# PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

## Public Bill Committee

# TRADE BILL

*Sixth Sitting*

*Tuesday 23 June 2020*

*(Afternoon)*

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**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*

*(Afternoon)*

[Sir Graham Brady *in the Chair*]

## Trade Bill

### Clause 2

Implementation of international trade agreements

*Amendment proposed (this day)*: 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."—*(Gareth Thomas.)*

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

2 pm

*Question again proposed,* That the amendment be made.

**The Chair:** I remind the Committee that with this we are discussing 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** (Harrow West) (Lab/Co-op): On a point of order, Sir Graham. By the way, it is very nice to have you back. During the interval, I have come under pressure from a Government Member to speak again at length. To do so comfortably, it would be appreciated if you allowed us to take off our jackets.

**The Chair:** I was minded, given the forecast of a warm week, to allow Members to remove their jackets, but the way the argument has been advanced is making me wonder. I think, on balance, that Members may remove their jackets if that makes them more comfortable. I gather that we had this morning a thorough examination of the topics, so I anticipate that we may be poised to make progress at this point, but I also understand that Mr Thomas had just come to the conclusion of an intervention and has been eagerly anticipating in the intervening hours the response from Mr Esterson.

**Bill Esterson** (Sefton Central) (Lab): Welcome back, Sir Graham. It was getting warm for those of us standing up and holding forth, so I am grateful for your ruling. My hon. Friend the Member for Harrow West intervened before the break and asked me to comment on the Command Paper and the indications in it about reports on changes to agreements that have been made. In his speech earlier, he pointed out that the Government have changed their mind several times on this matter, and I think we are none the wiser.

The point is that it is desirable to have the reports on the differences between the existing EU agreements and the so-called continuity agreements that replace them, but more important is what we do with the information. Unless there is adequate scrutiny and proper analysis of it by having the right processes in the House and outside, it is very difficult to do anything meaningful with them.

I had just one or two more pieces of evidence that we had been presented with and I was reminded of a cautionary tale from Australia about what happens when international trade agreements are not properly analysed and scrutinised before they are signed. In Australia, there used to be a car industry and there is no more, in large part because of the international trade agreements—the free trade agreements—that Australia signed, including the one with Thailand in 2005, in which Australia agreed to lift the import tariff on cars from Thailand. Since then, more than 2 million Thai-made vehicles have been imported into Australia. They are familiar brands: Ford, Holden, which is familiar to Australians, Toyota, Honda, Nissan, Mitsubishi, Mazda and others. In return, Australia ships to Thailand just 100 Ford Territory SUVs. The reason for that imbalance in trade is the hidden non-tariff barriers that the Thais maintained while Australia opened its borders completely. It is a cautionary tale of what goes wrong when international trade agreements are not properly implemented, when they are not adequately scrutinised and when one party does not get it right. We would do well to learn from that example.

**Robert Courts** (Witney) (Con): Will the hon. Gentleman give way?

**Bill Esterson:** I was hoping that we would be able to accept the advice from the Chair and move on, but I will briefly give way.

**Robert Courts:** The hon. Gentleman mentioned Australia and the vehicle tariff, and he is right that Holden was the last big Australian manufacturer, but is it not the case that there is a 5% tariff on imported vehicles for Australia? Is not the cause of the demise of Australia's vehicle industry in fact the protectionist tariff that was imposed? I think it lingers on.

**Bill Esterson:** I think that we will be in a rather worse position if we do not sort out our agreements in this country, where we would face a 10% tariff, with rather more devastating consequences for the car industry here. Anyway, we dealt with the car industry at some length this morning; I do not anticipate spending longer on it.

**Gareth Thomas:** Is not the significance of the intervention from the hon. Member for Witney the fact that it underlines the need for a proper opportunity for the House to consider the impacts of free trade agreements and all their tariffs—10%, 5% or whatever—on British industry?

**Bill Esterson:** My hon. Friend is quite right. That was the point he was making this morning at slightly greater length. If we want to get these things right and avoid unintended or adverse consequences, scrutiny is the answer. I thank my hon. Friend for pointing that out again.

I want to remind the Committee of the work of the International Chamber of Commerce UK. Its coalition of business groups, trade unions, consumer groups, environmentalists, other non-governmental organisations and civil society more widely produced a paper in 2017, "A Trade Model That Works for Everyone", in which there was consensus about the need for proper scrutiny from elected representatives and wider stakeholders. It is a point made right across society. In its written evidence to the Committee, the ICC UK points out:

> "The Bill ignores the seriousness of the situation we face regarding trade. Public trust in the system is at an all-time low—this is an opportunity to acknowledge the failures and get it right if the UK wants to set new global standards, ensure everyone benefits and future proof trade governance."

The Bill is the chance for this country to set new global standards—to lead the way and show the rest of the world what is possible, by creating a new gold standard.

As George Riddell from Ernst and Young told us last week, business wants certainty, political security and support across the board, so they know trade deals will last. That means proper parliamentary and non-parliamentary scrutiny. That is how we can achieve the new global standards that the ICC recommends.

**The Chair:** Mr Hosie, I am just checking whether you wish to speak.

**Stewart Hosie** (Dundee East) (SNP): No.

**Hon. Members:** Hear, hear.

**The Chair:** I call Mr Western.

**Matt Western** (Warwick and Leamington) (Lab): Thank you, Sir Graham. I rise to speak very briefly. I concur with all the comments made by my hon. Friends and will not rehearse many of them. I would just say that we should remember the famous line from the film, "Infamy! Infamy! They've all got it in for me!" There is something about scrutiny and more scrutiny. We have to keep

*[Matt Western]*

repeating the word, because it is so important for all of us, wherever we sit. Whether we are Government Back Benchers or Opposition Members, the opportunity for scrutiny is important. Trust and transparency are in short supply and it is critical for the validity of this place that they are restored. There is likewise a matter of competency, which I will come on to. How do we face the challenges of the trade deals before us and ensure that we have sufficient competency and capacity?

The issue is secondary legislation and what Ministers are permitted to do that allows them to avoid full scrutiny. As such, the affirmative process in the Bill will not allow us the checks and balances that our constituents require, irrespective of the territory, geography or community that we represent. There will be serious issues that will fall to Government Ministers, and it should be a great concern for hon. Members on both sides of the Committee to make sure that Ministers can be held to account.

The process should be iterative. A great thing that we found out when the International Trade Committee visited Canada and the US was how involved their Parliament and Congress are in the process of determining and setting parameters for their trade representative bodies. That is what we should be pushing for: from the beginning, we as parliamentarians should have more say on the direction that the trade representatives take in negotiating our position.

We mentioned the situation with vehicles and what that means for our automotive sector, but irrespective of the sector or region that is up for discussion, trade deals will have an impact. It is about understanding those impacts through modelling, so a value decision or judgment can be made. Understanding and appreciating the consequences of that sort of trade deal was important in the evidence given to us by the Australian trade people and, likewise, the US and the Canadians.

I mentioned what we discovered several months ago from the South Koreans about where they were in their negotiations and discussions with the UK. It was all published online but there was nothing from our side, which should not be the case. I do not see how any of us, Back Benchers or Front Benchers, in government or in opposition, can face constituents or the major businesses that each of us have in our constituencies and say that we are unaware of what is going on on their behalf. In contrast, the Koreans—in the case of vehicles, the Kias, Hyundais, Samsungs and so on—will be totally aware of what is going on in the negotiations.

Trust and transparency are important because, without scrutiny, the process will lead to poor governance. As has been said by my hon. Friend the Member for Harrow West about events in the recent crisis, if more had been put into the parliamentary domain and if there had been more involvement across the House, perhaps we would have avoided some of the difficulties that we have experienced. We have to avoid a bunker mentality. It is not healthy for the Government or for the reputation of Parliament.

As has been said, while we are sitting here, many trade deals are being discussed, such as the UK-Japan deal, the UK-Australia deal, the UK-US deal and so on. They are seriously huge undertakings. In our evidence sessions in the International Trade Committee, we discovered that many such trade deals typically take six to eight years, yet the Japanese are telling us that they want a trade deal within six weeks. That is terrific—good for them—but they are holding us in a difficult position. They know that we need a trade deal, but it will be on their terms, because we are in a weak position. None of us want to be in that weak position.

The Australians are saying, "Yes, we will have a trade deal within a year." Again, that will be very much on their terms. That is the sort of understanding that we need to share with the public and that needs to be shared in this place, so that we fully appreciate what the consequences of those decisions will be.

As we heard in the evidence sessions last week, there is no real rocket science about it. The ideal approach to negotiating trade deals is that there is involvement through parliamentarians, through consultation with trade unions, with business sectors and so on. It is understood, through some sort of guaranteed debate, what is trying to be achieved. Then, during negotiations, texts are published and updates are given. That is what the US, the EU and other nations such as Australia do. The negotiated deal can then be put to a formal voting process for ratification. However, it seems the Government do not wish to do that. Looking across the room here, that has to be of concern, irrespective of the constituencies we represent, because of what it means economically and what it means for some of our businesses, the agriculture sector and so on.

2.15 pm

Finally, we should have learned from how the Transatlantic Trade and Investment Partnership negotiations were undertaken, how they were done in secrecy and how, with the lack of transparency, the public's distrust grew. Ultimately, that very fact doomed them to failure.

We need a much more open approach. With the amendments, we are pushing to give Parliament a much greater role. It is not clear what the future of the International Trade Committee should be and what its involvement will be. That is a major shortcoming in the regard that is given to this place and how it should be scrutinising the role of Government. That will only lead to a greater diminution of democracy. I do not believe that that is in any of our interests.

**Fleur Anderson** (Putney) (Lab): It is four years to the day since the referendum vote to leave the European Union and here we are, hardly oven ready. The stripping out of scrutiny is the most alarming of the many alarming parts of the Bill. A world-leading trade Bill must contain strong parliamentary scrutiny and transparency. The amendments and new clauses would enable debates to be held before, during and after negotiations, and the meaningful involvement of businesses, trade unions and interest groups across the country and around the world to assess the impact of any negotiations and help us make the best decisions.

The coronavirus crisis has shown the importance of proper parliamentary scrutiny. For example, the Chancellor's economic support package—while I commend and welcome the support on offer—has been flawed in many crucial areas. I do not think that would have happened if there had been time—and there was not, I can see that—for

much longer parliamentary scrutiny. That would have allowed self-employed people, people who had new contracts and limited company directors to say where they needed support from the economic support package. That is an example of where there needed to be better parliamentary scrutiny—there should have been more, catching up—and of where there are failings when we do not have time to look at the Bills we pass.

In the post-Brexit world, trade has been catapulted from the margins of public debate into one of the major talking points of political discourse. Trade agreements will have huge implications for our economy and future prosperity, and cut across huge swathes of public policy. They are of interest to all parliamentarians and to all areas of public policy, and are not to be done in secret in smaller areas. Future trade deals should be developed democratically. As such, it is wrong that the Bill does not address the gaping democratic deficit in trade policy. That is what the amendments seek to address.

The system under the Constitutional Reform and Governance Act 2010 is entirely inadequate and has not kept up with the times. It is no surprise that it has been criticised by no fewer than five parliamentary Committees. As the Minister himself has said:

"Parliamentary scrutiny is crucial for trade agreements, and we have seen the difficulties in recent years with trade agreements that have been insufficiently scrutinised, or where there was a feeling that there had been insufficient scrutiny—the Transatlantic Trade and Investment Partnership perhaps being the most important example."—[*Official Report*, 17 July 2018; Vol. 645, c. 281.]

Under the current system, MPs will have less say than our counterparts in Brussels and in Washington. In my constituency, 39% of jobs are in sectors identified as being directly and severely impacted by the continuity agreements. I am angry that, as an MP, I will have little say and little opportunity to prevent that. Moreover, given the profound effect that trade deals will have on jobs in Putney and Wandsworth, in London and across the country, it is troubling that under the Bill there will be no formal assessment of the impact of trade deals on different sectors of the economy and different regions of our nation, or consultation with businesses and trade unions.

New clause 6 lists all the different impact assessments: economic, social, human rights, environmental, animal welfare and food standards. Those things are of immediate concern to constituents, and yet we will not have an assessment of the impact of trade deals on them—or, if it does happen, it will happen behind closed doors and will not be open for public debate and scrutiny.

The CBI has noted:

"A trade policy that provides a clear, meaningful way for businesses to feed in all their experience and expertise into government will create the greatest value from the UK's opportunities across the world—and ultimately support prosperity across the country."

Surely that is what we want. There are expert groups, of course, but they need parliamentary scrutiny to lock in their feedback.

It is concerning that the Bill only addresses EU roll-over agreements and does nothing to set the parameters of future agreements with non-EU nations such as the United States. The Bill is a huge missed opportunity to establish a framework for future trade negotiations. The scope of the Bill is just too narrow.

For four years, we have been repeatedly told by Trade Ministers that the world is queuing up to do business with the UK. Last year, the then Secretary of State for International Trade declared to the Future of Trade and Export Forum that

"the UK has an untapped potential of £124 billion in the export of goods alone."

The current Secretary of State has triumphantly announced:

"We are growing wheat more competitively than the Canadian prairies. We're producing more varieties of cheese than the French. And we are even selling tea to China."

If the Government are so confident in our attractiveness to prospective trading partners, as they should be, why is there such reticence about codifying the high standards and regulations that have been promised by the Prime Minister? Why are the Government so intent on ensuring the lowest common denominator in trading standards—a rush to get it through without an ambition to get through the best?

There is a constitutional point to be made here as well. The Trade Justice Movement, which represents 60 organisations, noted in its evidence to the House of Lords Constitution Committee that proper parliamentary scrutiny of trade deals is far more compatible with

"the UK's traditional constitutional division between executive and legislative powers, where the executive is responsible for foreign policy."

The crucial point is that, when it comes to trade, it is impossible to distinguish between the international and the domestic. The two are intricately linked, so to take trade out of the hands of Parliament runs contrary to hundreds of years of constitutional precedent. To ensure that Parliament is sovereign over domestic affairs, it is essential that it is given a role in scrutinising trade agreements.

To summarise, the amendments and new clauses that my colleagues and I have tabled would address the democratic deficit and create a stronger trade policy, which would ensure greater prosperity across our country. They would ensure a meaningful vote and debate for MPs on the Government's negotiating objectives from the start, and a much-needed widening of the scope of a Bill that is silent on too many crucial issues. They would ensure far greater transparency during the negotiations, proper public consultation and meaningful engagement with civil society, businesses and trade unions, and the introduction of much-needed impact assessments that look beyond economic metrics to include the impact on the environment, human rights and developing countries. The Trade Bill would be far better for them.

**The Minister for Trade Policy (Greg Hands):** May I start by welcoming you again to the Chair this afternoon, Sir Graham? In an oversight, I was not able to welcome Mrs Cummins this morning, because there had yet to be a contribution from the Government Front Bench, thanks to the expansive efforts of the two chief Opposition spokesmen, the hon. Members for Harrow West and for Sefton Central.

Let me start by being in complete accordance with the words the hon. Member for Sefton Central said at the end of our minute's silence, in paying tribute to the first responders and the emergency services in Reading at the weekend. We owe them all a debt of gratitude for the public response that took place.

*[Greg Hands]*

Amendment 4 would mean that, before regulations were made under clause 2, the process of parliamentary scrutiny set out by the Opposition in new clause 5 or amendments 6 or 7, as appropriate, would need to be completed. I take this opportunity to remind hon. Members that the power in clause 2 is needed to provide for the continuity of existing trading relationships, not to implement free trade agreements with new trading partners. It will ensure that the UK continues to benefit from the EU-third country agreements to which we were a signatory before exit day.

During the evidence sessions, we heard from a very diverse group of witnesses, ranging as widely as the Institute of Directors, the CBI and ClientEarth, that the Government's continuity programme was sensible and reasonable. Indeed, Parliament has so far ratified 20 continuity agreements with 48 countries. That accounts for £110 billion-worth of UK trade in 2018, which represents 74% of the trade with countries with which we were seeking continuity before the withdrawal agreement was signed. Those agreements were, of course, subject to extensive scrutiny in their original form as EU agreements. The main purpose of the power in clause 2 is to replicate existing obligations in current agreements. Additional new scrutiny, on top of what we already have in place, would not be a proportionate use of parliamentary time for existing agreements.

To reassure Parliament, we are going further and providing additional measures to constrain the power in clause 2 and provide extra scrutiny for any resulting legislation. All regulations made to implement obligations under these arrangements will be subject to the affirmative procedure, and the power is also subject to a five-year sunset period, which can be extended only with the consent of both Houses. We will discuss the sunset clause under a later group of amendments. Moreover, we have voluntarily published parliamentary reports—alongside continuity agreements—outlining any significant differences between our signed agreements and the underlying EU agreement.

**Gareth Thomas:** The Minister is referring to the voluntary tabling of reports. At Report stage of the last Trade Bill, Ministers were going to put that on the statute book. Why the change this time?

**Greg Hands:** I will come on to that shortly, but in brief, the proof has been in the pudding. For each of those 20 agreements, we have published the report. The reports have been available for Members of both Houses to study. A few of the reports have been made subject to a debate in the Lords. None of those Lords debates resulted in a motion to regret on the ensuing agreements. I would say this: rather than trusting in our word, trust in our deeds. We have published those reports and we will continue to do so.

**Gareth Thomas:** I simply make the point that the most significant of the so-called continuity trade agreements—with the exception of Singapore and what Sam Lowe described as phase 1 of the South Korea agreement—have yet to be rolled over. Locking into law reports on the significance of those agreements would, I suspect, attract substantially more interest than the other reports have attracted so far.

**Greg Hands:** More than half of the continuity agreements have already been ratified, each with a report. The intention is to carry on producing those reports. I will deal with some of the points that the hon. Gentleman raised earlier, including his quite technical points in relation to the roll-over of the South Korea and Switzerland agreements. I will come back to him on the points he raised about differences between the EU version and the UK version.

The reports have enhanced parliamentary scrutiny, and I can confirm that we will continue to publish reports for the remaining continuity agreements.

**Bill Esterson:** A moment ago, the Minister mentioned that the Lords had held debates on previous agreements that have been subject to these reports. That did not happen in the Commons; that has gone. Given that the Government set the time, will the Minister take this opportunity to promise that the Government will create time in the Commons for debates on the remaining so-called continuity agreements, not least because agreements such as the one with Japan are significantly different to the ones we were party to as members of the EU?

2.30 pm

**Greg Hands:** I thank the hon. Gentleman for that intervention, but there is no way of knowing whether the UK-Japan agreement will be significantly different, because it is yet to be negotiated. We are trying to get an enhanced agreement with Japan, but that negotiation is under way. It is be impossible to speculate in what way, or to what degree, it will be different from the EU agreement. We are hoping for an enhanced FTA, and we believe there is further to go with Japan on that, so I do not think the hon. Gentleman's request would be appropriate.

**Stewart Hosie:** Taking what the Minister has said at face value, it is true that reports have been published, but the affirmative resolution process that he spoke about is effectively a "take it or leave it" option. There is no ability for Members to amend what the Government have proposed. If the Government were to use clause 2(6)(a) to modify retained legislation, we would be given no more than the opportunity to take or leave something that may look considerably different from the pre-existing arrangement we had through the European Union.

**Greg Hands:** I thank the hon. Gentleman for that intervention, and I plan to come to constraints on that power shortly. He rightly said that on the face of it, the power is broad, but there are significant constraints on its use. We must not forget that the continuity agreements are already in effect, and have already been scrutinised through previous processes in both the Commons and the Lords.

I draw the Committee's attention to our track record. Of the 20 signed continuity agreements passed through CRAG, their lordships have recommended six for the attention of Parliament, most recently the UK-Morocco association agreement on 9 March 2020. As I have said, not a single one of those debates carried a motion of regret. Due to the limited scope of the continuity agreements for which we intend to use the clause 2 power and the existing opportunities for parliamentary scrutiny, the scrutiny procedure set out by the Opposition in new

clause 5, to which I will turn in due course, would be disproportionate and unnecessary. That consequently means that amendment 4 is unnecessary.

I will now turn to amendment 5, which would seek to bring new FTAs within the scope of the Bill. The Government are only seeking a power in this Bill to ensure the continuity of trading relations with our existing partners, with whom we previously traded as a member of the EU. The Bill is not, and never was in its previous form, a vehicle to implement agreements with partners, such as the USA, that did not have a trade agreement with the EU before 31 January 2020.

**Gareth Thomas:** In relation to amendment 5, will the Minister confirm that there is no current legislative requirement for the Government to hold either a debate or a vote on any UK-US deal they negotiate?

**Greg Hands:** We have been absolutely clear in the process we have laid out. The publication of the negotiation objectives and the economic impact assessment, the fact that we have reported back at the end of the first round with a written ministerial statement, and the fact that we will publish an impact assessment at the end of the deal all show our commitment to parliamentary scrutiny of deals as we go forward.

Then, of course, there is the procedure under the Constitutional Reform and Governance Act 2010. I would have thought that the hon. Member for Harrow West would be rather more proud of that procedure, because I had a look around at the members of this Committee and studied their dates of arrival in this place quite carefully. I worked out that two members of this Committee voted for that procedure in 2010: myself and him. The only member of this Committee who was here in 2010 and did not vote in favour of CRAG is the hon. Member for Dundee East. Not only that: the hon. Member for Harrow West was a member of the Government at the time, in an international-facing Department to which CRAG was highly relevant, so he would have been part of the team that put forward CRAG 10 years ago. Miraculously, he is now against it. Perhaps he could explain that.

**Gareth Thomas:** What the Minister's brief may not have told him was that the provisions that implemented the relevant CRAG power came into force as a result of his Government's decision in November 2010, but that is by the bye.

The Minister gave a skilful and studious non-answer to the direct question I posed. Let me give him another opportunity to confirm that there is nothing in legislation at the moment that requires a debate or a vote on any future UK-US deal that his Government may negotiate.

**Greg Hands:** Sir Graham, you will know that under CRAG it is up to Parliament to determine whether to have that debate. Parliament's ability to scrutinise the agreement and its ability to study the economic impact of that agreement are absolutely clear. On top of that, any legislative changes that would need to be made as a result of any future trade agreement would have to go through both Houses of Parliament in the usual way.

It is understandable that colleagues are keen to make their voices heard on new FTAs, and as a result the Government have said repeatedly that we will introduce primary legislation to implement new FTAs where necessary. As I have just said, that primary legislation will be debated and scrutinised by Parliament in the usual way, and I can assure Members that Government will draw on the expertise and experience in Parliament when delivering our trade agenda.

Those are not just warm words; I invite the Committee to look at our track record. If we take the current negotiations with the USA as an example, before negotiations began, we launched a public bundle, including our negotiating mandate and a response to the public consultation that we had conducted as well as an initial scoping assessment. My right hon. Friend the Secretary of State made a statement in the House, and she and I have engaged with colleagues intensively. During negotiations, we have committed to keeping Parliament updated. Indeed, the Secretary of State provided a statement to Parliament on 18 May with a comprehensive update on progress in the US talks. These updates will continue as the negotiations proceed. We have said that once negotiations conclude, we will introduce implementing legislation, if it is required. Any agreement will also be subject to CRAG, which will provide further opportunities for parliamentary scrutiny.

I must stress that scrutiny of FTAs with new countries is a conversation that must take place separately from consideration of the Bill. Hon. Members such as the hon. Members for Harrow West, for Sefton Central and for Dundee East have expressed valid concerns about what will happen, and my door remains open to discuss such concerns at a future date. Nevertheless, we must not threaten this essential piece of continuity legislation by having discussions about the future.

**Gareth Thomas:** In the spirit of openness about future free trade agreements to which the Minister says he is committed, can he confirm to the Committee, given the concerns that exist about a potential UK-US deal, that there will not be any investor-state dispute settlement provisions in a future UK-US deal?

**Greg Hands:** I was being very generous in saying that my door was open, but it is not open to discuss the content of the current negotiations with the US. That, of course, is a matter—in the proper way—for statements to Parliament, but that is a live negotiation, so what may or may not be in that negotiation is probably a matter for that negotiation.

We laid out our negotiation objectives, in a document that I commend to the hon. Gentleman, on 2 March. It lays out our objectives in the talks, which are live at the moment, so it would be inappropriate for me to go down that road. However, my door remains open to having further discussions with all the Opposition parties about the scrutiny of future free trade agreements.

**Stewart Hosie:** I think the Minister is inadvertently getting to the nub of the concerns of many people both in Parliament and outside. It is all very well him saying, "We have published this, and we have made these statements to Parliament", but does he not recognise that simply publishing what are no more than heads of terms for negotiations, and then updates that say "Everything's going swimmingly", really does not cut the mustard?

**Greg Hands:** I thank the hon. Gentleman for that intervention and I am glad that he made it, because I will take him back five years to a very interesting negotiation

*[Greg Hands]*

that I had with his friend, John Swinney, which was a negotiation between the UK Government and the Scottish Government. It related to the Scottish fiscal framework: how exactly Scotland's finances and support from Westminster would work in coming years. We—John Swinney and I—agreed that it was a negotiation between two Governments, and it was not appropriate to publish text during the course of the negotiation. We would both provide general updates on the progress of the negotiation, rather than constant updates on text. That approach led to us getting a good agreement between the UK Government and the Scottish Government. I think both Governments were not entirely satisfied with it, but both could live with it. That shows the way forward, rather than publishing after each negotiation round, or mid-negotiation, what the latest text or approach is.

**Matt Western:** I hear that, and it is terrific, whatever happened between Scotland and the UK in that arrangement, but nub of this is essentially: how can it be that the EU informs and updates, providing not just heads of terms and whether things are going okay or badly or whatever, but the detail? That is what the US does and what Australia does. Why is the UK the only nation that will not give that detail to its public?

**Greg Hands:** Sir Graham, I think a comparison of how the UK and European Union do international treaties is a debate for another day. I do not think the two political systems are comparable. The approach proposed by the UK has greater parliamentary scrutiny than that of many Commonwealth counterparts that use the Westminster system—it is more extensive than that of Canada, Australia and New Zealand.

**Gareth Thomas:** The Command Paper that the Minister's colleagues published last February committed the Government to publishing reports at the end of each negotiating round. Is that still a commitment and practice that the Minister recognises, or has his Department and new Secretary of State gone back on that?

**Greg Hands:** I was going to return to the Command Paper, because the hon. Member for Sefton Central asked me a direct question about it. If the hon. Gentlemen will bear with me, I will return to the status of the Command Paper in due course. I want to make a bit more progress in setting out why we think this approach is not right overall for the Bill.

The Bill focuses on ensuring continuity of trading relationships with existing partners. Businesses and consumers are relying on the consistency that the Bill provides. Amendment 6 would disapply CRAG to international trade agreements and instead seek to apply a super-affirmative procedure to scrutiny of continuity agreements before regulations could be made under clause 2. Like other Opposition amendments, that would undermine the constitutional balance and upset an established, well-functioning system of scrutiny. It would also create a two-tier system of scrutiny for international agreements, whereby trade agreements on the one hand, and other important international agreements on the other, are scrutinised in an entirely inconsistent way. It is worth reminding ourselves that CRAG was designed to cover international treaties of all the types we would expect.

**Bill Esterson:** The Minister has said that many times. CRAG was designed and passed in this place when we were a member of the European Union. It was designed when international treaties were an EU competence, to complement the system in the EU. I read that out earlier; I will not read it out again. He wants this to be a continuity Bill, but what is the equivalent continuity of scrutiny and parliamentary process for what we were party to where CRAG was part of that European process?

**Greg Hands:** It is simply not correct to say that all international treaties are subject to EU competence. Many international treaties are, of course, subject to a UK competence, and CRAG has worked well. It is worth remembering that CRAG was arrived at after an extensive period of consultation—and it may be, Sir Graham, that you voted for CRAG in 2010 as well. It was backed by both the Government party of the day, represented by the hon. Member for Harrow West, and the main Opposition of the day as a sensible way of codifying what he referred to earlier as the 1924 Ponsonby rule. The whole purpose of CRAG was to codify that long-standing rule that has served as well, including over the past 10 years. An extensive change such as this would add significant and unnecessary risk to the Government's ability—

2.45 pm

**Bill Esterson:** Yes, it is an international trade agreement, absolutely correct. Where is the equivalent to the EU process that we have been party to? CRAG was party to that international trade bit of it, and yes, I accept that it applies to other elements of international treaties. Where is the continuity from the EU process to what we have now? That was the other half of my question.

**Greg Hands:** Again, we are talking about continuity agreements that have already gone through a process of scrutiny in the House. I was a member of the European Scrutiny Committee pretty much exactly when the hon. Member for Harrow West was a member of the Government. There was an established process by which treaties were recommended by the European Scrutiny Committee for scrutiny in this House. Most have already been through an established process of European scrutiny.

On future trade policies, I would say that the EU has a fundamentally different constitutional set-up from the United Kingdom. Our most similar constitutional set-ups are in countries such as Canada, Australia or New Zealand, which have very successful independent trade policies, and have done for a number of decades. I am confident that our scrutiny system, as proposed, stacks up well—in fact, it exceeds those, and stacks up very favourably—against those systems in making sure that our Parliament can have its say on future trade agreements.

I stress again, however, that this Bill is not about future trade agreements; it is about the continuity of our existing arrangements. Such an extensive change as proposed in the amendment would add significant and unnecessary risk to the Government's ability to secure and bring into effect the remaining continuity agreements by the start of 2021. That situation was not advocated by any of the witnesses we heard from. None of them said, "We want to junk all those 40 agreements and pretend that we have never had them", from ClientEarth right the way across to the Institute of Directors. Only the

Opposition seem to want to junk those agreements by voting against Second Reading of the Bill and by not having the continuity agreements in place.

**Gareth Thomas:** I am sure that the Minister would not wish to imply that the majority of witnesses simply supported the existing parliamentary scrutiny processes for trade agreements in general. It was clear that we heard a majority saying that, for new free trade agreements, the current parliamentary scrutiny set-up was not good enough.

**Greg Hands:** I am not saying that; I am clearly saying that the witnesses we heard from were, I think, unanimous in saying that the continuity agreements were important for the UK economy and trade. They would share my surprise at the opposition of the Labour party to rolling over those agreements, many of which were negotiated when Labour was in government, including the hon. Member for Harrow West. He was the Trade Minister when two of the agreements were negotiated by the European Union. I would love him to tell us what he was doing at the time. If he finds the agreements so objectionable in 2020, what on earth was he doing in 2008 or 2009 being party to the negotiations that led to those agreements being put in place in the first place? Perhaps he will tell us, or write to the Committee to explain.

**Gareth Thomas:** What we find objectionable is the lack of proper scrutiny in the process. That is the significant issue. I gently say to the Minister, he has not so far advanced an answer—I am agog to hear it—to the criticisms of a whole series of witnesses, from the business community and the trade union movement to trade exporters, about the failure of the Government to give Parliament a proper debating and voting opportunity on big new free trade agreements, such as a UK-US deal.

**Greg Hands:** We are going slightly around in circles, conflating the continuity arrangements and future free trade agreements. I will happily debate with the hon. Gentleman the merits of our proposals for future free trade agreements. I reiterate that my door remains open to his suggestions as to how we might scrutinise future free trade agreements. However, the Bill is about continuity arrangements for the 40 or more EU agreements that we currently have. Many of the witnesses, whatever they said about future trade agreements, were unanimous in talking about the importance of the continuity agreements.

**Robert Courts:** I am conscious of what the Minister has said about the Bill being a trade continuity Bill and that being its purpose. We have heard a great deal of debate today about scrutiny of future trading relationships. Would the Minister comment on something that seems to me is the case? We have parliamentary government in this country, where a mandate is derived from a general election. We do not have government by Parliament and any such scrutiny proposal needs to be considered very carefully in terms of its constitutional ramifications.

**Greg Hands:** My hon. Friend is absolutely correct. I was going to come on to describe the Opposition's panoply of amendments taken in their entirety; at the moment, I am still going through the deficiencies in each of the amendments. When we put them all together, they seek fundamentally to rewrite the constitutional balance in this country in terms of international agreements. That is properly a matter for the Executive and for royal prerogative, as scrutinised by Parliament.

Once again, I remind colleagues that continuity agreements have already been subject to significant scrutiny as underlying EU agreements. I say again that we believe that the existing constraints in the Bill are proportionate and provide Parliament with sufficient opportunities to scrutinise agreements. I have drawn Members' attention to the 33rd report of the Delegated Powers and Regulatory Reform Committee on the 2017-2019 Trade Bill, which raised no concerns about the delegated powers of the Bill and welcomed our move to introduce the affirmative procedure for any regulations.

I turn to amendment 7, which seeks to apply the super-affirmative procedure to any regulations made under clause 2 to implement FTAs with new countries, if the other amendments were to be carried. I will not recap why new FTAs are not included in the application of the Bill. However, I reiterate that we will introduce implementing legislation for new FTAs, if required, which would mean the proposals in the amendment are unnecessary.

Amendment 19 would extend the aforementioned procedures to any regulations made jointly with the devolved authorities. I have outlined the reasons why we do not believe those procedures are necessary. I can also assure colleagues that our approach with the devolved Governments is based on regular dialogue and consultation.

I thank Opposition Members for tabling new clause 5, which outlines in some detail the Opposition's proposal for how current and future trade agreements might be scrutinised. I have already remarked that this is a continuity Bill and therefore not the place for discussing our wider priority FTA programme or our approach hereto. However, I am happy to reiterate to hon. Members the Government's commitment to appropriate parliamentary involvement.

I believe we share common ground, insofar as we agree that Parliament should be able properly to scrutinise trade agreements and have sufficient information available to it in order to do so. The Government have ensured that that information is provided through sharing negotiating objectives, responses to public consultations and economic assessments. The amendments go beyond what is needed and, as hon. Members will be aware and as my hon. Friend the Member for Witney pointed out, cross the line that separates the powers of Parliament and the Executive.

We must respect that initiating, negotiating and signing international agreements are functions of the Executive, exercised under the royal prerogative. New clause 5 would have serious consequences. It would both undermine that cornerstone of our constitution and limit the Government's ability to negotiate effectively and in the best interests of UK businesses, consumers and citizens.

To be clear, the prerogative power is not just a historical throwback or a constitutional quirk. It serves an important purpose in enabling the UK to speak with a single voice as a unitary actor under international law. It ensures that our partners can trust in the position presented during negotiations. It is the same principle that applies in similar Westminster-style democracies with sophisticated trade negotiating functions, such as Canada, Australia and New Zealand.

*[Greg Hands]*

Setting aside for a moment the significant constitutional issues that we have just examined, the proposals are also unworkable in a practical sense. First, treaty texts are liable to change significantly right up to point of signature. As they say, "Nothing is agreed until everything is agreed." Sharing texts as we go might be a waste of parliamentary time, as they could quickly be made redundant. It is also not in line with the practice of our FTA partners, including the US, let alone Australia or New Zealand. Those countries will have legitimate expectations of confidentiality around key negotiating texts in our trade negotiations with them.

Final texts of agreements—which, after all, are what matters—are already laid in Parliament for 21 days under the CRAG process, and the Commons has an option to restart CRAG, potentially indefinitely. The Government have gone well beyond the requirements of CRAG and its statutory obligations, in line with our commitment to transparency and scrutiny, by providing Parliament with extensive information on negotiations. For the trade talks with the US on a new FTA and with Japan on an enhanced FTA, the Government have set out their negotiating objectives alongside a response to the public consultation, as well as an initial economic assessment prior to the start of the talks. Ministers have also held open briefings for MPs and peers both at the launch of the US talks—I held one myself—and after the conclusion of the first round.

We will continue to keep Parliament updated on negotiations as they progress, including close engagement with the International Trade Committee in the House of Commons and the EU International Agreements Sub-Committee in the other place. We are committed to publishing full impact assessments prior to the implementation of the agreements. That provides Parliament with more than sufficient information to scrutinise the Government's trade agenda properly.

Turning to new clause 6, I hope that on the issue of consultation, the Opposition will note the Government's strong record of consulting widely with the public and key stakeholders on our trade agenda. The Government's consultation on our priority FTA programme attracted 600,000 responses, making it one of the largest consultations ever undertaken by Government.

**Gareth Thomas:** I want to press the Minister on the proposals that were in the Command Paper last year. He has not quite answered us on that. The Command Paper said clearly that the Government would work with a Committee and give it access to sensitive information that is not suitable for wider publication, including private briefings from negotiating teams. On the record, is the Minister willing to confirm that they will do that with the International Trade Committee and the relevant Lords Committee, or not?

**Greg Hands:** I should be clear that the Command Paper was published by a previous Government in a different parliamentary context. However, we have in our approach so far followed what was set out in the Command Paper in relation to publishing negotiation objectives and impact assessments, and reporting back after the first round. I would again ask for confidence in our deeds, in terms of our overall commitment to parliamentary scrutiny.

In line with our commitment, we have published the Government's response to the consultations on FTAs with the US, Australia and New Zealand, and on an enhanced FTA with Japan. In relation to sustainability impact assessments, as the EU calls them, the Department has published, and will continue to publish, our own scoping assessments for each of our new free trade agreements, prior to negotiations commencing. As with the published UK-US, UK-Japan, UK-Australia and UK-New Zealand scoping assessments, those include preliminary assessment of the potential economic impacts, the implications for UK nations and regions, the impact on small and medium-sized enterprises, the environmental impacts, and the effects on different groups in the labour market, including whether there are any disproportionate impacts on groups with protected characteristics, arising from an FTA with the partner country.

The scoping assessments attracted quite a bit of attention, not least because of all the nations and regions of the UK that would benefit from the US trade agreement, Scotland would benefit the most, followed by the west midlands and then the north-east of England. Those are good things. We are proud of that, and of the fact that we published the assessment.

We are committed to publishing full impact assessments once negotiations have concluded and prior to the implementation of the agreements, when the effects of an agreement can be better understood.

On the point about standards raised in new clause 6, I encourage hon. Members to look at our record on negotiating agreements. We said we would not lower standards, and we have not, as can be seen from the parliamentary reports we published on each of the 20 agreements. None of the 20 agreements that have been signed to date involved any reduction in standards.

3 pm

New clause 7 would require the Government to seek parliamentary approval before entering negotiations. Again, the principle of the royal prerogative is at stake here. As I have set out, the negotiation of trade agreements is a function of the Executive, which has both principled and practical merits. If our partners are effectively in negotiation with both the Government and Parliament—I cannot for a moment think that that sounds in any way familiar to Members from recent times—that will result in uncertainty, delays and ultimately worse trade agreements for UK businesses and consumers.

I understand that Members are keen to understand the mandates and objectives for new trade agreements that are explicitly not included within the scope of the Bill. As I have mentioned, we have published a full negotiating bundle, including draft objectives and a response to the public consultation, for our new FTA negotiations with the US, Australia and New Zealand, and for our enhanced FTA negotiations with Japan. That strikes the right balance between preserving the Government's ability to negotiate in the best interests of the UK and ensuring that Parliament can have its say on these important issues.

The proposals in new clause 6 would be unprecedented, both domestically and internationally, and would compel the Government to share sensitive, fast-moving texts with Parliament regularly throughout the negotiations.

**Gareth Thomas:** In the Command Paper published in February last year, the Government committed during negotiations to publish and lay before Parliament a round report following each substantive round of negotiations. Does that commitment still stand or has it been axed, like the commitment to give sensitive information to a Select Committee of the House of Commons?

**Greg Hands:** Nothing has been axed; all I am saying is that the Command Paper was produced at a different time. What we have done is to follow the Command Paper in publishing, for example, the written ministerial statement at the end of round one of the talks with the US. That has greatly enhanced parliamentary scrutiny, as has publishing the negotiation objectives and the scoping assessment of who would be most likely to benefit from the agreement.

**Gareth Thomas:** Will the Minister give way?

**Greg Hands:** I will make a bit more progress.

As with new clause 5, new clause 8 contains a number of practical flaws in the proposed system. Those flaws would undermine negotiations and disadvantage the UK. I understand that colleagues are keen to remain abreast of negotiations, and the Government are supportive of that endeavour, as I have outlined. I point hon. Members not just towards our commitments to share information but towards our record on the recent US negotiations, which I have mentioned.

Ultimately, this debate boils down to whether we believe that it is right that the UK Government, supported by experts, civil service negotiating teams and advisers, are able to negotiate international agreements on behalf of those who elected them, drawing on the expertise and views of Parliament and of the devolved authorities, via strong scrutiny mechanisms. Or do we believe that Parliament itself should be in control of the negotiations, determining who we negotiate with and how, and within what timeframes?

It seems clear to me that in the national interest, the former scenario must be right. It ensures that when our partners face the UK around the negotiating table, they know that it has a credible single voice—one that is represented by the UK Government alone, after they have consulted with the devolved Administrations and drawn on the extensive expertise in this House and the other place, via close engagement and scrutiny processes, such as those we have here for international agreements.

**Matt Western:** I understand that point. The EU has 27 nations, and yet it manages to achieve that. It has a coherent position from 27 nations, but it can still carry out talks. Surely, it is possible for us to have the involvement of Parliament to scrutinise matters and to be updated about them, and to have its engagement in this process. Can the Minister just answer that one point?

**Greg Hands:** I have already outlined in immense detail, probably three or four times now, the involvement that Parliament will have in future trade agreements. I remind the hon. Gentleman that the Bill is about the continuity of existing trade agreements. I may be the only person in this room—perhaps the hon. Member for Harrow West has done so as well—who has represented the UK at trade Foreign Affairs Council meetings of the European Union. I can reveal to the hon. Member for Warwick and Leamington that the EU does not always speak with one voice when it comes to trade. I can tell him of many a fruity row at those meetings involving different member states—rows between the Commission and the European Parliament and so on in relation to EU trade policy. I am afraid that the idea that the EU is one happy whole as it goes into trade agreements, with total uniformity of opinion across the EU27, is for the birds.

I hope that I have provided Members with some assurance that the amendments are unnecessary and impractical, and will unquestionably limit the UK Government's ability to negotiate in the best interests of UK businesses, consumers and citizens.

On a slightly different topic, new clause 19 seeks to oblige the Government to publish parliamentary reports on continuity agreements, which the hon. Member for Harrow West has already drawn attention to, outlining any significant differences between the signed agreements and the underlying EU agreements. I am aware that, in the last Parliament, the Government introduced an amendment to that effect to the previous Trade Bill. However, Members will be aware that, despite the previous Bill falling, we have committed to publishing such parliamentary reports on a voluntary basis, to assist the House with the scrutiny of agreements.

We have published such a report for each of the 20 continuity agreements we have signed, outlining any significant differences from the underlying EU agreement. That process affords parliamentarians extra transparency on our continuity agreements, above and beyond the statutory framework set out in CRAG. As is demonstrated by the measures we have taken, and by the inclusion of a sunset clause and the affirmative procedure for any secondary legislation, we will ensure that Parliament's voice is heard when clause 2 powers are exercised. I reiterate the commitment that we will continue to publish parliamentary reports for all remaining continuity agreements.

I suspect the Committee will be glad to hear that I am finally turning to new clause 20, which stipulates that the parliamentary reports must be published at least 10 sitting days before any statutory instruments are made under this power. Members will be aware that trade negotiations, and indeed many other international negotiations, have a habit of going down to the wire. I have only to remind colleagues of the negotiations surrounding the EU withdrawal agreement as evidence of that fact, although that negotiation is not included in the scope of the Bill, perhaps thankfully. As such, it is possible that we will be unable to sign continuity agreements until very shortly before the transition period ends.

I stress that that is possible. We have already signed 20 such agreements, but some may well finally be negotiated and signed in the last days before the UK once again becomes a fully independent trading country. That would make it very difficult to leave a period of 10 sitting days before any SIs are introduced. I assure colleagues that we will leave as much time as possible for essential parliamentary scrutiny. I point again to our record: we have published parliamentary reports alongside all signed agreements entering the CRAG process, meaning that that information has been available for at least the full duration of CRAG. I remind colleagues that CRAG allows a period of 21 sitting days for our agreements to

*[Greg Hands]*

be scrutinised in Parliament before they can be formally ratified. That provides an effective period of time for parliamentarians to scrutinise the agreements.

Turning to a few of the more technical matters that have been raised, the Opposition said that the South Korean and Swiss agreements have not been signed. They have both been signed and have both gone through CRAG. The House of Lords European Union Committee called the Swiss agreement for debate but, as I said earlier, no motion of regret was passed. The hon. Member for Brent North (Barry Gardiner) loved to talk about the Ponsonby rule, which is exactly what CRAG sought to codify. The Ponsonby rule, if it exists at all today, is there only through the living embodiment of CRAG.

The Opposition talked about the mutual recognition agreements incorporated within the Swiss agreement. The MRAs that have been signed and are part of the agreement cover 70% of our trade flow. On a technical point, we have in place a memorandum of understanding to continue discussions about trade continuity before the UK-Swiss trade agreement comes into effect on 1 January. We are committed to aiming to put in place mutual recognition of conformity assessment bodies in time for the agreement coming into effect.

The sectors not covered by the MRAs are underpinned by international standards regimes, not by EU standard regimes. There is therefore greater regulatory confidence in conformity assessments within these. On tariffs and the South Korea agreement, the hon. Member for Harrow West effected some kind of melange between tariffs and tariff-rate quotas. A tariff is the rate of tax at which we charge a product coming into the country; a tariff-rate quota is the quantity of that product that would be allowed on either a lower tariff or on no tariff at all.

Tariff-rate quotas have been resized from the original EU agreement. That is an entirely normal and expected part of the process. The TRQ stated that a certain volume of this, that or another product—the example of Cheddar cheese was used—is allowed to enter from the EU into South Korea without a tariff or with a lower tariff being applied. That volume is apportioned in the ensuing agreements: this part of the tariff-rate quota belongs to the European Union, and this part of the tariff-rate quota belongs to the UK.

How do we determine which part goes to which? Generally, the way in which to do this, which the European Union has agreed, is to look at recent trade patterns, take the average of recent years and say that a part should be determined to be the EU's and another part should be the UK's? If no UK products have been exported to South Korea under the tariff-rate quota, the effect will be that the tariff-rate quota ends up going to zero in the ensuing UK agreement, but it may well be that we end up with far more than the UK overall trade flow in the ensuing South Korea agreement in other areas. It simply is not the case that we have lost our tariff-free access, if it is a product that the UK does not currently export to South Korea under the tariff-rate quota.

Crucially, the tariff reductions are in the ensuing UK agreement. Whereas the tariff-rate quotas divide up, the agreed tariff reductions carry on. That is particularly relevant to Cheddar cheese. Tariffs on Cheddar cheese entering South Korea under the EU-Korea agreement have been coming down steadily each year since 1 July 2011. From 1 July 2021, UK Cheddar cheese will be free of customs duties entirely as a result of that gradual stepping-down process, which affects Cheddar made in the EU as much as it affects the UK. There has been no change in that and no loss in our preferential tariff treatment in the UK-Korea agreement.

I have talked at length about the Command Paper and one or two other things. I have responded to each of the points made by Labour Members, possibly to their satisfaction. I find various things a little bit rich. I think I heard regrets from the Labour Front Bench that we will not be able to transition the EU-Canada agreement. I remember, because I was doing this job at the time, a large part of the Labour party, including current Front Benchers, voting against the EU-Canada agreement even coming into effect. So Labour was opposed to the agreement three years ago, but now they suddenly complain that we are not being quick enough in transitioning it to a UK agreement. If there was any consistency in the Opposition's approach, they should be cheering any delay to an agreement that they do not agree with. I find their position typical of the chaos still present on the Opposition Benches. They complain that we have not rolled over an agreement that they did not want to be part of anyway.

The hon. Member for Putney, who started off regretting the vote four years ago today to leave the EU, then made a speech questioning the trade agreements negotiated by the European Union that we are seeking to roll over. There must be more consistency.

I appreciate that the Labour party has had a leadership change. I thought that the whole basis of the new leader's approach was to bring organisation and method to its opposition, but instead, we have seen continuing chaos. We see a shadow Front-Bench spokesman who now objects to the agreements that they presented when in government, and a shadow Front-Bench team who now want to roll over the Canada agreement that they originally voted against. Those on the shadow Front Bench regret the Brexit vote but now want to vote against our transitioning the very agreements that the EU, with UK participation, negotiated successfully. That is a recipe for chaos and one that the Opposition would do well to reflect on.

3.15 pm

This has been an informative discussion dealing with some very important issues. I hope that the Committee has been reassured as to the scrutiny arrangements that the Government have put in place for the continuity programme, as well as by the restated commitment that the Government will bring forward primary legislation to implement future FTAs where necessary. As a result, I ask the hon. Members to withdraw or not press their amendments.

**Gareth Thomas:** At the risk of disappointing the Government Whip, I shall be brief in my concluding remarks. We had a very strong contribution from my hon. Friend the Member for Sefton Central, who underlined that, at present, we will find out more on a UK-US deal from Congress than from anywhere else. My hon. Friend the Member for Warwick and Leamington rightly raised, among a series of other points, concerns about our ability to scrutinise the impact of a new free trade agreement on the automotive sector. My hon. Friend the Member for Putney rightly drew attention to the significance of

scrutiny, or otherwise, of the roll-over agreements, given that some 39% of jobs in her constituency depend on trade with countries where there are roll-over agreements.

We also heard interesting interventions from the hon. Member for North East Derbyshire, who I hope has used the lunchtime adjournment to look up the reference in the Queen's Speech to the Trade Bill. It makes it very clear that the Trade Bill's purpose is to put in place the essential and necessary legislative framework to allow the UK to operate its own independent trade policy on exit from the European Union. I appreciate that the Minister has sought to somewhat change the stated purpose of the Trade Bill, to provide some cover for not being willing to give Parliament proper scrutiny arrangements for future free trade agreements, but that is what the Queen's Speech said.

Other interventions included that from the hon. Member for Witney on Australian cars. In their own different ways, hon. Members supplemented the arguments that we were making for greater scrutiny of free trade agreements.

Perhaps the most striking revelations were in the Minister's winding-up contribution. In the previous Parliament, the Government committed to make limited improvements to the Bill by allowing parliamentary scrutiny in the form of reports and sunset clauses. Having witnessed them backslide on those commitments, we have now heard the Minister step back from commitments made in the Command Paper less than 15 months ago on scrutiny of free trade agreements. The Minister appeared to be clear that Parliament, including the International Trade Committee, will not have the opportunity to scrutinise the negotiators, receive private briefings from them, or access sensitive information, as was promised in the Command Paper. He was also studiously vague as to whether the commitment in the Command Paper to publish and lay before Parliament a round report following each substantive round of negotiations will be maintained or not. One can only conclude from his answer that that commitment is not being maintained, albeit one report, on the UK-US deal, has already been published.

This Bill is lamentable in the lack of proper opportunities it offers to scrutinise the continuity agreements, in particular the bigger ones, which have yet to be negotiated, on Canada, Japan and Turkey. It is also lamentable, as a series of witnesses and hon. Members have stated, in the arrangements for scrutinising new free trade agreements. On that basis, I intend to press the amendments to a Division.

**Bill Esterson:** On a point of order, Sir Graham. Is it in order to make a further speech at this stage? I understand that it is, but I stand to be corrected.

**The Chair:** It is in order, but given that the amendments have been moved, if you could do so briefly, that would be appreciated.

**Bill Esterson:** I shall be brief. I speak purely because the Minister made a number of comments that need further attention. He talked about our approach to the need for these agreements to be implemented. Our reasoned amendment said:

"That this House recognises that upon leaving the European Union, the UK will need effective legislation to implement agreements with partner countries corresponding to international trade agreements of the European Union in place before the UK's exit".

That is what it said and that is what we voted on, and we are clear in our commitment to doing just that.

The significance of the six times that the Minister's hon. Friends asked questions of various witnesses last week was not lost on us—they wanted it clearly on the record that there is a desire for the continuity agreements to be concluded. We accept that, which is why we put it in our reasoned amendment. It is important that the Minister is under no illusion on that point. Our concern is that they are done properly, scrutinised effectively and that mistakes are not made, which is why we tabled these amendments.

The Bill has to go through this year. It was in the Government's gift. They could have passed the Bill—or a very similar version of it—last year, as amended. They could have brought back that version, as amended, this year if it was so important to them. More than two years ago, we were in a nearby Committee Room having very similar debates on very similar amendments. The Government had the chance to do this. It is on them that there has been a delay in getting to this point. In some of the evidence sessions, we heard that, while the Bill is not perfect, the witnesses wanted it to go ahead. Last year's Bill was not perfect either, but the Government could have brought it back and got it through earlier to address the witnesses' concerns. It is important that these things are said.

The Minister distinguished between future trade agreements and existing ones. He tried to use some clever language right at the start of his remarks. He pointed out that the Bill, as drafted, does not cover free trade agreements with new trading partners. That is correct, although it has scope to do so, which is why our amendments are in scope. However, the Bill does cover new free trade agreements with existing trading partners, which is why our amendments are entirely appropriate in calling for scrutiny of the corresponding agreements.

The Minister used the phrase, "Parliament should be able to properly scrutinise trade agreements", in the context of new trade agreements and the framework, and said that his door was always open. He did not say when we could expect to see that new framework. The United States agreement is already under way without that new framework. If not now, when? Why is that US trade agreement going through without that new framework in place, given that the Minister and the his colleagues deem it so important in enabling proper scrutiny? As he knows, the CRAG approach relies on the Opposition using one of their Opposition days within a 21-day period. There were occasions in the previous Parliament when there was not an Opposition day for a period of greater than 21 days. It is entirely dependent on the Government making time available in Parliament for CRAG to be applied. It is one of a number of flaws in our scrutiny process, and one of a number of reasons why changes are needed—because the Government are not addressing it at this stage.

I have no doubt that the Lords will table amendments similar to those tabled last time. The Minister's colleagues in the Lords are going to have to face this question. The Government are going to win every vote in this House, but it could be a different story in the Lords. If not now, when? And why not take on board the scrutiny that we have suggested? Why not accept and retain the amendments from last time, including that dealing with the publication of reports?

My final point is that if it is the Government's intention to always publish reports on the difference between the existing agreements and the new ones, why

*[Bill Esterson]*

not keep that amendment in the Bill? At the moment, they have the option to not publish if they so choose or if a new Minister has a change of opinion. Given what the Minister has said, there are so many places in which what we have proposed has been justified, and the Government will need to consider them in the Lords even if they do not today.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 9.

**Division No. 2]**

**AYES**

| | |
|---|---|
| Anderson, Fleur | Nichols, Charlotte |
| Esterson, Bill | Thomas, Gareth |
| Hendry, Drew | |
| Hosie, Stewart | Western, Matt |

**NOES**

| | |
|---|---|
| Caulfield, Maria | Higginbotham, Antony |
| Clarke, Theo | Johnston, David |
| Courts, Robert | |
| Fletcher, Katherine | Rowley, Lee |
| Hands, rh Greg | Webb, Suzanne |

*Question accordingly negatived.*

*Amendment proposed*: 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."—*(Gareth Thomas.)*

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

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 9.

**Division No. 3]**

**AYES**

| | |
|---|---|
| Anderson, Fleur | Nichols, Charlotte |
| Esterson, Bill | Thomas, Gareth |
| Hendry, Drew | |
| Hosie, Stewart | Western, Matt |

**NOES**

| | |
|---|---|
| Caulfield, Maria | Higginbotham, Antony |
| Clarke, Theo | Johnston, David |
| Courts, Robert | |
| Fletcher, Katherine | Rowley, Lee |
| Hands, rh Greg | Webb, Suzanne |

*Question accordingly negatived.*

**Gareth Thomas:** I beg to move amendment 9, in clause 2, page 2, line 15, leave out subsections (3) and (4) and insert—

"(3) Regulations under subsection (1) may make provision for the purpose of implementing a free trade agreement only if the other signatory (or each other signatory) and the European Union had ratified a free trade agreement with each other immediately before exit day.

(4) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement other than a free trade agreement only if the other signatory (or each other signatory) and the European Union had ratified an international trade agreement with each other immediately before exit day."

*This amendment would require previous ratification of a trade agreement before regulations could be made to implement it.*

Amendment 9 excludes from the scope of clause 2(1) those international trade agreements agreed between the UK and a third country where the corresponding agreement between the EU and that third country has been signed, but not ratified, as of 31 January this year. My understanding is that this would apply to the EU-Vietnam free trade agreement and the EU-Canada comprehensive economic and trade agreement, or CETA. Both agreements merit further detailed scrutiny, even if only through the CRAG process.

The new UK-Vietnam agreement would be a treaty in its own right, legally distinct, and therefore should surely face proper scrutiny. Under the Bill's terms, any future UK-Vietnam agreement would be counted as a roll-over agreement, because the EU signed an agreement with Vietnam shortly before we left the EU on 31 January this year. That EU-Vietnam agreement has not been ratified, and indeed the scrutiny processes in this House had not been completed by 31 January. A future UK-Vietnam deal could be hugely different from the EU deal, but it would none the less be covered by this Bill, with its minimal scrutiny arrangements.

3.30 pm

Why might the EU-Vietnam agreement merit further scrutiny? It has not received the attention of the other free trade agreements about which we raised concerns in the earlier group of amendments, but Vietnam has, for example, a less than perfect record of upholding labour rights. It has only partly ratified a series of International Labour Organisation commitments, and it still needs, in particular, to ratify a convention on freedom of association for labour unions and the abolition of forced labour. A series of countries have already raised concerns about that in the European Union. If we are to prevent a race to the bottom in terms of standards, and prevent competition from firms based in Vietnam from undermining our labour rights and standards on pay arrangements, we should ensure that, as part of a UK-Vietnam deal, Vietnam has to abide by the relevant ILO commitments, and that there are appropriate enforcement mechanisms to achieve that process.

There is a series of questions about a UK-Vietnam deal that deserve answers from the Minister. What is the state of negotiations? Have Ministers agreed a mandate for those negotiations? Will there be an investor-state dispute process as part of any future UK-Vietnam agreement? Will all existing UK geographical indications, as recognised by the EU, similarly be recognised in any future UK-Vietnam deal? What environmental provisions might there be in the deal? What analysis have Ministers

made of the impact on British exports to Vietnam if the UK-Vietnam FTA is not concluded by the end of the year and we are forced to trade on World Trade Organisation terms with Vietnam? Perhaps the Minister would like to give us a bit more clarity and say, on a scale of one to 10, how likely he thinks it is that a UK-Vietnam agreement might be concluded by the end of the year.

I now turn to the roll-over of the EU-Canada deal. If there were ever a record for Ministers avoiding scrutiny on trade deals, it would be for CETA. The European Scrutiny Committee, chaired by a notable Conservative Member of this House, recommended an urgent debate on the Floor of the House before CETA was put forward for ratification. When Ministers wanted to go ahead and sign the agreement, the European Scrutiny Committee gave the Government a conditional scrutiny waiver—a nod and a wink—so that they could get the deal through, but only after a debate. That was not good enough for the Secretary of State at the time, who decided to override even that minimal level of scrutiny and proceed with the provisional application of the agreement. Our amendment would help to prevent Parliament from being steamrollered like that. It would help it to take back control over the scrutiny process for a future UK-Canada deal.

I appreciate that the Minister does not like questions about why a UK-Canada deal has not been concluded as yet, and appears likely not to be concluded by the end of the year. The Canadian Government have stated that, once there is more clarity about the UK's trade relationship with the EU, Canada would re-engage with the UK to discuss our bilateral trade relationship and how it can be strengthened. Any future trade agreement between Canada and the UK would be influenced by the UK-EU trade negotiations and any unilateral UK approaches. Canada therefore remains one of the countries for which the Government have not yet been able to agree any kind of roll-over agreement; nor have they announced the start of negotiations for that FTA. Given the sequencing, our future trading relationship with Canada looks as if it will remain in limbo until we know what kind of future trading relationship we reach with the European Union. I say gently: if Ministers cannot agree a deal with Canada, one of our closest allies, where the Queen is Head of State and where an existing agreement is already in place, how can we have confidence in their ability to get us good terms for future agreements?

Some well-publicised concerns have been expressed about the CETA deal. Such concerns led me to join my hon. Friend the Member for Sefton Central in the No Lobby when that deal was put to the House. The investor-state dispute settlements were a profoundly troubling precedent in that deal. While the EU and Canada subsequently rowed back from the most controversial form of investor-state dispute systems, CETA still includes a new dispute settlement mechanism and moves towards establishing a permanent multilateral investment court, locking in secrecy and a two-tier system for big corporate giants to get a hearing on their terms.

Perhaps most troubling of all, on page 229 of the CETA text, article 30.9 reads:

"the provisions of Chapter Eight (Investment) shall continue to be effective for a period of 20 years after the date of termination of this Agreement in respect of investments made before that date."

That means, even if the UK had withdrawn from CETA, the provisions of the investment chapter would continue to apply for a further 20 years.

Thank goodness, the Minister said on 6 of February 2017:

"The important thing is that CETA would no longer apply after we leave."—[*Official Report, European Committee B,* 6 February 2017; c. 9.]

I do not know whether Ministers were asleep at the wheel to allow such a shocking provision to be included in the deal, but in the UK-Canada negotiations we have a new chance to prevent such an egregious provision being included in the agreement.

The other major concern about the EU-Canada deal was about the negative listing approach. The EU as a whole put down two reasonably comprehensive exemptions for health. The EU exemptions excluded, for example, privately funded hospitals, and ambulance and residential care services. The UK only put down additional exemptions for private ambulances and residential care homes, but not for privately funded hospitals.

On the ISDS provisions, with the requirement for many private hospitals to play a role in the response to the covid pandemic, one wonders whether we might have faced claims under the investor-state dispute settlement from Canadian corporates had they owned UK private hospitals. A result of the decision of the Government to require those private hospitals to be used for NHS work might have been a potential loss of profits for those Canadian corporates. Fortunately, we are not in that position, as CETA ceased to apply, but it is a wake-up call to ensure that no ISDS provisions are in place and that we do not have negative listing arrangements in a UK-Canada deal in future.

Last Thursday morning, we heard clearly from witnesses, including Mr Lowe from the Centre for European Reform, who expected that a UK-Canada deal would be a very different one from the EU-Canada deal that it would replace. Surely, therefore, it should be properly scrutinised. Our amendment would help to achieve that.

**Greg Hands:** I was intrigued by the amendment, but let us pause for a moment on what it would do. Amendment 9 would stipulate that agreements are in scope of the clause 2 power only if the underlying EU agreement were ratified, rather than signed, by end of the transition period. For the benefit of the Committee it might be useful to explain the difference. Something can be signed—but the dates on which a trade treaty can be signed, come into effect and be fully ratified are three different dates. A trade treaty can come into effect—this is the way the EU does it—when a certain number of EU countries have ratified it. I forget what that number is, but if about half of EU countries have ratified the agreement it comes into effect. Those three things—being signed, coming into effect, and ratification—happen on three different dates. Under the amendment, the clause 2 power that we currently say must relate to an EU agreement signed before 31 January 2020 would relate to an EU agreement ratified before that date.

Opposition Members will realise—I think, to be fair, the hon. Member for Harrow West covered that in his speech—that the amendment would restrict the scope of agreements that we could implement using clause 2. It would make the scope much narrower. However, it would do so in an entirely unreasonable manner. Important agreements such as the Canada one that he has mentioned

*[Greg Hands]*

would be excluded, as CETA has not been fully ratified by each individual member state of the EU, despite having been in effect for some time now.

Development-focused agreements would be similarly affected. The important matter of international development has yet to feature in discussions of the Bill—with the exception of something that the hon. Member for Putney said about it in passing. However, many development-focused agreements—those important economic partnership agreements—have been signed but not yet ratified. One example, involving the countries of the Caribbean, is the CARIFORUM agreement. In 2017 I signed an agreement with the CARIFORUM countries. We all gathered together—17 countries, I think, which was basically CARICOM—plus the Dominican Republic. We gathered together in Brussels to sign a continuity agreement. The nations of the Caribbean recognise the importance of that trade agreement, and one thing that they mentioned was its importance not just to their citizens but to the Caribbean diaspora in this country.

**Bill Esterson** *rose—*

**Greg Hands:** No, I am not going to give way.

I think that a Member with quite a big Caribbean community in his constituency has quite a lot of explaining to do about why he is now opposed to the CARIFORUM agreement. It is a great agreement that does major good work for international development in Caribbean countries. I represent a quite substantial Caribbean community. I think its members would be alarmed if they were to learn that the Labour party is opposed to that international development agreement, which does great work among our Caribbean friends.

**Gareth Thomas:** On a point of order, Sir Graham. As the Minister knows full well, we are not opposed to the agreement. We simply want better scrutiny arrangements. What arrangements are there for me to correct the record in that respect?

**Greg Hands:** Sir Graham—

**The Chair:** Order. I think I have to respond to the point of order, in spite of the fact that it was not a point of order. As to what the hon. Gentleman asked about, as he knows, he has just done it.

**Greg Hands:** The point of the amendment is to rule out of scope agreements that have yet to be fully ratified, which includes not only the Canada agreement but the CARIFORUM agreement and important economic partnership agreements. The hon. Member for Harrow West was a DFID Minister, and I think that that might have been when some of those agreements were negotiated —with important countries such as Kenya, Côte D'Ivoire and Ghana. However, the incredibly important beneficial trade arrangements made for those countries could no longer be effective, for lack of the clause 2 power. The Opposition have a lot of explaining to do. Developing countries are as we know sometimes unable to ratify agreements fully before—

**Bill Esterson:** On a point of order, Sir Graham. The Minister has a number of times asked us to explain things and then refused to give way. Can you perhaps shed some light on how we might overcome that apparent stand-off?

**The Chair:** I think that the hon. Gentleman has been here long enough to know that these things happen.

**Greg Hands:** Truth be told, I was going to allow an intervention when I had fully laid out the case, and mentioned the number of people that the trade stance that the hon. Member for Harrow West is outlining today will irritate. I have only just got started on the agreements, and the apologies that the hon. Gentleman will have to make to his constituents, and, on behalf of the Labour party, to people the length and breadth of the United Kingdom.

Developing countries are sometimes unable to ratify agreements fully before they are brought into effect, often for procedural reasons in those countries, but that should not mean that we deny UK businesses the opportunity to continue trading with them, and I am sure Opposition Members would not wish to deny our world-class trade for development assistance to those states either.

3.45 pm

**Bill Esterson** *rose—*

**Greg Hands:** I will allow the hon. Gentleman to intervene. Perhaps he can explain and apologise for his position in relation to those countries.

**Bill Esterson:** The party that has just abolished the Department for International Development is not in a good place to be criticising anybody for their approach to international development. The Minister knows full well, as he did with the reasoned amendment, that we fully support international development—in a way that his party, apparently, does not. Perhaps, if this is a problem because of the drafting of our amendment, he will tell us that on Report he will come back with an amendment that deals with the problems that he is taking great pains to explain.

**Greg Hands:** I am certainly not coming back on Report with a drafting correction for the deficiencies in the hon. Gentleman's amendment; that would be a novel approach to Parliament. The fact is that this amendment rules out of scope all these agreements for roll-overs. I have to say, in fairness to him, that some of these agreements were controversial; some people opposed these EU EPAs in the first place, and I imagined that it was the Labour party's position that it opposed these EPAs. If we listen to one or two groups, for example, they think that the EPAs have been stacked too heavily in the EU's favour.

However, I think the hon. Gentleman is now saying that actually that is not his intention, and that his intention was not to prevent their being rolled over. I think he is now saying he is suddenly in support of the continuity of these agreements, despite having voted against the Second Reading of the Bill and despite the fact that virtually every word that we have heard from the Labour Party in this Committee has been against these agreements and against these Bills.

Returning to my point about continuity, these agreements have been subject in this country to the full EU agreement scrutiny process. The delay to ratification is not in this country, but relates to individual country or state delays. There is no scrutiny gap.

**Fleur Anderson:** Returning to the issue of Canada and delayed negotiations, can the Minister confirm that if we do not secure the free trade agreement with Canada before 31 December, we will lose all the benefits of the current EU trade deal with Canada and revert to trading with it on WTO terms?

**Greg Hands:** I thank the hon. Lady for her intervention, because I thought the Opposition were opposed to the Canada deal, so if we were to fall outside the Canada deal, they should be celebrating that. The Labour Front Bench opposed Canada in 2017, and I think they have opposed it again today. We are in discussions with Canada and we believe that there is time to do a roll-over agreement, but to do that we need the powers in the Bill. Amendment 9, which I think the hon. Lady has co-sponsored, would delete Canada from the list of agreements subject to the power, so if she votes for this amendment—if indeed there is a vote on it—she will effectively be preventing the roll-over of the Canada deal.

I will come to a conclusion. I was very surprised by this amendment. I praised the shadow Minister, the hon. Member for Sefton Central, last week for the attention he had given to oral questions earlier that day, but now I am not sure whether he really paid enough attention. He may have missed hearing the shadow Secretary of State, the right hon. Member for Islington South and Finsbury (Emily Thornberry), say from a sedentary position that she is in favour of CETA, the Canada agreement, and that she voted for it at the time.

The right hon. Lady is absolutely right: she did vote for it at the time, and that is obviously the Labour party's new position. We know that sometimes in political parties, particularly when we are in opposition, there can be a new position and it takes a while for that new position to filter out across the whole party, but I am a little bit surprised that the new position has not filtered down to her own Front-Bench team, let alone the whole party, because they are trying to say they do not want to roll over the Canada agreement for an agreement that their shadow Secretary of State was praising only last Thursday. I find that approach absolutely bizarre.

If amendment 9 were to be accepted, there would be no UK-Canada trade agreement to roll over in the scope of clause 2. Labour said one thing in the Chamber last Thursday, but is saying precisely the opposite in Committee. Our Canadian friends will look on askance, as will our friends from the Caribbean, Kenya, South Africa, Mozambique, Ghana, Cameroon, Ivory Coast and so on.

This is a continuity Bill. There is certainly continuity in the Labour party's confusion on trade. When it came to the original Canada agreement in the vote of February 2017, Labour split three ways: 68 of its members followed the right hon. Member for Islington North (Jeremy Corbyn) in voting for the CT agreement; 86 broke with the right hon. Member for Islington North and voted with the right hon. Member for Islington South and Finsbury in favour of the agreement; and the rest abstained.

I think I heard the hon. Member for Harrow West then say that he regretted the fact that there had not been a debate about the Canada agreement on the Floor of the House. I spent a few years in the Whips Office. One of the first rules of being a Whip in Opposition is never bring a debate on which your own party is divided to the Floor of the House, let alone something where you are divided three ways and your leader is in the minority view. Now he is saying that he regrets that it was not brought to the Floor of the House.

We should vote down amendment 9, because it would rule out of scope Canada, the Caribbean and many other important trade agreements that the EU has negotiated. The UK was part of that negotiating team. They are very important trade agreements. We would like to see the continuity of those trade agreements, as do our constituents and UK businesses. I urge hon. Members to vote against amendment 9. Indeed, I hope the Opposition withdraw the amendment.

**Gareth Thomas:** The Minister has been at his most diversionary with that characteristically chutzpah-led speech. As he knows only too well, constitutionally, the Government are able to sign and ratify international agreements. He went on at some length in his winding-up speech on the previous group of amendments about how wonderful that process was.

The Minister does not need the Trade Bill to sign agreements with CARIFORUM, Canada or Vietnam. The powers are already there for the Government to do so. If Ministers think the provisions in the Bill relating to those clauses are so important, one wonders why they did not bring the Trade Bill back in the last Parliament. It fell because Ministers chose not to bring it back, not because of opposition from the Labour party.

There were genuine concerns about the future of a UK-Canada trade pattern. On this side of the House, we repeat our concern that if Ministers cannot agree to roll over a deal with one of our oldest allies where the Queen is Head of State, it prompts questions about the effectiveness of the Department for International Trade. This was a probing amendment, which we will not push to a vote. The point about scrutiny remains on the record. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Bill Esterson:** I beg to move amendment 10, in clause 2, page 2, line 23, at end insert—

"(4A) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not conflict with, and are consistent with—

(a) the provisions of international treaties ratified by the United Kingdom;

(b) the provisions of the Sustainable Development Goals adopted by the United Nations General Assembly on 25 September 2015;

(c) the primacy of human rights law;

(d) international human rights law and international humanitarian law;

(e) the United Kingdom's obligations on workers' rights and labour standards as established by but not limited to—

(i) the commitments under the International Labour Organisation's Declaration on Fundamental Rights at Work and its Follow-up Conventions; and

(ii) the fundamental principles and rights at work inherent in membership of the International Labour Organisation;

(f) women's rights and are in accordance with the United Kingdom's obligations established by but not limited to the Convention on the Elimination of All Forms of Discrimination Against Women;

(g) children's rights and are in accordance with the United Kingdom's obligations established by but not limited to the Convention on the Rights of the Child; and

(h) the sovereignty of Parliament, the legal authority of UK courts, the rule of law and the principle of equality before the law."

I will give my hon. Friend the Member for Harrow West a chance to rest his vocal cords. Amendment 10 is part of a run of amendments that get into the implications of domestic and international policy on everyday life here and abroad. Amendment 10 would ensure that regulations on an international trade agreement can only be made if the provisions

"do not conflict with, and are consistent with…Sustainable Development Goals…the primacy of human rights law…international human rights law and international humanitarian law;…obligations on workers' rights and labour standards as established by but not limited to…the commitments under the International Labour Organisation's Declaration on Fundamental Rights at Work and its Follow-up Conventions; and…the fundamental principles and rights at work inherent in membership of the International Labour Organisation;…women's rights and are in accordance with the United Kingdom's obligations established by but not limited to the Convention on the Elimination of All Forms of Discrimination Against Women;…children's rights and are in accordance with the United Kingdom's obligations established by but not limited to the Convention on the Rights of the Child; and…the sovereignty of Parliament, the legal authority of UK courts, the rule of law and the principle of equality before the law."

There are some things in there that sound very much like taking back control to me. They are very much about the rights of human beings here and abroad, whether workers, women or children. What is not to like? What is there not to support in the amendment? What is there not to support in getting behind sustainable development goals at every available opportunity?

In the previous debate, my hon. Friend the Member for Harrow West mentioned the difficulties in Vietnam. Trade unions and workers in Vietnam face a very difficult time. They face persecution and exploitation. A trade agreement with Vietnam should include labour provisions under the ILO, consistent with amendment 10. The measures in amendment 10 also protect UK businesses by avoiding undercutting.

For the sake of posterity, Sir Graham—I think that is the right way of describing it—I checked that the amendment is similar to one moved by your co-Chair two years ago. At the time, my hon. Friend the Member for Bradford South (Judith Cummins) spoke about the human rights of the Sahrawi people and Morocco's attempts to include them in international trade agreements. She set out the need for the ethical dimension in international trade agreements and talked about how poorest are left behind. She quoted Paul Collier's work on the bottom billion and described how international trade agreements all too often lock the poorest in the world into the natural resource trap rather than benefiting them through export diversification, as is sometimes claimed.

It was a good speech then, and the points that my hon. Friend made remain good points now. That is backed up by what we were told in written briefings from Amnesty, which makes the point about the current Bill's lack of provision in those areas, saying that

"the Bill as currently framed, makes it possible to alter human rights and equality protections using secondary legislation, in order to comply with renegotiated trade deals."

Here we are again with the problem of Ministers' use of secondary legislation because of the inadequate provisions in the Bill. The briefing goes on:

"Such powers should not be necessary if existing EU trade agreements, which are the subject of the Trade Bill, are to be rolled over primarily to ensure continuity, as claimed by the government."

As such, the Government should not object to amendment 10.

The briefing states that the Bill grants

"extraordinarily wide powers to Ministers to amend retained EU law - including the Equality Act 2010, the Modern Slavery Act 2015 and the Data Protection Act 2018 - leaving domestic rights protections open to alteration"

and that it lacks

"real parliamentary scrutiny and accountability throughout negotiations. This is essential because of the complexity and far-reaching implications of trade agreements for business and public policy"

in the areas of human rights. The briefing continues:

"Unlike the US and the EU, the UK looks set to conduct major elements of trade negotiations without any oversight role or negotiating mandate from Parliament."

After the debates and votes that we have already had in this Committee, I think we can safely say that that is true.

4 pm

The Bill grants extraordinarily wide powers to Ministers, as we have discussed. To allow maximum flexibility, clause 2 provides Ministers with the authority to make regulations they consider appropriate for the purpose of implementing a trade agreement, including modifying retained primary EU law. That includes the Equality Act 2010 and the Modern Slavery Act 2015.

Amnesty tells us:

"There is no rationale for such broad powers, in so far as the government has not provided any examples of retained primary legislation relating to rights and equalities that might require amendment to implement trade deals. The Business Disability Forum asked the Department for International Trade for such examples last year, but none were provided…If the government cannot justify the need for such powers, then they should not be legislated for."

The then Secretary of State for International Trade was confused by those powers. He stated that the Bill set out regulations that

"may, among other things, make provision"

to

"modify primary legislation that is retained EU law."

As the then Secretary of State, it was somewhat surprising that he had not got his head around what the legislation actually did.

I have some key questions for the Minister: why does the Government need the power to amend laws such as the Equality Act when rolling over existing trade agreements? Can the Minister provide an example of primary retained EU law that will need to be amended or modified? Will the Government incorporate into the Bill their clear commitment to maintaining standards, so that powers contained in the legislation will not be used to reduce equality and rights protections? If they will not do it in this Bill, when will they do so?

**Gareth Thomas:** Does my hon. Friend agree that it would be sensible to include in the Bill a commitment to trying to achieve the sustainable development goals, as this amendment seeks to do, not least because with their decision to abolish the Department for International Development, Ministers have thrown away some of their soft power and global reputation for being good on development?

**Bill Esterson:** That is an incredibly important point. Given the Government's previous apparent commitment to SDGs, one might have thought they would be open to such a suggestion. The EU conducts sustainability impact assessments of all new trade agreements to assess their the economic, environmental and social impact, including their impact on human rights and labour standards. That is a similar point to the one my hon. Friend just made.

Once in force, EU agreements include a commitment to assess the effects of the agreement on sustainable development. Although those sustainability impact assessments could go further in terms of detail, with sector-specific impact assessments on human rights or labour standards, they nevertheless provide a clear commitment to human rights and labour standards that the UK should replicate and improve on. I thought this was a continuity Bill—the Minister has told us that enough times—so why are the Government not doing the same thing with sustainability impact assessments?

There is no provision in the Bill for undertaking social and environmental assessments of prospective trade agreements, or for conducting related studies and surveys. Decision makers will be operating without the evidence base to take full decisions on complex instruments that will bind the UK for many years. Methodologies for this are well developed, and the Government should commit to undertake them in legislation and to make them public. If not now, when?

**Gareth Thomas:** One concern that led me to want the Bill to refer to the sustainable development goals is the fact that both Ghana and Kenya have not yet felt able to sign a continuity agreement with the UK. As I understand it, that is because of their concern that the tariff regime that Ministers are suggesting under such a continuity agreement would hinder the scope for regional integration in eastern and western Africa. Although I do not expect my hon. Friend to comment on it, perhaps my intervention might encourage the Minister to give some clarity on my genuine concern about those two continuity agreements.

**Bill Esterson:** I am glad my hon. Friend has raised the issue, and I hope the Minister can give clarity on those two continuity agreements. If the Minister missed the names of the agreements, I am sure my hon. Friend will repeat them for him. It appears that that may be necessary.

I turn to what the TUC has said to us. It has particular concerns about trade unionists. In its briefing for the Committee, the TUC refers to the lack of consultation on the text of the 19 continuity agreements that have been finalised so far. That has been a concern, because many of the deals that have already been signed are with countries where labour and human rights abuses are widespread. The TUC refers to Colombia and South Korea:

"In South Korea, trade union leaders have been thrown in prison for peaceful protest for workers to claim their rights. Colombia, meanwhile, remains the most dangerous country in the world for trade unionists with around two thirds of murders of trade unionists taking place in Colombia."

That is according to an ITUC report from last year entitled, "The World's Worst Countries for Workers". The TUC continues:

"Whilst the UK's trade deals with South Korea and Colombia have commitments on paper to uphold ILO standards, similar commitments in EU trade deals with South Korea and Colombia have not been effective in improving rights as they have no mechanism for effective enforcement."

We had that discussion with Rosa Crawford in the evidence session last week, and that is what she confirmed to me.

Compare that with what goes on elsewhere. The TUC states:

"Trade unions in a number of other countries are consulted routinely by their governments in the process of trade negotiations, such as the US, Austria and Sweden…The TUC believes it is crucial for trade unions to be consulted on the text of trade negotiations in order to ensure they have adequate provisions to ensure labour rights commitments are upheld, contain effective protections for public services as well as other social standards and do not contain Investor-State Dispute Settlement Courts that would allow foreign investors to sue governments for enacting policies for the public good",

including in the areas of workers' rights and human rights. The TUC continues:

"The TUC believes it is also crucial for MPs to be able to see and comment on the text of continuity deals so that negotiations are subject to proper democratic scrutiny."

All that brings us back to the text of the amendment. If the Government are committed to upholding sustainable development goals and to supporting human rights, workers' rights, women's rights and the rights of the child, the amendment is an opportunity. If the Government do not support this amendment, they might, as I suggested to the Minister on another occasion, want to bring back their own drafting that civil servants can tell them is appropriate to deliver the goals that I have just set out.

**Charlotte Nichols** (Warrington North) (Lab): Can I say what an honour it is to serve under your chairmanship, Sir Graham? In the context of the debates about racial inequality that are taking place around the world, and the Government's announcement that they will seek to absorb the Department for International Development into the Foreign and Commonwealth Office, it is vital to ensure that we do not shy away from our international responsibilities. That includes ensuring that any future trade deals cannot be used as vehicles to undermine human rights and workers' rights, either at home or abroad. The safeguards in the amendment are, frankly, common sense, and it should not prove any barrier to free trade agreements with a wide range of trading partners, as is the Government's stated aspiration. However, it is important that those safeguards are explicit in the Bill.

To illustrate why that is the case, I will give an example. In the public evidence session, I asked the Digital Trade Network about the risk of the US exporting section 230-style provisions into trade deals. As members of the Committee will be aware, these provisions are pushed by the big technology firms, because they effectively restrict US trade partners from making domestic legislation that might introduce any regulation. Without the safeguards in the amendment, there is increasing concern that the UK will be bullied into accepting these provisions in the

*[Charlotte Nichols]*

upcoming UK-US trade deal, which will gut the upcoming online harms Bill and its promise to increase protection for children online.

Ensuring consistency with children's rights is essential, but the threat is not just to our children. The Community Security Trust's report, "Hate Fuel: the hidden online world fuelling far right terror", outlines the global threat of far-right terror, which has its own online language and subculture that are developed and sustained on these social media platforms. This material repeatedly and explicitly calls for Jews to be killed. Indeed, many of the most hateful things that I receive as a Jewish parliamentarian originate from the US and Canada.

Governments, law enforcement and technology platforms must co-operate internationally to combat the propaganda that fuels far-right terror, just as they have done previously to tackle the propaganda that encourages and promotes jihadist terrorism. Protecting the sovereignty of Parliament, the legal authority of UK courts, the rule of law and the principle of equality before the law will ensure that this place does not have one hand tied behind its back in its efforts to do just that.

As we discussed at length in debates on earlier amendments, because there is limited scope for parliamentary scrutiny of new trade agreements and because the Minister is unable to give guarantees on this issue today, despite being given repeated opportunities to do so by diligent Opposition Members, building these safeguards into the Bill will make sure that they cannot be missed out and that the scrutiny is sufficient to prevent adverse consequences that could result in a breach of one of the regulations set out in the amendment.

The amendment would also benefit our continuity agreements. The Minister mentioned that some of the predecessor agreements had been signed when Labour was last in Government. I was a teenager when Labour was last in Government, and a lot has happened since then—not just that my hair has started to go grey. I cannot understand the reluctance to ensure that continuity agreements that we are trying to secure are consistent with and do not conflict with these safeguards, given many of the seismic shifts that we have seen in geopolitics over the last decade or so; things have moved on considerably in that time.

It is only right that we ensure that continuity agreements remain fit for purpose. If they do not meet the criteria outlined in the amendment, why have we endeavoured to keep them? If the agreements do meet the criteria, there is really no need to oppose the criteria.

**Fleur Anderson:** This is, at last, a very uncontroversial amendment. I do not think that any of us in this Committee would disagree with the idea of complying with agreements that the Government have already decided to comply with.

For example, trade agreements and the UK's commitment to the sustainable development goals are completely inseparable. In September, there will need to be a post-covid global rethink about, and recommitment to, the sustainable development goals to make it clear that we still aspire to attain them, so we will need to have this approach baked in to our trade negotiations.

"Transforming our world: the 2030 Agenda for Sustainable Development" explicitly recognises international trade as an engine for inclusive economic growth and poverty reduction, and an important means of achieving the SDGs. Those goals include aims such as no poverty, zero hunger, gender equality, affordable and clean energy, decent work and economic growth, industry, innovation and infrastructure, reduced inequalities, responsible consumption and production, and climate action. All of these goals are intrinsically tied to trade. It is, therefore, worrying that the Bill contains no mention of the SDGs, and it is a relief to have the opportunity to vote them into the Bill with amendment 10.

More worrying still is the fact that while trade will be crucial in achieving these global goals, it can also act as a barrier to achieving them. The economic partnership negotiations in west Africa, for example, are very controversial because of the impact of packaging requirements, and the use of sanitary and phytosanitary standards as non-tariff barriers to trade and to an increase in industrial strategy that could lead to greater development and greater prosperity, both in west Africa and here.

4.15 pm

Trade can also be hugely detrimental to human and labour rights, which is why the Bill must foster respect for the primacy of international human rights law, for which the amendment provides. The Joint Committee on Human Rights has published a report on international trade agreements arguing for just that. It said that there was

"a strong case for requiring minimum standard processes, practices and clauses to protect and promote human rights in all international agreements",

such as these trade agreements.

As was mentioned earlier, we heard during the evidence sessions about the examples of Colombia and South Korea. In addition to those salient examples, I would add that the Government have also rolled over an agreement with Lebanon, which was criticised last year by Amnesty International for allowing exploitation and abuse of many of the country's 250,000 migrant domestic workers, most of whom are women. I do not think that any of our constituents would want to know that we were signing up to trade agreements that resulted in abuses in those countries. The amendment would lock in a guard against that.

Earlier this year, the EU-Morocco association agreement came into UK law, despite widespread concerns about the ongoing Moroccan occupation of Western Sahara, which is deemed illegal and against the human rights of the Sahrawi people. Human rights clauses in trade deals are therefore critical and should not be left out, cast aside or not agreed with. The EU's international trade and co-operation agreements have included human rights clauses since the early 1990s, so there is great precedence for the amendment. Such considerations have become increasingly prominent over time, and rightly so.

The amendment also mentions the convention on the elimination of all forms of discrimination against women. That is very salient in trade policy because women and men are affected differently by trade liberalisation. For instance, although liberalisation boosts employment in certain sectors—increasing salaries and improving working conditions—in others it can create pressures that have

an adverse effect on female employment and wages, particularly in developing countries. The new jobs created for women often remain low skilled, labour intensive and low paid, such as in the textile, garment and agricultural sectors. Certain export-orientated sectors use female labour intensively, and often take advantage of a lack of protection for women's labour rights.

I spoke at length in the previous sitting about labour rights and the International Labour Organisation. I will not repeat myself, but it is important to emphasise again that compliance with the ILO's declaration on the fundamental rights at work, and other conventions, are key to making progress towards the sustainable development goals, particularly No. 1, no poverty; No. 5, gender equality; No. 8, decent work and economic growth; and No. 10 reduced inequalities. Including those provisions by agreeing to the amendment would enable us to be joined up.

None of the continuity agreements that have so far been rolled over contains mechanisms to sanction Governments who fail to respect fundamental labour rights. As Rosa Crawford from the Trades Union Congress noted, those agreements make it easier for businesses to go to countries with lower labour standards and wages and less regulation for social protections. In Africa and Latin America, for example, many UK-based companies do just that, meaning that UK workers could see their working conditions get worse, their pay reduced and NHS protections reduced, as the Government are pressured by business to compete with trading partners in the name of keeping the UK competitive.

Trade deals must contain mechanisms that effectively enforce the UN sustainable development goals and international treaties on labour and human rights; otherwise we will inevitably see a race to the bottom for workers and citizens everywhere, leading to more precarious work, substandard workers' rights, increased gender discrimination and human rights abuses, and an increased threat of the undermining of public services and social welfare systems. As Rosa Crawford saliently noted, a race to the bottom can never be won. The amendment will ensure that such mechanisms exist and will bake in compliance with our global commitments.

**Greg Hands:** As we have heard, amendment 10 intends to prevent the clause 2 power from being used to implement agreements that do not comply with existing international obligations on human rights, the environment and labour rights. Let me be absolutely clear: our continuity programme is coherent with existing international obligations as it seeks to replicate existing EU agreements, which are, of course, fully compliant with such obligations. By transitioning these agreements, we reaffirm the UK's commitment to those international obligations.

I have said it before, but I am happy to repeat it as often as the Committee would like: we seek to provide certainty and stability in trading relationships for UK businesses and consumers, not to modify or dilute standards. None of the 20 agreements already signed has reduced EU standards in any area. Committee members can consult the parliamentary reports that we publish alongside continuity agreements detailing any changes required to transition the agreement to the UK context. These will confirm precisely what I have said. We will continue to publish these reports for remaining continuity agreements, so that hon. Members can satisfy themselves that we have not defaulted on our commitment not to reduce standards. That includes the agreement with Vietnam.

I am happy to look into the specific complaints that some Opposition Members have made on labour rights, but it would be helpful for me to understand whether they are in favour of the EU-Vietnam agreement. That was not really clear to me. The Opposition keep wanting to have their cake and eat it, saying that they like EU agreements but then trying to pick holes in them and saying that we should not roll them over because of some of the arrangements within them. The EU-Vietnam agreement is scheduled to come into effect on 1 August, so UK businesses will be able to take advantage of that agreement from 1 August.

As the Prime Minister outlined in his Greenwich speech, the UK has a strong history of protecting human rights and promoting our values globally. We will continue to encourage all states to uphold international human rights obligations. The hon. Member for Harrow West asked for examples of primary EU law that will be transitioned as a result of using these powers. To be clear, we intend to use the powers only for a limited number of obligations, most principally in relation to fully implementing conformity assessments and procurement matters in domestic law via secondary legislation.

To be clear, the human rights commitments in the joint statement that we made with South Korea do not enable the suspension of any of those human rights dialogues that are under way. The Colombia agreement, which is part of the EU-Andean agreement that has also been signed, has seen no weakening of labour rights; there have been some technical changes to that agreement, but none relating to labour rights, so far as I am aware. The continuity agreements signed have not changed those in any way.

The hon. Member for Warrington North mentioned action against the far right and other hate groups preaching violence. I can tell her that the Government are wholly united in our approach to making sure that that is exactly the case, but it is worth reminding ourselves that we are talking about existing trade agreements with those counterparts, not a new agreement as such.

The hon. Member for Putney talked about the commitment to the sustainable development goals. The Government are absolutely committed to the SDGs, but again we are talking about existing trade agreements. I will plough on, because we do not have an awful lot of time. The hon. Lady and her colleagues need to work out what it is that they want. On the one hand they seem to strongly support the EU and perhaps want the UK to rejoin, but on the other she seems, by the sound of it, to oppose the detail of virtually every one of the EU's trade agreements. Opposition Members need to get clear in their minds whether they are pro-EU—in which case they might be in favour of the EU's trade agreements—or anti-EU. That was not clear to me at all.

The hon. Member for Putney rightly says that human rights clauses in international trade deals are very important. We agree, which is why we are preserving their effects in these roll-over agreements. The Government have been clear that any future trade deals must work for UK consumers and businesses, upholding our high regulatory standards. The UK will remain committed to world-class environmental product and labour standards. We will

*[Greg Hands]*

not weaken these protections after the transition period ends. Our continuity agreements will safeguard, not undermine, our international obligations. I therefore ask the hon. Member for Sefton Central to withdraw his amendment.

**Gareth Thomas:** I had not intended to speak and I will be brief. I wish to amplify and expand on the concern that I raised in an intervention on my hon. Friend the Member for Sefton Central regarding the continuity agreements for Kenya and Ghana. If those agreements are got wrong, they threaten the progress that both countries have made, and potentially that of other countries around them, in trying to achieve the sustainable development goals.

The concern is that what is currently being put to those countries by UK negotiators is a continuity agreement that requires them to sign up to something that risks regional integration in east and west Africa. Kenya and Ghana seek to work closely with the least developed countries that surround them as part of the trading blocs. Those LDCs want to continue to be part of a preference scheme, so Kenya and Ghana are caught in a trap between their desire to work very closely with their neighbouring countries and wanting to ensure that they can still trade on very good terms with the UK in, for example, bananas and cocoa.

Why is working with regional blocs so important? Because it is trade at a regional level in Africa that is likely to lead to faster development, more jobs being created, and, crucially, the development of more manufacturing jobs at a local level. When a no deal was about the happen last October, the UK Government proposed a transitional protection mechanism that would have included Ghana, Kenya and others in a similar position.

**Greg Hands:** I should apologise; I had not realised that the hon. Gentleman wanted to intervene on me on this issue. I undertake to write to him about Ghana and Kenya, and to copy in members of the Committee. The situation involving both those counterparts is complicated and would be best served not by a debate about this particular amendment, but more broadly were I to contact the hon. Gentleman.

**Gareth Thomas:** The Minister has made a gracious intervention and offer, which I am happy to accept. On that basis, I am happy to conclude my speech.

**Bill Esterson:** We had an excellent contribution from my hon. Friend the Member for Warrington North, whose points about safeguards were well made. It is entirely common sense that we support the provisions of the amendment, but they need to be explicit. The Minister confirmed why in his remarks. The use of trade provisions to promote online hate is, sadly, all too familiar to my hon. Friend and to many other people in this country, including some in this Parliament. She described that extremely well.

My hon. Friend the Member for Putney rightly made the case for the sustainable development goals and ensuring that we deliver on them. The fact is that they are tied directly to trade. That point was reinforced by my hon. Friend the Member for Harrow West, who spoke on the importance of the Kenya and Ghana continuity agreements and the impact that they have on the LDCs. It reminded me of the reference, which I quoted in my remarks, that my hon. Friend the Member for Bradford South made to Paul Collier's book "The Bottom Billion". I am glad that the Minister has offered to write to members of the Committee about those concerns.

I think the Minister used the word "replicate" regarding how the agreements are carried over from the EU. Unfortunately, the Bill allows for dilution and for weaknesses, such as those that I set out in the South Korean and Colombian agreements, to continue. Such weaknesses will not be addressed, and the question is: if not now, when? In the case of South Korea and Colombia, it is: if not then, when? Of course, we will have another go at South Korea, because it wants to renegotiate what has been passed already.

I am afraid that the Minister's points about Colombia rather miss the point. The point I made, in reference to the International Trade Union Confederation report from last year, is that it is the most dangerous country in the world for workers. We cannot simply accept continuity without doing something about that situation. Such things need to be dealt with in international trade, as well as through the Foreign Office and other mechanisms of Government; otherwise the abuses will continue.

4.30 pm

The Labour party is committed to addressing abuses and to achieving sustainable development goals, human rights and the rights of workers, women and children. If the Government's intention is to address secondary powers through an amendment, the fact remains that those secondary powers can be used adversely. As a result, we will press our amendment to a vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 10.

**Division No. 4]**

**AYES**

| | |
|---|---|
| Anderson, Fleur | Nichols, Charlotte |
| Esterson, Bill | Thomas, Gareth |
| Hendry, Drew | |
| Hosie, Stewart | Western, Matt |

**NOES**

| | |
|---|---|
| Caulfield, Maria | Hands, rh Greg |
| Clarke, Theo | Higginbotham, Antony |
| Courts, Robert | Johnston, David |
| Fletcher, Katherine | Rowley, Lee |
| Griffith, Andrew | Webb, Suzanne |

*Question accordingly negatived.*

**Bill Esterson:** I beg to move amendment 11, in clause 2, page 2, line 23, at end insert—

"(4A) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not conflict with, and are consistent with the United Kingdom's environmental obligations in international law and as established by but not limited to—

(a) the Paris Agreement adopted under the United Nations Framework Convention on Climate Change;

(b) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); and

(c) the Convention on Biological Diversity, including the Cartagena Protocol on Biosafety."

The Government say they are committed to addressing the climate crisis and to net zero by 2050, even though they have missed the targets set by the fourth and fifth carbon budgets and the gap is getting worse, and even though their own analysis shows that their spend on nuclear export finance for energy projects has favoured the fossil fuel sector substantially, to the point where 99.3% of that budget spend over a five-year period went to fossil fuel projects, including recently to Bahrain. There is no sign of a real and meaningful switch away from fossil fuels and to renewables.

The Government can say that they are committed to something, but unless something is in legislation and in writing, and unless there are meaningful commitments, the situation does not change. That is why it is important to amend legislation such that we confirm our commitments to the Paris agreement, the convention on international trade in endangered species of wild fauna and flora, and the convention on biological diversity, including the Cartagena protocol on biosafety.

**Matt Western:** What was telling about the evidence sessions was how everyone—including the Institute of Directors, the CBI, ClientEarth, the TUC—agreed that this type of amendment should be at the heart of what we do, and that they were disappointed that it was not included.

**Bill Esterson:** My hon. Friend is absolutely right. The Bill really should be the framework for what a progressive international trade policy framework should look like. There was an opportunity. Given that the Government did not pass the Bill when they had the chance last year or the year before, they could have included the provision this time. This amendment would produce a framework of the order expected by the witnesses.

There are real problems in international trade that affect our ability to meet our climate obligations. Trade agreements are used to liberalise regulations, including environmental regulations. The Bill is an opportunity to redesign trade policy to support our environmental ambitions, as the Government set out. The target of net zero carbon emissions by 2050 and associated commitments are in our amendment. The opportunity is there for the UK to require trade partners to ratify and implement key climate change agreements, such as Paris, before entering into trade negotiations, and for us to suspend ISDS agreements.

Environmental policy has been the object of investor-state dispute settlement litigation. Companies that have fossil fuel interests have sued other companies' Governments because of the impact of Government regulations and legislation on their interests. That undermines investment and support for the renewables sector, and efforts to decarbonise economies and meet our climate obligations. Similar points are made about the convention on international trade in endangered species of wild fauna and flora, and the convention on biological diversity. If the Government want to address this agenda, they have an opportunity to do so with this amendment, and I hope they take it.

Given that the Bill is widely drawn and has the potential to address future trade agreements, let us look at what the US has been saying. This should worry us, given the damage that could be done by international trade agreements. In December, the US ruled out talk of a climate crisis in trade negotiations—yes, that is what trade representative Lighthizer said. He was categorical about that when the UK inquired—I am pleased that the UK did this—about the possibility of including reference to climate change in a future UK-US trade agreement, given that the UK has a strong historical stance on climate change and pushed strongly for the Paris agreement. The UK also highlighted in those talks the pressure for that that would come from civil society and non-governmental organisations. My hon. Friend the Member for Warwick and Leamington referred to the evidence that the Committee received.

What was the response from the US? It

"responded emphatically that climate change is the most"

politically sensitive

"question for the US, stating it is a 'lightning rod issue', mentioning that as of 2015,"

US trade representatives

"are bound by Congress not to include mention of greenhouse gas emission reductions in trade agreements. US stated this ban would not be lifted anytime soon."

The US trade representative went further:

"we have an obligation to help real working people...there's no point in being so ambitious we don't end up with an agreement at all".

The problem with that statement, of course, is that it is not one or the other. In the end, real working people need a planet that they can live on. They need the global temperature not to increase by more than 1.5°. They need the action on climate that will deliver that agenda. They need the jobs that will come from investment in low carbon industries now and in the future.

We should be worried about what the US is saying on this subject. We should take note of it and make sure that if the price of an agreement with the US is to oppose action on addressing the climate crisis, it is a price far too high for us to accept. I hope the Government will take the amendment on board, because there is nothing in it that is not in accordance with Government policy.

**Fleur Anderson:** Moving on from the sustainable development goals, and looking at the environmental regulations and the environmental issues that are baked into the Bill, we are already committed to climate action. The Minister has affirmed that we are and want to be compliant, and we aspire to see the achievement of the sustainable development goals. That means taking radical action and treating the climate situation as an emergency. To do that we need to add the amendment to the Trade Bill.

In doing so, we will be safeguarding life in water and on land. Earlier this year, the Prime Minister reaffirmed his Government's commitment to achieving net zero by 2050 and boldly stated that "we will crack" the climate emergency. As a global leader on climate action, the UK must set an example to the rest of the world by honouring its international obligations under the Paris agreement and other multilateral environmental agreements. Trade policy is an integral part of that, so it should not be left out of the Bill.

*[Fleur Anderson]*

Trade agreements can foster good climate action, but they can also impede Government implementation of climate commitments. They could threaten to increase fossil fuel use, for example, which we explicitly decided not to do in declaring a climate emergency. They could also hinder the sharing of green technology.

Trade agreements typically include national treatment for trade in gas, thereby locking in dependency on a fossil fuel with high greenhouse gas emissions, while incentivising increased fracking and fossil fuel infrastructure. We would not want continuity agreements that include those. The EU's own impact assessment of TTIP—the EU-US trade deal—predicts that it would generate an additional 11 billion tonnes of carbon dioxide per year. That is fundamentally at odds with our international climate obligations, so we must bring our trade policies up to date with our environment obligations.

The dangers that trade deals pose to the environment can be clearly seen in the EU-Mercosur trade agreement currently under negotiation. A fortnight ago, the Dutch Parliament rejected the agreement, due to a lack of enforceable agreements on the protection of the Amazon or the prevention of illegal deforestation. Conducting trade negotiations without clear environmental red lines on the statute book—which this amendment would provide—with countries led by individuals such as President Bolsonaro, under whom deforestation of the Amazon has increased by 27% according to the NGO SOS Atlantic Forest Foundation, poses a huge threat to the Government's international, climate and environmental obligations.

As the WWF has noted, rushing into trade deals with partners that do not share our ambitions could undermine UK leadership on positive environmental outcomes, by allowing imports from industrialised agricultural systems or through supply chains that promote deforestation. "Risky Business", a report by the WWF and the Royal Society for the Protection of Birds, demonstrates that the UK is already moving backwards on reducing the UK's overseas land footprint, which increased by 15% between 2016 and 2018, suggesting that we are increasingly offshoring our environmental impact. We need to do better.

To conclude, the Bill gives us an opportunity to ensure that our trade policy supports our environmental ambitions by explicitly putting them into the Trade Bill, including the target of net zero carbon emissions by 2050. Amendment 11 is a positive step towards that goal and is consistent with the Government's own commitments and obligations, so everyone should agree to it, to ensure that the UK complies with international law and that we remain a world leader on climate action.

**Greg Hands:** As I have set out, the Government's continuity programme is coherent with existing international obligations, as it seeks to replicate existing EU agreements to secure continuity for businesses and consumers. As I have made clear, we have no intention of lowering standards—environmental, labour or otherwise. The Prime Minister set out that commitment in his Greenwich speech and I have repeated it on many occasions, including today.

The UK has often led the way and exceeded EU minima on environmental issues, such as greenhouse gas emission reduction targets. I predict that we will continue to do so, thus making the amendment redundant. For example, the UK was the first country to introduce legally binding greenhouse gas emissions reduction targets through the Climate Change Act 2008. We were also the first major economy to set a legally binding target to achieve net zero greenhouse gas emissions from across the economy by 2050. We have cut our carbon emissions by nearly twice the EU average since 1990—by 42%.

Put simply, the UK has an extremely strong record on environmental action. I hope that the Committee will agree that the amendment is unnecessary, as we will be safeguarding and promoting, not undermining, our environmental obligations. Consequently, I ask that the amendment be withdrawn.

4.45 pm

**Bill Esterson:** I thank my hon. Friend the Member for Putney: it is absolutely right that we set an example to the world by honouring our Paris commitments, and honouring them in primary legislation is a formidable way of doing that. I am glad that she reminded me about fracking. There is fracking a mile from my constituency, and it causes enormous problems. Its relevance to the amendment is that the same companies engaged in fracking are able, under ISDS provisions if they are in place, to take action against the UK Government to defend their fossil fuel interests, even if the Government do not want to support such an industry and want to pursue a renewable energy agenda, so it is an important consideration.

That is why the amendment or something similar—if the Minister wants to bring it back, I will be very happy to look at it on Report—is the way to deal with this matter. We need to ensure that it is there, specified and clear in primary legislation, as part of our international trade framework, which is what the Bill should be. It is great of him to reference the Labour Government's Climate Change Act 2008, but it is time for this Government to put such things into law as well, and this is their opportunity. I will press my amendment to a vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 10.

**Division No. 5]**

**AYES**

| | |
|---|---|
| Anderson, Fleur | Nichols, Charlotte |
| Esterson, Bill | Thomas, Gareth |
| Hendry, Drew | |
| Hosie, Stewart | Western, Matt |

**NOES**

| | |
|---|---|
| Caulfield, Maria | Hands, rh Greg |
| Clarke, Theo | Higginbotham, Antony |
| Courts, Robert | Johnston, David |
| Fletcher, Katherine | Rowley, Lee |
| Griffith, Andrew | Webb, Suzanne |

*Question accordingly negatived.*

**Bill Esterson:** I beg to move amendment 12, in clause 2, page 2, line 23, at end insert—

"(4A) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if the provisions of that international trade agreement do not in any way restrict the ability—

(a) to make public services at a national or local level subject to public monopoly;
(b) to make public services at a national or local level subject to exclusive rights granted to private operators; and
(c) to bring public services at a national or local level back into the public sector for delivery by public sector employees."

We have significant written evidence to support this amendment—from the TUC, the *British Medical Journal* and the Trade Justice Movement. It is about ensuring that international trade agreements do not undermine the ability of Governments at national or local level to run services in the public sector or in a public monopoly in the private sector. Importantly, it also has provision for bringing services that have been privatised back into the public sector—as we have just seen with the probation service—when they have failed after a botched privatisation. We have seen the desirability of doing that all too often with outsourcing, as more and more councils seek to bring services back in-house.

However, with negative lists, standstill clauses and ratchet clauses in international trade agreements, it is becoming increasingly difficult for Governments to do these things. Negative lists ensure that only those services that are specified can be considered in the public sector. Standstill clauses mean that services cannot be brought back into the public sector. Ratchet clauses mean that we see increasing privatisation, with no prospect of a reduction. Failure to abide by them enables overseas interests to take legal action against the Government in this country. The proposed provisions need to be included for those reasons; otherwise, we face real problems in our national health service and elsewhere in our public services.

The Conservative party pledged in its manifesto last year that the NHS would be off the table in a trade agreement, but the pledge did not specifically cover any of the aspects that I have just described, including negative listing and standstill and ratchet clauses. There is digital trade as well. I did not deal with digital trade in my earlier remarks, but it is important because it covers areas such as NHS data, including patient data, which is of great concern to many people.

There is an opportunity for Government Members to rectify that omission from their manifesto by voting for our amendment. If they are committed to the NHS and our other public services, they can support the amendment and ensure that the opportunities are available for the public sector to deliver public services in the public interest.

**Andrew Griffith** (Arundel and South Downs) (Con): Will the hon. Gentleman give way on that point?

**Bill Esterson:** I have finished.

**Greg Hands:** Amendment 12 would mean that the power in clause 2 could not be used to implement agreements that might restrict the delivery of public services through public monopolies, exclusive rights or nationalisation.

The amendment is not necessary, because this is a continuity Bill. None of the agreements in question restrict our ability to deliver public services in that way. We have always protected our right to choose how we deliver public services in our trade agreements. Indeed, the UK's public services, including the NHS, are often protected by specific exclusions, exceptions and reservations in the trade agreements to which the UK is a party. No trade agreement has ever affected our ability to keep public services public.

Colleagues will observe from our record of the signed agreements that the continuity programme seeks to preserve current trading relationships and not to alter the way in which our public services are designed or delivered. The amendment is therefore unnecessary, and I ask the hon. Gentleman to withdraw it.

**Bill Esterson:** Again, through secondary legislation the Bill enables the Government to do some of the things that we have described. More to the point, however, this issue is important because of the nature of the continuity agreements that will be renegotiated. We have discussed the agreements with Canada, Japan, Mexico and Turkey. I do not know whether any of those agreements would do what I have described, but they could potentially do so because they are not just continuity agreements.

The Bill sets the framework for trade agreements, because the Government are not bringing forward a different framework or alternatives on how trade agreements will be scrutinised and how they will end up. The Government are not challenging what the United States might do. We know the concerns that exist about how the US has expressed in the past its desire to intervene in public services in this country. We should be concerned and we should put this kind of commitment into law as it relates to international trade. I will press the amendment to the vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 10.

**Division No. 6]**

**AYES**

| | |
|---|---|
| Anderson, Fleur | Nichols, Charlotte |
| Esterson, Bill | Thomas, Gareth |
| Hendry, Drew | |
| Hosie, Stewart | Western, Matt |

**NOES**

| | |
|---|---|
| Caulfield, Maria | Hands, rh Greg |
| Clarke, Theo | Higginbotham, Antony |
| Courts, Robert | Johnston, David |
| Fletcher, Katherine | Rowley, Lee |
| Griffith, Andrew | Webb, Suzanne |

*Question accordingly negatived.*

**Bill Esterson:** I beg to move amendment 13, in clause 2, page 2, line 23, at end insert—

"(4A) Regulations may only be made under subsection (1) if—
(a) the provisions of the international trade agreement to which they relate are consistent with standards for food safety and quality as set and administered by—
(i) the Department of Health;
(ii) the Food Standards Agency;
(iii) Food Standards Scotland; and
(iv) any other public authority specified in regulations made by the Secretary of State;
(b) the Secretary of State is satisfied that mechanisms and bodies charged with enforcement of standards for food safety and quality have the capacity to absorb any extra requirement which may arise from the implementation of the agreement;

(c) the provisions of the international trade agreement to which they relate are consistent with policy to achieve reduction in the risk of disease or contamination as set and administered by—

(i) the Department of Health;

(ii) the Food Standards Agency;

(iii) Food Standards Scotland; and

(iv) any other public authority specified in regulations made by the Secretary of State;

(d) the provisions of the international trade agreement to which they relate are consistent with achieving improvements in public health through any food policy priorities set and administered by—

(i) the Department of Health;

(ii) the Food Standards Agency;

(iii) Food Standards Scotland; and

(iv) any other public authority specified in regulations made by the Secretary of State;

(e) the provisions of the international trade agreement to which they relate are compliant with policy to achieve targets for farm antibiotic reduction set by the Veterinary Medicines Directorate;

(f) the provisions of the international trade agreement to which they relate are compliant with retained EU law relating to food standards and the impact of food production upon the environment; and

(g) any food or food products to which the provisions of the international trade agreement apply meet standards of labelling, indication of provenance, and packaging specified by the Food Standards Agency or Food Standards Scotland."

The amendment relates to food standards—food production standards and food safety standards. That is an important distinction, because the Secretary of State and the Ministers do not appear to appreciate that we are talking about both types of standards. We saw this during the latest International Trade questions, where the hon. Member for Dundee East and I both made a point that was about food production as well as food safety, but that seemed to escape the notice of the Secretary of State.

The reality is that the US Government have a rather different view of what is important. Their trade representative has told us that the US has the best agriculture in the world; he has also said that it

"has the safest, highest standards",

and that we

"shouldn't confuse science with consumer preference."

One thing that worries me is that when the Paymaster General was answering questions on this topic in the House the week before last, she made the point that consumers will decide. That has made people on the Opposition side worried that perhaps the Government are not as concerned as about this as they might be.

Representative Lighthizer has also described chlorinated chicken as thinly veiled protectionism. He clearly wants that to be part of a deal—he has said so—and has told Congress that the American Government are looking for a comprehensive deal, not a more limited agreement. By "comprehensive deal", they mean agriculture in a very significant way, with lower food production standards. He has expected a push for access to the UK market for American farmers, and he has said that on issues such as agriculture,

"this administration is not going to compromise".

Mike Pompeo, the Secretary of State, has made similar points, saying that chlorinated chicken must be part of the deal.

What do American standards mean? They mean a chlorine or acid wash to kill the pathogens in chicken, but those pathogens only need to be killed because of the poor animal welfare those chickens experience throughout their life. Other animal welfare concerns exist elsewhere, including the use of the feed additive, ractopamine, in pig farming and the use of injected growth hormones in cattle. Both give rise to significant welfare concerns for the animals involved; both are banned by the EU, and have been banned by the UK up to this point.

However, this is not just about food production standards, but food safety. The United States has 10 times the level of food poisonings that the European Union does, and one of the reasons is the allowable defect levels it has. It has a defect levels handbook, which sets out the maximum number of foreign bodies—such as maggots, insect fragments and mould—that can be in food products before they are put on the market. Chocolates can have insects in them, or parts of insects; noodles can have rat hair in them; and orange juice can contain maggots.

**Robert Courts** *rose—*

**Bill Esterson:** Those are just some of the horrors that UK consumers could be forced to accept if this country signs the kind of wide-ranging deal that Mike Pompeo and representative Lighthizer seem to be implying. I take it that the hon. Gentleman accepts that these things have been said by Mr Lighthizer and Mr Pompeo.

5 pm

**Robert Courts:** The Opposition made the point about orange juice in a debate on the Floor of the House some months ago. It has since been completely debunked. Instead of using scaremongering about the standards of American food, could the hon. Gentleman address the facts?

**Bill Esterson:** The hon. Gentleman may want to withdraw that comment. I am not sure whether it was a bit close to the mark, but I know it has not gone over the mark; otherwise, you would have pulled him up, Sir Graham. The problem with what the hon. Member has just said is that the defect levels handbook says that US producers are allowed to include up to 30 insect fragments in a 100g jar of peanut butter.

**Lee Rowley** (North East Derbyshire) (Con): Will the hon. Gentleman give way?

**Bill Esterson:** The hon. Gentleman needs to get used to the idea that when someone takes an intervention, they have to answer that intervention before they take another one.

US producers are also allowed to include 11 rodent hairs in a 25g container of paprika, and 3mg of rat or mouse droppings per pound of ginger. There are similar rules for cocoa beans, cornmeal, ginger, oregano and spices. I will give way if the hon. Member wants to tell me that is not what is in the defect levels handbook.

**Lee Rowley:** I am happy to explain what I think is the case. Those are the thresholds at which the United States undertakes automatic prosecution against companies. They are not, as he is describing, the thresholds for what the US necessarily accepts in its domestic food production. That is a misrepresentation, as my hon. Friend the Member for Witney suggested. If the Labour party wants to have a mature and open discussion about trade in the future, given that we have just got these competencies back from the European Union for the first time in 40 years, it would do well to acknowledge those key and important nuances, which it is currently glossing over.

**Bill Esterson:** What is interesting about that intervention is that the hon. Member is right to say there are prosecutions above those thresholds, because it is illegal to cross them. However, US producers are legally allowed up to those thresholds, which is one of the reasons why food poisoning is such a problem in the United States. The difference between the United States, the EU and the UK is that we do not allow any of them. We have zero thresholds in this country, and I want that to continue. I am sure that everybody in the Committee wants that to continue, but unless we take action to provide safeguards in the event of international trade negotiations, there is a threat that such changes can be implemented.

We heard oral evidence from the NFU and have received written evidence from the RSPCA and the British Poultry Council to back up what I have just said. British and European standards are the highest in the world.

**Gareth Thomas:** Is not the broader significance of the intervention by the hon. Member for North East Derbyshire, when he asked whether the Labour party wants a mature and open discussion about trade, that we absolutely do want that? It is his ministerial colleagues and his Government who are preventing that from happening by denying a proper scrutiny process of future free trade agreements, including with the US.

**Bill Esterson:** A number of times, my hon. Friend has effectively reminded the Committee, in response to interventions from Government Members, that scrutiny will ensure that we do not have those sorts of problems. They would do well to take on board his advice and expertise, which is driven by his experience in government of looking at such matters. I daresay that when the Bill goes to the Lords, their Lordships will do just that. We might end with some changes to the Bill, even if we do not make any changes in Committee or on Report in the Commons.

We would do well to look at the evidence that was given to us. We would do well to look at what was said during the proceedings on the Agriculture Bill. We would do well to remember that some Government Members were led to believe that there would be an amendment to the Trade Bill that gave protections against the sorts of problems that I have just set out. That is why we have tabled an amendment later in proceedings to ensure that we deliver exactly that.

For now, the Paymaster General wants to leave it to the consumer. I want to ensure that the consumer is not put in a difficult position because, whereas in this country and in the EU we require labelling on meat about where it was hatched, reared and slaughtered, the US repealed similar legislation in 2015. If we do not want to have problems over the safety of our food—I will mention GM and some of the problems with vegetables as well—I suggest we attach an amendment such as this one to the Bill, or do as Ministers told their hon. Friends on the Agriculture Bill, and pass that amendment when we get there, probably, on Thursday.

**Fleur Anderson:** I have a few short remarks to make about food standards, which are of huge concern to my constituents. More than 100 people have written to me in the past week or so calling for a food standards commission to be set up, and they are watching this amendment carefully. I am sure this is another in a series of amendments on which we will hear from the Minister how much he agrees with what we are saying, and then he will go ahead and vote against it.

If so, and if we do not have these amendments in the Bill to say what our standards are, where would we have them? We could just have a note from the Secretary of State saying, "I am getting on with the trade agreements; let me carry on." But no, we have a Bill, so we can set out what we want in those trade negotiations. The past few months have served as a reminder to us all to value our food, to think about where it comes from, its safety and its traceability, and to value our farmers and growers who produce it.

In a post-Brexit world, liberalised trade could expose British agriculture and mean that our farmers would have to compete with products that would be illegal to produce here in the UK. Now is the time for us to be world leaders and use that position to increase the animal welfare and environmental standards of food production across the world, in the continuity agreements and in others.

The chorus of voices in the food sector who are concerned about the future of food standards in our trade policy is deafening. The NFU has expressed concerns, noting that in our current and forthcoming trade negotiations other countries will not only urge the UK to follow their own sanitary and phytosanitary standards arrangements, which in many cases diverge from current UK practice, but resist any suggestion that their own producers meet the production standards and additional costs required of UK farmers, who will then lose out.

That leads us to the conclusion that it is hard to see how trade liberalisation will not inevitably lead to an increase in food imports produced in ways that would be illegal in the UK. In addition, the British Poultry Council believes that if food produced to lower standards is allowed to enter the British market, it will create a two-tier food system, in which only the affluent can afford to eat British food grown to British standards. That is unacceptable.

Turning briefly to animal welfare standards, it is important to understand that this is not a mere ethical luxury or a nicety—a nice-to-have addition to the Bill that we could have or not. Friends of the Earth has pointed out that intensive farming with few welfare protections is associated with deforestation, local pollution, poor workers' rights and high emissions.

The Government have repeatedly assured us that they do not want to see regression in this area, and I am sure we are about to hear that again. Michael Gove committed on multiple occasions to ensuring that the UK was a global leader on animal welfare. That promise was

*[Fleur Anderson]*

reiterated in the 2019 Conservative manifesto. However, Friends of the Earth is concerned that future trade partners will want to water down the UK's very high animal welfare standards, and that free trade agreements, which are the subject of the Bill, could pose a serious threat to the Government's existing commitments to maintaining and improving UK standards.

The most effective way to prevent a regression in food and animal welfare standards, which is a worry for many different groups, and for the Government to keep their word would be to enshrine these standards in primary legislation before entering trade negotiations, taking them off the table altogether and therefore agreeing amendment 13.

Contrary to some commentators' views, the amendment is not incompatible with global trade rules. Trade rules enshrine the rights of nations to regulate to achieve public policy goals, and to require that goods and services reach specific standards to qualify for import, as long as those requirements are applied fairly. The amendment would achieve that, and ensure that we have good food standards.

**The Chair:** I remind the hon. Lady to refer to Members of the House not by name, but by their constituency. I call Matt Western.

**Matt Western:** Thank you, Sir Graham. Very briefly, we have heard from Members across the Committee about our constituents' concerns, and those of last week's witnesses. We have only to think back to some of the extraordinary campaigns by Jamie Oliver, Hugh Fearnley-Whittingstall and others, who highlighted some of the terrible practices that were going on in the food chain, to realise that the public are very much in favour of an organisation such as the food and farming standards commission that has been proposed by the National Farmers Union, to ensure that our farming standards and food standards are maintained at the highest level.

We have some of the highest standards in the world. We also happen to have some of the cheapest food prices, due to the competition that we enjoy in this country. The question is what we would gain from not adding such an amendment to the legislation, and not including a food and farming standards commission. It is very easy to talk about the United States in isolation, and the concerns that the public have over such things as hormone-treated beef or chlorinated chickens. As I mentioned earlier, producers in Australia also supply that market, and have industrial-scale battery caged hens producing vast quantities of eggs.

It is likely that in any UK-Australia trade deal we would lose at least 20% of our current market of eggs produced in the UK to Australian producers. That is the sort of impact that we need to understand. I think the farming community is beginning to understand it fully. Consumers need to understand it as well because, at the end of the day, it is this sector that will be sacrificed in any future trade deal.

Just look at the YouGov poll that I think was announced in the last 24 hours. Some 80% of consumers do not want chlorine-washed chicken. They appreciate and enjoy very high standards currently and they do not want to see such standards reduced in a future trade deal, whether with Australia, the US or anywhere else.

**Charlotte Nichols:** Very quickly, the provisions in the amendment could prove to be some of the most significant debated today, particularly proposed new paragraph (e) regarding antibiotics. We have seen that antibiotic resistance is one of the greatest threats—perhaps even an existential threat—facing humanity. It is as significant as the climate crisis. As we have seen with coronavirus, it would wreak not just a public health impact but an economic impact on our country.

When we discuss the food standards that are laid out in the legislation, it is not only what we eat that is important; the conditions in which animals are kept can often be breeding grounds for diseases that can spread to humans. Ensuring that antibiotics are used appropriately and in line with current regulations is of massive importance.

**Greg Hands:** As the Committee will know, the UK's food standards for both domestic production and imports are overseen by the Food Standards Agency and Food Standards Scotland. Those agencies provide independent advice to the UK and Scottish Governments and will continue to do so to ensure that all food imports comply with the UK's high safety standards.

Through the work of those independent organisations, consumers are protected from unsafe food that does not meet our high domestic standards. I reassure the Committee that all imports, whether under continuity agreements, most favoured nation terms or new free trade agreements, must comply with our import requirements and food safety standards. Countries seeking access to our markets in future will have to abide by those food standards.

5.15 pm

The Government have always been clear that all trade deals must work for UK consumers and businesses, upholding our high standards. The UK will remain committed to world-class food and agricultural standards. We will not weaken those levels of protection after the transition period ends.

Those are not just warm words. Members from across the House, particularly those in Committee, will not need reminding that the purpose of the Bill is to provide a framework for the implementation of our continuity agreements. In the 20 agreements that Parliament has ratified with 48 countries, there has not been one example of the Government undermining domestic standards, including in the field of food standards.

I should add that membership of the EU is not the silver bullet that some people suggest when it comes to standards. The UK has gone further than the EU in a number of fields. I highlight one specific example: the UK banned veal crates fully 16 years before the EU did. Consequently, I ask the Committee to consider and to acknowledge the fact that the Government have not eroded any domestic standards in the 20 continuity agreements that have already been ratified.

I hope that the Committee is reassured by the Government's clear commitment that no domestic standards will be eroded in any of the remaining continuity agreements that we seek to sign and ratify. The UK is and will remain a world leader in food standards. I ask the hon. Gentleman to withdraw his amendment.

**Bill Esterson:** I am grateful to my hon. Friends for their contributions, as ever. My hon. Friend the Member for Putney reminded us to value our food and its

origins, and of the threat to farmers in the UK if they have to compete with lower-standard food. She was right to do so.

My hon. Friend the Member for Warwick and Leamington reminded us about the fact that the public are in favour of high animal welfare standards, as well as food standards. We have some of the highest standards in the world.

My hon. Friend the Member for Warrington North rightly raised the issue of antibiotics; the potential for diseases to jump species, in the context of covid-19; and why it is so important that we maintain not just food safety standards but food production and animal welfare standards, and that we do not allow imports of food that do not meet those high production and animal welfare standards. I noticed that the Minister referred to food safety in his answer. The Food Standards Agency and Food Standards Scotland do that job, but their remit is food safety, not how the food was produced or the animal welfare under which it was produced. The point about antibiotics should alarm us all right now, given the nature of the crisis that we are going through.

The Minister and his colleagues should keep the promise that was made to colleagues in debate on the Agriculture Bill about the inclusion of provisions in the Trade Bill. Colleagues were told that that would happen, which is why they did not pursue things in the Agriculture Bill. It is essential that we maintain standards—yes, in the continuity agreements, but in future agreements too. That is the relevance of the amendment. That should be the framework for all trade agreements, not just so-called continuity ones. I will press the amendment to a vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 9.

**Division No. 7]**

**AYES**

| | |
|---|---|
| Anderson, Fleur | Nichols, Charlotte |
| Esterson, Bill | Thomas, Gareth |
| Hendry, Drew | Western, Matt |
| Hosie, Stewart | |

**NOES**

| | |
|---|---|
| Caulfield, Maria | Higginbotham, Antony |
| Courts, Robert | Johnston, David |
| Fletcher, Katherine | Rowley, Lee |
| Griffith, Andrew | Webb, Suzanne |
| Hands, rh Greg | |

*Question accordingly negatived.*

**Gareth Thomas:** I beg to move amendment 14, in clause 2, page 2, leave out lines 27 and 28.

The amendment is designed to remove the Henry VIII powers from the Bill. In its write up of the Trade Bill, Linklaters noted that constitutionally, the Government are already able to sign and ratify trade agreements with minimal reference to Parliament. The Trade Bill is designed to shortcut this process and to authorise the Government to implement the new agreements directly, by Executive act. To help them to do that, the Government seek to use Henry VIII powers to enable them to amend various bits of EU legislation, as they think appropriate, using regulations.

Liberty and others have argued that that represents a fundamental breach of Parliamentary sovereignty. The Committee has already debated the considerable weaknesses in the Bill in terms of opportunities for scrutiny. It is true that in comparison with the previous Trade Bill, Ministers have made a minor concession and agreed to the use of the affirmative process, but we can see no reason for the scale of the power grab represented by the Henry VIII powers in subsection (6)(a), and our amendment seeks to take them out.

**Greg Hands:** I will now address amendment 14. As the hon. Gentleman has pointed out, the amendment would remove the power to modify direct principal EU legislation, or primary legislation that is retained EU law, in order to implement obligations arising from continuity agreements.

It is important for Members to understand that without this power, we would, unfortunately, be unable to implement our obligations and we would risk being in breach of international law. It would also mean that our agreements were inoperable, adversely impacting upon UK businesses and consumers. I feel reasonably sure, Sir Graham, that that is not something that any Member of this Committee would support.

In addition, not only is this power necessary, but it is proportionate and constrained, because it only allows for the amendment of primary legislation that is retained EU law. Since trade continuity agreements will have been implemented substantially through EU law, the power is necessary to implement any technical changes that keep the agreements operable beyond the end of the transition period.

The Government have constrained the power as much as possible while ensuring that it is still capable of delivering continuity in our current trading relationships, which benefit businesses and consumers in every constituency represented by members of this Committee. To provide reassurance to Parliament, we have added a five-year sunset provision, which we will turn to shortly, and any regulations made under the clause 2 power will be subject to the affirmative procedure.

I ask Members not to take my word for it, but to take the word of the Delegated Powers and Regulatory Reform Committee, who raised no issues with the delegated powers in this Bill, gave it a clean bill of health and praised the introduction of the draft affirmative procedure for any regulations made. I hope that, in the light of the explanation that I have given, the Committee is reassured that not only is this power necessary, but it is proportionate and constrained. As such, I ask the hon. Gentleman to withdraw the amendment.

**Gareth Thomas:** I do not intend to press the matter to a vote, in the interests of time. I am not convinced by the Government's argument, and we may return to the matter at Report stage. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Stewart Hosie:** I beg to move amendment 8, in clause 2, page 2, line 33, at end insert—

"(6A) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of the Scottish Ministers (within the meaning given in paragraph 6 of Schedule 1), unless the Scottish Ministers consent.

(6B) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of the Welsh Ministers (within the meaning given in paragraph 7 of Schedule 1), unless the Welsh Ministers consent.

(6C) No regulations may be made under subsection (1) by a Minister of the Crown, so far as they contain provision which would be within the devolved competence of a Northern Ireland department (within the meaning given in paragraph 8 of Schedule 1), unless a Northern Ireland devolved authority (within the meaning of paragraph 9 of Schedule 1) gives consent."

*This amendment would ensure that the consent of a devolved government is required for regulations under section 2(1) if those regulations contain matters which are within the remit of the devolved government.*

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

New clause 16—*Role of Joint Ministerial Committee*—

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

(a) for discussing—

(i) the terms upon which the United Kingdom is to commence negotiations with respect to any international trade agreement;

(ii) proposals to amend retained EU law for the purposes of regulations made under section 1 or section 2;

(b) for seeking a consensus on the matters set out in subsection (1)(a) between Her Majesty's Government and the other members of the Joint Ministerial Committee.

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

(a) Her Majesty's Government's objectives and strategy in negotiating and concluding an international trade agreement;

(b) the steps Her Majesty's Government intends to take to keep the Joint Ministerial Committee informed of progress in reaching an international trade agreement;

(c) the steps Her Majesty's Government intends to take to consult each member of the Joint Ministerial Committee before entering into an international trade agreement and for taking the views of each member into account.

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

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

**Stewart Hosie:** Although it was not my intention to press any of our amendments or new clauses to a vote, such has been the public support for new clause 12 on the NHS that it is my intention, if and when we reach that stage of the debate—perhaps on Thursday afternoon—to divide the Committee. I am sorry to leave it so late to advise the Committee of that, but this is the first opportunity I have had to do so.

Amendment 8 relates to the powers of the devolved Administrations, or, more accurately, the ability of the UK Government to make regulations under subsection (1), which makes provisions within devolved competencies, without the consent of Scottish or Welsh Ministers or a Northern Irish devolved authority. It certainly strikes us as fundamental that, if we are to respect the devolved settlement in the UK, Ministers must gain the consent of the devolved Administrations before making changes to regulations that directly affect them, possibly negatively or in a way that runs counter to their policy objectives.

I am aware that the previous Trade Bill from 2017 to 2019 made provision for regulation-making powers to be available to the UK Government and the devolved Administrations within areas of devolved competence. That version of the Trade Bill contained a provision that prohibited devolved Administrations from using powers to modify retained direct EU legislation or any EU law retained by virtue of section 4 of the European Union (Withdrawal) Act 2018 in ways that would be inconsistent with any UK Government modifications to retained direct legislation or EU law, even in devolved areas. As a result, the Scottish Government could not recommend giving consent to the previous Bill, and the Scottish Parliament's Finance and Constitution Committee supported that position.

That Trade Bill did not complete its passage through the House, as Parliament was dissolved and the Bill therefore fell. The good news is that those provisions have been removed entirely from the reintroduced Trade Bill. However, there remains no statutory obligation for the UK Government even to consult, let alone to seek the consent of, Scottish Ministers before exercising the powers in the Bill in devolved areas.

During the partial proceedings on the previous Trade Bill, the UK Government made a commitment to avoid using the powers in devolved areas without consulting, and ideally obtaining the consent of, Scottish Ministers. The then Minister of State for Trade Policy at the Department of International Trade, the right hon. Member for Bournemouth West (Conor Burns), restated that commitment in a letter to Ivan McKee, the Scottish Government Minister, on 18 March, the day before this Bill was introduced. I asked on Second Reading whether those non-legislative commitments still stood, and I would be grateful if the Minister could confirm that today.

I know that the Minister is aware of those commitments, but I suspect that many other Committee members may not be. The non-legislative commitments I refer to are as follows. The first is that UK Government Ministers will not normally use the powers conferred by the Bill in devolved areas without Scottish and other devolved Ministers' consent, and that they will never do so without consulting them. The second is that the UK Government will consult the Scottish Government and other devolved Administrations before extending the sunset for the power in clause 2—that is, before extending the period during which clause 2 powers can be used under the Bill.

The third is that in relation to the Trade Remedies Authority—the TRA—the Secretary of State will notify the devolved Administrations of decisions to initiate a trade investigation that will have a particular impact on the devolved nation. The fourth is that the Secretary of State will notify the devolved Administrations of the TRA's recommendations to the Secretary of State at the same time as consulting other Government Departments, so that they can feed in their views. The fifth is that the devolved Administrations can proactively submit to the TRA any information that they consider relevant to an investigation. The final commitment is that the Secretary of State will seek the devolved Administrations' suggestions on the optimal way of recruiting TRA non-executive members with regional knowledge, skills and experience.

I hope the Minister can confirm that those non-legislative commitments still stand. That would be particularly helpful. That would not remove the obvious need for an

amendment of this kind, to ensure that devolved Governments have an input in statute to changes that directly affect them, and that, at the very least, consent is sought and received before such changes are proceeded with.

5.30 pm

**Gareth Thomas:** New clause 16 would put on the face of the Bill a joint ministerial committee, and give it powers to discuss international trade issues with the devolved Administrations. The Labour party brought the devolution settlements into effect. It has continued to champion the rights of the people of Wales, Scotland and Northern Ireland, through the devolved Administrations, to use to good effect the rights and powers devolved to them under the settlements.

In the new world, post-Brexit, we need the devolution settlements to be slightly updated to reflect the significance of the international trade agreements that will be negotiated. Putting into statute the joint ministerial committee and effectively establishing a ministerial forum for international trade seems to us to be the most sensible way to lock in proper consultation between Whitehall and each of the devolved Administrations.

One area of potential future negotiations where discussions on trade at joint ministerial committee level might well be needed is that of geographical indications, given the significance to the Welsh economy of Welsh lamb, for example, and to the Scottish economy of Scottish salmon and Scotch whisky. One recognises that the Administrations will understandably want to make sure that those industries are properly taken into account in future trade agreements, given the considerable number of jobs dependent on them in those countries.

GIs raise a further issue—the question of who has the power to legislate on them during the implementation of a trade agreement. My understanding is that that remains an issue. The most recent Cabinet Office revised framework analysis, published in April last year, stated that Ministers believed there were four areas that were reserved but subject to continued discussion. Two of those seem to me to have strong relevance to international trade. One is state aid and one is food GIs. If the question of who has power to legislate on those issues has not yet been fully resolved, it is surely all the more important to establish a formal forum for serious discussions between Ministers in the devolved Administrations and the UK Government on what should or should not be in a future trade agreement.

I have some sympathy with the argument that the hon. Member for Dundee East has advanced, but one of the problems with his amendment was encapsulated in an exchange in the fourth sitting of the Committee on the previous Trade Bill, between the former Trade Minister Mark Prisk and the then Trade spokesman for the hon. Gentleman's party—I believe that that was the hon. Member for Livingston (Hannah Bardell). In column 116 of that sitting, the then Minister asked whether the hon. Lady thought that Welsh Ministers should have the power to veto a deal that was hugely in the interest of Scottish whisky. As a result, I gently suggest to the hon. Member for Dundee East that when we seek to press new clause 16 to a vote—perhaps on Thursday—he may be open to supporting that as a sensible route to managing the inevitable slightly differing priorities of each of the devolved Administrations and, potentially, the UK Government too.

**Greg Hands:** I welcome the opportunity to discuss the important issues raised in the amendments, which I think are fundamentally on different topics from those that we have dealt with for much of today. There is significant common ground between the Government and the Opposition parties. I welcome the hon. Member for Dundee East to the debate, for his first contribution today. It was noticeable that he chose not to take part in the chaos that ensued earlier when the main Opposition party's Front Benchers struggled with whether they are for or against the Canada agreement and so on. He wisely decided to sit that one out.

Under the UK constitution, the negotiation of international trade agreements is, as I have already made clear, a prerogative power of the UK Government. It is also a reserved matter, where the UK Government act on behalf of the whole UK. When exercising that reserved power, the Government have made clear that they will deliver trade agreements that benefit all parts of the UK—I have already referred to the scoping assessment for the US deal, showing that Scotland would be the nation or region of the UK that benefited most—unleashing the potential of businesses from all four countries of the United Kingdom.

I recognise the important role that the devolved Administrations can and should play in that endeavour, not only as representatives of their respective nations' interest, but because we know our trade deals will interact with areas of devolved competence. As such, my Department has worked and will continue to work closely with the DAs on our trade policy.

Turning to new clause 16, I will explain why I think it is unnecessary and impractical, although the principle of engagement behind it is one that I share. The new clause seeks to create a statutory role for a joint committee of the UK Government and the devolved Administrations as a forum to discuss trade policy, but such an arrangement is already in place.

During the passage of the Trade Bill 2017-19, the previous Secretary of State for Trade, my right hon. Friend the Member for North Somerset (Dr Fox), committed to establishing a new bespoke ministerial forum for trade with the devolved Administrations, in recognition of the importance of this relationship. That forum had its inaugural meeting in January and meets regularly to discuss our approach to trade negotiations, including key areas such as our objectives for the US trade agreement.

I am also happy to put on record my commitment to continuing to work closely with the devolved Administrations at all stages of trade negotiations, not only through the ministerial forum for trade, but via bilateral ad hoc engagement to reflect the sometimes fast-paced nature of trade negotiations. Indeed, I spoke about the US free trade agreement with all my counterparts in the devolved Administrations last month and have also recently written about the Trade Bill and other trade policy issues.

My former ministerial colleague, my right hon. Friend the Member for Bournemouth East (Mr Ellwood) travelled to Belfast in February to meet colleagues in the Northern Ireland Executive to discuss trade policy. For the benefit of the hon. Member for Dundee East, I restate the commitments made by my right hon. Friend, when he was a Minister, in his March letter to the Scottish Minister Ivan McKee.

*[Greg Hands]*

In short, we are already delivering the engagement envisaged by proposed new clause, and we have achieved that while continuing to observe the important constitutional principles enshrined in the devolution settlements. In contrast, this proposed new clause would give the devolved Administrations a statutory role in the reserved area of international trade negotiations, which would be constitutionally inappropriate.

Nor is this proposed new clause practical. It would lock us and the DAs into prescribed ways of working under the existing intergovernmental memorandum of understanding, a document last updated in 2013. It would constrain our ability to develop and adapt bespoke engagement mechanisms as we embark on negotiating our first UK trade agreements for more than a generation.

Turning to amendment 8, the powers created by this legislation will be used for the purpose of transitioning trade agreements with those countries that the UK had agreements with through its membership of the EU. That will ensure certainty, continuity and stability in our trade and investment relationships for businesses, citizens and trading partners in all parts of the UK.

As parts of these agreements touch on devolved matters, this legislation will create concurrent powers. We have sought to put in place concurrent powers to provide greater flexibility in how transitional agreements are implemented, allowing each devolved Administration to implement the agreements independently in some cases, while also allowing the UK Government to legislate on a UK-wide basis where it makes practical sense to do so. This approach permits greater administrative efficiency, reducing the volume of legislation brought through the UK Parliament and through the devolved legislatures.

I recognise that the devolved Administrations and members of this Committee seek reassurance that those powers will be used appropriately. The Government have already made clear that we will not normally use them to legislate within devolved areas without the consent of the relevant devolved Administration or Administrations, and never without consulting them first. I am, of course, happy to restate that commitment here.

It is not appropriate, however, to put that commitment on a statutory footing, as, like new clause 16, it would give the devolved Administrations a statutory role in the reserved area of international trade, undermining the important constitutional principles enshrined in the devolution settlements. We recognise that the technical implementation of international obligations in devolved areas is a devolved matter. However, as I have explained, the decision on which international obligations the UK enters into is a reserved matter and a prerogative power exercisable only by the UK Government. This rightly ensures that the UK Government can speak with a single voice under international law, providing certainty for our negotiating partners and the strongest possible negotiating position for the whole of the UK, for the benefit of all of the UK.

A statutory consent provision in the Bill would in effect give the devolved Administrations a veto over a reserved matter. This would be highly constitutionally inappropriate and could lead to a situation where international agreements applied in some parts of the UK but not others. This would be a fundamental weakening of our Union and the long-established principle that in the matter of international relations the UK Government negotiate for all parts of the UK.

Additionally, placing the commitment on a statutory footing could open us up to convoluted and lengthy procedures in which the courts were asked to determine in minute detail what was reserved and what was devolved. This is disproportionate and would create significant uncertainty for UK businesses, undermining the fundamental purpose of the Bill, which is to maximise certainty and continuity of trading arrangements. Our commitment to not normally legislate in areas of devolved competence without consent, and never without consultation, strikes the proper balance between providing sufficient reassurance to the devolved Administrations while preserving international relations as a reserved matter. It is a sincere commitment that we will honour, as we have honoured the commitments made to the devolved Administrations on the Trade Bill 2017-19.

For example, we committed to seeking suggestions from the devolved Administrations on the optimal way of recruiting non-executive members for the Trade Remedies Authority, which we will discuss on Thursday, with regional knowledge, skills and experience, and we fulfilled that earlier this year.

Our new independent trade policy absolutely calls for engagement with the devolved Administrations and respect for the important role that they can and should play, but it does not call for fundamental shifts in the nature of devolution or the weakening of powers that Parliament agreed should remain reserved to the UK Government. We have worked collaboratively with all the DAs to ensure that the Bill enables us to transition arrangements in a way that delivers for the whole UK. Our existing commitments, which I have restated today, provide sufficient reassurance to the devolved Administrations on the issues covered by the amendments. This is demonstrated by the fact that the Welsh Government have recommended consent to the relevant clauses of the Bill.

I hope I have been able to satisfy hon. Members that we have recognised and met their objectives in this amendment and that the hon. Member for Dundee East will withdraw it.

**Stewart Hosie:** I thank the Minister for reconfirming the non-legislative commitments made by his predecessor in his letter to Ivan McKee. That has genuinely helped. However, the Minister falls back on the argument that bespoke powers are better than a permanent credible structure. I disagree. I think a permanent credible structure provides more stability and certainty than the bespoke ad hoc use of powers and discussions from time to time. However, in the current devolved process, I recognise that international treaties are reserved matters. I absolutely understand and respect that, but he knows as well as anyone who might be listening that the interface of the intersection between an international trade treaty and a devolved competence might be fairly high. That is all the more reason for structured statutory formal engagement rather than an ad hoc bespoke process, which may or may not satisfy one or more parties, or one or more of the nations, in the UK about the Government's actions over a given international trade agreement.

Although I do not intend to press the matter to a vote, and I thank the Minister sincerely for the commitments he has restated, there is a fundamental difference of opinion on the bespoke ad hoc approach being suggested and a formal statutory structure, and I am sure we will return to that theme on Report. On that basis, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

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

5.44 pm

*Adjourned till Thursday 25 June at half-past Eleven o'clock.*

## Written evidence reported to the House

TB13 British Chamber of Commerce in Korea
TB14 British Poultry Council