

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE BILL

Fourth Sitting

Thursday 18 June 2020

(Afternoon)

CONTENTS

CLAUSE 1 agreed to.

CLAUSE 2 under consideration when the Committee adjourned till Tuesday 23 June at twenty-five minutes past Nine o'clock.

Written evidence reported to the House.

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

not later than

Monday 22 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) | † attended the Committee |

Public Bill Committee

Thursday 18 June 2020

(Afternoon)

[SIR GRAHAM BRADY *in the Chair*]

Trade Bill

2 pm

The Chair: We now begin line-by-line consideration of the Bill. The selection list for today's sitting is available in the room. It may be helpful if I note that, because no one is present to pass the *Hansard* reporters notes, there is an email address, which is hansardnotes@parliament.uk. To keep any great orations in their most accurate form in the record, you should email your speaking notes to that address.

Clause 1

IMPLEMENTATION OF THE AGREEMENT ON GOVERNMENT PROCUREMENT

Stewart Hosie (Dundee East) (SNP): I beg to move amendment 29, in clause 1, page 1, line 4, leave out “may” and insert “must”.

It is a pleasure to serve under your chairmanship on this important Bill, Sir Graham. If I may, I will crave your indulgence for a few minutes to make some introductory remarks about the Bill before I move on to amendment 29. First, I recognise the difficulty the Minister has in the absence of officials. A number of the amendments I have tabled are technical, so it is not my intention—I hope this is helpful to you, Sir Graham—to press to a Division any amendments or new clauses until we hear detailed responses from the Government, probably towards the end of these Committee proceedings next week. Of course, I reserve the right to come back to these themes on Report, if and when we reach that stage.

Right now, there are three main threats to trade, as I have said before. The first is self-evidently the covid crisis. The World Trade Organisation has suggested there will be a fall in global trade of between 13% and 32%, which is larger than the collapse in trade during the financial crisis. The second threat is the impact of Brexit. We have all seen many of the assessments, which suggest a significant fall in UK global trade. The third threat is a more systemic problem, from the continued implementation of new, and the continuation of existing, trade restriction measures, mainly tariffs—about \$1.5 trillion or \$1.6 trillion-worth around the world. I am not confident that any of those problems will be resolved any time soon, not least because there is no cure or vaccine for covid; because of the well-publicised difficulties with the Brexit negotiations; and because of the failure to appoint a functioning appellate body in the WTO.

However, the Bill does address a number of other matters. It implements procurement obligations arising from membership of the GPA—the agreement on government

procurement, it creates the Trade Remedies Authority and it gives Her Majesty's Revenue and Customs and others powers to collect and share data. It also allows the Government to modify retained direct principal EU legislation, and it appears to me that, other than a few minor restrictions, those modifications are almost without limit.

The Bill also includes descriptions of what an international trade agreement is and says that it may be “an international agreement that mainly relates to trade, other than a free trade agreement”.

But, as we know, modern agreements are little to do with quotas and tariffs, and as much to do with standards, conformity, dispute resolution and food safety, for example. Many people are therefore uncomfortable that the Government may be able to modify existing legislation, even in roll-over agreements, in the way proposed. I am sure we will come to all those matters over the next few days.

Amendment 29 does not appear to be particularly important, but it is, because it would require the relevant authority to make the regulations referred to. The reason is as follows. The UK is already party to the GPA, and requiring the relevant authority to make regulations to implement the GPA would ensure continuity upon withdrawal from the EU. Under clause 1(1), the Bill grants an appropriate authority the power to make regulations that it “considers appropriate” to implement the GPA. If the intention is to ensure implementation of the GPA 1994, the authority should be required to make such provisions. While it could be helpful to allow the relevant authority discretion—that is facilitated by the current wording—to make regulations that it considers appropriate to implement the GPA to ensure continued alignment with EU requirements, if the intention is actually to implement the GPA in order to ensure continued alignment, the relevant authority must make the necessary regulations. I commend the amendment to the Committee.

Bill Esterson (Sefton Central) (Lab): It is a pleasure to serve under your chairmanship, Sir Graham. The hon. Member for Dundee East has made some important observations about our proceedings, which I agree with. We may take a slightly different view on pressing our amendments, and we will come to that in due course. I make no promise; it will depend on the nature of the Minister's answers, his ability to garner information and what he says.

The hon. Member rightly drew attention to the impact of the covid-19 crisis on trade. He also drew attention to the importance of discussing trade, and indeed legislating for international trade, at this time in recovering our economy and the prosperity of our people. He referred to the estimated fall in the economy of between 13% and 32%. He is right that that fall is far larger than in the global financial crisis—it is the largest in history, over all the time in which such figures have been recorded. It is therefore essential that, where we can, we get what we are doing as accurate as possible.

Following the hon. Member's speech, I now have a much better understanding of the intention behind the amendment. I am confident that he is trying to do what he has set out. The Labour party, as we made clear on Second Reading, fully support the accession to the

GPA. If that is the Government's intention, it seems entirely right that they should make sure they do so, and it is odd that they have not already committed to that in the Bill.

Gareth Thomas (Harrow West) (Lab/Co-op): Might one of the other potential benefits of the amendment be that it helps to create a voluntary pressure on the implementing authority to support businesses to take advantage of the procurement opportunities that Ministers have said the GPA offers? If there is a slightly more lackadaisical approach, as the hon. Member for Dundee East appears to suggest, the incentive for Ministers to actually find ways to support businesses to take advantage of those opportunities may not be there in quite the same form.

Bill Esterson: My hon. Friend makes a good point. We want businesses to take advantage of the opportunities available in procurement. Having the Government make the strength of that case through how they legislate is an important way of achieving that goal. It should be clearly set out that the procurement obligations that we currently have through our EU membership have passed into UK law via EU retained legislation, and the Government should make clear commitments to their implementation. The hon. Member for Dundee East said that, if the Government intend to implement the GPA, they should say so, to ensure the continuity that my hon. Friend the Member for Harrow West rightly referred to and to make sure that alignment in the regulations is in place straightaway.

Gareth Thomas: Perhaps I can be a little clearer. My concern is that, under successive Governments the opportunity, the opportunity for local organisations to take advantage of public procurement opportunities has not been given as much assistance or priority as it might have been by both central Government and—on occasion, sadly—local government. Perhaps the amendment might help to create the pressure for central Government, in particular, to take a bit more seriously their responsibility to make that happen.

Bill Esterson: My hon. Friend is quite right: we need to make more of the opportunities available in procurement, and this kind of amendment is a way of delivering on that agenda.

I am pleased that the hon. Member for Dundee East has tabled the amendment. I note his comments about waiting, to ensure that the Minister is able to respond in full and in the event that he needs additional advice. I am happy to support the hon. Member in principle, on the basis of waiting to hear what the Minister's reply might be.

The Minister for Trade Policy (Greg Hands): Sir Graham, first of all, it is a pleasure to serve under your chairmanship, and I welcome everyone to the Committee. I think the previous Bill Committee I served on was for the previous gestation of this Bill, in early 2018, so I know from past experience that we have interesting discussions ahead in the coming days on this important legislation.

As the Secretary of State and I made clear on Second Reading, the Bill is about ensuring continuity and providing certainty for businesses and consumers as the UK strikes

out once more as an independent trading nation. We will use the freedom that we have gained through our departure from the EU to negotiate trade agreements with new partners, but we also remain committed to seeking continuity in our trade relationships.

I will turn to the amendment in just a moment, but let me be absolutely clear. I have not spoken about the Bill since Second Reading, and I was genuinely surprised that the Opposition parties opposed the principle of it. The Bill consists entirely of wholly sensible proposals to secure the continuity of more than 40 trade agreements and our continued membership of the World Trade Organisation's government procurement agreement, and to allow UK trade defences.

I hope that the Opposition parties will reconsider their principled opposition to the Bill after all the scrutiny that we are about to have and on Report, and will consider voting for it on Third Reading.

Gareth Thomas: I am sure we would be happy to reconsider if the Minister committed at this point to being sympathetic to some of the amendments we have tabled—for example, on extending scrutiny opportunities and extending the Bill to cover future free trade agreements. I will look sympathetically at his request if he will look sympathetically at ours.

Greg Hands: I thank the hon. Gentleman. He is an old sparring partner of mine over different years and different Sessions. It would be impossible for me to commit to that today, because there is still the opportunity, as I understand it, for further amendments to be tabled, so it would be impossible for me to either rule in or out opposing all future amendments.

I want to say a quick word on the practicalities for Members who are on their first Bill Committee. Due to the social distancing requirements, as you mentioned, Sir Graham, there is no one to pass notes to the *Hansard* reporter. Normally, the Minister also has with him or her a small group of officials, but they are unable to be with us today, also due to social distancing. On occasion, therefore, if a Member has an extremely technical question—I am just trying to think of a good example; perhaps it would be something about diagonal accumulation rules in the EU-Faroes agreement—it may be necessary for me to write to them. However, I commit that if I do write to a Member, I will of course copy the information to all members of the Committee.

2.15 pm

I now turn to the WTO's government procurement agreement, which is the subject of clause 1 and, indeed, the amendment. The GPA was negotiated and agreed in 1994, and the UK has participated in it through our EU membership from the very beginning. We continue to be covered as if we were an EU member during the transition period, but once it ends, on 31 December, the UK intends to join the agreement as a member in its own right and on substantially the same terms that we had under EU membership.

The GPA mutually opens Government procurement markets between its parties. By preserving the UK's membership of the GPA, we will be keeping those markets open to UK businesses and ensuring that they continue to have guaranteed access to approximately £1.3 trillion a year of procurement opportunities.

Membership of the GPA benefits not only UK businesses, but the UK taxpayer. In response to earlier questions, it is, of course, our intention to join. Last year, we undertook the process to accede to it in the event of a no-deal Brexit. Of course, we secured a deal to leave the EU, but we have clearly stated our intention to join the GPA in our own right and to make sure that UK businesses across all four nations and all regions of the country can take advantage of the GPA, as they do today.

Gareth Thomas: That may be one of the issues on which the Minister needs to write to the Committee. He will know that there have been long-standing concerns about British companies' ability to get access to public procurement markets in an honest way, in, for example, China and Russia, given the levels of support that the Governments there often give to their own companies. The market is not necessarily an honest and level playing field. I understand that China and Russia are in the process of acceding to the GPA, but it might be helpful at some stage for the Committee to understand how far along the journey to accession those two countries are. They are potentially critical for British companies that want to get into the procurement markets there.

Greg Hands: I thank the hon. Gentleman for that very good question. I do not have current information about how far down that process China and Russia may be. Of course, both those countries are members of the WTO. It would, ordinarily, not be unnatural for them to seek membership of the GPA, but, of course, the GPA does not include all members of the WTO—it has 20 members, and they are typically western liberal democracies. Australia is the most recent to join. I imagine that China and Russia joining would become a significant issue on the international stage, and at the WTO.

If the UK were not an independent member of the GPA in its own right—or if it were to fall out—our ability to influence accessions would be very much diminished. That is another good reason to be a member of the GPA—so that we can exert UK influence on the global stage to make sure that accessions are in the interests of the wider world community, as well as UK businesses and taxpayers.

The reciprocal nature of the agreement supports the public sector to get the best value for every taxpayer pound that it spends. Those benefits will increase each time another party joins. Each new party that joins increases the procurement opportunities available to UK businesses and public sector bodies.

Turning to amendment 29, the powers in clause 1 will enable us to give effect to our international obligations on joining the GPA as an independent party, and to make changes as necessary in response to specific circumstances that may arise from time to time after our accession. Examples might be changes to reflect, and arrange for, the accession of other parties to the GPA—the hon. Member for Harrow West mentioned a couple of possible future members—or to make the necessary adjustments where parties leave the agreement. The ability to make these changes is essential to allow us to keep in line, and up to date, with our international obligations.

Gareth Thomas: The Minister will understand that there have been concerns about acceding to the GPA and doing so at a time when we have exited the European Union. One concern relates to how low the threshold is for other GPA members to potentially get access to central Government contracts, thereby potentially putting at a disadvantage British companies wanting to win those contracts. What reassurance can he offer British companies that are potentially beginning to seek out opportunities to win central Government contracts that they will not lose out against other countries' companies?

Greg Hands: It is a good question, but the assurance I would give is that our intention is to join the GPA with substantially the same arrangements as we currently have as members of the EU. That will give the assurance of continuity as we move forward.

The power in the clause is appropriately drafted to ensure that our international obligations will be fully complied with, including by making changes to national law, where appropriate, using the power in this clause. The use of the power is expressed in the usual way. I say to the hon. Member for Dundee East that we have expressed these powers using quite a usual formulation, allowing authorities to make regulations in the circumstances set out. If the wording were to be changed from “may” to “must”, as proposed in the amendment and as he suggests, changes would need to be made in all circumstances covered by clause 1. There would, however, be certain circumstances where it would not be appropriate or necessary for regulations to be made. For example, a dispute with another party might be resolved without the need to make any changes at all to domestic regulations. Likewise, not all modifications of another party's appendix I will require changes to domestic law. On that basis, I ask the him to withdraw the amendment.

Stewart Hosie: I make a number of observations. The Minister said that the Bill was about continuity. If I take that at face value, as I do, it strengthens the case for the relevant authority being required to make the necessary regulatory changes. He also said that the flexibility allows the relevant authority to respond to specific circumstances, but if those change, there are lots of reasons why it should—absolutely must—make the necessary regulations to respond to those changes. The final argument the Minister made does not hold water:

“An appropriate authority”—

must—

“by regulations make such provision as the authority considers appropriate”.

So if a circumstance stands changed where the relevant authority did not deem it appropriate to make a change, it would not be required to do so.

The hon. Member for Harrow West said that the amendment might encourage more businesses to take advantage of procurement opportunity. It would not do so directly, but, certainly, if the relevant authorities were required to do something, it might act as a nudge measure to encourage businesses to look at those procurement opportunities.

I will do what I said at the beginning: I will not seek to press these matters to a Division now, but I will ponder on the Minister's answer. I am sure he will

consult others and ponder further, and we may have a similar debate on Third Reading. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Bill Esterson: I beg to move amendment 24, in clause 1, page 1, line 16, at end insert—

“(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of enabling greater labour market interventions and compliance with ILO standards in any UK procurement contract to which the GPA applies, and

- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
- (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

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

Amendment 25, in clause 1, page 1, line 16, at end insert—

“(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of securing greater environmental exceptions and carbon considerations in any UK procurement contract to which the GPA applies, and

- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
- (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Amendment 26, in clause 1, page 1, line 16, at end insert—

“(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of securing greater scope for UK small and medium-sized enterprises in any UK procurement contract to which the GPA applies, and

- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
- (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Amendment 27, in clause 1, page 1, line 16, at end insert—

“(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of securing improvements to public health as a consequence of any UK procurement contract to which the GPA applies, and

- (a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or
- (b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved.”

Bill Esterson: In the debate we have just concluded, the Minister referred to matters that fall under the set of amendments we are now considering and the reciprocal nature of the benefits of the GPA. These amendments relate to the impacts on those companies tendering for UK procurement contracts and the way they might be addressed through the annexes to the GPA that we might seek once we have acceded to that body. The

amendments relate to the desire for procurement to look beyond short-term pricing—a problem that has bedevilled procurement—and I will give some examples a little later. All four amendments pick up elements of the points made to us by Rosa Crawford in her oral evidence on Tuesday about the desirability of price value or life cycle costing in procurement.

In his remarks just now, the Minister said that we should have the same arrangement we have with the EU, and we agree with the accession to the GPA for that reason. But if we are to have the same arrangement that we have as members of the EU, there is also the significant matter of retained EU law, which needs to continue if that statement is to hold. In this case, it is the Public Contracts Regulations 2015, which will run out on 31 December 2020. As my hon. Friend the Member for Harrow West has said, it is extremely important that we maintain the strongest possible procurement system for companies in this country, and there are other reasons referred to here to do with international and domestic labour rights.

Gareth Thomas: The House of Commons Library brief is very helpful in this regard, because it makes clear that

“the GPA will limit the ability of UK public sector buyers to choose to buy only from”

British or local companies, for example. It is surely an extraordinary situation for Ministers not to want to do more to help British companies or, indeed, to help local councils support local businesses to get access to procurement contracts.

Bill Esterson: Yes, and that is why it is important that we maintain as a minimum not just the GPA regulations but the Public Contract Regulations 2015, that they are renewed and that we look to build on them, which is the reason for the amendments. Ministers—including, on occasion, the Minister present—have indicated their support for British business, and the Prime Minister on numerous occasions has encouraged us to buy British. I imagine that the logical extension of that statement is that he wants Government procurement departments to buy British as well, and I will come to other examples of what Ministers have said.

This is about having the strongest possible procurement system. That is why our amendments call for the Government to pursue with GPA partners the potential for the inclusion of labour standards, environmental standards, support for small and medium-sized businesses and consideration of public health consequences in our annexes to the GPA. I will define what we mean by that.

In amendment 24, we refer to

“labour market interventions and compliance with ILO standards”.

That means we want to ensure that companies that fulfil their obligations to their workers, treat workers well and meet their commitments to working with trade unions in a productive manner are not undercut by companies that do not. This is about rewarding responsible businesses, as well as supporting workers.

Labour market interventions in procurement allow for minimum wages and living wages. They also allow for maximum wages, although that is rarely used. They allow for legislation to prevent discrimination on the grounds of age, sex and religion; legislation to support

[*Bill Esterson*]

or regulate trade unions; a maximum working week; legislation on health and safety; behavioural nudges, which are making an appearance for a second time in our deliberations, to encourage workers to take up pensions, for example; and Government provision of education and training schemes to enhance skills and encourage the recruitment of apprentices.

2.30 pm

Charlotte Nichols (Warrington North) (Lab): I just want to come in on the point about labour market interventions. Local government procurement is a good example of where there is a need for something sectoral and robust. For example, there is a national agreement for the engineering construction industry, known as NAECI, for which the minimum rate of pay is £18.63 an hour. If a local council was to procure even on a real living wage, rather than the Government's living wage, the minimum rate of pay would be about 60% of that. In local government and central Government procurement, companies that are trying to do the right thing and are abiding by sectoral agreements are being undercut. That is why it is very important that we get that right in this legislation.

Bill Esterson: I thank my hon. Friend for that excellent example of why ILO obligations matter. She is absolutely right that it is about paying decent wages, but of course one of the consequences of having such provisions in public procurement is that not only the workers and their families, but communities benefit due to greater spending power in local economics. This is an economic measure as well as a social measure. That is why it is right that progressive procurement considers it.

Gareth Thomas: I do not think my hon. Friend has the great benefit of being supported by the Co-op party. One of the ways in which I am unique is that I am from the co-operative tradition in the Labour movement, and therefore have had a lot of contact with social enterprises and co-operatives. A social enterprise that stands out is Hackney Community Transport, which has won contracts from a central Government organisation—in this case, Transport for London. It has done so while providing employment for offenders who are seeking to get back into the work environment, and offering discounted minibus hire to local community groups. The risk is that, if there is not proper support and flexibility in the procurement regulations, such initiatives will be stifled. Hackney Community Transport is a big social enterprise, but there are many similar community transport organisations that do not have its size and depth, and if this amendment is not passed, they risk not being able to access public procurement opportunities.

Bill Esterson: I am grateful to my hon. Friend. He said that smaller organisations find it difficult to win contracts, and that is why the Government have to use their authority and make sure the regulations are in place. Amendment 26 is about small and medium-sized enterprises, and it should absolutely cover social enterprises too, many of which are SMEs. It is essential that such things are in regulations to support the sorts of enterprises that my hon. Friend describes, and to pursue socially valuable activities. I will come to the Public Services

(Social Value) Act 2012 a bit later, which was initiated by a former Conservative MP, Chris White, and passed with the support of the coalition Government. It gives more detail in this area.

Similar descriptions are applied in amendment 25, which mentions,

“environmental exceptions and carbon considerations”.

The current UK minimum standards take into account energy and water use, carbon footprint, resource efficiency, and life-cycle costs in order to set minimum standards of sustainability for Government purchases. Our standards need to be protected, both in terms of maintaining these procurement standards and of ensuring that our schedules at the GPA remain up to date with the action needed to address the climate crisis. If we allow the public procurement regulations to lapse, we will not include such provisions as those I have just described, which are picked up in amendment 25. I know that Ministers take this seriously because the point was made in oral questions just this morning. I cannot remember whether it was the Minister of State or the Secretary of State who quoted the Government's attitude towards the climate crisis and the achievement of net zero, but it certainly was quoted by Ministers this morning.

Greg Hands: Yes, I did.

Bill Esterson: It was you. I knew you wouldn't sit there quietly.

I am glad that the Minister did mention it, because he is absolutely right, but without the support of the regulations, it is that much harder. The climate crisis will not be addressed unless there is intervention—and substantial intervention. Public procurement policy through the GPA is one very important tool in the toolbox in achieving those objectives.

Gareth Thomas: On the climate crisis, I wonder whether I can pray in aid the example of Baywind Energy, which is a comparatively famous wind energy co-operative in Cumbria. For a long period of time, the energy that it supplied and could have supplied to local authorities would have been more expensive than that from its nearby neighbour, the great Sellafield nuclear plant. Had the local authority wanted to source its energy needs from Baywind without the type of measure that my hon. Friend is suggesting be locked into law, Cumbria Council might be at risk, in a modern situation, of not feeling able to take advantage of the Baywind offer, and would, perhaps, have had to accept the lowest supplier of energy costs. That would have meant that a substantial local business helping to tackle the climate emergency did not benefit.

Bill Esterson: I thank my hon. Friend for providing an excellent example in the renewable energy sector of just how important it is that we do as we say and that we are strongly committed through Government action—at national, local and devolved level—to tackling the climate crisis.

Charlotte Nichols: Just to pick up on that point, it is important to consider employment multipliers in public procurement around renewables. I am concerned that as the balance of renewables in our energy mix has increased substantially over the past 10 years, which is fantastic

news for the UK's commitment to decarbonisation, the number of green jobs has actually significantly reduced. The Office for National Statistics estimates that about 40,000 green jobs have been lost during a period in which the renewable output in our energy mix trebled. A big part of that is procurement, because as we are investing more in wind technology, a lot of this is coming in from Korea, Denmark and Holland. Meanwhile, companies such as Appledore and BiFab, whose shipyards manufacture things such as jackets for wind turbines, are lying empty because the Government are not procuring them from these places. I just really want to pick up on my hon. Friend's point about the need to lock in this legislation going forward to ensure that, as we meet our climate change objectives, we are also meeting our economic and jobs objectives, too.

Bill Esterson: I thank my hon. Friend. That is absolutely right, and there are a number of good examples. Unfortunately, the evidence is there that we did not adopt a life cycle-costing approach or a price-value ratio for procurement decisions, instead basing them on narrow, short-term pricing. My hon. Friend the Member for Harrow West made a similar point but, fortunately, life-cycle costing was chosen in his example from Cumbria. This is one of the changes. Yes, the amendments are about ensuring the continuity of existing arrangements, but in the end they are about improving our procurement and improving the social, environmental and labour outcomes of these matters, to the benefit of society as a whole.

Gareth Thomas: The Soil Association gives another example that perhaps supports my hon. Friend's point. It notes the considerable amount of processed food that we eat in the UK, and how that has contributed to our obesity crisis. It says that one way to tackle that obesity crisis is to try to stimulate demand for British, locally produced fresh fruit and vegetables, particularly by trying to get public bodies such as hospitals and schools to source more of the fruit and veg that they need from domestic producers. Would that not be at risk if our amendments were not to succeed?

Bill Esterson: Again, I am grateful. We should take my hon. Friend's question seriously, because if we have a procurement system that encourages a greater carbon footprint in our food supplies, the consequences will be damaging to our attempts to meet our climate obligations and to tackle the climate crisis. He also mentions the public health elements of this; in fact, he picked up on at least two of the amendments just in that example.

In the end, we want to address the problems of obesity, which has been one of the most serious public health challenges in our society for some time, but we also want to address the carbon footprint. There are some wider questions, which may well be raised as we discuss the next set of amendments, about where we source food from and the need to consider not only the carbon footprint and transport, but some of the impact of intensive farming more widely and the way that our society eats a lot of meat, which is a real concern not only for health, but for the climate, because of the natural resources used up in feeding animals. We have so far addressed the descriptions of ILO standards, environmental exceptions and carbon considerations in the amendments—

Matt Western (Warwick and Leamington) (Lab): Will my hon. Friend give way?

Bill Esterson: I will.

Matt Western: It is a pleasure to serve under your chairmanship, Sir Graham. On the environmental amendment, so many authorities have shown leadership in recent months on adopting a zero carbon objective. At a simplistic level, it is perhaps easy perhaps to look at what that might translate to, but it is actually a proper audit of every facet of the services they provide to the community, and is about how they show leadership to the public, but also to businesses, on how far-reaching that should be. We in this place said that we want to be zero carbon and carbon-neutral by whatever date it was, and likewise our county and district councils—Warwick District Council is in my constituency—have really sought to show leadership, but are they actually going to be able to without the amendment?

Bill Esterson: That is a good question: what is possible if restrictions are in place because of international obligations in this area? I imagine the Minister will pick up on that in his response, but there are a number of important points in my hon. Friend's comments. Yes, we must show leadership, but we should do that at a local and national level for businesses in this country. We should also show leadership elsewhere in the world, by setting our sights high regarding our obligations on the environment, labour, public health and support for SMEs. Through our procurement policy there are other areas of regulation and law where such things also apply.

2.45 pm

There is an appetite among other nations for that kind of sustainable approach to international agreements. Notably, New Zealand is leading the way in that area of international trade, along with countries such as Norway and Iceland. That is a slightly different point, but it is important that we seek to align ourselves with countries that have a progressive agenda and that want to use what we sign up to internationally to deliver in those important areas. What we do at a local level is also important, and it is possible only with the support of national and devolved legislations—I recognise the devolved nature of these regulations.

Let me come to amendment 26 and the definition of SMEs. Sometimes microbusinesses are not included in the definition of SMEs, but it is important that they, as well as small and medium-sized businesses, have access to procurement. It is a real challenge. I speak from experience, having run a microbusiness for 15 years before I came to this place in 2010, and it was extremely hard to contract with any Governments—both Conservative and Labour—at a national or local level during that period. I talk to businesses now, and it has not got any easier. That must change. The amendments, and our accession to the Government procurement agreement, as well what we will keep from retained EU law through the public procurement regulations that end at the end of this year, are an essential start. However, they are not enough, and we need to improve on them. This is just a starting point.

The report by the Crown Commercial Service on annual accounts from 2018-19 stated:

“Work has continued in support of the government’s growth and industrial strategies through public procurement and increasing spend with SMEs.”

That is great, but last time I looked, I considered the direct spend on SMEs in the United States, which involves 25% of all federal public procurement monies. In the UK that figure was only 11%—that was four years ago, but I check periodically with the Cabinet Office, and those figures have not really moved.

One reason why the US is so much better at this is because it uses the GPA. In its annexes at the GPA, it has what are called carve-outs, which allow for the support of SMEs. I suggest to the Minister that it would be a good idea to learn from his current preferred partner in international trade negotiations. I hesitate to use the term “whole-hearted support”, but I would be very encouraged were he to look at the carve-outs that the US has in this area to support SMEs and smaller firms in deprived and minority communities. Such carve-outs are used in native American communities, and the Australians use them with aboriginal communities. Those carve-outs are a great encouragement because Federal Government money provides an enormous boost to start and grow businesses. It is long past time for us to provide similar support.

I know just how concerned the Federation of Small Businesses is. Many of its members would like to trade more with the Government, but they are unable to do so because of the barriers. They do not have the dedicated departments of larger firms, which spend all their time winning contracts. They often do not have the balance sheets to back them up. They do not have the necessary public insurance. It is almost impossible. I will come on to some examples of what happens as a result. Sadly, some are familiar and recent and related to the health crisis we are in the middle of.

Gareth Thomas: Another reason to endorse my hon. Friend’s suggestion is the productivity challenge our country faces. As I understand it, we are the worst country in the G7 for productivity performance. We have even fallen behind France. We know from the evidence of business analysts that the response of medium-sized businesses and co-operatives often is often more productive because of the closeness of management to staff. Moreover, co-operatives have joint collective management and a sense that everyone benefits from the collective endeavours of the business. My hon. Friend’s suggestion of including a carve-out in the UK’s GPA arrangements would be an eminently sensible way to tackle the productivity crisis that the Government have not even begun to get to grips with.

Bill Esterson: I am pleased that my hon. Friend has mentioned the innovation and entrepreneurial ability of our SMEs. The Under-Secretary of State for International Trade, the hon. Member for Beverley and Holderness (Graham Stuart), said this morning that small businesses are the “backbone of the economy”—I think I have remembered that correctly—and he is right. However, we need to encourage them more. They are innovators and entrepreneurs. That entrepreneurial spirit is often where the best ideas come from, and my hon. Friend is right that that drives productivity.

Businesses running start-ups and scale-ups with new ideas and often enthusiastic members of staff are in a stronger position to deliver the kinds of new ideas, changes and technological advances that make such a difference. Indeed, that is generally where effective research and development in technology is derived from. Lately, large firms without their own research and development departments have simply taken over small firms that do. That is because of the kind of the situation under discussion.

If we want to succeed, it is essential that we put our investment, including public investment through procurement, into those small businesses. I intended to speak later about some of the procurement problems, but I will mention one or two now. I am about to move on to public health improvements, which is the subject of the fourth amendment in this group, and in which context contracts have been awarded.

SMEs that have come to me since the start of the crisis have expressed concerns about their inability to contract directly through the Department for Business, Energy and Industrial Strategy or the Cabinet Office, or to get support for exports—this point is often made—through the Department for International Trade. They have been unable get such support because everything goes to the big firms. The big firms have their own procurement departments and they win all the contracts.

That has happened yet again with Serco, which only a few months ago was fined for failing to complete a contract successfully. Serco was the cause of so much of the problem in the failed probation privatisation. Thankfully, last week’s statement by the Justice Secretary put a final nail in its coffin. However, Serco has now won the contract for the test and trace system. It has no experience whatever in test and trace. There are companies and small firms out there that have the expertise and have been saying for months that they can do it. They have been trying to help, but they have hit a brick wall.

Once we join the GPA, I do not see why we could not negotiate along those line with our partners. Ideally, that would be part of our procurement regulations. That is possible. In the interim we need to retain the best possible arrangements and then build on them. The danger is that the public contracts regulations will expire at the end of December and we will go backwards when we need to go forwards. The Government spend nearly £6.5 billion—a very large figure—on procuring with UK SMEs. That is great, but it is not always going to the SMEs that it should.

There are other examples from the public health crisis. Companies in my own constituency have come to me wanting to either import or manufacture personal protective equipment, but they have been completely unable to do so because of the barriers to entry in our procurement system.

Stewart Hosie: May I seek some clarity? When it comes to general SME bidding for Government contracts, the proportion of Scottish Government contracts that go to SMEs is substantially higher than the UK Government figure. It is all done through the public procurement quota. Likewise, the manufacture and supply of PPE has been done through a specific portal, but I know there was a dedicated Minister—a Trade Minister was actually involved directly in this—and the situation

in Scotland is not the same as that in the UK, as described by the hon. Gentleman. I just want to make sure that, if the regulations are changed in the way he describes, we do not end up throwing out good bits of local SME procurement from around the country—the nations and regions—and lumping it all into a Westminster system that he is right to say has not so far covered itself in glory.

Bill Esterson: I am grateful to the hon. Gentleman for raising that issue. I have seen from the figures that Scottish procurement has been significantly better, by an order of magnitude. I do not know the balance between direct and indirect procurement, but if indirect procurement is handled appropriately and margins are still maintained and the quality and innovation is still available in the contracts, then that works.

The hon. Gentleman asked me a question. My intention is to make things easier to do, not harder. Our request is to improve the regulations, negotiate with our partners in the GPA, and to retain and enhance what is in retained EU law. This applies not only to Scotland but to local government, Northern Ireland and Wales. There are different systems and they do a much better job. For example, Manchester City Council—I want to ensure a good political balance in the examples given by Labour Members—has delivered according to an environmentally sustainable local agenda. It has delivered support for workers—the agenda set out by my hon. Friend the Member for Warrington North—and it has delivered on public health agendas, too.

Charlotte Nichols: The Government's professed commitment to levelling up is really important and relates to points made by other hon. Members. My constituency of Warrington North is considered to be the second-best place in the country for start-ups and the best place in the north-west. It is important to get public procurement right. As my hon. Friend the Member for Sefton Central has said, there have been examples during this public health crisis of it going disastrously wrong. In my own constituency, a certified medical devices manufacturer put itself forward to make ventilators, which it was already in a position to do. I was told that the Government turned down the contract because of its geographic distance from London. Given that this is a national public health crisis, it is alarming that a north-west manufacturer with experience in the sector was told, basically, that it was too northern to be procured by the Government. It is very important to underline even further the point that we must get this right for all the regions and nations of the UK.

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Bill Esterson: That is an excellent local example. As I said, constituents have made similar points to me. I have a constituent who can manufacture 40,000 reusable medical robes a month. They are reusable up to 100 times. In comparison, the winner of the contract—which ever very large conglomerate it is that keeps winning them—is delivering medical gowns from overseas. We saw the fiasco with the Turkish consignment, where most, if not all, were unusable. There have been earlier examples of where what was taken out of the packaging fell apart. Yet here was somebody in my constituency making that offer, but they were completely unable to make progress

or to win the contract. They had demonstrated their capability, having gone through all the accreditations. Yes, of course, there are questions about ensuring that quality standards are in place—I understand that and they understand that—but they had done all that work because they have a long-established business. Yet they were unable to break through the procurement system.

I will give another example of a company that contacted me. It was set up by a British man in California, so it operates in America. He has the scientific specialism to design tests that identify whether people have the virus. He worked out how to do it with a saliva-only test. He had proven to the Food and Drug Administration, the US accrediting organisation, that he could do it and won a sizeable contract, including with the US military. He then approached the UK. This was at a time when we had a real problem with a shortage of tests. I will not go into how many tests we are doing, whether they are actually being done, how much double-counting is going on or any of that. He had a solution, which was better because it did not involve the invasiveness of nasal swabbing—it was saliva only. I have raised this with the Minister's colleagues and tried to break through. I am not just using these as examples; I have done my best to get through to Government procurement, because they can really make a difference in this crisis. To this day, he still has not managed to get UK approval for those tests, which are easier to administer and easier to analyse. He could have set all that up and we could have been here two months ago, given when he first developed the technology to do it. I think that is a real shame. That is a piece of international trade we could have benefited from, which should add to the value of the story. I am afraid that we have not done this well.

Gareth Thomas: My hon. Friend the Member for Warrington North gave a great example, sadly, of bias by the Government against northern firms.

Katherine Fletcher (South Ribble) (Con): Nonsense!

Gareth Thomas: One of the more encouraging stories of northern procurement in recent times comes from Preston, where the council has sought to use its limited procurement tools to try to counteract the gradual moving away of businesses and good jobs out of Preston to other areas. If our amendment were to be passed, and the carve-out for small and medium-sized enterprises in the US, as described by my hon. Friend the Member for Sefton Central, were adopted by the UK, would that not provide additional tools to councils such as Preston to counteract that northern bias in Government procurement?

Bill Esterson: That is my understanding. I heard a reaction from one Member on the Government Benches that suggested that they did not agree with the assertion that there was a bias against the north. I represent a constituency very near to that of my hon. Friend the Member for Warrington North. I am glad that our mutual hon. Friend the Member for Harrow West raised that point, because one of the reasons given to firms in my constituency was that they were too far from London. I am afraid that that is what has been said by procurement officials in Government, and that cannot be right. My hon. Friend is right to raise the matter, and he is right

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that it has to be one of the answers. It covers the environmental aspects of amendment 25 and the small business and economic requirements of amendment 26, as well as those under amendment 27.

Lee Rowley (North East Derbyshire) (Con): I hate to break up the party, but as a fellow northern MP I do not recognise anything that has been stated with regard to this issue, which is slightly broader than the scope of the discussion. However, given that we are on it, I would be very interested in getting more details from the hon. Members for Sefton Central and for Warrington North about why they think that their companies are being affected in that way. The companies in my constituency have not had the same experience.

Bill Esterson: I am very glad that the hon. Gentleman's constituents' companies have been successful in contracting with the Government, but the fact remains that in the experience of my hon. Friend for Warrington North, and in mine, that is what has happened.

Lee Rowley: May we have the documents? I would be very grateful to receive them separately, so that I can see the issues. I am sure that we are all extremely concerned about the things that are being asserted with regard to northern constituents and northern firms being unable to access those kinds of contracts. I would be very keen to see the written information.

Bill Esterson: The hon. Gentleman will know that commercial confidentiality would mean that I would have to ask first.

Lee Rowley: Will the hon. Gentleman give way?

Bill Esterson: No, not yet, because I have not finished answering the hon. Gentleman's first question. He really needs to wait, rather than intervene. We can certainly discuss the point further. I have raised it at length with officials and with the Ministers' colleagues, and it needs to be addressed. It may well be that officials were speaking out of turn. I am prepared to believe that, and I have not made a big issue out of it previously. The bigger point is that we are losing out on expertise, and we have lost out on the potential during this crisis for better procurement and supply of PPE and, in the case of the firm in America, of testing capacity and capability. That is not sensible and it is not where we need to be. I am happy to discuss the matter with the hon. Gentleman later, but I suggest that we move on.

Greg Hands: I would not usually intervene on the shadow Minister, but perhaps I could bring this to a satisfactory resolution by inviting him and the hon. Member for Warrington North, who raised a similar issue, to write to me with the details of what has happened. I will get the Government to investigate what is alleged to have taken place, and will copy in members of the Committee. That is probably a reasonable way of seeking resolution. We would all be very concerned about companies in any part of the UK being discriminated against because of their geography.

Bill Esterson: I am grateful for that offer. It is something that we have already done with Ministers, but I am happy to revisit it. It may be that revisiting it would be helpful now that some time has elapsed since the response to my case—I do not know about that of my hon. Friend the Member for Warrington North—was received. It is important to recognise that we are trying to improve the situation so that we do not have such problems, whether they are authorised by Ministers or not. I am not going to stand here and say that the Minister and his friends authorised that kind of comment, but I am afraid that it happened, and I think the Minister's offer is a good one. We need to find out why and ensure that it does not happen again, so I will take him up on that.

Matt Western: There is a broader point here. The geography may be one thing, but there may also be a cultural issue. I am not talking about the Government, but the machinery of government and the Departments. We recently found, through the crisis—this was a real revelation to me—that many businesses in my constituency and the region of the west midlands were being bypassed. They could have provided face masks, plastic visors and so much kit. Those were established manufacturing engineering businesses that had the capacity, the skills and the agility to do it, but for whatever reason—this is not a party political comment—cultural or otherwise, they were not looked at. It is almost as if we do not recognise the capacity of manufacturing in this country, but perhaps we should in the sense of procurement.

Maria Caulfield (Lewes) (Con): On a point of order, Sir Graham. The debate is fascinating, but I ask your advice as to whether we are truly sticking to the scope of the Bill. I am aware that more than an hour has passed and we are on only the second group of amendments. Of course it is an important issue, but I would hate to reach a point next week where Opposition Members felt that we had not given proper scrutiny to the rest of the Bill.

The Chair: I am grateful for the point of order. I have listened carefully to the exchanges. I thought that they were being used to illustrate a point about the amendment, so, in my view, they were entirely in order, but the point has been made.

Bill Esterson: Thank you, Sir Graham. Am I allowed to respond to the intervention before the point of order?

The Chair: Very briefly.

Bill Esterson: Thank you. There is a wider point about making sure that we get these things right.

On amendment 27, we have heard examples of why the annexes to the GPA need to improve the way in which public procurement operates. They should address, or attempt to address, public health. The timing, because of the covid crisis, makes that all the more important. What I mean by "addressing public health" is that the public health value of a provider should be considered in addition to the price, rather than simply going for the cheapest provider. Some of the examples demonstrate where there have been problems in that regard.

In a public health sense, that includes, but is not limited to, ensuring that air quality is protected as part of projects; that the UK diet is not harmed, as we have discussed; that the cost of healthy diets does not increase; and that projects do not adversely affect UK mental health. In terms of UK procurement, when we talk about public health, we mean the health of the public in a wider sense as a result of the way in which public and private organisations operate.

Public health medicine is part of the greater enterprise of preserving and improving the public's health. That is why procurement matters in that respect. We took evidence about the social impact—I mentioned the Public Services (Social Value) Act, which I will come to later—which includes, but is not limited to, wages, including the gender pay gap and workers' rights. It covers the climate impact of emissions, deforestation and biodiversity and the economic impact of the government procurement agreement on UK businesses, including on job creation and skills, and, as I have described, on public health. That is what the amendments seek to address.

I turn to some of the challenges and the evidence that we took mostly from the TUC and Rosa Crawford. In the TUC's written evidence, it described the threats of the government procurement agreement.

The evidence says:

“Currently the UK is part of the World Trade Organisation's Government Procurement Agreement (GPA) through the EU's membership. The UK government plans to accede to the GPA as an independent country once the transition period ends at the end of December 2020.

The GPA aims to liberalise and increase access to member states' public procurement markets.

The TUC has concerns that provisions in the GPA are more limited than current measures included within the EU Procurement Directive 2014, which was transposed into the UK domestic law through the Public Contract Regulations 2015. These limitations centre on two areas:

The definition of most advantageous tender set out in Article X paragraph 9 of the GPA does not include reference to a price/quality ratio that includes qualitative, environmental and/or social aspects as currently set out in Section 67(1) to (3) of the Public Contract Regulations 2015—this should be a minimum requirement.”

I think the debate we have just had makes that point, with many examples.

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The TUC goes on to say:

“There is no condition in the GPA which obliges member states to ensure that when performing public contracts, contractors comply fully with applicable environmental law and with social and labour standards set out in EU and national law and in collective agreements, as well as those safeguarded by international treaties and conventions, including ILO conventions 87 and 98. This is a requirement set out in UK law in Section 56(2) of the Public Contracts Regulations, reflecting Article 18.2 of the EU Directive.

The TUC believes provision must be made in the bill to enable contracting authorities in the UK to include the wider definitions of social value and price/quality ratio as well as the obligations set out in respect to social, environmental, labour law and collective agreements and conventions within their tender specifications, contract evaluation and award criteria. These criteria should be incorporated, as a minimum requirement, into the regulations that replace the Public Contract Regulations when they expire in December 2020.”

That is an explanation of why we have tabled three of the amendments. The fourth one is due to what I have described in the US GPA carve-outs, which is referred to in other countries' approaches as well.

As we leave the EU trade and public contracting regulatory regimes, there is an opportunity for the Government to be ambitious about developing trade and procurement policy in the interests of UK manufacturing and services across the sectors. To serve our economy well, particularly with the pressures we will face as we emerge from the covid pandemic, we need to move away from the polarised debates where unfettered free trade is good on the one hand, and on the other, legitimate exemptions, regulatory standards, local contract clauses, social and environmental considerations, and SME support are protectionist and bad.

It is important to strike a balance between the two for a future trade and procurement policy that gives us flexibility to protect and promote UK jobs and companies across all our sectors. That is not protectionism; it is good governance, ensuring domestic supply and capacity, and protecting and promoting quality health and social services. We are a strong trading nation and we will remain so. However, UK industry and workers expect us to ensure a prosperous future for them, and that will mean striking a balance.

Above all, our future trade and procurement policy and our negotiations on future trade agreements must not tie our hands regarding having the flexibility to respond to stimulus measures that are good for our economy across all the regions and countries of the UK. We have to ensure conditions of our accession to the GPA that allow us to keep as many tools in the box as we can for navigating our way out of the economic impact of covid and leaving the EU; maintaining and developing our ability to build on social and environmental provision; making policy and contracting decisions that reduce our carbon footprint; and using mechanisms to protect our defence security and UK capacity in the defence sector.

Gareth Thomas: One cross-party concern in recent years has rightly been how to tackle the horrendous problem of modern slavery. Using public procurement to lock in the best possible defence against examples of modern slavery in procurement supply chains is surely a sensible thing for any Government to want to achieve. Is it not the case that the amendments my hon. Friend has tabled will make it easier to make the carve-outs that enable central Government, local government, the NHS and so on to put in place appropriate measures against modern slavery?

The Chair: Before I ask Mr Esterson to respond, I hope he is going to be very specific about which of the amendments relate to modern slavery, and not simply move on to that further aspect of policy.

Bill Esterson: Thank you, Sir Graham. My hon. Friend is right to raise this issue, because it is absolutely relevant to amendment 24, which deals with

“labour market interventions and compliance with ILO standards”.

The way that workers are treated in supply chains is an extremely important aspect of procurement, and a great deal can be learned from the Modern Slavery Act 2015, which was passed by this Government's predecessor. The way that those at the top of supply chains are required to police those supply chains for evidence of

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modern slavery and exploitation more widely gives us a valuable lesson about how procurement might be used to achieve the goals set out in all these amendments, not least amendment 24, which deals with labour.

I mentioned defence security. Security is a carve-out of its own: Governments are allowed to procure domestically on the basis of security. However, we are all aware of the saga of the fleet solid support ship. Happily, it appears that the Government, having delayed taking decisions or making announcements, are heading to the point where there may be a domestic award of that or a similar contract. It is remarkable, and really quite scandalous, that we got to the point where there was a question mark over whether that contract would be awarded domestically. Security, and the way security contracts are let, gives us examples—in the same way my hon. Friend the Member for Harrow West did with modern slavery—of how the amendments might be applied by Government if we can negotiate them with our GPA partners.

Too many UK companies are not winning UK contracts—a point that was made by Nick Ashton-Hart earlier—and it would be a challenge for them to compete on price in other GPA markets with lower regulatory and labour standards, such as China, which I think my hon. Friend touched on earlier, other parts of south-east Asia, and even the United States. There is a massive question mark about whether that is desirable, which is one of the reasons I tabled amendment 24, which addresses labour market interventions and compliance with ILO standards.

I know that the Government are very keen on non-regression when it comes to labour rights and standards. That is one reason why amendment 24 matters—it gives the Government an opportunity to demonstrate, in the area of procurement, that they do what they say they believe in. Indeed, all these amendments give the Government an opportunity to support policies that were proposed in the manifesto that Conservative Members fought the December election on, or to support things like “buy British”. I am not advocating a similarity to Buy American, but that is the way the United States applies its GPA provisions and there is much we can learn from that, as I said earlier about support for smaller firms. Domestic procurement spending is an essential part of how we will recover from the economic crisis that has come alongside the covid crisis, and I hope the Government will act on that basis.

[*Interruption.*] It is always a good idea to come to a Bill Committee very well prepared. I could not help but enjoy the Minister’s description in this morning’s evidence session that he had not enjoyed a filibuster for a long time. I assure you that I have no intention of filibustering and I will not be reading out the entirety of what I have available, but in bringing my remarks to a close, I want to say this: the four amendments are tabled in the hope that we are supporting Government policy, as stated by the Prime Minister and Ministers and in the Conservative manifesto.

The four amendments are designed to support our domestic economy, and to balance the needs of our domestic economy with supporting the rules-based approach to international trade. They are designed to support the levelling-up agenda that the Government

say they are keen to promote. I hope that the Minister and Conservative Members will take them in that context and consider the long-term economic, social, environmental and labour value to be had from this kind of approach to procurement. Unless we are prepared to use this moment to deliver the continuity that the Bill is about, it is hard to see how we will maintain the standards of procurement that we have at the moment, let alone enhance them.

Fleur Anderson (Putney) (Lab): It is a pleasure to serve under your chairmanship, Sir Graham. This is my first opportunity to speak in a Bill Committee as a new MP, and what an honour it is to speak in such an important debate—an important debate for not only my constituents in Putney, who are very interested in this Committee, having been told all about it, but people across the country and across the world.

In bringing forward the Trade Bill, there is an opportunity to take back control. It is as if we were all in a car and we decided we would like to start driving, so we said to the driver, “Can we start?”. There were a couple of years of intense negotiations about who would drive the car, and we have taken back control of the car, but instead of doing something with that—driving better, maybe moving from the middle to the fast lane of the motorway, having a better car, or going further and faster—we have decided to chunter along in the same way and to just decide journey by journey. The Bill could give us a better journey every single time. This is an opportunity to have a much more modern and ambitious Trade Bill, and the amendments we have tabled seek to do that. Standards and scrutiny will improve the Bill enormously.

Turning first to the International Labour Organisation and amendment 24, the UK was a founder member of the ILO in 1919 and has been an active member ever since. It has ratified 87 conventions, including the eight core fundamental ILO conventions contained in the 1998 declaration on fundamental principles and rights at work, as well as two protocols. Amendment 24 absolutely aligns with that.

The ILO makes it clear in no uncertain terms that member states must treat the conventions with the utmost seriousness, and agreeing the amendment would do just that. The declaration states:

“all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions”.

Since the 1998 declaration, it has become commonplace for the ILO conventions and instruments to be implemented in free trade agreements, so the amendment is absolutely within the remit of the Bill. For example, only recently, the free trade agreement between the European Union and Vietnam has been praised by the ILO for its commitment to labour standards. We could endorse that approach and lock it into the continuity and future agreements by passing the amendment.

3.30 pm

Chapter 13 of the agreement between the EU and Vietnam

“reaffirms the commitment in accordance with the obligations under the ILO...to respect, promote and effectively implement the principles concerning the fundamental rights at work.”

Those rights, which were referred to by the Trades Union Congress during an evidence session, include the freedom of association, the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of age, employment and occupation. I hope that we all agree with those.

The chapter specifically stipulates that each party will make continued and sustained efforts towards ratifying the fundamental ILO conventions. It is therefore incredibly concerning that the Bill provides no commitment to ensuring that UK trade deals will enforce respect for core International Labour Organisation conventions or its decent work agenda. As the TUC told us in evidence, it is concerned about the freedom of association, which has come under threat in South Korea and Colombia specifically, and about rights such as freedom from child labour, the right to work, hours of work, discrimination, low pay and dismissal without notice, which are under threat if not explicitly written in and agreed. The Bill is therefore out of step with global best practice and runs counter to the UK's obligations to promote and realise in good faith the conventions of the ILO.

Gareth Thomas: My hon. Friend is quite rightly setting out some of the reasons why the ILO standards are so important. In the context of how ILO standards benefit British workers, is there not a significant fear that by not including amendment 24 in the Bill, we might inadvertently encourage a race to the bottom? It might allow other countries with lower standards and pay arrangements to win procurement contracts that British firms could have won. In turn, that would encourage British firms to lower wages and standards to try to win those contracts in future.

Fleur Anderson: I thank my hon. Friend for that apposite remark. That is what we risk if we do not include the amendment. If it is not explicit in the Bill, it will have to be negotiated in every single agreement, so we might miss out on some.

The dangers have already been manifested through the continuity trade agreements that have been agreed. Trade deals have already been struck with countries where labour and human rights abuses pervade, such as Colombia and South Korea. In South Korea, trade union leaders have been thrown in prison for peaceful protest for workers to claim their rights, while Colombia remains the most dangerous country in the world for trade unionists, as around two-thirds of murders of trade unionists take place there. The risks are very real. The UK has also rolled over an agreement with Lebanon, which was criticised last year by Amnesty International for allowing the exploitation and abuse of many of the country's 250,000 migrant domestic workers, most of whom are women.

None of those continuity agreements contains mechanisms to sanction Governments who fail to respect fundamental labour and human rights, yet every member of the Committee would agree that that is what we would want to do. All trade deals must contain mechanisms to enforce labour rights and decent work, so as to prevent trade deals from being used as a way to pressure labour standards to be lowered, causing a race to the

bottom. To ensure that those mechanisms are effective, trade unions must be given a role to trigger investigations into abuses of workers' rights. The Bill must therefore affirm that all UK trade deals will contain a mechanism to enforce International Labour Organisation conventions, so that trade unions are able to trigger investigations into suspected abuses. Amendment 24 will achieve that and assure that the UK upholds its responsibilities to the International Labour Organisation.

Amendment 25, on climate and carbon considerations, would put us firmly in line with sustainable development goal 13 on taking climate action, to which we have signed up. On 1 May last year, we in this place declared a climate emergency and, as has been mentioned, that was echoed by councils and devolved Governments. Wandsworth, in my own constituency, declared a climate emergency, and we want to see that reflected in the Bill. While our attention has rightly been on responding to the coronavirus crisis, we would all agree that the climate crisis has not gone away. That is why we feel it was important to table the amendment.

The rush to fill the gap created by leaving the customs union cannot be used as an excuse to undermine and circumvent our legally binding climate change commitments, made under the Paris agreement, or the Government's own target of achieving net zero by 2050. That is why that issue is listed in new clause 2, along with a whole list of important issues, such as waste, water, quality and biodiversity.

In February, I was in the Court of Appeal when it ruled in a landmark judgment that the national policy statement underpinning a third runway at Heathrow airport was unlawful, as it was incompatible with the Paris agreement. The decision not to take the Paris agreement into account in that policy statement was deemed by the judges to be legally fatal to the national policy statement. If we do not accept this amendment, we risk having a contradiction between our environmental agreements and our trade deals.

To date, trade deals have been negotiated separately to climate agreements, but a joined-up policy would be far more effective for both. Not having a joined-up policy is a mistake, as current trade rules place trade promotion and liberalisation ahead of climate goals. The Trade Justice Movement, which we heard from this morning, has identified three ways in which current trade rules can do that. First, investment chapters in trade and investment deals allow companies to sue Governments for measures taken to support climate goals, such as the denial of a permit to construct an oil pipeline, and thus to undermine those goals. Secondly, WTO rules have been used regularly by states to challenge each other's subsidies to renewable energy industries, and yet not one case has been brought against fossil fuel subsidies. Thirdly, no trade deal that is currently in force contains any binding commitments to ensure that international trade supports climate targets.

Trade agreements also impede Government implementation of climate commitments. For example, they prohibit the use of local content requirements, which can be crucial in producing domestic support for renewable energy. If trade agreements do not have an explicit commitment towards honouring climate commitments, they can hinder the sharing of green

[Fleur Anderson]

technology, for example by implementing far-reaching intellectual property provisions that threaten to hinder the sharing of green tech.

Trade rules can also threaten to increase fossil fuel use, which we explicitly decided not to do in declaring a climate emergency. Current trade and investment agreements foster a global culture of fossil fuel dependency, for instance by prohibiting export and import restrictions on fossil fuels, thereby depriving Governments of a tool to limit production of those fuels.

Unless it is properly regulated, trade can present a huge barrier to alleviating the climate emergency and achieving carbon reduction targets. Indeed, when trade agreements are done badly, they can accelerate a race to the bottom on environmental standards. Therefore, I echo the call of Greener UK in its evidence to the Committee, including its written evidence, that the Bill must include a lock and a legal commitment on carbon reduction targets.

The Bill is silent on climate issues and carbon reduction issues, and so misses a huge opportunity to enshrine our climate commitments and the SDGs in UK law. We have an opportunity to be world leaders in enshrining climate commitments in our trade legislation, but we are missing that opportunity.

Our new clauses and amendments would ensure that all trade agreements that the UK negotiates are climate-aware. The UK should use trade deals to show the world how trade and trade agreements can be made compatible with net zero ambitions, including by prioritising goods and services that are low carbon and environmentally sustainable.

We can push on from what already exists in the continuity agreements and show the rest of the EU what can be done. We could ensure that the UK's trade negotiations and agreements are underpinned by high environmental standards. That would act as a safeguard against regression in standards, and not just those linked purely to economic advantages.

The Government have already shown that they are willing to backtrack on global environmental standards. For example, the Environment Bill fails to include a legally binding commitment to meet World Health Organisation guidelines for fine particulate matter. That is a very big issue for people in Putney, because Putney High Street has one of the highest levels of air pollution in the country, and we look to the EU to set that standard. My constituents would not be encouraged by trade deals that do not include an assessment of the impact on air quality, for example. Amendment 25 would also prevent trade agreements from impeding the UK's ability to ratify and properly implement international treaties such as the Paris agreement, which would send a message to the world that compliance with international climate agreements are the norm—this is how we can do it.

Amendment 26 is about small and medium-sized enterprises. As has been said, SMEs have been hit incredibly hard by the coronavirus crisis. Since March, more than 60 businesses in my constituency have written to me in desperate need of help, and I am sure the same is true for other Members. The future of 39% of businesses in my constituency, the majority of which are SMEs,

rests on the trade deals contained in this Bill. Many have fallen through the cracks of the Government's economic support package. They are unable to secure grants, loans or even business rate support for different technical reasons, and they are staring down the barrel of liquidation.

SMEs are the lifeblood of the UK economy—the backbone, as was said earlier. Future trade agreements must be tailored to support the sector and give it the hand-up it needs, over and above the interests of large multinationals, which otherwise disproportionately win out. In particular, the Bill must establish a level playing field—we all love a level playing field—for procurement, and procurement rules must be simplified to encourage and enable bids from SMEs. The Bill must make it easier for SMEs to export. It currently offers very little for small businesses. Surely everyone on this Committee wants to support the SMEs in our constituencies and across the country. Our amendments would ensure that the needs of SMEs are met.

Amendment 27 is about public health. The covid-19 crisis has taught us some valuable lessons about the importance of our national health service. Through the PPE scandal and the EU ventilator scheme farce, the Government have learned the hard way about the importance of procurement and trade to public health. At the peak of the crisis, I called every major social care provider in my patch, and they were all experiencing shortages of PPE. We discussed earlier companies whose offers were not taken up. In Putney, local voluntary groups had to resort to 3D printing their own visors. There are 100 volunteers right now at their sewing machines making up packs of scrubs for local health providers. The Turkish shipment of 400,000 gowns that failed UK safety standards showed us the importance of high procurement standards in trade Bills for public health services. We learned the hard way, across the country, how important that is.

As the NHS Confederation noted,

“Health issues are often not high on the agenda (or on the agenda at all) in trade negotiations.”

Trade agreements often risk a trade-off between lowering standards and increasing the financial burden for patients and the health and social care system. Impact assessments must be carried out to ensure that trade deals do not prioritise commercial advantage over and above health.

Operating on World Trade Organisation terms will not force the NHS to open services to foreign providers. If the NHS is sold off bit by bit to foreign providers in trade deals, that will be a political decision made by the Government. Yesterday in the House, I asked the Secretary of State for International Trade about the trans-Pacific partnership and the risks to the NHS. She said that there is no risk that the NHS is on the table. However, if that is not explicitly written into the Bill, we run the risk of it being missed out and changed through negative ways of doing trade deals.

3.45 pm

The EU agreements under which the UK currently trades provide vital protection to the NHS. They safeguard the UK's right to regulate in the interests of public health, and ensure high health and safety standards on imported products. For instance, the EU-Canada Comprehensive Economic and Trade Agreement states:

“The EU reserves the right to adopt or maintain any measure with regard to the supply of all health services which receive public funding or State support in any form, and are therefore not considered to be privately funded.”

These services are given special status. As a minimum, such clauses should continue to form part and parcel of any and every future free trade agreement, whether continuity or continuity-plus, between the UK and a third country, however powerful.

The Bill must go further than that. It must put in place a framework to ensure that future trade agreements exclude the health and social care sectors from the scope of any trade deal and, thus, do take the NHS off the table. Where they are within scope, healthcare services must be specifically exempted from liberalisation commitments or negative listing. Agreements must rule out investor protection and dispute resolution mechanisms which undermine the supremacy of UK courts and risk deterring, delaying or blocking public health improvement measures—that would be taking back control. They should also ensure that price control mechanisms are maintained so that patients have access to affordable and essential life-changing medicine. They should contain an explicit recognition that Governments have the right to enact policies, legislation and regulation with the objective of protecting and promoting health and safety, which must come first. They must maintain early access for NHS patients to generic medicines, by resisting the extension of intellectual property rights, which could lock the NHS out of affordable drugs pricing. And they should resist provisions that could increase the cost of medicines by changing pricing and reimbursement systems.

In conclusion, our amendments will deliver on that. Public health must always come first, before the economy and trade diplomacy. In its current form, the Bill does not deliver on that vital principle. Instead of travelling in an average car up the middle lane of the motorway, we could be travelling in a very enhanced, very environmentally sound car up the fast lane. We could do far better and be far more ambitious with this Bill, and our amendments would enable that to happen.

Gareth Thomas: It is a pleasure to serve under your chairmanship, Mr Brady. I cannot do as much justice to these four amendments as my hon. Friend the Member for Sefton Central did from the Front Bench or my hon. Friend the Member for Putney did from the Back Benches, but I want to raise one or two slightly different points to try to underline some of the interventions I made. There is an understandable fear that at some future point the Government will roll back existing legislation that allows public authorities, the Government, devolved Administrations and local authorities to go beyond having to accept all the time the lowest price and instead to be able to think much more seriously about accepting quality concerns within contract offers. I am sure the Minister will have his most benevolent face on when he winds up and will say that the concerns that we have articulated, as have organisations such as the TUC and good trade unions such as the GMB and Unison, are without any foundation. None the less, these concerns exist, because once we leave the protection of EU regulations, we will find that the provisions in the GPA are much more limited than those currently supplementing that under the EU procurement directive from 2014, which was transposed into UK domestic law under the Public Contracts Regulations 2015.

What these organisations understandably want to achieve is that little bit of extra protection against such an event happening, through the amendments that my hon. Friend the Member for Sefton Central has tabled. Indeed, they are seeking more ambition from the Government in terms of public procurement, and to move beyond the era in which big multinationals always win the big contracts. One thinks of the Sercos, the Carillions and the G4Ss, of which a little more anon.

I come back to the example that I gave in one of my earliest interventions on my hon. Friend: Hackney Community Transport, a local organisation that has managed to become much bigger in terms of the community transport offer that it makes. It depends on winning contracts from Transport for London to provide bus services, but has also been able to win contracts in many other local areas to provide transport services.

Hackney Community Transport provides a comparatively low offer because it has managed to get to a decent size where it can compete and, as my hon. Friend alluded to, it has a number of staff who are not just providing the service but thinking about how they win contracts. However, it has never lost its community roots. For the people of Hackney, it provides very cheap minibus hire and helps to train those from the local community who want to learn to drive a minibus. It employs ex-offenders and goes the extra mile, in a way that perhaps one of the corporate giants might not.

By comparison, Harrow Community Transport, which is a much smaller organisation but much valued by many of the most vulnerable people in my constituency—it uses its services to go to local day centres—struggles to survive. It has only one employee, and cannot imagine being able to win contracts from Transport for London given its present situation. There appears to be no sustained offer from central Government to change the situation for not only Harrow Community Transport but all those other community transport associations, or all those other local organisations, be they small and medium-sized businesses or small and medium-sized charities and co-operatives, that nevertheless provide commercial services that could be used effectively by public contracting organisations.

It is important that we build in that additional protection, so that procurement under the GPA does not inhibit local organisations that are determined to do something to provide good jobs with fair pay—not the kind of jobs that some individuals in my constituency have to do. Some of them have to work three jobs in order to make ends meet because the amount they are paid is so low. Businesses that want to help those who are disadvantaged in some way to get into employment must not be excluded as a result of our accession to the GPA. Amendments 24 to 27 help, very effectively, to give a little more protection against such exclusion.

I mentioned the Modern Slavery Act, which is a remarkable piece of legislation. The campaign for it was led by the Co-operative Group, to which I pay tribute for its work through its supply chain, and for the cross-party campaign that led to the Government passing that groundbreaking piece of legislation. Surely the last thing that we would want is not to build on it, and to inadvertently stop organisations that are committed to preventing modern slavery from getting into their supply chains winning the public contracts for which they bid. My hon. Friend’s amendments seem to be about helping to prevent that from happening.

[Gareth Thomas]

I served for a long time as chair of the Co-operative party. As a result, I have always wanted more co-ops growing and trading in the economy, and able to win government contracts, whether in local government, the NHS or central Government. I suspect that those of us of a certain generation remember Margaret Thatcher promising a world where owning shares would be as common as having a car. That grand promise of a share-owning democracy has long since disappeared, leaving economic power—according to some, certainly—concentrated in a few hands. That is why there are, I am pleased to say, organisations that champion the building of wealth in communities.

That brings me to the powerful demonstration that is taking place in Preston, where an inspirational council leader is seeking to use the public procurement tools that he and the local authority have available to them, working in partnership with other public bodies to try to contract locally. If we can reinforce those efforts that will surely help to tackle the anti-northern bias that we discussed earlier and allow imaginative council leaders to put extra support behind community organisations that want to do the right thing.

As to the failures of the Sercos, it is not only on test and trace that Serco's performance has begun to be criticised. I remember it being accused and, so to speak, convicted, of false accounting and of breaching its responsibilities in handling radioactive waste. Carillion is another horror story, and the Public Administration and Constitutional Affairs Committee blamed the Government for outsourcing contracts based on the lowest price, and went on to say that that had caused public services to deteriorate. Surely, then, measures that would not stop us acceding to the GPA but would help us to get the best from our membership are sensible.

Matt Western: My hon. Friend makes some powerful points, but perhaps I may add some emphasis on public health and broaden that aspect of the argument. The emphasis on lowest price is mistaken. Perhaps we saw that with small and medium-sized enterprises—or more of a medium-sized to larger business in the case of De La Rue. However, on the public health side there has over the years been public anger, resentment and frustration at pressure for very low-cost meals to be provided in local authority schools, through companies such as Compass and others that source poor quality foods when they should think about the best value for public health and the health of children. That should be part of what we are talking about on this clause.

Gareth Thomas: My hon. Friend makes a good point. Part of the problem is that schools are not properly resourced. I am sure that he agrees about that. Other examples that we might point to are the difficulties that local authorities, whether Conservative or Labour-led, have had with refuse contracts. A number have had to bring contracts back in-house, or retender. Having gone for the lowest price, as my hon. Friend said, they have not got the value for money that local people rightly demand, and that councils expect from contracts.

4 pm

Surely one part of the solution to the productivity challenge that we have—let me put it in gentle terms—is helping small and medium-sized businesses, co-operatives

and employee-owned businesses, where, all the evidence suggests, productivity tends as a general rule to be much higher than in traditionally managed companies, to do better by winning public contracts.

I come back to this issue of co-operatives being able to access public procurement and the importance in that sense of amendments 24, 25, 26 and 27. Germany has a co-op sector four times the size of the UK's as a percentage of GDP and France has one six times the size. The co-op sectors in the Netherlands, Finland, Sweden and New Zealand account for between 5% and 10% of GDP compared with 2% in the UK. I fear that, in part, that is because those managing public procurement contracts do not understand how to engage as much as they might with the co-operative movement and the opportunities that are there. If amendment 26, which my hon. Friend the Member for Sefton Central has tabled, helps in a very small way those small and medium-sized businesses in the co-op sector to get access to public contracts, that can only be a good thing.

Andrew Griffith (Arundel and South Downs) (Con): I, too, would like to see a greater diversity of types of enterprise and we should do anything that we can in that regard. Co-operative, owner-managed and small businesses are all worthy of our support. I did not want to let the comments that are being made and the amendments that are being spoken to conclude without recording the fact that, if we look merely at the thrust of the amendments, one would conclude that the hon. Gentleman does not fully understand the benefits of free trade, or the substance of what we are trying to achieve in terms of creating wealth, prosperity and opportunities for people, lifting people out of poverty, making sure that our economy is competitive, and creating the tax and the wealth that will produce our public services and make us thrive. I just wanted, by means of an intervention, to give him the opportunity to place on record all those positive benefits of trade, as well as the opportunities that he is seeking to create through the amendments.

Gareth Thomas: I am very grateful to the hon. Gentleman. I will send him the Co-op party membership application form as a result of this exchange. It is very nice to find a new convert from the Conservative Benches to the need for a more diverse economy. I had thought that the hon. Member for Wycombe (Mr Baker) was the only such enlightened Member of Parliament on those Benches, but I am glad that the hon. Member for Arundel and South Downs is first up of the new intake to catch my eye.

Katherine Fletcher: The hon. Gentleman may have to get a larger book to tally up those of us who are interested in the Co-operative movement. I have worked with both the credit union movement and the co-operative movement, and my grandad was a Co-op milkman. The hon. Gentleman is right that the movement has a huge role to play in productivity. Co-ops should look forward to the opportunities to export to a greater range of markets within a free trade deal, such as the framework here.

Gareth Thomas: I am in danger of leaving tonight in a good mood, Sir Graham. I am delighted that a second convert to co-ops has emerged. I will have to send another membership form for the Co-op party to the hon. Lady.

Lee Rowley: Given that we are discussing this, I would just like to declare an interest as a former employee of the Co-op, so I look forward to more such discussions.

Gareth Thomas: There was once a Conservative Co-op movement, which in practice had only one member. Richard Balfe left our ranks, in a very misguided move, and set up the Conservative Co-op group. We appear to have three potential new members of such an organisation, which would be fantastic. Membership of the all-party parliamentary group for mutuals is definitely on offer to the three hon. Members who have intervened.

Matt Western: I tried to intervene a little earlier, and I thank my hon. Friend for giving way yet again. This serious, honest, and important point will probably be echoed across the room: the contract to provide food vouchers to schools over the Easter period and Whitsun was given to Edenred, which happens to be a French company, and an unproven business. I have had a huge number of issues with constituents who did not get vouchers on time, and those vouchers could have been provided by the Midcounties Co-operative, for example, which makes them—they are available. That could have been done locally, and I am sure it would have been done very cost-effectively.

Gareth Thomas: As ever, my hon. Friend makes a serious and important point about the contribution that co-operatives can make. If I may, I will return to the intervention from the hon. Member for Arundel and South Downs, who asked me to extol the benefits of trade. I will certainly do that, but I do not think our country should sell itself short, which is why we have tabled these amendments. In a former life, in happier times, I served as Minister for Trade Policy. As a result, I am an enthusiast for the benefits of trade, but there are caveats to that enthusiasm. If the hon. Gentleman stays awake and enthused, he will listen to examples of our enthusiasm for trade, as well as some of our concerns about the Bill.

I will conclude my remarks by noting the significant potential for co-ops to help deal with some of the issues arising from our ageing society. By 2030, the number of people who need help to wash, feed, or clothe themselves in this country will have doubled to some 2 million. That will place heavy burdens on local authorities and national Governments who seek to procure the support to help those vulnerable people. With a bit of imagination from procurement managers, co-operatives could help to meet those needs, and I suggest that they would also provide a good service. That will require imagination and proper Government support and thinking about procurement, so that co-operatives, and small and medium-sized businesses—they are mentioned in amendment 26—can benefit from those procurement opportunities. That is another reason why the amendments tabled by my hon. Friend the Member for Sefton Central are spot on.

Greg Hands: We have had a far-ranging debate, but I will speak to amendments 24 to 27. The amendments seek to place a statutory obligation on the Secretary of State to enter into negotiations with GPA parties, with the aim of advancing policy objectives across labour standards, environmental protections, SME participation,

and public health in UK procurement opportunities covered by the GPA, and—crucially—before making regulations under clause 1(1).

Let me remind Committee members of our approach to the UK's GPA succession as a whole. As I have said, we intend to join the GPA as an independent party on substantially the same terms that we had as an EU member. That approach will support a swift accession at the end of the transition period, and preserve the access of UK businesses to procurement opportunities covered by the GPA, which are estimated to be worth £1.3 trillion annually.

Ensuring continuity in the terms of the UK's participation will not prevent public procurers from taking into account a range of factors when conducting procurement. Social, labour and environmental considerations can continue to be taken into account, as they are today, so long as they are consistent with the UK's international obligations, including, importantly, under the GPA, non-discrimination obligations. Those obligations already apply to the UK under our current GPA membership.

Indeed, the UK has an active procurement policy agenda on SME participation, sustainable procurement, social value, and labour considerations. As an independent party with our own voice, we will have the opportunity to engage other GPA parties on those issues—for example, via the GPA work programmes, other multilateral forums or bilateral channels. Unless we succeed in securing the UK's independent accession, the UK will not be party to those discussions within the GPA. Parliament will be updated on developments across those areas through the Department for International Trade annual report, which will be published each year from 2021.

On amendment 27 on health, let me reassure the Committee that the UK's GPA coverage does not cover healthcare services. It does cover goods and certain services above a specific value threshold procured by the NHS, such as medical equipment, cleaning and building management services, which keeps those types of opportunities open to overseas competition. That helps to ensure that the NHS can access vital resources at competitive prices. Contracting out such non-healthcare services—it is important to stress that—has been a long-standing practice within the NHS across successive Governments that frees up money to be spent on frontline delivery.

Gareth Thomas *rose*—

Greg Hands: I will take the intervention from a member of the last Labour Government, which played an active role in this aspect of the GPA when he was in office.

Gareth Thomas: I remind the Minister that we are not opposing accession to the GPA. We are merely seeking to make sure that our country benefits properly from GPA membership. He gave the example of cleaning, but I gently remind him that cleaners in the NHS and more generally are often very low paid, so anything that we can do, as amendment 24 sets out, to help to raise the quality of jobs in cleaning services must be sensible. Surely the Minister recognises that, given the covid emergency that we are all experiencing.

Greg Hands: The hon. Gentleman makes a good point about raising the quality of opportunities available, but that will not be done through the GPA.

[Greg Hands]

Let me explain that. Overall, the effect of the amendments would be to place on the Secretary of State a statutory requirement to have entered into negotiations with the 20 parties to the GPA on each of the four areas before creating the ability to make the regulations, and then to report on the outcome of those negotiations to Parliament. It would be an unusual approach for the Secretary of State to enter into negotiations with each of the 20 before implementing the general regulations that could implement any changes to obligations that would result from acceding to the GPA.

I will deal with a few of the individual points raised. I was surprised when the hon. Member for Sefton Central mentioned something about a filibuster. He certainly made a comprehensive speech. When I was in opposition, I remember doing an actual filibuster; I spoke for one hour 49 minutes on beer duty.

Bill Esterson: Don't do that now.

Greg Hands: I certainly will not do that now, but I recall making an unlikely entry in the *Manchester Evening News* the next day. At the time—I think it was the Finance Act 2008 or 2009—the paper had something called the lads index; I am not sure that it would have that these days. As I recall, it took *Hansard* for the day and gave something like five points for every Member of Parliament who mentioned “Coronation Street”, three points for “Manchester United” and one point for “beer”. The next day, it reported a shock brand-new entry at No. 1 in the lads index, the Member for then Hammersmith and Fulham, Greg Hands, who with in excess of 300 mentions of the word “beer” had catapulted himself to the top of the lads index for that year.

4.15 pm

Gareth Thomas: On a point of order, Sir Graham. Surely that is not within the scope of the Bill. I ask the Government Whip to intervene, and encourage you to restore order as well.

The Chair: I think that in the spirit of the latitude that was given to the Opposition, I should offer the same now.

Greg Hands: I thought, Sir Graham, that as a Manchester MP, you would enjoy that story.

The hon. Member for Sefton Central made an impressive oration, and had an impressive memory of our oral evidence earlier. He made some good general points on procurement. Alas, not all were relevant to the government procurement agreement, but let me try to deal with a few of them. First, he mentioned the EU public contracts regulations expiring in 2020; they date from 2015. To be clear, they will not expire in the UK; they are preserved in preserved EU law under the EU withdrawal agreement.

Secondly, the hon. Gentleman made comments about small business, and it is important to emphasise that the Federation of Small Businesses is absolutely right behind our GPA accession. It says that it is essential for the UK to become an independent member of the GPA; it will allow small businesses to have continued access to Government contracts and procurement opportunities.

Let me deal with the specific comments on procurement by the hon. Members for Warrington North, for Harrow West, for Warwick and Leamington and others. I was

interested—in fact, I was shocked—to hear what they had to say about alleged discrimination faced by companies that they had reported. I was also shocked at the slight implication that the Opposition had some kind of monopoly on this Committee over northern voices. I looked around and counted more midlands and northern MPs on the Government Benches than on the Opposition Benches, so I thought that that was a bit unwarranted. On a serious note, I would be very interested in seeing significant evidence of discrimination. I will certainly get the Government to investigate those reports and I will copy the response to the whole Committee.

Overall, these amendments would be unhelpful. Each time there was a change to the UK schedule, we would have to produce the four reports. Let me give an example. The current schedule is through our membership of the EU. The EU schedule, which was last updated before 2010, includes names of Government Departments that no longer exist. I think the old BERR—Department for Business, Enterprise and Regulatory Reform—is on the list. DCMS is obviously the Department for Culture, Media and Sport. Every time we made one of those changes—if, for example, we changed DCMS back to its previous name—we would have to produce, as I understand it, the four reports and enter into negotiations, which would simply be an unrealistic and wasteful use of the Government's time.

The hon. Member for Sefton Central talked a bit about a lowering of standards. To be absolutely clear, we are joining the GPA on the same terms as our current membership, so we are not reducing standards. The EU withdrawal Act preserves existing standards, and of course we already exceed or greatly exceed many EU standards in these spaces. The fact that we have rolled over continuity agreements demonstrates exactly that there has been no lowering of standards.

The hon. Member for Putney made a comprehensive maiden speech for a Bill Committee. As a constituency neighbour, I was delighted to hear her praise for Wandsworth Council. That is a fantastic thing. It is a very, very well-run local authority. She complained about the poor air quality on Putney High Street. If only the Labour council on the other side of the river, in Hammersmith and Fulham, could even monitor its air quality in the first place. Of course, one cause of the deterioration in air quality is Hammersmith and Fulham Council's closure of Hammersmith bridge, so perhaps if she could join the lobby to reopen Hammersmith bridge, she would then realise that there is better air quality to be delivered on Putney High Street.

Fleur Anderson: Just to clarify, the air quality in Putney High Street was dreadful before the unfortunate closure of the beautiful Hammersmith bridge, due to years of neglect under previous administrations, so that is not the reason; it has been a long-term issue.

Greg Hands: I accept that, but the additional 4,000 cars a day going over Putney bridge into the hon. Lady's constituency as a result of the closure of Hammersmith bridge has certainly not improved air quality—shall we put it that way?

The hon. Lady raised concerns and, I think, quoted the TUC in relation to continuity agreements with South Korea and Colombia. It is worth pointing out

that both those agreements have been rolled over with largely identical wording on labour provision and workers' rights, so those concerns are not valid. The UK takes labour rights extremely seriously, of course, and UK legislation already provides for robust measures to tackle such issues as human trafficking. Continued GPA membership will not affect that.

In September 2019, the Government announced new measures designed to ensure that Government supply chains are free from offences of slavery, servitude, forced or compulsory labour and human trafficking. The hon. Member for Harrow West, in what I think was an impromptu speech, made some good points on co-operatives. I am delighted to see that on this side of the aisle, we immediately trounced him with the commitment to co-operatives from my hon. Friends the Members for South Ribble, for Arundel and South Downs and for North East Derbyshire.

Gareth Thomas: I heard applications to join the Co-operative party and the all-party parliamentary group for mutuals; I did not hear any new commitments towards co-operatives. None the less, I do not wish to indicate in any way that I was not encouraged by the contributions of the three Conservative Members, but it would have been nice to hear from the Minister an offer of additional support for co-operatives.

Greg Hands: I accept that intervention, but I would say that my three hon. Friends have been here, I think, for six months, six months and about three years so far, and the commitment that they have shown in that time matches quite favourably with the commitment that the hon. Gentleman has shown over his 23 years of membership of this House.

I think the take-away was the hon. Gentleman's praise for Margaret Thatcher's share-owning democracy. I remember him as a Minister in the new Labour years, which he referred to; maybe he thinks it is now safe to return to those new Labour years and his view of those years before the right hon. Member for Islington North (Jeremy Corbyn) took over the party. We live in hope.

I hope I have persuaded the Committee that opening negotiations within the GPA will undermine our independent accession to the GPA and thus our ability to advance UK public procurement objectives. I therefore ask the hon. Member for Sefton Central to withdraw his amendments.

Bill Esterson: That was quite some debate. I was very impressed by the speech of my hon. Friend the Member for Putney, who made some formidable comments and demonstrated her knowledge of the subject matter in relation to environmental matters and the ILO. I certainly appreciated her reminding us all about the importance of ensuring that we follow the sustainable development goals in everything we do in this country. I look forward to more of her contributions in the remaining time this afternoon and in next week's sittings.

My hon. Friend the Member for Harrow West spelled out in more detail some of what he said in interventions. He made a reference to my relationship with the co-op; I should tell him that, like him, I am a member of the Co-operative party—I think he knew that, but had temporarily forgotten—and come from a very proud family of co-operators. My mum, having been a director of the co-op for very many years, taught me well on that

subject. I agree with everything he said in that respect, and he quite rightly referred to the sensible nature of our amendments.

I will give the Minister credit for one thing. Unlike some of his parliamentary colleagues, he did not try to name any footballers at Manchester United and get them wrong, so I suppose that is in his favour. However, I think he might have got confused between this set of amendments and the next set. Having double-checked what he said, I should tell him that the reviews that we are requesting are in the next set of amendments.

The amendments in this set call for negotiations with our partners, so there is no suggestion that we would require the Government to look at Government Departments that no longer exist. We can assure the Minister that that is not a concern that he needs to consider. He mentioned what, I think, all hon. Members on this side referred to regarding the public procurement regulations. The issue here is that under UK retained law they were implemented in 2015 for a five-year period and therefore expire at the end of December this year. If the Minister will tell us that they will be reinstated when they expire, that would be undoubtedly helpful, but that is not what he said in his response to the debate, so I am still concerned.

We entirely support our accession to the GPA; we made that clear in the reasoned amendment, and we make it clear again this afternoon. The amendments are about trying to ensure that we retain the provisions in the GPA to ensure continuity, but we also ensure continuity initially by ensuring that there is continuity of what is in the public contracts regulations. That is the issue, because without the public contracts regulations continuing alongside our annexes in the GPA, procurement policy in this country will be significantly weakened. A big part of why we tabled the amendments in the first place was to ensure continuity.

The amendments attempt to ensure that we do not see that as a standstill situation, and that we are pushing the Government to enhance the regulations as much as possible in order to achieve the sorts of policy objectives that Ministers have set out, and that the Opposition have referred to in our contributions this afternoon. I do not think the Minister addressed the points made in the debate we have had on these amendments; some of what he said was about the next group. He made decent points about the difficulties of those reviews, but that comes next. I ask the Committee to support these amendments, and we will push them to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 1]

AYES

Anderson, Fleur
Esterson, Bill
Hosie, Stewart

Nichols, Charlotte
Thomas, Gareth
Western, Matt

NOES

Caulfield, Maria
Clarke, Theo
Courts, Robert
Fletcher, Katherine
Griffith, Andrew

Hands, rh Greg
Higginbotham, Antony
Johnston, David
Rowley, Lee
Webb, Suzanne

Question accordingly negatived.

The Chair: The shadow Minister has indicated that he does not wish to press the other amendments to votes.

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

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

New clause 1—*Regulations: review of social impact*—

“(1) The Secretary of State must conduct reviews of the social impact of any regulations made under section 1(1).

(2) ‘Social impact’ shall include but not be limited to the impact upon—

- (a) the exercise of any right for workers under the Employment Rights Act 1996,
- (b) the exercise of any right for consumers under the Consumer Rights Act 2015,
- (c) the exercise of any right under the Trade Union Act 2016, and
- (d) the fulfilment of any obligation held by the United Kingdom by virtue of its membership of the International Labour Organisation.

(3) A review under subsection (1) must be laid before both Houses of Parliament.

(4) The first review under subsection (1) shall be laid by 31 December 2021, and subsequent reviews shall be laid at least once in each calendar year.”

New clause 2—*Regulations: review of climate and environmental impact*—

“(1) The Secretary of State must conduct reviews of the environmental impact of any regulations made under section 1(1).

(2) ‘Environmental impact’ shall mean the impact upon—

- (a) progress toward meeting the UK’s Net Zero targets,
- (b) global emissions,
- (c) producer responsibility,
- (d) resource efficiency,
- (e) management of waste,
- (f) regulation and enforcement of waste management,
- (g) air quality,
- (h) the recall of motor vehicles for the purpose of protecting the environment,
- (i) regulation of water and sewerage undertakers,
- (j) water abstraction,
- (k) water quality,
- (l) land drainage,
- (m) biodiversity gain in planning,
- (n) biodiversity objectives and reporting,
- (o) local nature recovery strategies,
- (p) tree felling and planting,
- (q) creation of conservation covenants, and
- (r) the effect of conservation covenants.

(3) A review under subsection (1) must be laid before both Houses of Parliament.

(4) The first review under subsection (1) shall be laid by 31 December 2021, and subsequent reviews shall be laid at least once in each calendar year.”

New clause 3—*Regulations: review of impact on public health*—

“(1) The Secretary of State must conduct reviews of the impact in England of any regulations made under section 1(1) upon—

- (a) food safety,
- (b) standards in food production, including the treatment of animals and impact on consumer choice, and

(c) any public health outcome within the definition used by Public Health England.

(2) A review under subsection (1) must be laid before both Houses of Parliament.

(3) The first review under subsection (1) shall be laid by 31 December 2021, and subsequent reviews shall be laid at least once in each calendar year.”

New clause 4—*Regulations: review of economic impact*—

“(1) The Secretary of State must conduct reviews of the economic impact of any regulations made under section 1(1).

(2) A review under subsection (1) must be laid before both Houses of Parliament.

(3) The first review under subsection (1) shall be laid by 31 December 2021, and subsequent reviews shall be laid at least once in each calendar year.”

New clause 10—*Regulations: review of impact on SMEs*—

“(1) The Secretary of State must conduct reviews of the impact upon small and medium-sized enterprises of any regulations made under section 1(1).

(2) A review under subsection (1) must be laid before both Houses of Parliament.

(3) The first review under subsection (1) shall be laid by 31 December 2021, and subsequent reviews shall be laid at least once in each calendar year.”

New clause 14—*Regulations: review of impact on equalities*—

“(1) The Secretary of State must conduct reviews of the impact of any regulations under section 1(1) upon persons with a protected characteristic, as defined in Chapter 1 of Part 2 of the Equalities Act 2010.

(2) A review under subsection (1) must be laid before both Houses of Parliament.

(3) The first review under subsection (1) shall be laid by 31 December 2021, and subsequent reviews shall be laid at least once in each calendar year.”

It has already been noted that I was generous in allowing latitude in the debate on the previous group of amendments. I gently say that there is a bit of trade-off here in the usual way; we should not have repetition of all the same arguments on clause stand part.

Bill Esterson: As it is a clause stand part, I had thought the Minister was going to propose this group of new clauses.

The Chair: It can be done either way.

Bill Esterson: You will be pleased to learn, Sir Graham, that I have no intention of repeating exactly the same debate. I will just repeat what I said in response to the Minister—I think he was referring to this group when he mentioned the reviews. I take his point, and these are probing amendments partly for that reason.

4.30 pm

We accept the desirability of joining the GPA. We accept the analysis set out in the Library briefing, the guidance notes and impact assessment about the background and the general points around the government procurement agreement and the volume of government contracts internationally. However, the ability of UK businesses to win those contracts internationally is another question.

It was helpful that Nick Ashton-Hart made reference to that in his evidence. He speaks with the benefit of expertise in the services sector. He made the point that although services trade as a result of winning contracts abroad is important, the potential for it to increase is another question altogether. He said:

“There are many conditionalities...and we will get less out of it than is suggested by the headline numbers...Countries...like to sound more open than they are”.—[*Official Report, Trade Public Bill Committee*, 18 June 2020; c. 83, Q120.]

He gave the example of the difficulties of reciprocity of technical language, where obscure languages are used by the procuring Governments to make it very difficult for overseas bidders to win them. That reduces market access and is perfectly within the rules. That was one example that he gave, but he was making the point that it is not simple or straightforward for businesses in this country to win contracts overseas. There are real challenges around the regulations covering regulatory equivalence, and the need to comply with regulations is a significant challenge for many businesses. This is far from straightforward, and perhaps the opportunity is not as great as the Government have been trying to convince us that it is.

The six new clauses in this group cover social impact. In this context, I will refer to the Public Services (Social Value) Act 2012, which requires authorities that engage in certain procurement exercises for services to consider first how the proposed procurement might improve the economic, social and environmental well-being of their area, and how these improvements might be secured. We are calling for a review in this area, as we are in other areas with the new clauses. The social value Act gives an indication of the sorts of areas that we are looking to, and I will briefly run through the others.

On climate and environmental impact, there is a detailed description in new clause 2 of the nature of the areas covered. It is far more comprehensive than that which we discussed in the first group of amendments. The fact that under the heading “environmental impact” we have listed paragraphs (a) to (r) of impacts speaks for itself, starting with

“progress toward meeting the UK’s Net Zero targets”

and going through to

“the effect of conservation covenants.”

With this new clause, we want the Government to really up their game and to deliver on their own agenda and on the environmental agenda, which I think we all believe in. The same is true of the new clauses that relate to the economic impact and the impact on public health, SMEs and equalities.

For clarity and for the avoidance of doubt, by equalities we mean characteristics protected by the Equality Act 2010—age, disability, gender reassignment, marriage or civil partnership, employment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act protects people from discrimination by employers; by businesses and organisations, such as banks, shops and utility companies, which provide goods or services; by health and care providers, such as hospitals and care homes; by businesses from which property is bought or rented, such as housing associations and estate agents; by schools, colleges and education providers; by transport services, such as buses, trains and taxis; and by public bodies, such as Government Departments and local authorities. We suggest that the Government review procurement policy in those areas, to ensure that implementation of the GPA moves public policy in the right direction.

These probing new clauses are more detailed than the substantive amendments that we discussed earlier. We have tabled the new clauses so that the Government have a greater sense of the areas that we wish them to cover.

Greg Hands: I have already set out for the Committee the benefits of GPA membership. It is an agreement that mutually opens government procurement markets between its parties. Preserving the UK’s membership of the GPA will keep these markets open to UK businesses, ensuring that they continue to have guaranteed access to approximately £1.3 trillion per year in procurement opportunities, as well as delivering value for money to the UK taxpayer. I am slightly perturbed by the Opposition’s approach to the GPA, given that they voted against the provisions during proceedings on the 2017-19 Trade Bill. I do not believe that it is appropriate or sensible for UK businesses from across the country to be denied access to the procurement opportunities provided for by the GPA.

New clauses 1, 2, 3, 4, 10 and 14 would place a legal duty on the Government to carry out reviews of the social, environmental, public health, SME, equalities and economic impacts of any regulations made under clause 1(1). First, let me assure the Committee that a detailed impact assessment of these powers relating to the UK’s independent accession to the GPA has already been carried out and published prior to the introduction of the Bill. The Delegated Powers and Regulatory Reform Committee agreed with the assessment that the implementation of our independent accession to the GPA would have no direct impacts, since it simply ensures the continuation of existing arrangements after the transition period.

As I have set out, clause 1 will allow the Government to implement the UK’s independent GPA membership in domestic law, and therefore to respond appropriately to a limited set of circumstances within the GPA. The circumstances in which the powers could be used after accession are set out in the Bill and largely concern technical or administrative modifications—for example, to reflect changes in the names of Government entities as a result of machinery of government reorganisation, which all Governments engage in. The shadow Minister is right that my arguments have inadvertently drifted from being about this group of new clauses to being about the previous group, but it is an excellent argument, and no harm has been caused by making it twice. Such modifications will have no significant—if any—social, environmental, public health, SME, equalities or other economic impacts.

Aside from regulations relating to technical changes, the powers in clause 1 will also allow the Government to make the necessary amendments to domestic law to reflect new parties joining or withdrawing from the GPA. Without the power, we would be unable to meet our obligations in relation to those acceding to the GPA. As well as being unable to give rights of access to public contracts to bidders from joining members, we would also be unable to remove rights of access to bidders from those members who had left. I am sure the Committee will agree that that cannot be a situation we find ourselves in. Recognising concerns that regulations made to reflect new accessions could have material impacts, however, we will engage the International Trade

[Greg Hands]

Committee and the House of Lords treaties Sub-Committee in advance of any new party acceding to the GPA. This will provide ample opportunity to explore potential impacts before any regulations are made.

Stewart Hosie: May I ask a brief question? Is the Chair of the International Trade Committee aware of the obligation that he will have to consider this in advance?

Greg Hands: I thank the hon. Gentleman for that intervention. I do not know whether the Chair of the Committee was aware of that, but he is now and I think he will welcome the change. He is always somebody who likes to be consulted, as we well know, so I think he would agree with me that this is a welcome move for additional consultation.

I have set out that the powers in clause 1 can be useful, but I want to be clear with the Committee about what they cannot be used for. The clause 1 powers cannot be used to implement any wholesale renegotiation of the GPA, or of the UK's market access offer. Any such changes would require further primary legislation.

I hope I have persuaded the Committee that there would be no benefit in carrying out extensive reviews after regulations under clause 1(1) have been made. I ask that hon. Members do not press their new clauses to a Division, and I commend clause 1 to the Committee.

Bill Esterson: I think this is the first time in the Minister's parliamentary career that he has ever admitted he was wrong—[*Laughter.*] I give him credit for being gracious enough to do so. We may have seen history in the making.

The Minister does this a lot. He claims we are against something when we are not. We spelled out in our reasoned amendment last time, and we spelled it out in our reasoned amendment this time, that we support the accession of the GPA. We voted against the Bill as a whole because we oppose the Bill as a whole. That does not mean that we oppose everything in the Bill. He knows that, but he keeps saying it. I know he likes to have some fun.

I do not object to the suggestion of asking the International Trade Committee and the Lords treaties Sub-Committee to take on additional roles, although I share the slight surprise of the hon. Member for Dundee East about the fact that the Chair of the International Trade Committee was not consulted before the announcement was made. That is not the real issue, however. The issue is that the new clauses request a review of the regulations. They do not request a review of the membership or proposed new members, so that is a rather different point. I hope that the International Trade Committee would be asked to review any proposed changes to the regulations in discussions and negotiations with our partners. I do not object to the same thing for potential accessions, but that is a rather different point from the one we were making. Having said that, and as I said in my opening remarks, they are probing provisions and we will not be pressing them to a Division.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

IMPLEMENTATION OF INTERNATIONAL TRADE AGREEMENTS

Stewart Hosie: I beg to move amendment 30, in clause 2, page 2, line 9, leave out “appropriate” and insert “necessary”.

I will be mercifully brief on amendment 30. The effect of the amendment would be to limit the scope of the powers to be delegated to an appropriate authority to what is actually necessary to achieve the implementation of international trade agreements. Clause 2(1) provides that:

“An appropriate authority may...make such provision as the authority considers appropriate”—

to implement a future agreement. However, the word “appropriate” is vague and subjective. A necessity test—I am sure I have heard the Minister make this argument in the past—is clearer and more objective. The power should be limited to making the regulations that are necessary to implement the agreement.

4.45 pm

Gareth Thomas: I hope to be equally brief. I have some sympathy with the amendment. I recognise the appetite of the hon. Member for Dundee East to prevent overreach by the Government in adding to legislation via secondary legislation anything that they think is a “nice to have” rather than a fundamental and necessary consequence of a trade agreement. Our biggest concern is that the Bill will not deliver the effective meaningful scrutiny of either so-called roll-over agreements or the larger agreements to come, such as the US trade deal and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, on which the Government have begun negotiations.

Taken as a package with the Command Paper from February last year on parliamentary scrutiny of future FTAs, the Government's failure to include in this Bill several amendments that were tabled on Report in the Commons in February 2018, and in the Lords, raises concerns about Government overreach. We hope to tackle those issues with further amendments that we have tabled to clause 2. I recognise that devolved Administrations will worry that the devolution settlements might be further undermined by Government overreach because of the use of the word “appropriate” instead of “necessary”. We have some sympathy with that concern, as indicated by one of our amendments further down the line.

The witness from the CBI made a striking intervention on Tuesday morning when he said that business was desperate for certainty. To get certainty, Parliament needs to have more say and involvement in future trade agreements, otherwise we risk the development of a situation of considerable mistrust, undermining the appetite of business to take up the opportunities offered by new trade agreements. Our amendments seek to prevent that from happening by locking in more opportunities for parliamentary scrutiny. I suspect the hon. Member for Dundee East does not intend to press this amendment to a vote. In that spirit, I have flagged up some of our concerns about the Bill, which we will address in the group that begins with amendment 4.

Greg Hands: Speaking to amendment 30, which was tabled by the hon. Member for Dundee East, I can assure him that all regulations made under the clause 2 power to implement international trade agreements will be both necessary and appropriate. The power is needed to implement obligations arising from continuity trade agreements into domestic law over time and in all circumstances. Our expectation is that the power will be mainly used for obligations relating to procurement or mutual recognition of product conformity assessments. To be clear, it cannot be used to implement tariff-related provisions. Without such an ability to make changes, the UK would be at risk of being in breach of our international obligations. It is the Government's responsibility to ensure that that does not happen. The proposed amendment would prevent that by constraining the vires or scope of the regulations that can be made under clause 2, particularly when using the concurrent powers to legislate in areas of devolved competence.

I can assure colleagues that the powers in the Bill will be used in a proportionate way and that consultation with colleagues in the devolved Governments and elsewhere is a fundamental part of our approach. The Government view "appropriate" and "necessary" as synonymous, and our intent is only to make use of the regulation power where it is needed to fulfil obligations under agreements. I therefore ask the hon. Member for Dundee East to withdraw his amendment.

Stewart Hosie: I thank the Minister for his response and I will take his assurances at face value. I just say to him that the objective not to use this to change tariffs is not one of the exclusions in clause 2 in relation to the implementation of trade agreements. The Government might want to look again later in our proceedings at how exclusions to the use of this power are documented in the Bill. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Stewart Hosie: I beg to move amendment 31, in clause 2, page 2, leave out lines 13 and 14 and insert—

"(b) an agreement between two or more countries aimed at reducing the barriers to trade in goods or services between them".

The Chair: With this it will be convenient to discuss amendment 15, in clause 4, page 3, line 26, at end insert—

"'international agreement that mainly relates to trade, other than a free trade agreement' means a strategic partnership agreement or mutual recognition agreement that is ancillary to a free trade agreement, or an investment agreement".

Stewart Hosie: The effect of this amendment is clear: to provide a more precise definition of an international agreement and achieve greater clarity in the Bill. The amended wording would provide a clearer definition of an international trade agreement than is currently provided for in the Bill. That is in line with the Government's own intention, as set out in the explanatory notes. Paragraph 31 states:

"International trade agreements are agreements between two or more countries aimed at reducing the barriers to trade in goods or services between them."

The principle of certainty is central to good law making. In clause 2(2), an international trade agreement means "a free trade agreement", but that is further defined in paragraph (7). Subsection (2)(b), as it currently stands, refers to

"an international agreement that mainly relates to trade, other than a free trade agreement."

We had a discussion on Second Reading about that. These modern trade agreements have little to do with quotas and tariffs and far more to do with other things, as I said in my introductory remarks earlier this afternoon. The phrase "mainly relates to trade" does not grant sufficient certainty in terms of interpretation.

As I have said, the explanatory notes give the following definition:

"International trade agreements are agreements between two or more countries aimed at reducing the barriers to trade in goods or services between them."

I consider that definition to be clearer than the multi-part definition currently in the Bill. This amendment does not reduce the scope of what might be deemed to be in a trade agreement, but it provides it with a purpose: to reduce the barriers to trade in services and goods. In that sense, I think it a helpful amendment, which I am sure the Government will want to look at positively as we proceed with our deliberations.

Gareth Thomas: I rise in sympathy with the spirit of the amendment moved by the hon. Member for Dundee East, but I wish to speak specifically to amendment 15, which seeks to insert at clause 4, page 3, line 26:

"'international agreement that mainly relates to trade, other than a free trade agreement' means a strategic partnership agreement or mutual recognition agreement that is ancillary to a free trade agreement, or an investment agreement".

I join the hon. Gentleman in wanting to see good law making and, therefore, proper definitions of what constitutes a trade agreement that would be covered under the Bill. The hon. Gentleman's amendment refers just to an agreement on trade in goods and services. Our amendment includes the Government's definition, but expands it to make it crystal clear that it includes a range of other trade related agreements, including investment agreements.

My hon. Friend the Member for Brent North (Barry Gardiner), speaking on an amendment similar to this one at the Committee stage of the Bill in January 2018, noted the lack of detail about what constitutes an international trade agreement and worried about whether trade agreements, or agreements that had substantial trade elements, would be brought to the House for even the limited scrutiny that the Minister proposes.

Mutual recognition agreements are crucial in terms of scrutiny; many of them help to minimise unnecessary regulatory non-tariff barriers. However, they potentially have implications for phytosanitary standards, food standards and environmental obligations. Strategic partnership agreements can add social and political conditionalities to accompany the more commercial aspects of trade agreements. For example, one wonders whether there might be strategic partnership agreements with some developing countries, perhaps to provide aid for trade support as they seek to implement new trade agreements with us.

Investment treaties are returning to being a UK competence, having left our responsibility in 2009. One of the most significant investment treaties that the

[Gareth Thomas]

European Union has been negotiating—the negotiations on it have not yet concluded—is with China, where there have been 28 rounds of negotiations. I suspect that there would be considerable interest in the UK, including within this House, if the Government sought an investment treaty with China. Surely, it is right to make sure that such an agreement would fall within scope, and it would also need to receive proper scrutiny.

Bill Esterson: I am glad that my hon. Friend has mentioned investment treaties; they absolutely should be part of the description given in clause 4. Does he agree that that is not least because of the fact that the 180 bilateral investment agreements that this country is party to have investor-state dispute settlement clauses, some of which are being used right now to prepare legal cases against our own Government?

Such clauses are a particular concern in areas such as construction. I suggest to my hon. Friend that in this crisis, given that they are being used along with construction contracts and procurement, we need to be very careful to ensure full scrutiny of everything of an international trade and investment nature.

Gareth Thomas: I was moving on to say where there might be concerns about an investment treaty that warranted the type of scrutiny that the Bill allows, and the Bill could allow even more of that type of scrutiny if the Government accepted later amendments. There are absolutely major concerns around the ISDS provisions in some investment treaties; I am sure that we will come to discuss those concerns when we debate other amendments.

The International Trade Committee has highlighted other aspects of investment treaties about which there are concerns, such as the question of sustainable development provisions in investment treaties so that developing countries can postpone investment liberalisation if they need to for various developmental reasons.

There have also been concerns in the past about performance requirements in investment treaties: conditions attached to foreign investors by host states, such as stipulating that a certain quantity of domestic inputs into goods that are being produced have to come from the host country.

For those reasons, therefore, we want to make sure that the Bill allows proper scrutiny in relation to any of those concerns that might or might not be raised by a future investment treaty. I look forward to hearing the Minister's response.

5 pm

Greg Hands: Amendment 31, which has been tabled by the hon. Member for Dundee East, seeks, as he pointed out, to modify the definition of an international trade agreement. Our definition of an international trade agreement is drafted so that it will sufficiently capture the range of agreements that we currently access through the European Union. That includes free trade agreements but also stand-alone mutual recognition agreements, or MRAs. By changing the definition, the amendment would limit important elements of trade that businesses and consumers rely on.

As Members know, provisions under free trade agreements are wider than simply goods and services; the point was made by the hon. Member for Dundee

East. That is an essential fact of modern trade agreements that the hon. Gentleman's amendment overlooks. The amendment would create an unnecessary risk that important agreements became out of scope of the powers, leaving us unable to ensure continuity of trading relationships for UK businesses and consumers. He drew attention to tariffs but, legally, we cannot use clause 2 for tariffs, as he knows, because that has to come under the Taxation (Cross-border Trade) Act 2018.

Amendment 15 seeks to limit the range of agreements that the UK will be able to sign outside FTAs. Specifically, again, that would have an impact on our stand-alone mutual recognition agreements. As Members will be aware, the UK has signed agreements that replicate the effects of existing EU arrangements for mutual recognition of conformity assessment. Those arrangements ensure continuity for UK manufacturers and businesses, meaning that they are able to continue having UK testing bodies certify that their products meet the regulations of other countries. The alternative would be to send our products for testing in other countries, significantly increasing costs and making many exports unviable.

The international trade agreement power enables continuity agreements to come into effect. That includes continuity MRAs. Amendment 15 therefore risks the UK being unable to fulfil obligations arising from continuity MRAs. If stand-alone mutual recognition agreements were taken out of the scope of the power, the UK would not be able to amend product-specific UK legislation to ensure that we were able to implement fully our obligations stemming from the continuity MRAs. Not only would that harm the UK's standing on the international stage but, more importantly, it would materially impact on UK businesses and their employees at a time when they need to be able to maintain and grow their trading relations. No member of the Committee would want to see that.

An example of that power are the Electromagnetic Compatibility Regulations 2016 as covered by the mutual recognition agreement that the EU has with the United States, which reduces regulatory barriers to trade for goods such as microwave ovens. We seek to replicate the effects of that MRA, allowing businesses and consumers to continue to benefit.

I hope that I have been able to reassure the Committee about the reasoning behind the Government's approach. I ask hon. Members to withdraw their amendments.

Stewart Hosie: May I make an observation? Clearly, my amendment was driven by the lack of clarity on the face of the Bill, compared with the more elegant phraseology in the explanatory notes. The hon. Member for Harrow West spoke about investment treaties and the Minister himself about MRAs, but the fact that investment treaties and MRAs are not included in the definition—although the Minister says that it is wide enough to capture everything—probably tells us that there is an issue of public understanding of the definition of a trade agreement in the Bill.

It might be that better can be done, however it is done, and more clarity provided as to what precisely the Bill intends to cover by way of treaties in the future. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Maria Caulfield: I am sorry, Sir Graham, but what about amendment 15?

The Chair: Again, that will come at a later stage in the Bill, so it cannot be moved at this point. 5.4 pm

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

Adjourned till Tuesday 23 June at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

TB12 British Veterinary Association (BVA)