PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NUCLEAR SAFEGUARDS BILL

Sixth Sitting

Tuesday 14 November 2017

(Afternoon)

CONTENTS

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

not later than

Saturday 18 November 2017

The Committee consisted of the following Members:

Chairs: † James Gray, Steve McCabe

Blomfield, Paul *(Sheffield Central)* (Lab)
† Bradley, Ben *(Mansfield)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Debbonaire, Thangam *(Bristol West)* (Lab)
Gibson, Patricia *(North Ayrshire and Arran)* (SNP)
† Gill, Preet Kaur *(Birmingham, Edgbaston)* (Lab/Co-op)
† Harrington, Richard *(Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)*
† Harris, Rebecca *(Castle Point)* (Con)
† Harrison, Trudy *(Copeland)* (Con)
† Hendry, Drew *(Inverness, Nairn, Badenoch and Strathspey)* (SNP)
† Lewer, Andrew *(Northampton South)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Robinson, Mary *(Cheadle)* (Con)
† Smith, Eleanor *(Wolverhampton South West)* (Lab)
† Sunak, Rishi *(Richmond (Yorks))* (Con)
† Syms, Sir Robert *(Poole)* (Con)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)
† Wragg, Mr William *(Hazel Grove)* (Con)

Kenneth Fox, Rob Cope, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 14 November 2017

(Afternoon)

[James Gray *in the Chair*]

Nuclear Safeguards Bill

Clause 4

Commencement

2 pm

Dr Alan Whitehead (Southampton, Test) (Lab): I beg to move amendment 7, in clause 4, page 5, line 6, at end add—

"(5) Regulations under subsection (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

This amendment would prevent the commencement of clauses 1 and 2 without the regulations made under this section being subject to the affirmative procedure.

This is a simple amendment that repeats the requirement suggested in other amendments for secondary legislation to be subject to the affirmative, rather than negative, procedure. I made the case this morning for the power of the affirmative procedure. As hon. Members can see, the amendment would ensure that regulations under subsection (2) could not be made unless a draft instrument were laid before Parliament and approved by a resolution of each House—that means an affirmative resolution.

I do not think we need go over the difference between an affirmative and a negative resolution and why we think affirmative resolutions are always better. Through the amendment, we simply seek to ensure that regulations made under subsection (2) are subject to the affirmative procedure. I do not think we need to detain the Committee too much further with detailed discussion. We think this is important and consider that it should be included in the Bill, to ensure that matters properly come before the House when these issues are discussed.

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): Good afternoon, everybody. I thank the hon. Gentleman for not repeating what he said about affirmative and negative procedure, because those points were well made this morning. I have sympathy, of course, with his broad aims of strengthening parliamentary scrutiny, but I argue that this is not an appropriate process to put in place. Parliament will have already passed the Bill and approved the legislation. I am confident that there are appropriate processes in place to ensure proper parliamentary scrutiny of the substantive powers in the Bill.

Clause 4 contains a commencement power. It is entirely conventional for the commencement power not to be subject to any parliamentary procedure because, as I say, it brings into force law that Parliament has already enacted. Clauses 1 and 2 contain delegated powers that must—I know "must" is one of the hon. Gentleman's favourite words in the English language—be exercised before the UK's new nuclear safeguards regime can be brought into effect. The regulations necessary to do so will be subject to the draft affirmative procedure. It would serve no useful purpose, in the Government's view, to make the power to commence those delegated powers subject to the draft affirmative procedure.

I would like to reassure hon. Members that draft nuclear safeguard regulations are currently being worked on in close collaboration with the Office for Nuclear Regulation, and we will provide drafts during the passage of the legislation. The precise arrangements for the future safeguards regime and the details of the regulations will be subject to further consideration and detailed consultation with the regulator, industry and other interested parties.

Dr Whitehead: I am grateful to the Minister for mentioning that detailed regulations will be available during the Bill's passage. Would he perhaps be more specific about that and say when those draft regulations might appear? I assume it will not be in Committee, but it should certainly be before Report.

Richard Harrington: As I said, my hope is that that will happen soon. I cannot confirm that it will be before Report, because I do not know when that will be—unless the hon. Gentleman has any information. I certainly hope that it will happen by the end of this year or very early in January, but that is allowing myself a bit of wiggle room. There is no great secret going on; we are just ensuring that all the detail and everything is in place. With that in mind, I hope that the hon. Gentleman will feel able to withdraw the amendment.

Dr Whitehead: I thank the Minister for his explanation of the circumstances under which commencement would take place, and what regulations would proceed under that. Although I am not completely convinced that it provides exactly the safeguards that we require, it does go a long way towards reassuring us on the status of the Bill, so we will not press the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Amendment 8 was debated previously, but I do not think that the hon. Gentleman seeks to divide the Committee—I think not, from his lack of response.

Clause 4 ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

New Clause 1

Purpose

"The purpose of this Act is to provide for a contingent arrangement for nuclear safeguarding arrangements under the terms of the Nuclear Non-Proliferation Treaty in the event that the United Kingdom no longer has membership or associate membership of EURATOM, to ensure that qualifying nuclear material, facilities or equipment are only available for use for civil activities (whether in the United Kingdom or elsewhere)." *—(Dr Whitehead.)*

This new clause would be a purpose clause, to establish that the provisions of the Bill are contingency arrangements if it proves impossible to establish an association with EURATOM after the UK's withdrawal from the EU.

Brought up, and read the First time.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 3]

AYES

Carden, Dan	Norris, Alex
Debbonaire, Thangam	Smith, Eleanor
Gill, Preet Kaur	
Hendry, Drew	Whitehead, Dr Alan

NOES

Bradley, Ben	Maclean, Rachel
Harrington, Richard	Robinson, Mary
Harris, Rebecca	Sunak, Rishi
Harrison, Trudy	Syms, Sir Robert
Lewer, Andrew	Wragg, Mr William

Question accordingly negatived.

New Clause 2

Transition Period

(1) The Secretary of State shall, upon laying any statement under subsection (3A) of section 1, seek to secure a transition period prior to the implementation of withdrawal from EURATOM of not less than two years.

(2) During a transition period under subsection (1), any—

(a) conditions under which the UK is a member of EURATOM before exit day shall continue to apply;

(b) obligations upon the UK which derive from membership of EURATOM before exit day shall continue to apply;

(c) structures for UK participation in EURATOM that are in place before exit day shall be maintained; and

(d) financial commitment to EURATOM made by the UK during the course of UK membership of EURATOM before exit day shall be honoured.—*(Dr Whitehead.)*

This new clause would aim to put in place a transition period, during which the UK could seek to secure an association to EURATOM.

Brought up, and read the First time.

Dr Whitehead: I beg to move, That the clause be read a Second time.

The new clause refers to the possibility of seeking a transition period prior to the UK leaving Euratom of not less than two years. It states that during that transition period,

"conditions under which the UK is a member of EURATOM before exit day shall continue to apply…obligations upon the UK which derive from membership of EURATOM before exit day shall continue to apply…structures for UK participation in EURATOM that are in place before exit day shall be maintained"—

and most importantly—

"financial commitment to EURATOM made by the UK during the course of UK membership of EURATOM before exit day shall be honoured."

Nothing in the new clause suggests that we shall be members of Euratom in perpetuity.

Sir Robert Syms (Poole) (Con): As I understand it, the hon. Gentleman is suggesting that we continue to be a member of Euratom for two years, during which time we would presumably continue to pay our contribution, while at the same time employing inspectors in the UK—we are actually trying to recruit people at the moment. Would it not impose additional costs on the industry if we are both recruiting inspectors and staying in Euratom? Is that not double jeopardy?

Dr Whitehead: No, because the idea of a transition period would be, among other things, to give greater scope for precisely that sort of recruitment, training and other arrangements to take place, so that the new regime is assuredly in place by the time we leave Euratom—assuming we do. There would not be any duplication because the positions after Euratom would be fully in place.

The transitional period would be used for the purpose of making sure those final arrangements were in place. Unless a series of magical events occur and everything is completely and easily in place before March 2019, I cannot see anything other than good things coming out of a transition period, including the things we have discussed in making a transition from Euratom to a nationally determined inspection regime complete, waterproof and fully operational.

In that sense, the Bill is straightforward:

"It ensures that, when the United Kingdom is no longer a member of…Euratom…we will have in place a legal framework that meets our future international obligations on nuclear safeguarding. Nuclear safeguards demonstrate to the international community that civil nuclear material is not diverted into military or weapons programmes…Our current nuclear safeguards obligations arise from our voluntary offer agreement…with the International Atomic Energy Agency"—

which I will come on to—

"The IAEA is the UN-associated body responsible for the oversight of the global non-proliferation regime. The first requirement flowing from the UK's commitments on safeguards is to have a domestic system that allows the state to know what civil nuclear material it has, where it is and whether any has been withdrawn from civil activities."

As we have discussed,

"the Bill has been prepared on a contingency basis. The discussions around our continued arrangements with Euratom and with the rest of the European Union have not been concluded, but it is right to put in place in good time any commitments that are needed in primary legislation. Euratom has served the United Kingdom and our nuclear industries well, so we want to see maximum continuity in those arrangements."—[*Official Report*, 16 October 2017; Vol. 629, c. 617.]

I cannot keep this up any longer; those are the words of the Secretary of State on Second Reading.

It appears that the Secretary of State at least is pretty much onside with the idea of wanting maximum continuity of the arrangements with Euratom, that Euratom has served us well, and that we have no objections in this country in the past to the working of Euratom, what it does and how it works. For "maximum continuity" of those arrangements, as the Secretary of State clearly wants, seeking associate membership or arrangements with Euratom under article 206 of the existing Euratom treaty—the Secretary of State was pressed on that on Second Reading—is something we would positively seek as an alternative to the contingency that the Bill represents.

From what the Secretary of State stated on Second Reading and from his introduction to the Bill, it does not seem to require a great deal of construction to conclude that that is something that the Government have in mind and would like to achieve.

2.15 pm

The Government want to produce the Bill as a contingency in the event that such discussions do not work and that such status is not achieved. At that point, there would be no alternative other than to bring the

contingency of the Bill into operation. It is worth bearing in mind that we are not saying, and have never said, and the Secretary of State has never said, that Euratom is not perfectly good as far as nuclear safeguarding is concerned. It works very well and has done for a long time. It provides us with everything we want in terms of a good safeguarding regime; how our international agreements work with other international bodies, in particular the IAEA; and how that relates to our security as a nuclear-possessing country that does exactly the right thing as far as Euratom is concerned on the non-proliferation treaty and all that goes with nuclear safeguarding. We can put to one side the idea that anybody here or on a wider canvas would want to alter in any way anything that Euratom does under the circumstances that it continues to be the body through which, in one way or another, we secure our nuclear safeguarding arrangements.

We have already heard that there are a number of possible arrangements with Euratom that could be arrived at, including something close to associate membership. It has been discussed that associate membership as such cannot properly exist unless the UK is a member of the EU, but an associate status similar to that already enjoyed by non-EU countries, perhaps with a purpose tailored to the UK's future aims, would be a reasonable aspiration. The more closely that associate status adheres to the benefits that have been achieved from Euratom for the UK, the better off we and everyone in the nuclear industry and in civil nuclear will be, as the Secretary of State agrees.

The amendment merely adds another line to that commitment from the Secretary of State; it does not alter the direction that he wants to go regarding Euratom. It simply says that before we irrevocably remove ourselves from Euratom and its benefits, it would be a good idea to ensure that we have properly explored the arrangements we might have as a continued associate of Euratom, and that we have explored and put in place a transition period to allow that to happen. We heard this morning that the Bill is under some time pressure. A number of us were concerned when we heard from the nuclear industry at the oral evidence session that it was going to be a tall order to get everything—the administration, running, management, and inspectors—in place in the UK. If that is the case for nuclear safeguards, it will certainly be the case for the other five main areas that Euratom undertakes in conjunction with the UK. Therefore, having a transition period to add to our insurance and to make the new regime work seems eminently sensible as we remove ourselves from full membership of Euratom and put in place things that guarantee that we get the best possible outcome subsequent to the expiry of our full membership.

That modest suggestion should not be confused—in case hon. Members think otherwise—with suggestions about a transition period for our departure from the EU as a whole. It is a transition period for removing ourselves from the agreements that were originally made with Euratom—which are arguably separate from those made with the EU, even though over the years they have been substantially incorporated into other EU legislation—and not from the European Union treaties as a whole. Consequently, this proposal should be seen entirely in terms of what was good for this country in the past, as far as Euratom is concerned, and what will be good for this country in the future, as far as an associate status of some description with Euratom is concerned. That is exactly what the Secretary of State was saying, at least subliminally, in his remarks, which I shamelessly pirated earlier. The proposal is in line with the views of the Secretary of State and, I hope, the Minister, and would sit very well with the task ahead of us, which this Committee has very responsibly discussed, as we get everything in place to ensure our regime is as good as possible.

We are coming towards the end of our debate, and this proposal bookends our discussion. At the beginning of the Committee we said that this is a contingency Bill, and the Secretary of State said the same at the beginning of Second Reading. Therefore, under other circumstances we would not want the Bill to be on the statute book. I guess that, since the Bill is a contingency, we want an arrangement with Euratom that is better than the Bill. If we can reach that conclusion by way of a transition period, we should surely support that.

I am sorry that we did not adopt a purpose clause for the Bill, because that would have additionally spelt out how it stands in the scheme of things. The new clause would underline how the Bill stands by—slightly extraordinarily, I agree—requiring the Secretary of State to achieve an outcome that would make it non-functional. We are living in difficult and new times, and that is no odder than some of the other things in the Bill. If we can put that on the face of the Bill to framework what is being done about our future relationship with Euratom, that would be a good purpose, and I hope all members of the Committee would unite around it.

Drew Hendry: We support the new clause, which would put in place a transition period during which the UK would have the option to seek and secure an association with Euratom. The Scottish National party does not support the decision to exit Euratom, and the Bill continues to fall significantly short of answering vital questions about the UK's nuclear future, particularly given the fact that the skilled and trained inspectors are at best unlikely to be in place in time. This Government have put nuclear energy at the heart of their energy strategy, and yet they are leaving the agency that oversees the security of markets, businesses and workers in that sector. Given that the UK Government have poured resources into costly and ineffective nuclear power projects such as Hinkley C, the Euratom divorce leaves questions unanswered and threatens to prove highly complex. That is why a transition deal is not only desirable but may turn out to be essential, and we will be supporting the amendment.

Preet Kaur Gill (Birmingham, Edgbaston) (Lab/Co-op): I just want to make some suggestions. The concern is that to import fuel and parts from existing nuclear reactors into the UK—as we have already heard—we shall need to have established a regulatory and inspection structure, obtain approval from the International Energy Atomic Agency and then negotiate and ratify nuclear co-operation agreements with a number of Governments. There is an assumption that we should not make: we cannot be sure that nuclear co-operation agreements will just be nodded through, because we know some of the complexities that we already have with other countries, such as the USA. Therefore, I do not think it is sensible to leave Euratom until these agreements are actually in place, and that is why I support these amendments.

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): I thank hon. Members for their contributions. I am particularly speechless at the shadow Minister's widespread quotation of my right hon. Friend the Secretary of State; were he here today, I am sure he would personally thank him. The truth behind it—I was obviously making a flippant comment—is that most of us actually agree on most of the things the Secretary of State said. I would endorse them and I thank him for formally doing so. However, the Secretary of State also said—I think I am correct in saying it was in his evidence in the Select Committee—that article 50 for the main exit from the European Union and for Euratom were interleaved together and therefore we have served the article 50 notice. That was yesterday's argument, but it was obviously something the Secretary of State was well questioned on at the time. I mention that because the hon. Members spoke of their desire to ensure that the current position remains for as long as possible, but maximum continuity, which is what we have said we are aiming for, and which was quoted by the shadow Minister, is not the same as pretending that article 50 has not been triggered. It has and we are leaving, so the debate is really about what is next rather than turning back the clock. I have said this repeatedly, and I hope everybody accepts the fact that it is our intention to have a regime as robust and as comprehensive as that provided by Euratom.

Alex Norris (Nottingham North) (Lab/Co-op): Speaking of that collective desire, I am sure the Minister will recall Dr Golshan from the ONR saying that we will not be able to replicate those same Euratom standards on day one. Does that not make a compelling case for a transition period?

Richard Harrington: I do remember the evidence and Dr Golshan spoke also to Select Committees that I have appeared before, but she did make it clear that while she could not guarantee that we could exactly replicate, we could have a safeguards regime that was very serviceable in working very quickly towards what Euratom is. I do respect her and the institution she works for, but there is no precedent for this.

I accept the gist of what the hon. Gentleman is saying, but the same argument might be as true at the end of the transition period as it would be at the beginning of it. However, I am certain and satisfied that we can do the necessary recruitment and make the necessary agreements—which the hon. Member for Birmingham, Edgbaston mentioned in her contribution—but actually within the time period required. I am sure that if we are not able to do that, I will be hauled before the Select Committee, the Chamber and everything else, and quite rightly. It is the job of Government to make decisions and it is our full intention and belief that we will be able to achieve that. I accept the fact that there is no precedent; I accept that people are entitled to their expert opinions. I do not at all deny that she said it, because I was here and it is on the record, and anyway I respect her too much to say that she is not correct in her view. I suppose I can say that, not being an expert, but my colleagues at the Department for Business, Energy and Industrial Strategy spend a lot of time with all her colleagues, and it is our job to ensure that it does happen.

2.30 pm

If I may return to the transition period, everyone really wants the same thing, as I have said. However, the agreement of some form of transitional period is not within the gift of my Department. It is subject to the wider EU negotiations, as I am sure hon. Members will agree. The Prime Minister spoke in her Florence speech about a period of implementation after the UK has ceased to be a member of the EU. That is well understood within the EU, and would be mirrored for Euratom. We would not continue to be a member state of the EU at that time. We would be expected to continue to pay into it and be bound by many of its rules for the transition period, in exchange for which we would expect to continue to enjoy some of the benefits and give ourselves extra time to get domestic arrangements in place, but it is not a way of delaying our departure from Euratom; I felt I should make that clear.

The Prime Minister also made it clear in her Florence speech that we would leave the EU on 29 March 2019. To that end, as hon. Members may be aware, the Government have tabled an amendment to the European Union (Withdrawal) Bill that would make it clear on the face of that Bill that "exit day" constitutes 11 pm on 29 March 2019. The amendment, as I understand it, is not seeking a transition period after exit day, but calling for a transitional period before exit day in order to delay our departure from Euratom. That is not a situation envisaged in the proposals for the implementation period. Proposed new clause 2 sets out a position entirely inconsistent with that, which is why I have to oppose it. The purpose of the implementation period is to secure more time in which to put in place our new arrangements. The Government's clear intention is that that should include Euratom where appropriate, as well as the broader EU negotiations.

The new clause would arguably introduce even greater complexity and uncertainty into an already complicated negotiation, both within the EU and with other parties. The proposal captured by the new clause is that we should leave Euratom at a different time from leaving the EU. However, as my right hon. Friend the Secretary of State, who the hon. Member for Southampton, Test often quotes, said, the two are uniquely joined, so I would argue that there would be significant ambiguities for businesses during the transition period if for two years—assuming it were even possible—we were members of one institution but not the other.

It would clearly be better to have exactly the same approach for both the EU and Euratom, in which we leave at the time the Prime Minister said we would and negotiate toward a two-year implementation alongside our future relationship on both Euratom and the wider EU. That would keep everything aligned and much clearer, which is particularly helpful where there are areas of overlap between Euratom and the wider negotiations, such as on access to skilled workers and movement of goods. For the reasons I have set out, I hope satisfactorily, I am not able to accept the amendment. I hope the hon. Members will consider what I have said and that the new clause will be withdrawn.

Dr Whitehead: I am not sure that, for the sake of the apparent administrative convenience of leaving the two institutions on the same day, everything will be better served. We have discussed in this Committee precisely

[Dr Whitehead]

why things probably would not be better served regarding the process of ensuring that we have everything in place to replace what we acknowledge that we have received well from Euratom in the past. My hon. Friend the Member for Birmingham, Edgbaston, in a brief but important contribution, raised the question of how likely it is that the various bilateral deals that we will have to make with various states around the world will be concluded in a timely fashion. Indeed, I suggest that the opposite is the case—they are not likely to be concluded in a timely fashion, not least because, for example, agreements with the United States would have to go through both Houses of Congress.

It is unlikely that there will be anything other than a rather messy tail hanging around for quite a long while if we stated that we were leaving Euratom on the same exit day the Prime Minister is suggesting in amendment 381 to the European Union (Withdrawal) Bill. I do not know whether this piece of advice will be welcome, but if that is what the Prime Minister wishes to do, I think it might be a good idea for her to add the words "and Euratom" to that amendment. I say that because although Euratom and the EU are effectively conjoined, Euratom did not come into being at the same time as the European Union, and therefore it is not necessarily the case that if one puts in place an exit day for the EU, one automatically transfers that exit day to exit from Euratom. That may well be what the Government want to do, but it is by no means clear that that is what would actually have to happen.

It is possible to consider, without in any way undermining the idea that we leave Euratom, a different form of leaving day from that from the EU, in my opinion. That has not particularly been tested in terms of the arguments about whether the Euratom treaty was separate from the EU. The Minister may well be getting wise advice that that is not the case, but it seems at least arguable that there is nothing in stone, and nothing in the amendments tabled to the European Union (Withdrawal) Bill, that points in the direction of having to leave Euratom at the same time as leaving the EU.

If it were possible to negotiate an arrangement whereby the aim was associate status of some description and the means were a transitional period, with the clear aim that that associate status would be in place at the end of it, that would seem to be a prudent thing to do, as far as our future relationship with Euratom is concerned, bearing in mind all the things we have said about how it has served us and what we could get from it during that transitional period, with that eventual aim in mind.

It would be not only desirable but very wise, in the present circumstances, to state on the face of the Bill that that is what we will try to do, and to require the Secretary of State to try to ensure that it happens. That does not undermine our future relationship with Euratom or with the EU; it merely puts in place something that is possible to achieve and that could be of considerable benefit to this country and to our partners in the nuclear community around the world.

It would enhance considerably the value of the Bill if that transitional arrangement did not succeed, because it would, among other things, show our partners in Euratom and the wider international community that we were intent and absolutely serious about wanting the best possible regime for the future. That surely would be a considerable boost to the idea that we can survive well in an international and closely conjoined nuclear community while not being a member of Euratom in the long term. If the Minister is not prepared to accept the amendment, I would like it on the record that we tried to divide the Committee this afternoon.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 4]

AYES

Carden, Dan	Norris, Alex
Debbonaire, Thangam	Smith, Eleanor
Gill, Preet Kaur	
Hendry, Drew	Whitehead, Dr Alan

NOES

Bradley, Ben	Maclean, Rachel
Harrington, Richard	Robinson, Mary
Harris, Rebecca	Sunak, Rishi
Harrison, Trudy	Syms, Sir Robert
Lewer, Andrew	Wragg, Mr William

Question accordingly negatived.

New Clause 4

RELEVANT INTERNATIONAL AGREEMENTS: REPORTS

"The Secretary of State shall within three months of the passing of this Act and every three months thereafter lay a report before each House of Parliament detailing the progress towards conclusion of a relevant international agreement, until the agreement has been concluded." *— (Dr Whitehead.)*

This new clause would require the Government to lay a report detailing the progress of a "relevant international agreement" before Parliament within three months of the passing of this Act and update the House on progress every three months.

Brought up, and read the First time.

Dr Whitehead: I beg to move, That the clause be read a Second time. The clause reflects what we have discussed in Committee about the process of securing an agreement that is voluntarily entered into with the IAEA to replace the previous agreement that was essentially mediated by Euratom, and hence has to be replaced.

One might think that the agreement should, in principle, be reasonably easy to arrive at. If we have a contingency nuclear safeguarding regime in place that we can demonstrate to IAEA fits the bill as a replacement for Euratom, the new voluntary agreement with IAEA should proceed reasonably straightforwardly. My understanding is that it is a voluntary agreement made by nuclear-possessing powers, and this is clearly about entering into an agreement as a nuclear-possessing power alongside other individual nuclear-possessing powers outside the ambit of Euratom. This would be something that we and the IAEA would want to conclude.

As we have heard, that agreement is still some way off being concluded. We are effectively in a position of preliminary discussions with the IAEA about what an agreement might look like, and how it should proceed. As we have heard, we are being asked to agree to put legislation on the statute book as if that agreement had been concluded. We are to take on trust the fact that the

agreement can be concluded in reasonably good time, so that the Henry VIII clauses we discussed this morning could be put in place. We discussed those clauses without knowing when or whether an agreement with the IAEA would be forthcoming, what stage of negotiation we were at, and whether there were particular obstacles in the road, or whether indeed those obstacles had been substantially resolved. It does not look as if we are going to hear anything about the agreement until its conclusion. However, we are part of a Parliament that is putting legislation in place as if we had heard about it.

2.45 pm

The new clause essentially proposes that within three months of the passing of the Bill, and every three months thereafter, a report be laid before each House of Parliament detailing progress towards the conclusion of a relevant international agreement—the voluntary agreement with the IAEA, in this case—until that agreement has been concluded. It simply asks for, and would essentially certify in the Bill, light to be shed on the process, and for light to come back to Parliament on the process—as legislators, we have been required to pass legislation without knowledge of where that agreement stood, in what order it was and where we are going with it.

I have been told that those negotiations are apparently going well, that there is not a great deal of animosity towards the idea that a new agreement can be brought about and that the appreciation on both sides of the need for that agreement to happen reasonably swiftly is propelling the negotiations forward. However, I happen to know that because I have been told informally, which is not really good enough as far as the rest of Parliament is concerned. This is something that should be publicly stated and reported and can be publicly discussed, so that we are sure, between us, that that agreement has been undertaken and properly fits with what we are legislating for in Committee.

The new clause is modest in intent but would actually strengthen our hand, so that as Committee members we could say that while we legislated in some ignorance of what was going on, we nevertheless rectified that by requiring the report to be laid before Parliament, allowing everybody to see the picture as it develops and giving them a good idea of where things are going. When our grandchildren ask us what we did on the Bill, we will be able to say that we made sure the treaty was on its way, was properly announced and scrutinised and that, when it appeared, we could put our imprimatur on it with an easy heart and full understanding that it was actually part of the process and the satisfactory conclusion to leaving Euratom.

Richard Harrington: I hope I can help the hon. Gentleman in his quest to answer his grandchildren's questions about what he did during Brexit and the great time when we were leaving Europe and so on. We all hope that for ourselves and our grandchildren. I completely understand the sentiments behind his new clause, which is reasoned and well argued. I intend to consider it carefully, and will come on to that in a moment.

For the record, new clause 4 seeks to require quarterly updates detailing the progress towards the conclusion of "relevant international agreements", which is a defined term set out in the Bill. As he said, it means an agreement, whether ratified or not, to which the United Kingdom is a party, which relates to nuclear safeguards and is specified in regulations made by the Secretary of State. I appreciate the objective of the new clause is for hon. Members, both on the Committee and generally within the House, to receive frequent updates on the status of international negotiations in this area. I will begin providing an immediate update on our international agreements relating to safeguards.

The hon. Gentleman said that he had been briefed informally, hopefully by me and others as part of general communications, but I would like to place it on record that the UK has begun formal negotiations with the IAEA on the future voluntary agreements for the application of civil nuclear safeguards in the UK, so that they are ready to be put in place by the time of our withdrawal from Euratom. We are seeking to conclude a new voluntary offer agreement and a new additional protocol on a bilateral basis with the agency. Our intention is that those agreements should follow exactly the same principles as the current ones. The discussions that began last September have been constructive and fruitful, and substantial progress has been made. I fully expect that the new agreements will be put to the IAEA board of governors for ratification in 2018. They will be subject to the usual ratification procedures, including parliamentary consideration.

As hon. Members will be aware, our aim is to maintain our mutually successful civil nuclear co-operation with the rest of the world, and we are working to ensure that arrangements are in place to allow that. Where action is required to ensure that civil nuclear trade and co-operation with non-European partners are not disrupted by our exit from Euratom, the Government are already entering into negotiations to ensure that nuclear co-operation agreements will be in place. Our team are in negotiations with key partners such as the USA, Canada, Australia and Japan. I met Ministers from those countries in Paris last week. The UK has a range of bilateral nuclear co-operation agreements in place with several countries, and we expect those to continue. The work highlights our commitment to ensuring that all arrangements are in place to allow our mutually successful civil nuclear co-operation to continue.

Turning to the specific requirements imposed by new clause 4, as I said, although I appreciate the sentiments behind the clause, I cannot agree to the proposal. As I have just explained, "relevant international agreement" is a defined term referring to agreements already negotiated, and the specification of an agreement as a relevant international agreement is subject to a clear and open process. I fully appreciate the important role that parliamentary scrutiny plays. We have been and will continue to be open and honest with Parliament about ongoing negotiations.

Negotiations on international agreements relating to safeguards are progressing well, and the intention is to present those agreements to Parliament before ratification, before the UK's withdrawal from Euratom, so that they will come into force immediately on our exit. Incidentally —as I know you will be aware, Mr Gray—international treaties are already subject to the ratification processes laid out in the Constitutional Reform and Governance Act 2010.

The Chair: It had slipped my notice, but I am glad to be reminded.

Richard Harrington: Thank you, Mr Gray. I note that, in accordance with provisions in the Bill, an international agreement may be defined as a relevant international agreement for the purpose of Bill only if the Secretary of State specifies that agreement in regulations. The Bill provides that such regulations will always be subject to the draft affirmative procedure, providing the opportunity for parliamentary scrutiny of whether an agreement should be a relevant international agreements as defined by the Bill.

As I have established, relevant international agreements are already subject to an open and transparent process. My fear is that imposing an additional reporting requirement would provide little added value and might hinder negotiations, which I know the hon. Gentleman would not want. Indeed, requiring such frequent updates on negotiations could risk weakening our position and might compromise our ability to build rapport and trust with our negotiating partners. I am concerned that that should not happen, but I recognise fully the importance of transparency and the need for Parliament to be able to provide input into the negotiations, so I am sympathetic to the sentiment underpinning the new clause. If the hon. Gentleman is prepared not to press this to a vote—in fact, even if he does—I would like to give the matter some further thought, because I think I can come up with a proposal that strikes the right balance and maximises the transparency that he wants and that I am not afraid of at all. I do not want to impede the progress of these time-sensitive and vital negotiations, which of course involve other parties.

Dr Whitehead: I thank the Minister for giving a constructive response to the new clause without going quite as far as saying that he agrees with it. I hope that he will be able to come up with something that, while not necessarily this proposal, maximises the transparency of the process. We are not only talking about the outcome and a report of the outcome that will come to Parliament. Because of the unique circumstances in which we are legislating while the treaty is being discussed and legislating for something that is quite central to that treaty coming about, it is important we have transparency on the journey as well as the conclusion. If the Minister can work out a device that allows that to happen, which I think he indicated he wishes to think about seriously, we would be happy not to press this. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 5

INTERNATIONAL AGREEMENTS: DEVOLVED AUTHORITIES

"(1) The Secretary of State must consult the persons or bodies listed in subsection (2) before concluding—

(a) a relevant international agreement, or

(b) any agreement with EU Member States relating to nuclear safeguarding.

(2) The persons or bodies are—

(a) Scottish Ministers,

(b) Welsh Ministers, and

(c) a Northern Ireland devolved authority."—*(Drew Hendry.)*

Brought up, and read the First time.

Drew Hendry: I beg to move, That the clause be read a Second time.

New clause 5 states that the Secretary of State must consult certain persons or bodies—the Scottish Ministers, Welsh Ministers or a Northern Ireland devolved authority —before agreement with EU member states relating to nuclear safeguarding.

As mentioned earlier, without confirmation of a transitionary deal, the Government leave a host of unanswered questions about nuclear safeguards. Falling back on World Trade Organisation rules risks the UK breaking international law. As a nuclear weapons state, the UK currently meets some of its safeguards obligations under international nuclear law through a voluntary offer agreement with the International Atomic Energy Agency, to which the Euratom community is also a signatory.

A report by the Nuclear Industry Association UK found:

"Falling back on World Trade Organisation (WTO) arrangements in the absence of a replacement safeguards agreement with the IAEA and/or an implementation period with Euratom risks putting the UK in breach of its obligations under international nuclear law and would have a significant impact on the UK nuclear sector."

Those unanswered questions are big issues. Will the UK Government ensure that the UK's nuclear facilities are subject to Euratom's safeguards regime? If they are not to be monitored by Euratom's inspectors, will the UK negotiate a replacement for the voluntary offer agreement with the IAEA to remain in compliance with international law? How will the UK Government design, resource and implement new UK safeguarding arrangements in line with accepted international standards?

We have already heard that the Minister cannot guarantee that fully trained, certified professionals will be available. What good are safeguards if there is nobody qualified to implement them? While safeguards and safety are reserved, areas of regulation such as waste and emissions from nuclear sites are devolved.

In the light of the Minister's earlier comments on issues of national security that could arise, the Scottish Government must be involved in the negotiations regarding nuclear safeguards, and the UK Government must involve the Scottish Government at every stage of the negotiation process to ensure that the deal reached works for the people of Scotland. That is equally important for the other devolved Administrations in Wales and Northern Ireland.

Conservative Governments have a poor track record on Scotland and nuclear programmes. They must ensure that Scotland is not turned into a dumping ground for nuclear waste. I say to the Minister that as matters proceed in the House, there is an opportunity for his Scottish colleagues in the Tory party to help us stand up for Scotland's interests. We look forward to seeing what they do. I hope the Minister accepts that it is only sensible and proper that the Scottish Government and the other devolved authorities are involved in this process in a meaningful way and involved in the negotiations, particularly given that the stakes are so high.

3 pm

Richard Harrington: I thank the hon. Gentleman for contributing new clause 5. It might surprise him that although I cannot accept what he asks for, I have a proposal for him and the Committee to consider. The new clause addresses the issue of consultation with the devolved Administrations on new international agreements

relating to nuclear safeguards. As hon. Members will be aware, the UK Government are responsible for negotiating and signing these international treaties. The ratification of treaties is subject to the Act I mentioned before, the Constitutional Reform and Governance Act 2010, which requires them to be laid before Parliament.

The Government have the power to conclude international treaties under prerogative powers but cannot automatically change domestic law or rights and cannot make major changes to constitutional arrangements without parliamentary authority. That will remain the case for international agreements relating to safeguards that are currently under negotiation, such as the new nuclear co-operation agreements with the US, Canada, Japan, Australia and so on that we have mentioned, and the agreements with the IAEA.

The measures put forward in the hon. Gentleman's new clause would be a significant departure from the usual position—I know he knows that; it is why he proposed it and it is the policy of his party—and I do not consider it appropriate to accept them. As I said, nuclear safeguards are not a devolved matter, but I nevertheless reassure hon. Members that the Bill already ensures an appropriate level of transparency and scrutiny in respect of international agreements relating to nuclear safeguards, which I have been through before.

New clause 5 refers to "relevant international agreements", which is a defined term as set out in the Bill. The existing drafting of Bill allows for the inclusion of any relevant international agreements as designated by the Secretary of State, so it is unnecessary to detail individual agreements in the Bill. While I appreciate the sentiment of the new clause, the role of relevant international agreements is already subject to a clear and open process under the Bill. I have explained that before and I do not intend to repeat it all again, unless any members of the Committee wish me to. It is a clear and open process.

On the specific focus of the new clause—consultation with the devolved Administrations, which I know is the hon. Gentleman's main interest—it appears to require formal consultation with the devolved Administrations prior to our concluding international agreements relating to nuclear safeguards or any agreement with EU member states relating to nuclear safeguards. As I am sure hon. Members are aware, the Bill extends to and applies to England, Wales, Scotland and Northern Ireland, and in the case of amendments, to the same extent as the provision amended.

As I have said, nuclear safeguards are not a devolved matter. Despite the responsibility legally being the UK Government's, I hope that our general approach of having an open and transparent process, which is evolving, would be described as reassuring. The Government are acutely aware of the value of consultation in developing this new regulatory regime—obviously with the ONR, but also with the industry generally and formally and informally with parliamentary colleagues. As I have explained before, the nuclear safeguards regime regulations will be subject to detailed consultations with the regulator and industry. Industry stakeholders across the UK, which of course includes Scotland, Wales and Northern Ireland, will be widely encouraged to take part in that consultation. The outcome of the consultation will then be made public, in line with the Government's general policy on consultations.

The public consultation on the draft regulations will not be the first or only opportunity for stakeholders to be made aware of our intentions, and it will not be their only opportunity to provide the Government with their views. We have had detailed discussions with the nuclear industry since the referendum, and we will continue to work closely with it and other stakeholders when taking the development of the new regime forward, including the development of regulations. My officials have already been in discussions with colleagues from across the devolved Administrations and the relevant environment agencies, such as the Scottish Environment Protection Agency, Natural Resources Wales and so on, to ensure effective collaborations on key Euratom-related policy areas—including the domestic nuclear safeguards regime—and will continue to do so.

I have been clear that the relevant international agreements will be subject to a clear, open and transparent process involving a high degree of consideration, scrutiny and external engagement. However, I do appreciate the concern behind new clause 5, which is why I already committed to the hon. Member for North Ayrshire and Arran to address her query on consultation with the Scottish Government by writing to her on the subject. I would therefore propose instead, if it will be satisfactory to the hon. Member for Inverness, Nairn, Badenoch and Strathspey, to write directly to Scottish Ministers, Welsh Ministers and the Northern Ireland devolved authority on the subject for consultation. In the light of these explanations, I hope the hon. Gentleman feels able to withdraw his amendment.

Drew Hendry: I thank the Minister for his attempts at reassurance. I know that the Minister is genuinely trying to concede some ground and I appreciate that. However, his attempts at reassurance do not really hit the mark. There should be negotiations with the Scottish Government and the other devolved authorities in the light of the devolved responsibilities. It just is not good enough that after the deal is done a consolation might be undertaken with Ministers. That is not the way that this should happen at all. There are significant impacts on the nuclear industry and those devolved responsibilities.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 5]

AYES

Carden, Dan	Norris, Alex
Debbonaire, Thangam	Smith, Eleanor
Gill, Preet Kaur	
Hendry, Drew	Whitehead, Dr Alan

NOES

Bradley, Ben	Maclean, Rachel
Harrington, Richard	Robinson, Mary
Harris, Rebecca	Sunak, Rishi
Harrison, Trudy	Syms, Sir Robert
Lewer, Andrew	Wragg, Mr William

Question accordingly negatived.

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

Richard Harrington: On a point of order, Mr Gray—it is the first point of order I have ever raised. I want to thank you as Chair, and Mr McCabe, who is not here today. I would like to thank the Clerks. I would like to thank hon. Members on both sides of the Committee for their patience, time and valuable contributions. I look forward to seeing the Bill progress in terms of the discussions we shall have before Report and then on Report and beyond. I hope the Bill's progress continues to be characterised by the spirit of co-operation and conciliation that we have enjoyed. I particularly thank the shadow Minister for that, but also everybody else who contributed.

Dr Whitehead: On a point of order, Mr Gray. I join the Minister in thanking you for your exemplary chairing of our sessions. [Hon. Members: "Hear, hear."] I thank Mr McCabe, too, for his assistance with chairing.

I would also like to thank all Committee members for the constructive and helpful way that we managed to proceed. We had our disagreements. We put those squarely in the open and discussed them, and as a result of those discussions we had a number of exchanges that look to be constructive for the future. I am grateful for the spirit in which Committee stage has been conducted, and I look forward to Report and to the stages that follow with some optimism for the Bill. I am pleased to have taken part in such a constructive endeavour on all our parts.

Drew Hendry: On a point of order, Mr Gray. May I, very simply, associate myself with the remarks made by the Minister and the shadow Minister?

The Chair: All three points of order are of course entirely bogus and out of order, but they are none the less very welcome.

Question put and agreed to.

Bill to be reported, without amendment.

3.11 pm

Committee rose.

Written evidence reported to the House

NSB 05 EDF Energy

NSB 06 Dr David Lowry, Institute for Resource and Security Studies, Cambridge