say that there is “no evidence to suggest” that there will be increased trade flows with non-EU countries after Brexit? He is looking at me with a puzzled look, as he often does.

**The Minister for Trade Policy (Greg Hands):** Don't take it personally.

**Bill Esterson:** I was not taking it personally. I have seen him with that puzzled look on many occasions, not just when I am speaking—often it is in response to comments from those his own side.

If the Department for International Trade has any purpose, it is surely to absolutely change the volume of trade after Brexit. That, in turn, suggests that HMRC was not right to say that there would be no changes in trade flows. It also suggests that HMRC is significantly

under-resourced, which is more to the point, if it is operating on a no-change assumption. HMRC's new customs declarations service is geared up for a fivefold increase in customs processing once we leave the EU. Surely the Minister accepts that that is likely to put severe strain on HMRC's capacity and significant strain on its resourcing.

What the Government and HMRC have said appears to be at odds when it comes to standards and regulations, and whether they will match—especially the comment about there being “no evidence” of increased trade flows. *[Interruption.]* I thought that the hon. Member for Livingston was trying to intervene, but she is not.

**Faisal Rashid:** I will give my hon. Friend a rest. Does he share my concern that if HMRC is not adequately resourced to collect and disseminate data in relation to our exports, placing any additional burdens on businesses to furnish that information is entirely unhelpful?

**Bill Esterson:** Absolutely. We made that point earlier in our proceedings and my hon. Friend makes it extremely well.

Coming back to what the hon. Member for Kilmarnock and Loudoun said, HMRC has suggested to the Public Accounts Committee that it will need 3,000 to 5,000 extra staff to perform effectively post-Brexit, but that will depend on the level of risk that Ministers are willing to take. The Public Accounts Committee received written evidence suggesting:

“There are very few International Trade businesses, both importers and exporters, who take Customs compliance seriously”

and that businesses need more support from HMRC to deal with post-Brexit requirements.

If that is the case, clearly a voluntary information disclosure, which the Minister has assured us the Trade Bill makes provision for, would be entirely futile as a means of gathering the information his Department requires. I note, as I did on an earlier occasion, that the Bill does not suggest that it is voluntary, and we are not aware of any business that would ever consider a request from HMRC to be voluntary in nature. The second point—that businesses require more support from HMRC to deal with post-Brexit requirements—is more telling; it further suggests that there will be a significant strain on HMRC's resources if it is to carry out its existing functions, let alone carry out new ones.

If those new functions are subject to voluntary application, will they also be subject to voluntary roll-out from HMRC? In that case, perhaps there will be nothing to report in 12 months' time. The additional burdens being placed on civil servants to prepare for Brexit are significant, and with limited resources being made available to support those endeavours, we are right to be concerned about the ongoing operability of HMRC, and indeed other public bodies. That is why we shall support the new clause.

**Barry Gardiner** (Brent North) (Lab): Very briefly, I commend the hon. Member for Kilmarnock and Loudoun for tabling the new clause.

We have seen in recent days that the Government are usually reluctant to release any impact assessments or reports of any substance, for fear that they will prejudice negotiations and put the Government in the most awkward position. However, I am sure that the hon. Gentleman

[Barry Gardiner]

will take heart from the fact that it is now usual for the Government, 24 hours after saying that they will not publish a report, to decide that they will do so anyway. I confidently expect the Minister to stand up and say that those on the Government Benches cannot support the new clause—we will support it, as my hon. Friend the Member for Sefton Central said—but the hon. Member for Kilmarnock and Loudoun should not worry or be discouraged, because I have no doubt that within 24 hours, the Government will see sense.

11.45 am

**Greg Hands:** Welcome back to the Chair, Mr Davies; it is a pleasure to serve under you, as ever.

Clause 7, as we know because we debated it at length on Tuesday, sets out the powers that are needed for the Government to collect data to establish the number and identity of UK businesses exporting goods and services. Clause 8, in turn, sets out the powers that are needed for HMRC to share data with the Department for International Trade and other Departments and organisations in order for those bodies to carry out their public functions in relation to trade. Any trade information collected or shared by the Government under clauses 7 and 8 will come at minimal cost to business and the taxpayer—I will go into a bit more detail in a moment—and will be below the threshold needed for an impact assessment and review.

To deal with some of the points raised in the debate, the hon. Member for Kilmarnock and Loudoun asked about the impact on HMRC. I can confirm that HMRC will not require additional staff or resources for this function as a result of the data provision in the Trade Bill. From what the hon. Members for Sefton Central and for Brent North said, it sounded as if they are going to vote for the new clause. The different Opposition parties seem to be attacking the issue from different angles. Although the hon. Member for Kilmarnock and Loudoun said that too much resource is going to some places—I think that he called it the “Brexit gravy train”—the hon. Member for Sefton Central seemed to say that resources were too limited. However, I think that they are both coalescing around voting for the new clause.

**Alan Brown:** To clarify, I was talking about the Brexit process as a whole. It is certainly a gravy train for consultants, because the Government do not have the expertise in house.

**Greg Hands:** Well, I guess we will leave it at that. I accept the hon. Gentleman’s intervention to clarify precisely what he meant by the “Brexit gravy train”, but let us look at the truth.

The truth is that collecting the data will involve minimal cost to Government and business. The cost will certainly be below the level at which an impact assessment must be published, which is £1 million. I do not know what the cost of the hon. Gentleman’s assessment might be, by contrast, but the cost of the provision in the Bill will be less than £1 million. The Regulatory Policy Committee confirmed to my Department during the course of our analysis that no impact assessment was therefore needed, due to the low costs associated with the provision.

**Matt Western** (Warwick and Leamington) (Lab): Does the Minister accept the interpretation that businesses will need additional support and that that is what is being proposed? HMRC will need additional capacity to help small businesses. Given that the Government and the Secretary of State are determined that businesses will look for new markets to diversify, those businesses will have a lot to do, so we need to give them as much assistance as possible.

**Greg Hands:** I agree, which is why we have made additional resources available for HMRC. We recognise that it will require additional staff, and that is being discussed. However, that does not relate to this Bill and this power. That is the most important thing to realise. The hon. Gentleman’s points about the generic nature of HMRC are well made, but my point is that this power will be introduced at minimal cost and will not affect the overall equation. The point that he raised about additional resources being needed for HMRC overall is not in dispute.

**Matt Western:** The Minister is being most generous. My point was that the report that we are requesting would help us to better understand the implications for HMRC.

**Greg Hands:** I do not think that that is necessary. The work that has been done shows that the cost would be less than £1 million. The new clause is all about trying to work out the cost of this particular measure, not about the wider implications for HMRC.

The hon. Member for Sefton Central asked whether this is a futile exercise. I say to him that we will be able to target support directly and ensure that UK business is at the forefront of post-Brexit opportunities, thanks to the data that this provision may well realise.

Finally, I remind the Committee that the Government currently do not collect any export data at all from about 4 million UK businesses. Our analysis elsewhere suggests that about 300,000 businesses in the UK could and should export but do not. We need this limited data collection and sharing power to be able to find and help them. I therefore urge the hon. Member for Kilmarnock and Loudoun to withdraw the new clause.

**Alan Brown:** I listened to what the Minister said. Clearly, if we stick to the existing trade agreements, nothing will change and everything will be much the same. Although there may be a logic to that, I will press the new clause to a vote because it would allow the Government to print an impact assessment that shows that nothing will change, that everything will be okay and that there will be no impact on HMRC. I would have thought that the Government would be happy to do that, and that it would not take too long.

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

*The Committee divided: Ayes 8, Noes 9.*

**Division No. 35]**

**AYES**

Bardell, Hannah  
Brown, Alan  
Cummins, Judith  
Esterson, Bill

Gardiner, Barry  
McMorrin, Anna  
Rashid, Faisal  
Western, Matt



## NOES

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

*Question accordingly negated.*

## New Clause 11

## ROLE OF JOINT MINISTERIAL COMMITTEE

“(1) The Joint Ministerial Committee is to be a forum—

- (a) for discussing—
  - (i) the terms upon which the United Kingdom is to commence negotiations with respect to any international trade agreement;
  - (ii) proposals to amend retained EU law for the purposes of regulations made under section 1 or section 2;
- (b) for seeking a consensus on the matters set out in subsection 1(a) between Her Majesty’s Government and the other members of the Joint Ministerial Committee.

(2) Before Her Majesty’s Government concludes an international trade agreement, the Secretary of State must produce a document for consideration by the Joint Ministerial Committee setting out—

- (a) Her Majesty’s Government’s objectives and strategy in negotiating and concluding an international trade agreement;
- (b) the steps Her Majesty’s Government intends to take to keep the Joint Ministerial Committee informed of progress in reaching an international trade agreement;
- (c) the steps Her Majesty’s Government intends to take to consult each member of the Joint Ministerial Committee before entering into an international trade agreement and for taking the views of each member into account.

(3) Before concluding an international trade agreement the Secretary of State must produce a document setting out the terms of the proposed agreement for consideration by the Joint Ministerial Committee.

(4) 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”.—  
(*Barry Gardiner.*)

*This new clause would ensure appropriate consultation with the devolved authorities on international trade agreements.*

*Brought up, and read the First time.*

**Barry Gardiner:** I beg to move, That the clause be read a Second time.

I made brief reference to this new clause during our discussion of new clause 3, but let me set out in a little more detail why we believe it is required. We have heard from the Minister about the Government’s intention to engage with the devolved authorities in respect of matters that may fall within devolved competences. However, if the Government are to demonstrate that they are serious in this regard, they must ensure that such a consultation framework is established in the Bill.

Modern trade agreements are increasingly broad and comprehensive, and extend into all aspects of governance, public policy and commerce. Inevitably and invariably, trade agreements will impact on matters that have long been, and rightly are, considered to be matters of devolved competence, albeit that our obligations to date have

been determined at European level. The Government need to give clarity in the Bill about when an obligation ceases to be a trade matter that is within the exclusive competence of the UK and becomes a matter that is within the competence of the respective devolved Administrations.

We have heard that this matter is not unique to the United Kingdom. It is an emerging issue around the world, so we must consider it from an international perspective and ask ourselves not just what satisfies immediate domestic policy objectives but what we would demand from would-be trade partners who face similar issues and, perhaps more importantly, what they would expect from us.

I again refer the Committee to Nick Ashton-Hart’s evidence:

“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. They can watch your processes of consent and agreement and evaluate where your weaknesses are—where there are buttons they can push, but also where you are likely to need support.”—[*Official Report, Trade Public Bill Committee*, 23 January 2018; c. 10, Q12.]

We would be nothing short of foolish to allow our trade negotiators to commence talks without first having consulted and engaged with our constituent interests, which absolutely must include the devolved authorities. Trade negotiations can be brutal. The Americans have no qualms in telling us that they refer to counterparties to such talks not as “partners” but as “adversaries”. Any weakness in position or failure to come prepared can be extremely costly and damaging—especially so if complications are presented later when the Government seek to ensure implementation and compliance with the obligations stemming from the concluded trade agreement. A whole-of-Government approach is required, not only to avoid later difficulties but to ensure the democratic will is represented fully in the determination of our international outlook and the relationships we will form with other states.

Other countries have sought to create a consultation framework to mitigate any such complications at the earliest possible stage of the process. The US has its Trade Promotion Authority, born of the fast-track scheme. There are problems and complications with it, but it is there. The Government of Canada have given a much greater role to the country’s provinces in setting mandates and consulting in negotiations, as a result of the EU’s refusal even to begin trade talks unless it had confidence that the provincial governments would ultimately agree to implementation. Will the Minister tell us whether any of the trade working groups and dialogues that the Government have established with would-be trade partners have yet covered that issue, or whether the issue has been raised in the provisional soundings taken of the third countries with which we seek a trade agreement that corresponds with one they might have with the EU?

It is rumoured that the Government’s preference is to mirror as much as possible the Australian trade policy model. In Australia, no such formal consultation exists with state governments. They have the same rights as any other lobbyist: they can submit responses to open consultation in advance of the conclusion of trade agreements. Of course, that approach presents entirely different problems, and it would be foolhardy to believe otherwise. We have seen the Queensland state government implement policy that ignores obligations under Australia’s

[Barry Gardiner]

trade agreement with New Zealand in order to deliver on Queensland's public interest and economic performance duties.

Will the Minister tell us what discussions his Department has had with each of those countries in this respect? Have concerns been raised about consultation with our devolved authorities? Conversely, have we asked about theirs? Perhaps the Government have given assurances that they intend not to consult with the devolved authorities and will use the powers in the Bill to override devolved competence. Perhaps it is a case of "put up and shut up".

**Faisal Rashid:** On that point, is my hon. Friend aware that the Institute for Government found that in other countries, such as Canada, buy-in from provinces is crucial to make trade agreements such as the comprehensive economic and trade agreement work? The institute states that, otherwise, it is "political hell". Does he agree that, similarly, the political buy-in of the devolved Administrations in the UK is necessary to implement trade agreements, and that early consultation and involvement is necessary to avoid political hell?

**Barry Gardiner:** Absolutely. My hon. Friend uses language that I would not wish to use in the Committee, but it is certainly a political mess. I think we can see that other countries have taken their responsibilities to their trading partners seriously, as well as their responsibilities to their constituent states, provinces and members. That is what we are seeking to do through the new clause.

12 noon

The Minister may of course fall back on his plea that, "The Bill is not about that. These consultations are an unnecessary attempt to convince the Committee that the Bill is genuinely limited." However, he cannot convince us that the Bill will not set the parameters and a precedent for our future approach to trade policy and trade agreements. One could hardly be expected to believe that an entirely different approach will be set out hereafter. Specifically in relation to the Australian example I gave, this is about procurement, which goes to the heart of part 1 of the Bill.

The Minister is obliged to seriously take on board these issues. That is why it is imperative that the Government stop coddling us and start getting it right. They need to set out in primary legislation a formal consultation framework that engages the devolved authorities in the new corresponding trade agreements. Similarly, any future trade agreement is essential to our preparedness to commence formal trade talks with any other country.

That is why we on the Labour Benches have tabled new clause 11, which would see the Joint Ministerial Committee, as established under the memorandum of understanding between the United Kingdom and the devolved Administrations, established as the forum for such consultations. The Joint Ministerial Committee exists to consider non-devolved matters that impinge on devolved responsibilities and devolved matters that impinge on non-devolved responsibilities. When the UK Government and the devolved Administrations so agree, it considers devolved matters if it is beneficial to discuss their respective treatment in different parts of the UK. It keeps the arrangements for liaison between

the UK Government and the devolved Administrations under review and considers disputes between the Administrations.

**Matt Western:** It is a privilege to serve under your chairmanship, Mr Davies. I was particularly struck by what Elspeth Macdonald, the deputy chief executive of Food Standards Scotland, said. Perhaps my hon. Friend agrees with her. In giving evidence, she said:

"The principal issue with the Bill that causes us great difficulties is the way in which it constrains the ability of the Scottish Parliament and Scottish Ministers, and consequently our ability, to act and regulate in ways that are considered appropriate for businesses and the public in Scotland."—[*Official Report, Trade Public Bill Committee*, 25 January 2018; c. 95, Q172.]

**Barry Gardiner:** I thank my hon. Friend, because that evidence is absolutely apposite to the new clause. All we are seeking to do is assist the Government in any future negotiations they may have as they seek to roll over agreements to corresponding agreements. We want to make it easier for them to persuade a trading partner that there will be no problems in implementing the agreements.

The Joint Ministerial Committee has already been the vehicle for similar engagement in respect of EU negotiations on the withdrawal deal, by way of sub-committee, establishing a clear precedent for a similar sub-committee in respect of trade agreements. That would be extremely helpful. It is therefore entirely appropriate that the Bill ensures that a similar forum is legislated for to ensure that the democratic will of the entire population of the country is represented fully throughout the trade agreement process and without threatening the devolved competencies.

I take this opportunity to remind the Government that they must not allow the Bill to afford Ministers of the Crown powers that would undermine the competence of the devolved authorities and the devolution settlements. While instituting a formal consultation framework through the JMC would go some way to protecting the rights of the devolved Administrations, it would not and cannot be considered as addressing the other concerns presented by the Bill, which I have previously adverted to in our proceedings. If the Government fail to address those concerns, the Labour party will return with further amendments.

**Anna McMorrin** (Cardiff North) (Lab): The Trade Bill fails to set out a suitable framework for future trade agreements. The arrangements included in the Bill are insufficient and leave a lot to be desired on several important issues that I and many MPs raised in the debates on the European Union (Withdrawal) Bill. Just like that 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, Ministers of the UK Government will be able to legislate in devolved areas.

Wales is an outward-facing, globally trading nation and remains open for business.

**Greg Hands:** Could the hon. Lady outline to the Committee why she did not vote last week for the Welsh Government's sponsored amendment in this area?



**Anna McMorris:** I thank the Minister for asking that question. As he will recall, I spoke widely in support of that amendment. We will discuss that at a later stage.

In Wales, our economy offers great opportunities for both trade and investment. The Bill must not put that at risk. As I just mentioned, I spoke last week on the principles of devolution. Today, I want to reiterate that the Bill seriously lacks consideration of the principle of devolution and the appropriate frameworks to make it work. It is unacceptable that the Government expect the Welsh and Scottish Administrations to be content with handing over power on devolved areas to Whitehall.

The Bill in its current state hands over an unnecessary amount of power to the Government of the day, whoever they may be, and in no way does it safeguard the principles of devolution that people in Wales and Scotland have fought so hard for. I want to stress, once again, that my reservations with the Bill's lack of consideration for devolution have nothing to do with extending the powers of devolution.

**Faisal Rashid:** Mr Southworth of the International Chamber of Commerce said that the devolved Administrations have cause for concern due to “vulnerabilities on a whole range on different industries.”—[*Official Report, Trade Public Bill Committee, 23 January 2018; c. 35, Q80.*] Does my hon. Friend therefore agree that there is greater need for consultation with the devolved Administrations?

**Anna McMorris:** That is exactly what I am saying. I absolutely agree that we need that consultation and agreement with the devolved Administrations, in order that we do not jeopardise future trade agreements on an international level.

Our concern is that devolution is being rolled back because UK Ministers would be allowed to use Henry VIII powers to reach across into legislation within devolved competence and make changes. The Joint Ministerial Committee was created with the purpose of giving the devolved Administrations the chance to give their input. So far, it has been used sparingly: there have been few meaningful discussions, it has met rarely and little has come out of it. That needs to change.

Good governance requires co-operation between the UK Government and the devolved Administrations, as my hon. Friend the Member for Warrington South just set out. That was also set out in the devolution settlements. The Bill as written is unacceptable. It must contain appropriate frameworks that respect the devolution settlement. We will not agree to the rolling back of devolution and to seriously risking damaging our future trading agreements. Unfortunately, that is what the Government seem to want to do.

**Alan Brown:** I welcome the spirit of the new clause, but from my perspective, we should have something stronger than just consultation; we would be looking for the consent of the devolved Administrations. That is in line with some of our amendments that have been defeated. I certainly welcome the hon. Member for Brent North's saying that the official Opposition will revisit some of the amendments on Report. We will certainly look to co-operate on this matter.

**Barry Gardiner:** I hope that that will all be unnecessary, because I trust that the Government will see the error of

their ways and introduce those amendments themselves. If they do not, I reiterate my assurance to the hon. Gentleman that the Opposition will.

**Alan Brown:** Far be it from me to suggest that the hon. Gentleman may be a tad naive, but he is certainly optimistic if he thinks the Government have seen the light on this. I have made this point several times, but the devolved Administrations have said that they will withhold legislative consent motions if the Bill is not amended, so realistically, the Government will need to consider further amendments.

**Greg Hands:** The Government have made it clear that we seek to maintain the effects of the UK's existing trade agreements. We make that 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 the transitioning of those agreements. Given that 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.

**Hannah Bardell:** While I take what the right hon. Gentleman says with the greatest of respect—I want to believe him—can he not see that, from the perspective of those of us from the devolved nations, the written and oral evidence given to the Committee paints a very different picture from that which he paints here today? Our concerns are legitimate, yet we have nothing. The Government have supported none of our amendments, despite promises made on the Floor of the House.

**Greg Hands:** I will come on to outline the engagement that we have had with the devolved Administrations and to talk about what that engagement might look like in the future. I stress to the hon. Lady that the Bill is about transitioning agreements that, in most cases, are already in place.

**Matt Western:** Gordon MacIntyre-Kemp, the chief executive of Business for Scotland, put it very simply. He said that the Bill

“puts the power to act almost unilaterally in the hands of a single Minister... At worst, it looks like a deliberate attempt to delay the transfer of EU-held powers...until after the UK Government has had free rein to agree deals that you could say run roughshod over the devolution agreements”.—[*Official Report, Trade Public Bill Committee, 25 January 2018; c. 99, Q184.*]

**Greg Hands:** Again, if I recall correctly, the evidence was almost all about future trade agreements that the UK may wish to enter into. To reiterate, the Bill talks about our existing trading arrangements.

**Matt Western:** Does the Minister not accept that they will technically be new agreements?

**Greg Hands:** As I have laid out frequently, the substance of the agreements will be the same. That is what we are looking to transition; that is the continuity factor of these agreements. There will of course be the opportunity in the future to come to new trade agreements with the same countries, but we are talking about the continuity of our existing trading arrangements—the 40-plus agreements with 70-plus nations.

[*Greg Hands*]

On consultation with the devolved Administrations, the Department for International Trade ensures that its Ministers, as well as its directors and other senior officials, visit the devolved Administrations regularly and continually looks for further opportunities to engage with a range of stakeholders across the UK. Indeed, the hon. Member for Livingston knows that, because on a previous visit to Edinburgh I actually went to her constituency. The Secretary of State has engaged with the Scottish and Welsh Governments and with the Northern Ireland Executive.

**Hannah Bardell:** We were very glad to welcome the Minister to Livingston and I have been glad to engage with him on issues in my constituency. However, does he not recognise that engagement and consultation are very different from consent? The importance of consent and the devolution settlement being rowed back on are very different issues.

12.15 pm

**Greg Hands:** I do not mean for us to keep throwing questions at each other, but I again stress that the Bill is about the existing trading arrangements of the United Kingdom as a whole. We will engage extensively with the devolved Administrations about what the future arrangements might be. We are being clear that we will continue to engage with the devolved Administrations as we transition these agreements as well. The devolved Administrations will, of course, have a role in implementing transitioned trade agreements in devolved areas, including, where appropriate, by amending retained EU law.

We have committed to consulting the devolved Administrations on the most appropriate way to implement the transitioned trade agreements and the agreement on government procurement in areas of retained direct EU law that have effect in otherwise devolved areas. We will welcome their input on the best way to do that so that the agreements are implemented effectively for the whole of the UK. We will also work closely with the devolved Administrations on the role they will play in shaping the UK's future trade negotiations. It is right that we should have the opportunity to take these discussions forward and to engage the devolved Administrations to understand their views.

**Alan Brown:** I welcome the fact that the Minister is outlining the engagement he has had with the devolved Administrations, but can he confirm what the views of the devolved Administrations are on the provisions of the Bill?

**Greg Hands:** I do not think the hon. Gentleman needs me to confirm that. He has said himself what the position of the devolved Administrations is, including on the legislative consent motion. We have listened to them and will continue to listen to them very closely. He has put his point of view on the record as to the perspective of the Scottish Government.

I will come back to some of the points raised in the debate. The hon. Member for Brent North wanted to put devolved Administration engagement on the face of the Bill. I stress again that these agreements are about continuity, not future trade agreements. We have

been clear in the White Paper that we will engage. We therefore do not require statutory engagement structures in the Bill.

**Barry Gardiner:** One of the trade agreements that we have repeatedly come back to, which makes it quite clear that this is not the simple roll-over of the existing trading arrangements that the Minister is talking about, is the treaty we currently have with Norway. Fisheries are an important part of Norway's economy. It is almost inconceivable that in the roll-over of that agreement, there will not need to be some provision in that regard. Surely the Minister must address those points, because they are pertinent to the Bill and to the Government's capacity to do what they seek to do, which in large measure the Opposition believe to be right and proper: to try to make the transition as seamless as possible. However, there will be areas where it is not, and Norway is one of them. We must address that and not simply gloss over it by saying, "Well, we'll have to deal with that once we know what we're doing with the EU final deal."

**Greg Hands:** Of course we value our trade relations with Norway very strongly and closely. By geography alone, let alone the amount of oil and gas coming from Norway, we have incredibly strong trade relations. For the record, I met the Norwegian Trade Minister last autumn. I am perhaps going to sound like *déjà vu* all over again, but I repeat that the future trading relations with Norway will be very dependent on the future UK negotiations with the European Union. That is not a matter for this Bill; it is a matter that is being scrutinised on frequent occasions in this House and elsewhere.

The hon. Member for Brent North said that we need an engagement structure for future trade agreements. The Government agree that we need to engage the devolved Administrations in our future trade agreements for the benefit of the whole of the UK, as was made clear in the White Paper. We are talking to the devolved Administrations about what that will look like. The new clause would pre-decide that discussion.

The hon. Gentleman talked about international examples for consultation models with the devolved Administrations and gave us a quite interesting exposition of the position in Australia and other parts of the world. It was fascinating stuff, but our constitutional arrangement is very different from any of the international examples raised. As was made clear in our White Paper, we therefore need to design our own engagement structures, in consultation, that work for the benefit of the whole of the UK.

The hon. Members for Warwick and Leamington and for Cardiff North claimed that we were putting a constraint on the devolved legislatures. To be clear, the Bill will allow the devolved Administrations to make regulations that they consider appropriate for the purpose of implementing trade agreements in devolved areas, including in areas of retained EU law.

The hon. Member for Cardiff North said that devolution is being undermined. That is not at all the case. The Bill introduces new powers for the devolved Administrations to work collaboratively with the UK Government to secure continuity in our current trading relationships. Under the Bill, the devolved Administrations will be able to make every decision after exit that they can make before exit. We therefore do not need to commit to such a review or role for the Joint Ministerial Committee in legislation.

The official Opposition's tabling at a late stage of this emergency extra new clause, which emerged earlier this week, seems to be more about Labour members of the Committee messing it up last week by controversially not supporting the Welsh Labour Government's amendments, when everyone expected them to do so. When the hon. Member for Warrington South talked about a "political hell", he might have been referring to the political hell we see all day, every day in the official Opposition in this House and elsewhere. On that basis, I urge the hon. Member for Brent North not to press the new clause.

**Barry Gardiner:** Had I been disposed not to press the new clause, the Minister's final remarks would have made me all the more determined to do so. However, I was not so disposed, and we will press the new clause to a vote.

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

*The Committee divided: Ayes 6, Noes 9.*

### Division No. 36]

#### AYES

Cummins, Judith	McMorrin, Anna
Esterson, Bill	Rashid, Faisal
Gardiner, Barry	Western, Matt

#### NOES

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

*Question accordingly negatived.*

### New Clause 12

#### ANIMAL WELFARE AND SENTIENCE

"(1) Regulations may only be made under section 2(1) if the provisions of the international trade agreement to which they relate are compatible with—

- any provision in UK law (including retained EU law) relating to animal welfare standards and the welfare of animals in the production of food; and
- any obligations relating to animal sentience by which the UK is bound, or any principles relating to animal sentience to which the UK adheres."—(*Barry Gardiner.*)

*This new clause would ensure that our animal welfare and food production standards are, at a minimum, maintained in any international trade agreement.*

*Brought up, and read the First time.*

**Barry Gardiner:** I beg to move, That the clause be read a Second time.

This is the last new clause we will deal with in Committee, and it is our last attempt in Committee to introduce a high-level principle into the Bill. We have tried to establish the legal framework for an ethical trading policy that respects human rights, labour standards, environmental integrity and the needs of countries and communities poorer than our own. The Government turned down every single amendment and new clause that tried to enshrine those principles in law. None the

less, we will have one final push. We are trying to establish the principle of animal welfare and sentience at the heart of our trade policy. Perhaps the Government will agree to stand up for those species that share our planet with us, but that have no representatives of their own to speak for them.

My hon. Friend the Member for Bradford South spoke persuasively—though not persuasively enough to get Government Members to agree—about the importance of maintaining high food standards in all our trade agreements. She referred to the connection between high food standards and the call for animal welfare, whether in respect of the general requirement for food hygiene or the specific target set by the Veterinary Medicines Directorate for a reduction of antibiotic use in agriculture. We also argued for animal welfare to be included in any impact assessment of the UK's trade agreements, whether it is carried out *ex ante* or *ex post*. That call stands, and we will continue to press the point until we are satisfied.

I am pleased that the Minister saw fit to agree with us about the importance of this issue. I quote from the *Hansard* report of our sitting a couple of days ago:

"The Government have always been clear that we will maintain our very high standards on food and animal welfare, and for protection in that space. There will be no race to the bottom. Nothing in free trade agreements precludes a Government from regulating in the domestic environment. I hope that that is enough reassurance for the hon. Gentleman."—[*Official Report, Trade Public Bill Committee, 30 January 2018; c. 196.*]

**Greg Hands:** The hon. Gentleman was a Minister in the Department for Environment, Food and Rural Affairs under Tony Blair. Can he point to specific occasions when he raised concerns about animal sentience with respect to trade agreements that were going through at that time?

**Barry Gardiner:** That is one on which I will probably write to the right hon. Gentleman. I am convinced that there were a number of occasions when I did exactly that. I will try to dig them out from my records and send them to him. I am delighted that he did not stand up to repudiate the remarks recorded in *Hansard*, as he did the other day. Given that, I take it that he stands by them.

Sadly, the Minister's reassurance on this matter is not enough. The right of parties to regulate in favour of animal life and animal health is regularly mentioned in the text of international trade agreements, yet that same right is typically circumscribed by requirements that any measures to protect animal health must be undertaken while facilitating trade. Governments may take any measure they like to protect animal health so long as it does not create an "unjustified barrier to trade". It is left to a tribunal of trade lawyers, who examine the justification of the measure in relation to international trade law, to decide whether it is justified or unjustified.

There is sometimes a clause in the general exceptions chapter of a free trade agreement that affirms that a state may introduce whatever measures are necessary to protect animal life or health, but the meaning of "necessary" is left up to another tribunal of trade lawyers to decide. They may rule that an alternative measure is available that would be less burdensome on trade and therefore conclude, even if the alternative would be less effective, that the measure that was taken does not qualify as necessary after all.



[Barry Gardiner]

This is familiar territory to anyone who has looked into the history of international trade disputes, both before and since the founding of the World Trade Organisation. There is an entire sub-discipline of trade lawyers and academics who have written about what they call the “necessity test” that is employed to ascertain whether a measure is necessary and thus allowed under international trade law, or unnecessary and thus prohibited.

Let me take as a specific example a free trade agreement that was mentioned in written evidence by the RSPCA, because it contains a fleeting reference to animal welfare. The Government are keen to replace the EU-Korea free trade agreement with a new UK-Korea agreement, which would be implemented using the powers afforded to the Government by the Bill. The chapter of the EU-Korea agreement devoted to sanitary and phytosanitary measures includes specific clauses about enhanced co-operation between EU and Korean authorities on animal welfare issues—anyone who wishes to look them up will find them in article 5.9—yet those fine sentiments are thoroughly undermined by the clause at the outset of the chapter, which states that the objective of the chapter as a whole is

“to minimise the...effects of sanitary and phytosanitary measures on trade”.

The health and welfare of animals—and of humans, for that matter—is already subordinated to commercial interests. That is precisely the problem.

12.30 pm

We must ensure that animals are farmed for human consumption under the very best and most humane conditions, not to mention the conditions in which they are transported, which often happens when they are still alive and fully conscious of their surroundings. More than 3 million live animals are transported out of Europe every year, some as far away as Singapore, on their way to slaughter. Many die on the journey. Britain exports 30,000 live animals overseas for slaughter each year—a trade that we have been powerless to ban as long as we have been a member state of the European Union. Even a country such as New Zealand, with its considerable reliance on meat exports, outlawed the trade in live animals more than a decade ago.

The new clause seeks to ensure that no regulations may be made under clause 2(1) of the Bill unless they are compatible with the UK’s legal requirements on animal welfare—particularly as they relate to animals farmed for food. By introducing the new clause, we seek to ensure that, where the commercial aspects of a free trade agreement come into conflict with the principles of animal welfare, the animal welfare principles prevail.

We also seek to ensure coherence and consistency between the Bill and the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill, which the Government published last December and which will enshrine in law the recognition that animals are sentient beings capable of experiencing both pleasure and pain. Given that that is one of the flagship pieces of legislation being championed by the Secretary of State for Environment, Food and Rural Affairs, we hope that our last new clause might find favour with the Government after all—or perhaps the Minister is not able to agree even to this.

**Mrs Kemi Badenoch** (Saffron Walden) (Con): I will be brief. We all believe in maintaining the very highest standards in animal welfare and food production; I do not think that is in dispute. The Government have done quite a lot in the last few months—we know about the ban on microbeads, to protect marine wildlife—but this is one of the areas in which we are able to go further and do better than we ever could while we were in the EU.

There is much to agree with in the statements from the hon. Member for Brent North; I, too, am against the export of live animals. However, we must remember the Bill’s purpose: ensuring the smooth roll-over of existing trade agreements. It is not about future trade agreements, so I do not believe that the Bill is the appropriate place for the new clause. In fact, if I were being cynical, I would say that this looks like a mischievous attempt to reignite the debate on new clause 30 that was proposed to the European Union (Withdrawal) Bill, in order to generate press releases.

Our job is to make good law. The draft Animal Welfare (Sentencing and Recognition of Sentience) Bill was published on 12 December. It sets out to do exactly what the new clause would do, but even better. If Labour Members were serious about raising animal welfare standards, rather than virtue signalling, they would focus on the draft Bill. We should not tack on to the Trade Bill a new clause that is outside its scope.

As it happens, the Environment, Food and Rural Affairs Committee yesterday released its report on the draft Bill. It made several recommendations for improving it, including bringing forward a new and completely separate Bill on animal sentience. The Government have to reflect on that report and its recommendations, and it would be inappropriate for us to pre-empt the Select Committee’s report and the Government’s reaction.

**Alan Brown:** As the hon. Lady said, nobody can argue against the new clause’s intentions: maintaining animal welfare and food production standards when entering into international trade agreements. I am sure that the Minister will say that the new clause is not needed, because existing agreements will roll over and they comply with all the legislation, but as we heard from witnesses, in the roll-over process everything is up for grabs, so there is an argument for protecting animal welfare and food production standards in the Bill, and I understand why the proposal has been made.

One concern that I have about the new clause is that it refers to UK law and does not recognise that law is devolved; animal sentience should also be a devolved matter once we withdraw from the EU. From my perspective, the new clause does not take cognisance of the Scottish Government and the devolved Administrations, so that causes me concern about how it is written.

The hon. Member for Saffron Walden said that the Tory Government are bringing in good law, but then admitted that the Environment, Food and Rural Affairs Committee has made recommendations against the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill. As a member of that Committee, I can say that witnesses have basically said that the current proposal as regards recognising animal sentience is not good law and not fit for purpose, and the Committee is recommending that the Government think again on that Bill in terms of sentience, so they are a long way from making good law.

I support the principles of the new clause, but as stated, I have concerns about it not recognising the devolved Administrations.

**Faisal Rashid:** I commend my hon. Friend the Member for Brent North for his excellent opening remarks in support of a very important new clause. I hope that the Government will agree with me and my hon. Friends that it is vital that we protect animal welfare and food production standards when building our trade policy. We must prioritise a sustainable, long-term future for our farming, fishing and food industries. We cannot allow Brexit to be used as an excuse to reduce food standards or to allow cheap and inferior produce to flood the UK market. We have a moral duty to protect animals and their welfare, and that should go hand in hand with the protections that we must afford to our farming and production industry and to British consumers.

**Anna McMorris:** Does my hon. Friend agree that this is not a partisan issue, but a question of the kind of society we want to live in?

**Faisal Rashid:** Absolutely. That is a crucial point, which I hope Government Members will take into account.

**Mr Mark Prisk** (Hertford and Stortford) (Con): Is it not actually the case that good law is not made on the rush? The very nature of the new clause that we are debating is on the rush, and that is why we should reject it.

**Faisal Rashid:** I will give the Minister time to respond on that.

**Alan Brown:** I completely agree with the previous intervention: good law is not made in a rush. But that is exactly what the Government did in reaction to voting down amendments to the European Union (Withdrawal) Bill: they rushed out legislation that is really poor.

**Faisal Rashid:** I thank the hon. Gentleman for that intervention. I ask the hon. Member for Hertford and Stortford how the new clause would prevent the easy roll-over of EU trade agreements. This issue is controversial, but I will move on.

There are real concerns that if we produce trade agreements that allow the UK market to be flooded with cheap and poor-quality food, we will be forcing our farming and food production industries to make an impossible decision. Either they face becoming uncompetitive and being undercut by cheap and poor-quality imports, thus risking the jobs of the 3.9 million people employed in the industry, or they are pressured to cut corners and their own standards, putting at risk the welfare of the animals and potentially of consumers.

Many health risks are associated with poor-quality produce, and often such produce is consumed without knowledge, especially given the mass catering in schools, hospitals and takeaways. British people deserve to feel confident that they will be eating high-quality produce, wherever it has come from, following our departure from the European Union.

Nick Dearden of Global Justice Now told the Committee that

“we probably all now know more than we would like about chlorinated chickens”—[*Official Report, Trade Public Bill Committee*, 23 January 2018; c. 6, Q3.]

That is true, but it is important that we are aware of the potential negative impacts of failing to build a strong and sustainable future trade policy. Have the Government considered the negative impact on animals, on the farming and production industries, and on consumers of not supporting this new clause?

UK farmers have made great strides in recent years to improve animal welfare, and we are proud to have some of the highest animal welfare and food standards in the world. We have heard many times that our departure from the European Union is an opportunity for the UK to return to being a world leader in international trade. That prompts the question of why the Government are not committed to legislating for animal welfare protections to ensure that the rug is not pulled out from under the food and farming markets and to help the British farming industry to continue to lead the way in animal welfare and international trade.

There has already been much controversy surrounding the Government’s approach to animal welfare and sentience. It is no secret that the Prime Minister has faced difficulties in getting the Cabinet to agree on much in recent weeks, but she claims that it remains unified. The Secretary of State for Environment, Food and Rural Affairs said that there will be

“no diminution in our environmental or animal welfare standards in pursuit of trade deals.”

In that case, I am hopeful that we can expect Government support for this new clause, which would legislate for the protection of animal welfare standards—or is the Cabinet no longer unified on that position?

**Matt Western:** I rise to speak to new clause 12, and I thank my hon. Friend the Member for Brent North for proposing it. It would ensure that we provide important safeguards for not just livestock but our farming communities and our consumers by specifying animal welfare and sentience in the legislation.

In November, as we have heard, the Secretary of State for Environment, Food and Rural Affairs promised to make “any necessary changes” to UK law to ensure that it recognises that animals can feel pain. That came after proposals to accept that they are sentient beings were voted down. Now the Government are apparently looking at making UK law that specifically recognises animal sentience. I remind the Committee that the first sentence of the Bill says that it will

“Make provision about the implementation of international trade agreements”.

That is why—when we have spoken at previous sittings about ensuring that it is a comprehensive Trade Bill—we have said that this issue should be included.

According to the written evidence from the RSPCA, the EU has 19 farm animal welfare laws that the UK has implemented, giving a high degree of consistency on standards and a level playing field for trade in farm products. That will not be the case when the UK starts to negotiate FTAs with other countries. Thankfully, the UK has some of the highest farm animal welfare standards in the world, although it is well documented that Canadian and American farm welfare standards tend to be based on corporate standards rather than federal law, as we heard in the International Trade Committee yesterday.

Likewise, an FTA may include sectoral chapters on cosmetics, pharmaceuticals, chemicals and pesticides. The UK needs to be careful that it does not compromise



[*Matt Western*]

any existing UK laws, such as cosmetics regulation, or risk that those laws are as sensitive to change as the farm animal ones that I have mentioned.

**Greg Hands:** The hon. Gentleman is making a good speech. One of the points he raises surely gets to the nub of the matter. When he says that we should not do anything contrary to domestic law in trade agreements, he rather makes the point for me that the Government and the country will have a right to regulate most of these matters domestically, which is the important thing. We can introduce protections domestically in our laws that would not be subject to the trade agreement.

**Matt Western:** I thank the Minister for his intervention. There is the law that goes through this place, and there is the role and power of the Minister, and very much at the nub of this debate over the Bill is the control the Minister has, as opposed to the controls we and other bodies will have, in influencing any trade agreements.

12.45 pm

Given that the Government are now proposing a new process in the draft animal welfare Bill to ensure that any future legislation or policy is assessed against animal welfare science and standards, it is clear that that will need to be recognised in the Trade Bill, otherwise one of the most important areas that could undermine animal welfare standards—trade negotiations—would be outside the ambit of that Bill. As Peter Stevenson, the chief policy adviser for Compassion in World Farming stated to the Select Committee,

“what the US will press for, if you look at recent trade agreements, is regulatory coherence, a requirement that we in the UK and the US try to bring our regulations on the environment, food safety and animal welfare close to each other. This is going to be very difficult because the USA has almost no regulations to protect the welfare of animals whereas the UK has very detailed legislation on the welfare of pigs, calves, meat chickens and egg-laying hens and on the welfare of animals during transport and slaughter.”

With that in mind, and particularly given the recommendation of the Secretary of State that animal welfare and sentience should be addressed by UK law, I urge all Members on the Committee to support this new clause.

**Anna McMorris:** It is imperative that animal welfare rights are protected after we leave the EU and that animals keep their status as sentient beings under UK law, which is why this new clause is absolutely vital.

I wrote to the Secretary of State for Environment, Food and Rural Affairs after the defeat in the House of Commons on this very issue. That letter was signed by over 100 MPs. It is disappointing that the Trade Bill neglected to make it clear that the UK will not enter any trade deals in the future that will require us to water down animal welfare standards. It is clear from the reaction of the public, and from the campaigns and letters that I am sure all MPs have received from constituents and organisations, that people have no interest in seeing chlorinated chicken in our supermarkets, are not happy to see live animal exports and are not willing to compromise in any way on animal rights to please the likes of the current US President or any other leader of a country that does not share the same concerns and views as us

on animal welfare and animal sentience. Any trade negotiation or deal will impact on UK animal welfare standards.

Under article 13 of the Lisbon treaty, the UK recognises animals as sentient beings—that they are not just goods but have the capacity to feel pain, hunger, heat and cold—and that the Government must pay full regard to their welfare requirements. Recognising animals as sentient beings is accepted across animal welfare science and means that we acknowledge that animals are capable of feelings such as pain and are deserving of our respect. It is appalling that this Government could not vote in favour of maintaining—let alone progressing—existing animal welfare standards during the European Union (Withdrawal) Bill.

**Greg Hands:** I am not accusing the hon. Lady of spreading misinformation, of course, but a lot of the reactions to that vote spread a lot of misinformation. Various otherwise reputable news outlets such as *The Independent* and *Evening Standard* had to retract and withdraw and to print clarifications and apologies for putting out misinformation about the Government's view on animal sentience. The Government strongly believe in animal sentience, and the European Union (Withdrawal) Bill vote was not contrary to that.

**Anna McMorris:** I thank the Minister for his intervention, but the fact remains that this Government did not vote for that amendment, so are we to keep that trust that this UK Government will introduce those welfare standards post-Brexit? I for one do not find that trust. I struggle to understand this decision by the Government, which is a massive blow for the welfare of wildlife, pets and livestock alike.

**Mrs Badenoch:** There is a draft Bill on sentencing and animal sentience coming in. Why does the hon. Lady feel that there will be no commitments in that Bill, given what it is called? What are her concerns about that Bill?

**Anna McMorris:** I thank the hon. Lady for her intervention, but does she not realise that this Bill is about the rules and regulations during trade? That is why we need the new clause in the Bill.

Only domestic animals are covered by the Animal Welfare Act 2006; animals in the wild and laboratory animals are expressly exempt. As we seek new deals in our negotiations with countries that perhaps have much lower animal welfare standards, we are particularly concerned that there will be the temptation to lower our standards. The Bill needs strengthening to better protect UK animal welfare standards. I hope the Government will see some sense and support the new clause to ensure that we do not water down those standards.

**Greg Hands:** The Government have made clear that we intend not only to retain our existing standards of animal welfare once we have left the European Union but, indeed, to enhance them. We are proud to have some of the highest animal welfare standards anywhere in the world, and they will not be watered down when we leave the EU.

Our food is held in high repute thanks to our animal welfare standards. The withdrawal Bill will transfer on to the UK statute book all EU animal welfare standards—it is very important to understand that in the context

of the withdrawal Bill, which was raised by the hon. Member for Cardiff North. Our current high standards, including import requirements, will apply when we leave the EU.

Similarly, the Government are committed to retaining the EU's recognition of animal sentience. That is why, as has been referred to quite a few times in this helpful debate, at the end of last year the Government published the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill, which sets out how we can go even further and better enshrine in domestic law the recognition of animals as sentient beings. That point was capably made by my hon. Friend the Member for Saffron Walden and others.

**Barry Gardiner:** Does the Minister understand that the new clause's intention is not to run counter to or prevent what we hope the Government will bring forward in that Bill? It seeks to establish the hierarchy of principles in international trade so that a necessity test or any other precursor in the clauses and paragraphs that deal with such issues cannot mean that animal welfare is of a lower order in that hierarchy.

**Greg Hands:** Let us try to separate out those two issues. We will deal with animal sentience in the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill. What we are talking about here is transitioning existing trade agreements. I will return to the intervention I made on the hon. Gentleman in relation to existing trade agreements, but let me first point out a few more things in the draft animal welfare Bill. It proposes a new obligation on Ministers of the Crown to have regard to the welfare needs of animals as sentient beings when formulating and implementing Government policy. A public consultation on the draft Bill has recently closed and DEFRA is considering all the responses received.

We are absolutely clear that all existing commitments relating to animal welfare will remain when these agreements are transitioned—I cannot be any more definitive than that. That is in line with our clearly articulated principle that it is our intent to transition solely the existing effects of the current agreements.

On current agreements, Mr Davies, you and I were elected in 2005, and in a couple of those early years we shared in Parliament I distinctly remember the hon. Gentleman being a DEFRA Minister. I was intrigued when he was seemingly unable to offer any single occasion when, as a Minister in DEFRA—the Department with primary responsibility in this area—he had raised any objection to EU trade agreements going through the House in relation to animal welfare or animal sentience.

I look forward to receiving the hon. Gentleman's letter, in which he will explain in detail those occasions he was unable to remember today—he may have time to dig through his filing cabinet from 12 or 13 years ago to find them. I remember well that it was very rare for any Government Minister in Tony Blair's regime to go against the word of Mr Blair, and very rare for any Government Minister to go against the word of the European Union, so I am interested to see if the hon. Member for Brent North managed to do both at the same time. I very much look forward to getting this letter. May I suggest that he shares it with the whole Committee, because I do not think that it is something I should abuse by keeping it private to myself? I look forward to that letter.

**Barry Gardiner:** Will the Minister give way?

**Greg Hands:** Of course—maybe he has remembered.

**Barry Gardiner:** May I just point out to the Minister that I voted for the ban on hunting mammals with dogs? I believe that most of the Conservative party voted to retain hunting mammals with dogs. I also voted to secure an end to cosmetic testing on animals, to ban fur farming and to introduce the Animal Welfare Act 2006. So there were a number of occasions on which my voting record on animal welfare and animal sentience stands up very strongly. I suspect that it would be in marked contrast to many Members on the Government side of the House.

**Greg Hands:** I thank the hon. Gentleman for that intervention, because I now find it even more illuminating. He has now been able to remember all these other occasions when he stuck up for animal welfare, but he still cannot remember a single occasion when, in relation to EU trade agreements, which is what the Bill is all about—

**Barry Gardiner** *rose*—

**Greg Hands:** Perhaps the hon. Gentleman has now remembered the single occasion. I will give him another opportunity to tell us all about this disagreement he had with Tony Blair or the European Union.

**Barry Gardiner:** It is not about a disagreement with Tony Blair or the European Union, because actually we did vote to ban the export of animals on the hoof in that Government. That was precisely about trade—it was banning live exports. The Minister has to accept that I have a very clear record on animal welfare in terms of not only domestic legislation in this country but international trade.

**Greg Hands:** I am still looking forward to the letter. The hon. Gentleman has still not remembered a single occasion when he raised this in relation to a European Union trade agreement. He has an opportunity. I am sure he will take a little bit of time to prepare the letter, and I am sure that all members of the Committee will look forward to receiving it.

The hon. Gentleman did mention live animal exports, which is an interesting subject. He says that he was concerned about live animal exports, but you and I know, Mr Davies, that while we remain an EU member we are unable to ban live animal exports. I do not know whether, at that point, he was taking an early Eurosceptic turn. Perhaps he mentioned to Tony Blair that he had this fundamental problem with the European Union. It was just after Tony Blair had promised a vote on the EU constitution, which was not delivered, so it may have been an interesting time to have made these Eurosceptic points that he now says that he has.

**Matt Western:** Far be it from me to talk about what happened five or 10 years ago and under a different ministerial dispensation, but my recollection was that in the 2000s there was a huge issue about veal being transported in crates, and it was EU legislation that was introduced that actually put an end to that. I would like to think that the UK Government were in support

[Matt Western]

of that, but I do not know—I will defer to either the Minister or my hon. Friend the Member for Brent North.

**Greg Hands:** If the hon. Gentleman is a strong believer in EU law, surely he should be voting, and have voted, for the European Union (Withdrawal) Bill, which seeks to take all of this retained EU law into the UK domestic environment.

To return to the issue, we have a manifesto commitment to take early steps to control live animal exports as we leave the European Union. The hon. Member for Brent North claimed that FTAs contain provisions stating that animal health measures must “not be unjustifiable barriers to trade”.

Again, that returns to the point I made in my intervention on the hon. Member for Warwick and Leamington, that it importantly does not prevent states from imposing their own high animal welfare standards, which is what we currently do and will expect to enhance in the future.

My hon. Friend the Member for Saffron Walden made an excellent and succinct speech, outlining why the Bill is about existing trade agreements and why the Government have separate proposed legislation relating to animal sentience. I can tell her that the consultation closed yesterday and we will consider the 9,000 responses, as well as the report by the Environment, Food and Rural Affairs Committee, in due course.

The hon. Member for Kilmarnock and Loudoun raised a relevant point when he said that the issue of animal sentience is devolved. I can tell him that the Department for Environment, Food and Rural Affairs is speaking to the devolved Administrations regarding animal sentience. The clause in the draft Animal Welfare (Sentencing and Recognition of Sentience) Bill refers only to UK Ministers and the role they play, but I would be interested to see what proposals the Scottish and Welsh Governments might bring forward in this space as well.

I hope that is sufficient reassurance to the hon. Member for Brent North. I very much look forward to his letter, but on that basis I ask him to withdraw the new clause.

1 pm

**Barry Gardiner:** The Minister can ask, but he will not be successful. We will press it to a vote.

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

*The Committee divided: Ayes 5, Noes 9.*

#### Division No. 37]

#### AYES

Cummins, Judith	Rashid, Faisal
Gardiner, Barry	
McMorrin, Anna	Western, Matt

#### NOES

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

*Question accordingly negatived.*

*Question proposed, That the Chair do report the Bill to the House.*

**Greg Hands:** Mr Davies, I thank you and everybody concerned with this Bill. I am delighted that we have so thoroughly scrutinised this short yet important Bill over the last five Committee sessions. I thank Committee members for the constructive way in which they have engaged in the debate. I am pleased that we have completed proceedings within the allotted time. In fact, we have a little time to spare.

This has been an unusual Bill Committee. The Bill, in my view, is relatively uncontroversial and certainly quite short. Indeed, on Second Reading, I think a little unfairly, the hon. Member for Brent North called it a

“hollowed out little embarrassment of a Bill, which extends to just six pages and four schedules.”—[*Official Report*, 9 January 2018; Vol. 634, c. 223.]

I think he was calling it small and unimportant; I am interpreting the words “hollowed out little embarrassment” in that way. Therefore, I find it all the more remarkable that the Opposition have called some 37 votes on the Bill so far. I am not trying to make a wider political point—or maybe I am—but it was clear on Second Reading and now that they are against the UK having its own trade remedies, against the UK being able to benefit from the more than 40-plus EU trade agreements, and against UK companies participating in the £1.3 trillion global procurement market. I hope they will change their minds on Third Reading.

I also thank the Government Whip and the Opposition Whip, who have ensured that the Committee has run smoothly and effectively. We have had a helpful and constructive consideration of the Bill, and the debate has been superbly conducted by you, Mr Davies, and by Mrs Ryan and Mr Gray, in the Chair. I am very grateful for your and their guidance during our deliberations.

Further, I would like to pay tribute to the usual channels, who I know quite well from previous experiences in this House, for their help and guidance throughout. I also recognise in particular the hard work of *Hansard* in recording everything. I thank the Clerk for his advice, the Doorkeepers for keeping good order, and my excellent team of officials for their support. This is the Department for International Trade’s first ever piece of legislation, and the officials have done the Department very proud indeed.

**Barry Gardiner:** I, too, would like to express, on behalf of all my team, my thanks to you, Mr Davies, to Ms Ryan and Mr Gray, and to all the officials who so ably supported the Minister. We tried to throw as many difficult questions at him as possible, and they tried to field them and provide him with answers as quickly as possible. I have to say we were not always convinced by the answers he came up with, but we recognise the work that went into them and hope that we did not cause the officials too much trouble.

I pay particular tribute to Kenneth Fox, the Clerk of the Committee. He is an exemplary Clerk, and he aided us in ensuring that our amendments were substantive and all in good order. It was extremely helpful to us to be assisted by someone of his experience and wisdom—and calm. I say that because, as you know, Mr Davies,

amendments are worked on until the last moment to ensure that they are tabled in good time, and Mr Fox did so with the greatest humour.

I am grateful to all my team: my hon. Friends the Members for Bradford South, for Sefton Central, for Cardiff North, for Warrington South, for Blaenau Gwent and for Warwick and Leamington. It has been an excellent team effort. I am delighted that they were all able to contribute to debate in a most positive way. I also thank the Government Members. I thank the Minister, who I think took every intervention he was offered, for his courtesy. I know that serving on such Committees is often a thankless task for Government Back Benchers, who are told by the Government Whip to sit quietly and not to take up too much of the proceedings, but when they did intervene, they did so with courtesy.

We have scrutinised the Bill in great detail. We have not come to an agreement—that much is clear. There are lacunae in the Bill that need to be remedied, and we

will return to it on Report and subsequently. I thank everyone associated with the Committee and in particular you, Mr Davies, for conducting proceedings with absolute fairness and impeccable order.

**The Chair:** I am very grateful to the Minister and the shadow Minister for their kind words. I thank the House authorities, including the Doorkeepers, who have been very busy with Divisions, and the Clerks. I reiterate the thanks to Kenneth Fox, the principal Clerk, who has guided me throughout these proceedings with his normal efficiency and courtesy. I thank all Members for making it so easy to chair the Committee. You have all been a credit to your respective parties.

*Question put and agreed to.*

*Bill accordingly to be reported, without amendment.*

1.8 pm

*Committee rose.*

**Written evidence reported to the House**

TB28 Unlock Democracy  
TB29 38 Degrees  
TB30 International Chamber of Commerce United Kingdom (Supplementary to oral evidence)

TB31 Africa APPG, together with the Royal African Society

TB32 TheCityUK

TB33 Trade Justice Dundee