PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE BILL

Fifth Sitting

Tuesday 23 June 2020

(Morning)

CONTENTS

Clause 2 under consideration when the Committee adjourned till this day at Two o'clock.

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

not later than

Saturday 27 June 2020

The Committee consisted of the following Members:

Chairs: Sir Graham Brady, † Judith Cummins

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

Kenneth Fox, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 23 June 2020

(Morning)

[Judith Cummins *in the Chair*]

Trade Bill

9.25 am

The Chair: Good morning, everyone. Before we start, I remind Members that the *Hansard* reporters would be grateful if you emailed electronic copies of your speaking notes to hansardnotes@parliament.uk. At 11 o'clock, I will invite the Committee to observe a one-minute silence in memory of the victims of the knife attacks in Reading on Saturday.

Clause 2

Implementation of international trade agreements

Gareth Thomas (Harrow West) (Lab/Co-op): I beg to move amendment 4, in clause 2, page 2, line 14, at end insert—

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

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

(b) the requirements under subsection (3) and under paragraph 4(1) to (1D) of Schedule 2 have been met;

(c) the requirements under subsection (4) and under paragraph 4(1) to (1D) of Schedule 2 have been met; or

(d) the requirements under subparagraph 4A(1) to (1D) of Schedule 2 have been met."

This amendment would put in place a structure for Parliamentary scrutiny of proposed international trade agreements.

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

Amendment 5, in clause 2, page 2, line 15, leave out subsections (3) and (4) and insert—

"(3) Paragraph 4 of Schedule 2 shall apply to any regulations under subsection (1) which make provision for the purpose of implementing a free trade agreement if the other signatory (or each other signatory) and the European Union were signatories to a free trade agreement immediately before exit day.

(4) Paragraph 4 of Schedule 2 shall apply to any regulations under subsection (1) which make provision for the purpose of implementing an international trade agreement other than a free trade agreement if the other signatory (or each other signatory) and the European Union were signatories to an international trade agreement immediately before exit day.

(4A) Paragraph 4A of Schedule 2 shall apply to any regulations under subsection (1) which make provision for the purpose of implementing any international trade agreement not falling within subsection (3) or subsection (4) above."

This amendment would apply the provisions of the Bill to trade agreements other than EU rollover trade agreements.

Amendment 6, in schedule 2, page 13, leave out lines 13 to 16 and insert—

"4 (1) A statutory instrument containing regulations of a Minister of the Crown acting alone under section 2(1) in respect of an international trade agreement which meets the criteria under section 2(3) or 2(4) may not be made unless all provisions of sub-paragraphs (1A) to (1D) have been satisfied.

(1A) The Secretary of State must lay before Parliament—

(a) a draft of an order to the effect that the agreement be ratified, and

(b) a document which explains why the Secretary of State believes that the agreement should be ratified.

(1B) The Secretary of State may make an order in the terms of the draft order laid under subparagraph (1A) if—

(a) after the expiry of a period of 21 sitting days after the draft order is laid, no committee of either House of Parliament has recommended that the order should not be made, and

(b) after the expiry of a period of 40 sitting days after the draft order is laid, a motion in the terms of the draft order is approved by a resolution of each House of Parliament.

(1C) If a committee of either House of Parliament recommends that an order should not be made under subparagraph (2), the Secretary of State may, after the expiry of a period of 60 sitting days after the draft order is laid, make a motion for a resolution in each House of Parliament in the terms of the draft order.

(1D) If a motion in the terms of the draft order is approved by a resolution of each House of Parliament under subparagraph (1B)(b), the Secretary of State may make an order in the terms of the draft order.

(1E) A free trade agreement to which this paragraph applies shall not be deemed to be a treaty for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010.

(1F) In section 25 of the Constitutional Reform and Governance Act 2010, after subsection (1)(b), at end insert "but does not include an international trade agreement to which paragraph 4(1) of Schedule 2 to the Trade Act 2020 applies."

This amendment would establish a form of super-affirmative procedure for scrutiny of an international trade agreement before ratification and before regulations implementing the agreement could be made.

Amendment 7, in schedule 2, page 13, line 25, at end insert—

"4A (1) A statutory instrument containing regulations of a Minister of the Crown acting alone under section 2(1) in respect of an international trade agreement which does not meet the criteria under section 2(3) or section 2(4) may not be made except in accordance with the steps in subparagraphs (1A) to (1D).

(1A) The Minister shall lay before Parliament—

(a) a draft of the regulations, and

(b) a document which explains why the Secretary of State believes that regulations should be made in terms of the draft regulations.

(1B) The Minister may make an order in the terms of the draft regulations laid under subparagraph (1A) if—

(a) after the expiry of a period of 21 sitting days after the draft regulations are laid, no committee of either House of Parliament has recommended that the regulations should not be made, and

(b) after the expiry of a period of 60 sitting days after the draft regulations are laid, the draft regulations are approved by a resolution of each House of Parliament.

(1C) If a committee of either House of Parliament recommends that the regulations should not be made, the Secretary of State may—

(a) lay before Parliament revised draft regulations, and

(b) after the expiry of a period of 40 sitting days after the revised draft regulations are laid, make a motion for a resolution in each House of Parliament for approval of the revised draft regulations.

(1D) If a motion under subparagraph (1C)(b) is approved by a resolution of each House of Parliament, the Secretary of State may make the regulations."

This amendment would establish a form of super-affirmative procedure for scrutiny of regulations implementing all trade agreements covered by the bill. The procedure would apply to agreements other than EU rollover trade agreements if amendments extending the application of the bill were agreed to.

Amendment 19, in schedule 2, page 13, leave out lines 33 to 35 and insert—

"(3A) A statutory instrument containing regulations of a Minister of the Crown acting jointly with a devolved authority under section 2(1) in respect of an agreement which falls within the description in section 2(3) or section 2(4) may not be made except in accordance with the steps in subparagraphs (1) to (1D) of paragraph 4.

(3B) A statutory instrument containing regulations of a Minister of the Crown acting jointly with a devolved authority under section 2(1) in respect of an agreement which falls within the description in section 2(4A) may not be made except in accordance with the steps in subparagraphs (1) to (1D) of paragraph 4A."

This amendment would extend the super-affirmative procedure under former Amendment 19 to regulations where the Minister was acting jointly with a devolved authority.

New clause 5—*Parliamentary scrutiny of free trade agreements before signature*—

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

(a) before entering negotiations on the proposed agreement, the Secretary of State has—

(i) laid before Parliament a sustainability impact assessment carried out following consultation as prescribed by section [Sustainability impact assessments], and

(ii) published a response to any report which a committee of either House of Parliament may have published expressing an opinion on the sustainability impact assessment, as long as that report is published within 30 sitting days of the day on which the sustainability impact assessment is laid before Parliament;

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

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

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

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

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

(2) "Sitting day", for the purposes of subsection (1)(a)(ii) shall mean any day on which both Houses of Parliament begin to sit".

This new clause would set out a structure for parliamentary scrutiny of negotiations on proposed trade agreements.

New clause 6—*Sustainability impact assessments*—

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

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

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

(b) actively seek the views of—

(i) Scottish Ministers,

(ii) Welsh Ministers,

(iii) a Northern Ireland devolved authority,

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

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

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

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

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

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

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

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

(iv) the impacts on vulnerable economic groups;

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

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

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

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

(i) workers' rights,

(ii) women's rights,

(iii) cultural rights and

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

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

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

(ii) biodiversity,

(iii) the rural environment and air quality, and

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

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

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

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

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

New clause 7—*Parliamentary consent to launch of trade negotiations*—

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

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

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

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

(b) the principles to underpin the proposed negotiations;

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

(d) the desired outcomes from the proposed negotiations.

(4) The Secretary of State shall make a motion for a resolution in the House of Commons in respect of the draft, setting out the elements listed in subsection (3), but such a motion shall be made—

(a) no earlier than 25 sitting days after the day on which the draft of the negotiating mandate is laid under subsection (2), and

(b) not before the Secretary of State has published a response to any report which a committee of either House of Parliament may have published expressing an opinion on the draft negotiating mandate , as long as that report is published within 20 sitting days of the day on which the draft mandate is laid before Parliament.

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

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

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

(8) "Sitting day" shall, for the purposes of subsection (4), mean any day on which both Houses of Parliament begin to sit."

New clause 8—*Availability of agreement texts*—

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

(2) Every—

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

(b) agenda for each new round of negotiations

shall be made publicly available by the Secretary of State.

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

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

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

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

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

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

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

New clause 19—*Report on proposed free trade agreement*—

"(1) This section applies (subject to subsection (2)) where the United Kingdom has authenticated a free trade agreement ("the proposed agreement"), if—

(a) the other party (or each other party) and the European Union were signatories to a free trade agreement immediately before exit day, or

(b) where the proposed agreement was authenticated by the United Kingdom before exit day, the other party (or each other party) and the European Union were signatories to a free trade agreement on the day the proposed agreement was authenticated by the United Kingdom.

(2) This section applies only if the proposed agreement is not binding on the United Kingdom as a matter of international law unless it is ratified by the United Kingdom.

(3) Before the United Kingdom ratifies the proposed agreement, a Minister of the Crown must lay before Parliament a report which gives details of, and explains the reasons for, any significant differences between—

(a) the trade-related provisions of the proposed agreement, and

(b) the trade-related provisions of the existing free trade agreement.

(4) Subsection (3) does not apply if a report in relation to the proposed agreement has been laid before Parliament under section (Report to be laid with regulations under section 2(1))(2).

(5) The duty imposed by subsection (3) applies only at a time when regulations may be made under section 2(1) (see section 2(8)).

(6) In this section a reference to authenticating a free trade agreement is a reference to doing an act which establishes the text of the agreement as authentic and definitive as a matter of international law.

(7) In this section—

"the existing free trade agreement" means the free trade agreement referred to in subsection (1)(a) or (b);

the "trade-related provisions" of a free trade agreement are the provisions of the agreement that mainly relate to trade."

New clause 20—*Report to be laid with regulations under section 2(1)*—

"(1) This section applies where a Minister of the Crown proposes to make regulations under section 2(1) for the purpose of implementing a free trade agreement to which the United Kingdom and another signatory (or other signatories) are signatories.

(2) A draft of the statutory instrument containing the regulations may not be laid before Parliament unless, at least 10 Commons sitting days before the draft is laid, a Minister of the Crown has laid before Parliament a report which gives details of, and explains the reasons for, any significant differences between—

(a) the trade-related provisions of the free trade agreement to which the United Kingdom and the other signatory (or other signatories) are signatories, and

(b) the trade-related provisions of the existing free trade agreement.

(3) Subsection (2) does not apply if, at least 10 Commons sitting days before a draft of the statutory instrument containing the regulations is laid, a report in relation to the agreement has been laid before Parliament under section (Report on proposed free trade agreement)(3).

(4) In this section—

"Commons sitting day" means a day on which the House of Commons begins to sit;

"the existing free trade agreement" means the free trade agreement to which the European Union and the other signatory (or other signatories) were signatories immediately before exit day;

the "trade-related provisions" of a free trade agreement are the provisions of the agreement that mainly relate to trade."

Gareth Thomas: It is a pleasure to see you back in the Chair once again, Mrs Cummins. We had an interesting sitting in your absence on Thursday afternoon, at which three Conservative Members of Parliament applied to join the Co-operative party, the Government Whip tried to shut down a debate on what we could do to tackle an anti-northern bias in procurement, and the Minister gave the first hint that he recognises the Bill is in need of improvement.

Let me say at the outset that I want Britain to be ambitious in trade, in the deals we look to achieve, and in our determination to help imaginative and innovative businesses access new markets. However, I do not want us to sell ourselves short. That is why the amendments are so important.

Trade agreements done well create new economic opportunities. They can help inspire the generation of thousands of new jobs and expand the horizons of the very best of British businesses. They can and have helped to lift thousands out of terrible poverty and hunger, and they have helped to generate substantial tax revenues for better public services.

Trade deals done badly, however, cause myriad problems. They can lead to the loss of markets for vital companies, and in turn create left-behind communities and a race to the bottom in wages and conditions. When done well, trade agreements can help to generate competition, giving more consumer choice and lowering prices for consumers, but there needs to be fair competition. When done badly, trade agreements can entrench unaccountable corporate power and miss vital opportunities to improve our environment. That is why it is essential that we have effective, detailed scrutiny, with a Trade Ministry that is determined to be open and transparent, if we are secure the trade deals that can fulfil the country's potential and avoid creating the worst of all worlds.

As the Committee will know, Parliament has its legions of critics, but the structures it provides for scrutiny—if Ministers are willing to allow both Houses to do their job—can help to create the consensus behind trade policy that business organisations are desperate to see, as they set out in our first witness session. Ministers have told us repeatedly that the Bill will provide the basis for the country's future trade policy once we have left the European Union. In the debate on the Queen's Speech, it was said that the Trade Bill would

"put in place the essential legislative framework to allow the UK to operate its own independent trade policy upon exit from the European Union."—[*Official Report, House of Lords,* 28 June 2017; Vol. 783, c. 437.]

If one potential trade deal serves to underline the failure of the Bill to meet that ambition and the need for proper parliamentary scrutiny, it is the deal that the Department seeks to negotiate with Donald Trump's Administration. There are already a huge number of public concerns around food standards, the national health service, the use of investor-state dispute settlement mechanisms, the future of geographical indications and whether the Bill will help to cement action on climate change. Let me run through some of those concerns. The Soil Association has very helpfully charted a series of concerns that highlight the need for proper scrutiny—proper scrutiny that is not as yet locked into the Bill—of a future US trade deal. We know that US negotiators are pushing hard for the weakening of UK food and farming standards, describing EU farming—and therefore, implicitly, UK farming—as the "Museum of Agriculture".

The UK Government have made repeated commitments, including at Trade questions last Thursday, to high environmental and animal welfare standards, but those standards could be undermined by a US trade deal, as a series of Members from across the House have noted. That underlines the need for proper parliamentary scrutiny of a UK-US trade deal, which the Bill does not currently allow for. That is why our amendments are so important.

The Soil Association has a list of the top 10 risks for the US trade deal. The first is anti-microbial resistance. Experts are warning that by 2050, as many as 10 million people could die annually from anti-microbial resistance. The use of antibiotics per annum in US farming is, on average, five times higher than in the UK. Investigations have shown that antibiotics crucial to human medicine are still being used in unacceptable quantities on US livestock farms, despite rules being brought in last year to try to curb their use and combat the spread of deadly superbugs. A US trade deal risks undermining the efforts that UK farmers have been making to reduce antibiotic use, fuelling further anti-microbial resistance, with potentially grave consequences for public health. Surely we, the House of Commons, and indeed the other place, should have the opportunity to scrutinise on the Floor of the House and in Committee whether there is adequate protection from such an eventuality.

Secondly, a number of farmers' representatives in the unions, a number of Conservative Members of Parliament, as well as Opposition Members, and a former UK ambassador to the US have warned of the threat to the UK farming industry if British farmers are forced to compete against cheap low-quality food imports. If UK farming is forced to compete on price with countries such as the US that operate to different or lower standards, UK farming may become unprofitable. That could create a race to the bottom, putting pressure on Ministers to lower existing standards here in the UK, including standards of food quality, environmental protection and animal welfare.

Thirdly, a US trade deal could affect EU market access for our farmers. The UK currently holds a suite of significant and valuable agri-food trade relationships with the EU27. A weakening of UK food standards or a future lack of alignment with EU standards resulting from a US trade deal could result in barriers to UK

[Gareth Thomas]

farmers and food companies wishing to export their products to the EU single market. In turn, those barriers would pose significant risks for food businesses and farmers' livelihoods. Why would we not want, as the House of Commons, to have the opportunity to scrutinise whether that fear about a potential UK-US deal merits rightful concern?

Then there is chlorine-washed chicken. The American poultry industry is more intensive, with lower animal welfare standards than in the UK. The chicken produced has high levels of bacteria, so the industry has resorted to acid and chlorine washes at the end of the meat production chain, producing chicken that may not be safe for consumers to eat. Recent comments from a senior representative of the US Government have suggested that the US is "sick and tired" of UK concerns over chlorine-washed chicken, but it remains an important issue for UK citizens, who, I suggest, have no desire to see welfare standards lowered after the UK leaves the European Union.

Bill Esterson (Sefton Central) (Lab): My hon. Friend puts his finger on the point. For many people, quite rightly, this is about not lowering animal welfare standards. Has he seen reports from trade unions in the United States that, in order to speed up processes, there are now fewer inspections of the meat production process, particularly around chicken, which increases the likelihood that the acid or chlorine wash is less effective? There are not only animal welfare concerns, but concerns about the safety of food that we have been told we should not be concerned about because the chlorine wash removes the threat of food poisoning.

Gareth Thomas: My hon. Friend makes a good point. Not only is there a multitude of expert analysis that chlorine washing chicken is ineffective at getting rid of the risk of infection but, as he rightly points out, there are concerns that the inspection regime for the chlorine washing of chicken is not remotely as effective as we had been led to believe. That is all the more reason why it is so important that amendments 4 and 5, and the subsequent amendments, are added to the Bill.

The fifth concern that the Soil Association helpfully sets out concerns hormone-treated beef. The US Food and Drug Administration allows steroid hormone drugs for use in beef production, which we banned in the UK and the European Union in 1989. Cattle producers use hormones to induce faster, bigger animal growth, but there is a cost to that: an EU scientific review back in 2003 concluded that one of those commonly used hormones is carcinogenic. In the event of a UK-US trade deal, hormone-treated beef could be sold in the UK, posing potential public health risks. Surely it is the responsibility of the House to understand and scrutinise in detail a UK-US trade deal, to ensure that there are no such potential public health risks for UK consumers.

Lee Rowley (North East Derbyshire) (Con): I am hugely grateful to the hon. Gentleman for letting me intervene. He is right that a US trade deal needs to be scrutinised, but I remind him that we are not debating a US trade deal. We are debating what is effectively a continuity Bill, and while much of what he says is incredibly interesting—although I disagree with it—it is not relevant to the scope of the discussions.

Gareth Thomas: With due respect, the coffee that the hon. Gentleman had this morning may not have quite kicked in at the beginning of my remarks, when I set out what the Queen's Speech defined as the purpose of the Trade Bill. As I said, it made clear that the Bill was designed to set the tone for the future of UK trade policy post Brexit, which it quite clearly does not if all the Bill serves to do is to explore the scrutiny of roll-over agreements. Our contention is that we need a proper parliamentary scrutiny process for future trade deals that we negotiate, including with the US and the Trans-Pacific Partnership—on which more anon.

Matt Western (Warwick and Leamington) (Lab): My hon. Friend makes some powerful points. To broaden this a little, because it would be easy to become extremely focused on the US-UK trade deal, he knows very well that these sort of issues—food standards and production, and safeguards for consumers—apply to other countries, such as Australia. Any UK-Australia trade deal will face exactly the same issues as those we are talking about between the UK and the US.

Gareth Thomas: My hon. Friend is absolutely right. There is not the option at the moment for proper parliamentary scrutiny of a trade deal with Australia. If the Government were to bring forward a trade deal with China, there is as yet no scope in Parliament for proper scrutiny of such a deal. That is why amendments 4 and 5 and those linked to them are so important.

Matt Western: I just want to elaborate on that point. It is really important that the public are fully aware of what we are talking about. Hormone-fed beef applies to Australian-produced beef as much as to US beef. When it comes to egg production in Australia, they use battery hens, caged hens and so on. It is really important that consumers are made fully aware of what will happen with these trade deals if they are opened up in the way that the Government would like.

Gareth Thomas: My hon. Friend remakes my point for me. We need to have proper parliamentary scrutiny locked into the Bill. As we have been told, this the only trade legislation that is likely to come before this Parliament. There has been no hint of any other legislation to improve the parliamentary scrutiny of future trade agreements. That is why this group of amendments is so important.

Bill Esterson: Just for the benefit of the hon. Member for North East Derbyshire who intervened, if he looks at the explanatory note to amendment 5, he will see that the amendment would apply the provisions of the Bill to trade agreements other than the EU roll-over trade agreements, so it covers trade agreements that go beyond those that were originally in the scope of the Bill. As my hon. Friend said, this is relevant, not only because of what the Queen's Speech—

Lee Rowley: It is a series of hypotheses.

Bill Esterson: I do not think the hon. Gentleman is allowed to intervene when I am already intervening on my hon. Friend. He will get his chance to make a speech later. The important point is that we have tabled amendments precisely because of the need for the Bill to cover more than the narrow scope that clause 2 originally envisaged. My hon. Friend is right to highlight what was in the Queen's Speech, but I want to remind

the hon. Member for North East Derbyshire that it is actually in our amendments. They have been allowed by the Clerks and must therefore be within the scope of our debate.

Gareth Thomas: My hon. Friend makes his point to the hon. Member for North East Derbyshire, who intervened on me very well. I do not know whether the long title of the Bill was as badly drafted as some other parts of the Bill, allowing as a result for our amendments to be in scope, but they are. The hon. Member for North East Derbyshire in his heckle suggested that I was making a series of hypotheses. I would not use his phrase, but I gently suggest that that is surely the purpose of parliamentary scrutiny—to test the concerns that the wider public and organisations outside the House have about particular pieces of legislation.

The Soil Association highlighted a further concern about nutritional labelling—so-called traffic light labelling—which has been a very important tool in supporting improvements in UK public health. The US is clear that it considers nutrition labelling a barrier to trade, and it has an ongoing dispute with the European Union over this. Imported US food already enjoys a voluntary concession to the UK labelling requirements. Any trade deal could weaken those consumer labelling efforts still further. A US trade deal could result in low-cost, ultra-processed foods flooding the UK market, placing a potential double health burden on UK citizens. That is one of the concerns of the Soil Association, and it is right that parliamentary scrutiny should give us the opportunity to test that.

There are serious concerns about the public health implications of genetically modified foods and pesticide regulations, which we will come on to under amendment 11. Incidents of food poisoning in the US affect 14% of the US population annually—10 times greater than in the UK, where just 1% is affected. Again, surely, it is the purpose of Parliament to allow our amendments to test whether or not a deal with the US or any other country in the world is likely to lead to an increase in food poisoning. Those are the Soil Association's concerns around food standards.

There is a series of other concerns about a potential deal with Donald Trump's Administration. Let us take the national health service, where Ministers have been desperate to try to reassure the public. If investor-state dispute settlement clauses were to be included in a UK-US trade deal, or any other post-Brexit trade agreement, there is a real chance that the corporate giants that had bought the right to run part of the national health service might be tempted to challenge a decision by a future Government about the provision of that part. If a future Government wanted to favour a public provider over the big private corporate provider, or renationalise parts of the health service that have been privatised, that could be challenged by the corporate giant using the investor-state dispute settlement system, potentially at huge cost to the British taxpayer and resulting in huge damage to the national health service.

9.45 am

On medicine pricing, again, there are serious concerns that a UK-US deal could undermine the comparatively low price of UK medicine, which is surely an issue that Parliament should have the chance to properly scrutinise.

Bill Esterson: My hon. Friend is right to highlight the challenge of ISDS. The debate about the Transatlantic Trade and Investment Partnership, which was dragged into the public domain when negotiating texts were eventually shared with the public, was the only way for the potential problems that he has highlighted to come into the public domain. The initial lack of scrutiny poses a great threat of the kind that he has set out.

May I add to the list the concerns about the negative list system, where every single service has to be named, and about ratchet clauses and standstill clauses? In addition to ISDS, they are a real threat to the ability of this country's Government to have control over what is in the public sector and what services are delivered, whether the health service or other public services.

Gareth Thomas: Not surprisingly, my hon. Friend is ahead of me in making that concern clear. I underline the issues about negative listing that he sets out, which I will come to. To finish the point about medicine pricing, Donald Trump's chief negotiator has made it clear that they wish to use a trade deal to challenge the NHS's current purchasing model for NHS drugs. That could be done through them securing specific market access provisions or other clauses aimed at helping the US pharmaceutical industry. Again, surely it is the responsibility of the House, and indeed the other place, to have in place the scrutiny mechanisms to check whether that concern is justified.

My hon. Friend set out the concerns about standstill clauses and ratchet clauses in trade agreements, which can lock in levels of privatisation and other forms of liberalisation and accelerate them, which will limit the scope of future Governments to take sensible steps, when services are not being properly provided, to bring them back into the public sector. He rightly set out concerns about negative listing, which emerged in particular in the EU-Canada deal, which we will explore in more detail in the debate on amendment 9. There are concerns that NHS management data services could be opened up to US corporate giants as a result of a UK-US trade deal. Surely it is Parliament's responsibility to explore those concerns.

If a UK-US deal were concluded by the Government, MPs would not be guaranteed a vote or a debate on the signed deal. The proposals in the Command Paper, which Ministers were forced to publish in February last year, allow a scrutiny Committee to recommend one, but leave it at the Government's discretion whether to hold one.

The deal is being negotiated in secret, even though it could have huge implications for Britain's post-Brexit future. Negotiations with the US are particularly controversial, yet after six rounds of preparatory talks and one round of formal negotiations, we still are in the dark, at least from a UK perspective, about the substance of what is being debated. It is true that the Secretary of State made a statement to the House. However, apart from listing the major areas of the talks, which were hardly revealing, and reassuring us all that the meetings were positive and constructive, again, no substance was offered on the real concerns that members of the public and organisations outside this House have set out on food, import standards and medicine prices. As Mr Lawrence from Trade Justice Movement reminded us all in last Thursday morning's witness session, there will have

[Gareth Thomas]

been more scrutiny of the decision to proceed with High Speed 2 than there will be, as things stand, of a UK-US deal. Our amendments would help put that situation right.

Matt Western: When those of us on the International Trade Committee were hearing evidence about potential trade agreements with Japan and South Korea and the Government's failure to be transparent, to be open, to set objectives and to consult, we discovered in that process, online, that the Koreans had already shared publicly what was going on and where they were in the negotiation. It was secret from our side but open on theirs. It was not until we discovered that information online and Google Translated it that we knew what the Government were up to. Isn't that extraordinary?

Gareth Thomas: That is an extraordinary position, but sadly, it is becoming clear that that is how Members of Parliament are likely to find out about the substance of these trade negotiations. Let us again take the US as an example. We are finding out through evidence to Congress what many of the concerns of UK business organisations are in terms of the desire to secure access to UK markets, which is surely an entirely outrageous situation for the House of Commons. We were promised we would be taking back control after Brexit, yet the Houses of Parliament and the British public are being left in the dark.

There are real concerns from a UK-US deal about the potential for ISDS.

Bill Esterson: Before my hon. Friend moves on from the point about where evidence comes around what is a negotiating text, he will remember the evidence from Rosa Crawford from the TUC that the unions in this country are finding out what is in the negotiating texts for the US-UK talks from unions in the United States, which have access to those texts from the US Government. That is completely absent in this country. Is this not yet another example of how absurd it is that we have different approaches to scrutiny in this country compared with others? Surely those approaches need to be equivalent to ensure proper scrutiny and the right outcomes in the interests of the people of our country?

Gareth Thomas: We should thank the TUC for its work with American trade unions to help inform British workers and the British House of Commons, and for that little bit more of an insight into what is really going on in the UK-US negotiations. I hope Ministers will be sufficiently embarrassed by the British people's reliance on what is being told to Congress to open up more scrutiny opportunities for this Parliament.

ISDS clauses have been favoured by the US in many of its existing trade deals. They potentially allow new investors, if included in a UK deal, to sue our Government over measures that harm their profits. We know that ISDS lawyers are already talking up the possibility of compensation for corporate giants whose profits have been hit by Governments taking lockdown measures to tackle the covid pandemic. In case Government Members think that is not a real threat, the American firm Cargill won more than $77 million from the Mexican Government after they introduced a tax to deter high-fructose syrup to tackle serious health issues in Mexico.

ISDS provisions create regulatory chill—the temptation for Governments not to introduce necessary public health or, indeed, other environmental measures, for fear of being taken to an ISDS tribunal by a big overseas investor. They create a two-tier system, since it is rarely small and medium-sized enterprises that are able to access these secret courts. There is normally no appeals system for the Government to access, and there is extraordinary secrecy around the nature of the settlements.

The irony is that there is little obvious benefit to businesses from those clauses being included in trade agreements. Indeed, the Government under David Cameron published an analysis of the pros and cons of ISDS clauses and could not find any great pros to champion. Business organisations tell us—although this tends to be in private—that ISDS clauses do not matter much to them; what they take serious notice of is the business environments.

There are real concerns about the labelling of geographical indicators, where products in the UK have a geographic indicator that prevents their being imitated: one thinks of Welsh lamb, Scottish salmon and Armagh Bramley apples, for example. The American negotiators do not like those types of food label and will seek to get rid of them. Surely it is the responsibility of this House of Commons to explore whether those concerns have merit and to push the Government to protect those labels.

Matt Western: That labelling is so important because throughout this process the public have been led to believe, because the Government have insisted on this point, that they as consumers will always be informed about what it is that they are buying. The only way they can be informed of that is by labelling, but that is not going to happen because, as my hon. Friend says, the US negotiators will not allow it to. When I approached KFC—other leading fast-food outlets are of course available—and asked, "Will you be informing the consumer where the chicken has come from that has gone into those nuggets or whatever the product is?" there was no reply, but clearly it will not be doing so, which must be a profound concern.

Gareth Thomas: I have made my point already about chlorinated chicken, and my hon. Friend raises that concern again.

The point that I was specifically referring to is the significance of GIs for many British products, and I think particularly of Welsh lamb and Welsh beef, where the Welsh Government have concentrated much of their promotional effort around the agriculture industry in Wales on talking up the benefits of those GI-protected products. There is real concern that that is at stake in some of the trade negotiations that the Government are taking part in.

It is surely right that this House have the opportunity to scrutinise whether such concerns would be appropriate with respect to a UK-US deal, a UK-Australia deal or a UK-Japan deal. At the moment, we, as the House of Commons, will not have the chance to explore in detail

whether that is a concern, or have the opportunity to force Ministers to take action. Our amendments would put that right.

One last concern to flag about a UK-US deal is Donald Trump's hostility to action on climate, and therefore the possible lack of potential for Ministers to make progress on bringing carbon dioxide emissions down and helping to tackle the climate and nature emergencies that the world and our country face. Those are the potential concerns being talked about around the headline free trade agreement being negotiated by Ministers, which merit proper parliamentary scrutiny.

Amendment 4 would put in place a structure for proper parliamentary scrutiny of free trade agreements. New clause 5 sets out the process for scrutiny of those free trade agreements before they could be signed, including giving parliamentarians a vote on whether to approve the start of negotiations. That would help to lock in scrutiny of trade negotiations from the very beginning of the process.

10 am

New clause 7 sets it out that Ministers could not just publish a one-line sentence saying, "Please give us permission to start negotiations." They would have to set out a detailed mandate for which they wanted support. New clause 6 would require a full sustainability impact assessment to guide members of the public on the likely implications of a free trade agreement. New clause 8 sets out the parliamentary process in more detail, including giving Select Committees more privileged access to confidential negotiations. It would require Parliament to vote on whether to approve a free trade agreement. It is surely shocking that a future free trade agreement with the US, China or any other country should not be put to a vote. Every Member of the House should have the opportunity to vote on that.

Amendments 6, 7 and 19 would introduce the super-affirmative process, which is the process for giving Select Committees the power to scrutinise trade agreements and, crucially, to trigger debates where there are a series of concerns. Ministers tabled new clauses 19 and 20 on Report during consideration of the previous Trade Bill. They have the effect of injecting just a bit more scrutiny and openness into future discussions on the continuity of trade agreements, and they could be similarly helpful in the context of other free trade agreements that we might want to negotiate. They require further clarity from Ministers about any departures from the detail of an original EU free trade agreement of which we are members, and with respect to a UK-specific free trade agreement that we have signed. This is not my drafting; the proposals are taken, word for word, from the amendments moved by Ministers. It will be interesting to hear the Minister's justification for rowing back on that tiny bit of additional scrutiny that the then Secretary of State was willing to provide as a result of serious concerns among Conservatives Members about the lack of opportunities for transparency and scrutiny.

We are debating the Bill in a very different context from when the previous Bill was considered in Committee. Then, the Trade Bill was the centre of huge public concern. I understand from conversations with my hon. Friends the Members for Brent North (Barry Gardiner) and for Sefton Central that some 1,700 emails landed in their inboxes in the 24-hour period before the commencement of the Bill Committee. The concerns were about the type of Brexit we were facing. The economy was not in freefall, so the context is very different now that we have left the European Union. Businesses and the public at large are focused on business survival and keeping their jobs, and on the Government's botched handling of the response to the covid pandemic. It is therefore not surprising that the Bill has not received the attention it deserves this time around, although its weaknesses matter none the less.

These amendments would address some of the biggest concerns. If Conservative Members cannot be persuaded of the case for more parliamentary scrutiny of future free trade agreements in the context of the UK-US deal that is being negotiated, it is perhaps worth remembering that the Secretary of State announced just last week that we were seeking to accede to the comprehensive and progressive agreement for trans-Pacific partnership, which came into force in December 2018. China indicated some time before us that it wants to accede to that agreement, too. Indeed, Chinese Premier Li Keqiang—I hope he will forgive my pronunciation—reconfirmed as recently as the end of May at the National People's Congress in Beijing China's interest in acceding to the Trans-Pacific Partnership.

We could seek to join that trade agreement after China has joined, but at the moment there will be no guaranteed opportunities for Conservative, Labour, SNP or other Members to vote on whether to accede to the TPP. Given the concerns about China at the moment, surely it is right that Parliament should have much more opportunity to scrutinise such a deal.

We also want to have more opportunities to scrutinise the detail of our trade agreements, to ensure that British business really can take advantage of any new market access opportunities that open up. However, there are concerns that the Department for International Trade is not set up as well as it might be to help British business to take advantage of those opportunities.

The Tradeshow Access Programme, the premier programme that DIT offers to help British businesses to access new export markets, has received a 60% cut in financial support over the past five years. According to the Library, some £16.2 million was available to help British businesses go to trade shows overseas. That has come down to some £6.5 million since 2018-19, which is a 60% cut over five years in the help offered to British businesses in each of our constituencies to access new export market opportunities. Surely this House should have the opportunity to explore whether more support should be provided in future to help new free trade agreements to genuinely open up opportunities for British businesses to access new markets.

These amendments would widen the scope of the Bill to include all international trade agreements that Britain seeks to make, setting out a process to give the British people a powerful say, through the people they choose to sit in this great House, about what those trade agreements can say. The amendments would require Ministers to secure, first, a mandate from the Houses of Parliament for their negotiating positions, instead of merely publishing, as they do at the moment, a brief outline of what they hope to achieve.

Andrew Griffith (Arundel and South Downs) (Con): May I congratulate the hon. Gentleman on his damascene conversion to parliamentary democracy and scrutiny of

[Andrew Griffith]

trade, which are things that, as part of our membership of the European Union, we would never have been able to engage in? It is only because the Government are getting Brexit done that we can even entertain these ideas.

Gareth Thomas: The hon. Gentleman opens up a whole new area for discussion and I am grateful to him for doing so. Let me confess in these secret discussions here in this House that the biggest mistake that I made when I was a Minister was to agree in 2007—in the run-up to the general election in that year that never was—to appear before seven Select Committees in the space of two weeks, confident in the knowledge that a general election was about to happen and that, actually, I would instead be spending my time with the great people of Harrow West.

Imagine my horror when I discovered that we were not going ahead with a general election and that I would have to appear and talk about our trade policy to seven Select Committees, one after the other over a two-week period. Boy, did I know the detail of trade policy by the end of those that two weeks, and crucially I also had confidence that the negotiating teams working on the EU negotiations knew the detail, too.

The hon. Member for Arundel and South Downs mentioned Brexit. The decision of the British people to go ahead with Brexit gives us the opportunity to rewrite the UK's deal with Canada, which we will consider when we debate amendment 9—I suspect that the whole House could potentially be grateful for that opportunity. I look forward to hearing the hon. Gentleman's interventions then, too.

As well as seeking a mandate, the amendments would require Ministers to be much more open and transparent with the British people about the likely impact of the negotiations and, crucially, how each round of the negotiations have gone. They would require the consent of the British people through their representatives in this great House of Parliament to agree to any trade treaty. In short, our amendments would genuinely help the British people to take back control of who the businesses they work in can trade with and on what terms. They would give, for example, key workers a say in how the services that we all recognise as essential—such as medicines and drugs and our health services—are delivered, and whether trade agreements should impact on them or not. They would give British people the chance to say, "These are the standards that we want those selling goods and services to us as consumers to abide by."

I do not think it is unreasonable to expect Ministers to put their plans and their record for securing better trade terms to the House of Commons for approval. Under cover of lots of offers of consultation, Ministers seem determined to keep for themselves and No. 10 a power to decide with who and on what terms a trade deal gets done. The picture is painted already, but let us imagine for a moment that the Prime Minister decides to ignore the concerns of Government Members as well as Members across the House about a potential trade deal with China. The negotiated plans would not need the approval of the British people. We would not have access to any of the detail of how those negotiations were going, and potentially only a handful of MPs would have a say. Parliament would in effect be sidelined. The British people, as a result, would be sidelined.

Let us be honest: Government Ministers would pack any statutory instrument Committee with ambitious young Turks, such as the hon. Member for Arundel and South Downs, who recently intervened on me, who are desperate for advancement and so inclined to ask tough questions that they would sit on their hands throughout the entire process. If the Prime Minister would not listen to Conservative MPs' concerns over Dominic Cummings's future, what confidence can we have that he would listen to their concerns about a future free trade agreement with China or anyone else?

Modern trade agreements are wide ranging and comprehensive. They do not only cover tariff reductions, but a whole range of regulatory issues, including issues of public health, social standards, labour rights and environmental standards, so detailed parliamentary scrutiny, making Ministers work to convince the British people of the merits of a deal, should be seen as entirely appropriate.

There is a need to properly consider the trade-offs in a trade agreement. The Committee might have heard of a book that five-year-olds like called "The Enchanted Wood", which I am currently reading with my five-year-old. In it there is a magic faraway tree. At the moment the central characters are going up the magic faraway tree and out through a hole in the clouds to a new land: the land of take-what-you-want. I gently suggest that that is the way in which Ministers are presenting the merits of the trade negotiations that they are seeking to do at the moment. They are not seeking to explain the difficult trade-offs that such negotiations involve. They seek to give the impression that it is all wins for the British people and that there are no downsides to trade agreements.

Once they are signed, trade agreements are very hard to unpick. They are not benevolent arrangements.

Fleur Anderson (Putney) (Lab): My hon. Friend is making a powerful argument with many different opinions on how important scrutiny is. I can add to that the voices of three other groups. One is the constituents and businesses of Putney: 39% of businesses will be affected by these trade negotiations, but I as their representative would be shut out from scrutinising those negotiations by the lack of scrutiny afforded by the Bill. Another group is the Institute of Directors, which we heard from in our evidence session. It has concerns that it will not know about the standards that will feature in the negotiations. It is concerned about immigration policy, temporary labour mobility, e-commerce and digital commerce and how wide the Bill will go. The final voice is that of the Confederation of British Industry which, in its paper, "Building a world-leading UK trade policy", said:

> "Governments worldwide are finding that public concerns on trade are necessitating an opening up of transparency, and it is becoming increasingly crucial for ratification of trade agreements"

and for building public support for trade agreements that will last. While the rest of the world is opening up its trade scrutiny and getting better trade deals as a result, we are going in the opposite direction.

10.15 am

Gareth Thomas: My hon. Friend is right. I fear that if Ministers persist with their refusal to give the House of Commons greater opportunities to scrutinise and vote

on trade deals, her membership of this Committee may be her only opportunity to vote on concerns about a future UK-US deal. She rightly also opens up a concern about immigration. One of the trade-offs in trade deals, under so-called mode 4 agreements, is often the requirement for Governments to give ground on immigration requirements, yet we hear no mention of that from Ministers.

Ministers give the impression that it is a win-win-win and there are no trade-offs, but trade agreements are not benevolent arrangements in which our negotiators can simply rock up to another country's trade ministry and pick up some wonderful new bargain deals. We cannot just take what we want. That is the nature of negotiations.

Another analogy might be that Ministers talk about trade agreements as if they were the Christmas sales; they only have to turn up and there are amazing bargains to be had. They have not bothered to explain that the negotiator sitting opposite them will want something in return, which will not necessarily be a comfortable choice for us as a country. All the more reason, therefore, for us to have proper scrutiny to consider whether the downsides of a potential trade agreement are not as significant as the gains.

To listen to some sceptics about a UK-US deal with Donald Trump's Administration, our farmers will be undercut, standards of food production will be lowered, the NHS will be on the table, climate change will not feature, big corporates will be even more powerful and labour rights will be undermined. Ministers will say that is an outrageous and scurrilous description of the likely benefits of a UK-US trade deal. Those are the potential downsides, however, so we should be able to consider whether the trade-offs of a UK-US deal, or indeed any deal with any other country, outweigh the benefits and therefore should not be approved, or whether, in fact, the benefits outweigh the downsides.

It is certainly the job of the Government to try to negotiate the best possible terms for a free trade agreement with another country, but surely it is for the people of this country to decide in the round, through their Members of Parliament, whether, on balance, it is the great deal that it has been set out to be. I ask the Committee why Ministers are apparently desperate to exclude the British people from having the final say, through their MPs, on whether a trade deal goes ahead.

Trade agreements can take a long time to negotiate and can seem like great prizes to have. I recognise the potential desperation of the Secretary of State to rock up to the signing ceremony for a new free trade agreement and bask in the positive glow from newspapers such as *The Daily Telegraph* and the *Daily Mail*, and maybe even the *Daily Mirror* and *The Guardian*, which will provide all sorts of photo opportunities for Members of Parliament. That desperation to get a deal, however, might sometimes take ministerial eyes off the downsides of a deal. It is surely the job of the House to look in the round at whether a trade agreement is genuinely in the interests of the country.

Surely Ministers having to work a bit harder to convince us that they have a genuinely good deal can be only a good thing in law. Giving the British people back control through a series of votes in this House and the other place on future free trade agreements will help to lock in high standards of deal making. Ministers seem to be taking the George Bush approach—the "Read my lips: taxes won't rise" approach to trade. They are saying, "Trust us, we won't reduce standards; we will protect the NHS and we will deliver the most amazing opportunities for British business."

Let us pretend for a minute that I am willing to believe such a message from this particular Minister and this particular Secretary of State. The trouble is, Ministers change. Governments change. A commitment may not outlast the next Minister or Secretary of State who comes along. That is why it is essential to underpin in law a right for the British people, through the people they have chosen to represent them in the House of Commons, to agree to start negotiations and to vote on the final result of those negotiations.

Even over the last three years, ministerial attitudes to trade have shifted back and forth, as we shall discuss in debates on other amendments. One moment, the Government are opposing the idea that they should produce a report on a proposed free trade agreement, then they agree to do it voluntarily but oppose the idea of having that written into law; and then they agree, on Report on the 2017-2019 Trade Bill, to write it into the Bill. Today, we are back to a voluntary process—a commitment given by a Minister who is no longer Trade Minister. If the Executive's line can change on such a simple point in so short a time, it is essential that the interests of the British people are protected by a lasting lock in law on a clear and sensible process to give the people through their representatives in the House of Commons a direct say on trade agreements that will have a lasting significance for their lives.

Ministers have a record of promising the earth on trade deals. Who can forget the last Secretary of State, who said in October 2017:

> "I hear people saying, 'Oh we won't have any free trade agreements before we leave'. Well believe me we'll have up to 40 ready for one second after midnight in March 2019"?

Sadly, as the Minister knows only too well, the reality is very different. One of my favourite trade quotes has to be from the Chancellor of the Duchy of Lancaster, then the Secretary of State for Agriculture I think, who said:

> "There is a free trade zone stretching from Iceland to Turkey that all European nations have access to, regardless of whether they are in or out of the euro or EU. After we vote to leave we will remain in this zone. The suggestion that Bosnia, Serbia, Albania and the Ukraine would remain part of this free trade area—and Britain would be on the outside with just Belarus—is as credible as Jean-Claude Juncker joining UKIP."

We all know what has happened since.

My final quote demonstrating what Ministers have said on free trade agreements is from the now Foreign Secretary, who said:

> "I hadn't quite understood the full extent of this, but…we are particularly reliant…on the Dover-Calais crossing".

If Ministers do not understand the basics about the nature of British trade, it is even more essential that we lock into law a process for giving Parliament the right to scrutinise free trade agreements.

Governments make mistakes. Ministers make mistakes. Let us think about this Government: too late to the lockdown, a failure to protect care homes, a failure to stockpile personal protective equipment, the chaos over schools reopening and now the test-and-trace app fiasco. Ministers make mistakes. Scrutiny in the House of

[Gareth Thomas]

Commons helps to minimise the damage that those mistakes can have. Given the long-term significance of trade agreements, and to help to prevent mistakes being made, we need to lock in a tighter, stronger process of parliamentary scrutiny.

Matt Western: To amplify that point, irrespective of where we currently sit in the House—whether on the Front Bench or the Back Bench, or on the Government or Opposition Benches—it is important that we have some say. That is not simply about scrutiny and holding the Government to account; it is about asking the questions that ultimately lead to better governance. Surely that is what this place is all about.

Gareth Thomas: My hon. Friend is right. I recognise the temptation, having been a Minister for Trade, to fear scrutiny—to fear being asked detailed questions about rules of origin and things like that. However, that fear helps to make Ministers and officials get over the detail of those hugely important technical questions on trade agreements, which as a result helps to make government better, helping to make trade deals much better as a result.

As I indicated, Ministers had to be dragged kicking and screaming to publish the February 2019 Command Paper on future scrutiny of free trade agreements. A series of commitments were implicit in that Command Paper, but we have heard in recent times that some of those commitments may no longer enjoy ministerial support. Indeed, there seems to be some suggestion that Ministers will no longer publish reports at the end of negotiating rounds. Perhaps the Minister can clarify that point in his wind-up remarks.

Certainly, there has been zero progress on agreeing to give a Committee of this House access to confidential information and briefing from negotiators. If ministerial views on parliamentary scrutiny of new FTAs have changed since the publication of that Command Paper, surely the British people have a further justified claim for ensuring that a process for scrutinising all trade agreements be locked in to law. If Ministers are determined to row back on that commitment to work with a dedicated Committee in both Houses, providing confidential information and private briefings from the negotiating teams, there is even more need to lock into law new powers for Parliament to have more leverage over Ministers regarding those trade agreements.

The amendments would also widen the scrutiny requirements for continuity trade agreements that Ministers are negotiating with countries that already have a trade agreement with the European Union. Many agreements already notionally negotiated have small but significant differences from the original EU agreement on which they are based. At the moment, the British people do not have a say, through their representatives in the House, on whether those changes were appropriate.

It is slowly becoming clear, from the little we are able to glean from those negotiations on continuity trade agreements, that the agreements that have been signed, and indeed being negotiated, are slowly making the terms of trade for British businesses and our existing partners and allies worse. As Professor Winters made clear in his evidence last Tuesday, in conversations about how negotiations on the so-called roll-over agreement with Japan were going, Ministers and negotiators were being studiously vague about what was really going on.

The detail of concerns expressed about what has been negotiated only underlines the need for increased scrutiny—not only of all future FTAs but, crucially, of existing continuity deals. Nick Ashton-Hart of the Digital Trade Network noted that the UK-Swiss deal that has been negotiated has only three mutual recognition chapters, compared with the EU-Swiss deal, which has some 20. It will be interesting to know from Ministers why the UK-Swiss deal had just three mutual recognition chapters whereas its predecessor, the EU-Swiss deal, had 20. Apparently, there are similar problems with customs arrangements. In the case of Norway, only a goods arrangement was rolled over, so British companies have no idea at the moment what they will be able to access in terms of services markets in Norway from 1 January next year. There is a similar position with Switzerland—much has not been rolled over. Companies operating in services markets will have little idea at the moment what access to those markets in Switzerland they will have from 1 January.

10.30 am

Let us take the EU-South Korea deal and the successor UK-South Korea deal. It appears that South Korea only agreed to roll over a deal with the UK on the promise of serious new negotiations—effectively a new deal—in 18 months. From being in a position of strength with South Korea, we are forced to be a rule taker and agree to have new negotiations in just 18 months.

Out of 11 European products that can be exported at zero or reduced tariffs up to a certain level in the EU agreement with South Korea, the UK managed to secure an agreement for only two still to be included in the UK-South Korea deal. Cheddar cheese, butter and natural honey from the UK are among those British products that miss out. As the National Farmers Union told a House of Lords Committee, it is hard to escape the conclusion that UK producers are losing out.

Let us be clear: Japan and South Korea, in their agreements with the European Union, have most favoured nation clauses locked into their heart. That means if they were to open up any more sectors to the UK—services, investment, other goods markets—the EU would automatically get access to those better terms as well, so Britain is not going to get better terms with South Korea or with Japan because of those most favoured nation clauses. Some commentators are increasingly saying that, from what they hear from the Japanese side and what little they hear from the UK side, they fear the UK-Japan deal that gets negotiated and the UK-South Korea deal that gets negotiated will again worsen the terms of trade for British businesses. Indeed, there have been serious reports that British negotiators are accused in Japan of being heavy-handed and of not having the necessary specialists to take negotiations forward.

Surely that is a genuine concern that ought to be scrutinised by Parliament. If there were a Committee with access to how the negotiations were going, able to have confidential discussions with negotiators, for which the amendments would provide, Members of Parliament could probe whether that was the case and whether terms are going to get worse.

With the exception of Singapore, the biggest so-called roll-over trade deals with the UK have not been completed. As we heard during the evidence sessions, commentators are openly speculating that we will not see deals completed with Japan, Turkey or Canada before the end of December. Even when those deals are completed, they will be on less favourable terms than those that we currently benefit from through the EU deals that were negotiated. It is true that the one with South Korea has been completed, but only because Ministers agreed to go back to square one and negotiate a fresh deal in 18 months.

If Ministers cannot complete a trade deal with Canada, one of our oldest allies in the Commonwealth where the Queen is Head of State, it does not lend confidence that Ministers are going to be able to get a great new trade deal with anyone else any time soon before 1 January. All the more reason, surely, to have a process that requires much greater scrutiny of what Ministers and negotiators are up to.

I leave the Committee with this reminder of what the witness from UK Steel said about our trade deal with Turkey. He made it clear that if a deal with Turkey cannot be negotiated by the end of December, we will face tariffs on sales of UK steel to Turkey of some 15%, potentially putting at risk a market for UK steel worth some £350 million. He was clear that he has little optimism that a deal can be concluded with Turkey by the end of the year to prevent that dreadful scenario for British businesses in the steel sector.

Let us also look at the details of the trade agreement that many want to see with Japan. The Society of Motor Manufacturers and Traders is pressing hard for rules of origin to allow for parts of the finished car to include products from EU countries, so that they can still qualify for low tariffs. It is concerned that a UK-Japan deal may lead to further reductions in the number of jobs in the UK automotive sector and wants Ministers to establish an adjustment for those made redundant from the sector. Again, surely that is something that, as part of proper negotiations and proper scrutiny, Members of this House would be able to probe Ministers on.

Matt Western: My hon. Friend is quite right to highlight the vulnerability of UK automotive manufacturing, particularly with Japanese plants, and the consequences of that throughout the entire sector. The Japanese clearly want to hold off on any negotiation with the UK until there is clarity on our future position with the EU. I recall attending a Japanese ambassador's event two and a half years ago, at which the Japanese chamber of commerce said, "We will be watching you very closely to see what you decide to do, particularly in relation to your arrangements with the EU. If you get it wrong, watch this space." The UK is incredibly vulnerable. That is why the Japanese are treading very carefully around any trade deal with us and why they will only come to high-line arrangements; they are going to hold off until they can see what happens with the EU.

Gareth Thomas: That is a very good point. Specific Japanese automotive manufacturers such as Nissan have been very public with their concerns about the way trade negotiations are going. In that sense, they amplify the case for proper parliamentary scrutiny of our future trade agreements.

A series of witnesses, as my hon. Friend the Member for Putney mentioned, made clear the lack of proper parliamentary scrutiny of trade agreements. Indeed, it would be fair to say that a majority of the witnesses who appeared before us in the three evidence sessions we had last week noted the lack of proper parliamentary scrutiny for free trade agreements and expressed serious concerns about it.

I remember that Sam Lowe from the Centre for European Reform suggested that our scrutiny of trade is very poor and not particularly democratic when compared with the US and the European Union, and he gave the UK parliamentary process for trade treaty scrutiny less than five out of 10. He made it clear that some agreements that Ministers have negotiated are purely continuity agreements and alluded to those with the Faroe Islands, Chile and Jordan. He thought there would be substantially different trade agreements with Turkey, Norway, Switzerland and Ukraine, and in effect fundamentally new agreements—surely they are not within the terms of the Bill, if it is limited merely to agreements we have through the EU with existing trade allies—with Japan, Canada and the stage 2 deal with South Korea, which will merit a different, more robust parliamentary process.

David Lawrence from Trade Justice Movement said he has heard "nothing new" billed by Ministers on scrutiny of trade agreements. He described the process as archaic, dating back to the first world war when it was used for secret defence treaties. It has not changed in about 100 years. Trade Justice Movement made clear that it has relied on reports from Washington and Brussels to find out what is going on in trade talks that the UK is a part of, which again underlines the point that surely the British people, through their representatives in the House of Commons, should have access to much more detail.

The principal justification that Ministers have deployed and hidden behind to resist giving the British people more control over such agreements is a decades-old convention first articulated, I believe, by Arthur Ponsonby in 1924. One can understand why Ministers look to Mr Ponsonby for inspiration as he was a Labour Member of Parliament, from whom Ministers get their best advice. Trade then was very much with the different parts of the empire; it looks completely different now, with the drastic changes we have seen to world trade and, of course, our exit from the European Union.

That convention was formalised in part 2 of the Constitutional Reform and Governance Act 2010, which no one conceived would still be in use should Britain exit from the European Union and need to negotiate all sorts of future free trade agreements on our own, without our EU allies. CRAG does not require Parliament's approval for the Government to ratify treaties. Indeed, as a House of Commons Library briefing helps to make painfully clear,

"it gives any parliamentary objection to ratification (or similar processes like accession) a limited"—

limited is crucial—"statutory effect". There is a theoretical power for the House of Commons to block ratification, but in practice that power does not amount to much. The briefing continues:

"Parliament does not have to debate or vote on the treaty, and indeed time to do so is hard to secure given the Government's control over the timetable of the House of Commons."

[Gareth Thomas]

That the Conservative Government have a large majority underlines how it is entirely in No. 10's gift whether a debate and a vote takes place on a UK-US deal, a UK-China deal, UK membership of the transatlantic partnership or on a deal with Australia or New Zealand. Why should not Members of Parliament have a vote on those free trade agreements?

It is worth underlining that Parliament cannot make amendments to a trade treaty under the CRAG process as the treaty will have already been signed. Parliament can only object to ratification of an entire treaty, and that is very much a theoretical power—it is fantasy. There is also the slightly less than theoretical option of Parliament refusing to put into domestic law the different elements of a new trade agreement. Again, with a Government with an 80-seat majority, it is difficult to see how that, in any way, could be anything other than a fantastical possibility.

10.45 am

In practice, given the Government's control of the House of Commons Order Paper, to all intents and purposes, that is a theoretical way of rejecting a trade agreement that has already been negotiated and signed. It is striking that key Committees of both Houses of Parliament are calling for modernisation of how trade agreements are scrutinised and approved by Parliament. The International Trade Committee, in its report on UK trade transparency in December 2018, described the Constitutional Reform and Governance Act 2010 as providing a

"difficult and unsatisfactory means of rejecting a trade agreement which does not have the support of Parliament."

There were rumours that the Minister, before he was summoned back to the Department for International Trade, might have chosen to seek a place on that International Trade Committee. I am sure it would have benefited from his expertise. Perhaps he will consequently take considerable interest in that criticism by the International Trade Committee.

The House of Lords Constitution Committee said:

"The current mechanisms available to Parliament to scrutinise treaties through CRAG are limited and flawed. Reform is required to enable Parliament to conduct effective scrutiny of the Government's treaty actions".

It might have been possible to have a little sympathy with the Government's view that the people of this country do not need any more power to hold them to account if proposals set out in the Command Paper on the future of scrutiny of trade agreements were being implemented and taken seriously. They are not.

There is an irony—is there not?—in Ministers' arguments up to now that so-called roll-over agreements have already been scrutinised so do not really need any more parliamentary scrutiny. That scrutiny has been provided by Committees and Members in this Parliament, but scrutiny also has been provided in spades by the very institutions that Conservative Members have come to vehemently attack, notably the European Parliament and the Council of Ministers.

The bigger problem with the Government's position up to now is that the degree of mandating, oversight and approach to trade agreements that we negotiate with many key trading partners will be much greater in our partner countries than in ours. Surely that is the critical point for Committee members to consider as they decide whether to support amendments 4, 5 and the others in this group. Do they want Parliament to be able to genuinely take back control of the scrutiny of trade agreements? Do they think Parliament should be able to decide whether we go ahead with trade negotiations and whether trade negotiations are approved? I suspect that members of the public expect the Select Committees of this House to have a genuine opportunity to be talked to, off the record, about the detail of how trade negotiations are going. I suspect they will be sorely disappointed if Conservative Members are not willing to give this House the scrutiny it surely deserves.

The Chair: Going forward, I am happy for Members to remove their jackets if they feel the need to do so.

Bill Esterson: My hon. Friend the Member for Harrow West has given the Committee a tour de force that is worthy of parliamentary history. The Minister says it lasted an hour and a quarter. I hate to correct him on this occasion, because there are plenty of other opportunities to do so, but I made it one hour and 23 minutes, or possibly one hour and 24 minutes. It was slightly longer than an hour and a quarter but was very good anyway.

My hon. Friend made some incredibly important points about the amendments we have tabled, and about exactly why putting a proper set of parliamentary scrutiny procedures in place is so important. He described the 19 or 20 agreements that have gone through already, the lack of scrutiny of those procedures—some are more significant than others, such as the agreement with South Korea—the remaining 20 or so agreements that have to go through, and the prospect of having a scrutiny system for future international trade agreements. As he quite rightly pointed out, the framework of the Bill is to:

"Make provision about the implementation of international trade agreements",

which provides the opportunity to get this right and to get it in place. That is why our amendments are so important.

In an intervention, my hon. Friend the Member for Putney absolutely nailed this as well. I do not want to play down in any way the importance of the one-hour-and-23-minute contribution from my hon. Friend the Member for Harrow West, and her single intervention did not go into the depth that he did, but she made a very good point about the scrutiny of trade policy in this country and the fact that it is going in the opposite direction to that taken by almost everybody else in the world, at a time when international trade agreements are so significant and so far reaching. They are about so much more than trade, which is the point my hon. Friend the Member for Harrow West made later in his speech, when he described the way that our current procedures are based on the 1924 Ponsonby rule.

In an intervention, the hon. Member for Arundel and South Downs, who is no longer in his place, made the Brexiteer point about taking back control, in all its lack of glory, yet I am afraid he was wrong. The European Union had full scrutiny arrangements. This is one of

the points about our amendments. We are now left with a complete absence of those arrangements, and the fact is that we should be looking to replicate, at the very least, what we inherit from the EU.

I will read from the EU's step-by-step guide to trade deals:

"After both sides sign, the Council examines the proposal for conclusion and sends the agreement to the Parliament for its consent (approval)…The Parliament receives the agreement. The Parliament and its trade committee ('INTA') consult with representatives of industry, trade unions, environmental groups and other outside experts about the agreement. The committee:

• writes up a report on the agreement

• votes on it

…The whole Parliament votes on whether to give its consent to the agreement. This is a 'Yes/No' vote."

We have nothing on that scale of detailed scrutiny to replace such arrangements in order to look at the agreements to which the Government want to confine the Bill, or for future agreements. We are left with a process of rubber stamping, not scrutiny. In his analysis, my hon. Friend the Member for Harrow West set out the dangers of that lack of scrutiny when he described in detail the evidence presented to us that only three of 20 mutual recognition agreement chapters from the Swiss-EU deal are in place in the UK-Swiss deal; that only the goods element of the Norway deal has been rolled over; that the South Koreans want to renegotiate after two years; and that only two of 11 products from the equivalent EU-South Korea deal have been included at the same zero tariffs for export to South Korea.

My hon. Friend also made some good points about the lack of trade negotiating expertise, which he said has been raised by the Japanese and South Korean negotiators. It has also been raised by the US and Canadians as a reason that they are reluctant to engage with the UK. They feared that the quality of negotiations would be so weak as to affect the outcome of those negotiations so badly that it simply was not worth engaging. Things have moved on a bit on the American side since they raised those reservations last year, but we still await signs of progress with Canada. It must be the role of scrutiny, as my hon. Friend said, to try to avoid mistakes that we will regret for years to come.

My hon. Friend the Member for Warwick and Leamington made several good interventions, including on the need to avoid mistakes. He is quite right about that. If we do not get it right now, we will pay for years to come. However, this place is about not only governance, but representing constituents. We are the only 650 people in the United Kingdom with the ability to scrutinise and potentially vote on such matters in Parliament, which is why it is so important that we have access to that level of scrutiny and that Parliament is able to play its full part. That European system is a good place to start.

On Second Reading and on other occasions, the Minister described this as a continuity Bill, and he described my speech—I do not know whether kindly or unkindly—as a continuity speech on a continuity Bill. He is keen to play this as a continuity Bill, and of course, for many of those agreements, it is; where there have been only changes of wording to reflect that the agreement relates to the UK rather than EU, that is true and we have acknowledged it. However, for many other agreements, it is not true—it is far more than that.

That is also true of scrutiny, because we have not applied continuity to the system of scrutiny. If this was a continuity agreement, that EU system's level of scrutiny would be replicated as far as possible, by having a Committee with those responsibilities, having that level of engagement and consultation on the content of the deal and having those kinds of vote. However, that is not what is being offered. That is why our amendments cover it as one option, because that is precisely what we should be doing.

The Library note is a good place to go to as it sets out what is going on elsewhere in the world. We have no formal role in scrutinising most treaties while they are being negotiated, but while they are being negotiated is the only point at which the terms of the proposed treaty could be amended. The Minister may well want to say this, but I will say it for him; I will anticipate what he might say. My hon. Friend the Member for Harrow West mentioned the statement on the mandate for the US deal. There was a statement on the mandate for the EU deal. There was a statement on the first round of negotiations—

11 am

The Chair: Order. I will now suspend the Committee for one minute of silence in memory of the victims of the knife attack in Reading.

Sitting suspended.

11.1 am

On resuming—

Bill Esterson: It is appropriate to pause and reflect at this time to remember that terrible attack. The thoughts of all present in the Committee are with those affected—the victims, their families and the emergency services and civilians who intervened.

I was referring to the processes of scrutiny on trade agreements, as the Minister might describe them. The statements that we have had—statements in general—permit him to say what the Government are going to do. They allow for a five-minute response from the Opposition, a three-minute response from the SNP and individual questions from Back Benchers. That is not thorough scrutiny. It does not allow cross-examination. It does not allow scrutiny beyond the Chamber.

There is a limit to what a parliamentary statement can achieve and what it does achieve, and the idea that written parliamentary questions deliver very much other than a stonewall from Ministers—this Minister is very good at that—would be laughable, if that were to be used as an example of detailed scrutiny. Questions in the Chamber are invariably met with an ability by Ministers to avoid answering them, rather than shedding very much light. The Government control the timetable, so the ability to debate in detail is limited. Of course, we have Opposition day debates, but we are competing for time with so many other urgent and important topics, which limits our ability to scrutinise.

Committees are important and they can carry out scrutiny, but without access to negotiating texts and without detailed engagement in the development of mandates, all these processes are limited by definition. At this time, when other countries are looking to expand—whether that is Canada, Australia, New Zealand or the

[Bill Esterson]

United States—in all those countries there is far greater access throughout the process of the development of mandates and in the scrutiny of negotiating texts, and greater engagement of industry, trade unions, civil society, environmental groups and elected representatives.

There is a lack of continuity in scrutiny from what we have now, but, as the Library note sets out, there are at least four possible ways for Parliaments to be involved in treaties: first, by setting the negotiating mandate; secondly, by scrutinising negotiations; thirdly, by approving or objecting to ratification; and fourthly, by passing implementing legislation for treaties that need changes to domestic law. All those are covered by amendments. All those are what my hon. Friend the Member for Harrow West has covered in great detail, so I shall not go into that same detail on the amendments. That is set out for us in the Library note and covered by these proposals.

International trade agreements cover so much now that they deserve that level of domestic scrutiny. I thought the example of HS2 and the way its development has been subjected to massive scrutiny, compared with the minimal scrutiny of international trade agreements, made a pretty good argument about what is wrong and why there is the need to put this right. If not in the Bill, when?

Gareth Thomas: There is perhaps an even better example to use in comparing the lack of parliamentary scrutiny of a potential UK-US deal, or any other free trade agreement deal, with existing legislation. The Minister, as a London Member of Parliament, will remember that Transport for London sought additional powers in a private Bill and there was substantial scrutiny of that private Bill on the Floor of the House of Commons. That is vastly more than Ministers are planning for a UK-US deal or, indeed, any other free trade agreement.

Bill Esterson: That is another good example. I thought for a minute my hon. Friend was going to mention Heathrow, because the Minister, last time he was in this job, had to resign from it to vote against the Government. However, I think we are in different territory and the current Prime Minister and he were in the same place there, although I do not know whether the Prime Minister is talking of lying down in front of bulldozers these days—*[Interruption.]* I do not know whether the Minister will want to respond to that.

The Library note also mentions the Constitutional Reform and Governance Act 2010, or CRAG, provisions. The point about CRAG is that it does not require Parliament's approval for the Government to ratify treaties. That is the point my hon. Friend the Member for Harrow West made. There is such a democratic deficit here, which is why these matters need to be set straight. In the previous debate on this in Committee, the point was made that Labour introduced CRAG. Yes, we did, but we introduced CRAG in the context of being members of the European Union and in the context of the scrutiny system that I described a few minutes ago.

CRAG is no longer suitable precisely because we are no longer party to that European Union system of scrutiny—which, by the way, we were entirely able to contribute to and to access as much as any other nation, and which was far ahead of what is being offered now, albeit concerns were raised about the level of engagement over the Transatlantic Trade and Investment Partnership under that system. That is why we should be pushing for a better system than that of the European Union and the one we have just left. TTIP showed that we need to continue to improve the level of scrutiny and engagement, and the involvement of wider society.

There is no continuity in scrutiny, whatever the degree of continuity may be in the agreements being considered. The House of Lords amended the previous Bill to give Parliament a role in setting the mandate for trade negotiations and approving the final agreement, which goes to the point made in the Library note. The Command Paper that my hon. Friend referred to was produced in time for the Report stage in the House of Lords. Although the Lords felt that the Command Paper did not go far enough, it started to make progress, so I am keen to hear the Minister's response to my hon. Friend's question about what has happened to the recommendations in the Command Paper.

There is quite a lot of support on the question of what good scrutiny looks like, as set out in the House of Commons Library paper and as in the evidence from David Lawrence, who described broadly similar points. The written submissions from a number of organisations make the same point about debates and votes on objectives; reports back to Parliament on progress; ideally, the publication of texts from each round; a debate and vote on the deal after negotiations; a public consultation; and an independent impact assessment that looks at social and environmental factors, which is why we tabled new clause 6.

As my hon. Friend said, we have scrutiny measures from world war two that are completely inappropriate. There is no way, as David Lawrence told us on Thursday, that trade deals can meet high standards without more scrutiny. As to future trade agreements, he told us that unless we get this right now, there will not be an opportunity to revisit how we approach scrutiny.

David Lawrence said on Thursday that sequencing issues are not being addressed in the Bill and that there should be priorities in respect of when we legislate. That goes back to my hon. Friend's point about the response from Japan, South Korea and Canada. They want to know what is in the EU deal before they reach an agreement with us. The EU deal, because of its impact on the agreements that we were party to through our EU membership, should come first before the US deal.

We need a level of scrutiny in place for those agreements and for the US deal, which will concern public services, digital services and regulations on health and food standards, which are the subject of a series of amendments that I imagine we will reach this afternoon. There are similar concerns about Canada, which is why greater scrutiny needs to be agreed to in the Bill. We should be able to consider the exact consequences of that deal. The scrutiny should be of the same degree and nature as that described by my hon. Friend earlier.

My hon. Friend mentioned Sam Lowe's evidence and his three boxes. The problem deals are in box 3: Japan, Canada, Mexico and Ukraine. Those countries want the certainty of an EU-UK deal before they negotiate with us, for reasons related to future arrangements for mutual recognition or rules of origin. The examples

that my hon. Friend gave of what has already been agreed in the deals with South Korea and Switzerland show what those concerns might be.

11.15 am

As Nick Ashton-Hart told us on Thursday, the agreements with Japan, Canada, Mexico and Ukraine are not the same agreements as before. I remember that in an earlier sitting of this Public Bill Committee, the Minister said to us that we did not really need to hear from some of the witnesses again because we had heard from them two years ago. It was actually extremely helpful to hear from some of the same witnesses again. They were able to say that what they had said two years ago has been proved to be entirely accurate, and in this case that these are new deals and they need proper scrutiny. They were also able to repeat some of the warnings they had given before.

One of the warnings that Nick Ashton-Hart made to us last week was indeed a warning that he made two years ago: no one makes the same deal with a smaller entity as they had with a bigger one. What did he mean by that? He meant, for example, the deal with Switzerland, where only three of the 20 mutual recognition agreement chapters that we had as part of the EU are now in place in our deal with Switzerland on our own. It is a much smaller deal because we do not have the same negotiating strength, as we are a much smaller economy, and that will be the reality in every single negotiation. Our negotiating partners will want a bigger and better deal.

Nick Ashton-Hart also gave us some very good advice about how we might scrutinise things. It was about how we work with other organisations outside this place, and it showed why scrutiny is not just about parliamentarians looking at negotiating texts, if we are allowed to see them—our friends and partners in other countries will be able to do so. He said that industry in the UK has relationships with industry in the United States, Japan, Canada and Turkey, and that it can use those relationships to lobby other countries. However, our industry can do that only if it knows what is in the negotiating texts; it can do that only if it has full access to the information. That is why scrutiny is so important.

The Minister may mention the expert trade advisory groups in his response to this point. The problem is that those groups are patchy. As we heard from industry representatives in their written and oral evidence, not everybody who could be a member of such groups actually is a member; not everybody who might want to be a member is a member. There are doubts about what access to information is available. Indeed, Rosa Crawford, from the union side, told us about the non-disclosure agreements. The problem is that these NDAs are so far-reaching that they prevent the kind of engagement that might benefit us in negotiations, of the type that I have described, because they would prevent that international discussion to improve our negotiating position and to influence our partners in other countries, by affecting the way they can look at our requests.

We should have proper and open relationships with, and proper and open scrutiny by, employers and trade unions, who can be partners. I made the point in an earlier intervention that it is the US unions that are telling the UK unions what is in the US-UK trade negotiation texts, because they have access to them and our Government do not let us have access to them.

As Nick Ashton-Hart told us:

"you are robbing yourself of a key element that will help you to negotiate a successful outcome."—[*Official Report, Trade Public Bill Committee,* 18 June 2020; c. 82, Q118.]

If we do not consult closely with industry, that is what will happen. Consulting closely with industry should be viewed as a positive, not a negative. That was the point he wanted us to take on board. We all know that scrutiny is important because we do it all the time here. We do it all the time on domestic legislation and we should be doing it here as well.

There are many other reasons why scrutiny is needed, which we heard in the evidence presented to us. Jonathan Brenton from the CBI and Allie Renison from the Institute of Directors both used the term "consensus". They both recognised that if we want sustainable, long-term and successful international trade agreements, we have to engage with Parliament, civil society and the trade unions, as well as with business, given the organisations they represent. Professor Winters from the UK Trade Policy Observatory identified some of the problems with the Bill, in the way it can be used for secondary legislation and for overwriting primary legislation. Why is it that having seen the last Bill amended in the Lords to bring the sunset clauses down to three years, the Government have put them back up to five? What are they so afraid of?

Gareth Thomas: My hon. Friend will remember that Professor Winters described the information he got back from negotiators about how the UK-Japan talks were going as "studiously" vague. Is that not a fair description of all the information we have had back from Ministers thus far about the progress on free trade agreements? That is all the more reason why this group of amendments needs to be in the Bill.

Bill Esterson: The arguments set out by my hon. Friend were extremely well made by our hon. Friend the Member for Brent North two years ago. My hon. Friend the Member for Harrow West has surpassed the formidable nature of the arguments made on that occasion.

Gareth Thomas: Harrow is always going to beat Brent.

Bill Esterson: Having sat and listened to both speeches—as did the Minister—my hon. Friend's contribution has taken us to a whole new level, and the point he just made is exactly right.

George Peretz, QC made the point that scrutiny can help negotiators. Parliament just will not accept that point in this country, but the US uses that tactic. It is a strength to have the buy-in of Congress for the US trade negotiators, because they can say "I cannot agree that because Congress will not support it." That is a standard negotiating tactic used across the world. It is used by trade unions that go back to their members. It is how good negotiators operate. They do it by having engagement, by building trust from their stakeholders and by using the strength of that engagement, trust and support as a negotiating tactic. There are many good examples around the world. We should be seeking to emulate them. These amendments give a good guiding light on how to do so, and I suggest to Members and to the Government that they seriously consider taking them on board in the same way as the House of Lords did last time.

Gareth Thomas: I draw my hon. Friend's attention to the document that he briefly referred to: the Command Paper, "Processes for making free trade agreements after the United Kingdom has left the European Union". He will remember from that Command Paper Ministers' commitment to have a close relationship with a specific parliamentary Committee in each House. They proposed

"to work with the House Authorities to establish which committee"

it should be,

"including the possibility of creating a new one".

They go on to say that the Committee

"could have access to sensitive information"

that would not be more widely available. Has my hon. Friend heard of any update on the progress of establishing such a—

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.