

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### TRADE BILL

*Second Sitting*

*Tuesday 16 June 2020*

*(Afternoon)*

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Examination of witnesses.

Adjourned till Thursday 18 June at half-past Eleven o'clock.

Written evidence reported to the House.

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**Saturday 20 June 2020**

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

*Chairs:* † SIR GRAHAM BRADY, JUDITH CUMMINS

† Anderson, Fleur ( <i>Putney</i> ) (Lab)	Hosie, Stewart ( <i>Dundee East</i> ) (SNP)
† Caulfield, Maria ( <i>Lewes</i> ) (Con)	† Johnston, David ( <i>Wantage</i> ) (Con)
Clarke, Theo ( <i>Stafford</i> ) (Con)	† Nichols, Charlotte ( <i>Warrington North</i> ) (Lab)
† Courts, Robert ( <i>Witney</i> ) (Con)	Rowley, Lee ( <i>North East Derbyshire</i> ) (Con)
† Esterson, Bill ( <i>Sefton Central</i> ) (Lab)	† Thomas, Gareth ( <i>Harrow West</i> ) (Lab/Co-op)
† Fletcher, Katherine ( <i>South Ribble</i> ) (Con)	† Webb, Suzanne ( <i>Stourbridge</i> ) (Con)
Griffith, Andrew ( <i>Arundel and South Downs</i> ) (Con)	† Western, Matt ( <i>Warwick and Leamington</i> ) (Lab)
† Hands, Greg ( <i>Minister for Trade Policy</i> )	
† Hendry, Drew ( <i>Inverness, Nairn, Badenoch and Strathspey</i> ) (SNP)	Kenneth Fox, <i>Committee Clerk</i>
† Higginbotham, Antony ( <i>Burnley</i> ) (Con)	† <b>attended the Committee</b>

**Witnesses**

George Riddell, Director, Trade Policy, Ernst & Young

Professor L. Alan Winters, UK Trade Policy Observatory

Nick von Westenholz, EU Exit and International Trade Director, National Farmers' Union

Richard Warren, Head of Policy & External Affairs, UK Steel

Ian Cranshaw, Head of International Trade and Operations Manager at Chemicals Northwest, Chemical Industries Association

Rosa Crawford, Policy Officer, Trades Union Congress

George Peretz QC, Monkton Chambers

Simon Walker CBE, Chair Designate, Trade Remedies Authority

## Public Bill Committee

Tuesday 16 June 2020

(Afternoon)

[SIR GRAHAM BRADY *in the Chair*]

### Trade Bill

2 pm

*The Committee deliberated in private.*

#### Examination of Witnesses

*George Riddell and Professor L. Alan Winters gave evidence.*

2.2 pm

**The Chair:** Before I welcome the witnesses, I remind everybody to please switch their electronic devices to silent. Tea and coffee are not allowed during sittings, but Members can obviously drink water. I also remind Members that the *Hansard* reporters would be very grateful if they could email electronic copies of their speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

We will now take evidence from the first panel. I welcome George Riddell, the director of trade policy at Ernst & Young, who is here in person, and I hope I can welcome Alan Winters of the UK Trade Policy Observatory. I think Charlotte Nichols wants to make a declaration.

**Charlotte Nichols** (Warrington North) (Lab): I want to declare an interest: my father is the president of the TUC this year.

**The Chair:** Professor Winters, I am Graham Brady, and I am chairing the Committee. I know that you cannot see me and we cannot see you, so I am going to make sure everybody lets you know who is speaking to you when they are asking questions and making points.

I thank Professor Winters and Mr Riddell for joining us and helping the deliberations of the Committee. As Chairman, I am entirely independent. I will not be involved in the questioning, but I will be calling others to put their questions to you. I first call Bill Esterson, who is the shadow Minister. Could you introduce yourself before you start?

**Q30 Bill Esterson** (Sefton Central) (Lab): Thank you, Graham. I thank both our witnesses. Professor Winters, can you hear me okay?

**Professor Winters:** I can if I concentrate hard.

**Q31 Bill Esterson:** The first question is to both of you. Can you give an outline of your analysis of the Bill and any gaps in it that you think might be rectified?

**Professor Winters:** In general, the Bill is trying to do sensible things in a basically sensible way. The issues that arise are about whether or not it is drafted in a way that would allow it to be used for things beyond these intentions.

For instance, it says that the Government do not expect to make major changes with this Bill, yet the procedures that it will set up might allow a Government

that wished to do so to make really quite dramatic changes through secondary legislation. As we know, and you know better than me, secondary legislation is not typically challenged. For instance, under the GPA—the agreement on government procurement—if I understand it correctly, the Government have the power to make changes in the coverage of the agreement. A lot of that is about new members, which seems sensible, but if I understand it correctly, it also seems to be about the coverage of sectors within the UK.

When we deal with non-tariff provisions in the trade continuity agreements, for instance, the mutual recognition agreements are very serious bits of trade policy, particularly for services sectors. I think a non-tariff provision would include things like sanitary and phytosanitary regulations and technical barriers to trade. These are mostly governed by EU law at the moment, and in implementing a trade agreement, the Government could change a number of them. Rather than having to bring them back to the legislature as primary legislation, they would actually be able to move through a secondary legislation process, so I think there needs to be a little more attention on the potential spread of the use of this. The Bill can also be extended indefinitely in five-year periods. That seems to me to be not in the spirit of the Bill, which is about cleaning up.

Let me make one last point. The Bill is obviously designed, in terms of trade agreements, to deal with the continuity trade agreements, but there are at least two cases that, so far as I can see, will fall under the Bill and will really go further than just tidying up the details so that trade can continue. The first is UK-Korea. Korea and the UK have signed a continuity trade agreement, but with a commitment to renegotiate a fuller and more ambitious free trade agreement within two years. So far as I can tell, any of that would essentially be covered under this Trade Bill. Similarly with Japan, we do not really know what the Government intend to discuss with the Japanese Government, but the analysis that we got last month was—what shall we say?—studiously unspecific. Essentially, it reads as if it is going to be basically a new agreement; in a sense, the table is blank, and stuff will be put on or taken off. However, so far as I can tell, because Japan had an agreement with the EU on 31 January, it will be covered by the Trade Bill. Korea and Japan are two major trading partners, and this might not get very much scrutiny, essentially because you can undertake quite major changes under the heading of the Bill, which I interpreted largely as a tidying-up Bill.

**Q32 Bill Esterson:** Thank you, Professor Winters. Before I ask George Riddell to answer the same questions, I will ask a couple of follow-ups to what you said. You spoke about the GPA, and I think you mentioned changes in coverage of sectors in the UK. What did you mean by that?

**Professor Winters:** The WTO's government procurement agreement is restricted to the set of countries that have signed it, so quite a lot of this Bill is about what we do when that set of countries changes: what concessions do we expect from them and offer them? That seems, in a sense, to be fairly uncontentious. The other element of coverage is that the Government lists in the annexes to the government procurement agreement the sectors, and the thresholds for procurement in those sectors, that will be open, subject to the GPA's requirements.

I think that the powers in the Bill permit the Government to change that as they will, rather than, given that who you allow to bid for different bits of procurement is a fairly major piece of public policy, having a process that is open to more scrutiny.

**Q33 Bill Esterson:** I have one other follow-up question from your initial remarks. You spoke about the implementation of trade agreements and said that the Government could change them without primary legislation. Could you say why you are particularly concerned by that aspect of the legislation?

**Professor Winters:** Yes. The traditional way that we have handled trade agreements and, as far as one can tell, the Government's intention going forward, is to say that the Government negotiate these treaties under the royal prerogative but that, to the extent that they require changes in regulation in domestic law, these will come to Parliament. In cases where that would normally be primary legislation, those changes will have to be made by Parliament through the processes for primary legislation.

What this Bill does—and it is the same in the European Union (Withdrawal) Act 2018—is say that a number of things can be changed by secondary legislation, even though they were originally set out under EU procedures through routes for primary legislation. It potentially brings to Ministers a number of issues one would generally expect to have the full scrutiny of Parliament. It would be a process that allows a little bit of scrutiny, the affirmative process, which, de facto, does not seem to result in very much. Again, in a sense, the worry is not that one might need these powers to tidy up a clause here or there, but that, in fact, quite serious issues would suddenly fall to the discretion of the Minister.

One of my colleagues, Emily Lydgate, has investigated this on environmental regulations under the European Union (Withdrawal) Act, and it is fairly alarming. As far as I can see, one could fall into that situation through the Trade Bill in the sense that the Japanese or Korean trade agreement could agree something that would normally be subject to primary legislation within the UK but that can now be handled with secondary legislation under the cover of the Trade Bill.

**Q34 Bill Esterson:** I would like to ask George Riddell to answer the opening question. Feel free to pick up any of what Professor Winters has said.

**George Riddell:** Thank you; it is a pleasure to be here. I would characterise the Bill as creating the baseline of the UK's trade policy. It tries to continue the basic trading conditions for rest-of-world trade that UK business currently enjoys.

That includes the continuity agreements. A lot of people, when commenting on those agreements, go straight to the tariffs: "If you don't have a continuity agreement, you'll face tariffs; if you do, it will continue as it currently is." For the services sector, which I represent, there are also important establishment provisions within the services trade chapters of those agreements and mobility provisions that allow business travellers to travel between the UK and those third countries to supply services. The discussion about the continuity agreements and ensuring that the UK is able to continue to trade past 31 December this year is therefore wider.

The same goes for the government procurement agreement. The UK has enjoyed the status of the government procurement agreement at the WTO since its creation in 1995, although its membership of that particular agreement came through the European Union.

I will pick up two points that Professor Winters talked about. First, yes, new members join the GPA on a fairly regular basis. There are a number of ongoing accessions to the agreement, some with shorter timeframes than others. It is right that there is provision for the agreement to expand, as it naturally does, at the WTO. The other point is about the coverage and the entities. The UK list of covered entities is rather out of date. Many current Government Departments are not listed as part of coverage under the GPA, so the list is very outdated. Therefore, even if the thresholds the UK has signed up to as part of the GPA are not changed, there is a need for a technical update of the UK's commitment to reflect the current machinery of government.

We are also establishing the TRA and bringing back powers from the Commission in Brussels to establish a trade remedies regime here in the UK. On the statistics front, which is very important in making trade policy, I would flag the interest in improving the trade in services statistics for the UK. Trade in services statistics are notoriously unreliable, and powers in the Bill could be used to make the UK a leader in how we measure services trade in this country and globally.

**Q35 Bill Esterson:** Thank you for that. To compare what you and Professor Winters said about the update of the entities under the GPA provisions, you referred to what you termed "technical updates" on things like the names of Government Departments, whereas Professor Winters spoke about more substantive areas of change, such as environmental ones. Will you pick up the concern that he raised about the need for additional scrutiny and the expectation that there would be a more detailed approach than mere technical updates?

**George Riddell:** If I understood correctly, Professor Winters' point was about the potential for including new entities on the list and going further than the UK's current commitments with regard to the GPA, leaving the continuity agreements question to one side. There are two aspects here. From my understanding of discussions in Geneva, they have been very focused on understanding what the UK's current machinery of government looks like and how that could be represented as part of its GPA commitments. Certainly, the Government have said, from my understanding, that they do not intend to change the scope of the commitments, even if technical updates are necessary. I would not want to go further than that.

**Q36 Katherine Fletcher (South Ribble) (Con):** Hello, Mr Riddell. Thanks for coming. I hope that the Committee will bear with me, as this is slightly out of the scope of the Bill, but I was particularly intrigued by the point that you made about measuring our trade and exports in services better. You alluded to a way to become a global leader. What would good look like in that space, as we look to get the Bill through and then move on to the next phase?

**George Riddell:** Two initiatives have been undertaken recently. One is that the Office for National Statistics has launched its experimental trade in services datasets,

which it is looking to continually improve. Anything that supported that initiative would certainly look good. For the past Trade Bill, in the previous Parliament, a number of organisations, such as TheCityUK, put forward written evidence with more concrete suggestions. I do not have that with me, unfortunately, but I am happy to share it.

Coming to the point on the data being notoriously unreliable, both the US and the UK claim that they have a trade surplus in services with each other. There have been a number of attempts by statisticians on both sides to try to bottom out why that might be the case. It goes to show that, often, trade in services statistics are indicative and a good rule of thumb, but putting too much faith in them is not necessarily a wise move.

**Q37 Drew Hendry** (Inverness, Nairn, Badenoch and Strathspey) (SNP): Professor Winters, you were talking earlier about how the procedures, as set up, would allow the Government to set up major changes through secondary legislation without, perhaps, sufficient scrutiny. What powers do you believe Parliament should have in that situation over the Trade Bill?

**Professor Winters:** I confess that I do not know how to draft it in legislation, but I would suggest that one has something in the Bill that gives concrete form to the statements that we have that the Government expect not to use it to make major changes, and that such changes would come with primary legislation. At a practical level, one would need some sort of early-stage scrutiny to identify issues that were mere technicalities or minor issues, and to flag up larger issues that might require primary legislation.

I am afraid I am not a draftsman. I do not know how to write that, but it seems to me that that is what we require. This is a very sensible, pragmatic tidying-up Bill, but it seems to have loose ends that might, under some circumstances, lead to places other than those that the Bill says it is intended to cover, and more than the House would wish.

**Q38 David Johnston** (Wantage) (Con): Mr Riddell, you touched on services. I was thinking about the OECD report on what will happen to the economy. One of the reasons we will be particularly badly hit is the reliance on services, albeit that we will rebound quicker in the second year. I wonder what you think the consequences of not having the Bill would be for the service sector, which you are a member of.

**George Riddell:** In terms of the service sector, I would say that the two biggest elements are definitely the continuity agreements and the government procurement agreement. The government procurement agreement, although it largely covers goods, has several services provisions in it that are particularly important for small and medium-sized enterprises that operate cross-border government procurement contracts.

On the continuity agreements, it is difficult to say exactly, because there is different coverage in each of the continuity agreements for different service sectors. Broadly speaking, you have the horizontal elements in the more advanced trade agreements, such as that with Korea, which covers investment and establishment for

service providers, and additional mobility provisions for short-term business visitors and the suppliers of services.

There are also, in some of those agreements, additional commitments on the digital economy, and how the UK and the third country can co-operate in order to foster more digital trade, which is of growing importance, particularly in the light of the pandemic that we are experiencing. I know that many of the people here have dialled in or participated remotely in these sittings, so it is a very pertinent topic for the service sector.

**Q39 Fleur Anderson** (Putney) (Lab): My question is to both contributors; thank you very much for coming. It is about our trade with developing countries. Looking specifically at sanitary and phytosanitary measures, which Professor Winters mentioned and which can be used as trade barriers, but also looking in general, could the Bill be detrimental for developing countries, and how could it be improved to complement our poverty reduction commitments?

**Professor Winters:** I do not see strong and direct implications for our relationship with developing countries. Most of the countries with which we are signing these continuity agreements are, in fact, developing countries. I think the issue again, essentially, is that the Minister has powers to make regulations concerning non-tariff provisions, and some of those regulations could indeed rebound to the disadvantage of the countries we are dealing with—those on the other side. For instance, if we have issues surrounding conditions of entry for particular goods, the Bill might be used to tighten those up.

Having said that, the agreements we have with the developing countries—the continuity agreements—have genuinely continued, so far as they can, trade relations with those countries. There are some complications that are not in our gift, such as rules of origin, but I understand that the agreements that have been signed already under the heading of continuity trade agreements have made no changes, so far as access to the UK economy is concerned.

There is nothing I have seen in the Bill that is specific to developing countries that raises an alarm, but on the other hand, it is not clear that trade with developing countries is exempt from my residual nervousness about what the Bill might be used for under less satisfactory circumstances.

**George Riddell:** One thing that I am keen to emphasise is how the UK's trading relationship with developing countries is split across the continuity agreements contained in the Bill and the customs Act, which gives effect to the generalised system of preferences and duty-free, quota-free access for least-developed-country exporters. You have the continuity agreements under this Bill, but there are also very important trade provisions in the customs Act, and making sure that they are aligned and work together to support developing countries' trade into the UK is very important.

As for your question about SPS measures specifically, in my experience of working in developing countries and looking at how they trade, one of the biggest things is meeting food standards, health standards and environmental standards. The UK does capacity building very well through DFID—pending recent announcements today—and through programmes such as aid for trade

in developing countries, in order to allow businesses and exporters to take advantage of the provisions in the trade agreements and EPAs.

**Q40 Gareth Thomas** (Harrow West) (Lab/Co-op): Professor Winters, much of the debate so far has focused on continuity agreements, but I want to take you to new free trade agreements, which are another area of contention in the Bill. Will you compare the process for scrutiny of new free trade agreements, for example with the US, under the CRAG process with the processes of scrutiny in other Parliaments, including the US Congress?

**Professor Winters:** I am not a huge fan of the process that we have under the CRAG, which seems to me to allow the Executive a bit too much scope to do things unscrutinised—

**The Chair:** We will try to find out whether we still have Professor Winters. Mr Thomas is there something you would like to pursue?

**Gareth Thomas:** I would very much like to hear what he has to say. *[Interruption.]*

**Professor Winters:** I did not catch all of your question. With the process we would be using for, say, the agreement with the US, my honest preference is that we would set up a system for new trade agreements that involved more formal consultation and more reporting back to Parliament than is obligatory under the CRAG. In one sense, I see the Trade Bill offering an even easier route for Executive decisions than the standard CRAG procedure, and I do not think that will really give us enough scope for bringing Parliament and the people along.

I think the issue, essentially, is that if this was abused in order to try to introduce major changes, there would be even less defence. There is no commitment to discuss, consult and so on, and the Minister is being granted extensive secondary legislative powers. Under the CRAG, although the treaty has to be approved through an affirmative process, if changes in domestic law are required to implement it as a new trade agreement, it would potentially have to go through primary legislation. As far as I can tell, that is not required here for any of the continuity agreements.

**Q41 Gareth Thomas:** To follow up on that, I want to ask you to compare what would be envisaged under CRAG for future FTAs with what happens in other countries' Parliaments in terms of the scrutiny of free trade agreements.

**Professor Winters:** In general, most other countries have processes that involve more formally required consultation and rather more engagement with the legislature as the process goes through. For instance, in the USA there is a whole series of trade advisory committees—I think that is what they are called—which the Government speak to on a confidential basis. There is formal approval of a mandate, particularly if they want to do something on fast-track.

Those are things we do not have in the UK. We do not yet have a completely definitive statement about how these things will be handled, but essentially the CRAG process is fairly light on scrutiny and consultation. Compared with Australia, the US and Canada—where there is, if not constitutionally, at least informally a good deal of consultation with the provinces—we have a system that allows the Government rather more discretion.

**The Chair:** We have to conclude by 2.40 pm, so I think this will be the last question.

**Q42 Matt Western** (Warwick and Leamington) (Lab): I want to pick up those points with both of you. You were referring, Professor Winters, to the US trade rep approach, whereby they go out, engage and consult and then set the parameters of what the negotiation objectives should be. For the purposes of clarity, do you think that setting that up is a massive missing piece in this legislation, as it would enable visible parliamentary involvement and the involvement of relative organisations, such as trade unions, sectors and devolved powers, to establish buy-in and engagement? If it is missing, should it now be put back in?

**Professor Winters:** For the Trade Bill, which is presented as a piece of legislation to make it feasible to roll over the continuity agreements that we are trying only to roll over and not to change—we have already joined the GPA and are not trying to change our schedule—you do not necessarily need a huge apparatus. If we get into a situation where the Trade Bill is used to make quite dramatic differences to the arrangement with Korea or to make essentially a new agreement with Japan, it is unfortunate that there would be less of an obligation to consult the devolved Administrations, parts of the legislature and stakeholders. The solution is not so much to nail those processes on to the side of the Trade Bill, as to try to find a way to ensure that the Trade Bill is not used for purposes that involve a major change relative to the status quo.

**George Riddell:** I agree with many of the comments made by Professor Winters and would add two additional points. The first is on consultation and its importance. Not only does it help the UK to identify what its offensive and defensive interests are and how best to achieve them through negotiations; it also helps to build political support. The thing that businesses want when they are looking to use trade agreements is the certainty that, when they make an investment under the provisions, in five, 10 or 15 years they will continue to be able to trade under the terms of that trade agreement. By not having wide consultation and the necessary support, it calls into question that certainty. The question of scrutiny and everything else is for this House and this Committee, but from a business perspective, we want widespread support for the trade agreements so that they can continue into the future.

**Matt Western:** Can I ask a 20-second supplementary, Chair?

**The Chair:** You can try.

**Q43 Matt Western:** In your view, both of you, would UK-US negotiations be covered by this Bill?

**George Riddell:** My understanding from reading the Bill is that it covers the continuity agreements that existed between the EU and third countries.

**Matt Western:** Professor Winters?

**Professor Winters:** Is somebody trying to get my attention? I am afraid you all faded away.

**Matt Western:** Sorry, I was just asking whether you feel that the Bill covers the current UK-US negotiations.

**Professor Winters:** As I understand it, the Bill does not cover current negotiations with the US. It is restricted to those countries that had agreements with the European Union on 31 January this year.

**The Chair:** That brings us neatly to the end of the time allotted for questions to these witnesses. I thank both of the witnesses, Mr Riddell here in person and Professor Winters struggling with technology to join us. It is very kind of you both to assist. Thank you very much.

We will have a brief suspension while we engineer the next session.

2.40 pm

*Sitting suspended.*

#### Examination of Witness

*Nick von Westenholz gave evidence.*

2.45 pm

**The Chair:** Welcome, Mr von Westenholz. We have until 3.10 pm to hear evidence in this session with the National Farmers Union. Will you give a brief introduction of yourself for the record?

**Nick von Westenholz:** Good afternoon, Chair, and thank you. The NFU has submitted evidence on the Trade Bill. We will come to more detailed questions, but we want to raise two issues in particular: one is on trade and standards of food production, which is not covered in the Bill at present but we think ought to be; and the other is the issue that has been discussed at some length, which is scrutiny of trade agreements, both roll-over and future agreements.

**The Chair:** Thank you very much. I should have introduced myself. I am Graham Brady, and I am chairing the session. I will call other Members to speak but will not ask questions myself. We will start with the shadow Minister.

**Q44 Bill Esterson:** Good afternoon, Mr von Westenholz, and thank you for giving evidence. What additional elements would you like to see addressed in the Bill or, to put it another way, are there any gaps in the Bill?

**Nick von Westenholz:** As I mentioned, one of the key issues that we have raised about the Bill and, indeed, the Government's broader trade policy is to do with the way in which food imports are dealt with, in particular the standards of production of those food imports. I am sure that members of the Committee are well aware of many of the concerns that have been expressed for a number of months—even a number of years now—about the implications of future trade agreements for the standards of food imports.

The Trade Bill deals only with our existing agreements by merit of our former membership of the EU, and not with future trade agreements. It is really future trade agreements where many of the issues lie. Nevertheless, we think that this is an issue for this Bill because of something that has been communicated to us on a number of occasions in recent months. We had lobbied on the Agriculture Bill—[*Interruption.*]

**The Chair:** Mr von Westenholz, we have a bell ringing at the moment, for a three-minute suspension of the sitting in the Chamber. It will stop shortly, but will ring again when the sitting starts. It is probably worth pausing while the bell rings.

Apologies for the interruption—do continue.

**Nick von Westenholz:** Not at all. I was just referring to the passage of the Agriculture Bill, to which a number of amendments were tabled attempting to address this issue of trade and food standards. It was often stated in our conversations with MPs about that Bill that it was not the correct vehicle for dealing with the matter, because it was a matter for the Trade Bill. We listened to that advice and we are looking at the Trade Bill as a legitimate and suitable piece of legislation to address the issue.

It is a complicated issue; there is no doubt about that. It is not necessarily straightforward to legislate in a way that manages the broader issue of ensuring that food imports meet standards of production equivalent to those that UK farmers are required to meet, but there are ways of doing it; some of the amendments tabled to the Agriculture Bill were well drafted to meet that aim. We certainly think that it is a shortcoming of this Bill that there is no provision for that sort of legislative approach.

**Q45 Bill Esterson:** Thank you for that very comprehensive overview. You pointed out that the Bill covers the continuity agreements. Could you explain your concern that it will go beyond that? What is it that makes you think that it will go beyond dealing with the continuity agreements that it refers to? Is it just from what you have been told, or are there other things that lead you to that conclusion?

**Nick von Westenholz:** The Bill as it stands does not go beyond continuity agreements. The provisions in clause 2, for example, seem clearly to deal with those continuity agreements that we are currently party to, or were party to as a member of the EU. Going further would require new clauses, certainly; the reason why, as you imply, we want to explore whether that is appropriate is that the point has been made on numerous occasions in recent weeks that the Trade Bill is the appropriate vehicle for that.

**Q46 Gareth Thomas:** As I understand it, a potential deal between the UK and Canada would come within the scope of the Bill as it is currently drafted. If I remember rightly, the National Farmers Union had some concerns about the EU-Canada deal—the comprehensive economic and trade agreement. Could you remind us of them? Could you also give us a clue as to whether you would have similar concerns about a UK-Canada deal?

**Nick von Westenholz:** Sorry, the sound is not great, but I think that that question was about our potential concerns with the EU's CETA deal and whether we have concerns about a UK-Canada deal.

Maybe the best answer is that all trade deals, whether they are continuity or future trade agreements, present opportunities for UK farmers. We are very keen to make that clear: we are certainly not opposed to the notion of free trade agreements, and we hope that they might present opportunities to increase our exports of our fantastic food.

At the same time, however, all trade agreements will also look to increase access to UK markets for overseas producers, which will increase competition for UK farmers. Again, that in itself is fine, but we want to ensure that

that competition is fair—whether it is Canadian farmers, US farmers or anybody else. The reason why we talk about overseas farmers meeting equivalent standards to UK farmers’ is simply on the basis of fairness; we are certainly not opposed to trade liberalisation, as long as that liberalisation is fair.

**Q47 Fleur Anderson:** I have two questions. First, on the equivalent standards that you were just talking about, specifically those on animal health and welfare, can you give any more examples of how UK farmers could be undercut or treated detrimentally if that is not explicitly included in the Bill?

Secondly, on trade information, clause 7 provides new powers for HMRC to collect information on the identity and number of UK exporters, but the Government have said that providing that information will be voluntary. What impact would that position have on your members?

**Nick von Westenholz:** I will answer the second question first because, I am afraid, my answer will be brief. We have members who are exporters as well, but most of our members are probably not directly exporting themselves—they will be at the start of the supply chain; it will probably be their customers who are exporting. We have not yet done any assessment on what the impact of those provisions would be, so I am afraid that I cannot comment directly on that, although I suspect that it would be minimal.

Coming to the first question, the point is that UK farmers—like most EU farmers—operate under high standards of production in terms of the requirements they observe, particularly on animal welfare, for example. That is not to say that there are not farmers around the world who operate high standards of welfare. But in many cases in the UK, those are legal requirements, for example those around stocking densities for poultry, access to light, limitations on veterinary medicines that they can use—antibiotics, for example—and many other things. All those will have a connected direct or indirect cost for farmers, and will increase the cost of production in comparison to farmers overseas, who do not have to meet the same requirements.

For farmers who then have to compete directly against produce that is produced more cheaply because the regulatory burden is lower, it is, for us, a simple issue of fairness. In a way, I am loth to put too much emphasis on the differences of approach, because, as I have said, many farmers overseas will produce to high welfare, but we know that many farmers overseas produce to lower requirements because, very simply, they are not required to by their legal and regulatory structures.

**Q48 Fleur Anderson:** Thank you for the examples on animal health. Similarly, for plant health, do you have any examples of how there will be a difference between our farmers and those in other countries, and of what a lowering of those standards might mean?

**Nick von Westenholz:** The EU—and, by extension, the UK at the moment—operates a plant protection approvals regime that is much more precautionary than in other parts of the world. That means that UK farmers have access to far fewer plant protection products—pesticides, say—than many of their counterparts in other parts of the world. Again, that really comes down to an issue of equity if they are then being

asked to compete against those farmers who have access to many more technologies, which UK farmers do not.

We have to distinguish between the issue of fair competition and what those standards would actually be. As I have said, the EU approach is very precautionary and there is—and there should be—an ongoing debate about what sort of standards are required when it comes to plant health and plant protection.

It is not always as easy as saying, “Lower standards or higher standards?” about these things. There is, for example, a long-standing debate about the use of glyphosate, the most widely used weed killer in the world. Although people might prefer less glyphosate use, or even for it to be banned, doing so would probably result in more carbon emissions, because farmers would be required to cultivate more and use more tractor passes. They would use more fuel as they go over the land and release more carbon into the atmosphere as they plant as part of weed control.

These issues are not always straightforward, and there needs to be a proper debate about an appropriate level of protection that also provides farmers with the tools that they need. It is important to take the opportunity to distinguish between debating what our standards ought to be and ensuring fairness and equity in competing with farmers overseas once a decision has been reached about what those standards are.

**Q49 David Johnston:** Nick, in your first answer you said that even continuity agreements provide opportunities. I wonder what opportunities for farmers these continuity agreements create.

**Nick von Westenholz:** I guess I am thinking about some of the continuity agreements that are not quite continuity agreements—for example, the Japan agreement, which is being renegotiated. Certainly, we would hope that there is the opportunity for UK farmers to open up more markets in the far east.

Really what I was saying was that, as farmers, we want to be ambitious about increasing the markets, whether at home or overseas, for our produce. If we are going to increase them overseas, we have to recognise that that assumes a degree of free trade, international trade and imports. We certainly want to expand those overseas opportunities, and it may be that some of those continuity agreements, which are being looked at again, provide particular opportunities.

**Q50 Matt Western:** Hi, Nick. Good to hear from you again. I just want to pick up the point about standards and get your views on mutual recognition agreements and how they will play for the farming sector. Do you have concerns about them? Can they hide a multitude of sins? On the Trade Remedies Authority, do you have any concerns about the Bill? Are there any omissions that might leave the farming and agri-food sector exposed?

**Nick von Westenholz:** I got the second question. Could you repeat the first question, sorry?

**Q51 Matt Western:** I was just asking about standards and mutual recognition agreements, and whether you have concerns that MRAs could potentially hide a multitude of sins.

**Nick von Westenholz:** In principle, the idea of mutual recognition agreements can work. There is nothing that we would object to in an MRA in principle. An important aspect of this is that, if we simply try to hold overseas producers to precisely the same standards as UK producers, that might create as many problems as it solves. We need to develop a mechanism for comparing standards as easily as possible to certify, accredit or whatever it might be a degree or level of production standards that we accept as equivalent to our own.

A lot of the things I have mentioned already demonstrate the complexity and difficulty with some of these issues. That is one of the reasons why we have suggested the establishment of a trade and food and farming standards commission to get under the skin of all these pretty tricky policy areas and set out a road map for Government of the sort of policies and legislation needed to tackle the issues properly. We would like that to be established in law, under the Trade Bill or any other legislation, so that it reports to Parliament and contributes to some of the shortfalls in parliamentary accountability and scrutiny that have already been flagged to the Committee. We think that that is a very good and sensible idea. That commission would absolutely look at such things as MRAs and broader issues of how you manage and measure equivalence.

On the Trade Remedies Authority, we have not flagged any specific concerns other than to acknowledge that the constitution of the committee is very broad, and quite a lot of leeway is provided to the Secretary of State in the formation of that committee. We would like to explore further the possibility of ensuring specific representation for specific sectors if necessary. Having said that, we would hope that the TRA, even in its current format as set out by the Bill, would consult fully and take into account all parts of the economy when advising on trade remedies.

**Q52 Bill Esterson:** Coming back to what you were saying about the negotiation of the new Japan agreement, my understanding is that the existing EU-Japan agreement does not include animal welfare provisions. When it is renegotiated, are there implications for animal welfare and food standard provisions in the renegotiation of the new UK-Japan deal?

**Nick von Westenholz:** There is the prospect of including those sorts of provisions in any of the deals that the UK Government are either currently negotiating or imminently going to negotiate. I am not sure that that is an issue specific to the continuity agreements. Countries all around the world are increasingly considering how such issues can be better accommodated in trade deals. Traditionally, they have not been part of trade agreements, although we have seen in the draft text between the EU and Mercosur, for example, provisions for preferential access to Mercosur for eggs where the production standards have been equivalent to animal welfare requirements in the EU, which is interesting.

This is a really important point: the UK Government should be seizing this moment to be a global leader in negotiating trade agreements that accommodate some of these sorts of policy areas, such as animal welfare, environmental impacts and climate change, and being creative and imaginative in how future trade agreements ought to look—not looking backwards and seeing how trade agreements have been done in the past, and merely looking to replicate those.

**The Chair:** That brings us almost exactly to the end of our allotted time. Thank you, Mr von Westenholz, for your assistance to the Committee in giving evidence. We will again suspend briefly while we prepare for the next evidence session.

3.9 pm

*Sitting suspended.*

### Examination of Witnesses

*Richard Warren and Ian Cranshaw gave evidence.*

3.12 pm

**The Chair:** Our third panel of witnesses giving oral evidence is from Make UK and the Chemical Industries Association. We have until quarter to 4. Could I ask both witnesses to introduce themselves for the record—first Richard Warren in the room, and then Mr Cranshaw?

**Richard Warren:** I am Richard Warren, head of policy and external affairs at UK Steel. Although UK Steel sits within the wider organisation of Make UK, I will be speaking specifically on behalf of UK Steel and the steel industry rather than the wider manufacturing sector.

**The Chair:** If you would like to make any opening remarks, you are welcome to.

**Richard Warren:** Certainly. The Trade Bill deals with a number of issues that are extremely important to the steel industry, not least the one I am most keen to discuss this afternoon: trade remedies. Of just over 40 measures that are being carried over from the EU, 15 or 16 relate to steel, so we are probably more affected than any other sector in UK industry. Obviously the vast majority of that regime and how it will operate is dealt with by the customs Bill, so I will not dwell on it too much, but the Trade Bill is critical in establishing the Trade Remedies Authority as an independent authority that can act independently from the Department for International Trade.

The second element, of equal importance to the steel industry, is the continuity of trade agreements. There are a number of trade agreements, particularly with Turkey, that I would highlight as critical for establishing continuity with. Turkey is our third biggest export market after the EU and the US, accounting for 300,000 tonnes, which is about 8% of UK exports. The ability of the Bill to ensure that we can have as much of a continuity arrangement as possible with Turkey and with other, smaller export markets is paramount to the steel sector.

The other issues dealt with in the Bill are of lesser importance but are still worth commenting on. The UK steel industry obviously supplies public contracts in other countries, so ensuring that we are still members of the GPA after the end of this year is critical for the steel sector. In terms of data management and data sharing, there is already an issue that has come up during the transition period and the process before that. Ensuring that HMRC is able to share data with the Department for International Trade is extremely important to us, and I will touch on that later.

**Q53 The Chair:** Thank you very much, Mr Warren. Mr Cranshaw, please introduce yourself and make any opening remarks you have.

**Ian Cranshaw:** Good afternoon, Chair, and thank you for the opportunity to address the Committee today. My name is Ian Cranshaw. I am head of international trade at the Chemical Industries Association. The CIA has been around for over 50 years, and it represents and advises chemical and pharmaceutical companies located across the UK. Our core membership is a mix of chemical and pharma companies. They are all obviously treated as UK companies, but many of them are multinational companies using the UK as a base for their European and UK operations. We have small and medium-sized enterprises and MNCs.

Chemicals is a significantly enabling industry for downstream manufacturing. I think that most members of the Committee will understand that chemicals are a key ingredient in 96% of manufactured goods, so pretty much everything you see, touch, drink or use will have chemicals in it.

That is our intro. I am sorry—I did not really hear what you wanted me to focus on straight after the introduction, Chair.

**The Chair:** We will move to questions now, Mr Cranshaw, but that is very helpful. Thank you. We will start with Bill Esterson, who is the shadow Minister.

**Q54 Bill Esterson:** Good afternoon, Mr Warren and Mr Cranshaw; thank you for joining us. May I ask you about the Trade Remedies Authority? How is the Trade Remedies Investigations Directorate, which is the TRA's current form as part of the Department for International Trade, performing? How is it working with your organisations? Added to that, could you both comment on the proposed membership of the TRA and on what that should be? Richard Warren, would you like to go first?

**Richard Warren:** Certainly. We have a very good relationship with the organisation, as it currently exists within the DIT. There is only one live case—a case on welded tubes that are produced in Corby by Tata Steel, which I believe has been live for three months now—and we have had very good engagement with the organisation.

One critical issue is our ability as a sector to participate in trade remedies investigations, and particularly to finance them. I do not think it will be any surprise to people in the room that those cases cost an awful lot of money, particularly at this stage, when, frankly, industry in the UK does not have the same level of expertise that our European counterparts do. Bringing in external legal support and external consultancy has been critical, and our ability to do that as a sector has been severely disrupted by coronavirus. To put it bluntly, discretionary spend within many manufacturing companies, including in the steel industry, has effectively been halted. I say that to point out that we have asked for an extension with the TRA, and it has been as flexible as possible in providing us with an additional three months. I provide that case as an example to show that we have a very good working relationship with it.

In terms of how well, practically, those investigations will operate on an ongoing basis, and whether we feel that we are getting a fair hearing, I cannot comment on that yet, in the sense that we really are at the very first stages of the first investigation. We have another two or three investigations to go through this year. If I was to comment again at the beginning of 2021, I would probably have a more informed opinion.

To touch on the second question, about the membership of the Trade Remedies Authority, that is an important point. I would say that it is probably the only outstanding issue specifically within the trade remedies element of the Bill that we would still be pushing for reform of. In terms of the non-executive membership selected by the Secretary of State and appointed by them and the chair, there is no stipulation about how, or where from within industry and wider society, those members will be chosen.

That is an important point, because nowhere does the Trade Bill, the customs Bill or the secondary legislation actually define the role of the non-executive membership of the Trade Remedies Authority. All reference to decisions by the Trade Remedies Authority—recommendations to the Secretary of State—are referred to as, “The Trade Remedies Authority will do x or y.” Precisely what the role of those non-executive members is is still somewhat vague.

I understand that the Government will have left it that way to provide maximum flexibility and to allow for the organisation to grow into its role and to find its feet. But, from our perspective as industry, while it remains vague, we can have anything, from the board or the non-executive membership merely providing an admin task—looking over the funding of the organisation, the remuneration of staff and so on—right through to it having influence on the recommendations that the organisation ultimately makes on anti-dumping and anti-subsidy measures.

Therefore, while we have that ambiguity, industry is keen to see representation from a cross-sector of business. Everything from unions through to manufacturing interests and people who may be classified as trade remedies experts, who may have a slightly different view on trade remedies to industry, should be represented on that organisation to show there is a spectrum of views.

**Q55 Bill Esterson:** Before I ask Mr Cranshaw to answer the same questions, may I ask a follow-up, Mr Warren? How essential is it that the non-executive membership is drawn from people in different sectors of industries affected by trade remedies? Can this be done by expertise, without having those backgrounds?

**Richard Warren:** To a certain extent, it depends, ultimately, on the role of the non-executive membership. If the non-executive membership functions as a board providing steering for how the organisation operates on an admin basis, you could say it was less important. If the membership has a high level of influence over the outcomes of those investigations and the recommendations that are made, we would say it is extremely important.

On the same token, if the board membership was made up exclusively of trade lawyers from firms that have exclusively represented exporting producers, one would say that the outcome of those investigations may be biased. On the opposite end of the spectrum, if you had the entire membership made up of people who had a more protectionist bent, again, that may result in a biased outcome. While we have ambiguity around the role of the non-executive membership, industry will err on the side of caution and say it should represent a range of views so that it can come to a balanced decision on whether those measures are in the interests of industry and the wider UK economy and its workers.

**Q56 Bill Esterson:** Thank you. Mr Cranshaw, please respond to the same questions and expand on what we have just heard from Mr Warren.

**Ian Cranshaw:** We started this journey back in January 2017. Previously, I would have said that policy has moved quite quickly—that was before coronavirus, where, obviously, policy has been delivered in a matter of weeks or months. However, I think some credit goes to the Department for International Trade, which has gone from a standing start, with a handful of 30 or so trade policy experts on trade defence instruments within the EU. Now, we have a significant and very capable resource in the Department. At the same time, when the Trade Bill passes, they will establish the authority, which will have 100, growing to 130, staff whose level of expertise has grown significantly over the last three years. We have seen many of them, and we have had good exposure to many of the employees of the Trade Remedies Investigations Directorate.

But the point I would make, and what that highlights, is that when they were developing that knowledge, who did they turn to for expertise and the nuance of how to carry out an investigation, how to assess the injury margin and how to build a case to prove that there had been inappropriate trade behaviour by a competing company or nation? That was really about turning to the manufacturers. One of our member companies has welcomed a continuous stream of TRID or TRA officials into their facilities, explaining how to build the case, because that case has to satisfy WTO criteria. It is a significant piece of work. Mr Warren mentioned the cost of building the case, and companies do not go into this lightly.

The second part of your question was about the make-up of the TRA board and how to achieve the balance. The Minister, Mr Hands, said that you do not necessarily invite people with a specific ideological position to the board—we really want trade experts. All that I would say is that trade experts are not necessarily trade remedy experts, and often that representation from the manufacturers or trade unions—some labour point of view; labour with a small “I”—generates and delivers real balance for any non-departmental public body that has to look at the entire scenario, certainly in a period when we are looking to build back better.

I am not going to keep stealing other’s summaries of how we are trying to work, but the Government have already said that they want to rebalance the economy and put more investment in certain areas. The chemical sector is focused in the north-west of England and the north-east, along the Humber—areas that require significant investment, and they need to know that they are competing on a level playing field. All of that, with a balanced view and a balanced board, would really help to ensure that all views and positions were reflected appropriately in policy development.

**Q57 Bill Esterson:** Thank you very much. While we are talking to Mr Cranshaw—others may want to come back on the trade remedy point—I wanted to ask about chemical regulations and whether you feel that there should be something in the Bill to cover them, given their importance to your industry.

**Ian Cranshaw:** Sorry, I heard that the question was about chemical regulation. Was it about whether chemical regulation is covered in the Bill?

**Bill Esterson:** Do you think that it should be covered in the Bill? It is not, as it stands. Do you think that it should be, and why?

**Ian Cranshaw:** There is an awful lot of work going on in chemicals, and the Government are keen to deliver a chemical strategy. That is something that DEFRA has covered over the past couple of years, and it is right that we have one. We have no issue with the amount of regulation on the chemical industry. We are dealing with sensitive products, and they ought to be regulated in the way that they are. Again, we have had a good hearing from the Government, but it is about the criticality of making sure that any deal with the EU—this is key for us—can include access to data sharing, because we do not need to replicate the testing of individual chemicals to build up a UK database when a perfectly functional database exists at the European Chemicals Agency. There is plenty of provision elsewhere for chemicals and chemicals regulations, and I do not necessarily think that it needs to be in the Trade Bill.

**Q58 Katherine Fletcher:** I have the same question for both of you, with your respective hats on. You mentioned that the Bill has been knocking around since 2017. What happens to the chemical industry if we do not pass the Bill?

**Ian Cranshaw:** That is probably me for me, because Richard is focused on steel. It is really important. We want a Trade Remedies Authority to be established, fully functioning and delivering support for UK industry from 1 January next year. Chemicals go into every other manufactured good. There are chemicals in the automotive sector; there are chemicals in chlorination of water; there are chemicals in putting the aroma into the natural gas that we all use in our stoves every evening. Chemicals does have downstream industries that will all be impacted, so we need a strong chemicals sector.

If I am honest, looking at remedies and chemicals, there are not a huge number of current remedies in place in the EU, so when the Department transitioned those remedies that were relevant to the UK, did a call for evidence and assessed exactly which remedies should be brought into the UK, of the 23 remedies that existed in the chemicals sector, only two were transitioned into UK law. I am not suggesting that it is a huge area, but it is a very significant area, and those two remedies that are in place are very important to those companies, and to downstream industries in the UK. One of them is producing fertilizer, and it is the major supplier of that fertilizer in the UK, so you can appreciate that its availability to UK farmers is absolutely crucial to their operations. If they were exposed to unfair trade from external operators, that really would be a significant loss to UK capability, especially when we are looking at supply chains and ensuring that our really critical production is safely onshored at the moment.

**Q59 Katherine Fletcher:** Mr Warren, if there were continuity trade agreements that did not roll over, what would be the consequences for the steel industry?

**Richard Warren:** There are a number of agreements that are obviously already in motion to be carried over. One to highlight is that north African nations like Morocco, and South Africa, are important markets for steel. It is a bigger concern that the agreement for one of the biggest markets for our UK exports, Turkey, probably

will not be carried over, regardless of the Bill. Whilst the Bill would allow for it to be carried over—the steel element, without getting into too many dull details about the coal and steel free trade agreement between the UK and Turkey—it seems like it is an almost impossible ask now to get that carried over.

So that wider concern, that sits outside the Trade Bill, is a bigger one for us; it is a very important one. The Trade Bill would allow that to legally happen, but with politics and the complexities of negotiations, I fear, that agreement will not be in place by the end of the year, which would result in 15% tariffs, on average, on UK steel going to Turkey—8% of our exports. It is an extremely competitive market already; a 15% tariff would pretty much knock that on the head. At the same time, because the UK has no tariffs on steel, we would still have up to half a million tonnes of steel coming in from Turkey, but it would be a very uneven trading relationship at that point. That is probably our biggest concern at this point, in terms of continuity trade agreements.

**Q60 Katherine Fletcher:** Understood. So the not passing of the Bill makes the situation impossible, probably, for certain—

**Richard Warren:** Obviously, yes. If we do not pass the Bill, there is no way that the Turkish agreement can be passed, but there are other complexities on top of that.

**Katherine Fletcher:** Understood; that is something to avoid.

**Q61 Matt Western:** May I delve a bit further into the Trade Remedies Investigations Directorate? You were explaining, Mr Warren, about the one case going through, and some of the challenges in terms of expertise—that is, resource ability and capacity. To what extent do you think the Bill should be defining the scale of what a TRA should look like, recognising that, post this crisis, and given the economic headwinds globally prior to the crisis, there is a huge amount of pressure on Governments to reshore, with all that that will mean in terms of how Governments adhere to certain agreements? Maybe we can start with steel and go on to chemicals.

**Richard Warren:** Certainly. As I said, the vast majority of how the trade remedies regime will operate—the responsibilities of the organisation itself, how it reports to the Secretary of State and so on—are dealt with within the Taxation (Cross-border Trade) Bill and the secondary legislation. There were still outstanding issues that we had with that legislation. Obviously, it has passed now, and we are working with the regime as it has been established. If we had an opportunity as an industry—we are talking about a hypothetical now—to strengthen the trade remedies regime, change elements of how it was operated, perhaps be more explicit in legislation about how those investigations are conducted, and change certain elements of the methodology, like dumping and how we treat certain non-market economies, that would be fundamentally best be dealt with in the Taxation (Cross-border Trade) Bill and the secondary legislation that supports it.

This Bill is fairly cursory in what it establishes in the trade remedies regime. Our key request at this point remains the make-up of the non-executive membership, rather than dealing with precisely how that regime operates. It really is the customs Bill that we would look to if we were making changes.

**The Chair:** It was a slow burn, but I have to say that the witnesses have excited the Committee, and I am getting lots of people wanting to get in, so if everybody can try to be quite crisp in their questions and answers, it would be appreciated. Antony Higginbotham next.

**Q62 Antony Higginbotham (Burnley) (Con):** This question is probably more for you, Mr Warren. When we talk about trade remedies and defences, a sector we always go to is steel. Has an assessment been made of the impact of not having a Trade Remedies Authority? Has any assessment been made, for example, of the number of jobs that could be at risk if the body was not set up by 1 January?

**Richard Warren:** As Ian Cranshaw noted earlier, we have been on this journey for quite some time. We first started having discussions on the possibility of a Trade Remedies Authority at the back end of 2016. At that stage, there obviously was uncertainty. I do not think the UK Government had thought about—no one in the UK had—the need to establish a Trade Remedies Authority. Obviously, after the Brexit vote in 2016, that became immediately apparent to the UK steel industry. So if there has been an assessment done, I suppose it was an unofficial assessment through the evidence that we provided and the discussions we had with Government, and it became evident that this was an absolute must and there was no question that the UK would need an authority. I am happy to provide further data or evidence to the Committee afterwards.

If you look at the impact that trade remedies have had on imports and on dumping into the UK, the evidence speaks for itself. It is clear. China was exporting perhaps 500,000 tonnes to the UK in 2015-16. That has been reduced to 100,000 tonnes because of the measures that have been in place on the key steel products that it was found to be dumping and that were subsidised by the Chinese state. If that had gone on—it was a major cause of the difficulties that the steel industry was undergoing in 2015-16, when we saw a major restructure of the steel industry and new ownership—and those measures had not come in, the situation would have been far more dire, and the modest recovery that the steel industry saw in 2017-18, which has obviously been knocked off course by recent events, certainly would have been far slower and far more fragile.

**Q63 Drew Hendry:** Mr Cranshaw, on a comment you made earlier about a deal with the EU, including an agreement on data sharing, have you done any work on the implications, resources or costs of a failure to get such a deal?

**Ian Cranshaw:** In chemicals, the REACH regulation is the key documentation, and that is stored by ECHA. We would accept that if you had to design a system now, it probably would not look a lot like what it does, but here we are 13 years after the ECHA database and the REACH regulations were introduced. UK companies alone have spent upwards of £600 million in furnishing that information on to the database, so you can appreciate the nervousness that, if we do not negotiate a deal with the EU that gives us access to that data, we will be back to a point where UK companies will have to rebuild a new database under UK REACH. There is no suggestion from DEFRA that we would move away from REACH.

Globally it is seen as the gold standard for chemical regulation, so it is critical that we secure access to the data.

It is worth pointing out that UK companies are the second largest contributor of data to the information held on the ECHA database. Not only have our companies paid for the ability to use those chemicals, but, through their own innovation, research and capability, they have contributed significantly to the value of that database. It is crucial that we secure access to the data.

**Q64 David Johnston:** You touched on this, but I want to ask both of you: are there particular countries with which it is very important to you to have continuity agreements, with a financial value? We have talked largely about what the Bill protects, but what do you see as the opportunities of those continuity agreements going forward?

**Richard Warren:** From our perspective, in terms of continuity—obviously, putting the EU to one side—the most important market is Turkey, with 300,000 tonnes and 8% of exports. It has a value of around £350 million. I can provide further details afterwards, if that would be useful. Without a shadow of a doubt, in terms of carrying over, that is the most important agreement.

There are other important markets, perhaps less for the sector as a whole but for individual companies supplying them. Manufacturing sectors in certain countries are very important, such as South Africa, Mexico and some of the north African countries I mentioned earlier. In terms of opportunity, we are essentially establishing what we already have, so it is difficult to see that there is a brand new opportunity. I wouldn't say that it isn't hugely important—we want to continue to trade with these countries and to make sure that we do not have a resumption of tariffs, but fundamentally the position is not going to be any different to what we currently have.

It depends on how you view the question. If you view it as, "If we don't have this, you will have tariffs," then there is a huge opportunity, because we would be in a worse situation than we currently are. If you view it from how we currently are, we are looking at exactly the same situation.

**The Chair:** Mr Cranshaw, I think you wanted to answer as well. Mr Cranshaw? We may have lost the line. We only have about three minutes left. Would you like to ask the witness a question, Gareth Thomas?

**Q65 Gareth Thomas:** What difficulties do you foresee in getting the Turkey agreement concluded by the end of the year?

**Richard Warren:** Indeed. While it is not dealt with directly in the Bill, the complexity and complication around agreeing a deal with Turkey is that, obviously—sorry if I am teaching Members to suck eggs—it is in a customs union with the European Union. Once we have a trade deal with the European Union, we will have tariff-free access to the Turkish markets for things covered by the customs union.

Unfortunately for the steel sector, there is a rather antiquated agreement that just deals with coal and steel products. That would need to be replicated in addition for them to get access. As far as I understand from discussions with officials, it is not really on the table for discussion until an agreement with the EU has been

established. Until we manage to get to that perspective, we are not looking at a replication of current arrangements and therefore it will be a 15% tariff, on average, for steel products going into Turkey. As I said before, we will not be putting any tariffs on steel coming in from Turkey, because we already have a zero-tariff position on steel. In a nutshell, that is the situation we find ourselves in. If you would like further information, we can provide it. *[Interruption.]*

**The Chair:** Apologies for the bell, which is out of our control, as the sitting is suspended in the main Chamber. We are nearly at the end of the time allotted for this session. I thank both the witnesses and all the Members for being here. If Mr Cranshaw cannot hear us, we will make sure that he is subsequently thanked for joining us.

3.44 pm

*Sitting suspended.*

### Examination of Witness

*Rosa Crawford gave evidence.*

3.46 pm

**Q66 The Chair:** Hello, I am Graham Brady. I am chairing the sitting. I will not be asking you questions, but I will call others to do so. Would you mind giving a brief introduction of yourself, and perhaps a brief scene-setting statement about your views on the Bill?

**Rosa Crawford:** I am Rosa Crawford, a policy officer covering international trade at the Trades Union Congress. We are the national union centre of the UK, representing just over 5.5 million workers. I did not hear the second part of what you wanted me to introduce—was it some headline concerns on the Bill?

**The Chair:** Yes, if you just give an overview of your views about the Bill, that would be really helpful.

**Rosa Crawford:** The TUC believes it is crucial that UK trade policy supports a recovery from the pandemic based on good jobs, respect for workers' rights, quality public services, support for the UN sustainable development goals and a just transition. Within that, we believe that the trade priority of the UK must be getting a good deal with the EU to protect rights and jobs, and we believe it is reckless that the UK Government have dismissed the offer by the EU of a deal that would provide zero tariffs and no-barrier access to the EU single market, with a guarantee that workers' rights and social standards will not be lowered.

We are concerned that what we see in the Trade Bill is not a framework that would support the trade policy that workers need. Our main concerns focus on the fact that it provides no role for trade unions or Parliament in the negotiation of trade deals. It fails to provide a role for trade unions at the Trade Remedies Authority—to be able to have a say on the measures to prevent unfair trade and dumping. It provides no assurance that workers' rights will be respected in trade deals, and it fails to ensure that UK procurement rules will promote respect for workers' rights. It provides no assurance that public services will be protected in trade deals. I am happy to go through those concerns in more detail if that is helpful to the Committee.

**The Chair:** We have until 10 past 4 for questions, so perhaps we will see whether they are drawn out by questioning.

**Q67 Bill Esterson:** Thanks very much for your written submission as well, Rosa. Perhaps you could spell out where in the world there are examples of the things that you say are missing from the Trade Bill that we could learn from, and what you would like done as part of the Bill to rectify some of the omissions you spelled out.

**Rosa Crawford:** The TUC is in contact, and works very closely, with trade unions around the world, in advocacy for trade deals that promote good jobs and strong protection for workers' rights and public services. We find that in other parts of the world, there is much more meaningful engagement between Government and trade unions, as well as with employers in trade negotiations. In our partners in Europe—in countries such as Austria and Sweden—there is routine consultation with the Government on the negotiation offers in trade negotiations.

Outside the EU, in countries such as the US, there is systematic and ongoing consultation by Government of the unions on the text that they propose. In the UK-US negotiations that have just been launched, we know that our US counterparts have seen a number of proposals that the US negotiators are putting to the UK Government. On the UK side, we have not seen any part of that negotiation so far. There is a much more meaningful engagement and a process whereby unions can comment on the text of the negotiations and have that input taken on board, which is very important, so there is a process whereby texts can improve to reflect what workers need in them.

As an example, the US unions were able to comment on the USMCA labour chapter and add significant improvements that prevented, for example, restrictions on freedom of association in Mexico. We would want that process in the UK trade negotiations and so we would want the Trade Bill to outline and affirm that trade unions would be engaged in the process of trade negotiations and would be consulted on the text, and that that would be the process going forward, not just for the continuity agreements but for all agreements. We would obviously also want that for the UK-EU negotiations, which we have not had that engagement on.

I would flag that there has been some movement in terms of Government consultation with members of the expert trade advisory groups that the unions sit on roughly half of. It has been indicated that we may get to see confidential material associated with trade negotiations on the condition of signing a non-disclosure agreement, but it is important to flag that the non-disclosure agreement is currently drafted so broadly that unions are concerned that it would limit what we are able to say in terms of our public advocacy. A balance needs to be struck between the legal restrictions placed on organisations and their ability to comment on the text of negotiations.

We welcome the fact that it looks like the Government are taking some steps forward in consultation, but it is currently not in the shape that we think is adequate and we have concerns about the restrictions they might place on us. We seek engagement with the Government on that, as the TUC and unions going forward. In the Bill specifically, a reference and an affirmation that unions will be consulted on the process of trade negotiations—as well as Parliament, which is crucial for democratic scrutiny—is key for us.

**Q68 Bill Esterson:** Thank you for that. There are a number of agreements—about 20—that have already been signed that are part of the set of continuity agreements. They were signed without the Bill being passed. Do you have concerns along the lines that you have just set out about some of the things that have gone through because of a lack of engagement in those agreements?

**Rosa Crawford:** Yes. The TUC and unions were concerned about the fact that we were not consulted on any of those 19 continuity agreements before they were ratified and the fact that they were negotiated with countries where there are significant concerns about workers' rights expressed to us by the unions in those countries.

To give two examples, the UK has now signed continuity agreements with South Korea and Colombia. In South Korea, for many years we have been expressing concern, with trade unions in South Korea, that freedom of association has been routinely overridden, with trade unionists thrown in prison for peaceful protest for workers' rights, including two union leaders imprisoned last year who were only freed after a concerted global campaign. Trade union offices are raided and exploitative conditions are prevalent in large Korean multinationals such as Samsung. The UK signed an agreement with them that has no enforceable commitment on workers' rights within it. Although there is a mention of International Labour Organisation standards, there is no enforcement mechanism for that, and therefore there can be no reprisal through the agreement and no penalty for abuse of workers' rights.

We also have significant concerns about Colombia, which is one of the parties to the UK-Andean agreement. Colombia is listed by the International Trade Union Confederation as the world's most dangerous country to be a trade unionist, with routine murders of trade union leaders, widespread repression of freedom of association and a real rolling back of rights, in contrast with the commitments made in the peace process by the Government. The fact that the agreement was signed, again without an effective enforcement mechanism on workers' rights, is very concerning to us and indicates that these agreements will not be used to increase respect for workers' rights, but will actually make it easier for companies to go to places where it is easier to exploit workers because human and trade union rights are not respected.

**Q69 Bill Esterson:** Were enforceable rights included in those two countries' previous agreements with the EU?

**Rosa Crawford:** Trade unions have expressed concern that there was no enforcement mechanism in the EU agreements with South Korea or Colombia either. However, the EU is now engaged in a process of reviewing the enforcement mechanisms in its trade agreements—  
[Inaudible.]

**The Chair:** We have lost the line. We will suspend briefly while we try to resume it.

3.55 pm

*Sitting suspended.*

3.58 pm

*On resuming—*

**The Chair:** Rosa, we are delighted to have you back. Bill Esterson has one further question.

**Q70 Bill Esterson:** I wanted to ask you about the government procurement agreement and some concerns that you put in your written submission. Could you set out what your concerns are about the relationship between the GPA entities and the UK Government's public contract regulations, which I think you say run out at the end of this year? Where does that leave us?

**Rosa Crawford:** The TUC has confirmed that the Bill does not give assurance that the UK's public procurement rules will promote respect for workers' rights or environmental standards in its accession to the World Trade Organisation's government procurement agreement. The GPA as it stands has no requirement for members to promote social standards in their tendering process.

The UK's Public Contract Regulations 2015, which you mentioned, transpose provisions in the EU procurement directive of 2014, which states that Governments must ensure that public contracts uphold international, environmental, social and labour standards. Importantly, those regulations also include provisions about a price-quality ratio, which is intended to ensure that public authorities select tenders on the basis of quality and positive social impact, rather than price alone. We are worried that once we leave any kind of relationship with the EU and we just have to rely on the UK's public contract regulations, the UK Government may roll back on those commitments to promote social standards through the tendering process.

We know the Prime Minister and members of the Cabinet have talked many times in the past about wanting to repeal EU-derived rights around working time, agency workers directives and other important protections for workers' rights. We are worried that that may be the direction of travel with procurement as well, which is why we seek an addition to the Trade Bill that states that the GPA schedule that the UK files will make sure that it at least replicates article 18(2) of the EU's 2014 public procurement provisions, which makes it clear that social standards must be part of the criteria used for settling public contracts, and that contractors must uphold those international labour and environmental standards. We would want the UK to go further than that and actually make it a compulsory criterion that the highest standards are used by contractors who receive public money, because that is the way to ensure that we get the best quality public services and provisions through our procurement arrangements.

We are concerned at the moment that we do not have a rigorous enough process of selecting tenders that always have the highest social standards, and that has had a terrible impact on the quality of services that we get, so it has had real public health implications. With the pandemic that we are facing now, we have had cases such as the Government choosing to import 40,000 protective gowns from Turkey on the basis that they were presumably lower priced than gowns they could get from a country that has higher standards. As we all know, all those gowns had to be impounded, as they did not reach NHS standards for safety. It is worth remarking that, in Turkey, there is extreme repression of workers' rights.

By choosing the contractor with the lower price and the lower protection for workers' rights, it leads to a much worse result for the public, and obviously there is a cost as a result. If there were concerted Government

support for domestic manufacturing and domestic producers, and a preference was provided through the provisions in the GPA and through domestic legislation for providers who upheld workers' rights and promoted the higher standards of workers' rights, we would see more contracts going to UK manufacturers where there are strong trade union agreements, good protection for workers, decent pay and generally better conditions that promote a much more sustainable approach to business. Ultimately, there will be a better product for the public, which meets a public health need.

We think it is very important to send a signal with the Trade Bill that the Government's accession to the GPA will be linked with making sure that the highest social standards are embedded in our public procurement criteria, and that that will be used as a key component for selecting tenders—not just price, but quality and the overall investment in sustainable development, good jobs and strong protection for workers' rights.

**Q71 David Johnston:** I have been trying to get a sense from the sector representatives of the impact of not having the continuity agreements on their sectors. Does the TUC have a sense of how many jobs are reliant on our getting these continuity agreements through the Trade Bill?

**Rosa Crawford:** As I outlined at the start, the crucial trade relationship that we believe the Government need to secure is that with the EU, which is our closest and most integrated trading partner and where the majority of our exports go. We are crucially reliant on—[Inaudible.] The trade agreements that the UK Government have secured through the continuity agreements do not represent anywhere near the importance to our trade. Although there will be some gains for certain sectors, it is not anywhere near as important for the EU. For us, the crucial thing about the continuity agreements is the lack of engagement with unions on them. They have been agreed on terms that we do not believe are advantageous to workers—for example, they do not have enforceable commitments around workers' rights in them, which facilitates capital and UK businesses to go to countries such as Colombia, where the respect for worker's rights is much lower.

For us, the crucial trading focus of the UK Government must be on securing a good deal with the EU. We do not believe that continuity agreements can substitute for those or, indeed, for agreements with the US or Japan, or Australia and New Zealand, which have launched in the last few weeks. We agree that there is a place for agreements—

**Q72 David Johnston:** I hear what you are saying but my question was, do you have a figure for the number of jobs that the continuity agreements are supporting in this country at the moment that would be at risk without securing them?

**Rosa Crawford:** It would be hard to make that estimation, because drawing a direct line between how trade agreements facilitate access for our businesses and imports and exports and specific jobs is quite difficult. Unions would treat any figure with some scepticism. We could probably look into which sectors were linked with particular countries. As I say, however, what would come out again and again is the overriding importance of the EU in promoting and supporting jobs in the UK. The continuity agreements do not represent a significant

proportion of the jobs that are supported in the UK, if you could draw out some analysis that was credible on that.

**The Chair:** We have only another four minutes, so this is probably the last question.

**Q73 Fleur Anderson:** Can I ask you to unpack and give some more examples of the workers' rights that are at risk, Rosa? You have talked about freedom of association and you have mentioned pay, but could you give us some more examples of workers' rights that would be at risk overseas and in this country, and of the impact on public services, which you think would be at risk by being included in the Bill rather than being exempt, as you are calling for?

**Rosa Crawford:** To focus on public services first, we are concerned that the Bill does not provide a guarantee of an exemption for all public services through a positive list, which is what we want to see in the Trade Bill. That is the only way to affirm that public services will be protected in trade agreements to make sure that there is no investor-state dispute settlement.

We are concerned that the trading partners that the UK Government have lined up as priorities for trade agreements once we leave the customs union with the EU are those that have explicitly made it clear that they would seek access to the UK's public service market as a particular objective in trade negotiations. The US in particular, in its negotiating objectives, made it clear that regulations on drug prices were a barrier to market access which it would seek to overturn in trade agreements.

We know that in all recent US trade deals, such as the USMCA with Mexico and Canada, they have taken the negative list approach, which is where all services are included in the agreement unless specifically exempted. That means that if we had a similar deal with the US, part-privatised public services in the UK would be included in the agreement. If a future Government tried to renationalise them or regulate privatised parts of the public service, such as the provision of pharmaceuticals and medicines, they could be sued by the US Government. If ISDS is in the agreement, they could be sued through an ISDS tribunal. We are concerned that without an explicit commitment in the Trade Bill, as well as in all future trade negotiations, that public services are written out and there is no ISDS, our public services could really be on the line. That is what we need to see, rather than empty assurances from the Government that the NHS is protected.

In terms of workers' rights, we have particular concerns about the US and the fact that they have ratified only two of the five fundamental ILO conventions. Forms of child labour are still legal in the US and there is legislation against freedom of association in a number of states where right to work laws exist.

It is clear that the US would see many of the employment protections we have in the UK, which we have derived from EU law, such as around working time, discrimination and paid holidays, as barriers to trade. They would say to the UK, "We are signing a deal with you only if you remove those barriers to our businesses being able to make more money, because we want workers to be able to work longer hours, have less holiday pay or be dismissed without any notice, or for agency workers to be fired on the day they are hired if we want to." That kind of flexibility, we know, is the US approach.

Trade unions in the US have expressed grave concerns about that. The TUC and trade unions in the US have signed a joint statement making it clear that trade deals must protect workers' rights and expressing concern about the breaches of workers' rights in the US. With the Trade Bill not providing any affirmation that trade deals with existing countries, through the EU and the continuity group, and new trade agreements will have enforceable protection of workers' rights, unless we see that kind of language making an affirmation that workers' rights will be protected and effectively enforced through trade agreements, we know the realpolitik is that the likes of not only the US, but others such as Australia, New Zealand and others in the comprehensive and progressive agreement for trans-Pacific partnership, the CPTPP, are likely to pressure for lower workers' rights. That will be their objective in a trade agreement; otherwise, the UK is a less attractive option for them.

**The Chair:** Ms Crawford, thank you very much for your time and for assisting the Committee with your evidence. That brings us to the end of the time allotted for this session. We will suspend briefly while we get the next one set up.

4.11 pm

*Sitting suspended.*

#### Examination of Witness

*George Peretz, QC, gave evidence.*

4.12 pm

**The Chair:** We will now hear oral evidence from George Peretz, QC, of Monckton Chambers. We have until half-past 4 for this session. Let me introduce myself, Mr Peretz. I am Graham Brady; I am chairing the Committee and will be calling Members to put their questions, but I will not be questioning you myself. If you would be so kind as to give a brief introduction of yourself and any opening observations about the Bill, we would be very grateful.

**George Peretz:** Thank you, Chairman. I am George Peretz and I am a QC at Monckton Chambers. I specialise in a number of areas of law, but, relevant for these purposes, customs law and EU law, including trade remedies.

**The Chair:** Thank you very much. Do you have any initial observations on the Bill, or would you like to move straight to questions?

**George Peretz:** It is a short Bill and the Members are familiar with it, so while there are a number of issues that I am sure people will want to discuss, I do not have any opening observations.

**Q74 Bill Esterson:** Thank you very much for joining us, Mr Peretz. Could you just tell us your concerns about the scrutiny elements of the Bill as it stands?

**George Peretz:** Did you say the scrutiny provisions?

**Bill Esterson:** The scrutiny provisions.

**George Peretz:** I am sorry, I am having slight difficulty hearing you.

**Bill Esterson:** The scrutiny elements of the Bill.

**George Peretz:** Yes, I thought I had heard it correctly. The first point to make is that the scope of the Bill, as set out in clause 1, is clearly confined to agreements with countries that had either a free trade agreement or an international package agreement with a free trade agreement with the EU before exit day. In that sense, it is limited, but none the less it is not quite right to portray it as simply a roll-over Bill, because the Bill does not prevent the Government from entering into an agreement, with a country that had such agreements with the EU—such as Japan or Canada—that is significantly different from the agreement that that country had with the EU before the United Kingdom left the EU. The absence of scrutiny provisions in the Bill needs to be seen in that light: that the agreement that the Government negotiate with Canada or Japan, for example, might look somewhat different—in fact, there is every reason to think that they probably will look somewhat different—from that which both countries entered into with the EU, most obviously because for those countries, an agreement with the United Kingdom is not the same as an agreement with the EU—it is a different market. Both countries will have different objectives and concerns in relation to the United Kingdom from those they had when negotiating with the much larger EU.

When one looks at the provisions of the Bill, which essentially do not provide much scrutiny at all, it is important to have that background in mind. There is the debate, with which Members are probably familiar, about the extent to which it is appropriate for there to be parliamentary scrutiny of free trade agreements. I can give you some thoughts on that, if you like. It is important with this Bill, however, to make that preliminary point.

**Q75 Bill Esterson:** Are there examples where a lack of parliamentary scrutiny has caused problems? Have agreements gone through with clauses in them that have caused difficulties?

**George Peretz:** In this country, or elsewhere?

**Bill Esterson:** Either would be good.

**George Peretz:** I am just trying to think of an example. I suppose a case that ran into trouble, at least in part because it was accepted that there was not adequate scrutiny at an early stage, was negotiations between the EU and the United States on the transatlantic partnership agreement. Essentially—you would have to ask someone else for the precise detail—the EU side ran at what the European Parliament and member states were prepared to accept. That is one potential difficulty.

The issue with free trade agreements now, compared with what they looked like in the 19th century, when Richard Cobden could trot off to Paris to negotiate a free trade agreement with Napoleon III in a week or so, which involved a few tariff reductions, is that they are a lot more complicated than that now. Particularly once you move away from tariffs into other areas, agreements now require a lot of potentially important decisions on questions such as how matters of food safety are regulated, or the terms on which professional and other types of services are regulated, like auditing. Those are very sensitive indeed; they can profoundly affect both the public generally and particular interests.

So there is always the risk that, if an agreement has not been scrutinised properly at an early stage, a Government will go too far and then not be able to get the necessary legislation through Parliament. That is less of a risk inherent in our system, particularly in the present Parliament, given that the Government have a healthy majority, so it is not politically that likely. Also, the Government can quite often control agreements by secondary legislation anyway. But that can be a bit of a problem, and the TTIP negotiations turned out to be one.

Another issue with lack of scrutiny is much more difficult to find examples of, because it is not something from the textbook of finding examples. None the less, it is a fact, which people involved in trade negotiations fairly freely acknowledge, that it can be quite helpful to a Government to be able to say, “We are under scrutiny from our Parliament. We simply cannot make concession X, because we have discussed this with our own Parliament and know very well that it’s going to be very controversial; it’s going to be very difficult for us. We simply can’t do it.” That can be quite a useful negotiating tactic. As a lawyer, one is quite familiar with a situation where one is in negotiations with the other side and it is actually quite helpful sometimes to be able to say, “I’m afraid my client is very unreasonable; I simply can’t accept that.” That is quite a useful way of resisting certain types of pressure, and I think the same is true in trade negotiations, so it is another advantage of scrutiny.

**Q76 Bill Esterson:** May I ask about the Trade Remedies Authority? I think you said that that was one of your areas. There are two things to ask, really. We have the trade remedies investigations directorate currently carrying out the functions of the Trade Remedies Authority, which were passed in the Taxation (Cross-border Trade) Act 2018. First, is it absolutely essential that the Trade Remedies Authority is created, given that it seems to be functioning already? Secondly, whether it is in its current format within the Department or is the Trade Remedies Authority, how important is it that the non-executive representatives have expertise as representatives of parts of the economy?

**George Peretz:** On the first question, plainly an unsatisfactory situation would have happened, had the United Kingdom left the EU with no deal last year. It is plainly an unsatisfactory situation if you have a whole set of powers in one Act of Parliament that are conferred on an authority that does not actually legally exist, because the legislation that sets it up has not at that stage been passed. That is what happened with the Trade Bill in the last Parliament. It is a bizarre situation, which is bound to create legal problems of one sort or another. There would have been challenges, no doubt, to the validity of the decisions taken by the Secretary of State, given that the mechanism by which he took them had no satisfactory statutory basis. The Department for International Trade told the world that the mechanism that it had adopted to get round that problem would have been sufficient to deal with it. We will never know whether it was right about that, but I think it would have created a set of legal issues that probably everyone could have done without if trying to—[Inaudible]—effective trade remedies. It will certainly be better if, at the end of transition, when all this comes into play, there is a strong remedies authority in existence, doing the job that the 2018 Act gives it.

The structure of the 2018 Act did seem to me sensible. I wrote an article that laid out the—[*Inaudible*.] It is the largely technical task of looking at the potentially legal point—[*Inaudible*]—a factual question about whether the various tests of dumping, subsidy domestically and so on have been met, through an independent authority that would be able to assess those reasonably objectively. It is charged with those functions. And there is the essentially political job of assessing the public interest, which is carried out by the politicians, who are directly accountable to you in the House of Commons. That seemed to me to be a sensible divide, and that is what the Government have done. That division of competence seemed to me to be broadly right.

A final point about the composition of the Trade Remedies Authority, going back to what I just said, is that the TRA's job is in large part a technical one. It has to make a series of quite difficult legal and economic judgments that are essentially technical ones, but it does have a job of assessing the economic interests of the United Kingdom, which involve somewhat wider criteria. There is a case for the non-executive directors having to fit a number of those criteria; it is always desirable for there to be a diverse group of people on bodies such as this, because diversity brings strengths of its own. To focus on the particular task of this body, it is almost certainly helpful to have people who have experience of industry, because they will understand a lot of the issues and concerns that the TRA will have to grapple with. It would be helpful for some of the board to have backgrounds in law and in economics, because those are essential aspects of the TRA's work, and it helps to have people right at the top who are familiar with such things.

**The Chair:** Mr Peretz, thank you very much. I am keen to get one more question in in the time we have available, if possible.

**Q77 Gareth Thomas:** Mr Peretz, could you compare the level of scrutiny that both the continuity free trade agreements and future free trade agreements will get in the UK, compared with the US and other Administrations?

**George Peretz:** I am only broadly familiar with the US position, but I know a bit more about EU scrutiny. It is certainly at the lower end. This question was gone into in some detail at the International Trade Committee's evidence session on 10 June, which I had the chance to listen to. It was with Brigid Fowler, who some people know from the Hansard Society, and a couple of other people whose names I cannot remember off the top of my head—one person from the Institute for Government and one from Global Justice Now. They went into some detail about the comparative perspectives, and it is worth looking at that.

In broad terms, the UK system as currently set up is something of an outlier. I do not know anything about the Canadian system, but one of the experts who gave evidence to that Committee—I think it was the person from the Institute for Government—said that Canada's system is comparable to the UK, in that it has a reduced level of scrutiny. However, it is hard to think of any other examples of leading western countries where the scrutiny level is as low as it is in the UK.

One always has to be conscious that this sort of system is very different from the United States' system. The US has separation of powers between the legislature

and the Government, so it is rarely very enlightening when applied to a UK context, because the setup is so different. The EU is of course a very different body, because it represents a whole set of different states and has a set of controls that is appropriate for that, but not so appropriate for a unitary state. However, if we are looking at more obvious comparators such as Australia or New Zealand, I do not claim expertise on either of them, but I think there is a considerably greater degree of parliamentary scrutiny in both countries. It is certainly true, if one draws a comparison to the EU, where the European Parliament has to approve the mandates given to the Commission and has to be informed of changes and developments in the negotiations throughout. It is—[*Inaudible*]—comparable to what we have in the UK.

**The Chair:** Mr Peretz, thank you very much. I am afraid that brings us to the end of the time available for this session. Many thanks for joining us, and for assisting the Committee with its deliberations. We will now suspend briefly while we prepare for the next session.

4.29 pm

*Sitting suspended.*

#### Examination of Witness

*Simon Walker CBE gave evidence.*

4.30 pm

**Q78 The Chair:** Our final witness is here in person, so we do not need to worry about the line going down and all the things we have dealt with this afternoon. We will now hear oral evidence from the chair designate of the Trade Remedies Authority until 4.50 pm. Please introduce yourself for the record and give any opening remarks you would like to make about the Bill or the Trade Remedies Authority.

**Simon Walker:** I am Simon Walker. I have been the chair of the Trade Remedies Authority for three months—a fairly recent appointment. From my limited exposure, given that I only made two visits to the office before the lockdown, I can report that the authority to be, which is still part of the Department for International Trade, is in good shape and raring to go.

**Q79 Bill Esterson:** Thank you for joining us, Mr Walker. Belated congratulations on your appointment. Please tell us your views on the level of parliamentary scrutiny of the continuation international trade agreements that are covered by this Bill, and whether you think it is adequate.

**Simon Walker:** I am not sure that falls within the purview of the Trade Remedies Authority to be. It seems a broader question than that. The TRA's decisions will be subject to parliamentary scrutiny, because the final decision maker on our recommendations is the Secretary of State. If she rejects our recommendation, she must table her reasoning before Parliament.

**Q80 Bill Esterson:** Yes, sorry. I was asking whether you have a view, as the continuity agreements are a significant part of the Bill,—as is the TRA, which we will come on to. Do you have anything to say on that part of the Bill?

**Simon Walker:** I do not think I do, to be honest.

**Q81 Bill Esterson:** That is fine. Turning to the Trade Remedies Authority, which currently operates as the Trade Remedies Investigations Directorate, in evidence we have already heard, a comment was made about industry's ability to properly fund its contributions to your investigations. Could you say something about ensuring that investigations can be conducted properly? I think there is only one underway at the moment, so that was the one the comment was made in relation to.

**Simon Walker:** There are two underway at the moment, which are both transition agreements. One is about welded steel and tubes, and the other is about rainbow trout. Those two transition arrangements are in process at the moment. I cannot pretend that it will always be cheap to lodge a claim with the TRA, because it will require quite a lot of legal and technical expertise, so I would not want to over-sell that. It is a very substantial meta-seeking recommendation from us on the base of anti-dumping and fair subsidies or the need for an economic safeguard. It is a major intervention in economic process that I think justifies significant resource going into it.

**Q82 David Johnston:** Could you give us a hypothetical scenario of something that could happen in the future, which, if we did not have a Trade Remedies Authority, "The consequences would be as follows"?

**Simon Walker:** I suppose the big worry about anti-dumping in general is that an overseas producer will seek to eliminate domestic competition in a predatory way and then force up prices as soon it has put its UK competitors out of business. That is at the heart of the issue, but there are infinitely more subtle variations of that, particularly if the exports come from countries where there are hidden or perhaps unfair subsidies of different sorts or where there is a disguise. The absolutely crucial thing is that there have to be UK producers of that product. If a product which happens to be massively available in another country is dumped cheaply in the United Kingdom and there are no UK producers, there is no domestic interest in that. That kind of unfairness aspect is fundamental to everything that we are going to be doing.

**Q83 David Johnston:** In your role, do you see any particularly effective examples around the world of organisation that operate in the way that you hope the Trade Remedies Authority will?

**Simon Walker:** I think the Canadian, Australian and European Union's trade remedies authorities operate competently and efficiently. The United States authorities have rather wider powers and a broader, much more variable political remit than this country's will have, where our role is going to be to implement very strictly what is in the legislation. However, we are going to have to evolve something that is suited to the interests of this country absolutely specifically. That will be a challenge, because it has not been a function that the UK has had for some decades now, but I am confident that we can build up the expertise that will be required in the three basic strands. One is legal, one is analytical and economic analysis, and the third is investigatory, where claims are brought to us that require a detailed investigation. My hope is that over time we will build up the expertise to be recognised as an independent authority operating very much in the interests of this country, but that is an ambition and it will take a while to get there.

**Q84 Gareth Thomas:** Can you talk us through what happens if you take a decision and find that dumping has taken place? You propose remedies, but they are not accepted by the producers in the other nation. They have the support of their Government and they challenge the decisions that you have persuaded the Secretary of State to take.

**Simon Walker:** It is important to stress that it is the Secretary of State who will make that ultimate decision. There are appeals mechanisms in this country, should we come to that finally. The appeals would need to be exhausted properly, but the remedies would be enforced in the same way as tariffs are enforced on imports to this country. There is not the ability of companies in other countries just to refuse to pay. That would have the same consequence as if they refused to pay normal tariffs or import duties on any goods.

**Q85 Gareth Thomas:** Presumably there is scope for another nation to challenge Britain's decision at the WTO?

**Simon Walker:** Certainly there are arguments that happen at WTO level all the time. One of the realities is that proceedings at the WTO normally take a very long time—I think that is particularly the case at the moment for various internal reasons—in the course of which considerable damage could be done in that case, unless the remedy were applied. That is why it is important that this country has the ability to act in that situation.

**Q86 Fleur Anderson:** I have two questions. The first is about the membership of the TRA. The Bill sets out that the maximum number will be nine. What do you think would be the optimal number, and what would the considerations for that be? We have heard today from farmers, industry representatives, small businesses and trade unions that they would all like to be members. How will you ensure that it will be fully representative of all stakeholders? That is my first question—maybe I will leave it there and come back for the second.

**Simon Walker:** I am happy with nine as a target. Three of them are internal, but we are going to want the other five non-executive directors all to be appropriately qualified in some way. I think we will get there. Nine to me feels the right sort of level.

It is important to stress that this is a board and it is fundamentally about governance. I would not want to mislead you about its decision-making capacity. Its role will be to set strategy, to hold the Executive to account, to test the strength of the arguments internally and to maintain the independence of the TRA from any organisation, including the Government. Those are the fundamental roles of the board, and we are going to be needing people who have that governance orientation in particular.

I am not supportive of the principle of representatives of particular organisations as such—to have representatives of industry or trade unions or the devolved Administrations—for a number of reasons. One is that I feel it would compromise the objectivity of the members of the board. The second is that it might reduce the capacity to appoint on merit. Thirdly, I think it would reduce the accountability if someone's primary reporting back was to a sectoral interest group. To me, that would be a weakness.

Will there be people with trade union or industry experience, with close links with farming or with the devolved Administrations? I absolutely hope so. I very

much hope that there will be people in those categories who apply for the board and are appointed, but they will be appointed as individuals who will work together as a board to hold to account the Executive.

I suppose the special skills I would cite that I am quite keen to see in non-executive board members are someone with a strong legal background, so that they can hold the legal team to account; someone with a financial and accountancy background, with real strengths in those areas; and if there is someone who has an investigatory background, perhaps, who could probe into material that is not always going to be easy to extract, that could be a useful facet. I hope they will be people who understand and relate to the devolved Administrations. I hope they will be diverse, because that has always been a goal of the Department and will be of the TRA once it is independent, but they will there as individuals working together on a board that is fundamentally about holding the Executive to account rather than making decisions itself.

**Q87 Fleur Anderson:** My second question is about the impact on developing countries. What is your assessment of the impact on developing countries of creating the TRA and the new negotiations it will have, and the impact on our poverty reduction commitment as a country? How will you be able to uphold that within the TRA?

**Simon Walker:** I am not sure that is really in our domain. I am very sympathetic to your point, but I am not sure how much that is in the remit of the TRA as such. Our professional teams will be trying to establish whether there is dumping, for example, from a particular country, and the sale of a product below its cost in that other country. If that is contrary to the economic interests of the UK, the TRA will try to assess that as objectively as possible. It is conceivable—I do not think it likely, but it is conceivable—that that might be from a developing country. There are shields for developing countries against an awful lot of tariffs—that is an element of exports that I hope will help them—and I certainly do not see developing countries being a big part of our focus, but I do not think that our remit is to look specifically at that.

**Q88 Matt Western:** Mr Walker, some of your opening comments were about just how expensive those sorts of interventions are, because of the amount of legal work involved. What sort of budget will you be working to? Do you think that the scale of the operation needs to be established in terms of the financial basis and the purpose and remit of the organisation? How is that

funded and have you looked at relative nations, such as South Korea, to see the scale of their operations and how we compare?

**Simon Walker:** I have not looked at other nations in that sort of competitive way. I suppose that what I have looked at is, as an organisation of not quite 100 people that might grow to 140 or 150 people—that sort of size—what it will take to run an organisation like that in terms of personnel with professional qualifications. It is not that hard to arrive at a budget for that kind of organisation, because it is not as if we are going to be paying for the submissions that are made to us. We are obviously taxpayer funded and our proposed budget—we are not in existence until the legislation is passed—is laid down by the Department. I think it is pretty much what anyone would expect, within a relatively modest scale, for an arm's length body. Does that answer your question?

**Q89 Matt Western:** Probably enough for today. In the event that a particular country says, “We may have a trade agreement with you, but with immediate effect, this sector is now protected in the interests of national security,” what powers do we have?

**Simon Walker:** I do not think, I am afraid, that we have powers in that situation. Our mandate is very strict: it is about dumping, unfair subsidies and—this is very rarely used—safeguards in the event of unforeseen exports from another country that swamp the market. As I say, that is very rarely used. I take your point completely; that is a serious problem for the UK if that situation happens. I do not think it is one that the TRA can address.

**Q90 Matt Western:** Who should?

**Simon Walker:** The Department for International Trade and the Government as a whole. It is a matter for the Department and the Government as a whole rather than for us as an independent arm's length body that will then be completely separate.

**The Chair:** That brings us to the end of our allotted time. I thank our witness very much. We are very grateful for your assistance.

*Ordered,* That further consideration be now adjourned.  
—(Maria Caulfield.)

4.49 pm

*Adjourned till Thursday 18 June at half-past Eleven o'clock.*

**Written evidence reported to the House**

TB01 Global Justice Now

TB02 Trade Justice Movement

TB03 International Chamber of Commerce (ICC) United Kingdom

TB04 Compassion in World Farming

TB05 Which?

TB06 Greener UK

TB07 Manufacturing Trade Remedies Alliance (MTRA)

TB08 Institute of Export &amp; International Trade

TB09 CHEM Trust

TB10 British Medical Association (BMA)

TB11 TUC