PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE BILL

Eighth Sitting

Thursday 25 June 2020

(Afternoon)

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Monday 29 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

Thursday 25 June 2020

(Afternoon)

[Sir Graham Brady *in the Chair*]

Trade Bill

2 pm

Clause 3 ordered to stand part of the Bill.

Schedule 1 agreed to.

Schedule 2

Regulations under Part 1

Gareth Thomas (Harrow West) (Lab/Co-op): I beg to move amendment 18, in schedule 2, page 11, line 26, leave out from "section 1(1)" to the end of line 27 and insert

"may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

This amendment would specify an affirmative resolution procedure for regulations under section 1(1).

I am grateful for the opportunity to speak to the amendment in my name and those of my hon. Friends. Let me make it clear that we have tabled this amendment recognising that the affirmative resolution procedure is not a perfect process by any means. It is, nevertheless, better than the annulment procedure, which Ministers currently have locked into the Bill. An affirmative process is vital, as without it the Government will have carte blanche to introduce regulations to implement the obligations arising from our independent membership of the GPA—the agreement on government procurement—without the slightest hint of anything resembling parliamentary scrutiny.

The negative resolution procedure the Government propose for regulations under clause 1(1) is the least rigorous of all the parliamentary procedures for scrutiny available to the House. The main point of the negative resolution procedure is to allow the Government to have their way without any need to bother with parliamentary democracy. Indeed, I am told that the last time a negative instrument was successfully annulled in the House of Commons was the Paraffin (Maximum Retail Prices) (Revocation) (No. 3) Order 1979.

International treaties cannot be easily repealed, but domestic legislation can be repealed much more easily. If ever there were an example of secondary legislation crying out for proper parliamentary scrutiny and oversight, surely this is it. I remind the Committee of the evidence we heard from Rosa Crawford of the Trades Union Congress. In response to Question 70 from my hon. Friend the Member for Sefton Central, she pointed out:

"The GPA as it stands has no requirement for members to promote social standards in their tendering process."—[*Official Report, Trade Public Bill Committee,* 16 June 2020; c. 49, Q70.]

The TUC is worried that, once we leave any kind of relationship with the European Union and no longer have to rely on the EU's contract regulations, the UK Government may well roll back on those commitments to promote social standards through the tendering process that are currently locked into our law by EU directives.

Opposition Members remember—indeed, Rosa Crawford reminded us all as a Committee—that the Prime Minister and members of the Cabinet have talked many times in the past about wanting to repeal EU-derived rights on working time and agency workers, and other important protections for workers' rights. Not surprisingly, the TUC is worried that that may well be the direction of travel with procurement regulations in the future.

It is therefore sensible to make sure we have a proper parliamentary process that allows us to explore whether, under the cover of minor technical changes to the GPA—no doubt the Minister will suggest to the Committee that that is all he intends this process for—our contract regulations and the standards associated with them are gradually being undermined and a race to the bottom on standards is under way. We consider the affirmative resolution procedure to be more appropriate than the annulment process in the Bill. However imperfect the affirmative resolution process, it at least provides Members with the possibility of a debate and a vote, and it is then of course up to us to make proper use of that opportunity. That is the spirit of amendment 18.

The Minister for Trade Policy (Greg Hands): I begin by welcoming you to the Chair this afternoon, Sir Graham. I appreciate the concerns that there should be adequate parliamentary scrutiny of regulations made under the clause 1 power. I am satisfied that that is the case, and let me explain why.

As I have said, the power is intended to allow the UK to make technical changes—for example, to reflect new parties joining the government procurement agreement or existing parties withdrawing from it. In the case of a new or withdrawing party, it is important that the UK is able to respond quickly and flexibly. Once a new party deposits its instrument of accession, there is, under the rules of the World Trade Organisation GPA, a period of only 30 days before that accession comes into force. The UK will then be under an immediate obligation to provide that new party with guaranteed procurement opportunities covered by the GPA, and of course vice versa. If the UK failed to offer the new party this guaranteed access, we would be in breach of our GPA commitments. Equally, a party to the GPA can decide to withdraw unilaterally. When a party notifies the Committee on Government Procurement that it intends to withdraw, it will cease to be a GPA member just 60 days later. It is therefore vital that we are able to react quickly to such a notification, either to join or to withdraw.

If the power to amend UK legislation to reflect a party's withdrawing from the GPA were subject to the affirmative resolution procedure, we might not be able to legislate in time to remove the party within the 60-day time limit. This could result in UK contracting authorities continuing to give a party that has left the GPA—companies from that country—guaranteed access to the UK's procurement market that it is no longer entitled to have. Furthermore, the former party would have no obligation at the same time to give UK businesses reciprocal access to its procurement markets. I am confident that Members will agree on the need to regulate quickly

in these instances, both practically so that UK businesses are not disadvantaged and to show good faith to the other party.

Bill Esterson (Sefton Central) (Lab): The Minister made great play two years ago of the idea that the affirmative resolution procedure takes 30 days longer than the negative resolution procedure. However, that is not an issue because the Government are notified months in advance that this is coming, and Government officials are able to put in place the necessary regulations, whether negative or affirmative. There is plenty of time to get ready to avoid the catastrophic outcome that the Minister describes.

Greg Hands: The hon. Gentleman makes a fair point. In fact, accession to the GPA typically take some years, so in that sense it would have been telegraphed quite far in advance—the most recent party to join is Australia. But it would be inappropriate for us to ratify someone joining the GPA in advance of them actually depositing the papers, so although joining is a lengthy process, the actual ratification process is very short. That is the key difference in this case.

The Delegated Powers and Regulatory Reform Committee's report on the Trade Bill 2017-19 raised no concerns, nor made any recommendations, about the use of the negative procedure in relation to this power. However, let me clear: when new parties are seeking to accede to the GPA, we will ensure that Parliament is kept informed. Parliamentary scrutiny is more effective before an accession is agreed, because that is when the views of Parliament can be taken into account.

Where a WTO member is seeking to join the GPA, it is our intention to notify Parliament, to keep the relevant Committee—in this case, the International Trade Committee—informed as the negotiations proceed, and to allow further discussion where desired. That is the right time for Parliament to be actively involved in a debate, for example, on Australia's accession to the GPA—although the case of Australia is backward looking, of course, to when we were covered by the GPA through our EU membership. If there were such a case going forward, the right time would be during the discussions to the accession, not after the accession had been agreed.

I remind Members that there has already been parliamentary scrutiny of the UK's market access schedules and the text of the GPA, which were laid before Parliament in line with the Constitutional Reform and Governance Act 2010. That process concluded without objection in 2019. Any further changes to the GPA, including the UK schedules prior to our accession, will again be scrutinised in line with CRAG.

I hope my comments provide reassurance to the Committee. I ask the hon. Gentleman to withdraw the amendment and commend schedule 2 to the Committee.

Gareth Thomas: I was toying with being persuaded by the Minister until the intervention from my hon. Friend the Member for Sefton Central. Given what he said about the amount of telegraphing that Ministers will have about the changes and given the scale of scrutiny provisions that were included in the last Bill come the end of Report stage in the Lords and the Commons, which have now been taken out of the current Bill, I fear that on this occasion, I need to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 11]

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.

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

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.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 12]

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.

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

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.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 13]

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.

2.15 pm

Schedule 2 agreed to.

Schedule 3 agreed to.

Clauses 4 and 5 ordered to stand part of the Bill.

Schedule 4

The Trade Remedies Authority

Bill Esterson: I beg to move amendment 1, in schedule 4, page 15, leave out line 14 and insert—

"(a) a member to chair it, appointed by the Secretary of State with the consent of the International Trade Committee of the House of Commons,".

This amendment would establish the requirement for Parliament, through the relevant committee, to give its consent to the Secretary of State's recommendation for appointment to the Chair of the Trade Remedies Authority.

It is a pleasure to see you back for the final sitting of the Committee, Sir Graham.

I know that the Minister sometimes forgets what we said in our reasoned amendment, so in case he has forgotten again, I remind him that we recognised the desirability of—indeed, the need for—the UK to pass

"effective legislation to implement agreements"

and

"to set out the basis of a Trade Remedies Authority to deliver the new UK trade remedies framework".

Yes, we do indeed support the creation of the Trade Remedies Authority. There it is again, for the avoidance of doubt, on the record. No doubt the Minister will claim otherwise, as he has done numerous times in the past two years.

Schedule 4 states that the Secretary of State will appoint the chair, who will in turn appoint the chief executive and non-executive members of the Trade Remedies Authority. The amendment is about how the appointment of the chair is carried out. The chair is appointed by the Secretary of State and in that process there is no recourse to Parliament or to other scrutiny of the appointment. The Secretary of State is therefore free to appoint someone in their own image, with the same political leanings and economic opinion—which is the more important point.

Indeed, although I have no idea of his politics, when Simon Walker gave evidence he gave every indication that he entirely agrees with the approach of the Secretary of State to trade remedies. I do not say that to denigrate Mr Walker. I have known him for a number of years and he is a well-travelled representative of business, who has had a number of different roles. The amendment is about not him as an individual, but the principle. It is about the opportunity to appoint someone with a particular

approach to trade remedies and the appointment, in turn, of an unbalanced Trade Remedies Authority that looks only at the approach favoured by the Government.

The previous Secretary of State had advisers from Legatum and the Initiative for Free Trade. The current Secretary of State has an adviser from the Adam Smith Institute. It is clear what the main thrust of Government advice is on those matters.

Gareth Thomas: Has my hon. Friend seen the evidence from the British Ceramic Confederation, which thought there was already a very strong ideological view on tariffs, protectionism and dumping? It highlighted, for example, the recent UK global tariff announcement and suggested that the Government's pre-eminent view was that all tariffs are protectionist.

Bill Esterson: I am familiar with the evidence that my hon. Friend cites. It reminded us that the Minister has previously said in meetings—I believe he has put it in writing, too—that experts on trade would be appointed to these roles on a non-ideological basis. Yet the evidence on how the people are appointed to the roles suggests that the Government have one single approach, which is as my hon. Friend indicated.

The British Ceramic Confederation has set out concerns that include how global tariffs have been implemented. The way in which the Government tariff schedules have been set out causes a problem for many of the confederation's members because of the small margins involved in the industry and because even small differences in tariffs between different countries creates a difficult problem for competitiveness.

The Government's ideological direction of travel is about supporting consumers. The Minister will probably say that the Opposition are against the consumer interest, that we do not support consumers and that we do not think they should have access to good quality low-price imports. But that misses the point. Of course consumers are one of the interests and should be supported. Of course they have every right to be included, but they are one—not the only—consideration in these matters.

Gareth Thomas: It is obviously important that we have the Trade Remedies Authority. Two industries particularly concerned to have it are steel and ceramics. Have there not been consistent concerns in the past about China and one or two other countries trying to dump steel products and ceramics into Europe for UK markets? We need someone robust enough to stand up to such practice, and perhaps only parliamentary scrutiny of that person will help tease that out.

Bill Esterson: My hon. Friend is right. We have discussed ceramics, and he has spoken in other debates about steel and how not having an international trade agreement with Turkey runs the risk, as we were told by UK Steel, of 15% tariffs being levied in one direction and creating a very uncompetitive situation in the streel industry.

However, this is a slightly different point. The point is about trade remedies and the example of steel. In the 2015 steel crisis, cheap imports of Chinese steel flooded the European market, often not of the same quality or standard, and our steel industry was in crisis. The steelworks at Redcar closed, despite the fact that it had world leading carbon capture and storage technology, which was lost for good. The international competitive advantage in that emerging technology has gone from this country, and the rest of our steel industry faced a very difficult time. There are difficult times again now, partly because of the covid crisis and because the Chinese economy has emerged more quickly. The Chinese went into it first and have come out of it first.

In the 2015 crisis, David Cameron's Conservative Government were resistant to the use of trade defensive measures as part of the European Union. This country delayed the introduction of those measures and the lifting of the lesser duty rule, with the effect that we were very late to take the action needed. The loss of SSI at Redcar was one consequence. We took action too late and we did not take the same action as other countries, which were in a much stronger position to resist the dumping of Chinese steel as a result.

Gareth Thomas *rose—*

The Chair: Order. Before you make your intervention, Mr Thomas, I remind you that last time you very helpfully tried to bring your colleague back to the very narrow terms of the amendment, by reference to parliamentary approval for the appointment. I hope that you will do so again.

Gareth Thomas: Absolutely, Sir Graham. I was merely going to say that the need for parliamentary scrutiny of the chair of the TRA is surely even greater given the point my hon. Friend made about the risk of China perhaps again trying to dump steel or ceramic products into our markets. The Government have an appetite for joining the transatlantic partnership, which China also wishes to join—it has made that wish very clear. Does my hon. Friend not think that amplifies his point about the need for robust parliamentary scrutiny to check that we have a genuinely robust chair of the TRA?

Bill Esterson: Yes, that is absolutely right, and of course there must be a chair who balances interests in exactly the right way to do these things; in his evidence, Simon Walker said he hoped that would be the nature of the make-up of the Trade Remedies Authority.

However, hope is not a recipe for success and there must be parliamentary involvement to ensure that, whoever the chair is, they take measures when they are appointed, including receiving representations from across industry, employers and unions, consumer groups—I say to the Minister that we recognise the importance of consumers in these matters—and the devolved nations. My hon. Friend was right to raise this issue. That is why parliamentary scrutiny of the appointment of the chair matters; it is so that these points are picked up.

I will talk about the economic interest test: further evidence given to us by the British Ceramic Confederation. The confederation made the point to us that there is no explicit presumption in favour of adopting the measures in the European equivalent to the economic interest test. The European equivalent balances the interests of producer, worker, and regional and consumer groups; the problem with the economic interest test is that it looks at only one. The EU is cited:

[Bill Esterson]

"The need to eliminate the trade distorting effects of injurious dumping and to restore effective competition shall be given special consideration."

That is what the EU says. There is the explicit reference to "special consideration"; that is the presumption in the EU model, which is not there in the UK equivalent. Currently, the Bill only infers this, which is why something on—

The Chair: Order. The hon. Gentleman knows that I try to be generous, but with the best will in the world this is a very long distance away from the very tight wording in the amendment. I ask him to come back to the precise point of the amendment or draw his remarks to a close.

Bill Esterson: Absolutely, Sir Graham; I do apologise. The point that I am making is that there is this request to go on the record, and the Minister indicated earlier that this was the opportunity to do that. Perhaps he can put something on the record for the British Ceramic Confederation of the nature that they have written to him about and that I have just referred to.

I bring the discussion back to the amendment.

Gareth Thomas: One of the issues that Parliament would surely want to scrutinise is the role of the chair of the TRA in the appointment of the other board members. Some of the evidence presented to us makes clear a fear that some of the trade remedy experts that a putative chair of the TRA might want to bring on board will not be enthusiastic about keeping competition fair. Rather, they might want to turn a blind eye to the dumping of products in the UK, to create unfair competition with British companies.

2.30 pm

Bill Esterson: My hon. Friend is right, and that is what the amendment is about. It is about ensuring that, when cross-examined—presumably by the Select Committee—the chair is asked whether they will take a robust approach in their appointments to the Trade Remedies Authority, to protect British industries, including the steel sector, ceramics, dyers, chemicals and pharmaceuticals, all of which trade remedies are likely to be involved in. That is the basis for the amendment. I hope the Minister will deal with the point that the British Ceramic Confederation asked him to deal with. Fundamentally, this is about ensuring that the chair is scrutinised properly, to ensure that there is a balance in the competing interests.

Gareth Thomas: Another concern about trade remedies that it would be useful for Parliament to raise with the chair of the TRA is the chair's attitude to the international dispute resolution process, because the TRA will not be acting in a vacuum—a case of dumping of products in the UK market might have to go up to the World Trade Organisation dispute resolution process, which is currently not functioning. Would it not be sensible to be able to hear from the putative chair of the TRA their view on the connection between the UK TRA and the WTO's currently blocked dispute resolution process for dumping cases?

Bill Esterson: That is an excellent example of what a parliamentary hearing would be used for. The model that we seek to emulate is the one used for the Office for Students, although that is not the only example of where parliamentary hearings are used before a chair of a body of this nature is appointed. The Office for Students uses that exact process to ensure that the chair appoints people who have a wide range of interests, rather than a narrow approach. We advocate a model along those lines, with the chair interviewed by the Select Committee.

Gareth Thomas: Were I involved in such a parliamentary scrutiny process for the putative chair of the TRA, I would want to know, as I hope my hon. Friend would, the attitude of the chair to the EU-led multi-party interim appeal arbitration process, which is an attempt to get around Donald Trump's blocking of the appointment of judges to the WTO dispute resolution process. That is surely a sensible scheme for the UK to join, and we would want to hear that the putative chair was supportive of it. The Minister has, again, been studiously vague on whether the UK would want to be part of such a sensible anti-dumping process.

Bill Esterson: It would be important to ensure that, in the absence of the WTO functioning properly, international alternatives were being considered. Asking the chair their view of those proposed measures and our attitude to international co-operation is extremely valuable. I am glad my hon. Friend raised that point.

Gareth Thomas: I hesitate to test my hon. Friend's patience. Were I to catch your eye, Sir Graham, when schedule 5, on staff transfer schemes, is being debated, I would be interested to explore the scope for members of staff moving from the Department for International Trade to the TRA, to get some experience of both the WTO dispute resolution process and the new multi-party interim appeal arbitration process. Again, does my hon. Friend not think that we should find out the attitude of a putative chair of the UK TRA towards staff transfers so as to get such expertise before they need to deploy it in a UKTI context?

The Chair: Before you respond, Mr Esterson, I gently point out that we have had some wonderful illustrations of some of the questions that might be put to the putative chair of the TRA, should the amendment be passed. We have probably had enough to get an idea of the argument being advanced.

Bill Esterson: Sir Graham, I am guided by you. The Chair is always right and I completely accept your point. The Minister may choose to respond to the excellent suggestions that my hon. Friend the Member for Harrow West has made, but I think we have made the case that the chair of the TRA should be interviewed and there should be adequate parliamentary scrutiny of his or her appointment.

Greg Hands: I would like to start by repeating what I said in 2018 when I first took this clause through a Committee and what I and others have said since: this Government are committed to creating an independent and objective investigation process in which businesses and consumers will have full confidence and to setting up the Trade Remedies Authority with the right pool of skills, qualities and experience.

I recall that broad agreement was evident for the principle of an independent impartial body during the previous debate on the TRA during the Trade Bill's 2017 to 2019 passage. Without wishing to linger on the point, my startlement that the Opposition are so opposed to this legislation increases, although they claim to support all its parts.

Many will know that the World Trade Organisation allows its members to take action to protect domestic industries against injury caused by unfair trading practices, such as dumping, subsidies or unforeseen surges in imports. Quite to the contrary of what I think the hon. Member for Harrow West said, nobody wants to turn a blind eye to dumping. It is quite the opposite, but we can only do that with a functioning and legally operating Trade Remedies Authority.

Where there is evidence that dumping is happening, countries are permitted to put measures in place to remedy the situation, hence the term "trade remedies". Measures usually take the form of an increase in duty on imports of specific products following an investigation. Establishing an independent trade remedies function is integral to the UK's new independent trade policy. We must get it right. Decisions on trade remedies cases can have profound impacts on markets and on jobs, and that is why we need to create an independent, objective investigation process that businesses can trust. We will be appointing the best people.

Gareth Thomas: The Minister is absolutely right. We need a functioning TRA and we need a functioning trade remedies system. However, decisions that the TRA makes can be challenged and taken up to the WTO. As he knows, there is not a functioning dispute settlement process at the WTO at the moment. Why is there still such resistance from the Minister to joining the multi-party system that the EU has proposed to try to get around Donald Trump's objection to the WTO dispute resolution process?

Greg Hands: I hear what the hon. Gentleman has to say, and I think he is wrong to say that there is resistance, but I gently suggest that the matter is without the scope of the Bill, interesting though that topic and the future of the WTO might be.

We will be appointing the best people to the TRA, including the non-executive members of its board. As with any public appointments, the appointment of non-executive directors will be subject to the well-established rules that govern public appointments of this kind.

Amendment 1 seeks to give the International Trade Committee the statutory power to approve or veto the appointment of the TRA chair. It is established practice that decisions on public appointments are for Ministers who are accountable to Parliament and the public for those decisions. The Cabinet Office "Public Bodies Handbook" explicitly states that Ministers normally appoint the chair and all non-executive members for non-departmental public bodies.

Following the Liaison Committee's report in 2011, further guidance was issued by the Cabinet Office setting out the tests for determining which non-departmental public body appointments should be subject to pre-appointment scrutiny. That guidance makes it clear that pre-appointment scrutiny should apply only in respect of three types of post:

"i. posts which play a key role in regulation of actions by Government; or

ii. posts which play a key role in protecting and safeguarding the public's rights and interests in relation to the actions and decisions of Government; or

iii. posts in organisations that have a major impact on public life or the lives of the public where it is vital for the reputation and credibility of that organisation that the post holder acts, and is seen to act, independently of Ministers and the Government."

In my view, none of those three requirements is met. The TRA is not a regulator, it does not protect or safeguard against the actions and decisions of Government, and, although we believe it is important for business confidence that it is seen as independent of Ministers, it is not an organisation that can be described as having a major impact on public life or the lives of the public.

I turn now to a few other points that cropped up. On EU remedy measures, we have been clear that we will transition appropriate measures into the UK. We have launched transition reviews of those, and we have consulted and will continue to do so. The economic interest test is a matter for the Taxation (Cross-border Trade) Act 2018, but there is of course a presumption in favour of measures in that Act.

On the engagement of trade unions, Simon Walker and the interim body—the Trade Remedies Investigations Directorate—met the Trades Union Congress yesterday and is engaging unions frequently. I remind the Committee that the board are not the decision makers on trade remedies; they set the strategy and hold the chief executive and the executive to account. There is no role for the TRA at the WTO or any involvement with the appellate body. I believe that I have responded to the British Ceramic Confederation letter, but I will study carefully what is in it.

Under the provisions of schedule 4, to which we will turn shortly, the TRA must produce an annual report, which the Secretary of State must lay before Parliament. The TRA will also be subject to the scrutiny of the National Audit Office and parliamentary Committees. In addition, complaints against it can be considered by the Parliamentary and Health Service Ombudsman, who may also share information with Parliament. I hope that that reassures the Committee that the amendment is not appropriate, and I ask the hon. Member for Sefton Central to withdraw it.

Bill Esterson: The Minister made a number of interesting comments. He talked about businesses and consumers having full confidence in the Trade Remedies Authority. He did not mention workers, and he did not mention the devolved Administrations in that statement at the start of his response. I am sure that causes concern.

The Minister spoke about the need to act independently and repeated the point about business confidence. He has also made the point that the TRA needs to be an organisation that business can trust. But if it is to be independent, there needs to be scrutiny of appointments. He said that a reason why it does not come under the

[Bill Esterson]

code for appointments to be approved, other than by Ministers, is that it does not have a major impact. Trade disputes have major impacts. I mentioned the SSI closure; that was 5,000 jobs. I am shocked that the Minister does not regard that kind of incident as having a major impact. I am sure that workers up and down the country would share my concern on that point.

Greg Hands: I have checked exactly what I said. I said, "organisations that have a major impact on public life". I did say that it would have a major impact on jobs, but I think "public life" would be considered more broadly than the immediate jobs of a particular workforce, important though they are. We are talking about the broader public.

Bill Esterson: The Minister is in danger of dancing on the head of a pin with his phrases. Honestly, 5,000 jobs is not a major impact on public life? I think the people of Redcar and the north-east would disagree with him strongly about that.

It is essential that we have this system of scrutiny in place. There are pre-appointment scrutiny sessions for many roles in public life. The Minister set out the rules—I think he set them out correctly—but he also gave us, in his description of what is independent, and in the phrase "major impact on public life", an argument in favour of our amendment. For that reason, we will press it to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 14]

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.

2.45 pm

Stewart Hosie (Dundee East) (SNP): I beg to move amendment 35, in schedule 4, page 15, leave out lines 27 and 28 and insert—

"3 A person holds office as a member of the TRA for a fixed period of five years from the date of appointment.

3A A person is eligible for renewal of appointment for a further fixed period of five years upon the expiry of the first period."

The Chair: With this it will be convenient to discuss amendment 36, in schedule 4 page 16, line 11, at end insert—

"10A A person shall be considered unable or unfit if the Chair is satisfied as regards any of the following matters—

(a) that the person becomes insolvent,

(b) that the person has been convicted of a criminal offence,

(c) that the person is otherwise unable or unfit to discharge the functions of a member or is unsuitable to continue as a member."

Stewart Hosie: Amendment 35 would establish a fixed period of office for members of the TRA and make provision for one further period of office. The reason is rather obvious. Introducing a fixed term would give TRA members greater security of tenure and therefore reinforce their independence and impartiality, as their duration of service could not be—or certainly could not be perceived to be—at ministerial discretion.

Amendment 36 would insert wording stating that a person should be considered unable or unfit if the chair is satisfied regarding any of the following matters: that the member becomes insolvent, has been convicted of a criminal offence or is

"otherwise unable or unfit to discharge the functions of a member or is unsuitable to continue as a member."

The effect would be to define, to a greater extent at least, the meaning of "unable or unfit" in paragraphs 9 and 10 of schedule 4. Introducing a definition of "unable or unfit" would provide greater legal certainty about the circumstances in which a person may be removed from office as a non-executive or executive member of the TRA.

In keeping with the amendments and new clauses that I have spoken to so far, I do not intend to divide the Committee on amendments 35 or 36, but I ask the Minister to consider carefully how the Government might bring forward amendments at a later stage to deal with the matters of a fixed term for, and legal certainty on dismissal from, the TRA. Doing so would remove the perception that a term on the TRA, or dismissal from it, might be based on any political consideration—a perception that would weaken the credibility of the TRA—and strengthen the independence of that body. That is vital, particularly as the TRA will be invited to consider the vexed issue of some questionable, and potentially illegal, trade practices. The TRA's credibility will be incredibly important when that particular work is undertaken, especially in the absence of a fully functioning WTO appellate board.

The Government should look again, as the Bill progresses through the other place and on Report, at how a fixed term for members might be introduced and at how legal certainty on dismissal might also be written into the Bill.

Greg Hands: Clause 5 will allow the TRA to be established as a new non-departmental public body, and schedule 4 outlines its governance arrangements. Those include detailing how TRA members will be appointed and how the terms and conditions of their appointment will be established. Such provisions should be familiar to those with experience of working with similar bodies.

It is crucial that the right people are appointed as members of the TRA. We are committed to appointing on merit following fair and open competition. That is why we are following standard Cabinet Office guidelines on the appointment of members of the TRA, as set out

in the "Governance Code on Public Appointments", which states that it is usual for Ministers to decide on the length of tenure. The code also sets out

"a strong presumption that no individual should serve more than two terms or serve in any one post for more than ten years",

other than in exceptional circumstances.

Appointments will be independently regulated by the Commissioner for Public Appointments to ensure that the rigorous principles of public appointments and the "Governance Code on Public Appointments" are applied. Beyond that, the Government and the TRA will have regard to the need to protect the resilience of the board and to ensure that there is a managed turnover of members now and in the future. That may mean, for example, that it is sensible to make some of the initial appointments to the board shorter than five years to stagger any turnover in membership.

Specifying those details in the contractual terms for each appointment is the best way to ensure the flexibility to get the organisation off to the best start. The role of the TRA chair designate is crucial in shaping and forming the board. It is therefore only right that the Secretary of State does that through the terms and conditions for each role in consultation with the chair designate, rather than binding their hands in legislation. We are working closely with the TRA's chair designate, Simon Walker, to start the recruitment of the rest of the TRA board members in due course. We will specify the duration of appointments as part of that process.

By contrast, amendment 35 would replace the contractual terms for all TRA members with a fixed statutory period of either five or 10 years, with no provision for any other length of tenure. That would deny the TRA the flexibility that it needs, particularly now when we are trying to ensure the best possible start for the new organisation, but such a rigid approach would be detrimental to its good governance at any time.

Amendment 36 seeks to specify a number of criteria that would deem a member of the TRA board unfit to continue in their position. Schedule 4 already provides for the Secretary of State to remove non-executive members, and for the chair to remove executive members, from the board should they be deemed unable or unfit to carry out the functions of the office. That approach will be familiar to hon. Members from the legislation establishing organisations such as the Competition and Markets Authority.

As with all public appointments, the terms and conditions for the non-executive members of the TRA are being developed in line with the "Code of Conduct for Board Members of Public Bodies", which clearly sets out the standards expected from those who serve on the boards of non-departmental public bodies. The code provides that members of the board must inform the sponsor Department of any bankruptcy, unspent criminal conviction or disqualification as a company director in advance of appointment, or should any such instances occur during the appointment.

The code does not expressly specify that those issues determine an individual's fitness to serve on a board or that they should be regarded as grounds for terminating an appointment, but I assure the Committee that the Government consider that that should be the case. That is why the terms and conditions of Simon Walker, the TRA chair designate, provide that the Secretary of State may terminate his appointment in those circumstances. It is very much our expectation that the relevant terms of appointment for other non-executive members will follow a similar approach.

The appointment of executive members is a matter for the TRA chair. It is therefore appropriate that the terms and conditions of their employment are managed by the TRA in a way that enables flexibility, while holding its staff to the necessary standards of integrity and professionalism.

I hope that the demonstrates to the hon. Member for Dundee East that we are establishing the TRA in accordance with the existing codes and in line with the practices adopted in other such bodies. I therefore ask him to withdraw his amendment.

Stewart Hosie: I have no intention of pressing the amendments. I listened carefully as the Minister rattled through that answer. I have no doubt that, with the exception of the specific point he made about staggering five-year terms at the very beginning, things are being done in line with guidance that has been used previously. However, that does not really answer the point that, because of the ministerial discretion, particularly on the removal of a member, there may still be a perception, real or otherwise, that members can be removed for considerations that are political and nothing to do with their actual unfitness to serve.

While I will not divide the Committee on the amendment, notwithstanding that the Minister read his answer very quickly, the Government may want to seriously consider how these matters are addressed. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Bill Esterson: I beg to move amendment 2, in schedule 4, page 19, line 26, at end insert—

"no later than 1 August of the calendar year in which the last day of the financial year covered by the report falls".

This amendment would ensure that the Secretary of State must lay the annual report of the Trade Remedies Authority before Parliament within a reasonable time frame.

The Chair: With this it will be convenient to discuss amendment 3, in schedule 4, page 19, line 26, at end insert—

"Recommendation reports

31A (1) The TRA must prepare a report on each of the individual recommendations it makes to the Secretary of State in connection with the conduct of an international trade dispute.

(2) The report must accompany the recommendation submitted to the Secretary of State.

(3) The Secretary of State must lay the report before Parliament as soon as reasonably practicable, and not later than five days from the time it is submitted to the Secretary of State by the TRA."

This amendment would ensure that Parliament is kept informed, in a timely fashion, of the individual recommendations made by the Trade Remedies Authority to the Secretary of State in connection with cases of dumping, foreign subsidies and import increases causing injury to UK producers.

Bill Esterson: As with amendment 1, it is the lack of scrutiny that we are opposed to, not the creation of the Trade Remedies Authority. That is the subject of amendments 2 and 3, which are particularly important—as

[Bill Esterson]

my hon. Friend the Member for Harrow West reminded us in the debate on amendment 1—in the absence of an effective WTO and given the concerns about international co-operation and collaboration on important matters that can lead to damaging trade disputes.

The amendment requires that the Secretary of State lay the annual report of the TRA before Parliament

"no later than 1 August of the calendar year in which the last day of the financial year covered by the report falls",

and amendment 3 requires that a report is prepared for Parliament in a timely fashion on each recommendation made to the Secretary of State.

Parliament should be able to scrutinise the work of the TRA to ensure that it is working in the best interests of the UK economy and all of its components. Such requirements are nothing new in the realm of trade remedies. In the European Union, the Commission is obliged to report to the European Parliament. This is supposed to be a continuity Bill; the continuity in this case would be to apply equivalent processes in the UK to what we had in the EU.

The report to the European Parliament is obliged to give MEPs statistics on the cases opened and the number of measures adopted. MPs here should be given the same information by our TRA so that they may scrutinise its work. MPs should be able to look at the number of cases initiated and the number of measures adopted, and therefore be able to judge whether the TRA is taking measures to defend our industries and jobs, and is working with the devolved authorities—not just putting the consumer interest first, at the expense of producers, jobs, and the regions and nations of the country.

Industry would be more comfortable if there was a more rigorous approach for parliamentarians to get involved in the setting of the rules for the system—it is not just us saying this, but industry, and both sides of it. As in the rest of the Bill, the Government propose nothing on parliamentary oversight or scrutiny of the TRA. Yet again, they want to make decisions that will have profound impacts—on key sectors of industry, on thousands of jobs and on the regions and nations—behind closed doors, without scrutiny and without accountability to Parliament. Unless that scrutiny is there in law, there is no guarantee that it will happen.

Giving parliamentarians an oversight power over the work of the TRA would ensure proper scrutiny and accountability. A weak trade remedies regime is of benefit to nobody in our country. If anybody thinks that having a weak regime will open up trade opportunities with international partners, they are mistaken. Partner countries will take advantage of that, once again, and we will see the loss of jobs that we saw in the steel sector in 2015 and 2016. It is only right that this House gets to scrutinise the work of the TRA to ensure that it is doing its job properly.

Greg Hands: I recognise the desire of Opposition Members to ensure that our trade remedies system is impartial, objective and transparent. Those have been our guiding principles, too.

That is why we are establishing the Trade Remedies Authority as an arm's length body and why we will require the TRA to produce a report on the performance of its functions during each financial year, which the Secretary of State must lay before Parliament. The Bill requires that to be produced

"as soon as reasonably practicable"

after the end of that financial year. That is in line with other arm's length bodies, such as the Office for Nuclear Regulation and the Nuclear Decommissioning Authority.

Imposing a fixed deadline by which the TRA's annual report must be laid before Parliament is unnecessary. Prioritising an arbitrary deadline over ensuring a full and detailed report for Parliament and businesses to scrutinise is in no one's interests. I am sure that the TRA, like all other NDPBs, will use its best endeavours to publish the annual report as quickly as possible following the end of the financial year. It is of course possible that that could be within the timeframe suggested in the proposed amendment. However, the TRA statement of accounts must be certified by the Comptroller and Auditor General before being laid, and that reliance on processes outside the TRA's direct control makes it unreasonable to set a deadline for publication in statute.

The TRA's annual report will follow best practice on openness and accountability as set out in the Cabinet Office publication, "Public Bodies: A Guide for Departments", which provides a clear structure of best practice requirements, although we recognise that these will not be specific to each organisation that they cover. As with all non-departmental public bodies, we expect the TRA to follow best practice for an organisation of its type and to include appropriate performance indicators, rather than that being set by statute. As a new organisation, it is important to ensure that the TRA has the flexibility to develop and adapt these key performance indicators as it settles into its functions and continues engagement with stakeholders.

3 pm

Amendment 3 focuses on the TRA's provision of advice and assistance to the Secretary of State regarding international trade disputes. It would require the Secretary of State to share information related to that advice and assistance with Parliament within five days of the TRA's submitting it to the Secretary of State. Clause 6 sets out the functions of the TRA, allowing it to advise, support and assist the Secretary of State in the conduct of an international dispute, but does not give the TRA responsibility for the handling of international trade disputes. These are, rightly, a matter for the Government to either initiate or to defend.

However, while the responsibility sits with the Government, we need to ensure that we can draw on the most relevant skills and expertise to best represent the UK's interests. A large proportion of international trade disputes relate to trade remedies. We are setting up the TRA as an expert, specialist body to operate the UK's trade remedies system, and it will therefore have crucial expertise to bring to bear. First, there may be cases where TRA investigations have led to the imposition of measures that are subject to dispute. In those instances, the TRA will hold much of the detailed information and evidence required to construct and run the UK's defence.

Secondly, the Government will also need the TRA for advice and assistance in the event that we take offensive action against measures imposed on UK imports by

other countries. In these instances, the TRA's expertise will be significant in assessing whether the correct procedure has been followed in imposing measures against the UK. I am sure Committee members agree that it would be inappropriate and detrimental to the UK's interests to require this information to be made public in such circumstances. Doing so could prejudice the UK's position in sensitive international discussions. Indeed, the stipulation that information be shared with Parliament within five days of it being submitted to the Secretary of State could mean that it is made public before the Government are able to lodge our application or response with the relevant dispute settlement body or arbitral panel. That would be detrimental to the UK's interests and cannot be what Opposition Members intend. I hope that what I have said reassures the hon. Member for Sefton Central, and that he will withdraw the amendment.

Bill Esterson: The Minister has certainly given us some rationale. I take him at his word on the practical reasons why the amendments would not do what we intended. However, it is important that we scrutinise the TRA's work on individual investigations in realtime. I am sure there are alternative ways of doing that in Parliament—bringing reports before Select Committees, for example, where there is need to handle scrutiny sensitively if commercially confidential information is involved. Perhaps the Minister can bring some of those back to us.

However, I take at face value what the Minister says, which will now be in *Hansard*, on what the Government propose to do around scrutiny. While I remain concerned that there is a gap, I do not intend to push the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 4 agreed to.

Schedule 5 agreed to.

Clause 6

Provision of advice, support and assistance by the TRA

Bill Esterson (Sefton Central) (Lab): I beg to move amendment 28, in clause 6, page 4, line 22, at end insert "and

(c) analysis of the impact of any exercise by the Secretary of State of the power under section 15 of the Taxation (Cross-border Trade) Act 2018 (as amended by section 94 of the Finance Act 2020) to vary an amount of import duty if he or she considers that it is appropriate to do so.".

Amendment 28 would require an analysis of any exercise by the Secretary of State of the power under section 15 of the Taxation (Cross-border Trade) Act 2018, which I assume will be amended when the Finance Bill achieves Royal Assent, to vary import duty as she—it is "she", at the moment—considers appropriate. This is a move away from working within the rules-based system. I entirely accept that there is a challenge because of the situation with the WTO; my hon. Friend the Member for Harrow West and I raised this in relation to other matters to do with the Trade Remedies Authority. This is an enormous step, and a great deal of power that the Secretary of State is potentially granting herself, or being granted by the Finance Bill, assuming it goes through, and there is presumably a role for the Trade Remedies Authority in scrutinising that.

The Minister was telling us earlier how wonderful social media can be and how immediate its effects can be. I use it to look at the newspapers in the morning. The *Financial Times* and *The Times* reported a number of things today that were relevant to our proceedings. I confess that I do not always pick up what the Minister and the Secretary of State are saying on their Twitter feeds; one of the problems with Twitter is that people scroll down and miss what someone has said. I mention social media because this morning *The Times* reports:

"President Trump has revived his trade war with Europe".

He is threatening tariffs on £3.1 billion of goods, including beer, whisky, which we know about, and biscuits—I knew that mentioning British beer would gain the attention of some hon. Members—as well as Spanish olives, French cakes and German lorries.

The Times states:

"The primary focus of Mr Trump's ire over trading has been China, but his America First agenda has found little room for the country's purported allies either"—

that is, us. It continues:

"One of his earliest actions as president was to slap tariffs on imports of steel and aluminium from the European Union",

and our steel and aluminium sectors have suffered as a result. The Boeing-Airbus dispute has caused great problems for businesses and workers in this country. There is the 25% levy on Scotch and Irish whiskey; I raise these because they are real examples of where trade disputes need responses, robust analysis and the correct approach.

Charlotte Nichols (Warrington North) (Lab): On a point of clarification, my constituency manufactures one fifth of the world's gin. Would my constituents be impacted by the measures that my hon. Friend refers to?

Bill Esterson: I am glad that my hon. Friend has had the chance to put on record the fact that Warrington is home to a fifth of the world's gin. I know that she has been looking for the opportunity, and she has found it. *The Times* does not record whether gin is in the sights of the President of the United States for increased tariffs, but it would not surprise me. The list of proposed tariffs includes cakes, vodka—it does not say gin—potatoes, chocolate and cheese. Some of those are from the UK, but all of them are from the UK and Europe together. The article states:

"The EU has accused the US of providing state aid to Boeing, the American aircraft manufacturer, and is seeking to apply tariffs on $11.2 billion of US goods."

We await a ruling from the WTO. As we have discussed, that is not without problem, and the dispute over aircraft subsidies goes back over a decade.

I mention those examples because they show just why it is important to get this right. The proposed change to the cross-border trade Act is relevant to the Bill as well, because that Act created the powers of the Trade Remedies Authority that we are setting up belatedly in this Bill. A power is being created here to vary rates of import duty in an international trade dispute. As I have just described, that power is significant and of great concern. This

[Bill Esterson]

needs to be done correctly, because once a trade dispute starts it can grow and become a much bigger problem. That is why the amendment proposes a role for the Trade Remedies Authority. It is entirely consistent with the Bill, which says that the Trade Remedies Authority's responsibilities include scrutiny and advice. We are suggesting that advice be given to the Secretary of State before she uses the new power.

The Secretary of State can act if she considers that to be appropriate. That sounds enormously wide-ranging. I have concerns that, without adequate scrutiny and the involvement of the appropriate organisation, mistakes might be made. They might be made in good faith, but we want the best possible evidence base to ensure that trade remedies of the sort that these powers envisage are used in the right way.

In the Finance Bill Committee, the Treasury Minister was asked a number of questions, and I would like to ask some of them to this Minister, because he might have had a chance to look at them. The answers will inform our view on whether, through our amendment, we are seeking the right power. The Treasury Minister said that provisions in various international trade agreements allow the UK to vary the amount of import duty applied to goods in the context of a dispute. Will this Minister please tell us what those provisions are? That was not clear from what the Treasury Minister said in the Finance Bill Committee.

The Treasury Minister described the provision in the Taxation (Cross-border Trade) Act 2018. Will this Minister tell us why a provision that was included in legislation only two years ago has now been found to be inadequate? What has changed in two years? Some of these problems with the WTO were entirely apparent even in 2018.

Who is advising the Government that the legislation is inadequate, and that the Secretary of State needs this additional power? The Treasury Minister said that, in certain circumstances, countries are within their rights to impose additional tariffs quickly in response to the actions of other WTO members, and where necessary outside WTO proceedings. If that is the case, why is that not sufficient for what the Government are trying to achieve?

The Treasury Minister referred to the problems with the WTO appellate body, which he rightly said had stopped working. He neglected to say that that was the result of President Trump declining to appoint to it. Will this Minister say what the Government are doing to ensure that President Trump appoints to that body?

The Treasury Minister appeared to say that the problems with the WTO appeals system meant that the UK Government should operate outside the WTO. Is there not a danger of our further undermining the WTO if we are not careful in how we go about doing that?

In the Finance Bill Committee, the Treasury Minister said that the change to the Finance Bill was similar to one being proposed by the EU. Will this Minister give further details of what the EU has said and done to give itself such powers?

The Treasury Minister said that the Government recognise the importance of having regard to relevant international arrangements. Will this Minister tell us what those arrangements are, and how the new powers will be exercised in line with international law and our rights as an independent WTO member?

Will the Minister tell us what initiated this change in a law that was so recently passed? Was it the digital sales tax and fear of retaliatory action by the United States, for example? The Treasury Minister reiterated the Government's support for the international rules-based system. We agree on its importance. He indicated that any changes in import duty would be made by statutory instrument. That is a familiar concern in our deliberations on the Bill.

3.15 pm

I said the amendment was about scrutiny, and it is. It is about delivering the right amount of scrutiny to ensure appropriate use of the power. Our concern is that the change to the cross-border trade Act allows the Secretary of State to take significant action where she considers that to be appropriate. That is a very large power for her to be awarded if there is not adequate scrutiny. It is not enough for the Secretary of State to deem something appropriate without adequate scrutiny.

On the Scotch whisky industry, I mentioned the 25% tariff because of US actions regarding Airbus and Boeing. Disputes have spill-over effects on other parts of the economy. Will the Minister tell us the reasons for the change and for giving this big new power to the Secretary of State, and will he give serious consideration to what we are proposing? It seems to be entirely consistent with the remit of the Trade Remedies Authority as set out in the Bill.

Greg Hands: As we have heard, amendment 28 seeks to create a new role for the TRA in analysing the impact of retaliatory or rebalancing duties imposed by the Secretary of State as a result of an international dispute. We should perhaps remind ourselves of the roles and responsibilities relating to international disputes, and the purpose behind the provision in the customs Act—to give it its proper title, the Taxation (Cross-border Trade) Act 2018—which the amendment refers to, and which the hon. Member for Sefton Central has been referring to as well.

Before going into the detail, I will say a couple of things about some of the broader issues that the hon. Gentleman has raised. The Airbus-Boeing dispute is clearly not directly within the remit of amendment 28, but it is not, I suppose, so far from it. Let me be clear about today's announcement. We oppose the tariffs coming from the US vigorously. We find them unnecessary and harmful to trade between the US and the UK. We have raised our opposition with the US trade representative in person in recent weeks. I confirm to the Member for Warrington North that my understanding is that gin is included. There is not a decision to impose tariffs on gin, by my understanding, but gin is one of the products they are actively looking at.

On the questions that the hon. Member for Sefton Central asked about the Finance Bill, I think I am best off offering to look at those, and the most appropriate Minister will respond to him. As a former Treasury Minister, I am slightly mindful that the questions are probably within the Treasury's area, and it may be better for the Treasury to respond. I do not think that

there will be time to respond before the sitting ends at 5 o'clock in any case. However, contrary to what he suggested, it is highly unlikely that a Treasury or other Minister has said that we should operate outside the World Trade Organisation's rules in the cases that he raised.

Section 15 of the Taxation (Cross-border Trade) Act provides for the Secretary of State to change the amount of import duty that applies to certain goods as a result of an international dispute. There are several scenarios under which that could come about. The first is if the UK has successfully challenged trade-restrictive measures imposed by another WTO member under the WTO's dispute settlement system. If the other member fails to comply with the WTO's ruling in favour of the UK, the UK Government would be able to impose duties to redress the issue.

Secondly, if there is a dispute between the UK and one of our partners under the terms of a free trade agreement, the UK may be able to impose retaliatory duties. Thirdly, there is the possibility that the UK could be subject to a dispute in the WTO, or as part of an FTA, and be required to provide compensation to the relevant WTO member or FTA partner. That conversation could take the form of imposing lower duties on certain goods. I reassure Members that variations in import duties in response to trade disputes are intended to be temporary in nature, and will be removed when action has been taken by the country or territory in question to bring itself into compliance.

What is clear from all this, and what Parliament has already accepted in passing the Taxation (Cross-border Trade) Act, is that it is for the Government to decide whether it is necessary to change import duties as a result of a dispute. We should be clear, however, that the resulting duties, whether higher or lower, are not trade remedies measures. That is the problem with the amendment.

Although the Trade Bill enables the TRA to provide expert support to the Secretary of State in order to build the evidence base for decisions on international disputes where needed, as we have already discussed during our consideration of amendment 3, the TRA does not have a role to play in determining duties arising from international disputes, and those duties are not trade remedies measures. Interesting though they may be to the Opposition, that would expand the role of the TRA into areas for which it is not intended. The TRA will be the UK's expert body on trade remedies—that is the reason we are establishing it. It will not have the wider remit that the amendment would confer on it. I hope the Committee will agree and I ask the hon. Member for Sefton Central to withdraw the amendment.

Bill Esterson: That was a quite remarkable finish. I think the Minister said that the TRA will be the UK's expert body on trade remedies.

Greg Hands: Yes.

Bill Esterson: Yet it is not going to be able to get involved in helping the Secretary of State by advising her where she might vary import tariffs in the event of an international trade dispute. Clause 6(1)(a) refers to

"the conduct of an international trade dispute",

which seems to be entirely the right place to be looking for support for the Secretary of State when she is being given remarkable and unusual powers. If that support does not come from the Trade Remedies Authority, the Treasury will be advising, but it is a role for the Secretary of State for International Trade, not for the Chancellor.

The Minister correctly said that aspects of what I have asked about are for Treasury Ministers, but this is a responsibility of the Secretary of State for International Trade. That is why it has come to this Bill Committee; there is not another opportunity to deal with this issue. It is entirely relevant to look at support from within the Department for International Trade, which is why we tabled the amendment. I am concerned that the Minister has not come back with an alternative to how this power might be used.

Greg Hands: I would not normally intervene on the hon. Gentleman's summation, but I think he is confusing two things: he is confusing an international trade dispute, the result of which may be retaliatory tariffs or some kind of other tariff action, with a trade remedy, which is in place to prevent something like the dumping of products where the UK is a producer of those products. They are fundamentally different things. The Trade Remedies Authority is set up to deal with trade remedies, not per se with the subjects of international trade disputes.

Bill Esterson: Not per se. The clause states:

"The TRA must provide the Secretary of State with such advice, support and assistance as the Secretary of State requests in connection with—

the conduct of an international trade dispute".

It is not just about prevention, but about the conduct of an international trade dispute. We will end up disagreeing on this issue. With the way that the Bill is crafted and the way that the Government are setting up the Trade Remedies Authority, this was an obvious place to be looking to give the Secretary of State support and advice. Given that that is one of the key functions of the Trade Remedies Authority, it would be wise for her to have support in making such decisions.

I will wait for the Minister's response to my questions. I think the problem was that the Treasury Minister was not able to answer them because they are technically challenging. The questions he was asked were difficult, so I am not surprised by what he says about answering a little later. It is very important that we get this right. Perhaps he can come back with exactly how advice and support will be given to the Secretary of State. I gave the examples at the start because they are current and show just how serious these issues are, and it is really important that we get them right. So I will wait to hear back from him. In the meantime, we will test the will of the Committee.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 9.

Division No. 15]

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.

Clause 6 ordered to stand part of the Bill.

Clause 7

COLLECTION OF EXPORTER INFORMATION BY HMRC

Stewart Hosie: I beg to move amendment 32, page 5, line 4, after "may", insert

", following consultation with relevant stakeholders,"

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

Amendment 33, page 5, line 17, at end insert—

"(7) Nothing in any regulations made under subsection (3) may require the disclosure of information or the production of documents which are subject to legal professional privilege."

Amendment 34, in clause 8, page 5, line 45, at end insert—

"(5A) Nothing in this section authorises the disclosure of information or the production of documents which are subject to legal professional privilege."

Stewart Hosie: The amendment stands in my name and that of my hon. Friend the Member for Inverness, Nairn, Badenoch and Strathspey. It would impose a duty on the Treasury to consult relevant stakeholders when making regulations as specified. Those regulations are about the type of information that may be requested by HMRC and how the request is to be made. The reason for this consultation is that it provides an additional layer of scrutiny by stakeholders.

In imposing a duty on the Treasury to consult, we will ensure that any draft statutory instrument is exposed to critical comment from stakeholders in advance, which may improve an instrument and help to avoid future issues when it is going through Parliament. I think this is important, and I am sure that the Minister will recall him and his colleagues serving on many interminable Finance Bills in the days of the last Labour Government, when many people rightly criticised the additional burdens being put on businesses, particularly by the Revenue, to provide information.

If we are going to request information from businesses, trade groups or anyone else, let us ensure that we consult the relevant stakeholders first, to make sure that we are not requesting information that is not held, that we are requesting it in a way in which it is currently collected and that we are not adding an additional layer or an additional burden for business when it is, in some cases perhaps, simply unnecessary.

Amendment 33 is about protecting legal professional privilege. We are concerned that clause 7(1) grants HMRC a very wide discretion indeed to require information. The scope of this provision should be far more clearly defined, to give greater certainty about the extent of information, the anticipated frequency with which it may be requested and the method of data collection. Legal professional privilege and confidentiality are essential in order to safeguard the rule of law and the administration of justice. They permit information that may be communicated between a lawyer and a client without fear of it becoming known to a third party without the clear permission of that client. Many UK statutes already give express protection to legal professional privilege and it is vigorously protected by the courts.

It is also worth pointing out—I am sure the Minister knows this—that the iniquity exception alleviates concerns that legal professional privilege may be used to protect communications between a lawyer and client that have been used for a criminal purpose. Such a purpose removes the protection from communications, allowing them to be targeted using existing powers but not breaching legal professional privilege.

3.30 pm

Amendment 34 is similar to amendment 33 but deals specifically with the power to collect data by Her Majesty's Revenue and Customs. The amendment would insert at the end of clause 8:

"Nothing in this section authorises the disclosure of information or the production of documents which are subject to legal professional privilege."

Its effect is the same—to protect LPP. We seek to insert the amendment into this part of the Bill because we are deeply concerned that clause 8 grants are very wide discretion to the Revenue to require information. As with the argument for amendment 33, the scope of that provision should be far more clearly defined to give greater certainty as to the extent of the information they anticipate, the frequency of collection and the method of data collection from it, but the safeguard that ensures that the information that is sought to progress a criminal charge cannot be hidden behind legal professional privilege. I commend the amendment to the Committee.

Greg Hands: It is important, as we turn to the data-sharing powers of the Bill, that the Government have a more comprehensive understanding of UK exporters so that our work to build and grow UK export capability is properly targeted at and tailored to those businesses where it will deliver the maximum benefit.

Clause 7 sets out the powers needed for the Government to collect data to establish the number and identity of UK businesses exporting goods and services, particularly smaller businesses and sole traders, who may not be readily identifiable from existing data, but who may need a helping hand from the Government to develop their export potential reaching into existing and new markets. The clause provides the ability for HMRC to collect relevant data by tick boxes on existing tax returns.

Amendment 32 would restrict the Government's ability to implement new questions to gather data on exporters at speed, by requiring Treasury Ministers to seek further consultations with stakeholders after any necessary engagement has already concluded—it would be, if you like, an additional round of consultation, which we do not think is necessary. Such an amendment would duplicate the administrative burden on stakeholders and, more importantly, delay the availability of data and, by extension, the benefits to businesses.

Amendments 33 and 34 are closely related and concern legal professional privilege, which the hon. Member for Dundee East will know is a long-standing principle that protects the confidentiality of communications between lawyers and their lay clients, and vice versa. It enables lawyers to consult and advise their clients without clients fearing that their information will later have to be disclosed. Indeed, it is a matter of general interest that any person who wishes to consult a lawyer must be free to do so under conditions that ensure uninhibited discussion. That principle is recognised and protected under article 8 of the European convention on human rights.

I can provide an absolute assurance to the Committee that the Government have no intention, either now or in the future, of using these powers to seek or share information that is protected by legal professional privilege. For clause 7, the information that has been requested from exporters is for trade statistics purposes and will be provided voluntarily. The fact that the information is being provided voluntarily is perhaps an indication of the Government's position in respect of minimising burdens and therefore not requiring privileged information to be disclosed.

Clause 8 allows for the sharing of data that is already held by HMRC for its administrative functions. We are talking about data to be shared that has already been collected. Such information cannot therefore be subject to legal professional privilege, as it has already been provided to HMRC.

I will take this opportunity to remind hon. Members that the clauses also provide significant assurances on the collection, handling and processing of information collected under the powers. The data-sharing powers in the Bill are permissive, so all instances of data sharing must be approved by HMRC, which acts as guardian of the data. There are criminal penalties for any unauthorised sharing of data under the existing Commissioners for Revenue and Customs Act 2005, which apply in respect to the data shared under clause 8. Nothing in the clause permits the disclosure of information that is not otherwise permitted in data protection laws, including the Data Protection Act 2018 and the Investigatory Powers Act 2016.

I hope the clarification and assurances given provide the hon. Gentleman with the reassurance he is seeking in respect of legal professional privilege. On that basis, I ask him to withdraw his amendment.

Stewart Hosie: I thank the Minister for his commitment in relation to legal professional privilege, confirming that information can be shared between a client and a lawyer and, unless in the course of a criminal investigation, is completely protected. That is a good commitment to receive.

I also understand what the Minister said about information being collected to provide trade statistics on a voluntary basis. That is helpful, but I was slightly concerned at the beginning when he spoke about trying to identify the number and identity of exporters—one would have thought that the Government already knew that, and it is slightly concerning if they do not. It might be useful to understand what gaps there are in the Government's understanding of what organisations export, what they export and to whom, but that is for another day. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 7 ordered to stand part of the Bill.

Clauses 8 to 12 ordered to stand part of the Bill.

The Chair: We now come to the new clauses. New clauses 1 to 8, tabled by the official Opposition, have been debated but not moved.

New Clause 9

IMPORT OF AGRICULTURAL GOODS AFTER IP COMPLETION DAY

"(1) After IP completion day, agricultural goods imported under a free trade agreement may be imported into the UK only if the standards to which those goods were produced were as high as, or higher than, standards which at the time of import applied under UK law relating to—

(a) animal health and welfare,

(b) protection of the environment,

(c) food safety, hygiene and traceability, and

(d) plant health.

(2) The Secretary of State must prepare a register of standards under UK law relating to—

(a) animal health and welfare,

(b) protection of the environment,

(c) food safety, hygiene and traceability, and

(d) plant health

which must be met in the course of production of any imported agricultural goods.

(3) A register under subsection (2) must be updated within seven days of any amendment to any standard listed in the register.

(4) 'Agricultural goods', for the purposes of this section, means anything produced by a producer operating in one or more agricultural sectors listed in Schedule 1.

(5) 'IP completion day' has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020." —*(Bill Esterson.)*

This new clause would set a requirement for imported agricultural goods to meet animal health and welfare, environmental, plant health, food safety and other standards which are at least as high as those which apply to UK produced agricultural goods.

Brought up, and read the First time.

Bill Esterson: I beg to move, That the clause be read a Second time.

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

New clause 11—*Import standards*—

"(1) A Minister of the Crown may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the agreement—

(a) includes an affirmation of the United Kingdom's rights and obligations under the SPS Agreement, and

(b) prohibits the importation into the United Kingdom of agricultural and food products in relation to which the relevant standards are lower than the relevant standards in the United Kingdom.

(2) In subsection (1)—

'international trade agreement' has the meaning given in section 2(2) of this Act;

'relevant standards' means standards relating to environmental protection, plant health and animal welfare applying in connection with the production of agricultural and food products;

[The Chair]

'SPS Agreement' means the agreement on the Application of Sanitary and Phytosanitary Measures, part of Annex 1A to the WTO Agreement (as modified from time to time)."

This new clause would ensure that HMG has a duty to protect the quality of the domestic food supply by ensuring that imported foodstuffs are held to the same standards as domestic foodstuffs are held to.

New clause 17—*Animal welfare and sentience—*

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

(a) any provision in UK law (including retained EU law) relating to animal welfare standards and the welfare of animals in the production of food; and

(b) any obligations relating to animal sentience by which the UK is bound, or any principles relating to animal sentience to which the UK adheres."

Bill Esterson: New clauses 9 and 17 stand in my name and those of my hon. Friends. New clause 11 stands in the names of the hon. Member for Dundee East and the hon. Member for—

Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP): Inverness.

Bill Esterson: Inverness, yes. There we are. I knew that inspiration would be with me.

The explanatory statement shows that new clause 11 is entirely consistent with the other new clauses. It is about the protection of

"the quality of domestic food supply by ensuring that imported foodstuffs are held to the same standards as domestic foodstuffs are held to."

Labour has tabled a new clause 17 on animal sentience. It is important that the Trade Bill is consistent with other pieces of legislation on animal sentience. The Government have agreed to introduce, under an animal welfare and recognition of sentience Bill, a process to ensure that any future legislation or policy is assessed against animal welfare standards. This should be recognised in the Trade Bill as one of the most important areas that could undermine animal welfare standards, and those standards should be outside the ambit of the trade negotiations.

We had a similar debate on Tuesday, but I will spend a few moments on this because a few things have happened since then, such as the Secretary of State appearing at the International Trade Committee yesterday. She said no, but what did she say no to? She did not say no to taking action on food standards, and the Minister did not say no on the same thing on Tuesday. They are very good at making it clear that food safety will not be affected, but they do not talk about food production standards. We have pride in this country in our high standards not only of safety, but of production and animal welfare as well, and those are the elements that have so far been missing in what Ministers have said.

In trade talks the more powerful side wins, and if that more powerful side wants a reduction in our food production standards, it is very difficult to resist if we want a trade agreement with it, and that is the problem. We have tabled a new clause very similar to one on the Agriculture Bill, and we have done so because Ministers told Back-Bench Conservative MPs that the Trade Bill was the place for such an amendment and for this to go into legislation, so we have done what the Under-Secretary of State for Environment, Food and Rural Affairs, the hon. Member for Banbury (Victoria Prentis), told us we should do.

I wonder whom British consumers will believe. Will they believe Ministers who will not quite bring themselves to guarantee food production standards or take the action needed on animal welfare, or will they believe the British Standards Institution? Its chair, John Hirst, was quoted in *The Times* today, expressing fears over a potential American attempt to

"replicate the approach to standards"

agreed in its deal with Canada and Mexico, which President Trump's officials see as a model for future accords. He says that such an accord would

"undermine our sovereignty over regulation"

by allowing the US to replace UK standards with its own. The Government should perhaps listen to Mr Hirst.

If the Government do not want to listen to Mr Hirst, they could listen to the executive director of Waitrose, James Bailey, who has said that a trade agreement with the US that loosened food standards—production standards—would amount to an "unacceptable backwards step". He, very commendably, has said that Waitrose will never sell chlorinated chicken, hormone-treated beef or meat from animals subject to extensive use of antibiotics.

Gareth Thomas: Has my hon. Friend has seen the representations to the Committee from the British Poultry Council? That makes it very clear that the UK has multiple pieces of national legislation aimed at various aspects of animal welfare. For chicken alone, that includes on-farm catching, transport and slaughter. By comparison, the US has no national animal welfare legislation, particularly covering farm animal welfare. It is true that some states do have laws, but the three major chicken-producing states of Georgia, Alabama and Arkansas do not. Is that not at the heart of what his new clause seeks to do?

Bill Esterson: It is, and this lack of consistency in the US is one of the problems in doing a trade deal with it, because it has different standards in different states.

While my hon. Friend was speaking, the evidence from Which? came to mind. As we know, it represents consumers in the UK. It has cited consumers' views on these matters: 79% would be uncomfortable eating beef produced with growth hormones, and 77% would be uncomfortable having milk from cows that have been given growth hormones. Giving antibiotics to healthy farm animals to promote their growth was of concern to 78%. It is not currently allowed in the UK, but it could be under a trade agreement if we give the Americans what they want. Seventy-two per cent. would be concerned about eating chicken treated with chlorine and 93% think it is important that UK food standards be maintained after we leave the EU. Nearly three quarters—72%—think that food from countries with lower standards should not be available.

3.45 pm

Katherine Fletcher (South Ribble) (Con): I welcome the hon. Gentleman's clarification that while people have concerns about food standards the things he mentioned are not allowed in the UK at the moment. I noticed he said that sotto voce so I wanted to emphasise it for the record. They are not allowed, we are not going to have them, and it is not relevant to a continuity roll-over of a free trade agreement.

Bill Esterson: As we have debated many times, the Bill, with its long title, is a lot more than that.

Greg Hands: Thanks to the Opposition's amendments.

Bill Esterson: The last Bill became an awful lot more after it was amended in the Lords, and I suspect that things are heading the same way. However, the hon. Member for South Ribble is right. Of course we have the highest food standards in the world. I say it already, and we have pride in those high standards. It is matter of safety, production and welfare, and all three of those have to be retained. I remind you, Sir Graham, that it was the US Secretary of State Mike Pompeo who confirmed that chlorinated chicken must be part of any post-Brexit trade agreement with the UK. That was confirmed by trade representative Lighthizer on many occasions, including when he said that on issues such as agriculture

"this administration is not going to compromise".

Gareth Thomas: Further to the intervention by the hon. Member for South Ribble, my hon. Friend will be more than aware that a UK-Canada agreement is very much within the scope of the Bill. The Canadians have lower animal welfare standards and lower pesticide protections than we have in the UK. That is perhaps an even stronger rebuttal of the argument that the hon. Lady advanced, that the new clause is not relevant to the Bill. It is very relevant.

Bill Esterson: Of course my hon. Friend is right. It is not a question just about the US. It is about other countries with different food production, safety and animal welfare standards, where agriculture will be part of the agreements. I am grateful to my hon. Friend for reminding us that that is an important part of what we are discussing. You would of course have told me if I had been out of order, Sir Graham, and got me to sit down, but you did not, so I was not.

I remind the Committee again that there are real concerns about the impact on human health of using antibiotics and growth hormones. That is in addition to the impact on animal welfare, and the contribution that things such as antibiotics make to the potential for a growth in problems such as zoonotic diseases, and diseases crossing species—something we should all be extremely concerned about in the middle of a pandemic that probably results from exactly that.

The hon. Member for Tiverton and Honiton (Neil Parish) said in debate on the Agriculture Bill that he had been promised that the issue would be covered in the Trade Bill. He recognised that the Agriculture Minister who made the promise was possibly not in a position to make it. He said:

"We are being led down the garden path—we really are".—[*Official Report*, 13 May 2020; Vol. 676, c. 300.]

Will the Minister tell us whether his hon. Friend has been led up the garden path? That is how it looks to most people out there, as well as to us in Committee.

Stewart Hosie: I want to speak to my new clause 11. Trade deals can put pressure on food standards and lead to the importation of food of a low standard. We know, for example, that the US Administration wants the UK to lower its food and animal welfare standards precisely to allow the export of products currently banned in the UK. The new clause includes a ban on the importation of food produced to standards lower than those currently applying in the UK.

The US and other countries have far lower animal welfare standards and adopt practices that are illegal in the UK for health and environmental reasons, such as the production of chlorine-washed chicken and hormone-fed beef; use various pesticides outlawed in the UK; and produce genetically modified crops, which are completely outlawed in Scotland. We believe that the quality of Scotland's food and drink produce, and indeed that from elsewhere in the UK, as well as the standards of production, are essential to retaining our established international reputation in those products.

Drew Hendry: Is the new clause not an opportunity for the UK Government to do the right thing and prove to the public that they are not trading away food standards and Scotland's international reputation to the highest bidder? If they do not accept it, will people not justifiably conclude that that is part of their plan?

Stewart Hosie: I think people are deeply concerned. No matter how many times Ministers give assurances from the Dispatch Box or elsewhere—Conservative MPs know this—because of what is said by our negotiating partners, there is deep concern among the public and, in particular, those who work in agriculture about standards that may be reduced. My hon. Friend is therefore absolutely right that by accepting various amendments or new clauses, the Government have an opportunity to cement our standards and rule out in negotiations the reduction of standards rather than simply by words in a speech.

New clause 12 in effect does two things: it affirms the UK's rights and obligations under the agreement on the application of sanitary and phytosanitary measures in appendix 1A of the WTO agreement; and it prohibits the import of food into the UK if standards in the exporting country are lower than those in force here. I do not think there is anything contentious about that, nor do many people in the real world. I suspect the Minister will not be at all surprised that various campaign groups, including Global Justice Now and the Trade Justice Moment, support such objectives.

The list of supporters for such measures is deep and wide. Scottish Land & Estates said:

"Scotland's producers need guarantees from the UK Government that domestic production and environmental standards are upheld as part of future international trade deals. Our extremely high environmental and food safety standards are amongst our key selling points, and this must be protected after we leave the EU to ensure we don't find ourselves in a 'race to the bottom'."

As NFU Scotland has said that it is concerned that the UK Government's approach to future trade policy creates the potential for the importation of agri-food into the

[Stewart Hosie]

UK produced to an inequivalent and uncompetitive standard of production, one would think the UK Government should listen. The new clause would ensure that the UK Government had a duty to protect the quality of domestic food supply by ensuring that imported foodstuffs are held to the same standards as domestic foodstuffs are currently. I commend it to the Committee.

Greg Hands: I turn to new clauses 9, 11 and 17. I am aware of the strength of feeling from colleagues on both sides of the Committee on this important issue. I spoke about the commitments the Prime Minister gave in his Greenwich speech to upholding high standards, which were also in our manifesto.

Theo Clarke (Stafford) (Con): I have received a lot of correspondence from local residents and farmers in Stafford who are concerned about food standards, with food having to be produced to very high standards in the UK. What assurances can the Minister give me that with the Bill we will be supporting and backing British farming?

Greg Hands: I thank my hon. Friend for that intervention. In the time she has been in the House, she has been a strong defender and advocate of her farming sector in and around Stafford. I can say that there will be no compromise on our standards on food safety, animal welfare and the environment, exactly as we laid out in the election manifesto that she and I were both elected on just six months ago, both collectively and individually.

This Bill is about ensuring continuity, particularly at this moment of unprecedented economic challenge posed by coronavirus. We need the power in clause 2 to replicate the effects of our current trading relationships and provide certainty to UK businesses. That includes the continuity agreements, including the Canada agreement, which the hon. Member for Harrow West has mentioned again today. I think there has been yet another shift in the Labour party's position: last Thursday, we heard from the shadow Secretary of State that Labour was in favour of a trade deal with Canada, but now the hon. Member for Harrow West seems to be back to opposing that trade deal. There does seem to be some confusion, but the purpose of this Bill is not to sign new agreements or alter standards in any way. Without the Bill, we risk being unable to implement continuity agreements, resulting in disruption and uncertainty for businesses and consumers.

As the National Farmers Union confirmed to the Committee last week, the EU's approvals regime for agricultural products is one of the most precautionary in the world. That regime will be transposed onto the UK statute book through the European Union (Withdrawal) Act 2018. I am pleased to say that the NFU has not expressed any concerns about the framework for mutual recognition in continuity agreements that this Bill provides, and I am grateful for the contribution of its expertise through our expert trade advisory group. As I have previously told the Committee, we have now signed 20 continuity agreements with 48 countries, replicating the terms that we had with them under EU trade agreements. Imports under continuity agreements must continue to comply with our existing import standards. None of these agreements has resulted in a lowering of the agricultural or other standards referenced in the agreement.

Gareth Thomas: For the record and for the avoidance of doubt, will the Minister confirm that he can see no way in which chlorinated chicken from the US will be allowed to be sold in British stores?

Greg Hands: That is absolutely correct. It is a point that we have made on numerous occasions, and I am happy to make it again today.

Although this Bill relates to continuity with existing trading partners, I recognise the concerns that colleagues have about future FTAs with new trading partners, as I said during Tuesday's debate. As the Secretary of State, my DEFRA colleagues and I have told this House and the other place on many occasions, the Government will stand firm in trade negotiations. We will always do right by our farmers and aim to secure new opportunities for the industry. Returning to the point made by my hon. Friend Member for Stafford, we would like Stafford farmers to gain opportunities to sell their high-quality produce abroad by breaking down barriers, reducing or removing tariffs, and so on. That is also very important for our agriculture; in fact, the scoping assessment for the US trade deal showed that UK agriculture would be a net beneficiary of any such deal.

All imports under all trade agreements, whether continuity or future FTAs, will have to comply with our import requirements. In the case of food safety, the Food Standards Agency and Food Standards Scotland will continue to ensure that all food imports comply with the UK's high safety standards, and that consumers are protected from unsafe food that does not meet those standards. Decisions on those standards are a matter for the UK and will be made separately from any trade agreements.

Matt Western: The Minister has said that UK farmers would be net beneficiaries of any trade deal with the US on exports, but I do not see how that can tally. If the United States' No. 1 priority in any trade deal is agricultural products, is he saying that we will be exporting more agricultural products to the US than the US will be exporting to the UK?

Greg Hands: I am surprised by the hon. Gentleman's apparent enthusiasm for Trumpian mercantilism, thinking that because UK agriculture might gain, that would somehow mean US agriculture would lose. Sir Graham, you and I both know that free trade does not work like that: there could be benefits for both sides in the trade agreement. For example, the US simply does not allow in British lamb, and currently puts very high tariffs—tariffs of between 20% and 23%—on British cheeses, including Cheddar, Stilton, and other high-quality British cheeses that we would like to sell to the United States. Of course there is an opportunity for British agriculture, and the scoping assessment that we published on 2 March shows that the UK agriculture sector has the potential to be a net beneficiary.

Matt Western: The Minister has very clearly said that UK farming will be a net beneficiary of a trade deal with the US. Is that correct?

Greg Hands: I refer the hon. Gentleman to the scoping assessment that we published on 2 March, where that is laid out in considerable detail. Of course, it is a scoping assessment; nobody knows yet exactly what will be in the deal, on which a lot will depend.

4 pm

We have talked at some length in these debates about the scoping assessment, which lays out the possibilities. The numbers run in the scoping assessment suggested that UK agriculture would be a net beneficiary of the agreement. Our existing import requirements already include a ban on using artificial growth hormones in domestic and imported products, and a ban on using anything other than potable water to decontaminate poultry carcases.

One Opposition Member mentioned Waitrose. I know we are not allowed to use props in this Parliament, but I bow to nobody in my love of Waitrose—I have my Waitrose card to prove it. My constituents benefit from seven branches of that supermarket. When Waitrose came to see me five or six years ago and told me about its pilot of Little Waitrose, it told me all about these fantastic things and asked for my view. I said, "That sounds fantastic. What have other MPs said?" They said, "You are the only MP we are coming to see about it, because half of the pilots are in your constituency." That is how popular Waitrose is in my local area, so I bow to nobody in my love for Waitrose. Waitrose could well proclaim that it would not be selling these products, and it would be right, because these products will remain illegal in the UK after 1 January 2021. It is quite safe in making that assurance, which I agree with.

Any changes to existing legislation will require new legislation to be brought before Parliament. I reiterate that any decisions around standards will be made separately from negotiations. We appreciate that there will be a range of issues that stakeholders across different sectors, not least agriculture, will be keen to discuss. Let me reassure British farmers that we are on their side in negotiations with all trade partners. We will not compromise on our high standards of food safety and animal welfare in any trade negotiation. To that end, we have actively engaged the agriculture sector and encouraged it to help UK trade policy, including through representation on the Government's Strategic Trade Advisory Group and dedicated Agri Food Expert Trade Advisory Group.

I will now address each amendment in turn. New clause 9 would mean that all imported agricultural goods had to meet the same production standards as goods produced in the UK today and to be aligned dynamically. I have already talked about the UK's stringent import protections, which are either in place through existing domestic legislation or brought on to the statute book through the withdrawal Act.

As I have mentioned, during the evidence sessions we had on the legislation, the NFU and others described these as some of the most precautionary standards in the world. As Committee members will know, the UK's food standards for 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 works of these independent organisations, consumers are protected from unsafe food, which does not meet our high domestic standards.

Members, however, should consider the unintended consequences of this new clause. It would force us to effectively ban safe food imports that meet our current import standards but do not follow the same production methods as we have in the UK. That is crucial to understand. It would significantly disrupt UK food supply chain resilience, commercial relationships and bilateral relations with partner countries.

Stewart Hosie: The wording that the Minister uses is fascinating. We were talking about production standards. He spoke about production methods. Those are not the same thing.

Greg Hands: I am happy to have a debate with the hon. Gentleman about the difference between standards and methods, but I am not sure that the difference is that big.

The dictation of our domestic standards to our trading partners might well appear a laudable goal, but the new clause would require them to keep aligned with just seven days' notice. Subsection (3) of the new clause states that a register

"must be updated within seven days of any amendment to any standard listed in the register."

Our trading partners' standards would therefore have to remain dynamically aligned to our domestic production standards with just seven days' notice. That could have serious consequences for our existing trade flows, let alone anything negotiated in the future.

This is true for the developing world. The beans that we can buy at Waitrose in Fulham—I imagine that they are similar to the ones at Waitrose in Putney, for example—come from Kenya and Egypt. The last time I bought beans was at the weekend. Bananas from the Caribbean might not have production standards that are the same as those in the UK, but they can still meet our import standards.

Those markets would not be able to keep up with our changes. Given just five days' notice, they would have to dynamically align with whatever the UK decided and, within seven days, make the changes to their domestic production standards. That strikes me as being wholly impractical. The impact of the new clauses could be severe on livelihoods in the developing world. I invite Opposition Members to go and see some of the Kenyan or Egyptian beans being produced and tell some of those workers that, as a consequence of new clause 9, they might well find themselves having to align with UK production standards in the future.

The new clauses might have been drafted with the US in mind, but this is UK law and it would apply to all our trading partners. These measures would likely render inoperable the very continuity agreements we have been discussing and, indeed, potentially prevent a deal with the EU itself. There would be an irony in the UK, through our domestic law, seeking the EU to dynamically align with our standards.

As I said on Tuesday, the UK banned veal crates some 16 years before the EU, and we can take great pride in that; it is a great achievement. The idea that the EU would sign a trade deal with us whereby it would

[Greg Hands]

have to commit to dynamic alignment with our standards with just seven days' notice is highly questionable, to say the least. Members who want continuity with those 40 deals should not vote for these new clauses, nor should those who want a trade deal with the European Union.

New clause 9 would have the unwanted effect of discouraging partners with whom we are yet to sign a continuity agreement from negotiating with us. This Government were elected on a manifesto promise that, in our trade negotiations, we will not compromise on our high environmental protection, animal welfare and food standards, and we will not. Parliament will have significant oversight of any regulations made under this power, and any statutory instruments brought forward will be subject to the affirmative procedure. Given our robust commitment to British food and farming, I ask the hon. Member for Sefton Central to withdraw the new clause.

Like new clause 9, new clause 11 stipulates that all food imported to the UK should be held to the same standards as that which is produced in the UK. The proposal stands in the name of the hon. Member for Dundee East, although I suspect he has the same intentions as the hon. Member for Sefton Central in tabling it. I have already provided assurances that EU import standards, praised by the NFU and others, will be replicated in domestic law at the end of the transition period. Our import requirements include a ban on using artificial growth hormones in domestic and imported products, and any changes to existing legislation would require new legislation to be passed by Parliament.

Given that we have high safety standards in place, and that the wider unintended consequence of the new clause would be to threaten both the resilience of our food supply chains and our opportunity to ensure that we secure continuity for British businesses and customers through our ongoing continuity negotiations, I hope that the hon. Member for Dundee East will not press the new clause.

New clause 17 stipulates that any animal welfare or sentience regulations arising from trade agreements must be aligned with existing commitments in UK and retained EU law. I can assure Members that our world-leading animal welfare standards are at the heart of our continuity negotiations. None of the agreements already signed with 48 countries is inconsistent with existing standards, as the parliamentary reports published alongside those agreements demonstrate. In fact, the UK has some of the most comprehensive animal welfare regulation in the world. We have introduced one of the strictest ivory bans in the world and we have a manifesto commitment to end excessively long journeys for slaughter and fattening. World Animal Protection rated the UK as having the joint-highest animal welfare standards in the world, tied with Austria, Switzerland, the Netherlands, Denmark and Sweden.

I share Members' desire to ensure safeguards both for British consumers and for farmers. However, the protections we are already putting in place, coupled with the unintended consequences of the proposals, mean that these measures would be of no benefit. Our manifesto commitment is clear: the Government will stand firm in trade negotiations to support farmers, protect consumers and safeguard standards. I hope that that explanation, alongside the 20 continuity agreements that Parliament ratified, provides reassurance to the Committee that the Government's commitment to maintaining standards is being delivered. I therefore ask hon. Members not to press their proposals to the vote.

Bill Esterson: That was really telling. It has taken until today for the Government to come up with a form of words to justify not supporting higher food production standards. The intervention, I think by the hon. Member for Dundee East, really did nail it. There is a world of difference between methods and standards, of course there is. How something is produced to a certain standard is one thing; the method used is entirely another. This is the point we have been making again and again in the proceedings of both this Bill and the Agriculture Bill. The Government have been pushing a defence of food safety, but not how it is produced, how animals are looked after or, indeed, how plants are protected. It is really telling that that is the defence being used and that it has taken them a while to get there. There can be and there are different methods of production all over the world, of course there are, but they can be to the same high standards. I am afraid that it did not work, and it will not work. It will not wash, unlike the chlorine the previous Secretary of State at one point said was perfectly safe and acceptable, before changing his mind when he realised it was not acceptable or palatable.

So, there are those differences and we should have concerns about hormones in animals. We should have concerns about the impact of antibiotics. We should have concerns about the impact on fruit and vegetables as well. As my hon. Friends have pointed out it is not just the United States, but countries that are directly a part of the continuity aspect of the Bill, that the Minister is so fond of reminding us about. It is Japan as well as Canada, by the way.

Charlotte Nichols: I recently took part in an update call with the Secretary of State about the progress of the UK-US trade deal. She made a very interesting point in answer to a question from the hon. Member for Wyre Forest (Mark Garnier) regarding food standards. He asked about outcome versus process and the technicality of that when it comes to animal welfare. The Secretary of State said that we had spelled out our red lines to the US in negotiations, but that the issue the Government had with the amendment to the Agriculture Bill on 13 May, which would have guaranteed high standards for food and drink entering the country post-Brexit, was to do with Canada not meeting our domestic standards. Could the Minister perhaps shed some light on that?

Bill Esterson: That is a matter for the Minister rather than me. Perhaps it is one he will take away and respond to in time, but my hon. Friend makes a very important point. It reinforces the argument we are putting and is part of the reason that we shall press the new clause to a Division.

The reality is that the Minister is relying on safety standards, saying, "A chemical wash at the end of the process is good enough and it does not matter how we get there if it produces cheaper food. If production is cheaper because there is less animal welfare, let's not

worry too much about it." There are a host of problems with that relating to health, morality in the way that animals are treated, and the animal sentience amendment. Indeed, there are also grave concerns about the impact on human health over the longer term in areas such as the use of antibiotics—not just its impact on zoonotic diseases but the effect on human health of antibiotics and other chemicals getting into water courses.

So no, we do not buy it; we do not accept it. I think we will stick with what the hon. Member for Tiverton and Honiton said. We do think we are being led up the garden path. Getting on for 80% or 90% of the public agree with us and, frankly, so does the NFU. It wants to keep high production standards, whatever the Minister might have said in his response to the debate.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 16]

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.

4.15 pm

New Clause 12

INTERNATIONAL TRADE AGREEMENTS: PUBLIC HEALTH SERVICES

"(1) A Minister of the Crown may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 if any provision of the agreement—

(a) would have the effect of, or could reasonably be expected to have the effect of, altering the way in which a service is provided by a specified body,

(b) would open part or all of a specified body to market access but without any accompanying provision for the UK Government to reduce the level of market access in future,

(c) would have the effect of, or could reasonably be expected to have the effect of, opening any part of a specified body to foreign investment,

(d) does not specify sectors or subsectors of a specified body to which the agreement would enable market access,

(e) includes investor-state dispute settlement mechanisms in relation to a specified body, or

(f) includes changes to mechanisms for the pricing of medical or pharmaceutical products for purchase by a specified body.

(2) The specified bodies, for the purpose of subsection (1), are—

(a) NHS England,

(b) NHS Wales,

(c) a health board in Scotland, a special health board in Scotland or the Common Services Agency established by section 10 of the National Health Service (Scotland) Act 1978, and

(d) HSCNI.

(3) In subsection (1), 'international trade agreement' has the meaning given in section 2 of this Act."—*(Stewart Hosie.)*

This new clause would ensure that HMG has a duty to restrict market access to healthcare services, including medicines and medical devices.

Brought up, and read the First time.

Stewart Hosie: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 13—*International trade agreements: consent for provision of healthcare services*—

"(1) A Minister of the Crown may not, under section 20(1) of the Constitutional Reform and Governance Act 2010, lay before Parliament a copy of an international trade agreement which makes provision for the supply or provision of healthcare services (including medicines and medical devices) unless each of the devolved authorities has given their consent to that agreement.

(2) 'Devolved authority' shall have the meaning given in section 4 of this Act."

This new clause would ensure that HMG is not able to lay before Parliament a trade agreement which could have an impact on provision of healthcare services without the consent of the devolved administrations.

Stewart Hosie: New clause 12 would ensure that the UK Government had a duty to restrict market access to healthcare services, including medicines and medical devices. We tabled the new clause precisely because trade deals have the potential to negatively impact health services. Although the UK Government have repeatedly pledged that the NHS is not on the table in trade negotiations, leaked documents detailing conversations between UK and US negotiators reveal that health services have been discussed, including the US "probing" on the UK's health insurance system—whatever that means—and that the US has made clear its desire for the UK to change its drugs pricing mechanism.

Drew Hendry: Is this not a similar situation to that in the previous debate on food standards? The Government could easily make a commitment to rule out these things—to do the right thing and show the public that the NHS and medicines are not at risk. They could reassure people by putting that in the Bill and ensuring it does not happen. Otherwise, they are just saying to the public, "This may well be part of the plan."

Stewart Hosie: My hon. Friend is absolutely right. As in the previous debate, the Minister has said that there will be no compromise on standards. I do not doubt for one second his sincerity, but let us just put it in the Bill so that everyone is absolutely satisfied. In that sense, my hon. Friend is absolutely right—let us rule it out in legislation.

Andrew Griffith (Arundel and South Downs) (Con): I would love the hon. Gentleman to expand on his theory of harm in respect of health services. If ever there was an example of the global effect of the law of comparative

[Andrew Griffith]

advantage, it is the advances in modern healthcare. There is a remedy available to him should he wish to remove himself from the benefits of diagnostics from Düsseldorf, biogenomics from Boston or pharmaceutical projects from Dublin. There is a mechanism known as a living will, whereby he can instruct his heirs and his family to ensure that he is at no point treated by any of those marvels of modern healthcare and that he can go back to experiencing the benefits of herbal potions and remedies and all those other forms of modern medicine that he would seem to prefer by cutting himself off from the benefits of free trade with the world.

Stewart Hosie: I have benefited from the national health service; indeed, it has probably saved my life on a number of occasions.

I have no doubt that some of the drugs purchased are still under patent by private companies. Some of the diagnostic testing machinery was made in Germany. Nobody, but nobody, is talking about restricting any of our health services in terms of purchasing. We are talking about marketisation, which has failed when it comes to the health service.

The new clause has a specific carve-out for the NHS and all health-relevant services regulation, making it illegal for the Government to conclude a trade agreement that altered the way NHS services are provided, liberalised further or opened up to foreign investment by dint of a trade agreement—not by a policy change, not by part of the NHS somewhere on these islands saying it would be a good thing to do, but by dint of a trade agreement being forced on us from somewhere else.

On negative listing, these clauses—we know this from other examples—require all industries to be liberalised in trade agreements unless there are specific carve-outs. The reason this is an issue is that it is not always easy to define what services count as health services and what are more general. For example, digital services may seem irrelevant to health, but NHS data management and GP appointments are increasingly digital. Negative lists therefore make it harder for Governments to regulate and provide health services for the common good. No-standstill clauses are ratchet clauses, because these provisions mean that after the trade deal has been signed parties are not allowed to reduce the level of liberalisation beyond what it was at the point of signature. That can make it difficult to reverse NHS privatisation.

Let me give an example of where had a standstill or ratchet clause been in effect, it would have caused real harm. In Scotland, cleaning in hospitals was historically carried out by private contractors, and the rate of hospital-acquired infections rose dramatically. The SNP Government took the decision to return it to NHS cleaners, and the rate of those infections fell dramatically. Imagine if an investor-state dispute settlement had been in place, if a ratchet clause had been in place—we would have been unable to do that, and if people had died from hospital-acquired infections because the Government were not allowed to take the public health measure of returning cleaning to the public sector, it would have been an absolute scandal.

I mentioned ISDS. There should be no ISDS clauses in trade agreements which only allow private investors to challenge Government policy when, for example, it affects their profits. Failure to abide by those clauses can result in legal challenge from trade partners or, if there is a separate ISDS clause, a challenge from private investors. I have used a number of examples on a number of occasions, and I will use another today very briefly. It is from April 1997. The Canadian Parliament banned the import and transportation of the petrol additive MMT because of concerns that it posed a significant public health risk. The Ethyl Corporation, the additives manufacturer, sued the Canadian Government under chapter 11 of the North American free trade agreement, an ISDS-type arrangement, for $251 million to cover losses of what it called the expropriation of both its production plant and its good reputation. That was upheld by the Canadian dispute settlement panel, and the Canadian Government repealed the ban and paid that corporation $15 million in compensation. That was over a petrol additive that was deemed to have a negative impact on public health. We believe it is quite wrong for large corporations to use these ISDS-type arrangements to sue Governments simply for taking steps to protect the wellbeing of citizens or for simply enacting public health measures which they believe to be right and for which they may well have an electoral mandate.

The new clause also instructs that there should be no changes to drugs pricing mechanisms. We know that the US, for example, has stated that it wishes to challenge the drug pricing model which keeps prices low for ordinary people in the UK. This could also happen through intellectual property and non-patent exclusivities. We need to be very alive to that. It would be bad news for patients, taxpayers, health boards and trusts around the country. In our judgment, trade agreements should never be used to facilitate that.

Our new clause 13 is an adjunct; we simply sought to add a different degree of protection for the health services in the nations, and to ensure that the Government would not be able to lay before Parliament a trade agreement that would have an impact on the provision of healthcare services without the consent of the devolved Administrations. That is secondary to the substantial points we are trying to make and the protections that we wish to put in place with new clause 12.

Gareth Thomas: Given the extra protections that new clause 12 would lock into law to keep the NHS safe from future trade agreements' effectively pushing higher pharmaceutical prices or further marketisation of the NHS, we will happily support the new clause tabled by the hon. Member for Dundee East. Indeed, his new clause supplements the protections that amendment 12, had it been agreed to earlier in our proceedings, would have put in place to protect our public services more generally.

We, too, are aware of the leaked documents that the hon. Gentleman referred to, revealing that discussions have already taken place in the UK-US trade talks about possible measures that the American pharmaceutical industry might want, clearly supported by Donald Trump's chief negotiator, that would effectively push prices up. Given that we have substantially lower pharmaceutical drug costs than the US, the fact that the Americans are continuing to push such measures is profoundly worrying.

Ministers have said that the NHS is not on the table in the UK-US talks and, like the hon. Gentleman, I take that at face value, but it is worth saying that until

the text of a trade agreement is published, we will have no way of knowing for sure what is in it. The precedent of the EU-Canada deal does not give reassurance in that respect, as it used the negative list approach to services liberalisation, to which he referred. The Minister will remember the considerable concern that Germany had chosen to add in carve-outs for the whole of its national health service, whereas the UK had not taken such a comprehensive approach.

The NHS Confederation and *The BMJ* have both published a series of concerns, setting out the ways the NHS could be undermined by a UK-US trade deal. One concern that is highlighted, which again the hon. Member for Dundee East referenced, was the use of ISDS—investor-state dispute settlement—provisions. Again, investor-state dispute settlement provisions were included in the EU-Canada deal, which Ministers count as a roll-over deal.

It would be helpful if the Minister would embrace the spirit of these new clauses, support new clause 12 being added the Bill and, in his wind-up remarks, confirm that he will not push a negative listing approach in a UK-Canada specific deal and that there will not be ISDS provisions in such a deal.

Greg Hands: I start by thanking Opposition Members for tabling new clauses 12 and 13, which provide me another opportunity to stress the Government's position on the NHS and our trade agenda. The Government have been clear and definitive: the NHS is not, and never will be, for sale to the private sector, whether overseas or domestic. No trade agreement has ever affected our ability to keep public services public, nor do they require us to open up the NHS to private providers.

We have always protected our right to choose how we would deliver public services in trade agreements, and we will continue to do so. The UK's public services, including the NHS, are protected by specific exclusions, exceptions and reservations in the trade agreements to which the UK is a party. The UK will continue to ensure that the same rigorous protections are included in future trade agreements.

As stated in our published negotiating objectives with the US, to which I referred the hon. Member for Warwick and Leamington, the NHS will not be on the table. The price the NHS pays for drugs will not be on the table. The services the NHS provides will not be on the table.

Those commitments are clear and absolute, but new clause 12 is unnecessary, however laudable the intention behind it is. It overlooks the fact that there are already rigorous checks and balances on the Government's power to negotiate and ratify new agreements. In particular, and as we discussed on Tuesday, the UK already has scrutiny mechanisms via the Constitutional Reform and Governance Act 2010 procedure that will ensure Parliament can see exactly what we have negotiated, and if it does not agree it can prevent us from ratifying the deal.

4.30 pm

Furthermore, and most importantly, no trade agreement can of itself make changes to our domestic law. Any legislative changes required as a result of trade agreements, including—if not in particular—in relation to the NHS, would be subject to the separate scrutiny and approval of Parliament in the usual ways.

Turning to new clause 13, as the hon. Member for Dundee East will be aware, the negotiation of international trade agreements is a reserved matter under the devolution settlements. It is for the UK Government to negotiate the agreements and for the UK Parliament to scrutinise them, in accordance with the Constitutional Reform and Governance Act 2010, prior to ratification. Therefore, it would be constitutionally inappropriate to give the devolved Administrations a veto over such agreements before they were laid in Parliament.

However, that is not the issue here. What is more important is the fact that our commitment that the NHS will not be on the table applies to the NHS in all parts of the UK, including in the devolved nations. So, I hope that I have provided the hon. Members with some reassurance that the new clauses are therefore unnecessary.

Stewart Hosie: When the Minister described the end of the Constitutional Reform and Governance Act 2010 process, it is a take-it or leave-it option, with no ability for Members to make amendments whatever. I do not think that is satisfactory, to be brutally honest.

As I have said before, I do not question the sincerity of this Minister. When he says that the NHS is not for sale, that no trade agreement has ever affected how the UK deals with its public sector, that the NHS is protected by carve-outs, and that drug pricing and other things are not on the table, I think he is being sincere. But if we put in place a mechanism whereby those protections are not in the Bill, it does not take a huge leap of imagination to imagine some Trump-supporting figure coming up through the ranks of the Tory party and sitting in a chair just like the Minister's, and making rather different decisions.

So, on that basis, I am afraid that I have to press for a Division on new clause 12.

Question put that the clause be read a Second time.

The Committee divided: Ayes 7, Noes 10.

Division No. 17]

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.

New clause 15

"Review of free trade agreements

'(1) The Secretary of State shall lay before Parliament a review of the operation and impacts of each free trade agreement to which this Act applies.

(2) Each such review shall be laid before Parliament no later than five years from the day on which the agreement comes into force.

(3) A further review of the operation of each agreement shall be laid no later than five years after the day on which the previous such review was laid before Parliament.

(4) Each review shall be conducted by a credible body independent of government and shall include both qualitative and quantitative assessments of the impacts of the 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 impact of any investor-state dispute settlement which forms part of the agreement;

(f) 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

(g) 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 review 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."—*(Gareth Thomas.)*

Brought up, and read the First time.

Gareth Thomas: I beg to move, That the Clause be read a Second time.

I rise briefly to suggest to the Committee that once a free trade agreement has been signed in the future, it makes sense to have a point at which to assess the effectiveness of that agreement, perhaps to see how it has worked in practice in terms of British exporters being able to take advantage of it.

Labour Members remember only too well the Government's decision to axe by some 60% the support to British exporters. So it will be interesting, five years down the line from the publication and signing of these continuity agreements, to see whether such a severe cut has actually meant that many British businesses have been unable to take advantage of the opportunities in a free trade agreement.

The new clause would also give us the opportunity, five years hence, to see whether the genuine concerns of many—both in this House and out—about investor-state dispute mechanisms, if they have been incorporated into agreements, have taken effect. We would be able to see the damage done to environmental protections, the health service, labour rights or human rights—any way in which they might have been affected.

Given the concerns expressed clearly to us about how many of the continuity trade agreements might actually work in practice, it is surely sensible to have the opportunity to review whether those concerns have been borne out in practice. One can think of the Norway continuity agreement, which still has no services provisions for British companies wanting to operate in service markets in Norway. That is still in some doubt, as only the goods part has been resolved. The situation is similar with Switzerland. We raised a series of concerns about the South Korea agreement and the extent to which some agricultural products, such as cheddar cheese and honey, have been affected by poor drafting of that agreement.

Given how we have thrown away some of the great advantages that Britain drew in terms of soft power from the Department for International Development being a stand-alone Department, again it will be interesting to see whether the Ghana and Kenya agreements—I thank the Minister for his letter—have been able to serve their purpose and support not only agricultural sales to the UK, but regional integration in west and east Africa.

For all those reasons, and given the huge concerns about some of the potential measures in free trade agreements, it makes sense surely—it certainly makes sense to us—to have a fixed point, five years down the line after a trade agreement has been signed, to have the opportunity for the Government to publish a full review looking at the impact.

Greg Hands: New clause 15 proposes a review, as we have heard, of free trade agreements every five years after entry into force. I have already drawn the Committee's attention to the parliamentary reports that we have voluntarily published alongside every signed continuity agreement, outlining any significant differences between the signed agreement and the underlying EU agreement. I confirm that we will continue to do so for the remaining continuity agreements.

We have a meaningful and constant dialogue with several Committees in Parliament. Those may provide a more appropriate forum for reviews of our trade agreements and an assessment of the UK's wider trade environment and relationships. We are keen for Parliament to make its voice heard during the negotiation of our continuity programme in a way that is proportionate and productive. I also draw the Committee's attention to the fact that six signed continuity agreements have been subject to debate in Parliament without a single one carrying a motion of regret.

As I have said many times before, our objectives for the trade continuity programme are to replicate the effects of existing EU trade agreements, which have all been subject to comprehensive scrutiny at EU level. Given that scrutiny, the parliamentary reports we have committed to publishing and the other constraints contained within the Bill, we do not believe that an additional report in the future would be an efficient use of parliamentary time. Additionally, I argue that looking at each agreement in isolation from the wider trading situation of the UK at an arbitrary point in time risks rendering any such report at best incomplete and at worst meaningless.

As a Department, we have an ongoing obligation to provide meaningful and timely information to the public, businesses and other key stakeholders on our assessment of the UK's trading relationships. Statutory obligations anchored in specific agreements in the manner proposed by the new clause could in fact act as a constraint to the Department providing that sort of information in a timely and impactful way. As such, I ask the hon. Member to withdraw his new clause.

Gareth Thomas: I have listened to what the Minister has said. He will understand that we remain concerned that this provision was put in the Bill by the Government on Report in the Commons, and it has been taken out. The Minister who gave the assurance in writing that such reports will continue is no longer in the Department. I think we would still prefer to see the commitment in the Bill, and as a result, I intend to press the new clause to a vote.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 18]

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.

New Clause 21

UK PARTICIPATION IN EU AND EEA ORGANISATIONS

"(1) The Secretary of State must seek to negotiate an international trade agreement with the EU which will enable the United Kingdom to continue to co-operate closely with the bodies listed in subsection (2)—

(2) The bodies are—

(a) the European Medicines Agency;

(b) the European Chemicals Agency;

(c) the European Aviation Safety Agency;

(d) the European Maritime Safety Agency."—*(Gareth Thomas.)*

Brought up, and read the First time.

Gareth Thomas: I beg to move, That the clause be read a Second time.

We have left the European Union and await the oven-ready Brexit deal that the Prime Minister promised the British people in December—it does feel as though it is in the slow cooker as opposed to the microwave. Nevertheless, our proximity to other European nations inevitably means that our trade, as well as much else, will continue to require significant co-operation with our allies in European capitals and, indeed, in Brussels. Surely, we should not put ideology before common sense but should consider sensibly which EU agencies that impact on trade it is worth maintaining a particularly close relationship with and, indeed, where continued membership is worth seeking. We suggest in the new clause that we should seek continued membership of the European Medicines Agency, the European Chemicals Agency, the European Union Aviation Safety Agency and the European Maritime Safety Agency.

If we are not members of the European system run by the European Chemicals Agency, there is a risk of divergence in chemicals regulation. That may just sound like a concern about red tape. However, if we are not members of the European Chemicals Agency, there is a risk of, for example, the EU27 saying that chemical x is not safe to use but our own new national system telling us not to worry about it and that it is safe. If UK and EU decisions on chemicals start to diverge, that will put pressure on UK chemicals companies to decide whether to stay in the UK or to leave and base themselves in the bigger market of the European Union. I am sure that all Members of the House would want to avoid that.

It is difficult to see how access to the REACH database can be achieved without membership of the European Chemicals Agency. Ian Cranshaw, who spoke to us on behalf of the chemicals trade body when we heard witness statements, made clear how difficult it appeared to be to continue to have access to the REACH database without, effectively, membership of the European Chemicals Agency. He went on to set out how membership of the REACH database is the gold standard for chemicals regulation and how important it was for British firms to continue to have access to it.

The European Medicines Agency is critical to ensuring that medicines for humans and animals are safe. It helps to foster innovation and the development of new medicines across the European Union. By ensuring cross-European collaboration, it has helped to bring down the cost of medicines through its policing role in respect of the single market for medicines. Every month, the UK-EU trade in pharmaceutical products is huge; upwards of 70 million packages move between the UK and the EU every month. The UK pharmaceutical industry is very heavily regulated, and it is heavily regulated because it is an integral part of Europe's medicines regime. It surely, therefore, makes sense to remain a member of that agency.

The European Union Aviation Safety Agency has responsibility for civil aviation safety across Europe, but it also has a series of critical trade-related roles, including being responsible for much of the airworthiness and environmental certification of all aeronautical products, parts and appliances that are designed, manufactured and maintained in Europe. It negotiates international harmonisation agreements with the rest of the world and concludes technical agreements with other countries,

[Gareth Thomas]

such as with the US Federal Aviation Administration. Continued membership of the European Union Aviation Safety Agency would give the UK access to a global industry leader, in terms of standard setting for trade in aviation. Surely, we should continue to belong to it.

4.45 pm

The European Maritime Safety Agency was set up after the Erika disaster, when the oil tanker Erika broke in two in the bay of Biscay in December 1999 and thousands of tonnes of oil were released into the sea. It triggered a package of EU laws to improve safety in the shipping industry, including the establishment of an agency to oversee the implementation of safety laws, which have helped to ensure that the English channel and the rest of our seas are properly protected from oil spills and other pollution from the big ships that carry traded goods. Surely, it makes sense to remain a member of that agency.

Greg Hands: On new clause 21, regarding the parameters of the UK's future relationship with the EU, the Government have made it clear that our priority is to ensure that we restore our economic and political independence on 1 January 2021. The approach to the future relationship with the EU has already been extensively discussed not just in the previous Parliament but in this one, particularly during the debates on the European Union (Withdrawal Agreement) Act 2020. During those debates and subsequently, the Government have been clear that we want a relationship with the EU that is based on friendly co-operation between sovereign equals and centred on free trade. That is what Taskforce Europe, working with the Prime Minister, is pursuing.

The UK published its approach to the negotiation of a future relationship with the EU on 27 February 2020. Our approach builds on the EU's offer of a Canada-style deal. It reflects the type of free trade agreement that should be achievable between sovereign states that respect each other's independence, as the EU has done in the past. We will discuss with the EU how to manage our friendly relations, but any solution has to respect our legal and political autonomy. Members will be aware that there are very limited options for third-country membership of EU bodies. We have been clear that we will be operating on the basis of existing precedents and no acceptance of the European Court of Justice.

However, I acknowledge that members of the Committee are looking for reassurance about the Government's approach to negotiations with the EU in relation to the four bodies listed in the new clause. On the European Medicines Agency, we have stated that the UK-EU FTA should include commitments to co-operate on pharma co-vigilance, and to develop a comprehensive confidentiality agreement between regulators, in line with agreements between the European Medicines Agency and Swiss, US and Canadian authorities. The UK's published response in respect of the European Chemicals Agency states that the UK-EU FTA should include a commitment to develop a memorandum of understanding to enhance co-operation further, similar to the MOUs that the European Chemicals Agency has agreed with Australia and Canada.

On the European Union Aviation Safety Agency, the UK's published position is that we have proposed a bilateral aviation safety agreement that will facilitate the recognition of aviation safety standards between the UN and the EU, minimising the regulatory burden for industry. On the European Maritime Safety Agency, the UK is discussing with the EU how best to manage our friendly relations, but any solution has to respect our red line of no commitments to follow EU law, and no acceptance of the ECJ.

It is important to be clear that, in our negotiations with the EU, we are not asking for a special, bespoke or unique deal; we are looking for a deal like those that the EU has previously struck with other friendly countries such as Canada. I hope the confirmation of the Government's approach to the four agencies mentioned in the new clause has reassured the Committee, and I ask the hon. Member for Harrow West to withdraw the new clause.

Gareth Thomas: Although it has been useful to hear the reassurance that the Minister has attempted to provide, we still think that seeking membership of those four specific agencies makes sense. I intend to press the new clause to a vote.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 19]

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.

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

Greg Hands: On a point of order, Sir Graham, I thank you, Ms Cummins, and everybody involved in the Bill for all your hard work in Committee. Once again, I am both pleased and privileged to have been able to engage in a thorough debate on the contents of the Bill, which bears an uncanny resemblance to the Trade Bill in the last Parliament. I have been in and out of the Department for International Trade, but on returning to the Department, I found the Bill looking more or less the same as when I left the Department in June 2018.

I thank the Committee for engaging with the issues in a positive and constructive way; we have had some real insight, not only into trade policy overall, but into how opposition parties deal with trade policy. I will not dwell further on that, because I have made a few points already, but it is good to see that the approach patented

by the hon. Member for Brent North (Barry Gardiner)—with the Opposition's trade policy a moving feast—lives on today in his absence.

We have had a great debate, carried out in a good spirit, during our two-week immersion in trade policy. I think that, no matter which party one belongs to, a full two-week immersion in trade policy is a great thing as we move forward towards our independent trade policy, effective from 1 January 2021. We can all only benefit from such an immersion.

My thanks also go to the Government and Opposition Whips, who have ensured that the Committee has run smoothly and effectively, and to you, Sir Graham, and Ms Cummins, for being exemplary Chairs. I am very grateful for your guidance during our deliberations. I pay tribute to the usual channels for their help and guidance throughout; to *Hansard* for their diligence in recording all that we have said for posterity; and to the Clerk for his advice.

I also thank my team of officials for their support in undertaking box duty without ever entering the Palace of Westminster; I do not think that is a good thing overall, as I always encourage civil servants to come into Parliament as often as possible. It is very important for civil servants to understand how Parliament works but, given the current circumstances, I am fully understanding of the Department's procedures for the scrutiny of the Bill.

The last time I stood here, I said that this was the first ever piece of legislation from the Department for International Trade. It is still our first Bill. I am confident that this legislation will now make its way on to the statute book and will be all the better for the work of the Committee.

Bill Esterson: Further to that point of order, Sir Graham. I add my thanks to you and your co-Chair, Ms Cummins, for your diligent and considerable efforts to ensure order during our deliberations. I thank the witnesses who gave evidence, the Clerk, all the officials and *Hansard*. As the Minister said, it is a challenging time for all who are involved in making sure that Committees operate effectively.

I thank the Whips. The Government Whip was entirely fair in her criticisms of the Opposition, as she raised the same number of points of order about my hon. Friend the Member for Harrow West and me—fair play to her for her fairness. The Minister described the Bill as a continuity Bill a number of times, and he has been the continuity Minister on the continuity Bill. He is nothing if not consistent, because he gave exactly the same answers as he gave last time around. I hope that this time we will make some progress on the Bill and see the end result. I dare say that we will return to some of these arguments on Report, and that the Lords will have their say.

The Minister mentioned my hon. Friend the Member for Brent North. Where would we be without the hon. Gentleman? At least this time we did not have to resort to making up fictional names for countries to make our points. There will have been no Xanadu in *Hansard* until now.

I thank hon. Members on the Government Back Benches for bearing with us—it is a thankless task. I hope one day to be on the Government side, although I do not know whether I would hope to be a Government Back Bencher. Being a Government Back-Bencher in Committee, where they take a vow of silence, is undoubtedly a thankless task, but most of them managed to perform their duties diligently. One or two found it impossible, but I understand that. With that, I thank everyone for their contributions.

The Chair: I thank the hon. Gentlemen for their points of order. I add my thanks to *Hansard* and in particular to the Clerk, given that we go back to the Education and Employment Committee in the 1997 Parliament. I have been well served and well advised by this Clerk for many years.

Question put and agreed to.

Bill accordingly to be reported, without amendment.

4.56 pm

Committee rose.

Written evidence reported to the House

TB15 TheCityUK
TB16 British Chambers of Commerce
TB17 The City of London Corporation
TB18 Michael Bowsher QC