PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

TRADE (AUSTRALIA AND NEW ZEALAND) BILL

Fourth Sitting

Tuesday 18 October 2022

(Afternoon)

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Saturday 22 October 2022

The Committee consisted of the following Members:

Chairs: MARK PRITCHARD, †DEREK TWIGG

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Bowie, Andrew *(West Aberdeenshire and Kincardine)* (Con)
Britcliffe, Sara *(Hyndburn)* (Con)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Duddridge, Sir James *(Minister of State, Department for International Trade)*
† Esterson, Bill *(Sefton Central)* (Lab)
† Fell, Simon *(Barrow and Furness)* (Con)
† Gibson, Peter *(Darlington)* (Con)
† Greenwood, Lilian *(Nottingham South)* (Lab)
† Griffith, Dame Nia *(Llanelli)* (Lab)
† Hendry, Drew *(Inverness, Nairn, Badenoch and Strathspey)* (SNP)
† Holden, Mr Richard *(North West Durham)* (Con)
† Jenkinson, Mark *(Workington)* (Con)
Lloyd, Tony *(Rochdale)* (Lab)
† Mullan, Dr Kieran *(Crewe and Nantwich)* (Con)
† Qaisar, Ms Anum *(Airdrie and Shotts)* (SNP)
† Russell-Moyle, Lloyd *(Brighton, Kemptown)* (Lab/Co-op)
† Thomas, Gareth *(Harrow West)* (Lab/Co-op)
† Vickers, Martin *(Cleethorpes)* (Con)

Sarah Thatcher, Huw Yardley, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 18 October 2022

(Afternoon)

[Derek Twigg *in the Chair*]

Trade (Australia and New Zealand) Bill

Clause 1

Power to implement government procurement Chapters

Amendment proposed (this day): 3, in clause 1, page 1, line 15, at end insert—

"(3A) Where the appropriate authority is a Minister of the Crown, regulations under subsection (1) may not be made until the appropriate authority has consulted the relevant Scottish Ministers in relation to any matters affecting Scotland."—*(Ms Qaisar.)*

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 4, in clause 1, page 1, line 15, at end insert—

"(3A) Where the appropriate authority is a Minister of the Crown, regulations under subsection (1) may not be made until the appropriate authority has consulted the relevant Scottish Ministers in relation to any matters affecting farming in Scotland."

Amendment 5, in clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before completion of such public consultation as the appropriate authority considers appropriate with the relevant—

(a) Scottish ministers,

(b) Welsh ministers,

(c) department of the Northern Ireland Executive, and

(d) representatives of the English Regions."

Amendment 7, in clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before completion of a review by the Trade and Agriculture Commission of the potential impact of the procurement Chapters on industry in the United Kingdom."

Amendment 20, in clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before publication of an impact assessment setting out the potential impact of the procurement Chapters on—

(a) employment rights and human rights in the United Kingdom, and

(b) climate change."

Amendment 22, in clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before publication of an impact assessment setting out the potential impact of the procurement Chapters on—

(a) Scotland,

(b) Wales,

(c) Northern Ireland and

(d) English Regions."

Gareth Thomas (Harrow West) (Lab/Co-op): Thank you, Mr Twigg, for the opportunity to resume my speech in this debate that was opened by the hon. Member for Airdrie and Shotts. I will speak in particular to amendments 5, 7, 20 and 22.

It is a particular joy that you are chairing the afternoon sitting, Mr Twigg, because you will know, having been both a Minister and a shadow Minister, just how much the odds are stacked against a shadow Minister in a Bill Committee, with 1,000-plus civil servants backing up the Minister versus just one researcher and, fortunately, some very high-quality Labour colleagues. The odds are very uneven.

When this morning's sitting ended, I had begun some preliminary remarks on the case for amendment 5. I was about to highlight some of the issues around the differences between the New Zealand free trade agreement procurement chapter and the Australia FTA procurement chapter. I suspect that businesses will need some help to navigate those differences, so consultation with interested businesses across the UK would seem sensible.

It is tempting to think that the differences are so marginal that they can be ignored and that any flaws in the procurement chapters can be swept away by the upcoming procurement Bill or our accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. As the Minister briefly alluded to, with the CPTPP not yet on the statute book and with plenty of issues to be addressed before it gets there—if it does—we have to get the trade deal procurement chapters and their implementation right, as they will, without question, affect the legal landscape in which businesses bid for contracts here in the UK and in which British businesses bid for contracts in Australia and New Zealand.

Not only are there subtle and important differences between the New Zealand and Australia deal procurement chapters, but they are not the only such chapters that we have signed up to since our departure from the European Union; of course, we have the procurement chapter in the deal that the previous Prime Minister negotiated with the European Union. Again, there are subtle but none the less significant differences between the EU procurement chapter and the Australia and New Zealand chapters. It would seem an obvious and sensible thing for Ministers to embrace some help to navigate those differences, and amendment 5 would help them to do that.

Where do the differences lie? It is important to remember that the Government procurement agreement is the foundation text for procurement negotiations. The procurement chapter in the EU deal—the first we signed—keeps the GPA text and builds upwards from it. I hope to come to the evidence of the procurement expert Professor Sanchez-Graells in a little bit. He argues that the text of the procurement chapter in the Australia deal not only replicates but, crucially, modifies the text of the GPA. That creates a GPA-minus agreement and risks all sorts of complications and legal problems when bidding for contracts, both here in the UK for Australian and New Zealand businesses, and in Australia and New Zealand for British businesses.

Another reason that we should perhaps consult firms is that, as I understand it from the evidence that Professor Sanchez-Graells gave us, a UK firm could be barred from all remedies—the interim relief remedy, judicial

review, as well as full redress, compensation—if they felt they were being unfairly treated in an Australian Government tender process, on public interest grounds. In a similar process in Australia, a French firm could be barred from interim relief but not from a redress claim. So the French firm could potentially secure compensation if it was treated unfairly if the contract was moved forward on public interest grounds, but the British firm could not. Apparently, that is because the UK firm's rights are considered under the UK-Australia FTA, while the French firm's rights would be governed by France's membership of the Government procurement agreement.

Lloyd Russell-Moyle (Brighton, Kemptown) (Lab/Co-op): Is not this another worrying sign that the trade deals and the Bill often sell British businesses short? British businesses are being deprived of rights that they currently have. I am sure my hon. Friend will confirm that, if we pass the Bill without amendment, it will mean that British businesses have less access and security in the Australian and New Zealand markets than they currently do under the GPA rules that extend to everyone already.

Gareth Thomas: That is certainly my understanding of the evidence that Professor Sanchez-Graells gave this Committee, the Select Committee on International Trade in this place, and the International Agreements Committee in the other place.

Let me spell out for the Committee where the problem lies. As I understand it, the Government procurement agreement allows countries to bar access to some but not all remedies, on public interest grounds, for companies that are unhappy with Government procurement decisions, but, crucially, it does not allow a ban on remedies involving compensation. That is the difference with the Australia FTA procurement chapter, which does allow a ban on remedies involving compensation.

Potentially, the firms of other GPA countries will have more comfort and ability to risk tendering for big Australian Government contracts, because they will know that they have some access to remedies if things go wrong in the procurement process and they want to try to get compensation. As my hon. Friend the Member for Brighton, Kemptown rightly says, it takes some skill to negotiate a worse position for British businesses in terms of access to remedies than the situation we have now. That is probably not the biggest mistake that the now Prime Minister has made in her time in office, but it feels like a significant issue, and I look forward to the Minister addressing it.

Government procurement matters enormously. We have touched a little on some of the reasons for that. It helps if Government procurement is done well. One of the reasons why amendment 5 is necessary is to ensure that we do not make the current set-up for Government procurement in the UK worse but, instead, enhance it. Done well, Government procurement can help to build supply chain resilience. We saw the significance of that during the covid lockdowns, when our dependence on China became ever clearer and the need to re-onshore some of our supply chains became a topic for discussion by business and, I suspect, in Whitehall.

We are all too familiar with the horror stories about some of the dodgy personal protective equipment that was procured. We understand the context in which some of those decisions were made, but it is striking that Transparency International, with which I worked when I was a development Minister trying to tackle corruption in developing countries, felt the need to investigate the Government procurement market for PPE. It identified some 73 contracts, worth 20% of all the contracts, that it said raised one or more red flags for possible corruption. That suggests there is work to be done to improve the quality of Government procurement. The National Audit Office also highlighted concerns, where the Government admitted that they were not getting full value for money on PPE.

We also know that good conditions for Government procurement can create more choice and more scope for innovation, and can achieve better value for money. One thinks about the digital procurement expertise that we need, and the potential for artificial intelligence to help revolutionise public services. We need to make sure that the framework under which Government procurement contracts are being offered works well, and that this new injection of uncertainty—but also, potentially, enhanced opportunities for other firms to come into the Government procurement market—does not destabilise the UK procurement market but improves things. A bit of consultation might help in that regard.

I touched on some issues around levelling up, which, to my surprise, prompted murmurs of disagreement from Government Members. I understood from their chuntering that they think everything is rosy with Government procurement outside London and the south-east. However, some figures I have seen from the House of Commons Library suggest that at the moment, there is a clear bias in the Government procurement market towards businesses operating in London and the south-east. The last thing we would want is for the procurement chapters of the Australia and New Zealand trade agreements to exacerbate the difficulties for businesses, not only in London and the south-east but in the west midlands, the north-west, the north-east or the east of England, that are trying to get into the Government procurement market.

House of Commons Library data demonstrates that of the 445 most lucrative contracts awarded by central Government in 2019, 202 went to companies in London or the south-east. That does not suggest that Ministers are using Government procurement to level up. We know they are not doing much else on levelling up, so one would hope that they would take the opportunity to consult more, as our amendment 5 would require them to, in order to ensure that the Government procurement market is not being made worse for businesses outside London and the south-east that want to get involved. It might be an opportunity to look at reforms and think about how businesses outside London and the south-east can be encouraged to do so.

The Minister of State, Department for International Trade (Sir James Duddridge): Would the hon. Gentleman concede that it is possible that the reason those figures are so weighted towards London is that that is where a lot of headquarters are, yet some of those services are delivered from around the United Kingdom and, indeed, from the devolved Administrations?

Gareth Thomas: I absolutely concede that point—that is possible, without a doubt—but I gently suggest to the Minister that there are real concerns that, unless there is

[Gareth Thomas]

proper consultation, the procurement chapters of the Australia and New Zealand FTAs could make the situation worse for businesses that are not headquartered in London and the south-east.

2.15 pm

One of the reasons why consultation gives rise to many benefits is that Ministers—I put this gently—have been known to make mistakes. Perhaps a little bit more consultation on procurement regulations at this stage might help to prevent mistakes from being made inadvertently. One has to ask what on earth Government Members were doing cheering on the mini-Budget, but I fear, Mr Twigg, that that would take us down an alleyway outside the scope of the Bill.

The Chair: Yes, it would.

Gareth Thomas: Nevertheless, it seems a reasonable question to pose. A bit of better consultation might allow us to think about how we encourage more British businesses to secure Government contracts. The Minister rightly said that there is a good argument for extending the contracts covered by this legislation—he was thinking of contracts of unknown value and length—on the grounds that it would encourage more competition and better value for money, but we need to ensure that that does not put off good British businesses, particularly small and medium-sized ones in the local area, from getting contracts. I am yet to hear any convincing story from this Minister or, indeed, Business Ministers or Cabinet Office Ministers about what they are doing in that space to shift things forward.

Let me come to some of the specific concerns that Professor Sanchez-Graells raised, which are the most troubling of the many issues raised in the evidence sessions last Wednesday. It is worth highlighting Professor Sanchez-Graells's experience. He is a professor of economic law at the University of Bristol Law School and co-director of the Centre for Global Law and Innovation. He has done a lot of research on economic law, particularly competition law and procurement, and his research concentrates on the way the public sector interacts with the market and how it organises the delivery of public services, especially healthcare. He is a significant witness. He was clearly taken seriously by the International Trade Committee and by the International Agreements Committee in the House of Lords.

Professor Sanchez-Graells argued that there are a series of problems with the way in which the procurement chapter has been written that, in effect, create the GPA-minus problem, which could have a chilling impact on the appetite of British businesses to bid in Australia and New Zealand, unless Ministers can rectify those problems and provide comprehensive reassurance that Professor Sanchez-Graells may not have considered the whole picture. He has been explicit in saying that he wants the procurement chapters of both the New Zealand and Australia deals renegotiated and only then put into law, so it is important that we hear the Minister's reaction to those concerns.

I had thought that the biggest problems with the Bill were the huge giveaway to Australian farmers, the lack of protection for British agricultural goods, the lack of progress on geographical indications and the shocking levels of scrutiny, but Professor Sanchez-Graells appears to suggest that there are serious issues with procurement and whether the procurement chapters present the huge opportunity that Ministers have been keen to big up. He says that the legal uncertainties in the chapter that the Bill would write into law ensure that the rules clash with the World Trade Organisation's rules on procurement, and we would then risk breaching international law, be it the GPA or the two trade deals.

We know that Ministers have a record of not being bothered about breaking international law—one thinks of the Northern Ireland protocol or other aspects of the trade agreement with Europe—but if Britain's reputation for international lawbreaking gathers ground, that could have a chilling effect on our ability to negotiate other trade agreements and implications for the confidence of the markets, which is particularly worrying.

The GPA is the baseline for opening up access to procurement contracts. I commend Ministers for the objective of creating a GPA-plus regime, and the Australia deal secures some more substantive obligations that point in the direction of such a regime, such as the electronic publication of contracts by authorities, the inclusion of a clause on environmental, social and labour considerations and a clause on SME access to procurement opportunities, the expansion of economic coverage through the inclusion of concession and build-operate-transfer contracts, and so on. However, it also deviates in ways that alter or reduce substantive obligations, so we have the creation of a GPA-minus regime instead.

The scope for legal uncertainty risks having a chilling effect in terms of British businesses wanting to bid for Australian and New Zealand contracts, and vice versa. Amendment 5 makes it clear that consultation is key, and amendment 22 would give us the chance to understand fully the impact of these GPA-minus changes. Both would be helpful additions to the legislation and would allow us to address some of the concerns.

The concerns Professor Sanchez-Graells expressed in evidence to the Select Committee were very technical and challenged members of the Committee—they certainly challenged me when I read back over them to fully understand their scope. To bring them to life at our witness session last week, I asked him to give some examples of where his concerns might have played out. One example I asked him to think about was a British construction business bidding for a contract to help build the Melbourne airport link, which the Australian authorities are tendering. He said:

> "Let us imagine that an innovative British company that wants to sell low emissions rolling stock for that metro link in Melbourne airport goes and tenders in Australia. It is excluded for any number of reasons and it wants to challenge the decision. It could also be barred from access to remedies in Australia, which means that the UK tenderer has lost its time and probably made a loss on the project."—[*Official Report, Trade (Australia and New Zealand) Public Bill Committee,* 12 October 2022; c. 42, Q52.]

That business could lose its access to remedies if the Australian courts embraced the decision of the contracting authority on public interest grounds—that the contract could not be delayed and the compensation not offered, because it was so important that the Melbourne airport link got built on time.

If the UK tenderer had spent substantial amounts to get that contract and then could not get any compensation for all that money, that would create a big disincentive

for anyone from the UK thinking of trying to tender for future projects in Australia. It is important that the Minister and the Department for International Trade explain what steps they will take to prevent that risk from coming to fruition.

Lloyd Russell-Moyle: Is there not also a danger that an international company could choose which of its subsidiaries a bid should come from? Rather than choosing the British company and channelling the money through it, it might consider that the protection offered would be marginally better should the bid come from the French or German company. The multinational company will choose to channel its bids through their other subsidiary companies outside the UK, which could deprive UK taxpayers of money and British workers of the contract, when the British company has done some of the necessary paperwork and processing. There does not need to be a material change; there only needs to be a theoretical risk that that could happen.

Gareth Thomas: Unfortunately, that is absolutely right, as Professor Sanchez-Graells argued. That is a real risk. There are potentially chilling impacts on British authorities that want to issue contracts, should New Zealand companies, and particularly Australian companies, bid.

On the possible GPA-minus provisions, a broader issue is relevant to the argument for amendments 5 and 22. Is the GPA being undermined? The GPA-minus provisions are not just an issue for the UK-Australia FTA, but are likely to be an issue under the CPTPP. Given how difficult it was to negotiate the GPA and how long it can take to secure improvements, enhancements and modernisation, one has to ask whether Ministers have given up a little on that multilateral process. Have they decided that it is so important to get individual procurement chapters agreed under trade deals with potential allies that we will give up on the process of modernising the GPA? Surely it needs to be a living document, because it dates quickly; the current version was negotiated more than 10 years ago and is already out of date on digital procurement and sustainability. The more GPA-minus provisions there are in trade agreements negotiated around the world, the more difficult it will be for the World Trade Organisation to negotiate an enhanced, modernised GPA. It would be good to hear what plans the Minister and the new Secretary of State have to prevent the UK-Australia chapter, with its GPA-minus provisions, from stopping any effort to modernise the GPA. One hopes that Britain would seek to lead that process at the WTO.

The second major concern of Professor Sanchez-Graells is why we are putting the two procurement chapters into law if we plan to accede to the CPTPP? It has its own procurement chapters, and both Australia and New Zealand are members of it. Those chapters are very similar to the Australia and New Zealand FTA chapters, so there is similar scope for uncertainty. We have been led to believe by the current Prime Minister and the previous Secretary of State for International Trade—presumably the present Secretary of State will tell us something similar—that CPTPP remains the top trade priority for Ministers. Professor Sanchez-Graells is concerned about the Government's rush to get two procurement chapters on to the statute book when there is scope for future uncertainty. I am not sure what I think about that particular argument, but I would be interested to hear what the Minister has to say.

Lloyd Russell-Moyle: We heard from the Minister this morning that potential accession to the CPTPP will not replace this agreement but be additional to it. Therefore, British businesses will have to cope with three different systems. We have also heard from the Minister that the Procurement Bill will not entirely replace the chapters and agreement before us, so there will be four potential regimes that people have to navigate. Is that not creating more bureaucracy for businesses rather than less?

2.30 pm

Gareth Thomas: We know that Conservative Ministers have become enthusiasts for red tape—that was the reality of the deal the previous Prime Minister negotiated with the European Union. I gently suggest that my hon. Friend should not be too surprised that Ministers do not seem bothered about more legal uncertainty for businesses interested in Government procurement contracts.

Either way, a bit more consultation, which amendment 5 would lock in, and a bit more thought as a result of an impact assessment under amendment 22, might help to encourage debate and consultation about how serious the problems are and how to resolve them. That might help to advertise the many apparent benefits of these agreements, which the Government's impact assessment mentioned. However, I caution Committee members to hold on a second, because the third argument that Professor Sanchez-Graells advanced in public was that the procurement chapters will not lead to the huge benefits for British businesses that Ministers have claimed they will and that the impact assessment Ministers published over-eggs all of those benefits. For example, Ministers say there will be lots of new opportunities for transport firms to run transport contracts in Australia, despite there being many transport networks in the UK that are run by foreign companies. I hope to pick up that issue in the Committee's discussions on new clause 4, but it would be interesting to hear which companies have indicated to the Minister that they are interested in the procurement opportunities in Australia and New Zealand that he and his colleagues have alluded to.

Professor Sanchez-Graells also noted the consequences of clauses 1(2) and (3), which we debated this morning. He noted that contracts of unknown length and tenure would be extended by regulations to cover more than just Australian and New Zealand firms, with no reciprocity in mind. If only the Secretary of State had given evidence in good time to the International Trade Committee, which my hon. Friend the Member for Brighton, Kemptown sits on, some of those concerns could have been addressed.

To help me understand Professor Sanchez-Graells's arguments, I asked him to explain them in the context of the Elizabeth line—Crossrail, as it was known—and of the need to rebuild a hospital. Members will remember the significance of the Elizabeth line, stretching as it does from Paddington in west London through to Abbey Wood and Stratford in east London. Its cost to date is almost £19 billion, and it will be fully operational this year. It is a huge public procurement exercise—that £19 billion does not include new trains or a number of other things. It has been a huge success story for the UK and London. It has generated 14,000 jobs, it comprises 42 km of tunnels and it has used 13,500 cubic metres of concrete. In short—

The Chair: Order. I understand the argument the hon. Gentleman is making, but I think we get the point about Crossrail. He needs to move on to the relevant argument.

Gareth Thomas: The argument I am making is that Professor Sanchez-Graells highlighted the risk of a chilling effect on the progress of the Elizabeth line had the Australian and New Zealand procurement chapters been in force. Let me set out how it might have played out—fortunately, neither agreement was in place, so there was not the same legal uncertainty and we have not had such a delay.

Let us suppose for a second that both procurement chapters had been in force. To slightly simplify it, the Elizabeth line offered three contracts—one for the construction of Crossrail, one for the supply and maintenance of the rolling stock and one for the operation of the line, which was a services concession. That services concession would not have been covered by the UK-Australia free trade agreement, but the construction contract and the rolling stock contract would have been covered under both the WTO's Government procurement agreement and, crucially, the UK-Australia FTA. There would effectively have been dual regulation contracts.

There could have been a real, substantive clash of provisions between the GPA and the FTA. The crucial issue of access to remedies could then have played out. If an Australian company had expressed an interest in the relevant tender—for construction or for supply of the rolling stock—and had ended up not getting the contract, it could have been barred from access to remedies under the UK-Australia FTA on grounds of public interest. Why would we have wanted to delay the completion of the Elizabeth line?

The Australian company would have missed out on compensation and scope for judicial—

The Chair: Order. What clause is this relevant to?

Gareth Thomas: This is relevant to clause 5. If we had consulted better with firms across the UK that benefited from the supply chain of the Elizabeth line, they might have been able to highlight their concerns at an early stage, preventing any problems going forward.

If you, Mr Twigg, are not convinced of the relevance of an argument that looks back, let me put to you an argument that looks forward and give the example of a hospital that needs to be rebuilt. Let us say it is the Queen Elizabeth Hospital in King's Lynn, which we know needs rebuilding. The Australian and New Zealand free trade agreements, and the procurement chapters of both, will be in play at this point, assuming the Bill becomes law. If they are, and an Australian company bids for the contract to rebuild the Queen Elizabeth Hospital, there could be a chilling effect.

Let us say the company is denied access to the contracts, for whatever reason, thinks it has been treated unfairly, tries to put in a bid for judicial review to stop the contract being won and started by the relevant British company, and cannot get judicial review to stop it, because of public interest grounds—because the hospital is falling down. The court might say, "We've got to crack on with this." The Australian company would miss out on judicial review, also on public interest grounds, and the court would be open to rule against giving it compensation. Australian companies would now look askance at the NHS procurement market and think, "We won't take the risk of bidding for contracts there. We may well miss out because of the terms that have been agreed under the procurement chapter of the UK-Australia agreement."

It does not just go one way. That same risk is potentially in play in Australia for British firms bidding to rebuild Australian hospitals. If one were falling down and a British company bid and lost out and then thought it had been treated unfairly, it might initially turn to its lawyers and say, "Let's put in a judicial review bid to stop the contract going ahead while we try to persuade the court to restart the tender process. Let's at least try to secure compensation for all the money it's cost us to put the bid together." In my understanding of the arguments advanced by Professor Sanchez-Graells, under the terms of the UK-Australia free trade agreement, if the contract is not awarded to the UK firm but to an Australian one, and the court decides on public interest grounds that that is fine, the British business would lose an awful lot of money that it might have invested in bidding for the contract.

The irony is that if a French firm bid for the same contract, it might not be able to stop the contract or get judicial review, but under the terms of the GPA, it could argue for compensation. The British firm would not even be able to apply for compensation, but firms from other GPA jurisdictions could. In those circumstances, British firms that specialise in overseas procurement may be tempted to look not at the Australian or New Zealand markets, but at other markets in which they have better protection if future contracts go wrong.

That is a substantive and serious concern, and it would be good to hear the scale of the Minister's concern about such risk. Ministers and Committee members may still think that companies take risks all the time, so if a contract does not go their way and they cannot secure compensation or judicial review, then tough luck. However, it is also worth considering the effect on the bit of Government that is trying to issue the contract.

I pray in aid the case of Draeger Safety UK *v.* the London Fire Commissioner, which has been substantially protracted. The London Fire Commissioner wants to upgrade the quality of equipment available for its firemen and women—quite understandably, it wants the best, most modern equipment. Draeger Safety UK lost the contract, thought the contract was unfair, and is trying to secure compensation. That is not an isolated case; similar cases are going through the UK courts.

Adding to the process the complex GPA-minus provisions of the UK-Australia and the UK-New Zealand FTAs could have a chilling—or certainly a delaying—effect on the issuing of tenders. For that reason, I hope that a little more consultation by Ministers with each part of Government around the UK that might want to issue a contract, and a little more thought—perhaps through an impact assessment—about the impact of the GPA-minus provisions that Professor Sanchez-Graells set out, might help to avoid those sorts of problems, and that the procurement chapters of both FTAs could actually be really useful.

I look forward to hearing what the Minister has to say about Professor Sanchez-Graells's concerns, and I strongly encourage the Minister to support amendments 5 and 22.

Sir James Duddridge *rose—*

Hon. Members: Hear, hear!

Sir James Duddridge: I haven't said anything yet. This morning was incredibly jolly. I am sure that Mr Pritchard will be devastated that he cannot be here, but I will send him a copy of *Hansard* so that he can catch up.

The debate was interesting. A Labour speech literally brought the house down—one could hear things crashing down from the ceiling. Thankfully, no members of the public were hurt. I was amazed by the wide-ranging discussion, and the ability of Members to pop in the word "procurement" here and there to make their remarks orderly. It was a masterclass in Opposition debate, verbosity and probing—in a good way. I was surprised that there was a proposal to provide free hot school meals daily from New Zealand to the good burghers of Southend, which I am sure was heard by Essex County Council and Southend-on-Sea City Council—I was going to say it was Labour-run, but it is a bit of a shambles of organisation and coalition in Southend.

2.45 pm

I want to correct the record in one important regard. I am sure that the hon. Member for Harrow West did not mean to mislead the Committee or the House, which is a serious matter, but he was a bit ambiguous with the truth. He said that five years is 48 months. He is right, but he is not telling the full truth, is he? It is 60 months. The hon. Member for Brighton, Kemptown, voluntarily prayed in aid the great Arthur Ponsonby. I am not entirely sure that the good people of Brighton—particularly Momentum—would support him in praising that individual. If he googles him, he will see that Arthur Ponsonby resigned when the fascists in Italy invaded Abyssinia, and then resigned again later from the Labour party. As I say, it has been an interesting debate. A large number of points were made, and I will try to cover all of them.

Lloyd Russell-Moyle *rose—*

Sir James Duddridge: If I am given some leniency near the end, there might be an opportunity to intervene then, if there is a particular element that I have not picked up on, because there are about 25 issues that I need to cover.

Broadly speaking—officials will not like me saying this—I agree with a lot of what has been said. I agree about the importance of consultation, and of reviewing and evaluating what we have done. There is a lot of that in the Bill, and a lot of it has been done by the Government already. I will go through what we have done, but just because we have consulted, that does not mean we do what someone wants. It is a balancing act. I suspect the hon. Member for Harrow West would do things differently from me if he was in the hot seat, but I am sure he would have consulted as widely as the Department and officials did on behalf of His Majesty's Government. I am disappointed to hear that he will press two of these measure to a vote. He has thrown down the gauntlet, and I have picked it up, so hopefully I can persuade him not to vote on them, because we are covering a lot of the issues raised.

Communication with the devolved Administrations is integral to not only the way the Department conducts its negotiations but ensuring that legislation operates effectively in each and every nation of the United Kingdom. I am more than happy to reiterate the commitment of the then Secretary of State for International Development that the UK Government would not normally legislate without the consent of the devolved Administrations. The hon. Member for Airdrie and Shotts may well say, "Why not put that in the Bill?" That is a valid point, but it is not one about procurement; it is about the fundamental nature of devolution. Treaty making is done at the UK level on procurement, as it would be in an international treaty on, for example, nuclear non-proliferation.

Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP): The point that the Minister is making underlines that it would do no harm to make this commtment in the Bill. What would be wrong with that?

Sir James Duddridge: If the hon. Gentleman wants to bring forward a devolution Bill and completely revolutionise how our nations are run—

Drew Hendry *indicated assent.*

Sir James Duddridge: He clearly does, but that is not for this Bill. On scrutiny, Members drew comparison with the EU and the US. I gently point out that those are very different democratic bodies. The EU is a body of 27 nation states, remotely located; and the US has a presidential system, and an Executive that is more detached from the legislature, whereas we are much more integrated here.

On consultation, there was a wider discussion that related to all types of scrutiny but included procurement, so with your permission, Mr Twigg, I will go through how we have looked at scrutiny through the lens of procurement.

Lloyd Russell-Moyle: The Minister is quite right to mention that those two systems are different. Norway operates a dualist system for international treaty agreements in the same way that we do. It operates a prime ministerial system with a constitutional monarchy in the same way that we do. Their Parliament has the ability to scrutinise the heads of terms of international agreements, and its committees can agree the additional measures that are coming through, and can be consulted on them. So, yes, he is right in relation to the two big examples that I gave, but there are many other international examples, and I do not want to bore the Committee by going through more of them. Will he not at least acknowledge that we are on the worse end of the scale when it comes to the consultation of Parliaments, devolved areas and civil society, not on the better end?

Sir James Duddridge: No, I do not. I do not want to go through a comparative analysis of every country around the world, but we are not. There is a lot in legislation that we have to do; there is a lot that is not in

[Sir James Duddridge]

legislation that we do on a repeated basis. For example, on issues of the scrutiny of the New Zealand and Australia trade deals, particularly in relation to procurement, prior to our talks, we published all of our objectives. We published the economic scoping document and a Government response to the call for input. During the negotiations, we published six public reports of what happened, so Parliament and the public could input and lobby. We published extensive information at the agreement stage and at the in-principle stage. We also engaged in Parliamentary activity. All together, there were over 12 sessions with either the International Trade Committee or the Lords International Agreements Committee.

Lloyd Russell-Moyle: Will the hon. Gentleman give way?

Sir James Duddridge: I will just finish the point and then I will certainly give way to the hon. Gentleman. I was rather hoping that he was going to be at a Select Committee, but it is a pleasure to see him here—*[Interruption.]* I will finish my point and then I will give way. I apologise, Mr Twigg, for being slightly disorderly. We made nine ministerial statements and there were eight formal MP briefings; Ministers also made themselves available more informally to Members on both sides of the House.

Lloyd Russell-Moyle: I could not resist this Public Bill Committee and so I am missing the opportunity to grill the Secretary of State for International Trade. Hopefully I would not just be grilling her, but having fruitful discussions, such as those that we will now have. I look forward to doing that on future occasions.

The Minister listed a number of documents that the Government have published, but he has confused publishing information with having detailed, constructive and structured dialogues—with sitting down and engaging with people.

I have already publicly put blame on the previous Secretary of State, the right hon. Member for Berwick-upon-Tweed (Anne-Marie Trevelyan), and I will not repeat myself. However, for one reason or another, more than five times, she was unable to meet the International Trade Committee, and she was unable to meet it before it published its report on the Australia and New Zealand free trade agreements. That led to an urgent question in the Chamber and a Westminster Hall debate. Will the Minister not at least accept that there is more that the Department could do to engage co-operatively with the International Trade Committee and others, to stop the contention that we have had?

Sir James Duddridge: During long interventions, sometimes Ministers jokingly ask to intervene, but I had been sitting down for so long that I genuinely thought I was listening to a speech.

Relations with the International Trade Committee have not been as good as the Government, the Committee or the House want. That is going to change. We will make ourselves fully available. I know the Secretary of State has already started having those meetings with the Committee. Her diary obviously shifts quite quickly, so I cannot say where she will be, when. I know there is a whole series of activities planned. I am looking at the Public Gallery; there are civil servants looking into how we can link better with members of the Committee. I will play my part as Minister of State at the Department, and will always make myself available to the Committee, if at all possible. It will be my top priority, over and above speaking to the House or taking part in other Committee processes.

The hon. Gentleman said, "You just publish reports. That's not enough." If that is all we did, it would not be enough, but it is not all we have done. There are inter-ministerial groups on these issues, which are attended by Ministers from the devolved Administrations, particularly those with responsibility for trade. The forum that we are discussing was established to consider all trade policy, and its effective implementation, and will be able to review and evaluate that policy's impact.

The hon. Member for Harrow West seems incapable of using the word "effect" or "impact" without prefacing it with the word "chilling", as if these were haunting issues. We want to evaluate policies, to look at the impact assessment, and to improve all the time. As has been said, the agreements are evolving. They get built on and improved. The forum has met eight times since its inception in 2020. It provides for open discussion about negotiation, and allows Ministers from devolved Administrations to contribute their views directly, both formally and, in the sidings, informally.

Gareth Thomas: How many of those meetings have focused purely on procurement?

Sir James Duddridge: I have absolutely no idea. As the hon. Gentleman said early on, procurement is a very small section of these matters. Most, if not all, of these meetings were probably open, so I could check the minutes, but I suspect that not every nuance is captured in them. Also, sometimes trade issues can be looked at through lots of lenses. For example, one issue might relate to the motor industry, procurement and Wales.

There are bilateral meetings with counterparts from the devolved Administrations, and there is weekly engagement by UK Government officials. That all helps to build a better relationship. The hon. Member for Llanelli asked whether the relationship could be better. I am unsure of how well sighted she and the Committee can be of the details of that—I think that is what the hon. Member for Harrow West is alluding to—but it would be interesting to look at the Welsh example, in particular; there have been a lot of compliments, with people saying that engagement has increased and is better. That is not to say that it cannot be even better, but let us give credit where credit is due—not to Ministers, but to the Department.

Dame Nia Griffith: Absolutely, and I made that point clearly. Large questions remain unanswered, including why the quotas were set so high. Those sorts of things could have been sorted out if consultation had gone back a bit further and had been more timely.

Sir James Duddridge: I will focus my comments on the devolved Administrations, and I will come back to meat later, in the meaty bit of my speech. We have been discussing the necessary changes to procurement regulations with devolved officials since they were first raised in negotiations. I hope that our level of engagement

demonstrates that consultation is already integral to what we do. The remit of the Trade and Agriculture Commission, in which there has been some interest, focuses on a critical issue for Government, the public and farmers: agricultural standards. Its analysis is an absolutely critical part of the scrutiny framework for new free trade agreements, and it supports the Government's clear commitment to upholding the United Kingdom's high agricultural standards.

The commission's remit is very specific, so that it can produce high-quality advice that speaks to its collective expertise. The Government would not want to dilute its important work by widening its remit; that would weaken its focus on its core mission. If amendment 3 is intended to allow the commission to consider the impact of the procurement chapter on agricultural standards, it is unnecessary; the commission can already consider any part of an agreement that it thinks is relevant to the issue of domestic standards—specifically to animal and plant health, animal welfare or the environment. The amendment would widen the commission's focus beyond what we want it to focus on. I respectfully suggest that that would have unintended consequences.

The Department committed to including in the impact assessments, every two years, a monitoring report on the deal. Furthermore, within five years of the agreements entering into force, there will be a comprehensive evaluation report on both deals. These evaluations will do exactly what I think hon. Members want and seek Government assurances on, because they will aim to show how and why the agreements were made, whom they benefited, what the outcomes are, and how they could be better. I am happy to assure the Committee that those reports will look at all the regions—Northern Ireland, Wales, Scotland and England—and, if necessary, consider the regional picture if that is still a concern, notwithstanding my comments and the evidence over that period.

3 pm

On the specific issues raised in amendment 20, procurement chapters in both these deals contain provisions that clarify that either party is allowed to factor in environmental, social and labour considerations when conducting procurement, provided that it is not done in a discriminatory way. That is to say, on climate issues or labour issues, we can have our high standards, but we cannot have different standards between Australia, New Zealand and any other party. It in no way forces us to diminish our standards, which both sides of the Committee find important. Furthermore, these articles take our commitments in this area beyond those in the World Trade Organisation's Government procurement agreement, which I will talk about in more detail when I discuss the debate over GPA, GPA-minus and GPA-plus. Any supplier wanting to participate in a UK procurement would have to comply with the relevant UK procurement rules, regardless of where the supplier is from. The UK Government have been conducting a programme of engagement with devolved Administrations, to ensure that future agreements work for all four nations. That includes the regular bilateral meetings we have discussed.

I turn to some of the points made. A question was raised about whether we are moving away from multilateralism and looking at bilateralism. All three are important—in some cases bilateral trade deals can lead to plurilateral trade deals, which can lead to improvements in multilateral trade. The problem with multilaterals is that they move slower than we can. There are some innovative non-procurement-related parts of the Bill that will hopefully be a benchmark.

There was concern that trade unions were not consulted. I can assure the Committee that there are six trade advisory groups on which the unions serve. In fact, the union representative mentioned in her evidence a number of meetings that Frances O'Grady had been in with the Secretary of State, rather proving the point that there has been consultation. However, there is an underlying point that the hon. Member for Sefton Central made about unions needing to be represented. We need to be very careful. In our democratic position, we need to consult, but it is our job as democratically elected individuals to make those decisions. We should consult, but it is us who decide. We do not want to put outside bodies, whether it is the CBI or the unions, in decision-making positions; we want to put them in advisory and consultative positions.

Bill Esterson (Sefton Central) (Lab): Rosa Crawford pointed out that the trade unions had never been given a place on the trade advisory groups since they were set up, if the Minister remembers last week's evidence session. Why is it that in the United States the trade unions have access to negotiating texts and are able to influence changes, as they did in protecting workers in Mexico? Does he think that that is right or wrong? If he thinks it is right, why does he not allow it to happen in this country?

Sir James Duddridge: The unions are involved in the trade advisory groups. There is, I think, one issue with an offer that has been made to one union to join, but it is holding out because it wants another union also to be involved and is therefore not participating.

On returning to the Department after the previous sitting, one of my officials expressed surprise at the evidence given because it contradicted something she had been at—she had been present at one of those meetings. While I am happy to look again and the current Secretary of State has made it clear that she wants all consultees to be included in the process, we are the decision makers in our process, and I would not want to contract out UK Government decision making to any organisation.

I am not going to answer the question on the United States. I am responsible for many things, but not the system in the US.

Lloyd Russell-Moyle: The Minister has said that the trade unions are members of trade advisory groups, but I have looked up the membership of those groups, searching for the word "union", and there are only four union members, and they are all farmers union representatives. I understand that farmers unions are important, but they are different from trade unions and the TUC, so either the list on the website is not up to date or there is some confusion here. It would be useful if we got some clarity.

Sir James Duddridge: Absolutely. On unions—I mean unions in the broadest sense; I am not trying to pull a fast one by referring to four regional national farmers unions—my understanding is that six unions, as the hon. Gentleman would understand the term "union",

[Sir James Duddridge]

as opposed to the Conservative and Unionist party, for argument's sake, are genuinely involved in the trade advisory groups. That is what we would want.

That is on the record. If I am wrong and if I have misread my brief, I will correct the record later and write to the hon. Gentleman with the details of the unions, and perhaps with more information around the issue of the union being invited to something and there being some type of deal, if it is in the public interest to put that out. I want to encourage the unions to come and be part of the process, and I want us to make decisions.

Gareth Thomas: To be clear, is the Minister saying that if the TUC, as the representative of the trade union movement, is not on any of the relevant trade advisory committees, he is committing himself to inviting the TUC?

Sir James Duddridge: The Minister did not commit to that. I think the question is, will I commit to that? The answer is no. I will commit myself to ensuring that unions are on those trade advisory groups. I think they are on the trade advisory groups—

Gareth Thomas: Why not?

Sir James Duddridge: Because there are many unions out there. That is not part of the Bill—

Gareth Thomas: The TUC is the global organisation for unions—

The Chair: Order. The hon. Gentleman needs to intervene properly if he wishes to speak.

Sir James Duddridge: This is an interesting question, but the hon. Gentleman, who was an able Minister, would not have made such an on-the-hoof commitment when he was sitting on this side of the Committee without consulting and without thinking about the implications for other unions. However, I am more than happy to go away and look at the issue if that makes him happy. I am picking up the gauntlet to try to bring him onside and get the Bill through, so perhaps that is a nice suggestion.

Gareth Thomas: Almost nice. All I would say to the Minister is that I would have known the question was coming.

Sir James Duddridge: There were no telepathic Ministers available, so the hon. Gentleman is stuck—

Gareth Thomas: Evidence was given—

The Chair: Order, thank you.

Sir James Duddridge: I certainly want us to make progress.

Let me turn to the meat of my speech—the lamb and beef. We have secured a large range of measures to safeguard farmers generally within the tariff quota with respect to a number of products, but specifically, on the New Zealand side, I would point out that UK sheep imports from New Zealand have fallen over the past decade, so I do not think the idea that these measures will radically change the relationship is right. On Australia, increases in beef imports are likely to happen, but rather than displacing our domestic farmers, those imports are more likely to displace slightly more expensive beef from the EU. That means that beef will be coming from Australia, not France, for argument's sake, and it will be cheaper for my constituents—my Sunday roast, their Sunday roast. That is part of levelling up and getting on with tackling the cost of living.

More broadly, there is a strong case for free trade. Earlier, the hon. Member for Brighton, Kemptown made the case for not unilaterally making moves and to hold back the negotiating power. That is a valid argument, because some of these things could be traded off for something else. However, there is actual underlying value in reducing tariffs and minimising systems; it makes products cheaper. That is what we are trying to do as a Government and I do not think that anyone would disagree with that. So, it is a third balancing act within that arena.

Dame Nia Griffith: Would the Minister accept that there really is a need for consultation and that there is also a need for an ongoing impact assessment, because the situation for Welsh farmers is so different from that of farmers in Australia and New Zealand, where the quantities involved and the farms themselves are absolutely huge? We are obviously very aware here that our hill farms are in some of the areas that are hardest to farm and that really there is no straightforward comparison with Australian and New Zealand farms. Then add to that the other costs of production, such as the costs arising from the higher standards that we have. Again, it seems that the cards are already stacked, and that consultation and a continued impact assessment are absolutely essential in trying to protect our farmers.

Sir James Duddridge: Fundamentally, I agree with the hon. Lady that that needs to be done. However, I think there is a question of frequency. We talked about the evaluation at the five-year point; we have talked about a two-year evaluation. Should there be consistent—I am trying to find the words that she used—or repeated evaluation? Well, there might be some value in that, but there is also a big cost in that, and if you produce annual report after annual report, sometimes they just go on the shelf. So, there is the right point to do the evaluation rather than doing it too frequently.

The other point that I would make is that we cannot flick a switch overnight and suddenly go from one trading situation to a new one, with a whole different array of goods and services being traded. It happens over time. So, over the first year, I will take on the responsibility for both implementing the deal and for what we call within the Department utilisation, which is basically taking advantage, because there is no point in this pile of new trade deals just sitting on my desk. They need to be explained to British businesses; we want to take them out to Australia. Only a few weeks ago, I went to Ipswich, where there is a company producing recyclable bottles. I hope that I have got this in the Register of Members' Financial Interests—they gave me a bottle of gin and the bottle was a reusable paper container. That company will want to export to Australia, I think, one of their machines; the New Zealanders will no doubt want a similar thing; and we will then import lighter weight, lower cost wine, which I think benefits everyone.

I will return a bit more forensically to some of the points that have been raised, while being conscious of time. The issue was raised of farming and discussions with Ministers in devolved Governments about procurement. While there would have been the overall discussion, I am not aware of the specifics on procurement in farming, because that is more about the consultation for the deal and not about the consultation for the Bill, which is more narrowly focused.

I think that I have covered off the issue of impact assessments. What I would say is that they are not forecasts; they are indicative. But in many ways my criticism of some of the forecasts is that they are not dynamic enough—that is, we are underrating the potential value of some of these deals. However, the process allows for a level playing field and a comparison between different things.

The hon. Member for Inverness, Nairn, Badenoch and Strathspey talked about the Scottish Minister for Trade. In respect of the content of the Bill, the procurement policy teams met with officials from the devolved Administration for roundtables on the text of the procurement chapters in both negotiations: for this Bill; and for the procurement regulations that are consequently developed from the Bill. We have been discussing the necessary procurement regulations that will follow on. So I can reassure the hon. Gentleman that that is happening.

There was some discussion around trade remedies. The hon. Gentleman said that I am blessed with a box full of wonderful officials and no doubt behind the scenes they are texting backwards and forwards. The resources are slightly less. I think there has been some misunderstanding, effectively, on what happens.

The same exclusion of trade remedies in the Bill applies to GPA, but the exclusion on remedies only applies to temporary measures to suspend a supplier from the procurement process. Crucially, it does not prohibit them from bringing a claim, so they can still do that.

3.15 pm

On the GPA more generally, first, the Australia deal does not alter the global baseline of GPA, so I do not think the term "GPA-minus" is relevant. The hon. Member for Harrow West is arguing both cases. He says there are problems because the provisions are GPA-plus, but he then argues that there are problems because they are GPA-minus. I think the case is that they are GPA-plus, but he has criticisms of that.

Gareth Thomas: If the Minister cannot elaborate on this now, will he commit to write to the Committee with a more detailed respond to Professor Sanchez-Graells's analysis? He had substantial concerns, which the International Trade Committee and the International Agreements Committee accepted, and nobody challenged it in the evidence he gave last week. I understand that the Minister may not have access to all the information he needs, but I wonder whether he would be good enough to write to us. I hope he is right—I really do—that the provisions negotiated are GPA-plus, but there seems to be doubt that some of the tweaks that have been made might make them GPA-minus, and that needs to be ironed out as a matter of urgency for British business.

Sir James Duddridge: I am happy to iron it out. The departmental advisers respectfully disagree with the professor, and I am more than happy to write with their analysis of why they disagree. Clearly, we cannot take evidence from 30 academics and say, "This is an outlier out of 30," but I will send the Committee that letter.

On the unions, it is slightly more complicated than what the hon. Gentleman asks and what I said. The TUC has already been offered roles on the advisory groups but unfortunately has not taken them up so far. The TUC has been represented on the Department's Strategic Trade Advisory Group, and in 2021 we offered six unions—that is where the figure six came from—roles on the group. I assumed incorrectly that they had taken us up on that offer. I do not know why, but they have not. They are still welcome, and I am more than happy to write again making that offer, to try to understand why they have not taken it up. We are saying that we want to consult more widely. We have offered the unions a consultation role, and Members say that unions want to have an even bigger role, but they have not come to the table. I am sure that there are complicated, good reasons for that, and we will try to work through those.

Hopefully I have answered the questions sufficiently and have only failed in my lack of telepathic skills to know which questions would come up. I will try harder next time and get the best brains on providing said facility to the hon. Gentleman.

Gareth Thomas: I am grateful to you, Mr Twigg, for allowing me briefly to respond. I am grateful for the Minister's willingness to write to the Committee with a more detailed response to the concerns that Professor Sanchez-Graells raised. I am happy not to press amendments 7 and 20. However, tempting as it is to think that the Minister has given comprehensive answers, he was almost comprehensive but did not give quite enough for us not to press amendments 5 and 22. We will press them to the vote.

Ms Anum Qaisar (Airdrie and Shotts) (SNP): The legislation does not reflect the values that Scotland stands for, and it does not adequately safeguard food and farming standards in Scotland.

The powers in the Bill should not be exercisable by UK Ministers in relation to Scotland without a requirement for them to secure the consent of Scottish Ministers. That is what amendments 3 and 4 propose. While negotiation of international agreements is a reserved matter, the implementation of such agreements in devolved areas such as public procurement is devolved. There is no reason for UK Ministers to hold such powers in relation to Scotland.

The Scottish Government have consistently and successfully implemented international obligations on procurement since 2006, when they first transposed the EU directives, and they have been consistent in their commitment to upholding international law. The Scottish Government continue to engage with the UK Government on the issue, and I understand that officials are in continual contact with counterparts in the Cabinet Office and the Department for International Trade.

It might be better to make provision in the Bill for the implementation of those agreements, rather than using a delegated power. The Minister mentioned the issue,

[Ms Anum Qaisar]

although I still do not understand why that is not possible and there appears to be no particular reason for powers needing to be provided. Such agreements are signed and there is common understanding of the amendments that need to be made to procurement legislation in order to implement them. That could be done in the Bill, which in turn could provide for commencement regulations to ensure that the amendments took effect at the desired moment.

I thank the shadow Minister, the hon. Member for Harrow West, for his sympathy, as he put it, towards amendments 3 and 4. Those amendments are specific to discussion and dialogue between the UK Government and the Scottish Government, and I would argue that amendment 5 is not as strong as our amendments. However, we do support Labour amendments 7 and 22.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 1]

AYES

Hendry, Drew	Qaisar, Ms Anum

NOES

Afolami, Bim	Gibson, Peter
Bowie, Andrew	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin

Question accordingly negatived.

Amendment proposed: 4, in clause 1, page 1, line 15, at end insert—

"(3A) Where the appropriate authority is a Minister of the Crown, regulations under subsection (1) may not be made until the appropriate authority has consulted the relevant Scottish Ministers in relation to any matters affecting farming in Scotland."—*(Ms Qaisar.)*

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 2]

AYES

Hendry, Drew	Qaisar, Ms Anum

NOES

Afolami, Bim	Gibson, Peter
Bowie, Andrew	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin

Question accordingly negatived.

Amendment proposed: 5, in clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before completion of such public consultation as the appropriate authority considers appropriate with the relevant—

(a) Scottish ministers,

(b) Welsh ministers,

(c) department of the Northern Ireland Executive, and

(d) representatives of the English Regions."—*(Gareth Thomas.)*

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 3]

AYES

Esterson, Bill	Qaisar, Ms Anum
Greenwood, Lilian	Russell-Moyle, Lloyd
Griffith, Dame Nia	
Hendry, Drew	Thomas, Gareth

NOES

Afolami, Bim	Gibson, Peter
Bowie, Andrew	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin

Question accordingly negatived.

Amendment proposed: 22, in clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before publication of an impact assessment setting out the potential impact of the procurement Chapters on—

(a) Scotland,

(b) Wales,

(c) Northern Ireland and

(d) English Regions."—*(Gareth Thomas.)*

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 4]

AYES

Esterson, Bill	Qaisar, Ms Anum
Greenwood, Lilian	Russell-Moyle, Lloyd
Griffith, Dame Nia	
Hendry, Drew	Vickers, Martin

NOES

Afolami, Bim	Gibson, Peter
Bowie, Andrew	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin

Question accordingly negatived.

3.30 pm

The Chair: Before we come to the question that clause 1 stand part of the Bill, I note that I was quite lenient in the previous sitting about interventions. I would like to remind Members that interventions should be short and to the point.

Clause 1 ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Schedule 1 agreed to.

Schedule 2

REGULATIONS UNDER SECTION 1

Gareth Thomas: I beg to move amendment 9, in schedule 2, page 9, line 5, leave out from "section 1" to end of line 6 and insert—

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

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

Amendment 10, in schedule 2, page 9, line 8, leave out "negative" and insert "affirmative".

Amendment 11, in schedule 2, page 9, line 11, leave out from "section 1" to end of line 12 and insert—

"may not be made unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru."

Amendment 12, in schedule 2, page 9, line 13, leave out from "section 1" to end of line 16 and insert—

"may not be made under this Act unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly."

Amendment 13, in schedule 2, page 9, line 25, leave out from "applies" to end of line 26 and insert—

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

Amendment 14, in schedule 2, page 9, line 28, leave out "negative" and insert "affirmative".

Amendment 15, in schedule 2, page 9, line 29, leave out sub-paragraphs (5) and (6).

Amendment 16, in schedule 2, page 10, line 2, leave out from "Ministers" to end of line 3 and insert—

"may not be made unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru."

Amendment 17, in schedule 2, page 10, line 5, leave out from "department" to end of line 7 and insert—

"may not be made under this Act unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly."

Amendment 18, in schedule 2, page 10, line 9, leave out sub-paragraphs (9) to (12).

Gareth Thomas: Thank you, Mr Twigg. You will understand the frustration of Labour Members present that Ministers are once again seeking to get through a whole bunch of regulations using the negative procedure, rather than the affirmative resolution procedure. Amendments 9 to 18 seek to make it a requirement that the affirmative resolution procedure be used for every set of regulations that Ministers want to propose under the procurement chapters of these two free trade agreements.

In making the case, I note that the affirmative resolution procedure is by no means a perfect process. However, it is better than the negative procedure. Without the affirmative process, Ministers would have carte blanche to introduce regulations based on these procurement chapters without the slightest hint of anything resembling parliamentary scrutiny. The negative resolution procedure that the Government propose is the least rigorous of all parliamentary procedures available to the House for scrutiny.

Having served in government, I can understand the Minister's appetite to avoid scrutiny. There is very little to be gained for a Minister of State or an Under-Secretary of State in having to come and justify to a parliamentary Committee why particular regulations should be introduced. However, it is none the less important that Parliament has the opportunity to ask questions about regulations that are being introduced and to consider whether they fit with the objectives that were set out for the trade negotiations and actually seek to achieve those objectives.

It is worth remembering that the last negative instrument to be successfully annulled, as I understand it, was the Paraffin (Maximum Retail Prices) (Revocation) (No. 3) Order 1979. With such a small chance of a negative instrument being successfully annulled, I can well understand the appetite of Ministers to use this process.

Sir James Duddridge: Does not the evidence that the hon. Gentleman has brought forward actually negate his case? If there was a genuine problem and there had been some error, the Committee would have voted against it or, indeed, the Government would have withdrawn the measure.

Gareth Thomas: I gently suggest to the Minister that it is much better not to get ourselves into the position where we have to persuade Members from all parts of the House to vote down an order. One swallow does not make a summer. Just because there is an example in the far distant past that we should endorse negative instrument, a little bit of parliamentary scrutiny and pressure on the Minister, and a few nerves to make the Minister check their brief in more detail before signing off on a set of regulations, would seem sensible. The scrutiny arrangements for the Australia FTA to date have been poor, and we have had no debate on the Floor of the House on the New Zealand FTA, apart from the Second Reading of this Bill. Given that, we should switch from the negative to the affirmative process, and I gently encourage him to adopt an even more reasonable tone than he has adopted up until now.

Sir James Duddridge: I am sure the Whips will note with criticism the hon. Gentleman saying that I have been reasonable. In all seriousness, I thank hon. Members for the amendments and I hope to provide reassurance as to why the measures are necessary. The hon. Gentleman says he wants to hold my feet to the fire. He suggested that I may not read the brief quite as closely if I do not have to defend it in Parliament, but I will ensure that I do that anyway. I will regularly check my brief.

It is worth remembering that the amendments would not be a vote on the agreements. They would be a vote on the secondary legislation of a trade agreement. By the time these agreements enter into force, Parliament will already have had the opportunity to scrutinise the obligations of the procurement chapter in these agreements through the process set out in the Constitutional Reform and Governance Act 2010. The Government are certainly committed to transparency in our trading arrangements, and we have put in place a suite of enhanced transparency and scrutiny arrangements that go well beyond our statutory obligations, and we will continue to do so. That includes providing the International Trade Committee and the Lords International Agreements Committee with at least three months to report on the agreements

[Sir James Duddridge]

before Parliament scrutinises them more formally through the process set out in the Constitutional Reform and Governance Act, which comes later.

For the Australia agreement, the period was triggered after Parliament had had the deal available to scrutinise for over six months, and it has already been subject to scrutiny through the Trade and Agriculture Commission, which published its report in April 2022. The Department has since responded with the publication of the Australia agreement report under section 42 of the Agriculture Act 2020. In addition, future changes in the procurement chapters will relate mostly to machinery of government changes and the subsequent updating of lists.

This is not a novel procedure. Section 1 of the Trade Act 2021 enabled the implementation of the UK's membership of the World Trade Organisation agreement on government procurement to operate in a similar way. This approach was acceptable to Parliament, and we received no negative comments from the Delegated Powers and Regulatory Reform Committee. These sessions and holding Ministers to account are useful, but Ministers are a limited resource. We are not an infinite number, and we should perhaps focus on the more critical pieces of legislation rather than just statutory instruments. I therefore ask the hon. Member to withdraw his amendment.

Gareth Thomas: I am grateful to the Minister for his response, but I gently suggest that we have not been deluged with regulations from the Department for International Trade, so I do not buy his argument that Ministers or shadow Ministers are so busy that there is no time to discuss regulations. If our amendment is accepted, it may well be that our debates would be relatively short, and they would provide the opportunity to ask questions and raise issues that are slightly outwith this debate but important to a range of stakeholders outside the House. It would make sense to switch from the negative to the affirmative process, so I intend to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 5]

AYES

Esterson, Bill	Qaisar, Ms Anum
Greenwood, Lilian	Russell-Moyle, Lloyd
Griffith, Dame Nia	
Hendry, Drew	Thomas, Gareth

NOES

Afolami, Bim	Gibson, Peter
Bowie, Andrew	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin

Question accordingly negatived.

Gareth Thomas: I beg to move amendment 6, in schedule 2, page 10, leave out lines 31 to 38.

Amendment 6 would delete part 3 of schedule 2. I want to focus on what that would mean. Part 3 says:

"The power to make regulations under section 1 in relation to"

both Government procurement chapters, or

"any modification of either Chapter which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified."

The Minister seems to be asking for carte blanche to be able to make any change to the procurement chapters without proper parliamentary scrutiny, and certainly before the UK-New Zealand FTA has been ratified. I am open to persuasion as to why such a requirement is necessary, but I wonder whether Ministers are again seeking to avoid serious parliamentary scrutiny, specifically on the terms of the UK-New Zealand FTA. The Minister will know that there has not been any sustained debate in the Chamber on the whole of that free trade agreement. I look forward to hearing his justification for this particular part of schedule 2.

Sir James Duddridge: I hope to be able to provide that assurance. This part of the Bill is there not at the request of Ministers, but at the request of lawyers, to give legal certainty and predictability. It is a necessary part of the process of implementing trade agreements to make the legislation before ratifying.

The amendment would create legal uncertainty regarding the process of implementing the two agreements. Several steps need to be taken to get agreements into force and allow UK businesses and, indeed, consumers to benefit from the significant economic advantages that they provide. Entry into force is the final step. However, the UK can proceed to enter into force only after it has ratified the agreements. In turn, ratification may only be agreed to once all the necessary domestic legislation is in place. Without the provision that the amendment seeks to change, there would be legal uncertainty about whether domestic legislation could be made before ratification. That is the reason behind it. I hope that the hon. Gentleman, having heard my response, will withdraw what I hope will turn out to be a probing amendment.

3.45 pm

Gareth Thomas: I am grateful to the Minister for his explanation. I now understand a little better the reason for the provision. I will reflect on his remarks, but for now I will not press this to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 2 agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 4

EXTENT, COMMENCEMENT AND SHORT TITLE

Ms Qaisar: I beg to move amendment 2, in clause 4, page 3, line 5, at end insert—

"(4) This Act expires on 31 December 2027."

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

Amendment 8, in clause 4, page 3, line 5, at end insert—

"(4) This Act expires at the end of the period of two years beginning with the day on which it is passed."

Amendment 21, in clause 4, page 3, line 5, at end insert—

"(4) If the United Kingdom becomes a full member of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, this Act expires on the day that the United Kingdom becomes a full member."

Ms Qaisar: The UK Government are negotiating trade deals for the first time in more than 30 years, and that is not an easy task. Trade deals in matters of procurement are not just for Government photo ops; they impact on every fibre of our and our constituents' being. Therefore, we must have high levels of security at the start, during and at the end of discussion about the legislation. I appreciate that we have the CRaG—Constitutional Reform and Governance Act 2010—process during the drafting of legislation, but as has been said this afternoon, it does not guarantee a debate or any votes in Parliament. It is a poor scrutiny tool from the outset.

In setting an expiration date, our amendment would allow for scrutiny at the end. That would enable Parliament to judge the legislation's effectiveness on the proposed date of December 2027. That would also allow our constituents to examine the usefulness of the legislation in matters of procurement that have arisen over the years. We must also consider the potential of traders across the country getting locked into agreements that do not work for them. Consumer group Which? has already found that 72% of people in the UK do not want food that does not meet current standards coming in through trade deals. The majority of survey respondents—67%—also felt that the UK Government provide a poor level of information about new trade deals. The amendment would ensure that we bring public and parliamentary scrutiny to the forefront. I urge colleagues to support the amendment.

Gareth Thomas: Amendments 8 and 21 are probing amendments, to understand better how the Procurement Bill and potential accession to the CPTPP might affect the provisions in the procurement chapters of the Australia and New Zealand free trade agreements.

As I understand it, the Minister has touched on some of the reasons why the New Zealand and Australia free trade agreements need to stay on the statute book for considerable time to come, but I want to understand whether the Procurement Bill will provide the opportunity to sweep up the measures proposed by the two amendments, so that this Bill can be taken off the statute book to avoid any legal uncertainty. Clarity on that would be helpful. If there is a chance that the legislation will not be necessary, because the Procurement Bill would take the matter forward, that creates additional opportunities for Members to consider the impact of the trade legislation going forward.

I wonder whether Ministers might be tempted to think, "Let us stick with the Trade (Australia and New Zealand) Bill because we have no idea whether the Procurement Bill will survive in its current iteration." I say gently that, given the chaos in the Minister's party, one does not know which legislation will survive if there are further ministerial changes. He will understand that there has been considerable criticism of the Procurement Bill. Clearly, it would not be appropriate to dive into that now, but it would be helpful to understand the interplay between that crucial piece of UK domestic legislation and the two procurement chapters. If the experts in his Department are wrong about the concerns that Professor Sanchez-Graells outlined about possible GPA-minus provisions now being the problem for British exporters to Australia and Australian exporters coming here, the Procurement Bill might provide an opportunity to sort those problems out.

Amendment 21 refers to the CPTPP and the potential accession of the UK to it. It would be good to hear from the Minister how the negotiations are going and what might be a reasonable timeline for the House to have the chance to consider the accession documents to the CPTPP. I ask that because the provisions in the procurement chapter of the Australia free trade agreement appear to largely mirror the provisions in the procurement chapter of the CPTPP. Everything that has been written about the CPTPP suggests that we will be rule takers and will not be able to shape in any significant way the procurement chapter of the CPTPP that we might wish to join. Was that part of the motivation for Ministers deciding to just roll over and accept the request of the Australians for the GPA-minus provisions in the procurement chapter of the Australia FTA? We would simply have to accept them on joining the CPTPP.

The Minister will know that a series of trade experts have suggested that we will be rule takers if the CPTPP comes into force. We will not have much opportunity to influence the negotiations, and that is a considerable concern given that the idea of Britain being a rule taker was a motivation for many to vote for leaving the European Union. I look forward to the Minister explaining the interplay between provisions in the Trade (Australia and New Zealand) Bill and those in the Procurement Bill and the CPTPP.

Sir James Duddridge: I welcome the probing amendments tabled by the official Opposition and the amendment tabled by the Scottish National—or nationalist—party. Forgive me, but I forget which word it is. *[Interruption.]* I will do my homework better next time.

Amendments 2, 8 and 21 would ensure that the power in the Bill expired, even if provision under it was still required. The Bill is about implementing and maintaining our commitments in the procurement chapters of the agreements. That means that we need to ensure day one compliance as well as compliance beyond that. That is why the amendments that would remove the power are inappropriate. Although the amendments would permit the procurement chapters to be implemented, they would remove the power when it might be needed for modifications, and that would not be a satisfactory position to be in. Future modifications in the procurement chapters may relate to machinery of government changes and updating of lists. An example is when the Department for Culture, Media and Sport added digital. I do not think that we would want to come back to this Committee to make such a change.

Let me deal with amendments 8 and 21, tabled by the hon. Member for Harrow West. Bilateral trade agreements, like the ones dealt with in this Bill, sit alongside agreements like the comprehensive and progressive agreement for trans-Pacific partnership and the World Trade Organisation agreement on Government procurement. The procurement chapters of these deals will not be superseded by the accession to the trans-Pacific partnership. Accordingly, the powers in this Bill will still be needed after the accession in order to implement future modifications to both these agreements.

Gareth Thomas: Will the Minister give way?

Sir James Duddridge: I will, but I suspect I am coming to the hon. Gentleman's point.

Gareth Thomas: The Minister mentioned the GPA, which provides me with the opportunity to intervene and press him on it. Presumably the Government are still significant supporters of the GPA, but I hope that the Minister accepts my point about the need for the GPA to be a dynamic and more modernised agreement. If he does accept that, what are Ministers doing to try to convene signatories to the GPA in order to start the process of modernising that agreement?

Sir James Duddridge: I agree that the GPA should be dynamic. In terms of what Ministers are doing, I can speak for myself: at G20, I met Dr Bright Okogu, Professor Ngozi's right-hand man in the WTO, and I agreed that I would go to Geneva for probably a week and meet all the officials there to get up to speed with the detail at a quiet time, rather than the busy time of a multilateral agreement, to raise exactly these types of issues, because we believe in a free trading system globally and the value of promoting that for all UK equity—it is not just exports, but the cost of living and also development, which both of us care massively about.

I think that I have covered the issue about the CPTPP. I cannot give a running commentary on negotiations there. It is a high priority for the Government. At my most recent meetings with internationals, I raised it, both bilaterally and multilaterally, and I will continue to do so, as will other Ministers. The Australia deal and this Bill are a stepping stone to get there. As a precondition, we want to get this done so that we are on a firmer footing for the next transition.

Gareth Thomas: The hon. Gentleman will be well aware, I suspect, that one of the big concerns about the CPTPP relates to investor-state dispute settlement. One of the mildly reassuring things about the procurement chapters of the Australia and New Zealand FTAs is that they do not allow for investor-state dispute settlement to kick in in a very obvious way. The CPTPP appears to be much more explicitly in favour of ISDS. It would be helpful to understand from the Minister, at a time of his convenience, whether the Government are accepting the principles of ISDS, locked as they are into the CPTPP, or whether he is actively pushing for them to be deleted from the requirements that Britain has to sign up to in order to accede to the CPTPP.

Sir James Duddridge: I really cannot, as part of this Bill, give any more to the hon. Gentleman than I have done on my discussions in international forums and my intention to go out to Geneva. I want to go out there open-minded. A number of issues will be discussed in Geneva above and beyond this one, and I want to have an open discussion. I do not want to prioritise the hon. Gentleman's equities and desires, or anything else; I want to listen openly to what Dr Ngozi says, and talk about how her priorities fit with the Government's and how we can move forward together. That is the nature of multilateralism: because every member has a vote, the process can easily be held up, so I am resistant to being too strong in accepting what the hon. Gentleman has said. However, I am very sympathetic to it.

4 pm

Gareth Thomas: I am grateful to the Minister for his explanation about his upcoming meeting with the staff of Professor Ngozi, who is a great figure internationally. The Minister—I do not chastise him in any way for this—had to have a discussion with his Whip, the hon. Member for Workington, but the question I asked was whether ISDS was included in the CPTPP. I wonder whether the Minister might be willing to look at the record and perhaps drop me a note about the question I actually asked.

Sir James Duddridge: I will certainly do so.

Turning to the question of whether the powers fall away, as ever it is slightly more complicated than yes or no. The powers in clause 1(b) for dealing with matters arising out of, or related to, the FTA chapters will cease to exist for England, Wales and Northern Ireland when the new procurement system becomes law through the Procurement Bill, assuming that all happens; those functions will instead be carried out through the powers in clause 82 of that Bill. It is different for Scotland, because competency for treaty making is at the UK level, but the actual procurement legislation and processes are done by the devolved Assembly. Scotland has separate procurement regulations from the rest of the UK and will retain those regulations after the Procurement Bill comes into effect.

Ms Qaisar: The Minister struggled to say the name of the Scottish National party at the start of his speech. I was a modern studies teacher before my election, and I would be more than happy to share my old PowerPoints on Scottish politics with him if he is struggling to remember the name of the largest party in Scotland.

Over the course of today's sitting, we have heard time and time again—mainly from Opposition Members—that there has been a lack of scrutiny of this legislation. The amendment proposes that we can come back to this House in five years' time and discuss the reality of how this trade deal has impacted not just us but our constituents. Trade deals are no longer pieces of paper that are signed by Trade Secretaries—they impact the fibre of our constituencies across all four nations. We therefore intend to push the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 9.

Division No. 6]

AYES

Hendry, Drew	Qaisar, Ms Anum

NOES

Afolami, Bim	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin
Gibson, Peter	

Question accordingly negatived.

Clause 4 ordered to stand part of the Bill.

New Clause 1

IMPACT ASSESSMENT: FOUR NATIONS OF THE UK AND SOCIAL, ECONOMIC AND ENVIRONMENTAL IMPACTS

"(1) The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters within five years of the coming into force of Regulations made under section 1 of this Act and every five years thereafter.

(2) The impact assessment under subsection (1) must present an analysis of—

(a) the impact on each of the four nations of the United Kingdom; and

(b) social, economic and environmental impacts."—*(Ms Qaisar.)*

Brought up, and read the First time.

Ms Qaisar: 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 2—*Assessment of impact on hill farmers and crofters in Scotland—*

"(1) The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters on hill farmers and crofters in Scotland within six months of Regulations made under section 1 coming into force and every six months thereafter.

(2) The impact assessment under subsection (1) must be laid before both Houses of Parliament and before the Scottish Parliament."

New clause 3—*Impact assessment: Geographical Indications—*

"The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters on the operation of Geographical Indications in the United Kingdom within two years of Regulations made under section 1 of this Act coming into force."

New clause 4—*Impact assessment—*

"The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters within twelve months of the coming into force of Regulations made under section 1 of this Act and every three years thereafter."

Ms Qaisar: The SNP has proposed new clauses 1, 2 and 3 because we need impact assessments to fully examine the practicalities of these trade deals in matters of procurement, which is so important. I will begin with new clause 1. By examining the social, economic and environmental impacts, we can ensure that we are presented with a fair assessment. That is especially important, as we believe that the UK Government have rushed these trade deals and matters of procurement through Parliament with little to no scrutiny.

While the Bill is narrow in its focus on the procurement chapters of these two agreements, it is important to note the huge potential for imports to increase. Australia currently exports 5,000 tonnes of beef to the UK each year, but the agreement will allow 35,000 tonnes in the first year, increasing each year after that. We know that Australian producers do not have to adhere to the same animal welfare and environmental standards as Scottish farmers. It is a similar story with the agreement with New Zealand, under which exports to the UK beef market will rise to 68,000 tonnes by year 15 of the agreement.

Crucially, there are almost no benefits in this deal for Scotland's food and drink sector. All this legislation achieves is to expose the Scottish agricultural market to the most export-orientated food producers in the world. Our new clause seeks to ensure that we can examine the impact of the deal. The UK Government's own analysis shows that the deal with New Zealand will deliver a mere 0.03% of UK GDP benefit over 15 years, and the Australia deal will contribute 0.08%. Scotland has been forced against its will to trade outside the EU, tied to this UK Government, so that they can pretend Brexit is working. That is an undesirable position to be in, but unfortunately it is the position we are in, so we must try to protect Scottish interests as best we can. The impact of this agreement will be felt all across Scotland, so I urge colleagues to back new clause 1, as an impact assessment will improve this piece of legislation and future trade deals.

New clause 2 would provide for us to assess the impact of the implementation of the procurement chapters on hill farmers and crofters in Scotland every six months. Scottish producers are likely to be undercut by lower-quality goods in procurement, and regular impact assessment would allow us to keep track of any potential undercutting. It would also highlight the potential harm that this deal would do to Scottish farmers.

We know that Australia and New Zealand producers are not held to the high standards that Scottish producers are. The UK has put no environmental conditions on the agricultural products it will accept from Australia and New Zealand. The UK Government's own advisers have conceded that pesticide overuse in Australia is a valid concern for UK farming. There are 144 highly hazardous pesticides authorised for use in Australia—many of the bee-killing variety—which is almost double the figure in the UK. Australian poultry farmers use 16 times more antibiotics per animal than British poultry farmers, and the Australian pig industry uses three times more antibiotics per animal.

While matters relating to food standards fall within the competency of devolved Administrations, they have no power to exclude imported products on the basis of how they have been produced. The Scottish Government have no power to exclude produce awash with pesticides and antibiotics from Australia, and already since Brexit the UK Government have fallen behind the EU on farm antibiotic standards. This undercutting of standards means that meat costs less in the UK if it has been shipped in from Australia or New Zealand. Where does that leave Scottish farmers? Analysis by Quality Meat Scotland has found that

"New Zealand beef farmgate prices are 25-30% lower than Scottish farmgate prices"

and that New Zealand lamb farm-gate prices are

"10% lower than their Scottish counterparts",

undercutting Scottish farmers on price.

We are in a food security crisis within a cost of living crisis. New clause 2 would ensure that future generations of hill farmers and crofters in Scotland are protected. Last week, during the Bill's evidence session, we heard from Donald MacKinnon from the Scottish Crofting Federation, who said

[Ms Qaisar]

"I reiterate that it is so important that these trade deals are given the scrutiny that they deserve. The really important thing is that we consider all the potential unintended consequences—for our sector, in particular—of what may be well meaning motivations."—[*Official Report, Trade (Australia and New Zealand) Public Bill Committee,* 12 October 2022; c. 32, Q39.]

None of us has a crystal ball to show us what potential unintended consequences may result from the legislation we are debating. Therefore, it makes logical and economic sense for the UK Government to commit to impact assessments and to back new clause 2.

Going beyond the unfair economics, we do not believe that the community-level impacts that these deals will have on our rural languages, rural local cultures and landscape and on the mental health of farmers, food processors and all those who support them across Scotland have been adequately taken into account. Therefore, supporting new clause 2 would ensure that we put Scottish hill farmers and crofters at the heart of this legislation. Crucially, having impact assessments could help to mitigate the damaging impact that these deals could have on Scottish producers. They would also ensure accountability, as we have stated that they would "be laid before both Houses of Parliament and before the Scottish Parliament."

Moving on to new clause 3, we also propose an impact assessment on geographically indications. The food and drink industry is vital in Scotland. Scotland is, of course, world-renowned for its production of whisky, beef and lamb.

Drew Hendry: My hon. Friend mentioned Scotch whisky, and having the safeguard of geographical protections is absolutely vital to that industry, as it is for many others, and I am sure she will touch on that. Is it not a small ask for the Government to include this, in a week where they have just abandoned their pledge to freeze alcohol duty, costing millions, and where their mishandling of the trade negotiations with India threaten even higher tariffs for the Scotch whisky industry, which is a massive export for Scotland? Of course, it sits very proudly in the UK balance of trade as well.

Ms Qaisar: I thank my hon. Friend for his intervention. He is correct, because there is real concern that these industries will be threatened by imitation products, which risks undercutting Scottish companies.

Geographical indications are of considerable importance for Scotland because, as I say, they protect the origins of our world-renowned products. Examples include Scotch beef, Scottish-farmed salmon and, as my hon. Friend said, Scotch whisky. The UK Government did not secure recognition of agrifood geographical indications in their agreement with New Zealand, which has, with the EU, now succeeded in gaining recognition of its agrifood GIs in its free trade agreements.

The UK-Australia deal only commits to letting the UK put forward potential geographical indications if Australia introduces bespoke GI schemes for iconic Scottish spirits and agrifoods, rather than including a full list of recognised GIs from day one of the deal, as well as the ability to enhance the list.

Drew Hendry: Does my hon. Friend find it strange that this has been omitted from the Bill and has not been considered until now, given the impact on rural constituencies across Scotland and the fact that one of the people who presented the Bill is in fact the Secretary of State for Scotland?

Ms Qaisar: I thank my hon. Friend for his intervention; he is completely correct. What people may fail to consider—it is important to remember this—is that the food and drinks industry is twice as important to the Scottish economy as to the UK as a whole, and the food and drink export trade is four times as important to the Scottish economy. The legislation in front of us will impact industry, with the UK-Australia trade deal expected to cause a £94 million hit to UK farming, forestry and fishing per year and a £225 million hit to the semi-processed food sector per year. However, UK Ministers pressed ahead with these deals despite prior warnings, effectively treating Scottish interests as expendable.

4.15 pm

This new clause is key, because it is not just about geographical indicators in Scotland; it is about identity. To protect world-renowned produce such as Scotch whisky or even Cornish pasties, Stilton cheese, Gloucester Old Spots and Jersey Royal potatoes, it is vital that we back the new clause, and I urge colleagues to vote for it.

Dame Nia Griffith: I rise to speak about new clause 4, but I will briefly mention new clauses 1, 2 and 3. I commend the SNP for laying them, but I gently suggest that the issues in them could be covered in new clause 4, which proposes having a proper impact assessment that takes account of the interests of the four nations.

I will not repeat everything I said this morning, which I am sure the Committee will be glad to hear, but the reasons for wanting country-specific impact assessments—and region-specific impact assessments in England—of the ongoing implementation of the Bill, its effect on procurement and the economic effects of the procurement clauses of the FTAs are very much to do the different characteristics and the different proportions of GVA that are countable by different sectors, as mentioned by the hon. Member for Airdrie and Shotts. Within the devolution settlement there are powers regarding agriculture, economic development and procurement policies that the different nations have, which all overlap with what is in the Bill.

There are particular areas that are of great concern. Earlier I mentioned—I do not think the Minister has quite answered this—the power to unilaterally accelerate the elimination of tariffs. Clearly, it would be of huge importance if the UK Government wished to do that and allow in more meat from Australia and New Zealand. We would clearly want consultation on that, but we would also need proper impact assessments to evaluate the situation, and those need to be country-specific impact assessments. As I mentioned earlier, we have is just a group of figures that are region and nation-based.

The other issue—the Minister looked rather quizzically at me before—is the massive use of antibiotics by certain farmers in Australia and New Zealand and the cumulative impact that that will have on the food chain. Again, that needs to be looked at in detail from the perspective of not only the potential commercial advantage it could give over Welsh, Scottish and Cumbrian farmers but what it is doing to our food chain. Linked to that, of course, are pesticides and the sad fact that the Government have accepted the use of pesticides that we would not

use in this country. None of these things is going to go away—they will be there for some considerable time and could be in our systems permanently.

On geographical indications, it is an immense disappointment that neither the Australian nor the New Zealand trade agreements include geographical indications. It is a complete failure by the UK Government. The EU made an agreement with New Zealand that did include geographical indications. There will clearly be a competitive advantage for goods from the EU being able to fly their flag and show geographical indications that our goods and our exports will not have. That is a great pity.

I return to the impact on the different nations of the procurement parts of the Bill. The New Zealand agreement contains a general bilateral safeguard mechanism, which is available if the elimination of customs duty causes an increase in imports that threatens or results in serious injury to domestic industries for any given good or products. The Welsh Government does not have that power, because it is not regionally or nationally based—a challenge on those grounds has to be put forward by the UK. We need to have information from the nations about the impact on the particular sectors, which will inform whether there is a danger and whether to flag it up and invoke that bilateral safety mechanism.

It is extremely important that we should not let negative impacts accumulate. That is why we propose an impact assessment within 12 months, and repeated assessments every three years. We know there is a 15-year gap until the full free tariffs come in, on meat, for example, but it is no good waiting 15 years and then finding we have no industry. We should be flagging up and knowing exactly what is happening. As the Minister said, it will not happen on day one; it will be gradual. We need a very specific impact assessment so that we know what is happening.

It may surprise people to know that New Zealand has only ratified six of the eight core International Labour Organisation conventions, which we touched on briefly this morning. It does not have a minimum age for starting work, as long as the work does not interfere with school or is not a matter of concern for health and safety. The Welsh Government have asked for clarification from the UK Government on whether not adhering to the same labour standards as the UK will give New Zealand an advantage. In addition, New Zealand does not protect strikes on economic and social grounds, only on collective bargaining and health and safety. These are important issues and we must keep an eye on exactly what is going on with the procurement and what opportunities and challenges there are, and ensure that the Minister takes action sooner rather than later if we find there are difficulties.

Finally, I would reiterate that there are huge differences between different parts of England and different nations of the UK in terms of the sectors they are dependent on and the impact that anything injurious to any of those sectors might have for their populations.

Sir James Duddridge: May I clarify, Mr Twigg, that we are considering all the new clauses together?

The Chair: Yes. There will be separate votes, but we are considering the new clauses together.

Sir James Duddridge: Thank, you Mr Twigg.

The Government are committed to transparency. We have put forward a suite of enhanced transparency and scrutiny arrangements that go well beyond our statutory obligations.

Lloyd Russell-Moyle: Will the Minister give way on that point?

Sir James Duddridge: So early? Yes, I am more than happy to.

Lloyd Russell-Moyle: I am pleased to hear about the Government's commitment to transparency, but at 3 o'clock, the Secretary of State cancelled her meeting with the Chair of the International Trade Committee. He turned up to the Department, where an official said, "The Secretary of State is going to be in the House for votes so cannot meet you now. We will have to postpone to another week." Is that the reset that we were promised and the kind of openness and transparency that we should expect?

Sir James Duddridge: I have made the point that we want to establish a good relationship with the International Trade Committee, and the Secretary of State giving evidence to it is clearly part of that. The hon. Gentleman will know that Ministers sometimes need to deal with matters urgently. I do not know what other matters are going on, but I am sure that the Secretary of State has apologised profusely and looks forward—as I do—to attending that Committee. I am more than happy to update the hon. Gentleman in a bit more detail, informally—perhaps even later today if I have time to go back to the Department.

Gareth Thomas: As part of this new spirit of transparency from the new ministerial team at the Department for International Trade, will the Minister commit to publishing the analysis used to produce the impact assessment that the Government published for the FTAs? As I understand it, Ministers are refusing to publish the modelling used to generate that assessment. That leaves a slightly cynical taste in the mouth. One suspects that the economic model is not being released because the impact assessment was perhaps slightly inflated.

Sir James Duddridge: I would like to make it clear that this is not a new plan for transparency. I am being credited, to a degree, with what is just the old order and transparency—*[Interruption.]*

The Chair: Order. Could we stick to the matter at hand?

Sir James Duddridge: I am sorry, Mr Twigg. I will stick entirely to new clauses 1, 2 and 3.

I am more than happy to take away the issue of impact assessments, and look at the formula and what was disclosed. I have read the document, but it is very big. I will probe and look at what has already been disclosed before asking the Department to disclose further information.

Gareth Thomas: Will the Minister give way?

Sir James Duddridge: I am more than happy to give way but I think I am unlikely to be able to provide the hon. Gentleman with more information than I already have.

The Chair: I would like us to stick to the new clauses as well.

Gareth Thomas: I suggest to the Minister that he should approach that discussion with his officials in a slightly different way. Why does he not go to his officials and ask, "Is there any reason why we cannot publish all the economic modelling behind the impact assessment?"

Sir James Duddridge: I thank the hon. Gentleman for his suggestions but, with respect, I will do things my way if that is okay.

We published impact assessments within the agreements—we have spoken about that already. In the reports, the Department provides analytical evidence as a base, but we will do more. I have already spoken about the five-year and two-year assessments.

On UK suppliers competing for procurements, there is a designated team in the Department—complemented by staff from Australia and New Zealand—who will support UK businesses across the country. I have already seen a bit of that.

Ms Qaisar: I am very pleased to hear the Minister say that he has been meeting businesses to reassure them, but how many official visits has he made to Scotland to speak to and reassure farmers, hill crofters and those with Scotch whisky distilleries about these trade deals?

Sir James Duddridge: I believe that the Secretary of State was tasting Scotch whisky in Scotland last week—that was certainly the plan, but forgive me if things changed. I have plans to go to Scotland myself, but I do not want to say where I am going because I have not yet informed the Member of Parliament for that area. The Department will ensure that I do visits across every nation, every region and in every sector, so that I am not going back to Ipswich or the east of England to look at food and drink every single time. As a reward to this wonderful Committee, if anyone wants me to come and visit their constituency—particularly with the Bill's export or procurement angles in mind, and perhaps some other bits and pieces as well—I would be more than happy to do so.

4.30 pm

The hon. Member for Llanelli mentioned antibiotics. I was quizzical because I thought she was talking about their procurement rather than the issue of antibiotics in meat that is then exported. I assure her that all agri-food products imported into the UK under existing or future trade agreements will, as now, have to comply with the important requirements, which include clear controls on limits for veterinary medicine residues in meat and other animals.

Dame Nia Griffith: Will the Minister give way?

Sir James Duddridge: I may just be coming to the point that the hon. Lady wishes to make. The UK prohibits the use of artificial growth hormones in both domestic production and imported meats. Nothing in the deal changes that important issue. The Trade and Agriculture Commission found that there was

"no reason to believe the scheme is not reliable and robust."

The Chair: Order. I will suspend the sitting for Divisions in the House. I remind Members to come back promptly so that we can get on, as we are nearing the end of proceedings.

4.31 pm

Sitting suspended for Divisions in the House.

5.33 pm

On resuming—

The Chair: Order. I think you were coming towards the end of your speech, Minister.

Sir James Duddridge: Yes. I have just two or three points. On the argument of the hon. Member for Llanelli, who challenged me outside the Committee Room to go further and be bolder, absolutely the Government should go further and be bolder in this regard, but not in this procurement Bill.

On Jersey potatoes, I was tempted to offer a PowerPoint presentation on the United Kingdom, given that the hon. Member for Airdrie and Shotts is going to send me one on Scotland. I remind the Committee that Jersey is a Crown dependency, and Crown dependencies and overseas territories are not part of this Bill.

I turn to some of the issues raised by the Scottish National party. I think they are inadvertently—I am sure not vertently, if that is a word—part of the anti-growth coalition, because my briefing says that this Bill is rather good for Scotland. I find myself in the position of promoting Scotland—perhaps quite rightly, as the Minister—while the hon. Lady is talking it down a little. The Australia FTA alone is expected to boost the economy by approximately £120 million. Adopt this good news; put it in a press release. Tariffs on Scotch whisky have been cut to 0%.

Drew Hendry: Will the Minister give way?

Sir James Duddridge: May I finish talking about whisky?

Drew Hendry: It is on that subject. I am grateful to the Minister for giving way. To be clear, this is about the geographical indicators not the deal itself, in terms of the trade involved. It is about protecting Scottish whisky and the brand.

Sir James Duddridge: There are no changes to geographical indicators in the Bill, but that is not to say we could not do something differently in future. I know there are issues with different spellings of whisky in different places, including in Northern Ireland. I also understand that there is a Northern Ireland issue to this. It has many distilleries—I believe eight—and Members of the Committee are invited to taste the products of some on 27 October.

Gareth Thomas: May I point out gently to the Minister that the point on GIs is that Ministers secured nothing in terms of protection for British GIs in the Australia deal. That comes on top of a very lengthy delay to get any GIs agreed with Japan. There is a worrying pattern of British businesses and good British products not getting the protection they deserve.

Sir James Duddridge: This is not an adverse change. It is just the start of an agreement and not everything can be done on day one.

I have further good news for the Scottish National party. It is slightly outside the scope of procurement, but there will be big benefits from the financial services industry, particularly in Edinburgh. Exporters were very keen, when the Secretary of State went there, to explain that they were happy about tariffs being reduced. That will reduce prices and increase profit. There is good news for Scottish salmon—not for the salmon themselves, as they will be dead—because they are guaranteed to clear customs in six hours. Hon. Members will know that time is an issue with fresh products. Scotland's services firms, of which there are many, will benefit from access to millions of pounds worth of extra Government contracts. That is good news for the United Kingdom and good news for Scotland.

The Chair: I call Ms Anum Qaisar. You might just have a few seconds.

Ms Qaisar: Thank you, Mr Twigg. I thank the Minister for his contribution. He is more than welcome to come to Scotland. I have a distillery in my constituency of Airdrie and Shotts and he is more than welcome to visit, though I warn him that he may not get as good a response as he hopes, as a Tory MP walking the streets of Scotland.

The Chair: Order. A Division has been called. The maximum is 15 minutes but please be back as quickly as you can after the vote. We shall continue then if the Whips are happy.

5.37 pm

Sitting suspended for a Division in the House.

5.49 pm

On resuming—

The Chair: Anum Qaisar, I am not sure you had quite finished speaking. Do you want to continue?

Ms Qaisar: Thank you, Mr Twigg. I will start by correcting the record. I made a comment about the Minister visiting Scotland, and said that he may not feel welcome. Of course, he is always welcome to Scotland; I have even invited him to visit businesses in my constituency.

Sir James Duddridge: Any misunderstanding, I am sure, was accidental. The hon. Lady did actually invite me. I understand how comments can be misinterpreted, and we need to be very careful. Inadvertently, some people might have taken fright at the suggestion that I might not be welcome in Scotland. I have always found Scotland to be very hospitable and welcoming, and look forward to visiting. This perhaps ups the priority of visiting the hon. Lady's constituency.

Ms Qaisar: That invite is on the table. The reality is, of course, that Ministers in the UK Government have not protected geographical indications. The Minister claimed that he could not do everything on day one. That is understandable, but this is before day one; he has a prime opportunity to do something. I urge him and his colleagues to back new clauses 1, 2, and specifically 3, which protects geographical indicators.

I should say to Labour colleagues that new clause 1 does not mention Scotland specifically. We would like impact assessments on all four nations. The hon. Member for Llanelli said that it was a complete failure of the UK Government not to include geographical indicators, so I hope that I can look forward to her and her colleagues' support for new clause 3.

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

The Committee divided: Ayes 2, Noes 8.

Division No. 7]

AYES

Hendry, Drew	Qaisar, Ms Anum

NOES

Afolami, Bim	Gibson, Peter
Clarkson, Chris	Holden, Mr Richard
Duddridge, Sir James	Jenkinson, Mark
Fell, Simon	Vickers, Martin

Question accordingly negatived.

New Clause 2

ASSESSMENT OF IMPACT ON HILL FARMERS AND CROFTERS IN SCOTLAND

"(1) The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters on hill farmers and crofters in Scotland within six months of Regulations made under section 1 coming into force and every six months thereafter.

(2) The impact assessment under subsection (1) must be laid before both Houses of Parliament and before the Scottish Parliament."—*(Ms Qaisar.)*

Brought up, and read the First time.

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

The Committee divided: Ayes 2, Noes 8.

Division No. 8]

AYES

Hendry, Drew	Qaisar, Ms Anum

NOES

Afolami, Bim	Gibson, Peter
Clarkson, Chris	Holden, Mr Richard
Duddridge, Sir James	Jenkinson, Mark
Fell, Simon	Vickers, Martin

Question accordingly negatived.

New Clause 3

IMPACT ASSESSMENT: GEOGRAPHICAL INDICATIONS

"The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters on the operation of Geographical Indications in the United Kingdom within two years of Regulations made under section 1 of this Act coming into force."—*(Drew Hendry.)*

Brought up, and read the First time.

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

The Committee divided: Ayes 2, Noes 9.

Division No. 9]

AYES

Hendry, Drew	Qaisar, Ms Anum

NOES

Afolami, Bim	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin
Gibson, Peter	

Question accordingly negatived.

New Clause 4

IMPACT ASSESSMENT

"The Secretary of State must publish an assessment of the impact of the implementation of the procurement Chapters within twelve months of the coming into force of Regulations made under section 1 of this Act and every three years thereafter."—*(Gareth Thomas.)*

Brought up, and read the First time.

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

The Committee divided: Ayes 6, Noes 9.

Division No. 10]

AYES

Greenwood, Lilian	Qaisar, Ms Anum
Griffith, Dame Nia	Russell-Moyle, Lloyd
Hendry, Drew	Thomas, Gareth

NOES

Afolami, Bim	Holden, Mr Richard
Clarkson, Chris	Jenkinson, Mark
Duddridge, Sir James	Mullan, Dr Kieran
Fell, Simon	Vickers, Martin
Gibson, Peter	

Question accordingly negatived.

Sir James Duddridge: On a point of order, Mr Twigg. I thank the Clerks for their advice, the Doorkeepers for keeping good order, my super-excellent team of officials, and my private office, who are truly wonderful—so much so that I have asked my private secretary to take a note of all the Clerks and Doorkeepers who helped, and have asked them to drinks in the Churchill Room, in the hope that we will soon complete Report and Third Reading. I extend the invitation to you, Mr Twigg, and to Mr Pritchard. This legislation implements the Department's first from-scratch agreement, and officials of the Department have done us proud.

As we await Report and Third Reading, however, issues are bound to crop up. I encourage hon. Members to discuss those with me. In fact, at 7 o'clock this evening, I will be available in the Smoking Room, if anyone wishes to continue discussion on the agreements. I am more than happy to buy Members whatever tickles their fancy—an Australian wine, a New Zealand wine, an English wine, or whiskies from all nations.

6 pm

Gareth Thomas: Further to that point of order, Mr Twigg. On behalf of the official Opposition, I add my thanks to you and to Mr Pritchard for the generous way in which you have chaired proceedings. I must also thank the Clerks for their assistance with drafting, the *Hansard* staff for the challenging job that they will have to do to understand my notes in particular, and the Doorkeepers for keeping order. I can well understand why the Minister praises his officials; I hope others will understand if I take the opportunity to praise my one member of staff, who has assisted me in preparing for the Committee.

We have had a lively and provocative debate, in which a whole series of serious issues were raised by hon. Members from the Scottish National party and from the Labour party. I am grateful to my hon. Friends the Members for Llanelli, for Nottingham South, for Brighton, Kemptown, and for Sefton Central for their support.

I note that not one Conservative Back Bencher took the opportunity to praise the person who negotiated the Australia and New Zealand deals today—

Sir James Duddridge: Will the hon. Gentleman give way?

The Chair: Order. No. This is a point of order.

Gareth Thomas: With that, I conclude my remarks.

Ms Qaisar: Further to that point of order, Mr Twigg. I will not keep the Committee much longer. I echo the thanks to the Clerks and the Doorkeepers, who are the backbone of this place. Somehow, I seem to have had more help than the official Opposition: Katie, Clo and Calum have been fantastic on the research and background. I am sure that my hon. Friend the Member for Inverness, Nairn, Badenoch and Strathspey and I, and others in the SNP, will be knocking on the Minister's door in coming weeks, championing Scotland, Scottish farmers and Scottish products.

Bill to be reported, without amendment.

6.2 pm

Committee rose.

Written evidence to be reported to the House

TANB03 Farmers' Union of Wales