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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 29 September 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Gloucester.

Introduction: Lord McLoughlin

12.10 pm

The right honourable Sir Patrick Alan McLoughlin, CH, having been created Baron McLoughlin, of Cannock Chase in the County of Staffordshire, was introduced and took the oath, supported by Lord Cormack and Lord Randall of Uxbridge, and signed an undertaking to abide by the Code of Conduct.

Introduction: Baroness Hayman of Ullock

12.13 pm

Susan Mary Hayman, having been created Baroness Hayman of Ullock, of Ullock in the County of Cumbria, was introduced and took the oath, supported by Baroness Jones of Whitchurch and Baroness Smith of Basildon, and signed an undertaking to abide by the Code of Conduct.

Arrangement of Business

Announcement

12.18 pm

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, and others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Oral questions will now commence. Please can those asking supplementary questions keep them short and confined to two points, and I ask that Ministers' answers are brief.

Covid-19: Child Trafficking

Question

12.18 pm

Asked by ***Baroness Doocey***

To ask Her Majesty's Government how measures to protect the victims of child trafficking have been affected by the Covid-19 pandemic.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, protecting those at risk from abuse and exploitation is a priority for this Government. Throughout the pandemic, the Government have continued to monitor and respond to the impact of Covid-19. Working with local authorities which are responsible for children, the Government have ensured that specialist support remains fully operational so that these children can access support remotely. The Government took action to safeguard vulnerable children by providing an additional £500 million for communities, including children's services.

Baroness Doocey (LD): My Lords, I thank the Minster for the response. Evidence from the UN human rights report on the consequences of Covid-19 shows that the risk of online sexual exploitation of children has increased because parents, devoid of income, are turning to illegal methods of getting money, including selling videos of their own children being abused. What action have the Government taken since this evidence came to light in order to crack down on this appalling exploitation of innocent children?

Baroness Williams of Trafford: I wholeheartedly concur with the noble Baroness's concerns—concerns that the Prime Minister also shares. She will recall that he opened the virtual hidden harms summit in order to drive action to tackle domestic abuse, child sexual exploitation and modern slavery, which, as she has said, often now can take place online.

The Senior Deputy Speaker (Lord McFall of Alcluith): I call the noble Lord, Lord McColl of Dulwich. No? I call the noble and learned Baroness, Lady Butler-Sloss.

Baroness Butler-Sloss (CB): My Lords, would the Government consider rolling out across the country child guardians for the benefit of the foreign children who have been trafficked here?

Baroness Williams of Trafford (Con): The noble and learned Baroness will probably know that we have already rolled them out in a third of local authorities in England and Wales. That work is progressing, starting with those areas with the highest need in requiring independent guardians for children who have been trafficked.

Lord Harris of Haringey (Lab): My Lords, last weekend, in Trafalgar Square, alongside the anti-maskers and the anti-vaxxers were conspiracy theorists who believe that an international elite is kidnapping children for abuse, sacrifice and to drink their blood—an insidious resurgence of historical anti-Semitic blood libel. These people have hijacked the legitimate concerns about child trafficking and abuse. This vile nonsense is circulating increasingly widely and, worryingly, is gaining credence. What are the Government going to do to combat it?

Baroness Williams of Trafford (Con): The noble Lord will want, as I do, to see the online harms White Paper become a Bill in Parliament. Much work is going on to tackle that sort of abuse, which is probably on the increase during the Covid pandemic. On conspiracy theorists of all descriptions—including anti-vaxxers and those against 5G masts, which we saw at the beginning—clearly that sort of misinformation can be incredibly harmful.

Lord Paddick (LD): My Lords, the Minister talked about the role of local authorities. Covid-19 has led to the scaling back of some crucial local services, one of which is on-site workplace inspections to identify child and adult victims of trafficking and rescue them. Can the Government tell the House how many inspections have been carried out since the start of the pandemic?

Baroness Williams of Trafford (Con): The noble Lord will not be surprised that I do not have that figure at my fingertips, but I can tell him that we are very mindful of the dangers that children and people who are vulnerable to trafficking might face during this pandemic. The Government recently gave £500 million for local pressures, which the issue he mentioned might come under, and have given local authorities a total of £3.7 billion to acknowledge and deal with issues of vulnerability.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, can the Minister advise your Lordships' House what discussions have taken place at ministerial level with the devolved regions about online child trafficking, particularly in the Covid crisis?

Baroness Williams of Trafford (Con): The noble Baroness will probably know that we are in regular contact with the devolved Administrations on Covid and lots of other things. It is important that they are not only engaged but in agreement with some of the actions that we are taking.

Baroness Gardner of Parkes (Con) [V]: My Lords, what part does the Minister believe can be fulfilled completely by local authorities? Can they be encouraged? They have always been closely involved in helping these people and it is important that their role continues. Does the Minister agree?

Baroness Williams of Trafford (Con): I agree wholeheartedly with my noble friend. Local authorities are of course the responsible authorities as the corporate parents of children, for whom they have a duty of care.

Lord Rosser (Lab) [V]: Save the Children reported that children make up a quarter of trafficking victims. Do the Government agree that a lack of safe, legal asylum routes for unaccompanied children puts them at risk of people traffickers and that, particularly during Covid-19, this has led to an increase in dangerous journeys across the channel in small boats, in addition to journeys in the backs of lorries? If the Government agree, what protection, including safe routes, will they put in place for such unaccompanied children?

Baroness Williams of Trafford (Con): The noble Lord will know that we have safe and legal routes. I say it time and again: we do not want children to make the terrible, perilous journey in those small boats to this country. It is also worth acknowledging that 65% of trafficking victims are in fact UK nationals.

Baroness Coussins (CB): My Lords, access to EU police databases and co-operation with multilingual officers has been crucial in helping to track and prevent transnational crime, such as child trafficking. What assessment has been made of how the pandemic could compound the impact of our leaving the EU on access to these resources and personnel?

Baroness Williams of Trafford (Con): The Government see it as very important that we continue not only to share such data but to have access to it. To that end, it is a top priority going forward.

Baroness Massey of Darwen (Lab) [V]: My Lords, like the noble Lord, Lord Paddick, I am concerned about the child victims of trafficking who are coerced into illegal activities, such as working in cannabis factories. These children may be caught and prosecuted, while those who run the factories escape. How will our overstretched children's services support such victims in these challenging times?

Baroness Williams of Trafford (Con): The noble Baroness will recall that, through the Modern Slavery Act 2015, the Government introduced the statutory defence for victims of modern slavery to protect those really vulnerable people who would previously have been unfairly prosecuted, as she said, for crimes that they were forced to commit by their exploiters—notably, as she mentioned, in cannabis cultivation.

Lord McConnell of Glenscorrodale (Lab): My Lords, support for the victims of child trafficking is obviously vital, but so is the prosecution of the perpetrators responsible. What action are the Government currently taking internationally to ensure a higher level of prosecution of those responsible for child trafficking? How can we ensure that, in the words of the Foreign Secretary, the UK, as a "force for good" in the world, does more to achieve that goal?

Baroness Williams of Trafford (Con): The noble Lord may recall the NCA swoop of a few months ago that pulled in many illicit articles and items. You cannot look at child trafficking in isolation; it is part of a package of drugs, guns, trafficking and child sexual exploitation, and it can be tackled effectively only at an international level.

The Senior Deputy Speaker (Lord McFall of Alcluith): Is the noble Lord, Lord McColl of Dulwich, online? No. All supplementary questions have been asked and we will now move to the next Question.

Female Offender Strategy

Question

12.29 pm

Asked by ***The Lord Bishop of Gloucester***

To ask Her Majesty's Government what assessment they have made of (1) the level of funding that has been provided to the Female Offender Strategy launched in June 2018, and (2) whether such funding is sufficient to implement the Strategy fully.

Baroness Scott of Bybrook (Con): My Lords, we are committed to ensuring sufficient funding for the female offender strategy, which we keep under review. To date, we have invested £5.1 million in the strategy in 30 different women's services across England and Wales. In 2021, we will invest a further £2.5 million to meet

core costs in the women's community sector. In addition, we have been allocated up to £800,000 to support the development of our first residential women's centre in Wales.

The Lord Bishop of Gloucester: I thank the noble Baroness for her Answer. Given the amount of money that the MoJ spends each year, the high cost of reoffending and the relatively small number of female offenders, why have the Government seemingly invested so little in their own strategy? When will we hear details of the implementation of the strategy, given that it all seems to have gone very quiet?

Baroness Scott of Bybrook (Con): I thank the right reverend Prelate and I thank her for the work that I know she does for the Nelson Trust. There are a number of achievements so far. I could read them out, but I do not think I have time. I am very happy to meet with the right reverend Prelate to discuss these things further. I would also like to say, for the Nelson Trust, that we have invested in a brand new women's centre in Bridgwater.

Lord Bradley (Lab) [V]: My Lords, I note my membership of the Advisory Board for Female Offenders. The Government have committed to fund community provision as an alternative to custody, where appropriate, for female offenders. But, as the Minister has recognised, only £5.1 million has actually been allocated since the publication of the strategy. What action are the Government taking to ensure that the necessary funding is committed to comprehensive community sentences, including primary and secondary mental health treatment requirements and community-based women's support services, especially a national network of women's centres?

Baroness Scott of Bybrook (Con): I thank the noble Lord for his question and I repeat that we have put in £2.5 million this year particularly for community sentences. For female offenders, community sentences often can be far better than sentencing them to prison. We will work to support the women's centres—of which we have, we think, around 200 across the country, run by different private or voluntary sector organisations.

Baroness Burt of Solihull (LD): My Lords, two years ago the Government saved £50 million by not building five women's prisons and, as the Minister said, £5 million has since been spent on community provision, with an additional £2.5 million to come. The MoJ's advisory board has urged the Government to allocate £20 million. Would the Minister agree that £20 million would still be a small price to pay in terms of the social value that it would bring?

Baroness Scott of Bybrook (Con): I thank the noble Baroness. Yes, of course, the more money we have the better but, when we talk about the prison estate, we are investing £2.5 billion and some of that will, of course, will go to the women's estate. It is not just about additional places. It is also about really good modern purpose-built accommodation within the closed estate, and good outside experiences for women who are suitable for open conditions.

Baroness Sater (Con) [V]: My Lords, the £2.5 million announced in May is a welcome addition to the Female Offender Strategy. Nearly 60% of women entering prison have experienced domestic abuse. There has been a clear increase in domestic abuse, with mental health and other issues increasing during the Covid pandemic. Does the Minister have confidence that the Female Offender Strategy is still fit for purpose and, if not, what changes are being considered to take account of the new demands?

Baroness Scott of Bybrook (Con): I thank my noble friend. We do remain committed to the strategy. We also think that it is flexible enough, within its policies, to be able to deal with the situation we find ourselves in at the moment. The Government have also given £76 million to support very vulnerable people during the pandemic, £2.5 million of which came from the Ministry of Justice to charities supporting victims of sexual abuse and domestic violence. We also, let us not forget, launched the new You Are Not Alone campaign during the pandemic, which is helping victims. They include female offenders, of course, as we help those who are victims of domestic abuse during the lockdown and pandemic period.

Lord Woolf (CB) [V]: My Lords, would the Minister tell me what steps she has taken to ensure that, in the sentencing of female offenders, the courts do so to custody only in cases where there really is no alternative?

Baroness Scott of Bybrook (Con): The noble and learned Lord brings up an extremely important point. One of the biggest issues is to make sure that pre-sentencing assessments are done very well by very experienced and trained people. We are also working with the health community to make sure that, before sentencing, any health issues of offenders are dealt with in accordance with the new rules.

Lord Falconer of Thoroton (Lab): The Female Offender Strategy was well received in 2018. The concern is about whether or not it is being effectively implemented. Paragraph 76 of the strategy says:

> "We are committing to work with partners to develop a 'residential women's centres' pilot in at least five sites across England and Wales."

Could the Minister tell us how many of those five pilot sites are up and running, and what the plans for those that are not are?

Baroness Scott of Bybrook (Con): I think I answered the noble and learned Lord's question earlier: no, we have not delivered the five, but we are in the later stages of delivering the first one, as a pilot in Wales, and we have put forward £800,000 to do that.

Lord Ramsbotham (CB) [V]: My Lords, last week the Secretary of State for Justice published a sentencing White Paper, in which there was mention of funding, announced in May, for the development of residential centres, the first of which, we have heard, is being built in Wales. Can the Minister please tell the House how many centres the funding provides for and where these are to be built?

Baroness Scott of Bybrook (Con): The £800,000 funding that was announced is for the first centre in Wales. We will be looking at how that works, and will be looking for sites to add the four more that we have said we will deliver across the country.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, in view of the Minister's answer to earlier questions and the conclusion of the National Audit Office in February that a succession of plans for prisons have disintegrated almost as soon as they have been announced, can she really stand there in the House and say that in particular community-based interventions—the most effective for women prisoners—are effectively resourced?

Baroness Scott of Bybrook (Con): Yes, my Lords, I can, because it is a package of commitments from the Government, and an important one for the community services will be the new National Probation Service.

Lord Lucas (Con) [V]: My Lords, I declare my interest as a patron of Safe Ground. Do the Government recognise the value that can be brought to the management of women in the justice system by high-quality specialist services, by collaboration between such services and by local providers? Will they therefore work with them outside their dynamic purchasing system which, contrary to general government policy, is heavily biased against small providers?

Baroness Scott of Bybrook (Con): I thank the noble Lord for the question. What he talks about is in the strategy called whole-systems approach, I think. With the whole-systems approach, where the private, public and voluntary sector work together, and particularly where they work with women's centres, they start to deliver really good services that work. It is important also to remember that the Ministry of Justice put another £275,000 in this year to help those small voluntary sector organisations through the pandemic.

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, the time allowed for this question has elapsed.

Hong Kong: Political Situation

Question

12.40 pm

Asked by ***Baroness Northover***

To ask Her Majesty's Government what assessment they have made of the current political situation in Hong Kong.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, we are deeply concerned by the situation in Hong Kong. The new national security law is a clear and serious breach of the Sino-British joint declaration and directly threatens a number of Hong Kong's rights and freedoms. The UK will not look the other way on Hong Kong and we will not duck our historic responsibilities to its people. We will continue working with partners to hold China to its international obligations.

Baroness Northover (LD): My Lords, China has broken its treaty obligations—I am sure the Minister agrees that we must never do the same with any of ours—suspended elections in Hong Kong, and compromised the judiciary, the free press and free speech. Will the Government extend the pathway to citizenship beyond BNO passport holders to the many young Hong Kongers who are currently excluded, but are particularly vulnerable to intimidation and arbitrary arrest?

Lord Ahmad of Wimbledon (Con): My Lords, I agree that the situation for all people in Hong Kong is challenging at the moment. Recent arrests after the national security law was brought in have put that into focus. The BNO route, which was announced by my right honourable friend the Home Secretary, provides direct assistance, as we promised. Anyone else, from anywhere in the world, who seeks the protection of the UK because of persecution will be looked at on a case-by-case basis.

Lord McKenzie of Luton (Lab) [V]: My Lords, the introduction and implementation of the national security law by China has rightly been described as a watershed moment for human rights and academic and press freedoms. One part of the Government's response that we have heard about is the fast-track UK citizenship proposal, but I ask the Minister to say more about how this pathway is to be implemented, how many he expects to tread this route and whether there will be a transparent process for taking up these opportunities.

Lord Ahmad of Wimbledon (Con): My Lords, we have already announced how that route will operate. As I previously said, around 2.9 million people currently in Hong Kong qualify for BNO status and will be allowed to apply for the scheme.

Lord Truscott (Ind Lab): My Lords, how can Her Majesty's Government credibly condemn China for reneging on the Sino-British declaration, when they threaten to renege on the EU withdrawal agreement?

Lord Ahmad of Wimbledon (Con): My Lords, I am proud that Her Majesty's Government have stood up and will continue to stand up for the rights of all citizens around the world who are subjected to persecution and human rights abuses. We have a special responsibility to Hong Kong and we continue to raise the broader issue of the abuse of human rights in China. The United Kingdom continues to defend and stand up for international law and the international rules-based system.

Baroness Hooper (Con) [V]: My Lords, can my noble friend tell us what effect the deteriorating situation and restrictions on academic freedom, in particular those imposed by the new national security law—for example, students and teachers are being required to monitor each other's compliance—are having or are likely to have on British schools, universities and teachers operating in Hong Kong? What is the impact on the work of the British Council?

Lord Ahmad of Wimbledon (Con): My Lords, my noble friend raises important points. We continue to review the situation in Hong Kong. Recent arrests of pro-democracy activists have been particularly concerning, but I assure my noble friend that we continue to ensure appropriate protections for all British citizens within Hong Kong.

Lord Campbell of Pittenweem (LD): My Lords, is not the answer, when dealing with the multiple challenges of a resurgent China, to create alliances with like-minded countries and to be willing to confront or contain, as appropriate?

Lord Ahmad of Wimbledon (Con): I agree with the noble Lord. It is why, at the last Human Rights Council, the UK led a statement of 28 like-minded countries. As I am sure the noble Lord followed, on 25 September, I delivered a statement standing up for this, which was supported by many international partners.

Baroness Eaton (Con) [V]: My Lords, after the violent and public arrest of a 12 year-old girl, what representation have the Government made to the Hong Kong Executive to investigate police brutality through an independent and judge-led inquiry?

Lord Ahmad of Wimbledon (Con): My Lords, my noble friend raises an important point about the independence of the judiciary in Hong Kong. That is why we are concerned about the implications of the national security law. We continue to raise issues around the case she has mentioned, alongside those of other under-18s who have been arrested, with the Hong Kong authorities and bilaterally with China.

Lord Alton of Liverpool (CB): My Lords, I declare my interest as a vice-chair of the All-Party Parliamentary Group on Hong Kong and a patron of Hong Kong Watch. Can the Minister comment on the arrest, and detention in a jail in Shenzhen, of Hong Kong pro-democracy activist Andy Li, whom I met while monitoring elections in Hong Kong last year? I have sent the details to the Minister. What are we doing to ensure that his family have access to him, that he is returned safely and unharmed to Hong Kong, and that due process is observed?

Lord Ahmad of Wimbledon (Con): My Lords, FCDO officials in Hong Kong raised specific concerns about these cases with the Chinese authorities on 23 September, and I assure the noble Lord that we will continue to do so.

Lord Collins of Highbury (Lab): My Lords, I return to the point made by the noble Lord, Lord Campbell. It is clear that we need to build international support for the people of Hong Kong. The Government have indicated that they are open to supporting a dedicated UN envoy for the crisis in Hong Kong. With recent press reports of an even stronger clampdown on freedoms, is it not time for the UK to spearhead a campaign for such an envoy and to bring other countries on board—to lead, rather than follow?

Lord Ahmad of Wimbledon (Con): I am sure the noble Lord agrees that we are leading. The United Kingdom led the two joint statements that were made through the UN machinery. I already mentioned the recent statement I made at the Human Rights Council. Equally, at my recent meeting with the High Commissioner for Human Rights, Michelle Bachelet, we again stressed the importance of her visit, both for unfettered access to Xinjiang and to monitor the human rights situation in China more generally.

Lord Chidgey (LD) [V]: My Lords, at the UN Human Rights Council last week, the Minister noted that 1.8 million people have so far been detained without trial under Hong Kong's national security law. Will the UK respond with actions that include, for example, campaigning to suspend extradition treaties with Hong Kong and China to prevent extradition under this draconian law? What about introducing Magnitsky-style sanctions on the perpetrators of human rights abuses under the national security law?

Lord Ahmad of Wimbledon (Con): My Lords, the UK has already suspended the extradition treaty with Hong Kong and applies the same rules to China. On Magnitsky sanctions, as I have said before, I will not speculate on future sanctions.

Lord Craig of Radley (CB) [V]: My Lords, how many of the 2.9 million BNO passport holders have responded to the offer of an immigration visa? Have the Government reached a decision on the Hong Kong Military Service Corps veterans' appeal to be granted full British citizen passports, which was first raised six years ago, or replied to the 64 individual veterans' applications sent to the Home Secretary in March?

Lord Ahmad of Wimbledon (Con): My Lords, on the first question, this is an ongoing process. I do not have a specific figure, nor do I think it would serve a specific purpose. The scheme is open to all 2.9 million and we will continue to support any applications. On the point about former military personnel, as the noble and gallant Lord knows, a proportion of the Hong Kong Military Service Corps hold British dependent territory citizen status. That now translates to BNO status. On his wider point about those who remain, officials continue to have discussions with Home Office colleagues.

Lord Flight (Con): My Lords, some 20 years ago, I set up and ran a Hong Kong committee within the China group to inform itself of what was going on in China. Would it be a good idea for the Government to set up something like this again?

Lord Ahmad of Wimbledon (Con): My Lords, I note my noble friend's suggestion and will reflect on it. I assure my noble friend and all noble Lords that we are watching the situation in China specifically, particularly that of human rights in Hong Kong and Xinjiang. I have said before, and reiterate, that we want a progressive relationship with China. China it is an important partner on the world stage, when it comes to the challenges of climate change and the Covid pandemic.

[Lord Ahmad of Wimbledon]
Therefore, it is important that it stands up for the rights not just of others but of its own citizens. We will continue to raise issues of the abuse of human rights anywhere in the world.

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked and we now move to the next Question.

Licensing: Closing Time

Question

12.50 pm

Asked by ***Baroness Thornhill***

To ask Her Majesty's Government what plans they have to amend the Licensing Act 2003 to allow local authorities to take action against premises that are not enforcing the 10 pm closing time.

Baroness Thornhill (LD): My Lords, in begging leave to ask the Question in my name on the Order Paper, I remind the House that I am a vice-president of the Local Government Association.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, we expect that licensed premises will act responsibly and abide by the new rules on opening hours. We are satisfied that proper enforcement mechanisms are available to the police and local authorities to take action against businesses that fail to comply.

Baroness Thornhill (LD): My Lords, as a former council leader, the Minister will know better than most the impact of the universal closing time on our high streets. It is no surprise that the police, the LGA, mayors and leaders are all expressing their concerns, not only about the impact of the return to the bad old days but about their ability to enforce appropriately. Without effective enforcement, they feel like these are the empty threats of the teacher who has already lost control of the class. When and how will this policy be reviewed? Can the Minister commit to meeting soon with the LGA to listen to and act on its genuine concerns regarding the limitations of current legislation and, with their genuine desire to do more and better, councils' ability to enforce effectively and appropriately?

Baroness Williams of Trafford (Con): I depart from the noble Baroness on needing more legislation, or amendment to the current legislation. The Covid-secure guidelines have become legal obligations. Businesses will be fined and could be closed if they breach the rules. I do not see that an amendment to the Licensing Act, which I think she is referring to and would require primary legislation because it departs from the four current pillars, would be appropriate at this time, because we need swift action.

Lord Haselhurst (Con) [V]: My Lords, in respect of the 10 pm curfew, which is causing so much of a problem for the hospitality sector, have the Government assessed whether the law could be tempered by guidance, giving publicans and restaurant proprietors, who are generally responsible people, a degree of flexibility over drinking and eating-up times, so that dispersal problems might be eased?

Baroness Williams of Trafford (Con): My Lords, guidance has been issued and the guidelines have become legal obligations. It should not be difficult to comply, but I can understand that from many people's point of view these things have happened quickly and that they are ever-changing; such is the pattern of this virus.

Lord Bilimoria (CB) [V]: My Lords, I declare my various interests and acknowledge that health always comes first. The hospitality industry employs 4 million people and has been one of the hardest hit throughout the pandemic. The British Beer and Pub Association said:

"Make no mistake, a 10 pm curfew will devastate our sector during an already challenging environment for pubs … During the current circumstances every hour of trading is crucial to the survival of pubs—for many this curfew will render their businesses unviable."

Can the Minister explain on what scientific basis the 10 pm decision was made? I understand that fewer than 5% of new infections come from the hospitality sector, and our trade evidence shows that 10% of drinks are consumed after 10 pm. Will the Government put in place further comprehensive support packages for this sector that really needs help?

Baroness Williams of Trafford (Con): My Lords, there is a general acknowledgement that the sector is struggling with an hour of its business being cut. The scientific basis is that the number of infections is going up, and the Government, through their engagement with SAGE, are thinking of the best ways to tackle the virus while keeping the economy going as best they can.

Lord Campbell-Savours (Lab) [V]: My Lords, I strongly support whatever legal arrangements are in place, but regarding 10 pm breaches, may I suggest that the authorities have powers, which will take a week or two to settle in, not only to fine, clear and close premises, but to require from premises and personal licensees and their dedicated premises supervisors a written assurance on future compliance with the law, and in default to subject them to a form of aggravated breach penalty payment—in other words, an increased fine?

Baroness Williams of Trafford (Con): I assure the noble Lord that this system is in place. The fines do go up, from £1,000 to £10,000. It would be an unusual licensee who wished to have several £10,000 fines.

Lord Greaves (LD): My Lords, I declare my interests as in the register. The people who do the work covered by regulations in these premises, and not just at kicking-out time, are environmental staff on district councils in two-tier areas, yet the powers to enforce and, if necessary, to close down for a period, rest at county level with public health. Should the powers not be aligned with the people who do the work on the ground at district level?

Baroness Williams of Trafford (Con): Coming from a county authority, the noble Lord will know that quite often the powers lie at county level regarding planning and other things. It is important that, whether we represent organisations or individuals, everyone plays their part in ensuring that the restrictions can be lifted as swiftly as possible.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I refer the House to my relevant interests as set out in the register. While I full support the intent behind the restrictions announced by the Prime Minister, there is a real problem with how this is playing out. Shop workers are at the forefront of dealing with violence, threats and abuse, as people who in many cases have had more than enough to drink seek to buy more alcohol from shops, supermarkets and off-licences. Can the Minister today commit to a proper and urgent review taking account of the additional risks that shop workers face, as the shop workers' union, USDAW, have called for?

Baroness Williams of Trafford (Con): I cannot commit to a review, as the noble Lord will know, but I acknowledge that, whether it is a shop worker or a publican whom people are frustrated at, and whether through the lack of freedom over the last few months or because they have drunk too much, these things are happening in shops. I will certainly take this back and I am very happy to speak to him further about this.

Baroness Neville-Rolfe (Con): My Lords, I share the scepticism expressed by some previous speakers. The 10 pm closing time is, to my mind, mistaken from an economic and a social perspective. If there is to be a curfew, it should start at 11 pm, to allow two servings in restaurants, clubs and pubs serving food, and to prevent huge crowds spilling out on to our streets and into our off-licences and shops, causing yet more mingling. Can my noble friend the Minister publish the scientific evidence on this measure? What will be the cost? What will the police and the local authorities stop doing instead?

Baroness Williams of Trafford (Con): I am sorry to disappoint my noble friend, but SAGE is an independent body and anything it publishes is down to it. On her point about an 11 pm curfew, that is what we had until recently. When making their decisions, the Government strike a balance—I know my noble friend disagrees—between suppression of the virus and trying to keep the economy going to some extent.

Baroness Wheatcroft (Non-Afl) [V]: My Lords, as the last two speakers intimated, when restaurants and pubs close, consumers dive into other sources for their alcohol. Will the Minister explain why the Government refuse to listen to local authorities, such as the Mayor of Manchester, that want alcohol sales after 9 pm stopped?

Baroness Williams of Trafford (Con): I acknowledge all the views of noble Lords who want the curfew later, and I know the Mayor of Manchester wants the curfew earlier, but the Government have to balance the economic effect with the effect of the virus going up.

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, the time allowed for this Question has elapsed.

1.02 pm

Sitting suspended.

Performing Arts: Job Support Scheme

Private Notice Question

1.06 pm

Asked by ***Baroness McIntosh of Hudnall***

To ask Her Majesty's Government what assessment they have made of the impact of the Jobs Support Scheme on live performing arts organisations.

Baroness McIntosh of Hudnall (Lab) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper of which I have given private notice. In doing so, I remind the House of my interests as listed in the register.

Baroness Penn (Con): My Lords, the Government have committed more than £190 billion to deal with the Covid pandemic and to support the economy and jobs. This includes a £1.57 billion Culture Recovery Fund to support arts and cultural organisations. While furlough was previously the right intervention, we must recognise that the virus will be with us for a while, so our economic support needs to evolve. Businesses must adapt and receive support that helps them to do that. The job support scheme is targeted at businesses that can support their employees doing some work but which need time for demand to recover.

Baroness McIntosh of Hudnall (Lab) [V]: My Lords, I thank the Minister for her Answer and I hear what she says, but does she not accept that the effect of the Chancellor's post-furlough arrangements is that many perfectly good businesses in the performing arts sector will become unviable because they are not allowed to operate under the current restrictions? The Culture Recovery Fund has still not reached theatres and production companies. Arts organisations are already making staff redundant and some will not survive, despite huge pent-up demand for their services. Many freelancers, who make up 70% of the workforce, have been, and remain, unable to access any government emergency funds. As the Society of London Theatre and UK Theatre made clear last week, the Chancellor's announcements do little, if anything, to help. Will the Government act now to provide further sector-specific support to prevent irreversible damage to one of our most successful industries?

Baroness Penn (Con): My Lords, performing arts organisations can benefit from the job support scheme. We understand that although performances are allowed indoors and outdoors with social distancing and there is no set limit on audience numbers, the need for venues to adhere to social distancing guidance can make it very difficult for them to operate profitably. That is why we have the Culture Recovery Fund. The noble Baroness is right that that money has not yet been distributed, but I reassure her that DCMS

[Baroness Penn]
and the associated arm's-length bodies have been processing more than 4,000 applications for more than £880,000 million of grant funding, and announcements will be made about hundreds of allocations in the coming weeks.

Lord Young of Norwood Green (Lab) [V]: My Lords, I congratulate my noble friend Lady McIntosh on asking this Question, and I thank the Minister for her response. However, does she recognise—I think that she does—that thousands of jobs in the arts community are at risk, especially in local communities? Does she also recognise the valuable work that they do in a variety of locations—for example, in care homes and through street theatre? Can the Government look at ways of assisting local authorities to support these vital jobs? I understand that they are processing lots of applications but, in the meantime, these jobs really are at risk.

Baroness Penn (Con): My Lords, I think that the Government do recognise that these jobs are at risk, and the Job Support Scheme is open to these organisations. Some will have benefited from the VAT cut, the business rates holidays and local government funds and grants. However, the Culture Recovery Fund is the big government policy that will provide further support, and that will come online within the next few weeks.

Lord Foster of Bath (LD) [V]: My Lords, 36% of freelancers in the performing arts receive no support from the Self-employment Income Support Scheme and will get none under the new scheme. However, in Wales, yesterday, it was announced that a freelancer pledge is to be established and that some of the Culture Recovery Fund is to provide grants for their excluded freelancers. Are there any plans to do the same in the rest of the United Kingdom?

Baroness Penn (Con): My Lords, I am not aware of any specific plans to do that, but the noble Lord is correct that these organisations may use the Culture Recovery Fund to employ freelancers or staff to put on performances and offer other services. Through that route, they can provide support to freelancers.

Lord Pickles (Con) [V]: My Lords, it is clear that those in the arts industry and in leisure will not enjoy a rapid recovery from the pandemic. Even in good times, business rates had a disproportionate effect on the leisure industry and the arts because of the number of large buildings that they occupied in towns and city centres. The current holiday is very welcome. Will my noble friend keep in mind the need for the holiday and, as things start to improve, will she look at the possibility of business rates not being imposed on the arts industry immediately but being phased in?

Baroness Penn (Con): My Lords, the business rates holiday applies for the year 2020-21. The Government will in future keep under review all the policies that they have put in place to support businesses and arts organisations.

Lord Bilimoria (CB) [V]: My Lords, the winter economic plan, including the Job Support Scheme, is bold and will, I hope, save hundreds of thousands of viable jobs this winter. However, will the Government acknowledge that the Chancellor's announcements will not help everyone, especially when the medium-term outlook for some sectors, such as hospitality and the creative industries, looks so uncertain? Do they agree that further business support for these sectors might be required, including in relation to business rates? Do they also agree that there is a huge requirement to provide people with the skills that they need for the jobs of the future?

Baroness Penn (Con): My Lords, the Government have recognised the specific pressure that certain sectors are under, and extending the 5% VAT cut until the end of March is one measure that they have taken. We also recognise that not every job will be saved, and that is why we have invested £2 billion in the Kickstart jobs scheme for young people. I believe that my right honourable friend the Prime Minister is making further announcements on skills training today.

Lord Smith of Finsbury (Non-Afl) [V]: My Lords, is it not the case that a theatre or concert hall that simply cannot open, and therefore cannot provide even partial employment for staff or contracted freelancers, cannot gain any benefit at all from the new jobs scheme? Surely we desperately need to provide something better for this sector, not just through the Culture Recovery Fund, or we will lose the very heart of our cultural life.

Baroness Penn (Con): My Lords, the Government completely recognise the importance of the cultural sector to the British way of life and to people's morale during this difficult time. As I said, it is possible for theatres and other arts organisations to reopen. We recognise that they have specific challenges with the costs of reopening, given that they might not be able to do so at full capacity. The Job Support Scheme might help them with that, but there are a number of other schemes in place that will also help organisations with the additional costs that they face if they are not able to operate at full capacity.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, as the Minister has heard, the UK's vibrant and successful creative sector, particularly the parts that support local communities, is angry because the Treasury's original one-size-fits-all scheme did not reach the freelancers and self-employed who make this sector viable. The DCMS schemes are taking too long and, in any case, are focused on the national companies and their London buildings. On top of that, it was deeply unhelpful of the Chancellor to stress that his priority was to protect jobs in "viable" businesses. Will the Minister confirm on the record that the Government believe that the creative industries are a vital and important component of the economy, and will she agree that rather than question the sector's viability, what is now needed is a sector-specific winter economy plan along the lines of the £7 million scheme just announced by the Welsh Government, referred to by the noble Lord, Lord Foster?

Baroness Penn (Con): The Government absolutely believe that the cultural sector is a vital and important part of the UK economy. That is why we have put in a

specific scheme to support that sector with £1.57 billion. If I understand it rightly, the initiative announced by the Welsh Government is a reflection of that money that has gone in.

Lord Taylor of Goss Moor (LD) [V]: Will the Minister accept that the issue here is not that nightclubs, theatres, concert halls and other live venues are not viable; it is that they cannot operate under the Government's rules? Surely the Chancellor needs to put in place a different support scheme for those businesses, and the freelancers and self-employed who work within them, that are prevented from working and operating not because they are long-term unviable but because of the Government's rules.

Baroness Penn (Con): I believe that the Government understand and accept that. That is why we have put record funding into the cultural sector through the recovery fund.

Lord Aberdare (CB) [V]: My Lords, given that over a third of musicians are considering leaving the sector and that many freelance musicians do not even qualify for the support that is currently available, what prospects can the Minister offer to freelancers who remain ineligible for the extended Self-employment Income Support Scheme either because they have only recently started work or because their work is split between paid and freelance, or because they are paid via dividends as small business owners?

Baroness Penn (Con): My Lords, although the Culture Recovery Fund has not been dispersed yet, the DCMS has provided £3.36 million in emergency funding, which has been allocated to support 135 grass-roots music venues. Support for the self-employed was extended as part of the winter economy plan. For those who do not qualify for that support, the application period for bounce-back loans was also extended. The repayment period for bounce-back loans was extended to up to 10 years, and that can nearly halve the monthly repayments for those who are eligible and choose to take out those loans.

Lord Berkeley of Knighton (CB) [V]: My Lords, I refer to my interests as listed in the register. The heart of the cultural industries in this country lies with freelancers, and at the moment that heart is being ripped from the body. I ask the Minister to look at one or two specific schemes. The one mentioned by the noble Lord, Lord Foster of Bath, as being used in Wales, is a very practical idea to give some help to a really challenged freelance section.

Baroness Penn (Con): I absolutely commit to noble Lords that I will take the specifics of that scheme back to the DCMS and the Treasury, if appropriate, to look at how it is proposed to operate and whether it can be integrated into the operation of the Culture Recovery Fund.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, as vice-chairman of the All-Party Parliamentary Group on Fairs and Showgrounds, which includes circuses, can I ask the Minister if she agrees that these groups are of great value to the culture and heritage in the UK and much loved by the public? If so, does she also agree they clearly fall within the definition of live performing arts groups and qualify for assistance under the scheme announced by the Chancellor last week?

Baroness Penn (Con): I absolutely agree with the noble Lord about the enjoyment derived from going to a fair or a circus. On his point about their eligibility under the scheme, I am afraid that I do not have that level of granular detail before me, so I will write to the noble Lord with that.

Lord Singh of Wimbledon (CB) [V]: My Lords, the arts and creative industries find themselves at the bottom of the Chancellor's new economic package. However, they are an enormous help in sustaining well-being in the current Covid-19 pandemic. Will the Minister consider a further temporary lowering of VAT and an expansion of the Culture Recovery Fund to ensure the continuing viability of this important sector of our economy?

Baroness Penn (Con): I absolutely agree with the noble Lord about the importance of the arts and culture to our well-being, but I have to disagree with him that it is at the bottom of the Chancellor's list. In fact, the VAT cut extension which the noble Lord has called for was delivered as part of the Winter Economy Plan, which was due to end in January but has been extended to March. The plan has been designed to see us through the next six months, which the Prime Minster has said these measures could be in place for, and we will continue to prioritise the arts and culture as an incredibly important part of our national fabric.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, all supplementary questions have now been asked.

1.22 pm

Sitting suspended.

INSPIRE (Amendment) (EU Exit) Regulations 2020

Motion to Approve

1.27 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the draft Regulations laid before the House on 15 June be approved. *Considered in Grand Committee on 9 September.*

Motion agreed.

Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020

Motion to Approve

1.28 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the draft Regulations laid before the House on 21 July be approved.

Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, the instrument before you includes the measures to phase out the supply of the most polluting fuels used in the home. These fuels are traditional house coal and wet wood, or wood with a moisture content of more than 20% when sold in units under two cubic metres. It also introduces sulphur and smoke emission limits for manufactured solid fuels. These measures will come into force in a staged process from 1 May 2021 to 2023.

As noble Lords will know, the Government have made a commitment in the clean air strategy to tackle harmful emissions from domestic burning and to improve air quality. In February, the Government published national statistics on emissions of air pollutants in the UK. It is clear from these statistics that domestic burning is a major source of fine particulate matter emissions. These emissions can have a considerable impact on human health. The tiny particles can enter the bloodstream and internal organs, leading to long-term illness and reduced life expectancy, mainly due to cardiovascular and respiratory diseases and lung cancer. Indeed, the World Health Organization has identified fine particulate matter as the most damaging pollutant in its impact on human health. Given this, the Government consider it vital to take action to protect the health of householders and their neighbours.

We know, of course, that domestic burning is not the only source of fine particulate matter emissions. However, while we have secured a reduction in the amount of emissions from transport and industry, emissions from domestic burning are increasing. The clean air strategy states that we should be looking beyond transport and industry and we should now take steps to deal with pollution from other sources including the pollution caused by heating our homes. The instrument before us will make a substantial contribution towards the reduction of fine particulate matter emissions, which are causing considerable harm.

The Government also recognise that better management and restoration of our peat-lands is needed. We have always been clear of the need to phase out the rotational burning of protected blanket bog to conserve these vulnerable habitats; we are now looking at how legislation could achieve this.

I want to set out in broad terms what the instrument before us will do and make clear what it will not do. The regulations introduce measures which will apply to domestic burning only. The measures will not apply to businesses or the heritage sector. The regulations do not ban domestic burning. We are fully aware that many people enjoy using open fires and wood-burning stoves; we are not looking to stop them. Instead, we are looking for people to move from using more polluting fuels to less polluting fuels. That is why we are phasing out the sale of traditional house coal and wet wood sold in smaller volumes, and requiring that all manufactured solid fuels meet sulphur and smoke emission limits. These regulations will enable people to make informed choices and source cleaner fuels, thereby protecting the health of their families and neighbours.

I will now set out in more detail why it is necessary to regulate the supply of each of the fuels regulated through this legislation—that is, traditional house coal, wet wood and manufactured solid fuels. The amount of fine particulate matter emitted from the domestic burning of coal is less than that emitted by burning wood. However, the Government have taken into account evidence indicating the level of harm that the emissions from coal can cause. The World Health Organization's International Agency for Research on Cancer has advised that the smoke from burning coal is carcinogenic. The agency has also highlighted the harmful elements and compounds which are released when coal is burned. These include arsenic, mercury, lead, fluorine and selenium. It is government policy to reduce people's exposure to these more harmful pollutants, as set out in the clean air strategy. That is why we need to regulate the supply of coal used in the domestic setting. These regulations will encourage people to switch from traditional house coal to smokeless coal and low-sulphur manufactured solid fuels.

The regulations also tackle the domestic burning of wet wood. Burning this type of wood releases significantly more fine particulate matter, smoke and soot than burning wood which has been seasoned. Our estimates indicate that 24%—or nearly a quarter—of all the wood burned domestically is burned at least partly wet. We understand that wood burned in smaller units is more likely to be bought for immediate use. Under these regulations, wood sold in smaller units must have a moisture content of 20% or less. It will be easy to tell whether wood meets the new requirements. To be sold in these smaller units, the wood will need to be certified and bear a logo indicating that this is the case.

The regulations encourage people to switch from traditional house coal to manufactured solid fuels. We want to avoid unintended consequences arising from this switch in fuels, and we want industry to manufacture these solid fuels to the cleanest specifications. Unlike coal, the amount of sulphur and smoke emitted by these fuels can be controlled. That is why these regulations extend the sulphur and smoke emission limits which currently apply in smoke control areas across England. This will mean that manufactured solid fuels sold throughout England will need to meet a 2% sulphur limit and emit less than 5 grams of smoke per hour. Again, it will be easy to tell whether a fuel meets these requirements, as all fuels of this type will need to bear a logo showing that they have been tested and certified.

The Government are aware of concerns that these regulations could have a negative impact on people who are reliant on coal and are in fuel poverty. We have taken these concerns very seriously, and we want people in fuel poverty to share in the benefits of this legislation. We consider that they should be protected from the harmful effects of more polluting fuels just as much as anyone else. We have commissioned research which indicates that they may also be better off financially, as manufactured solid fuels have been shown to be cheaper than coal when energy efficiency is taken into account.

We recognise that vulnerable people who are used to burning coal will need some time to adjust and make the switch to appropriate alternative fuels. That is why these regulations include a transitional period when approved coal merchants will be able to sell

loose coal direct to their customers. This will run until 1 May 2023. During the transition period, these coal merchants will work with their customers to inform them and help them find appropriate, cost-effective fuels which are far better for their health.

We have engaged with colleagues in the Department for Business, Energy and Industrial Strategy on the measures they are taking forward to tackle fuel poverty such as the updated fuel poverty strategy, which will be published later this year. BEIS also runs the national concessionary fuel scheme. Under these regulations, everyone receiving fuel as part of the scheme will continue to be entitled to it. Over 90% of recipients will not need to make any adjustment as they are already receiving fuel which complies with the new requirements. We will work through approved coal merchants so that others can move to compliant fuels which meet their needs. These will be available at no extra cost.

These regulations give small wood producers an extra year to comply with the new requirements. The suppliers qualifying for this transitional period are those who produce less than 600 cubic metres a year. We understand that these suppliers may struggle to meet the 20% moisture requirement immediately; this period gives them time to season their wood to the required level or to consider changes to their business model.

I am aware that there has been some concern about the impact these regulations may have on the heritage rail sector. As I said earlier, this legislation applies to domestic burning only. It will not apply to heritage rail. It may have some indirect impact on how this sector sources its coal, but the regulations give time for the sector to make any necessary adjustments. We will make guidance available to the manufacturers, distributors and suppliers of fuels affected by this legislation so that they are aware of the new requirements. We will also provide guidance for local authorities so that their enforcement officers understand their role in enforcing this legislation.

In summary, the instrument before us takes forward a key component of the clean air strategy, helping us to meet our national and international obligations to reduce polluting emissions, and dovetails with measures which the Environment Bill will deliver. The regulations will make sure that householders are able to make informed choices and can protect themselves and their families from the effects of the most polluting fuels. The measures in these regulations will deliver benefits to the environment and to the health of our citizens. They will also reduce the burden that illness caused by air pollution places on the National Health Service. I beg to move.

1.38 pm

Lord Mann (Non-Afl): My Lords, I have tried for the last two decades to persuade previous holders of the Minister's post, and others in various Governments, on this issue. The general drift of these proposals is in the right direction; I have no specific objection to what the Government are proposing, but I fear that they will not achieve everything they intend.

For clarity—from my understanding of what I have read and what the Minister said—there will be no criminalisation of a householder. The seller is the one who will be caught by these regulations. I would like that clarified by the Minister as I have been in many of the households directly affected over the years and I know many affected households. I think it is fair to say that not everybody uses the official market in their supply of heating products, particularly in former coal-mining areas where the tradition of open fires in many households disappeared quite a long time ago. They have something quite antiquated in terms of technology, akin to a wood burner, in which solid fuels such as coal were burned—previously including concessionary coal or any other coal obtained—but where people have now migrated to burning waste and, in particular, burning wood. They get those supplies of wood in many different ways, not always, indeed rarely in my experience, from petrol stations, supermarkets or DIY stores selling it.

I fear that there will be a continuation of the entrepreneurial spirit of the old coal miners. Some of them cannot read all the guidance, in my experience, but if they can they tend not to bother with the fine print. If they cannot buy in a store, they may find a supply elsewhere, which comes to what I have been banging on about to Minister after Minister. I will put it simplistically but, I think, accurately.

What I have said repeatedly is that I can persuade any pensioner household living in an old pit house or bungalow to take green technology if it would give them free energy, if someone would only install it. Some of them will grumble and then sign on the dotted line, while others will openly embrace it. When it came to solar panels, I found that nothing was easier. If it went on the green arguments, we might get into something of a side-tracked debate but if we went into the economic arguments, it was very straightforward: "We'll stick them on your roof and you'll get some free energy. How much, we don't know." I never used to promise what I was technically incompetent to deliver and had no authority on, but I could guarantee that there would be some considerable savings. That proved always to be the case. It was less so with ground-sourced heat although there remains a huge potential for it, which has hardly been tapped. I can think of some council bungalows near me, where 24 of them were some of the first in the country to be done. I never heard a complaint afterwards because people were getting at least their hot water for free and sometimes more.

There is the idea of retrospectively fixing these old pit houses by doing this, that or the other to make them more environmentally sound. That is true, but proportionately much less so than for other properties. These houses are well built and well insulated. They do not need retrofitting like the new thin-bricked houses. These are solid properties with solid roofs, therefore they self-insulate anyway. We might add a bit extra insulation and have better windows and doors. That is very welcome and would save on their bills.

On the Minister's strategy, if he could find a way of incentivising getting this green technology installed on houses, particularly for pensioners, then those who have not already will do so. It will get into this small number of the most vulnerable, who are the most fuel-poor. I can hear those who have not done so saying no to me now; if I went to meet them next

[Lord Mann]
weekend, they would say the same thing but if it could be installed for free, they will go with it. They are the ones who will continue, one way or the other, in burning whatever they get hold of. Whether it is full of creosote because it is an old railway sleeper or something else industrial, they will source it. They will chop it up, burn it and save money by doing so. The only way that any Government will crack that is by incentivising the putting-in of the green technology.

The Minister has a reputation for being one of the greenest Ministers in our history, which is deserved. This is an opportunity for him to make his mark in areas where his name is perhaps less well known but could become famous, if he can get into these areas of fuel poverty and persuade this tiny but important minority of households, but he is going to have to incentivise it. I would say: make it pensioners only, make it free and get it delivered. The capital cost would be small, but I put it to him that the payback in PR and the real payback for the environment would be hugely disproportionate. These will be the people who carry on burning the stuff the Government do not want them to burn, even if they cannot get it through their usual, traditional suppliers. Let us therefore target them and be adventurous. It would be British technology and British jobs, and the Chancellor and Prime Minister will look favourably on this Minister when it comes to future promotions.

1.45 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for setting out the rationale for this important statutory instrument. The air we breathe has to be clean. Many of our children and adults suffer from asthma and other respiratory diseases. They are not helped by pollutants in the air. I fully support the measures proposed to ensure high air quality and welcome the Minister's commitment to address the issue of burning blanket bogs.

What we are debating and the improvement it will make to air quality is a far cry from the air which I often encountered in my childhood in Bristol. Not knowing anything whatever about the impact of poor air quality, I often travelled on a bus in the late winter afternoons and was unable to see anything out of the window. The outside was a very odd, dense yellow colour. People were hurrying along with their heads down and scarves pulled up over their mouth and nose. As a child, this seemed quite exciting from the safety of the warm bus but it was a different matter when we alighted and had to walk home from the bus stop with the fog swirling around us, making us damp and our eyes water. Mercifully, today such smogs are rare in our country but it is vital that we monitor air quality at all times and do everything possible to improve it.

Wood burners are very popular; I declare an interest, as we have one in our home. They are extremely efficient and produce a good heat in a short space of time. But what we burn on them needs to be of good quality—wood that has been allowed to dry out—and if solid fuel is added, it has to be smokeless and sulphur-free, burning with a clean heat that does not produce particles and pollutants.

The Government's clean air strategy, published in 2019, covers the use of wood burners; it also covers other important measures to improve the air that we breathe. Idling cars alongside schools at pick-up and drop-off times do nothing for the lungs of the children going in and out of school. PM2.5, already referred to, is an atmospheric particulate matter with a diameter of less than 2.5 micrometres, which is about 3% of the diameter of a human hair. Particles in this category are so small that they cannot be detected without an electron microscope. Even at moderate levels, particulate matter can still be harmful to sensitive people. When air pollution levels are lower, the cardiovascular and respiratory health of a person will be much improved in the long and short term.

PM2.5 causes numerous adverse effects such as breathing difficulties, eye irritation, dryness of the nose and mouth, throat infections and a feeling of claustrophobia, as well as numerous psychological effects. It has been identified as the most damaging air pollutant by the World Health Organization. The Explanatory Memorandum indicates that 41% of pollutants came from PM2.5, with 16% coming from industrial combustion and 12% from road transport. However, the EM also admits that these figures are only estimates and that it is difficult to accurately estimate the extent and nature of domestic burning and emissions.

This brings me to the crucial test in this matter. How are the Government going to monitor whether domestic properties are adhering to these new restrictions? The noble Lord, Lord Mann, laid out that case clearly. What measures will be in place to ensure compliance? What will be the penalties for the hapless households not adhering to the rules? Paragraph 7.3 of the Explanatory Memorandum indicates what the exact limitations will be, while paragraph 7.4 goes on to say that the Government are not banning stoves or open fireplaces.

To me, indicating this shows that the Government had considered it, although the Minister said that they would not be doing it. I want to give a personal example of why I would fight tooth and nail against such a ban.

When my first child was six months old, we lived in a house that was entirely electric but had an open fireplace. It was winter, and there was heavy snow, bringing power cuts to the whole village and the larger surrounding area. After 24 hours, the main road was cleared, and so my husband and others carefully went off to work in the town four miles away. I was left keeping the baby warm in front of the open fire. After three days, the village was connected except for the five houses on our side of the street. It seemed our electricity came over the fields from a neighbouring village and had not been reconnected. When my husband came home that night and asked why I was still sitting in candlelight, I seriously considered divorce proceedings. However, with the intervention of a neighbour, electricians worked throughout the night to reconnect us. At that time, I swore that I would never again be totally dependent on electricity for heat and cooking facilities, and I have kept to that.

The Government are right to encourage households to switch to cleaner energy forms, but it would be very unwise to legislate to ban stoves and open fireplaces completely. There will be many who, like me, want a fail-safe back-up for when there are electricity outages, as is so often the case, especially in very rural areas.

I welcome smaller suppliers being given more time to comply with the regulations, and I am encouraged that the freeminers in the Forest of Dean are exempt. Can the Minister say whether this exemption is for the lifetime of the current freeminers or in perpetuity?

I note that paragraph 11.2 of the EM indicates that local authorities will be expected to issue certification schemes and enforce the legislation. The guidance will be issued three months prior to restrictions. Many households will have stocks of fuel that will last more than three months and could become liable to fines, if there are any for individual households. The cost to local authorities is estimated at £1.2 million over 11 years. Are the Government going to cover this cost? Local authorities are extremely short of cash due to funding social care and the Covid-19 crisis. They will not be able to cover this additional cost.

I fail to see that the reduced sale of wood is likely to cause a £14 million loss over an 11-year period due to less dry wood being used than wet wood. It is far more likely that the cost of kiln-drying wood will push the price up at the point of sale. The SI refers to an "approved wood certification body". Can the Minister give a little more detail on what this body will look like and what powers it will have?

I note that the phrase "best endeavours" has crept into the SI in Regulation 5(6)(b), referring to the certified supplier ensuring that their wood is consistent with the sample they have provided in order to gain certification. I see a loophole here for the unscrupulous operator who will provide a sample that fits the criteria and then supply a very different product to the customer. There is the threat of a fine, but again I ask: how will this be monitored? If the wood thus produced is cheaper, will those on low incomes be likely to report that their wood is producing more smoke than anticipated? Do the Government believe that the £300 fine will be sufficient to deter illegal trading?

The SI says that:

"The Secretary of State must appoint at least one person to be an approved manufactured solid fuel certification body."

I suggest that a lot more than one will be needed. Some areas of the country are more likely to use wood-burners and open stoves than others. It will be necessary to have access to more than one certification body, especially as small producers—often sole traders—are involved here, not large multinational companies.

Fixed penalty notices appear to be the responsibility of the local authority. Does this mean that each local authority will be responsible for collecting the £300 for a penalty notice, which has to be paid within 28 days?

I note that the Government envisage publicising the logo "Ready to Burn", so that consumers are aware both that the law has changed and how to easily identify fuel that meets the required standards. Will this be a similar type of campaign to the current television advertising campaign to try to get us to download the test and trace app?

I apologise that I have asked a lot of questions. I am totally behind the Government in this initiative to try to reduce the amount of pollution in the air that we breathe. I support this SI.

1.55 pm

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for setting out the intention of this SI so clearly and thank noble Lords who have contributed to this short debate this afternoon. The issue of toxic air quality has long concerned Members from across this Chamber, from well before the Minister was able to join us. Our criticism has always been that the action being taken is too little, too late. That is why the Government have ended up in court on this issue on a number of occasions.

We now have a proposal before us that specifically takes action on fine particulate matter which arises from the burning of wet wood and bituminous coal. As the Minister said, this is known to be the major source of cardiovascular and respiratory diseases, including lung cancer. These proposals are acceptable as far as they go, but do they go far and fast enough?

Having read the SI and the Explanatory Note, as well as the debate in the other place, it seems to me that since the Government set out to tackle this health hazard, they have been busy scaling back and limiting their proposals. We have national and international obligations to phase out the production of PM2.5, which has been identified by the WHO as the most damaging air pollutant. According to the impact assessment, the Government are set to miss their legally binding target for a reduction of PM2.5 by 31 kilotonnes by 2030 if no action is taken. The Explanatory Note goes on to say that this instrument will abate approximately 9.37 kilotonnes in the year 2030. I hope the Minister will help me on this because, unless I am reading these figures wrong, we still have a huge gap in meeting our legal requirements, and indeed a huge mountain to climb to meet our international obligations on this issue. Can the Minister please clarify what proportion of our 2030 target will be met by these proposals? Can he tell us when we will see the remaining pieces of legislation that will make sure that we deliver properly on our national and international commitments? Is it also true that the Government published a more ambitious draft SI earlier in the year that has now been replaced by this version which includes longer delays for implementation?

I have a number of questions about the detail of the proposals. First, can the Minister clarify the open tender arrangements for appointing the certification body? This question was raised by the Secondary Legislation Scrutiny Committee and again today by the noble Baroness, Lady Bakewell. I have experience, in another life, of ombudsman bodies being appointed to businesses in the sector that have a clear, vested interest in the outcome of their judgments. Can the Minister assure the House that the certification body or bodies will be truly independent and not able to benefit from the products that they certify?

Secondly, the proposals understandably raise concerns about people living on low incomes who rely on solid fuels, particularly in rural areas. Does the Minister accept that these families need greater financial help

[Baroness Jones of Whitchurch]
to transfer the source of their heating from health-damaging to safe fuels? I agree with the noble Lord, Lord Mann, that we could be far more ambitious on this issue. Surely this is particularly pressing, given that, as the Minister has already acknowledged, those who continue to use these toxic materials threaten not only the health of their families but that of their neighbours and the community around them.

The Minister also made it clear, as is identified in the Explanatory Notes, that clean fuels are actually less expensive than traditional fuels once energy efficiency is factored in. In these circumstances, is there really a case for a delay in the coal-burning ban beyond that which was originally envisaged, particularly when there are healthy alternatives already freely available?

Thirdly, would the Minister like to comment on a letter I have received from a producer of smokeless domestic fuels, who points out that all the makers of smokeless fuels are UK based, while all the coal we use is imported? There would, therefore, be a benefit to UK businesses in making the shift to clean fuel more quickly. Finally, will the Minister again update the House on the timing of the Environment Bill? I know that we ask this question regularly, but I am going to repeat it. The Bill is languishing in the Commons and we now understand that it is not due to leave there until Christmas, so it will not begin consideration in the Lords until the new year. We need the Bill to be passed to make broader progress on the clean air strategy. As it already seems that it will miss the end-of-year deadline, we will be left with a regulatory gap on this and other issues. Why has it been delayed? What steps is the Minister taking to chase it up?

We are not going to oppose this SI, but I have to conclude, sadly, that it is a poor imitation of the kind of ambitious policies we need to clean up our toxic air and deliver on our WHO targets. I look forward to the Minister's response.

2.02 pm

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, I thank noble Lords who have contributed to this debate. The instrument takes forward a key component of the clean air strategy, to help us meet our national and international obligations to reduce pollution, and it demonstrates this Government's commitment to delivering environmental benefits. The measures it contains will improve air quality and deliver benefits that improve the health of this country's citizens and the quality of their lives. I will attempt to address in order the questions and comments put to me by noble Lords.

The noble Lord, Lord Mann, raised the prospect of unforeseen consequences, citing the example of the potential criminalisation of householders. More pertinently, he asked whether householders could find themselves being criminalised. This SI does not result in householders being criminalised; this is about the trade. The noble Lord's logical next question was about the consequence for entrepreneurial individuals opting for a less formal, or even non-market, route to providing fuels to householders, who would not then get caught up in this legislation. He is, of course, right up to a point. Legislation rarely answers all the questions that are put to it; no legislation is perfect. We cannot stop people burning foraged wood and waste, but we are clear that burning these materials is highly damaging to their health and to that of others in the community. In addition, it is worth noting and remembering that people burning coal and switching to manufactured solid fuels could—and likely would—save money, because they would be burning a more efficient fuel than coal.

The noble Lord also asked about incentives around the uptake of clean energy and to encourage greater levels of energy efficiency. He is absolutely right; incentives are central. The payback on energy efficiency is already there. We know that money invested in energy efficiency has a faster payback than that invested in any form of new energy. The best power plant is the one that is not needed as a consequence of strategic investment in energy efficiency. That has always been, and remains, the case. My colleagues in BEIS are looking hard at the kinds of incentives that are going to be needed to see a step change in the volume and speed of energy efficiency that needs to happen around the country. I very much take the noble Lord's point that such incentives should be targeted at fuel-poor, low-income and elderly householders.

On a broader point, the market is changing rapidly. Even in the last few years, the costs of renewable energy across the board have come down far faster than anyone anticipated. No one anticipated that, in the very early 2020s, we would be on the cusp of offshore wind being able to exist without subsidy. Most people put their assessments and predictions at around 2030-plus, but we are now right on the cusp of offshore wind being viable without subsidy. The cost of solar has come down by around 90% in the 12 years since the credit crunch. Last year, more money by far was invested in new renewable technology than in fossil fuels.

A final, interesting point on that is that coal use in the United States has declined far faster under President Trump, despite his being wildly in favour of coal, than was the case under President Obama, who was more interested in tackling climate change. This just shows that the market is racing ahead of politics, and the cost ratio is changing so dramatically that the Government's job is to do what they can to accelerate those trends. The solution is easily within our grasp now, in terms of both energy efficiency and renewable energy.

The noble Baroness, Lady Bakewell, began by painting a vivid picture of the smogs that she was used to in an earlier part of her life. Although it is very hard to capture precise numbers of how many people's lives were brought to a premature end as a consequence of air pollution, it is worth noting that the figures we have today are not dissimilar to those that existed at the time of the great smogs. The difference is that the pollution that damages people today is largely invisible and does not therefore have the same stark effect as the smogs which she described so well.

The noble Baroness also mentioned the importance of wood-burners to many people, including herself. I add myself to that list; I too use a wood-burner. However, in doing so she reinforced the need for this legislation. She made the case very well for a shift towards a cleaner fuel for those wood-burners. She

raised the broader issue of air quality and zoned in on PM2.5, as did the noble Baroness, Lady Jones. This is just one measure—one tool—that the Government are using to tackle air quality. We certainly would not pretend that this SI is going to crack the problem of environmental air pollution. I will come to the specific point of PM2.5 in a moment.

The noble Baroness, Lady Bakewell, asked about the free-mining tradition and welcomed the fact that an exemption exists for those living in the Forest of Dean. Nothing in this SI changes the arrangements they have. Their rights remain protected. There is no difference; it has no impact. So they can, I hope, rest easy. She also asked about households being fined. Householders are not going to be fined. The target of this SI is the trader. She also asked about enforcement. Local authority enforcement of this SI is meant to be light-touch. It will involve checks at retail outlets that fuels being sold comply with the legislation, such as by carrying the correct certification number and logo and being correctly stored. We are looking closely at how we can best support local authorities in their enforcement of the regulations and will be issuing guidance on that very soon. This is alongside measures in the Environment Bill, which I will come to in a moment, which will also make it easier for local authorities to tackle air pollution in their areas.

The noble Baroness's last point related to the logo. Wood and manufactured solid fuels that meet the legislative requirements will be identifiable by the same logo and certification number on the product packaging. Details about the logo will be made public as soon as the legislation and certification body are in place, so will come back to the House when appropriate. We intend that the same logo will be used for both manufactured solid fuels and wood, to provide clarity for consumers. We do not want to overcomplicate what should be a fairly simple measure.

Finally, I would like to come to some of the questions raised by the noble Baroness, Lady Jones. The failure to implement this legislation is most likely to result, as she says, in the UK failing to meet its legally binding targets for 2020, and possibly 2030, on fine particulate matter—PM2.5s, raised earlier by the other noble Baroness. Therefore, there is a consequence of this legislation not going through, and I am therefore very grateful to her and other noble Lords for supporting this legislation.

But she is also right to say that there is a big gap in terms of meeting our legal obligations. To that I say, yes, that is correct; there is much that the Government need to be doing, working with business and local authorities and other departments of government—not least the Department for Transport—to tackle the issues of air quality that are damaging the health, in some respects, of people in this country. This is just one of those measures; we are not pretending this a catch-all solution. But we are at the forefront of reducing industrial pollution in this country. We are currently consulting on bringing forward the end of the sale of new petrol and diesel vehicles to 2035, or even earlier if a faster transition is feasible. We are looking closely at that now and working closely with the industry. The Environment Bill delivers key parts of the clean air strategy and is the first environment Bill in over 20 years.

The noble Baroness asked when it is going to continue its passage through Parliament. I am extremely sorry; I wish I could provide a detailed answer, but I am not able to. But I am absolutely aware that timing is an issue and that this extraordinarily important piece of legislation needs to find its way through both Houses as quickly, efficiently and effectively as possible. I make this case at every opportunity, as do my colleagues in the Department for Environment.

The "Air quality" chapter in the Environment Bill makes a clear commitment to a certain ambitious air quality target that goes beyond EU requirements and delivers significant health benefits. The Environment Bill will also enable the Government to recall the engines of non-road mobile machinery and related emission components that are non-compliant with the environmental standards they were approved to meet, and more besides. The Environment Bill really does help us deliver on and achieve the ambitions within the clean air strategy.

The final—I think—question I was asked related again to the issue of fuel poverty. I reiterate that a number of concerns were raised during the consultation process that led to this situation today: to us being able to present the SI. We took those concerns, and we continue to take those concerns, extremely seriously. We want people in fuel poverty to be able to benefit from this legislation, just as anyone else can. There is no reason why those living in fuel poverty should be exposed to more dangerous, more polluting fuels than anyone else. Indeed, were that to be the outcome of this legislation, I would say that the legislation had failed. It is very important the benefits are spread evenly and equally.

We have commissioned research that, as I said in my opening remarks, tells us that once they have made the transition to cleaner fuels, they should be better off financially because of the efficiency with which these fuels burn. It is worth taking that into account. At every step of the way, we are determined to ensure that people are not left worse off, particularly those people who are living in fuel poverty today. We are absolutely determined that this legislation will help, rather than hinder or harm, people in vulnerable households, and we will continue to work with stakeholders to ensure that that is the case.

As I have outlined, the regulations phase out the supply of the most polluting fuels used for domestic burning. The measures they contain will enable people to enjoy their wood-burning stoves and open fires, safe in the knowledge that they are using cleaner fuels which will protect the health of their families and neighbours, as well as the wider environment. I will close my remarks at this point and thank noble Lords for their contributions and their support today.

Motion agreed.

The Deputy Speaker (Lord Duncan of Springbank) (Con): Noble Lords will be pleased to know that we are not taking a short adjournment here; we are rolling straight into the next piece of business. So those who wish to dance out of the Room now may do so: otherwise, I will move on to the next Motion. The time limit for the debate is one hour.

Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020

Motion to Approve

2.14 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Regulations laid before the House on 7 July be approved.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, this draft instrument will be made under the powers conferred by the European Union (Withdrawal) Act 2018 and will be needed at the end of the transition period. As noble Lords will be aware, we have conducted intensive work to ensure that there continues to be a well-functioning legislative and regulatory regime at the end of the transition period.

This draft instrument amends the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009, as amended, which I will call the "2009 regulations". These regulations provide a framework for ensuring the safe transport of dangerous goods in Great Britain.

The 2009 regulations give effect to two EU directives concerning the carriage of dangerous goods. The Dangerous Goods Directive 2008 gives legal effect to international agreements on the carriage of dangerous goods and establishes a common safety regime across all EU member states. The Transportable Pressure Equipment Directive 2010 sets out procedures to be followed and safety requirements for transportable pressure equipment.

These amendments ensure that we continue to work to the same requirements and standards in the carriage of dangerous goods as before the UK's exit from the EU and provide legal certainty for the industry. This is achieved by amending references to the directives in the 2009 regulations, as well as requirements that are predicated on the UK being a member state of the EU.

I will give a tiny bit of background. The UK has signed up to various international agreements on the transport of dangerous goods. It is a signatory to the European agreement concerning the international carriage of dangerous goods by road. The agreement, helpfully known as ADR, was made under the auspices of the United Nations Economic Commission for Europe, UNECE, and has been implemented in the UK since 1968. The UK is committed to the ongoing implementation of the requirements of this agreement, which predates our EU membership. ADR does not automatically have legal force and is now implemented within the EU by the Dangerous Goods Directive. The EU has also introduced a directive on transportable pressure equipment, also applied domestically through the 2009 regulations.

Turning to rail, the UK has been a signatory to the convention concerning international carriage by rail—COTIF—and predecessor conventions since 1980. The regulation concerning the international carriage of dangerous goods by rail, RID, forms appendix C to COTIF. As with ADR, the Dangerous Goods Directive implements RID in the EU, including for national transport.

As mentioned previously, this draft instrument will be made under the powers conferred by the European Union (Withdrawal) Act 2018. It is subject to the affirmative procedure because it transfers an EU legislative function to a public authority in Great Britain, in that it gives the Secretary of State power to derogate from the standards set in three international agreements concerning the carriage of dangerous goods by road, rail, and, to a lesser extent, inland waterways, through the issuing of domestic exemptions to these agreements.

At the end of the transition period, the dangerous goods and transportable pressure equipment directives are retained in their entirety in UK law. This draft instrument makes the changes necessary so that the requirements and procedures within those directives continue to function correctly. This is essential to ensure the regulatory regime in place in Great Britain after the transition period continues to function. This instrument updates references and definitions used in the regulations to reflect the UK's exit from the EU.

At present, the power to issue derogations from ADR and RID, and in respect of inland waterways, rests with the European Commission. This draft instrument gives the Secretary of State power to issue domestic derogations where safety is not compromised. The instrument also introduces a new UK conformity mark—the UK TPE—so that transportable pressure equipment, or TPE, may continue to be manufactured and inspected in Great Britain after the transition period. This instrument places obligations on manufacturers, importers, distributors and owners of this UK TPE, and it mirrors the requirements of the Transportable Pressure Equipment Directive.

This instrument introduces a process by which the competent authority in Great Britain—in practice, the Secretary of State—may appoint bodies to undertake inspections, examinations, testing and approval of transportable pressure equipment. Under the Transportable Pressure Equipment Directive, the European Commission would have been notified of, and could have vetoed, such an appointment before a UK inspection body was awarded "notified body" status. For notified bodies established in Great Britain before the end of the transition period, this instrument provides for their appointment by the GB competent authority without charging a fee.

As the carriage of dangerous goods is devolved to Northern Ireland, this instrument will also ensure that transportable pressure equipment assessed in Northern Ireland in accordance with the transportable pressure equipment directive continues to be recognised in Great Britain, through acceptance of the UK(NI) mark. This implements a requirement of the Northern Ireland protocol relating to unfettered access of goods between Northern Ireland and Great Britain.

This instrument is relatively simple. It serves to ensure the continued effective regulation of the carriage of dangerous goods in Great Britain to the same standards as before the UK's departure from the EU. It maintains the existing regulatory framework but includes essential amendments to ensure we have a functioning statute book. I beg to move.

2.21 pm

Baroness Altmann (Con): My Lords, I welcome these regulations as an essential part of our preparation for the end of the transition period into 2021. The transport by road, rail or inland waterways of dangerous materials, such as hazardous chemicals, fuel, gases, explosives and pressure equipment, through or near populated areas must be as safe as possible, both for the public and those working with these materials. This is certainly not an area in which to take risks. For decades, we have ensured that international standards, and then even stronger EU standards were introduced to improve protection and enhance environmental protections. I am delighted that it has been confirmed that these regulations will maintain the pi marking system to ensure that current standards are met, and that the EU directives implementing our agreements with the UN prior to joining the EU will also be maintained, but who will oversee this in future?

I am delighted to see that the Northern Ireland protocol is being upheld and, for example, that the TPE in Northern Ireland will continue to comply with EU directives and recognise Northern Ireland inspection. My noble friend said that the Secretary of State can approve derogations

"where safety is not compromised".

Who will judge this? What expertise and experience will the Secretary of State call on to exercise this discretion?

I understand that the optional new rho standard will potentially be used for our own GB equipment, manufactured here or imported, and will have conformity assessed by appointed inspection bodies. Can my noble friend give us a little more information on who will staff these bodies, what they will be, who will fund them and what safety checks or early warning systems they will have access to? Are we considering joining EU bodies that have already been established and continuing to benefit from the much broader reach that those 27 other countries can attain relative to the UK itself?

I welcome my noble friend's introduction of this SI and congratulate her on her clear explanations and her words of reassurance that this merely maintains what we have now, but if she could answer the questions I have raised, I would be most grateful.

2.24 pm

Baroness Randerson (LD): My Lords, these regulations relate to the transport of dangerous goods by road, rail and inland waterway. They include amendments to legislation relating to the inspection of transportable pressure equipment. This is another in the long line of changes to our statute book required because of Brexit. It is a good example of the effectiveness of the EU and how we have benefited from the highest standards set by it over the years.

Safe transport of dangerous goods is something we take for granted, specifically because it has been done so well for so long. As always, leaving the EU has complicated matters. As this is about international transport of goods, we have to continue to use the EU pi marking if we want to continue to trade in this important sector. The continued use of the pi marking will be essential in Northern Ireland, but because of the Northern Ireland protocol, there will also be a UK(NI) marking alongside the pi marking, to enable goods to enter Great Britain's market. This is one additional complexity. In any event, there is to be an additional UK rho marking. Is that just someone's clever idea, to give us a feeling that we are free of the dreadful EU, or is it essential? Again, I ask the Minister to explain: is this a government choice, or is it essential?

Then there is the difference between notified bodies and appointed bodies. I read this part several times very carefully, and I have to confess that I am still not clear, so will the Minister please elucidate for me? I should like to know more about these bodies. May we have some examples? Specifically, how are they appointed and who sits on them? How free are they from government interference? The noble Baroness, Lady Altmann, has made her concerns clear on the issue of safety and high standards, and this is what is behind my question. The Government do not exactly have a shining reputation from recent months for filling public appointments with the correct level of expertise. We are back to the situation which predated the Nolan rules, in some cases. I cannot think of a sector where real expertise, rather than political linkages, is more important, so I look forward to the Minister's explanation of exactly who these bodies are.

My other concern is the consultation, which took place two years ago. The list of bodies quoted as consultees does not include any specific reference to the nuclear industry. I hope the Minister can reassure me. I hope she can explain clearly that the SI refers to the nuclear industry—I assume it does—and explain which of the bodies consulted cover the nuclear industry. How were the views of that industry taken into account? For example, nuclear waste from Hinkley Point in Somerset travels regularly by night train to Sizewell. The amount of nuclear waste will increase when Hinkley C is operative, and there will be real challenges in rail capacity and so on, so the issue of safety there is important.

Finally, what if there is no deal? Will this legislation be affected? Will it be affected by the handover process from the current system to any new system?

2.29 pm

Lord Rosser (Lab) [V]: My Lords, I thank the Minister for her explanation of the content and purpose of this draft statutory instrument covering the transport of dangerous goods by road and rail, which in transferring an EU legislative function at the end of the transition period, as she said, also gives the Secretary of State power to derogate from the standards set in three international agreements through issuing exemptions to those agreements. As the Minister said, these international agreements relate to the carriage of dangerous goods by road, by rail and by inland waterways.

This SI, through the introduction of an optional UK-only compliance mark, also enables bodies inspecting transportable pressure equipment in Great Britain to continue to do so for such equipment on the non-EU market. Why have the Government apparently concluded that the new UK-only compliance mark should be optional?

[Lord Rosser]

The SI provides for Great Britain to continue to work to the same standards and requirements in the carriage of dangerous goods at the end of the transition period as applied while we were a member of the EU and as still apply today. Can the Government confirm that this also applies to the petroleum driver passport?

Both noble Baronesses, Lady Altmann and Lady Randerson, asked who will ensure that the standards and requirements will be adhered to following the end of the transition period and how. I too await with interest the answer to the questions they raised.

Do the Government have any plans to exercise the powers in these regulations to create domestic exemptions or changes to the current standards and requirements of the present regulatory framework, and if so, in which areas in particular? In addition, have the Government been approached by any parties involved in the carriage of dangerous goods in this country to introduce exemptions or changes to the current standards and requirements of the present regulatory framework, and if so, in what areas in particular?

As has been said, the carriage of dangerous goods is devolved to Northern Ireland. Will Northern Ireland also be able to take powers to create its own domestic exemptions to the current standards and requirements? If so, do the Government know whether there are likely to be any such exemptions or changes of that nature?

Finally, we heard recently from the Government that when the transition period ends we could find up to 7,000 lorries being held up at channel crossing points. What would be the position if vehicles carrying dangerous goods were among the possible 7,000 held up? Could such a delay have any effect on their being able to adhere to all the current standards and requirements of the present regulatory framework, in respect of the carriage of such goods, which will still be in force immediately following the end of the transition period but which will then be a matter solely within our jurisdiction?

2.33 pm

Baroness Vere of Norbiton (Con): My Lords, I thank all noble Lords for their consideration of these draft regulations and their input into this short debate. I will say at the outset that this is one of those statutory instruments in which nothing much changes. I reassure my noble friend Lady Altmann that there is no new system per se which will come in and need to be set up and resourced, et cetera. We will be very reliant, as we are now, on an existing and well-functioning system.

My noble friend quite rightly asked who will oversee the carriage of dangerous goods, so I will take her through that in a little more detail. It is the same system as now. Enforcement activity is carried out in line with the enforcement policy of the Health and Safety Executive, as one would imagine. Both the police and the DVSA can undertake roadside inspections and issue prohibition notices under Section 22 of the Health and Safety at Work etc. Act 1974 where there is non-compliance with any of the regulations. Details of these prohibition notices are recorded and published on the HSE website, which gives the appropriate level of visibility to see how the system is responding. Where justified, police officers may also initiate court proceedings. The Office of Rail and Road enforces the rules in relation to the carriage of dangerous goods by rail. We do not expect any change in the capacity for enforcement, so it will require no new resources.

On the point raised by the noble Baroness, Lady Randerson, about the inspection bodies, there are already 33 inspection bodies appointed by the competent authority, which was previously the EU and will now change over to the Secretary of State. We do not expect that these inspection bodies will change particularly; they are well-established and have been around for a long time, and relate to every element of the carriage of dangerous goods, as one would expect. This SI simply allows the Secretary of State to appoint the same bodies to fulfil the same functions thereafter.

However, it is worth going into a bit more detail about consultations with the industry—the noble Baroness, Lady Randerson, mentioned the nuclear industry and whether it had been consulted. This SI has been very widely consulted on. We actively engaged with over 300 stakeholders, including the Office of Rail and Road, and no concerns were raised. In 2018, we issued a public consultation on this SI and received just seven responses, none of which raised any concerns but some of which guided our drafting, as noble Lords would expect. Because that was done back in 2018, we conducted a second informal consultation in 2019 which targeted specific stakeholders, primarily around transportable pressure equipment and the conformity assessment bodies, on the introduction of the non-mandatory UK mark. Again, there were few responses—just four—and they did not identify any concerns with our approach to the introduction of this mark and guided our thinking as to how it would be implemented.

The noble Lord, Lord Rosser, mentioned the petroleum driver passport. This will not be impacted at all by the regulations. The PDP is a UK industry scheme which was established with backing from DECC, now BEIS. It was set up and is managed by the industry—the Downstream Oil Distribution Forum. DfT's role with the PDP is to facilitate the contract for the delivery of the scheme between the DODF and the Scottish Qualifications Authority, which manages the implementation of the scheme. There will be no change: the DODF will retain the ownership and management of the scheme which is not mandated by law. We expect that to continue.

It is worth spending a little time on Northern Ireland and on possible exemptions that may arise. As the transport of dangerous goods is a devolved issue, Northern Ireland has its own legislation concerning this, but it mirrors the GB regulations. At the end of the transition period, Northern Ireland will continue to apply the requirements of one of the directives relating to the transport of dangerous goods—the transportable pressure equipment directive. This means that transportable pressure equipment, or TPE, conformity assessed in Northern Ireland will need to bear the "UK(NI)" marking in addition to the "pi marking" required by that directive. This draft SI introduces a provision to recognise such marked transportable pressure equipment on the market in Great Britain. Without this provision, it would not be possible to place such

equipment on the market in Great Britain, and therefore it is required to permit unfettered access of such equipment between Northern Ireland and Great Britain.

The noble Lord, Lord Rosser, also asked about the different marks. In Great Britain, at the end of the transition period TPE already on the market with a pi mark will continue to be recognised, and any new TPE entering the market in Great Britain may either be pi marked or rho marked. To that extent, the rho marking is non-mandatory. Where a new product is pi marked, GB inspection bodies will not be able to perform conformity assessments, as they have to be undertaken by EU notified bodies. Northern Ireland is in the process of making equivalent regulations, which will mirror what is under discussion today and which are making their way through its legislative system.

On divergence and exemptions—an important topic—the Government are not actively looking to diverge from, or to create new domestic exemptions from, the present regulations on the carriage of dangerous goods. Of course we will continue to work both with EU partners and internationally as regulations may be developed, but these tend to be reviewed every two years, and we are not looking actively to diverge from them at all. In considering any such exemptions or divergence from the present regulations, safety of course will always remain a priority. However, it is important that our domestic legislation provides flexibility, which is where we come to the Secretary of State being able to grant exemptions as and when they become necessary, although safety will of course be top of mind. At present, about 20 exemptions are being used by industry. They all expire on 30 June 2021 and therefore may need to be extended, if that extension is still appropriate.

It may help if I give a brief example of what a derogation might look like. Road derogation 17 is a partial exemption because complying with the requirements would be impractical. A health care worker does not need to comply with the ADR requirements if, for example, they carry a 2 kilogram fire extinguisher when carrying a small amount of clinical waste. I think we can all agree that that makes complete and utter sense, and it is the sort of thing for which derogations are used. A second example is where a very small amount of explosive article is being transported. Usually you would not carry the detonating fuzes alongside that explosive article, but if there are very small quantities of the explosive article, it is of course appropriate, because the safety risk is fairly negligible. A note to *Hansard* may be of interest to noble Lords: the correct spelling is "fuze", as that is its proper shipping name. I did not know that.

I hope that I have answered the questions today. The noble Lord, Lord Rosser, at the end of his remarks, asked whether hauliers carrying dangerous goods will be delayed as they arrive at Kent. As long as hauliers and consignors have all the correct documentation required, not only those for dangerous goods purposes but those that are required for all hauliers to get a Kent access permit, we do not envisage that there will be a problem.

This instrument makes very minor changes to the retained EU legislation to ensure that appropriate national arrangements are in place to oversee the safe carriage of dangerous goods. I commend it to the House.

Motion agreed.

2.43 pm

Sitting suspended.

Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020

Motion to Take Note

3 pm

Moved by ***Lord Rosser***

That this House takes note of the Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020 (SI 2020/663). *Special attention drawn to the instrument by the Secondary Legislation Scrutiny Committee, 22nd Report.*

Lord Rosser (Lab) [V]: What has prompted me to ask for this debate is the July report on this SI from the Secondary Legislation Scrutiny Committee. These regulations were laid under the made negative procedure on 30 June and came into force on 4 July 2020. The rush was apparently because the Department for Transport considered that urgent action was required to provide immediate additional transport capacity, which had been severely restricted by the impact of Covid-19. The SI amends road traffic regulations on the use of electric scooters to allow representative on-road trials of e-scooters to begin with a view to gathering evidence on the use and impact of e-scooters which might also impact on possible future legislation. E-scooters are classified as motor vehicles and cannot currently be used on public roads or pavements in Britain.

The SI applies only to e-scooters used as part of a trial arranged between a rental operator and a local public authority within a specified area and does not permit the use of privately owned e-scooters or other e-scooters which are not participating in organised trials. The scrutiny committee report drew these regulations to the special attention of the House on the ground that the explanatory material laid in support provided insufficient information to gain a clear understanding about the SI's policy objective and intended implementation.

The committee commented that similar schemes had been running in cities abroad for some time and that accordingly it would have expected more use of evidence from those schemes to shape the DfT's proposal. It also said:

> "We would also expect DfT to offer more substantial evidence of the anticipated benefits of these schemes to both individuals and local authorities in the EM and no cost/benefit analysis is offered."

In that connection, the scrutiny committee drew attention to the assertion in paragraph 7.4 of the Explanatory Memorandum, not backed up by evidence, that:

> "E-scooters could be a convenient and clean way to travel that eases the burden on the transport network and allows for social distancing."

Equally, commented the committee, e-scooters

> "could also be a hazard for other users of the road, cycle lanes and for pedestrians."

[Lord Rosser]

Continuing, the committee concluded that it was unclear what the policy objective of this SI was and how its outcome would be measured. Is it, the committee asked,

"a pilot scheme to test the viability of a controversial vehicle on British roads"

and/or is it a means rapidly to

"expand transport capacity in cities all over the country during the coronavirus pandemic? And are those two objectives compatible?"

Could the Minister in her reply respond to the committee's questions on policy objectives and the measurement of the outcome of the policy objectives?

The scrutiny committee raised the issue of the scale of the trials. Originally, the department planned to run trials in four areas but now, apparently in response to Covid-19 and to help mitigate reduced public transport capacity, the department wants more areas to be able to host trials commencing from an earlier date,

"between June and the end of August 2020."

The department has not specified the number of trial areas, which are now potentially limitless. Despite that, just two weeks were allowed for public consultation on an issue that will now affect the public generally.

Despite similar schemes proving divisive in other major European cities, as the scrutiny committee pointed out, is this, in reality, a case of a potentially significant major long-term transport policy development for Britain being pushed forward as a Covid-19 related emergency measure without proper public consultation and without an opportunity for parliamentary scrutiny? Or, as the scrutiny committee put it in paragraphs 27 and 29:

"A small data gathering exercise has turned into a major implementation programme … This is a major development in transport policy yet it was put into effect in a matter of days without any opportunity for Parliamentary scrutiny. The information in the EM is insubstantial and it is the additional information that demonstrates the extent of the powers enabled by the instrument."

Perhaps the Minister could comment on that.

Will the Minister say how many local authorities have submitted proposals for hosting trials, how many have been approved, whether they are all for 12 months, how many trials are now in operation, how many and which companies are running those trials and how they were chosen and when the last trial to be approved will conclude? Is there a minimum number of trials that the Government have as an objective? Likewise, is there a maximum number of trials that the Government would approve? Will the Minister say what the evidence is to support the Department for Transport's case and justify this sudden and rapid scaling up the number of trial schemes from the number originally envisaged, taking into account data on safety, potential nuisance and additional costs—including to already sorely stretched local authorities in the middle of a pandemic?

In more detail on safety, the scrutiny committee remarked that although the wearing of helmets was being encouraged, they were not mandatory for the trials. Can the Minister say why the decision was taken not to require the wearing of helmets? Continuing on safety, the committee pointed out that since the Department for Transport accepted that there were risks in introducing e-scooters into the transport network, it

"would have expected the DfT to have illustrated the main risks to be expected using data from similar schemes abroad."

Can the Minister indicate what the department considers those main risks to be and the evidential basis for coming to that conclusion? Finally on safety, the committee asked whether there are "sufficient cycle paths" for the number of trials anticipated or desired and

"whether they are wide enough to cope with a vehicle that may be wider than a bicycle and weigh up to 55kg, and whether can they cope with the anticipated increase in usage and allow for overtaking."

Once again, a response to those points from the Minister would be helpful.

On the environmental gain from the use of e-scooters from transfers from other forms of transport—in particular, cars—the scrutiny committee reported that

"DfT's initial assessment, based on the experience of European schemes, suggests that 'around a third will transfer from walking, a third from public transport, 15-20% from car, 10% from cycling and around 2% for new trips. Social distancing requirements may cause the shift from public transport and the proportion of new trips to be higher than these estimates.'"

In the light of the DfT's assessment, can the Minister say how any environmental and other gains and any offsetting of benefits from the trial schemes for e-scooters will be evaluated, by whom and against what criteria? How and when will the results of the evaluation be published? I hope that the Minister will be able to respond, either today or subsequently, to the questions and points I have raised, which largely repeat those raised by the Secondary Legislation Scrutiny Committee in its report on this SI.

There will inevitably, but hopefully incorrectly, be a view that a sudden increase in the number of trial schemes—schemes to which there is no limit—is an indication that the Government have privately decided to proceed with further legalisation of the use of e-scooters. If the Government still have an open mind, why, with just two weeks' public consultation and no parliamentary scrutiny, would they suddenly and without limit increase the number of intended trial schemes, bring forward starting dates and give as a reason for so doing issues related to Covid-19, such as allowing social distancing, unless the desire is to come to some pretty quick conclusions to proceed?

We need to see the outcome of properly run trial schemes for e-scooters independently evaluated against transparent and laid down criteria before reaching conclusions, since there are clear safety concerns that need to be balanced against the benefits of any emerging new technology. There have been issues over anti-social behaviour by some using e-scooters; for example, Guide Dogs has pointed out that e-scooters can create

"a more unsafe street environment for people with sight loss".

We need to know now on what basis, and against which criteria and benchmarks, the Government will be judging and assessing the outcome of these e-scooter trials. Most importantly, there must also be proper and full, not rushed, public consultation on and parliamentary scrutiny of what would be a major mode of transport development that will affect us all for the long term and way beyond, by comparison, any much shorter-term Covid-19 considerations on addressing transport capacity issues and allowing for social distancing. I beg to move.

3.10 pm

Lord Blencathra (Con): My Lords, we come to the second debate this afternoon on dangerous goods. It is unusual for me to find myself in complete agreement with the noble Lord, Lord Rosser. I have already apologised to my noble friend the Minister for being thoroughly unhelpful to her on this subject.

After four months of staying inside and on my first afternoon back in London two weeks ago, in the short journey from my flat to this House, I was nearly hit by a big e-scooter on the pavement outside the Department for Transport in Marsham Street. A few minutes later, another thug on one of these almost ran me down on Millbank, on the pavement just by Black Rod's Garden.

When I used to go to Paris last year with the Council of Europe, I had first-hand experience of these things. Most Parisians do not ride them on the pavement but a large minority do, and everyone abandons them all over the pavements in their tens of thousands. Some 20,000 of these things are now causing what the Mayor of Paris described as "complete anarchy". Even the French *Financial Times* said:

"An electric scooter scourge is stalking Paris"

and the French Transport Minister said that Paris was experiencing the "law of the jungle", although that is unfair on nature behaving properly in its habitat.

That is what is coming to every city in this country. These scooters weigh up to 55 kilograms, and with an average male of another 83 kilograms, that is 28 stone of solid mass hitting pedestrians at 15 miles an hour. The Department for Transport's road death research shows that a pedestrian hit at 15 miles per hour stands a 3% risk of death and a much larger chance of serious injury.

To those who say, "That's all overseas; it's the French and it won't happen here": it already has. Just five days after starting a trial in Coventry, the company Voi had to stop all operations because its managing director said:

"I think we have a British antisocial behaviour issue across the country … We haven't seen this level of antisocial behaviour in any other market. We have had great experience of it but the volume of it in the UK was quite surprising."

He said that people were riding the scooters on the pavement and had a disregard for the law. If the company trying to get us to use these killing machines says that, we should stop this experiment until we have proper control of them.

If the Government are determined to push ahead, these regulations must be changed to reduce the weight to no more than 25 kilos and the speed limited to 10 miles per hour. Even then, these scooters are still silent killing machines when driven on the pavement. Therefore, the Government must copy Voi and insist on number plates, or some sort of numbering system, so that cameras can identify them. There is then a slight chance of enforcement.

We see cyclists blatantly riding over zebra crossings with pedestrians on them and through red lights, and there is no enforcement. There must be strict enforcement for these e-scooters. People will dump hired machines anywhere but will safely park their own dearly bought scooter. The policy there is wrong, too.

I do not know how Paris has got it so wrong with scooters, given that it and Strasbourg—which I also visit regularly—are so civilised about cycling. There is not a single helmet or bit of Lycra in sight. People ride upright with the handlebars higher than the seats. They can ride on the pavements and I feel perfectly safe among them. What a contrast with London, where you can see nothing but Lycra-clad bums in the air as wannabe Bradley Wigginses mow you down on the crossing at 1 Millbank.

If the Government persist with introducing this measure, I hope that an instruction is given to every police force in this country to enforce the law. There should be none of this nonsense of engage, explain, encourage, pat on the head, sympathise or bend the knee. If the police turn a blind eye to enforcement, I hope that they will ignore me when I use my stick to get one of the scooters off the pavement or when I chuck an abandoned one from the pavement under the wheels of a 30-tonne lorry. I say to the police: do your duty and enforce the law, or the law will be brought into disrepute with every other law. They should do their duty or we will see the same anarchy as in Paris.

3.15 pm

Lord St John of Bletso (CB): My Lords, I am grateful to the noble Lord, Lord Rosser, for giving us this opportunity to debate these regulations as well as the concerns of the Secondary Legislation Scrutiny Committee. I wish to address my remarks to the concerns on safety as well as use on public roads. I speak as one who has ridden a motorcycle in the streets of London for more than 30 years. While I support the use of e-scooters, which are very practical for commuting around busy cities and are environmentally friendly, I am sad that some users have grossly abused the opportunity and are breaking the law. We have seen a huge proliferation, not just of e-scooters but of e-skateboards populating the streets of London with no clear regulations, and given the police being unable effectively to enforce responsible usage of these scooters, I have the following suggestions to make.

Like the noble Lord, Lord Rosser, I find it astonishing that wearing helmets is not mandatory. It is well known that, unlike driving a bicycle, there is a lot more risk of those driving an e-scooter having a head injury because of the dimensions of the small wheels. As the noble Lord, Lord Blencathra, said, in many cases electric scooters are being used on pavements, which is highly dangerous, not just for pedestrians but for those pushing prams. I have seen e-scooter drivers weaving their way between big trucks and cars on public roads, where they can often not be seen by drivers. In this regard, e-scooters should be restricted to bicycle lanes, where they are available. I was pleased to see that the London cycle campaign supports e-scooters being used in cycle lanes. As the noble Lord, Lord Blencathra, also mentioned, the e-scooter trial in Coventry has been put on hold because users have abused the guidelines and were driving them not just on pavements but in shopping centres, causing not just panic but a massive danger to the public.

While the trials of e-scooters require users to have a provisional driving licence, that does not apply to those buying these scooters online. Clearly, it is essential

[Lord St John of Bletso]
that users have basic road awareness, knowledge and skills. While most of these scooters manufactured in China and Japan have a maximum speed of 30 miles per hour, it is well known that some users have retrofitted their scooters to go at much higher speeds, which is extremely dangerous. There need to be strict speed limits and ideally some form of registration process so that those who drive these scooters recklessly and cause damage to others can be held accountable and sanctioned. Can the Minister elaborate on the data and feedback received from the trial schemes and, in particular, on safety and nuisance as well as public perception around the use of scooters?

In conclusion, while I welcome the use of e-scooters, I believe that tighter legislation needs to be introduced to protect users as well as pedestrians, and to set a minimum standard for the manufacture of these scooters.

3.18 pm

Lord Berkeley (Lab): My Lords, I declare an interest, as a patron of the All-Party Parliamentary Group for Cycling and Walking, and a vice-chair of the new All-Party Parliamentary Group on Micromobility. I am trying to span cycling and what might be called the new electric means of individual propulsion.

I love scooters and Segways. About 10 years ago, we got the late Lord Montagu of Beaulieu—a great expert on motoring—on a Segway in the car park outside, and he enjoyed it. I cycle in Brussels and Paris when I am there and sometimes use scooters. They bridge the gap between walking and sitting in a polluting car, and they give individuals transport, but all the comments made by noble Lords so far are quite right: people need to obey the law, such as it is.

The key is probably to treat these scooters similarly to cycles, whether electric or non-electric cycles. They should not go on the pavement. People have strong views about whether people should wear crash helmets, but there is no point in putting an ASBO on people who ride scooters, any more than there is on those who ride cycles. Both can be very dangerous and both, as some noble Lords have said, can operate effectively and safely.

I welcome the trial that the Government are doing. It might have been easier if they had just said that a scooter is the same as a cycle, but they did not do that for whatever reason. My understanding is that 30 towns and cities have already signed up to it. In Northampton, there were 40,000 rides in three weeks, so they are very popular. In Coventry, there are 7,500 users. The average journey is 20 minutes and 85% are returning customers, but these are just the trials. In the United States, which we think of as the motorist's bonanza, 88 million journeys by scooter were recorded last year.

We have to try to educate people, live and let live, and try to find a way to encourage people to cycle safely, because we cannot stop them now—it is too late. We also need to think about the green agenda. When 63% of riders say that they are replacing a car journey by riding a scooter, that is worth having.

I conclude with a story. I know that many noble Lords are quite old and may think this is something for young people, but I have a quote from YorkMix about a man called Tom—he will not give his other name—who travels

"around York illegally on an e-scooter"

and enjoys it. It is much better than an electric wheelchair. He carries on riding

"Because it helps him stay active",

after being locked down for three months because of coronavirus. I encourage the Government to carry on with the trial to encourage people to use scooters safely and responsibly. Do not give up.

3.23 pm

Lord Rogan (UUP) [V]: My Lords, I welcome the opportunity to contribute to this debate. The trials in England, Scotland and Wales have been under way for almost three months. It is a shame that your Lordships have not had the opportunity to debate the regulations before now. I understand that the Government's original intention was to run trials in four areas next year but, as has been mentioned by the noble Lord, Lord Rosser, to mitigate reduced capacity on public transport because of Covid-19, these have been brought forward and effectively introduced en masse.

While I appreciate that rental e-scooters only are currently allowed on roads and cycle lanes for the trial, one must wonder how the police can differentiate between them and privately owned e-scooters, which remain illegal on public highways. The Metropolitan Police caught almost 100 riders in London in a single week last summer. It will be much more difficult to do so now. I note that the rental e-scooters permissible in the trials are required to carry a unique identifier to aid with enforcement. Could the Minister provide the House with more detail about the nature of this unique identifier and advise if it is clearly visible to assist the police with apprehending illegal riders? Registration plates would seem to be the obvious solution, but this was rejected by the Department for Transport.

I welcome the need for riders to hold a full or provisional car, motorcycle or moped licence to use e-scooters, and that they must be aged 16 or over. The decision to class e-scooters as motor vehicles is also prudent, meaning that offences such as drink driving will apply to them and can be enforced in the same way as they are for car drivers. I am less reassured by the absence of any form of training for riders before they take to the roads. Given the nature of the trial scheme, it should be straightforward for registered renters to either provide a short practical demonstration or require riders to show that they can safely use an e-scooter before being unleashed. Further, for the safety of the riders themselves, I am in favour of helmets being mandatory rather than optional. I agree with the Government that motorcycle helmets are unnecessary but surely a requirement to wear a cycle helmet is basic common sense. I would be greatly surprised if most e-scooter riders do not already own a cycle helmet, thereby removing cost as a barrier. Renting outlets could also have a small number of helmets available for hire.

I understand that the argument to set the power limit at 500 watts is to help e-scooters climb hills and inclines, particularly when carrying heavier riders, but

I am wary of the speed limit of 15.5 mph, which seems high. Given that the Government have decided to set the maximum weight at 55 kilograms, that amounts to genuinely dangerous collisions when they do inevitably happen. The original position, as I understand it, was to set the weight limit at 35 kilograms but this changed following arguments that the lower limit would preclude designs with heavier batteries. I hope that the 55 kilograms can be reduced as technology improves and batteries get smaller, but to encourage manufacturers to make this a priority, I encourage the Government to make provision for the upper weight limit to be reviewed on an ongoing basis once the trial has concluded.

I urge the Government to take on board my concerns and those of other noble Lords before more permanent arrangements are put in place. I also hope that policymakers are listening in Northern Ireland, where e-scooters are still not allowed on public highways but could make an appreciable difference before long.

3.31 pm

Lord Lucas (Con) [V]: My Lords, I congratulate the Government on taking the initiative to regulate electric scooters. They have arrived. Even in Eastbourne, we have people zooming around on them. We even have one young man on a Segway monocycle, and very stylish he looks too. As other noble Lords have said, however, we need to find a way of binding these into the rules of the road so that pedestrians can feel safe, and users know how to interact with each other. The Government must, absolutely, be on the front foot on this. I am sure they will get to a positive answer, and I do not think we need a repeat of the red flag Act or anything draconian. They are a liberating factor in our street environment and one to be welcomed.

I expect we will see much more use of electric scooters locally, but they have a deficiency. They are, essentially, vehicles for the young. You cannot really use them if you are at all shaky. You cannot use them if you want to go shopping or if you want to take the kids to school. In a very diffuse community such as Eastbourne—and there are a lot of similar towns and bit of towns around the UK—with houses that have a nice amount of space around them and a very convoluted road layout, it is inconceivable that, with current technology, we can devise a public transport network. Personal transport has devolved, largely, on to each household having two cars.

In Eastbourne, we have one of the highest rates of intra-urban car use in the UK, and this results in quite high levels of atmospheric pollution. Putting to one side the detriment to the world generally of generating so much carbon dioxide, we would like to do something about this locally. We need not an e-scooter but something cheap, slow, electric, short range, low technology, weatherproof and three-to-four seater.

Several of those things are clearly available on the market in China. They cost about £1,000, so are thoroughly affordable, but there has been no collaboration that I can find from the Department for Transport to get such vehicles on to UK roads. I would be really grateful if the Department for Transport would help me set up, on a very small scale, a representative on-road trial of these machines to see whether they solve the problems that I think they will solve and to see whether we can reap the benefits that they offer. They might look like a tin box on wheels and might not appeal to your average man, who has a different idea of what they would like to be seen in, but in areas where public transport is not working, and really cannot work, I think that they would offer a thoroughly practical solution in trying to reduce our levels of transport carbon emissions

3.31 pm

Lord Wei (Con) [V]: My Lords, I declare my interests as listed in the register. I also declare that I am a fairly avid e-bike user and have tried out these scooters, albeit overseas on holiday.

My first point is one that others have already made. I welcome the Government's use of trials to introduce this technology into the country but again I ask the Minister why we cannot have greater scrutiny, even with Covid. We need to ensure that we use the wisdom of this House and of Parliament as a whole to help make these trials work and introduce scooters to the nation in a healthier, sustainable way with less injury. As a country, we have a reputation for being an innovator and for using our expertise, including legal expertise, as a regulator. We should therefore trial these technologies in a sandbox in a way that balances the need to protect people with the need to be ahead of the game. You see that in many other sectors, so why not in this area too?

Secondly, having tried e-scooters, it is very clear to me that they are a bit more dangerous than bikes because of the way you stand on them. You are very susceptible to things such as potholes. Therefore, there is a difference. I ask the Minister what the policy is on e-bikes. I think that there is an even bigger opportunity to retrofit existing bikes with the many battery systems, whereby you essentially replace one of the bike's wheels. Many millions of cyclists who might struggle to commute and use electronic scooters or regular bikes would benefit from that technology. I think that we should do that rather than focus on just scooters.

That said, in the interim there seems to be a real opportunity to use scooters as part of an integrated transport strategy, particularly in smaller towns and other places, as part of levelling up. Given the immaturity of the technology, I am not very much in favour of them being used in a totally deregulated way. Why can we not use them as part of an evolved transport strategy in cities and towns and ask those who lead those places to figure out on which routes there could be more trials of rented scooters? For example, Watford, which I visited recently, has a real problem in that the Tube finishes not in the middle but on the edge of the town. Could the use of scooters not be encouraged on very defined routes from the edge of that last mile to the town centre so that people could go there to shop and young people could be brought in?

Bicycle helmets are essential, as a previous speaker mentioned, and, as we have seen in these trials, we need to ID users. It seems that many of the problems have been with people who are not responsible drivers, and with some who are underage getting access to electric scooters. In the longer term, these scooters may be like drones; when the technology is ready, we can then start to bring them into wider use. As a

[Lord Wei]
nation, we perhaps need to encourage the manufacturers to look at the possibility of making the scooters stop when they encounter an obstacle, the ability of a person to geotag them so that they cannot go to places they should not, or the use of fingerprinting or other ID systems so that they literally cannot be used other than by the authorised user. Perhaps the way the scooter renter or user drives on pavements should affect their insurance, or their ability to use these vehicles. Ultimately, however, electric vehicles may over time become safer than existing vehicles, as in the way they allow the rider to accelerate away from red lights.

In conclusion, we must balance the risks with the potential to innovate and be ahead. I ask the Minister: what is the plan to do this in a careful and staged way?

3.36 pm

Baroness Randerson (LD): My Lords, I welcome the Motion, which gives us the opportunity to examine this important issue. The Government have come to this pretty late in the day; we have now been talking about this for a couple of years. Cities across Europe and well beyond have been grappling with the issues raised by electric scooters for a long time now. My own experience as a frequent visitor to Brussels has been of a problem of abandoned scooters on pavements, often left in the way of pedestrians. Make no mistake, electric scooters are a very divisive issue. I am therefore surprised that there were only two weeks' consultation, after years of thought building up to this.

I agree with the Secondary Legislation Scrutiny Committee when it criticises the poor quality of the explanatory material provided with this legislation, and the apparent failure of the Government to build on experiences elsewhere. To make it clear, by instinct I welcome these trials. Electric scooters are exciting, and they look fun—I wish I were young enough to take up riding one. However, it is also important to remember that they are a complex issue, because they are frightening to many pedestrians, particularly older and disabled people. Overall, I find it anachronistic that we have a new environmentally friendly form of transport that remains illegal in Britain on public roads and footpaths.

Looking at the safety concerns in detail, on the roads, riders of electric vehicles will be exposed to traffic and, as they are lower than bicycles, are less likely than cyclists to be seen by motorists passing in their cars. On pavements they are an obvious hazard to pedestrians because they are both speedy and silent. Can the Minister explain why there is no requirement for a helmet, given that their maximum speed is same as that of an electric bike? Why should they not have lights? Why is there no requirement for reflective clothing? Should there not be visible registration numbers? These are vehicles on the roads, or soon will be. We have come round to the view that we require registration numbers for drones, so I think there should be registration numbers for electric scooters.

I also draw the attention of the House to the concern felt by the ABI, representing the insurance industry, about the lack of requirement for insurance.

Lessons from abroad indicate significant costs to local authorities in clearing up abandoned scooters and regulating the rental process. Will the local authorities that hold these trials be provided with any finance?

Who will enforce the requirement to have at least a provisional licence? If you are caught by the police doing something illegal on an electric bike, will the fact that you have a licence mean that you will get points on it? That is the kind of clarity I seek.

I draw the Minister's attention to the Doppler schemes; they have been a particular cause of problems because of the method by which the scooters are recharged. They rely on people doing casual work, going around picking up the scooters and recharging them in their own homes; they are paid according to the number they recharge. The effect of this rather casual approach has been that scooters abandoned in difficult places get left there, unrecharged. So I urge the Minister to make sure there is a proper way of docking these vehicles.

One government response quoted by the Secondary Legislation Scrutiny Committee referred to making legal other micro mobility vehicles. Can the Minister please explain what other vehicles the Government have in mind?

Studies show that generally scooters are used much more as leisure vehicles and for short distances. Have the Government taken this into account? The Secondary Legislation Scrutiny Committee raised the lack of clarity about the Government's purpose. It is being done under the Covid umbrella; the Government say that they see this as an important alternative form of transport.

How many trial areas do the Government envisage? The press has mentioned 50. What is the timescale for the rollout? There will be some places where scooters will share space with pedestrians, so what about the rules of the pavement? Who will give way to whom?

How will the Government evaluate each of these trial schemes, and will the Minister undertake to publish a full evaluation and let us debate it here?

3.42 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, I thank the noble Lord, Lord Rosser, for providing the opportunity to outline the Government's intentions in introducing trials of rental electric scooters—e-scooters. I also thank the Secondary Legislation Scrutiny Committee for highlighting the omissions of our department. I am assured that it will not happen again.

As time is short, I will move immediately to the points raised. I note that there were noble Lords on all sides of the debate today, which I feel is positive progress. We have had some additional issues raised, including those from my noble friend Lord Lucas on electric tuk-tuks in Eastbourne and my noble friend Lord Wei on e-bikes. I will probably have to write in regard to those areas.

The e-scooter trials have been widely trailed, for quite some time, as part of the Future of Mobility Grand Challenge. They were planned for introduction by the Government in four regions in 2021. However,

we felt that the trials could be brought forward and expanded in response to the pandemic, because we recognised their enormous potential to provide a new socially distanced travel option, to improve air quality and to reduce the pressure on public transport.

The noble Lord, Lord Berkeley, mentioned electric bicycles and I welcome his All-Party Parliamentary Group on Micromobility; it is very important that we debate all these issues in great detail. The overall aim of these regulations is to treat e-scooters in trial areas as similarly as we can to electric bikes. For example, in common with users of e-bikes, users of e-scooters in trial areas will not be mandated to wear a protective helmet—although it will be strongly recommended, and many rental operators provide helmets. E-scooters will also be permitted where bikes and e-bikes are permitted. Users of e-scooters in trial areas will need to have some form of driving licence, which could be a provisional licence, and motor insurance must be held by e-scooter operators.

The noble Lord, Lord St. John of Bletso, mentioned technical standards. We work with each rental operator to satisfy ourselves that the technical conditions we require have been met, and out requirements are based on the world-leading German regulations.

The noble Baroness, Lady Randerson, mentioned lights, which we do require on our trial scooters. We consulted on the use of helmets, and the majority of those who responded agreed that cycle helmets should be recommended and not mandated. Given that in trials these scooters have a maximum speed of 15.5 mph, we recommend that an e-scooter user wears a cycle helmet, as we do for bikes and e-bikes, but this will be subject to review after the trials end.

We believe that e-scooters offer many potential benefits. They are a greener form of transport than private cars, and if people use them for journeys normally undertaken by a private car, we will see a decrease in congestion and in air pollution. However, we acknowledge that there are risks surrounding the safe use of these scooters, as many noble Lords have highlighted. We have looked at their introduction in other countries. In countries where e-scooters are allowed on the road in an unregulated way there have been difficulties, including a rapid increase in the number of e-scooters, discarded scooters causing a hazard for pedestrians—as noted by my noble friend Lord Blencathra—and scooters being used in, frankly, unsafe ways. Some lessons have been learned and there are many successful examples of operators and cities working together to ensure that excellent services are provided. None the less, e-scooters are a new type of vehicle, and it is important to stress that the evidence around their potential benefits and risks is limited and inconclusive, hence we need time-limited and location-specific trials.

Currently there are trials in six areas: Tees Valley, Milton Keynes, the West Midlands, Staffordshire, Norwich and Northamptonshire. Ministers have approved trials in 11 further areas, and there may be more in the pipeline, because in each of these areas we look very closely at the local authority and work very closely with it. Each local authority has volunteered to take part and is fully involved in selecting which e-scooter operator it wants to work with. Also, a local authority can decide how many e-scooters it wants to allow in its area. The scooters are branded and individually identifiable. This allows the local police force to trace riders when needed, and to differentiate them from privately owned scooters—a concern of the noble Lord, Lord Rogan.

My noble friend Lord Wei mentioned local authorities defining the areas for use. He is right; this is exactly what happens. The local authority decides where it is safe for e-scooters to be ridden, including in cycle lanes, and is required to engage with the local police force and accessibility groups in designing its proposals and to work with them to resolve any issues. To date, no concerns have been raised about the capacity of cycle lanes during the trials. The cost to the Government and local authorities of running e-scooter trials is low.

The noble Baroness, Lady Randerson, mentioned funding. Local authorities hosting trials can use a small proportion of the £250 million active travel fund to make the necessary changes. However, this funding is capped at a total of £5 million overall, not per trial. The Government are running the central monitoring and evaluation contract to assess the trials and to further reduce costs. They have given support to local areas in designing their proposals through a series of weekly online meetings.

Let me be clear. The regulations being discussed today apply only to e-scooters used as part of the trial, arranged between a rental authority and the local public authority. They do not extend to privately owned e-scooters, which are where we have many of the bad apples. E-scooters are not allowed on the pavement during trials or at any other time. A trial e-scooter may be used in a cycle lane but not on the motorway. E-scooter users who commit an offence can be fined up to £300 and, to answer the noble Baroness, Lady Randerson, have six points put on their driving licence. The Government are publishing details of the trial areas on GOV.UK as each trial begins. We anticipate that most trials will be live by mid-October. The trials will run for 12 months but we will keep this under review based on the evidence that we gather. They are trials in the truest sense of the word, to see what works and what does not work. Nothing is being taken off the table. The national evaluation of trials will be undertaken by third-party contractors managed by the department and the results are likely to be published towards the autumn of 2021 when we have robust data.

I have ridden an e-scooter and it is great fun. I assure the noble Baroness, Lady Randerson, that she should have a go too. In all seriousness, I sense the issue here is not that most noble Lords are against progress in micromobility but that they want to get the implementation right. That is what we are focused on. I am extremely grateful for the input of all noble Lords today. These deliberations will be taken into account as we consider the future of e-scooters.

3.50 pm

Lord Rosser (Lab) [V]: Like the Minister, I am grateful to all noble Lords who have contributed to this all-too-brief take-note Motion debate and made it worth while. I thank the Minister for her responses to the many points and questions that have been raised.

[Lord Rosser]

E-scooters may well prove to have a valuable role to play as a safe mode of transport. If this is to be the case, let us make sure that it is with public consent and acceptance, after full public consultation and parliamentary scrutiny, following properly conducted trials, independently assessed against transparent criteria, with the assessments being made public.

Once again, I thank noble Lords for their participation in the debate and thank the Minister for her responses.

Motion agreed.

House adjourned at 3.51 pm.

Grand Committee

Tuesday 29 September 2020

The Grand Committee met in a hybrid proceeding.

Trade Bill

Committee (1st Day)

2.30 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, respecting social distancing, while others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touch points after use. If the capacity of the Committee Room is exceeded, or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

A participants' list for today's proceedings has been published by the Government Whips' Office, as have lists of Members who have put their names to the amendments or expressed an interest in speaking on each group. I will call Members to speak in the order listed. Members are not permitted to intervene spontaneously. The Chair calls each speaker. Interventions during speeches or before the noble Lord sits down are not permitted. During the debate on each group, I will invite Members, including Members in the Grand Committee Room, to email the clerk if they wish to speak after the Minister, using the Grand Committee address. I will call Members to speak in order of request and will call the Minister to reply each time.

The groupings are binding; it will not be possible to degroup an amendment for separate debate. A Member intending to move formally an amendment already debated should have given notice in the debate. Leave should be given to withdraw amendments. When putting the Question, I will collect voices in the Grand Committee Room only, and I remind Members that Divisions cannot take place in Grand Committee. It takes unanimity to amend the Bill, so if a single voice says "Not Content", an amendment is negatived, and if a single voice says "Content", a clause stands part. If a Member taking part remotely intends to oppose an amendment that is expected to be agreed to, they should make this clear when speaking on the group. We will now begin.

Clause 1: Implementation of the Agreement on Government Procurement

Amendment 1

Moved by ***Lord Lennie***

1: Clause 1, page 1, line 16, at end insert—

"(1A) No regulations under subsection (1) may be made until the Secretary of State has entered into negotiations with other parties to the GPA with the objective of enabling greater labour market interventions and compliance with ILO standards in any UK procurement contract to which the GPA applies, and

(a) the Secretary of State has made a statement to the House of Commons that the objective has been achieved either in full or in part, or

(b) the Secretary of State has made a statement to the House of Commons that the objective has not been achieved."

Member's explanatory statement

This amendment would require the Secretary of State to enter into negotiations to secure greater labour rights in procurement contracts that the GPA applies to, and to report back on the outcome of these negotiations.

Lord Lennie (Lab) [V]: My Lords, like others, I regret that the Committee stage of the Trade Bill has to take place in a Covid-secure manner—our new normal—and I look forward to when we can all return to the Chamber. Until then, we must make the best of what we have. I am extremely grateful to all the staff who have worked so hard to make this all possible.

Trade is an essential component of the UK's future economic recovery from Covid-19 and to our continuing future prosperity. Labour's overarching concern is to ensure that the necessary protections and measures that have been developed over more than a century of rising standards are not put at risk by this or any other future Government. We cannot have a series of trade deals that open the door to reduced workers' rights or living standards or to higher carbon emissions. To ensure that this is not the case, Labour supports acceding to the GPA after Brexit as an independent member, while safeguarding the capacity for public bodies to make procurement decisions in keeping with public policy objectives.

The Government have said that it is their objective to join the GPA as an independent member, with substantially the same arrangements that we currently have with the EU. If we are to have this, there is the significant matter of retained EU law. For that statement to hold true, surely the EU law must continue to apply beyond 31 December 2020. As an example, the public contract regulations will end at the end of next year. It remains essential that the UK maintains the strongest procurement systems for companies in the UK. Labour is about having the strongest possible procurement system. This would instruct the Government to pursue with GPA partners the inclusion of labour standards, environmental standards, support for small and medium-sized enterprises and the consideration of the public health consequences in our annexes to the GPA.

Amendment 1 refers to

"labour market interventions and compliance with ILO standards".

We want to ensure that companies that fulfil their obligations to the workforce and meet their commitments to working with trade unions in a constructive manner are not undercut by companies that do not. This would reward businesses while supporting their workforce. ILO standards seek to support and protect workers in supply chains, especially those exposed to modern slavery, which are a vital component of procurement.

Amendment 2 refers to environmental exceptions with carbon considerations. Public procurement through the GPA must help in the fight against climate change. Current UK minimum standards take into consideration energy and water usage, carbon footprint, resource efficiency and life-cycle costs in order to set minimum standards of sustainability for government purchases. Our standards need to be protected, both to maintain these procurement standards and to ensure that our schedules at the GPA remain up to date, with action to meet the climate crisis.

[Lord Lennie]

Amendment 3 seeks to ensure that SMEs have access to procurement contracts, which can often be a real problem. Now, more than ever, this is essential if this recession is to turn into recovery. Amendment 4 seeks to improve the way in which public procurement operates by addressing public health. The public health value of a provider should be a factor in awarding contracts, not just price. Public health medicine is part of the greater enterprise of improving the public self and that is why procurement matters in this respect.

The TUC has a range of concerns about the provisions of the GPA being more limited than the current measures within the EU procurement directive of 2014, which were transposed into UK domestic law through the public contract regulations 2015. The TUC says that there is no condition in the GPA that obliges member states to ensure that, when performing public contracts, contractors comply fully with the applicable environmental law and with the social and labour standards set out in the EU and national laws in collective agreements. The TUC believes that provisions must be made in the Bill to enable contracting authorities in the UK to include wider definitions of social value and price-quality ratio as well as obligations set out in respect of social, environmental, labour law and collective agreements within their tender specification, contract evaluation and award criteria. These should be incorporated into the regulations that replace the public contract regulations when they expire in December 2020.

Amendments 100, 101 and 102 seek to ensure that any secondary legislation needed to implement commitments under the GPA following our accession should be affirmative. Labour believes that Parliament should have the right to scrutinise the all-important "coverage schedules" that the Government will lay before the WTO in respect of our accession to the GPA.

We are minded to support Amendment 5 in the name of the noble Lord, Lord Hendy, which would ensure that the UK could not implement the GPA if it would prevent public authorities from insisting that public procurement tenders and contracts conform to the UK's ILO commitments.

I hope that the Minister considers the long-term economic, social, environmental and labour values to be gained from this approach. Unless we are prepared to use this moment, it is hard to see how we will maintain the standards of procurement that we currently have, let alone enhance them. I beg to move.

Baroness Burt of Solihull (LD): My Lords, I shall speak to Amendment 3 on small businesses, to which I have added my name. As we enter the post-transition and post-Covid world of international trade, we must ensure that the role of SMEs in procurement is fully protected so that it can help strengthen the UK's economic playing card as we navigate the current turbulence and beyond.

At Second Reading, I asked the Minister, the noble Lord, Lord Grimstone, whether, given our new freedom from the EU, we should adopt the policy of the US, Canada, South Korea and Japan to put an annexe in our GPA schedules to allow them to set aside and disapply regulations on behalf of small businesses and other organisations to help bring parity of support for small businesses in accessing markets against larger firms. After all, is that not why the UK decided to leave the EU in the first place? The noble Lord informed me that non-discrimination is the core principle of procurement in the UK and we do not have set-asides for SMEs in international agreements. Okay—I hear him. But whether or not it is intended, it can be more difficult for small businesses to compete against larger firms by virtue of their size and the complexity and requirements of the procurement process.

I will not detain the Committee by going through them all, but when pitching for public contracts, I suggest that few small businesses would feel that the playing field was equal. Take late payment, the scourge of small businesses, particularly because of the relative power of the organisation doing the procuring. The Federation of Small Businesses has long been calling for bad payers to be barred from applying for government contracts. I know that this is something that the Government acknowledge, and this amendment would effectively help the Government to defend themselves against late payers on the trading stage. Why does the Minister feel confident that, when we are competing against the likes of the US, South Korea and Japan, UK small businesses will get fair access to public contracts? Nobody wants to see poor payment practices on the trading stage; this is about fairness and parliamentary accountability, so I would appreciate some commitments from the Minister today.

That brings me to the point of the amendment. It lays a duty on the Government to ensure that small businesses can compete fairly to get greater access to procurement contracts in countries to which the GPA applies. It makes sure that the Government fulfil this obligation by laying a Statement before Parliament reporting that this has been done, and the outcome. If the Minister is committed to a level playing field for small businesses, why not agree to put it into law?

Lord Hain (Lab) [V]: My Lords, I support Amendment 1, moved so ably by my noble friend Lord Lennie. I wish to speak specifically to Amendment 5 in the name of my noble friends Lord Hendy, Lady Blower and Lady Bryan. Why? One year ago, on the same day—24 September 2019—that the UK Supreme Court ruled the Government to have unlawfully sought to prorogue Parliament, the Prime Minister was in New York presenting his vision of a post-Brexit Britain to an audience of American business leaders. It involved undercutting European tax rates and adopting lower standards of environmental protection, consumer safety and labour rights than those set by the European Union. It foresaw a low-tax, lightly regulated haven on the European Union's doorstep, not interested in competing on a level playing field but intent on winning any race to the bottom.

This Trade Bill seeks to take us one step closer to fulfilling the Prime Minister's dream. It does so more by omission than by commission. As in Lena Horne's "New Fangled Tango",

> "It's not what you do do, it's more what you don't do".

It does nothing to promote labour standards. It does not stop signatories to trade agreements seeking unfair competitive advantage by failing to comply with

International Labour Organization conventions. It provides no powers for government bodies in the UK to impose public procurement conditions on contractors requiring them to abide by UK labour law or by ILO conventions ratified by the UK. Instead of levelling up labour standards, the Bill encourages shady employers who want to undercut their more responsible rivals by shafting their workforce. It does so by turning a blind eye to bad employment practice and pretending that unfair exploitation does not exist, despite ample evidence that it is widespread from employment tribunal cases and from the daily experience of trade union representatives in workplaces nationwide.

This amendment would put a stop to any regulations implementing the Agreement on Government Procurement if that agreement could in any way hinder the ability of UK state authorities—be they central Government or the devolved Governments—to set conditions on anyone tendering for a public contract. The power of the public purse should be used to raise labour standards and to encourage compliance with global standards such as those set in ILO conventions.

2.45 pm

On the first working day that the Labour Government took office in May 1997, the new Minister for Europe, Douglas Henderson, went to Brussels to signal our commitment to the European Social Chapter, which had its origins in a 1989 EU agreement that passed despite dissent from Margaret Thatcher. It aimed to raise labour standards, boost skills, enhance job security and promote higher productivity. On the first working day of the newly re-elected Labour Government in June 2001, I went as a Minister to Luxembourg, where we agreed in the European Council of Ministers a new employment directive establishing fresh information and consultation rights for workers. It obliged companies to consult employees before deciding on closures and redundancies, which is surely of elementary importance. These are the kinds of initiatives—yes, European Union initiatives—that the Prime Minister wants to abandon. This is why he wants to take back control by ensuring that British workers lose control over their working environments. The Trade Bill is a false step, a chance missed to encourage world-class standards in British workplaces and our Amendment 5 seeks to prevent that calamity for British employees.

Lord Hendy (Lab) [V]: My Lords, I will speak to Amendment 5, which complements one aspect of my noble friend Lord Lennie's Amendment 1, as explained in his excellent speech just now. As my noble friend Lord Hain has set out with his customary clarity, the purpose of Amendment 5 is to prevent the GPA undermining or limiting the capacity of public bodies to impose conditions in public contracts that require respect for the rights and protections of the workers engaged to carry out those contracts. The rights and protections identified are limited to those specified by those conventions of the ILO that have been ratified by the UK.

Public procurement is a key tool in the protection of workers' rights, and has been at least since the fair wages resolution of 1891, which was expanded in 1909 and again in 1946. The resolution required a "fair wages clause" in government contracts which obliged government contractors to pay the wage rates and abide by the terms and conditions that were set by collective agreements or arbitration in the relevant sector. From 1909 to 1979, collective bargaining was the policy of Governments of all political parties, with the consequence that collective agreements covered well over 80% of the UK workforce for the 40 years leading up to 1979. Since then, there has been a change in government policy and law that has resulted in collective agreements now covering only about 25% of British workers.

However, public procurement requirements can be based on other standards than those of collective agreements, desirable as that would be. Another means of achieving the levelling up, which the Government claim is an objective, is by reference to the minimum standards set by the ILO. There can be no rational objection to reliance on these standards, since they have long been ratified by the United Kingdom. Indeed, under EU law for many years, states have been required to ensure the observance of ILO standards by public contractors. Article 18, paragraph 2 of the EU directive on public procurement of 2014 requires states to take measures to ensure

"that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law"

including the provisions listed in Annex X to that directive. In that list are the core ILO conventions, all of which have been ratified by the United Kingdom. That is not inconsistent with the revised GPA.

Amendment 5 is modest indeed, and requires no more than that the envisaged regulations should not undermine what the current law requires. I hope that the Government will accept this amendment.

Baroness Blower (Lab) [V]: My Lords, it is a pleasure to follow my noble friends Lord Hain and in particular Lord Hendy, whose erudition in this area of law is well known. I have lent my name to Amendment 5, because, as I said at Second Reading, the Bill is lacking in positive reference to workers' rights. As my noble friend Lord Hain said, it is more about a race to the bottom. It is therefore important to remedy this deficiency.

The deficiency can be remedied in part by Amendment 5. The UK already has commitments as a signatory to the ILO. These are currently protected by EU directives on public procurement, but this amendment is an opportunity to insist on conformity to them in relevant domestic legislation. The much-vaunted "levelling-up" agenda of the Government may be thrown into doubt by any number of decisions they may take. Not to accept the need to protect workers' rights would be one such decision.

There is ample evidence that workplaces organised by trade unions are generally healthier and safer places to work, so the right to organise as in Convention 87 is a core principle. The right to collective bargaining and to achieve collective agreements, as set out in Convention 98, is central to providing an appropriate forum to determine wages.

This amendment is about creating conditions to ensure the provision of employment rights by insisting that no provision of the GPA should undermine the rights of and protections for workers in relation to or under a tender or contract. If, as I am sure we would all

[Baroness Blower]
wish, we are to see public procurement in which relevant authorities have proper regard to the rights of workers and in which we as a country are seen to honour the obligations up to which we have signed in the ILO, our course is for your Lordships to agree the amendment.

Lord Fox (LD): My Lords, I shall speak to Amendment 6 in my name, but before that I want to speak more generally on Amendments 1 to 5. These all refer to Clause 1 and the UK's future participation in the Agreement on Government Procurement. It should be noted that the GPA has been an important form of market access that has come with our membership of the European Union. As the Minister and others have said, it opens up the possibility of access for UK companies to about £1.3 trillion of government contracts. One would expect Her Majesty's Government to talk up this side of the equation.

The expectation is that the UK will enter the GPA at the end of the year, and I understand that the Government are seeking more or less to reproduce the access that we have enjoyed thanks to our European Union membership. Perhaps the Minister can give us an update on the timetable and whether there may be any changes to the terms that we might expect of the GPA at the turn of the year.

As I said, the external element of GPA is extremely important, but the flipside of that external access is that international businesses have access to about £67 billion of public service contracts in the UK every year. As we heard from the noble Lords, Lord Lennie, Lord Hain and Lord Hendy, the noble Baroness, Lady Blower, and my noble friend Lady Burt, these amendments seek to establish comfort on the nature of those services in terms of their impact on society and how publicly procured contracts affect people. We are sympathetic to these aims. Of course, we will debate later further amendments with similar objectives covering the whole trade environment and not just GPA, because workers' rights, the environment, food standards, protecting the NHS, the needs of small businesses and other vital issues are central to the trade agenda. There is no point in having international trade if it erodes standards for people who live in this country.

In his maiden speech at Second Reading, the Minister made it clear that there was no intention to water down terms and conditions, yet the Government seem reluctant to put any of those terms and conditions into the legislation. This makes people suspicious—it makes me suspicious. These amendments, or amendments that come later, would help alleviate our suspicions.

Amendment 6 would require the Government within six months of acceding to the GPA to lay before Parliament a report on what help they are providing to businesses in the UK so that they can secure the advantages of this market access. The Government paint a picture of "global Britain", a nation sailing the high seas of international trade with swagger and elan. I am not sure that I wholly sign up to this particular view of the world, but the GPA is an opportunity for UK companies, and has been since 1996. The Minister also said at Second Reading:

"I should like to make it clear that this Government and I are committed to transparency".—[*Official Report*, 8/9/20; col. 675.]

All the evidence points to his sincerity in this regard. In the interests of the transparency that the Minister espouses, Amendment 6, proposed by my noble friend Lord Purvis and I, simply asks for a report within six months on how the global Britain project is going with respect to the GPA. It would set out how Her Majesty's Government are facilitating UK business taking advantage of the GPA. What actions have backed up the Secretary of State's brio? For example, how have Her Majesty's Government helped small businesses in the way just advised by my noble friend Lady Burt?

This level of transparency will have the benefit of reassuring people like me who fear that much of the language around international trade is just that: words. We want action; we want success. Human nature being what it is, our proposed six-monthly report would also help ensure that someone was actually doing something during that period.

Baroness Bryan of Partick (Lab) [V]: I am pleased to speak in support of Amendment 5. The Institute for Government puts UK government spending on procuring goods, works and services from external suppliers in 2018-19 at around £292 billion, which is more than a third of all public spending. This huge spending capacity should be used as leverage to ensure the highest standards of labour rights here in the UK and in countries with which we do business. The Trade Bill gives the Government the opportunity to advance this process.

This amendment and the later Amendment 18 ask the Government to permit public bodies to consider more than short-term concerns such as lowest price and to take into account the welfare of the workers who will carry out the contract, ensuring that acceptable standards of employment are applied by any successful bidder. The conditions suggested in the amendment are in no way onerous; they are the basic minimum standards as set out in the conventions of the International Labour Organization which have been ratified by the UK. As we are a founding member of the ILO and a country that has ratified the eight fundamental conventions, this would not be asking too much. The amendment simply expects that any trade deal should not undermine or restrict the ability of a public body to include in its tender that bidders should abide by these basic employment rights, covering: freedom of association; the right to organise and to free collective bargaining; following basic rules against forced labour and child labour; and outlawing discrimination.

3 pm

As we know from some very bad experiences, the company that wins a contract does not necessarily fulfil it directly. Carillion, for example, had 30,000 sub-contractors. Quite often, the public body that has procured the work knows very little about who these sub-contractors are. The public provider must be able to extend the ILO standards to any company involved in delivering a contract. We should expect that a contractor or sub-contractor, whether based abroad or in the UK, which does not meet those standards should be excluded from bidding for public sector contracts. It is a step that we must take.

To make this more than a tick-box exercise, delivery of contracts should be reviewed to assess whether the ILO standards are being adhered to, the bidders should be required to demonstrate that they are being met, and the employees delivering the contract should be asked to confirm that this is happening. Trade unions should be able to trigger inquiries into a company if they suspect that the standards are not being met. Where migrant or overseas workers are used, the expectation should be that they will not be subjected to unequal treatment, and contractors should be required to demonstrate that that is the case.

My noble friend Lord Hendy described this amendment as a modest demand, and, as I said earlier, these requirements are not onerous but they are fundamental. As we set off into a new world of international trade deals from a situation of relative inexperience, it is important to nail these issues down now. So I am sure that the Government will want to accept this amendment.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I will address the provisions of Amendment 3 in the name of the noble Lord, Lord Lennie, and use this opportunity to ask the Minister a couple of questions.

One clear advantage of leaving the European Union was that we would leave behind the European procurement programme, which is very similar to this one. That would open up possibilities for our home producers of meat, cheese, dairy products and other products, particularly foodstuffs, to win contracts in our hospitals, schools, prisons and so on. The threshold that I remember was €135,000, but that may of course have changed with the passage of time.

Does the Bill limit the opportunities for small businesses and others to bid for contracts, particularly with public bodies such as schools, hospitals, prisons and others, or will the opportunities be exactly the same as we currently enjoy under the EU? Further, will my noble friend explain what the threshold will be? Will the threshold that we adhered to under the European Union be followed by the GPA, as we are already deemed to be members through our membership of the EU? Who will be party to setting the threshold and the conditions of procurement? I hope my noble friend will put my mind at rest that, as we transition out of the EU, there will be more and greater opportunities for small and medium-sized businesses to bid for these opportunities, not fewer.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I offer the Green group's agreement with the legal aims of all noble Lords who have spoken so far. Amendments 1 to 5 seek to keep environmental and public health protections, and in particular workers' rights protections. I note that there has been very strong support for Amendment 5. I offer support, too, for Amendments 100 to 102, because of the need for democratic control of this House—something that we seem to spend a lot of time talking about these days. I also agree very much with the words of the noble Baroness, Lady Bryan, about how they would keep basic minimum standards here, so it is very hard to see why the Government would disagree with any of them.

However, I can perhaps offer different sentiments to some of the ones expressed in the debate thus far. The noble Lord, Lord Lennie, said that we had seen a century of rising standards. That is broadly true if you start from the beginning and go to the end, but in recent decades there have been real falls in standards, and when we look at the state of the world, whether we consider the natural environment or the climate emergency, we see that there has been a massive degradation.

The noble Lord, Lord Fox, said that there is no point having trade that reduces our standards. I very much agree with that, but we have a real problem in that so much trade has done just that. On Friday, I was at the launch of a report by the Green House Think Tank and the Green European Foundation on trade and investment requirements for zero carbon, which set out how much damage trade has done historically. However, what we are debating are the amendments, and however much we might want to shape towards a trade world that has less trade in it but far better trade that does not build in environmental destruction and exploitation of workers, we do not want to go backwards. These modest amendments, as other noble Lords have said, seek modestly to ensure that we do not go backwards. I therefore commend them to the Committee.

Lord Rooker (Lab) [V]: My Lords, I agree entirely with the speech of my noble friend Lord Hain. We have moved a long way from when public contracts and the wages thereof were governed by the 1946 House of Commons fair wages resolution. We do not want to go back to those days, but we will if we are not careful.

Before making my main point, I want to reinforce the point made by the noble Baroness, Lady McIntosh, in her question about small traders. I agree with the sentiment behind her questions to the Minister, but in relation to schools, hospitals and prisons, there is an real ongoing problem: it is not possible to create a situation where someone can bid—or feel that they have a chance of bidding—for a particular prison or school, or for a group of prisons or schools, simply because we have devolved the administration and awarding of contracts to the lowest possible level; there is no central control. Small firms will miss out unless something is put into the process that allows them to benefit. On the other hand, I do not want to leave the EU, so I do not want small firms to benefit either way; there is a better way of reorganising the EU.

The only reason I asked to speak on this group is Amendment 100. It is another example of how this Government are constantly trying to make sure that this House does not get a voice. The Bill talks about scrutiny as a resolution of either House of Parliament. That is not good enough. The amendment would correct it: it should be each House of Parliament. The contempt shown by Ministers for the parliamentary scrutiny process is abysmal and on a massive scale, and it has to be pulled back constantly. The House of Commons will try to make that provision tomorrow, and we have to do it in this Bill. I therefore offer 100% support for Amendment 100.

Baroness Noakes (Con): My Lords, listening to noble Lords who have contributed so far, it seems to me that they are losing sight of the fact that Clause 1 is really about enabling the UK to take advantage of the GPA, and they seem to be trying to make that much more difficult. Several noble Lords talked about a

[Baroness Noakes]
reduction in standards, and a race to the bottom was mentioned twice. Government policy is not to race to the bottom; it is not to diminish standards. We constantly hear that noble Lords in other parts of the House do not trust the Government. The noble Lord, Lord Fox, said that we need amendments to allay his suspicions. I have to say to him that we do not legislate just to allay the suspicions of Liberal Democrat Peers; we legislate for effective legislation.

Many of the amendments are just telling the Government how and when they have to go and negotiate on certain things. If they were passed, they would be quite burdensome on the Government, who have quite a lot to do to try to get us ready for a post-EU trading world for the benefit of the UK. Nothing really happens if there is no outcome from most of the amendments, which seems to me a flaw in them.

I listened carefully to what the noble Baroness, Lady Burt, said about SMEs. There is an issue about SMEs having access to public procurement opportunities in the UK, as well as the rest of the world, which is what we are talking about getting access to through the GPA. The answer is not to go and negotiate with other signatories to the GPA. The issue of SMEs not having the access that they think they could have would be better dealt with by more specific and targeted government action to remove any barriers to SMEs taking part in government procurement, wherever they are. I hope that my noble friend can say something about what can be done to enable those SMEs which wish to take part in government procurement—not all do, especially not international government procurement—to do so.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I call the noble Lord, Lord Judd. Do we have Lord Judd?

Lord Judd (Lab) [V]: I am sorry about that; I did not have the unmute signal on my laptop; it came rather belatedly.

I want to say how much I support the speeches of my noble friends Lord Hain, Lord Hendy and Lord Rooker—and, yes, the noble Baroness, Lady Bennett of Manor Castle. When we are looking at legislation of this kind, it is very important to see what the purpose behind it really is. We know that there are strategists at work who are determined to change the British constitution and the British economy into a completely different constitution and economy from that which we have known for most of our lives. They want a free-for-all, with as few inhibitions as possible about what is done. They want to have a free hand. That is why the amendments in this group are so important.

At the age of 13—a long time ago—I had the privilege of being taken by my father to a conference in which he had very much a leading part. It was taking place in the ILO building in Geneva. I remember how impressed I was then by that post-war international consensus, which was determined to ensure that we had not only prosperous economies—which of course we wanted—but standards and work conditions worthy of a civilised society. We must not let that become eroded. It is essential to be vigilant, and we therefore need these safeguards in the Bill. How glad I am that we have this grouping before us.

3.15 pm

Lord Balfe (Con) [V]: My concerns are rather general. I have been associated with the European Union for a very long time, as many people know: since 1979. I was at the TUC when Jacques Delors came and won the TUC over to the fact that the European Union could lay down standards which would benefit working people all over Europe, not just in Britain. I am very concerned that the Bill should not weaken any of those standards.

I am not going to point a finger at the Government and say, "Oh, that's what they are trying to", but I would welcome a clear statement from the Minister that the Bill does not aim to give British working people lower standards or enable people to work around the standards that have been laid down and enjoyed for a long period. That is a fundamental matter.

When we look at where those standards come from—I follow the noble Lord, Lord Judd, in this—we see that the International Labour Organization has played an historic and noble role in working people's standards for the past 100 years. It is the only part of the League of Nations that is still in being in its original state. The ILO and its conventions must be at the centre of any trade agreement negotiated by the British Government. If we are to have trade agreements, we cannot ignore the ILO's standards or the basic standards of human and workers' rights, and this is one way in which we can do it.

We heard a lot in the referendum, after the referendum and in the election about taking back control, but I hope that we are not going to be taking back control in order to weaken standards which have been hard won over the years. One of those standards is the democratic participation of Parliament in lawmaking and the making of trade agreements. This is highlighted in Amendment 100, and I share the sentiments of the noble Lord, Lord Rooker, who said how important it is that each House of Parliament has a say. We cannot delegate democracy. If we are a two-part Parliament, this House must also have an input.

What concerns me about the whole approach is that we are not taking back control to Parliament; we are taking back control from a Parliament, the European Parliament, and seem to be putting it quite firmly into Whitehall—largely, it would seem, in an unaccountable manner. I hope that the Minister will be able to assure us that there will be a central role for both Houses of Parliament in how the trade agreements to be negotiated under the many clauses of this Bill are implemented.

The final point I want to make is this. The noble Lord, Lord Lennie, mentioned the TUC. I have not heard a word from the TUC so I put it to its representatives, who I presume will be monitoring this debate, that if they want to protect workers' rights, they should remember that a third of all workers do not vote for the Labour Party, they vote for the Conservative Party, a good number of them vote for Plaid Cymru and a fair number vote for the Green Party, the SNP or the parties in the north of Ireland. I would say to

the TUC, "If you are issuing briefs, please issue them to everyone. If you're not, please wake up", because this Bill has enormous import for the future of workers in Britain and they deserve the TUC to be a little more proactive than it has been up to now.

Lord Purvis of Tweed (LD): My Lords, I wish to address Amendment 6, referred to my noble friend Lord Fox, and to support Amendment 3, spoken to by my noble friend Lady Birt and to which she has put her name. In so doing, I thank the noble Baroness, Lady Noakes, for supporting in principle the idea that we are asking the Government to outline how they will be supporting British business to take advantage of the GPA agreement of which we are now a member in our own right as agreed by the other members. I reassure her that this Bill will never be long enough to address all the fears that me and my colleagues may have of this Government, but the amendment is practical, sensible and simply asks the Government to be clear. We will not rely on the Minister's winding-up speech in this short debate in Grand Committee; rather, as my noble friend Lord Fox has indicated, we are asking for a proper report from the Government setting out how they will support our businesses.

We want the UK to prosper and our businesses to benefit from any new opportunities while also not being burdened if trading relations with our biggest market in Europe are harder. Procurement is one area where our businesses can seek contracting opportunities across all the GPA members, but there are practical barriers to those, whether it is language, knowledge of that country's government procurement system, having local partners or legal protections. These are just some of the factors among many and it is a complex area in which to do business.

According to the OECD, taxpayers' money that is spent by the Government on goods, services and infrastructure such as roads, hospitals and schools accounts for over 13% of gross domestic product, so there is a huge market. I can reference Amendment 51 in a later group, but let me refer to the NHS here at home. My noble friend Lord Fox gave the figure of £67 billion of UK procurement. NHS England spends around £27 billion on goods and services every year. Ward consumables are delivered through the American-founded and German-owned DHL. Mental health beds are operated by American companies providing about 13% of in-patient beds in England. In some areas, the proportion of US-owned mental healthcare facilities is much higher. In Manchester, patients have a 50:50 chance of being admitted to a privately owned hospital and a one in four chance of that bed being provided by an American-owned company. Patients think that the NHS is purely British from beginning to end, but services are being provided by an American-owned company. There is thus no question about the need for the British Government to provide more support for British companies to take up opportunities abroad. The Government strategy is for the NHS supply chain to be expanded and to make it easier for companies around the world both to bid for and to secure NHS services within this country. Of course, they will assist British businesses in doing the same but—I am not necessarily critical of this—the Government operate a level playing field.

The US sees this market as a valuable one because it is colossal, so it is no surprise that it has within its negotiating mandate with the United Kingdom to ease barriers so that its companies can benefit from greater market access to provide over £30 billion-worth of basics and consumables in addition to £7 billion in deals for capital contracts. It has been interesting to note that procurement opportunities within the UK have expanded and that that is positive. It opens up the UK to more international co-operation, but as my noble friend Lady Birt, has said, we want to see greater support for British businesses to enable them to take up some of these opportunities too.

It is interesting to note that the European Union has emphasised that the final market access offer presented by the UK for membership of the GPA was

"commercially credible and viable, replicating the UK's current coverage under the EU schedule with minor technical adjustments."

The EU was a fairly enthusiastic supporter of the UK application, and why would it not be? It replicates the same basis as it has at the moment.

I note that the noble Baroness, Lady McIntosh of Pickering, asked the Minister about the thresholds. She referred to $130,000 being the threshold. That is the threshold of every single GPA member other than Japan and Aruba, which have it set at $100,000. Can the Minister say, if we are to have opportunities in our own right, why that threshold is the same as what we had within the European Union?

The reason the WTO and the EU were enthusiastic about replicating what we have at the moment is because the WTO said when it approved our GPA membership in our own right

"It was underlined that the United Kingdom accounts for over a quarter of the EU's total procurements covered by the GPA and that, when taking into account just central government entities, the UK accounts for nearly half of the EU's covered procurements."

There is no doubt that the EU is happy because it has retained market access to nearly half of all of that covered within the EU.

We were led to believe that the Government would negotiate nothing without using British leverage to get a better deal for Britain. Can the Minister explain what we have done with that? The Government did not include procurement in their mandate for a future relationship with the EU, while the EU's mandate did. It wanted to go beyond the GPA, including utilities and supplementing the GPA with additional areas of coverage which would have opened up the European market for British businesses under procurement. But, no, the Government wish to go on the GPA model, which means that the European Union has in effect preferential access to UK procurement where we have not sought to open up some of the barriers to the European market.

I have a final question to ask the Minister regarding what is happening here at home. The 1998 devolution settlement means that public procurement is an area of responsibility for devolved government in Scotland and Wales. The Government have indicated that they wish to seek divergence in our current approach to procurement. How would this be seen in the devolved areas? I know this as a former constituency Member

[Lord Purvis of Tweed]
in the Scottish borders who fought many campaigns on the issue of being against centralisation and the Government centralising procurement policy and bundling up contracts, which makes it harder for smaller, local businesses, as my noble friend Lady Birt has indicated. The White Paper states

"For both goods and services, these provisions will be supplemented by the non-discrimination principle. For goods, non-discrimination will apply within certain excluded areas such as procurement."

Paragraph 145 goes on to say that the Government are considering

"whether and to what extent it should apply to public procurement, in particular for above-threshold procurements."

That means that, in effect, the UK Government for England can decide what the threshold levels and the policies for procurement would be for the devolved Administrations. No reference is made to procurement in the Bill, so can the Minister clarify the position on procurement within the internal market?

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, it is a pleasure to speak for only the second time in a debate and my first time in Committee, but as with my maiden speech, it is on matters of great importance to the businesses and consumers of the United Kingdom as we prepare to take our first steps as an independent trading nation for the first time in over half a century. I look forward to working with your Lordships to bring this Bill on to the statute book. I listened to the vast experience of Members of the House when we debated the Bill at Second Reading, an experience which I have already heard repeated in this Committee, and I know that noble Lords will take great care to scrutinise the provisions of the Bill thoroughly.

As I said at Second Reading, the intention of the Bill is to ensure continuity and certainty for the UK and our trading partners once the transition period ends. It will establish an independent body to protect UK producers from injury caused by unfair trading practices. It will enable better use of data to facilitate and improve trade. It will also ensure—the subject of this group of amendments—that UK businesses continue to have access to £1.3 trillion a year of government procurement contracts globally through our independent membership of the WTO's Agreement on Government Procurement, or GPA. What the Bill will not do is lower our standards in any area.

3.30 pm

Amendments 1 to 4, which I will address together, would collectively place statutory obligations on the Secretary of State to enter into negotiations with GPA parties, with the aim of advancing our policy objectives across labour standards, environmental protections, SME participation and public health in UK procurement opportunities covered by the GPA, before making regulations under Clause 1. The same group of amendments was tabled in Committee in the other place. I would like to reiterate a point that my right honourable friend the Minister for Trade Policy made then: the UK's continued participation in the GPA does not prevent procuring bodies taking any of these considerations into account in public procurement. I fear there may be some misunderstanding on the part of noble Lords about this.

The GPA provides a framework to ensure that public procurements covered by the agreement are carried out in a transparent and non-discriminatory way. It allows our firms to bid for these contracts overseas, and overseas firms in countries participating in the agreement to bid here. However, the procuring party is free to consider a range of factors in its procurement—I will come to the detail of those in a moment—as long as they are in line with GPA requirements. So, this is no way waters down the ability of procuring parties not to do that. All it is saying is that firms from countries that are signatories to the agreement have an equal and fair whack at them in the procurement process.

As noble Lords know, the UK has an active domestic procurement policy agenda across the issues identified by noble Lords in their amendments. For example, the Public Services (Social Value) Act 2012 requires public procurers to consider how certain procurements could improve the social, economic and environmental well-being of the relevant area. These requirements will endure, are entirely consistent with the UK's GPA obligations and will remain in place at the end of the transition period. There are many other such requirements that I could cite to noble Lords.

The GPA clearly sets out that parties shall periodically undertake further negotiations to progressively reduce and eliminate discriminatory measures. As we accede to the agreement as an independent party, we will participate fully in these negotiations with the aim, wherever possible, of furthering our public policy objectives. I am sure your Lordships will agree that this is the right way to enhance our domestic agenda. Moreover, if the Secretary of State were to open negotiations with all 20 GPA parties to produce something radically different that put these standards into the GPA, rather than into public procurement contracts, we would not be finished with this process before the end of next year, let alone this year. This would undoubtedly disrupt the UK's accession process and, frankly, put UK businesses at risk of losing guaranteed access to the GPA market.

Turning to Amendment 5, of course this Government recognise the importance of labour standards in public procurement. We have introduced robust measures to strengthen the protection of workers' rights and tackle humanitarian issues in supply chains over the past five years. For example, the Modern Slavery Act 2015 includes measures designed to ensure that government supply chains are free from forced labour, and it provides guidance on identifying and managing the risks of human trafficking in existing contracts and new procurement activity. The Act applies equally to procurements carried out under the GPA and those which are not. There is no carve-out in this legislation for businesses that happen to have won a contract through participation under the GPA umbrella.

I can assure your Lordships that I listened intently to the points about the ILO and completely sympathise with what was said about the importance of workers' rights. I can assure your Lordships that contracting

authorities are permitted by the GPA and in UK domestic law to include conditions related to the UK's ILO obligations and workers' rights and protections. No provision of the GPA prevents or limits authorities' ability in this regard. No provision of the GPA waters down in any way our participation in the conventions that we have been party to, and this will not change as we accede to the GPA as an independent party at the end of the transition period.

Turning to Amendment 6, I am sympathetic to the ideas that lie behind it. Of course, the Government fully appreciate the importance of engaging with businesses to ensure that they make the most of opportunities created by the UK's independent trade policy. It would be a funny programme of activity if we spent all this time putting into place international trade agreements and adhering to the GPA, and then did not communicate their benefits to firms throughout the length and breadth of the United Kingdom. This is not a paper exercise but one that we are carrying out to benefit British businesses large and small. Just to reassure the Committee, I will come to the "small" part of that spectrum before I finish my remarks. That is why the Department for International Trade has established an extensive programme of engagement which includes stakeholder briefings, events, round tables and webinars, as well as face-to-face support for exporters through our network of 275 international trade advisers.

For procurement in particular, of course, the UK benefited from access to GPA contracts through our membership of the EU. However, we are committed to increasing the number of businesses that benefit from the GPA and other international agreements. Anything that noble Lords can do to publicise the advantages of this agreement would be much appreciated. We have a dedicated stakeholder group which provides a forum for senior officials to update businesses and other external organisations on our GPA accession, and for businesses to learn about the opportunities and challenges in bidding for overseas government procurement opportunities. General guidance for businesses and exporters is available on GOV.UK. If businesses have a specific question about the GPA, they can contact the department directly using the GOV.UK inquiry service.

Let me assure noble Lords that we will continue to use these mechanisms, because it is in our interests to do so in order to help businesses take advantage of GPA membership as we accede as an independent party. Information on our engagement with businesses is published in our annual report, which will cover engagement on procurement trade policy, including in relation to the GPA. Publishing a separate report on the support being given to businesses specifically for the GPA will not be necessary, I would suggest.

I turn to Amendments 100, 101 and 102. First, I remind noble Lords that the UK is seeking to accede to the GPA on broadly the same terms that we have had under EU membership, and that those terms have already been scrutinised by Parliament. I shall come back to the point made by the noble Lord on the procurement thresholds in a moment. The UK's market access schedules and the text of the GPA were shared with the International Trade Committee in 2018, in preparation for our departure from the EU. They were then laid before Parliament in 2019 in line with the Constitutional Reform and Governance Act 2010, or CRaG, and they concluded without objection in 2019. I assure noble Lords that the UK's market access schedules will not change before we accede, but any changes to the GPA will again be scrutinised in line with the CRaG process. To reassure the noble Lord, Lord Fox, we expect our participation in the GPA, along absolutely substantially the same lines as now, to seamlessly transit at the end of this year so that British businesses on 1 January have the same advantages to compete for contracts overseas as they did on 31 December.

Once the GPA has entered into force for the UK—and I stress this again, to contradict a misapprehension—the negative procedure, which of course applies to both our Houses, will apply to regulations made under Clause 1 to implement the terms of the UK's independent membership in domestic law and to respond to a limited set of scenarios within the GPA thereafter. One such scenario will be updating the list of government entities in Annex 1 of the UK's GPA market access offer. This update is largely technical; for example, it will reflect machinery of government or departmental name changes. Do we really think that we need to go through the affirmative resolution process to change the name of the business department when no doubt it changes its name again at some point in future? We have to be practical about these matters.

I humbly suggest that given the limited nature of the powers under Clause 1, and the scrutiny that has already taken place for the UK's GPA accession, it is not necessary to apply the affirmative procedure to regulations made under the Clause 1 powers. Despite what the noble Lord, Lord Rooker, said, we are absolutely not trying to avoid scrutiny. I have made that point a number of times in your Lordships' House and am happy to emphasise it again today.

We will act swiftly to implement the terms of the UK's GPA membership in domestic law. We will not delay making the necessary regulations, because of course we could be in breach of our GPA obligations under international law if we were to do so.

I promised that I would come back to the point about SMEs. The noble Baroness, Lady Burt, and other noble Lords made valuable comments about this. We attach a great deal of importance to SMEs and, over the last five years, the Government have introduced a range of measures to help SMEs to compete for government procurement opportunities. Nothing in the GPA and nothing to do with acceding to it will change that. The measures that we have carried out include the prompt payment measure introduced in 2019; a reduction in bureaucracy; introducing the Public Procurement Review Service; and introducing two dedicated Crown representatives for the SME and the very small SME sectors. I would be happy to write to noble Lords and place in the Library further details on those measures.

There is always further work to do to support SMEs. We will continue to support them to compete for government procurement opportunities in the UK and, through our accession to the GPA, to compete overseas as well. One benefit of the FTA agreements that we are in the process of negotiating—as we are

[Lord Grimstone of Boscobel]
seeing clearly in the Japan FTA, which we agreed recently—is having specific dedicated chapters to SMEs to make their lives easier when they trade internationally.

On the point made about thresholds and reading across what is presently in EU law, which of course has now been read across into UK law, the GPA provides a simple and flexible framework. Going forward, there will be scope for reform, which might allow us to improve commercial outcomes, remove complex and unnecessary rules, and reduce burdens on business, while continuing to comply with the UK's international obligations. We will accede to the GPA on broadly the same terms whereby we have opportunities at present; it will give our businesses the same opportunities going forward as they had previously under the EU umbrella. The threshold for procurement in the UK will be set at the same current GPA thresholds from the end of the transition period.

3.45 pm

I realise that I have not managed to answer in detail all noble Lords' questions. As ever, there were two striking questions asked by the noble Lord, Lord Purvis, and I shall write to him following this debate with comprehensive answers, particularly to his point about the devolved Administrations and procurement.

I hope that I have provided reassurance to noble Lords on the matters that we have debated today. I ask that the amendment be withdrawn.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, I have received a request to speak after the Minister from the noble Lord, Lord Fox.

Lord Fox (LD): My Lords, I am sitting here looking at the small surface wipes, which profess to kill 99.9% of all viruses. In his speech, the Minister used broadly the same terms twice, and substantially the same terms once, when describing the follow-on GPA agreement. That is equivalent to the 0.1%, which is important these days. Could the Minister tell us what is not the same, because "broadly" and "substantially" is not "identical"? Therefore, there is a difference. In what areas are we seeing variation?

Lord Grimstone of Boscobel (Con): I thank the noble Lord, Lord Fox, for listening so intently to my speech to make those calculations. It is of great benefit to me that he did so. The changes are technical. I do not have them in front of me, although I know what they are. However, if I may, I shall write to the noble Lord and recount them for him.

Lord Lennie (Lab) [V]: I thank the Minister and other noble Lords who have taken part in this debate, in particular my noble friends Lord Hain, Lord Hendy and Lady Blower for their contributions on Amendment 5, my noble friend Lord Rooker on Amendment 100, and my noble friend Lord Judd for his childhood memories from the age of 13 about maintaining standards.

We are about trying to avoid any possibility of lowering standards or racing to the bottom. Maintaining current standards and including provisions in current EU law in the crossover to post-EU exit would be the greatest reassurance that we could all receive about the Government's intentions. I am not in any way doubting the Minister's well-intentioned summary of his intention and the Government's provisions. However, if it is not carried over, it leaves the possibility of escaping from one or other provision at some time in future.

The noble Lord, Lord Balfe, remembers Jacques Delors coming to the TUC and talking about the EU's intentions to provide standards across the whole of the continent. At the time, part of the TUC felt conflicted with those who believed that collective bargaining was the only way forward. A long time has passed since then, and we recognise the importance of legislation in supporting workers and standards, and other provisions that are subject to public procurement.

Therefore, there is no clear-cut decision to be made on these amendments, and the affirmative process brings things into the open. It is not just about the minimum decisions about changing departments' names; it is about matters, from that, right the way through the procurement process that can be brought out into the open and debated in both Houses as and when it is necessary. It provides the Government with the opportunity to avoid the charge that they are not subjecting themselves to proper scrutiny. That said, for the moment, I beg leave to withdraw these amendments, but we may well return to this at a future stage of the Bill.

Amendment 1 withdrawn.

Amendments 2 to 5 not moved.

Clause 1 agreed.

Amendment 6 not moved.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): We now come to the group beginning with Amendment 7. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate.

Clause 2: Implementation of international trade agreements

Amendment 7

Moved by ***Lord Stevenson of Balmacara***

7: Clause 2, page 2, line 9, after "considers" insert "necessary and"

Lord Stevenson of Balmacara (Lab) [V]: My Lords, in moving Amendment 7, I shall also speak to the others in this group, which it is difficult to argue about knowing what is to come further down the agenda and on the list of amendments. I mean this in the sense that it talks about and effectively looks to amend what I will call the status quo ante. I say this because we very much hope that the Government will accept later amendments about scrutiny and other issues; this would, of course, considerably change what would be said in Clause 2, which is about the implementation of international trade agreements.

In some senses, this debate will largely be conducted in a vacuum. I hope I will be able, as I go through, to argue the points that I want to make and that there are points here that we need to focus on quite hard. This is

particularly because the opening subsection here—Clause 2(1)—is drafted very broadly, and I will make a particular point about it. I will read it out:

"An appropriate authority may by regulations make such provision as the authority considers appropriate for the purpose of implementing an international trade agreement to which the United Kingdom is a signatory."

This seems such a wide power that is being given to Ministers, and it needs to be questioned in its own right. However, obviously, it plays back into what I have just been saying regarding future amendments that we will discuss in relation to the power of Parliament and where and how its various committees have a role in this process.

Amendment 7 is very narrowly drawn; it suggests that, before "appropriate" we put in "necessary and", which would make it read "considers necessary and appropriate" in relation to the power being given to Ministers. There may well be an argument against what I am saying along the lines of, "This is splitting hairs and is a legal definition that we do not need to worry about; it is common in many parts of the statute book and we should not be concerned about it."

However, I thought it would be worth raising this as an earlier point on the agenda because a similar amendment was moved in the Commons by the Member for Dundee East. Regarding the powers in Clause 2, he pointed out:

"The effect of the amendment would be to limit the scope of the powers".—[*Official Report*, Commons, 18/6/20; col. 130.]

He described those powers as "vague and subjective". I cannot possibly comment on that, but I look forward to hearing the Minister's response to it. I want to quote, very briefly, what the Minister in the other place said when faced with this amendment:

"The power is needed to implement obligations arising from continuity trade agreements into domestic law over time and in all circumstances."

He went on:

"Without such an ability to make changes, the UK would be at risk of being in breach of our international obligations."

I pause, perhaps for hollow laughter. He then said:

"I can assure colleagues that the powers in the Bill will be used in a proportionate way ... The Government view 'appropriate' and 'necessary' as synonymous".—[*Official Report*, Commons, 18/6/20; col. 131.]

That made me think a little, and I went to check the dictionary for my own satisfaction. It defines "appropriate" as:

"Suitable or proper in the circumstances".

However, it defines "necessary" as "essential" and "needing to be done". I really do not think that these are synonyms; I hope that when the Minister responds, he will be able to throw a little more light on to this.

However, I pause only to set the scene for discussions picked up in later amendments—on which I am very pleased to be joined by the noble Baroness, Lady McIntosh, and the noble Lord, Lord Purvis—and one in my name that I will speak to shortly. As I said, Amendment 9 deals with a situation that we hope will change, but it is basically about the use of the powers that are in the Bill and would be used should it be necessary to change or adjust the terms of a free trade agreement currently organised through the EU but that will become a matter for the UK once the interim period is finished.

We think that Clause 2(1) is important and the whole of the clause deals with the way these powers are implemented but also constrained. The point was made in the other place that, although the primary drafting of Clause 2(1)—which gives the power to

"make such provision as the authority considers appropriate"—

is very wide, there are constraints further on, particularly in relation to limits on such matters as not allowing the rule to be used to change tariffs, for instance. In fact, this is because there are powers in other parts of the statute book that would deal with that. Nevertheless, it is an example of the Government's argument—which I am sure we will hear from the Minister when he responds—which is that, although this is a very broad-based power, it is necessary because of the uncertain way in which these things might change over time.

However, I wonder whether the Minister, when he comes to respond, might look in particular at some of the issues raised in the Explanatory Notes, paragraph 36 of which states:

"Not all obligations in EU-partner country trade agreements will have been fully implemented by the EU in EU law … by the end of the transition period."

Therefore, the power in Clause 2 will be necessary to pick this up going forward. Could he give examples of areas where this applies? The Explanatory Notes talk about "procurement" and

"mutual recognition … in respect of enforcement or compensation provisions."

They may well be the limits, but it would be helpful for the Committee to know a little more about that, and, when the Minister responds, I would be very grateful for this. If he wants to write to me, I will understand.

Paragraph 37 of the Explanatory Notes says:

"It is also possible that adjustments may be required to ensure that the new UK-partner country trade agreements work outside the original EU context."

It states that this might require a "change to UK law". We are now talking about changes to primary legislation so, again, it would be helpful if the Minister could give us some examples in relation this. The third point is that paragraph 38 says that it is important that we have continuity over time and that regulations must be "up to date". Again, I think we accept that this is necessary, but it would be useful to have examples.

I do not want to detain the Committee too long on this, but I point out that the power in Clause 2 is very widely drawn. Constraints are implied in the way the Explanatory Notes are drafted but, as we know, these are not part of the statute book and are not able to be prayed in aid. We need statements from the Government to make sure that those arrangements are clear and available for us as we go forward. I think that deals with Amendment 7.

Amendment 10 would apply the provisions in the Bill to trade agreements other than the EU rollover trade agreements and allow the Bill to act as a framework for future trade policy. I suppose that, in tabling this amendment at this time, we are anticipating debates to come, as I have mentioned.

[Lord Stevenson of Balmacara]

However, it is important that we get the context for this right. It is a complete mystery to me—despite the extensive discussions that we had the last time the Bill was in your Lordships' House and despite our subsequent meetings with the current Minister and officials about this—why the Government cannot see their way towards an accommodation with those of us who believe very strongly that there is a role for Parliament to play that is not constrained by the negative resolution procedure under CRaG and that the Government would benefit from having more engagement with Parliament during the process of setting up trade deals and in relation to what they are doing, and would benefit in their negotiations with third parties on deals. This is because there would always be the constraint under which Governments would be able to say that they were not able to get such-and-such through Parliament and therefore they could not take it further. However, these issues will be rehearsed on future days, so I will not go into them in any detail, but I wanted to get a bit of the sense of that into the debate that we shall have on this group of amendments.

4 pm

I refer in particular to a paper published recently by the Global Economic Governance Programme at the University of Oxford, which set out in very clear terms the rationale for parliamentary scrutiny. It is worth running very quickly through a couple of points on that. First, we need to bear in mind that we are talking about, as has already been said in these discussions, moving the way in which we do trade deals away from where we are currently with the EU—with its extensive parliamentary structure and lots of involvement from committees and civil society—to the situation that existed 30, 40 or 50 years ago. In a sense we are looking back to that time, and of course it is right that trade deals then were very much about tariffs and border measures. There was not very much public attention or national scrutiny and debate in the papers or in civic society.

However, things have changed so much. Recent trade deals touch on a vast array of economic and social policy areas. They are not just about removing border taxes but are about aligning regulations, so they have substantial implications for the way in which different areas of the economy are now being regulated, from farming and food standards, as we will come to shortly, to manufacturing, financial services and accounting, which are among the key areas and drivers of our economy, to making sure that we have proper regulation for the transfer of data and, of course, as we will be coming to, healthcare considerations. Contemporary trade agreements involve policy decisions that are increasingly akin to domestic policy in terms of their impact, and they should be scrutinised.

Of course, the reason why we are not having such scrutiny is that it is alleged by the Government that the existing system under the royal prerogative is satisfactory—but this has been criticised for a very long time. It is not unreasonable to quote Walter Bagehot, who stated as far back as 1867:

> "Treaties are quite as important as most laws, and to require the elaborate assent of representative assemblies to every word of the law, and not to consult them even as to the essence of the treaty, is prima facie ludicrous."

He is regarded as being the authority on most matters parliamentarian, and I think we ought to listen to him at this stage.

Thirdly and finally in this little tour d'horizon of the issues to come, one of the problems that we face here is that the treaty process scrutiny that we currently have under CRaG is retrospective. All the deals have been done and all that we are being asked to do is look at them. Our role in Parliament is being restricted to looking at the implementation of the treaty into UK law. There are a number of problems with that. First, we do not see the wider context. Secondly, lots of the legislative changes required under trade agreements are for the future and we never get a chance to look at those in any great detail. Also, if we are going to look at the detail of regulations that are put through in trade agreements, we have to be certain that the regulations that are being put forward are not being done in secondary legislation environments—this is particularly true of food regulations—which means that we do not get the full attempt to scrutinise them in the round. For all those reasons, and many more that I am sure we will come to in future, we have to persuade the Government that they are very close to reaching an accommodation regarding the process now going on in our various committees dealing with trade, but that it requires them, as a matter of honour and of principle, to make an offer to Parliament about bringing Parliament to the table on the main issues in front of us.

Amendment 10 would extend the processes that we hope to come to in later amendments, and to which we hope the Government will listen, about not just applying the provisions of the current Bill to continuity agreements with existing EU trade agreements but allowing the Bill to act as a future framework for future trade policy. If the Government were prepared to move on that, we would be behind them all the way to make sure that that was as efficient and effective as possible; I give that undertaking now.

Amendment 103, which is a sort of catch-all safeguard, would raise the current level of scrutiny from being purely consideration and negative recommendation to the super-affirmative procedure. I commend the amendments to the House and beg to move.

The Deputy Chairman of Committees (Lord Lexden) (Con): The noble Baroness, Lady McIntosh of Pickering, does not seem to be available at the moment, so I call the noble Lord, Lord Blunkett.

Lord Blunkett (Lab): My Lords, I shall address Amendments 9 and 10. I do not have anything as profound to say as my noble friend Lord Stevenson about Walter Bagehot, but I have something to say about the importance of our parliamentary democracy. There has been considerable recent debate, both publicly and in the House, about the role of Parliament, its input as well as its scrutiny, consideration and decision-making processes, and the importance that is attached to what the noble Lord, Lord Balfe, was saying on the previous group of amendments. In fact, I thought what the noble Lord said about taking back control was so obviously on point that I can make my observations extremely brief.

If Parliament is to work at all, it is not simply to give carte blanche to the Executive. My noble friend Lord Stevenson quite rightly made the point that, were amendments to be agreed and changes made that secured the framework on which trade agreements in future are ratified, Parliament would in part have done that job. If the amendments are not agreed, of course Parliament's ultimate sanction is to consider and vote on the agreements themselves. Given the profound nature of our withdrawal from the European Union, the change in trade policy and the terms on which other subsequent trade agreements will be reached, it is absolutely critical that that is secured.

The reason that I intended to intervene this afternoon is purely on the basis that our Executive exist within Parliament. There is no presidency appointing an Executive, nor an assembly bringing forward its own separate policy requirements. Governments are embedded in Parliament, and as such Parliament has an obligation as well as a democratic duty to ensure that it does not give away those powers unless it has secured the requirements in the framework that avoid having to do it.

Lord Lansley (Con): I thank noble Lords for my first opportunity to speak in Committee. Since Second Reading, an all-party parliamentary group has been established on the subject of trade and export promotion, of which I am vice-chair. I raise that in order to signal that I have that additional interest which has not yet been entered in the register.

On this group, I thoroughly agree with what I took to be the import of the remarks of the noble Lord, Lord Stevenson—that is, that he intends to have a substantive debate about the process for agreeing future trade agreements at a later stage. I agree with him about that; the group led by Amendment 35 seems to be more appropriate for that purpose, bringing, as it does, an amendment similar to that raised on Report in the other place by my former parliamentary neighbour, Jonathan Djanogly. So I will not go on at length about that.

At this stage we need to understand to what extent the Bill is purely for the purposes of securing continuity agreements following our exit from the European Union. Those who were with us on the debates on this subject on the Trade Bill in 2019 will recall that many amendments, just as they are this time, were put forward on the proposition that we are trying to establish what the future structure of trade agreements should look like, rather than seeking to establish what the continuity agreements after we leave the EU, carried forward, should look like.

Later amendments will look at how we might modify the constitutional reform and governance process. I think that is a better way of proceeding. I have my own amendment later for this purpose, and I think that CRaG is the basis for how we will look at future trade agreements. We can amend CRaG, and we will debate later how we might do that. I have my own proposal, but I will not go on about it now. I think it is important for us to distinguish between, on the one hand, the process of parliamentary approval of trade agreements and, on the other, separately from that, the implementation into domestic legislation of the obligations we enter into through international trade agreements and treaties.

A treaty entered into by the Government cannot itself change domestic law. Therefore, legislation is required to implement it, so will the Minister tell us two things in response to this early debate? First, will he repeat at this stage what our noble friend Lady Fairhead said on 21 January 2019 in the first day in Committee on the then Trade Bill? She said:

> "We have already been clear that we will introduce bespoke legislation as necessary to implement those future free trade agreements. The Secretary of State for International Trade has already launched four consultations on prospective future trade agreements and announced that the Government will introduce bespoke primary legislation as necessary to implement these."—[*Official Report*, 21/1/19; col. 613.]

I am hoping that my noble friend the Minister will say that, whether the number is four or more, the same process will apply in future. Of course, from my point of view that means that we do not need to specify what should be in future trade agreements and, by extension, change the law in this country, because, when the time comes, if the Government seek such a thing they would have to secure the consent of Parliament in primary legislation to do whatever they wish to do under those trade agreements. We do not need to have all those debates now.

The second thing is that I am hoping, as my noble friend the Minister knows, that he will reiterate the Government's commitments, given early in the passage of the previous Trade Bill, to the processes for the future scrutiny and parliamentary approval of free trade agreements, published in the early part of 2019. If he can do that, it would help a great deal from the point of view of simplifying scrutiny of these and future amendments.

As for this group, Amendment 7 is a matter, strictly speaking, of semantics. To Ministers, if certain regulations are necessary to implement an agreement, then, in their view, they would be appropriate. If Ministers think something is appropriate, they always think it is also necessary. That is why, although the dictionary may not regard these two terms as meaning the same, in the mind of a Minister, they are the same.

Amendment 9 deals with the question of ratification. It says that the agreements that have to be implemented should not simply have been signed but should be ratified. It relates this, of course, to exit day for these agreements. I remind the Committee that we have passed exit day. After exit day it was the case, for example—I do not know how many examples there are, but it is a rather compelling one—that all member states of the European Union that were required to ratify the comprehensive agreement with Canada, CETA, had not so ratified. So, for example, the Dutch parliament ratified that agreement in July of this year: it was after exit day. The example I would draw, which I think is a compelling reason not to accept Amendment 9, is that it would have the consequence that the Canada-EU agreement would not satisfy the requirements of the legislation.

4.15 pm

I have a fundamental problem with Amendments 10 and 103. As far as I can see, they give Ministers the power, under this legislation, to implement trade agreements beyond those that are continuity agreements, and to

[Lord Lansley]
do so by statutory instrument with a super-affirmative procedure. I do not think that that is what we are setting out to do. I think we have to have a full structure, not just the laying of a regulation, and that is what CRaG provides for. Amendment 103, although it is a super-affirmative procedure, relates to something which is wholly inadequate, which is that Ministers can secure parliamentary approval simply by the laying of regulations, so I do not agree with Amendments 10 and 103.

I remind the Committee that, when we reach that stage, I would be very grateful for two statements from my noble friend: the first, about how future trade agreements will be implemented into domestic legislation through bespoke primary legislation; and secondly, that the processes to which the then Government committed themselves in the previous Trade Bill for agreeing future trade agreements will be the basis—we hope, the complete basis—for the present Government's approach to the approval of future trade agreements.

Lord Haskel (Lab) [V]: My Lords, apart from any rollover deals which we entered into when we were part of the European Union, these amendments deal with the ratification of future trade deals. Unlike the noble Lord, Lord Lansley, I support these amendments, for many reasons. First, as my noble friend Lord Stevenson explained, they give Parliament on opportunity, a chance, to improve treaties by flagging up ambiguities, loopholes or unintended consequences which may have been missed.

When we were members of the EU, these trade agreements were scrutinised for this purpose, on our behalf, by the European Parliament. It had considerable say in these negotiations and actually voted on the final text. This scrutiny is particularly important because international treaties are binding on future Governments. Indeed, full parliamentary scrutiny of trade deals was a commitment in Labour's 2017 general election manifesto. Now that we have left the EU, we find that instead of Parliament having a say in these agreements, it is largely an executive power, and ratification becomes a formality.

When we debated the previous Trade Bill, Amendment 12 on Report proposed a similar process for ratification. It was approved by a strong majority in this House. Indeed, the House's concern is demonstrated by the setting up of our International Agreements Committee to look at progress on trade negotiations—the noble Lord, Lord Lansley, referred to this.

These amendments also bring the management of our trade agreements into the 21st century, as my noble friend explained. This is because trade deals have become much more than simple matters of business. They are strategic; they are geopolitical; they affect our standard of living. This is why ratification has to be so much more than a simple executive process. Amendment 10 acknowledges this by setting a framework for future trade policy. This is so Parliament can ensure that our social and environmental values and standards are maintained. Amendment 10 assumes that these matters were taken into consideration when the EU negotiated a trade agreement, so this arrangement does not apply to rollover trade agreements, which I think is reasonable.

In supporting these amendments, I was influenced by a paper published by the Global Economic Governance Programme. It compared our ratification process with that of other countries in the EU. They involve their Parliaments extensively with the ratification process. Here, the extent of our Parliament's power is to delay ratification by 21 days, which is the only way it can hold the Government to account. This is clearly inadequate, and these amendments set about putting it right. That is why I support them.

Another reason why I support these very timely amendments is that, in recent weeks, public trust in the Government's executive powers has declined because of the way they are using their emergency powers to control the Covid-19 epidemic. This decline in trust is likely to be demonstrated in the other place tomorrow. If we are not careful, the same lack of trust will happen with the Government's power to ratify trade deals with little parliamentary input. Again, this is why these amendments are timely and important, and they have my support.

Baroness Noakes (Con): My Lords, this Bill is supposed to be about continuity agreements. I accept that Amendments 10 and 103 are within the Long Title, but I do not understand why whoever drafted the Bill gave it a Long Title which allowed amendments dealing with non-continuity agreements, non-free trade agreements, to come within its scope. However, we are where we are.

I put my name down to speak on this group of amendments mainly because of Amendments 10 and 103, which seem to be another back-door attempt to override the CRaG process, which is based on the much more long-standing process of the Ponsonby rule. It is part of a long-standing tradition that that is how we handle treaties in our Parliament. I accept that we will have a longer debate on that when we get to the group including Amendment 35. We ought to recognise that this is not simply a question of Parliament not being involved. In February 2019, the Government announced their approach to involving Parliament in international treaties, which supplements the formal CRaG processes. The current Administration have confirmed that they broadly stand by that earlier announcement of policy. It would be helpful if my noble friend the Minister could reaffirm that today.

The Deputy Chairman of Committees (Lord Lexden) (Con): My Lords, I will call the noble Baroness, Lady McIntosh of Pickering, again and hope that she is able to join us this time.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am grateful. I was muted, so I apologise for any inconvenience.

I support Amendment 7 and would like to explain to my noble friend Lord Lansley that this is more than just semantics. "Necessary" has a specific meaning in law, as has been identified by the Law Society of Scotland. Perhaps I should state for the record that I am a non-practising Scottish advocate. Against the background expressed by the Constitution Committee of the House on numerous occasions, in particular on

this Bill but also on others, we are seeing an extensive scope of delegated ministerial powers, so it is incumbent on my noble friend the Minister to explain why they are required. By adding "necessary" as well as "appropriate", we are flagging up to the Government that, in scrutinising the Bill and subsequent regulations, the objective of this legislation will go only so far as is necessary to implement the agreement in question. I hope that the Minister will see fit to accept this amendment.

I also wonder whether there has been an oversight in Clause 2(2)(b). The Explanatory Notes define international agreements as follows:

"International trade agreements are agreements between two or more countries aimed at reducing the barriers to trade in goods or services between them."

For the sake of trade agreements relating to services, not least the right of people to trade services such as legal services, I wonder whether that was an oversight and whether it should be amended to read "free trade agreements and services".

I also support Amendment 9, which I have signed, because, as stated in the Explanatory Notes, a trade agreement would need to be ratified before regulations could be made to implement it. In most other jurisdictions it is certainly the case that Parliament, and the devolved Assemblies and Parliaments, would ratify the agreement. Would my noble friend put my mind at rest that this amendment is not required because that is the legal situation? If it is not, I would see some argument for the need for Amendment 9.

Amendment 10 seeks to apply the provisions of the Bill to trade agreements other than EU rollover trade agreements, allowing it to act as a framework for future trade policy. If the Bill is not to be the framework, it would be helpful if my noble friend took the chance to explain to the Committee what framework the Government intend to use.

Lord Purvis of Tweed (LD): My Lords, I will primarily address Amendment 10, to which I have put my name, and then Amendment 7. In doing so, I will reflect on a couple of very good points made by the noble Lord, Lord Lansley, and other noble Lords during this short but useful debate. I agree with the noble Lord, Lord Stevenson, that this debate frames the context for many of the later groups.

There is now no disagreement between the Government and the Opposition that trade agreements are now, by definition, deeper and more comprehensive than they were before we joined the European Union. The transformation of trade agreements from the mid-1970s to now has been significant. They touch on wide domestic policy, far beyond simply tariff rates or quotas for goods. Many will now include provisions on the service-sector economy, which trade agreements never touched on in the past. Therefore, seemingly innocuous technicalities in a trade agreement can sometimes have far-reaching consequences for domestic policy. Later on, the Committee will address additional chapters on climate, development and human rights that never used to exist in trade agreements. In the last group, the Minister referred to impacts on modern slavery and supply chains. These are now all within wider, deeper and more comprehensive trade agreements. It is also the case—admitted by the Government—that trade agreements in the UK in the 21st century impact on the devolution settlements that did not even exist before we joined the European Union. Therefore, there are wider consequences, and the Committee will be discussing those later.

4.30 pm

I am not sure I am convinced that the CRaG process is necessarily long-standing. It is an update to the way that the prerogative powers were used within Parliament over the last decade or so, but it certainly cannot be used as an example or model from which to approach treaties across the board or other treaties that may be small in nature. Just two weeks ago, noble Lords in Grand Committee discussed three Select Committee reports which looked at whether our procedures need to be updated. There was consensus that they do; the difference was on how.

I understand the argument of the noble Lord, Lord Lansley, on whether this amendment would, in effect, allow reduced scrutiny or power for Parliament over CRaG, but I do not agree. The mechanisms restricting the order-making powers in the Bill and the restrictions that we would like to see further on in the Bill would mean that there is a framework that goes beyond the CRaG process. Indeed, a treaty under CRaG is, in effect, an SI anyway. As the noble Lord knows, this House cannot prevent an SI under a CRaG process, as a treaty, from getting on to the statute book if we have a significant disagreement with it. Under other elements of regulations, we have greater power. The regulations under the Bill and those we are proposing have a wider degree of consultation and a stronger set of ways in which we can look at a proposal, before it is even tabled for support under the CRaG process. As the noble Lord said, we will be discussing that later, when those disagreements will be fleshed out. I hope that he does not feel that is an inhibiting factor at this stage.

I recall the debate in which the Minister's predecessor, the noble Baroness, Lady, Fairhead, indicated that, under the Government's proposals, a new trade agreement would be brought through primary legislation. I hope the Minister can clarify, because my recollection is slightly different from the noble Lord's. My recollection is that the Government said that, where there is no existing legislation, they would bring forward legislation to implement. At the time, I thought that was no different from the dualist system that we have already. If the noble Lord is interpreting too much from what was said by the noble Baroness, Lady Fairhead, at the time, I hope the Minister can clarify. If my recollection is correct and the Government are simply committed to bringing legislation to implement a treaty that is not on the statute book, we are back to square one, which is why we need some of these elements within the debate.

My second point is on the need for some examples from the Government of how they would use some of these regulation powers. I hope that the Government can clarify this, as has been asked for in this debate. The House of Lords Library Note was very helpful. We know that, under the Government's proposals, the Government are restricted to bringing regulations for those trade agreements that were signed before we left the European Union. As the Lords Library Note

[Lord Purvis of Tweed]
helpfully suggests, there is need for clarity when it comes to mutual recognition agreements. It notes that we have mutual recognition agreements with the United States. The Bill cannot be used to implement a new FTA with the United States, but the Lords Library Note suggests that regulations

"could be used to implement a mutual recognition agreement with the US."

I wonder if the Minister could clarify that point.

Finally, it was helpful to receive both a grammar lesson from the noble Lord, Lord Stevenson, and an insight into the mind of a Minister from the noble Lord, Lord Lansley. On this, I am on the side of the noble Baroness, Lady McIntosh of Pickering, and the Law Society of Scotland. I hope the noble Lord does not mind, but I will stick with the Scottish lawyers on this one. The argument that was made was that necessity is a stronger test, whereas "appropriate" can be used and does not necessarily mean that other non-legislative remedies can be sought by the Government. Therefore, the clarity that the noble Lord, Lord Stevenson, has asked for from the Minister would be helpful. It is necessary for the Minister to clarify how the Government define "appropriate".

Lord Grimstone of Boscobel (Con): My Lords, before I start, I acknowledge the point just made by the noble Lord, Lord Purvis, about the wide-ranging nature of modern FTAs. We will no doubt return to that point in our future debate.

On Amendments 7, 9, 10 and 103, I shall turn first to Amendment 9, which stipulates that Clause 2 would apply only to agreements that the EU has ratified with third countries, as opposed to simply having signed them. Unfortunately, this amendment would mean that important agreements with key strategic partners would be excluded from the scope of the clause and so, once signed, would be left without an implementing power. My noble friend Lord Lansley has picked up this point in relation to Canada. This would include an agreement with Canada, because CETA has not been fully ratified by each member state of the EU, despite being in effect for some time now. We have heard from businesses large and small that providing continuity in this particular trading relationship is essential; unfortunately, this amendment would threaten these vital trade flows and commercial relationships.

I also draw your Lordships' attention to the fact that a number of international development-focused agreements between the EU and third countries have not been fully ratified, despite being in force for some time. One example is the economic partnership agreement with the CARIFORUM states. Developing countries are sometimes unable to ratify agreements in full before entry into effect. Sometimes this is for procedural reasons; sometimes it is due to issues of domestic governance. Whatever the reason, this amendment would deny the UK's trade for development assistance to these countries, simply because the predecessor trade agreement was not fully ratified.

I reassure my noble friend Lady McIntosh that the agreements that this amendment seeks to exclude have been subject to comprehensive EU scrutiny processes at mandate, negotiation and concluding stages. We were fully involved in those processes. As noble Lords are no doubt aware, the delay to ratification relates to individual country or state processes, as opposed to those carried out at the level of the European Union.

On Amendment 10, just as the previous amendment sought to exclude a number of key trading partners from the scope of the Bill, this amendment seeks to bring a number of new FTA partners into scope, including the USA, Australia and New Zealand. As I explained to the House at Second Reading, this Bill is a vehicle for the implementation of continuity agreements only. I am grateful to my noble friend Lady Noakes for picking up this point. Scrutiny and implementation of new free trade agreements is an important conversation but one that must be had separately from the Bill. No doubt we will be having that conversation at various points in the future.

However, I recognise that many colleagues would like some indication of and clarity about how this process will work. As noble Lords are aware, when negotiating new free trade agreements we have gone above and beyond the baseline CRaG process, providing extensive information to Parliament, including publishing our objectives and economic scoping assessments prior to the start of talks. We also hold regular open briefings for MPs and Peers throughout the negotiations. We will continue to keep Parliament updated on negotiations as they progress, including close engagement with the International Trade Committee in the House of Commons and the international agreements committee in the House of Lords. I give full recognition to the valuable work of these committees.

At the end of negotiations, we will produce an impact assessment of the final treaty prior to it being laid before Parliament for scrutiny under CRaG, alongside an Explanatory Memorandum. In addition, we will seek to allow time between finalising a new FTA and laying it before Parliament under the CRaG procedure, so that the relevant scrutiny committees in Parliament may produce an independent report on the agreement.

I am sure we will return later in Committee to the whole question of scrutiny and the important role of Parliament. I hope that the noble Lords, Lord Purvis, Lord Blunkett and Lord Haskel, and my noble friend Lord Lansley will not feel short-changed if I keep some of my power dry until that later debate.

My noble friend Lord Lansley asked about legislation for implementing future free trade agreements. As we have said on a number of occasions before, the Government will bring forward specific implementing legislation—the primary legislation necessary—for new free trade agreements, providing Parliament with plenty of opportunities to scrutinise and vote on these agreements. I hope that reassures the noble Lord, Lord Purvis. I look forward, no doubt, to our debating the matters that we have debated on this Bill on future Bills which would implement future free trade agreements.

In a nutshell, I do not believe that the established and well-functioning process for scrutinising continuity agreements needs to be changed at this point. This House has held three debates covering six continuity agreements, following reports published by the European Union Committee. As your Lordships will be aware,

none of these debates has resulted in a Motion to Regret. This process has been fair, open and, most importantly, proportionate to the nature of the continuity agreements.

On Amendment 7, like other noble Lords I enjoyed the noble Lord, Lord Stevenson, parsing the meaning of "appropriate" and "necessary", and my noble friend Lady McIntosh has given us the benefit of her Scottish expertise on this matter. I can speak quite plainly and say that all regulations made under the Clause 2 power to implement international trade agreements will be necessary. The Clause 2 power is needed to implement legislative obligations arising from trade continuity agreements into our domestic statute. Our expectation is that this power will be mainly used for obligations relating to procurement or recognition of product conformity assessments. To clarify, tariff-related provisions will be implemented using powers in the Taxation (Cross-border Trade) Act.

Without the ability to make such changes, we would be at risk of breaching our international obligations. It is the Government's responsibility to ensure that this does not happen. However, this proposed amendment could prevent that by constraining the vires or scope of the regulations that can be made under Clause 2, in particular when using the concurrent powers to legislate in areas of devolved competence. We will be debating that topic later in Committee.

I can assure the House that, despite the suspicions that some noble Lords have, the powers in this Bill will only be used in a proportionate way and that consultation with all stakeholders is a fundamental part of our approach and will remain so going forward.

On Amendment 103, I thank the noble Lord, Lord Stevenson, for his amendment. However, I fear I may be beginning to sound like a broken record, as I am going to say yet again that this is a continuity Bill. The Government have no desire to seek sweeping powers to be able to use this Bill to implement all our future free trade agreements, with the likes of the US, Australia and New Zealand. I dare say that, if we had tried to do that, our knuckles would have been very sharply rapped by this House.

4.45 pm

The amendment sets out a form of the rarely used super-affirmative procedure to bring future FTAs into effect. As a new boy, I had to look up how that procedure would operate. What I learnt was, as I am sure all other noble Lords will already appreciate, in the context of continuity agreements, this would take 81 sitting days for each regulation, occupying a disproportionate amount of your Lordships' time to implement what are frequently simply technical changes to legislation.

For example, for our newly negotiated enhanced continuity deal with Japan, we will require an SI to remove a non-tariff barrier to allow for more trade in spirits between the two countries. Again, this is a provision that is of a technical nature. Technical changes of this nature are generally made via negative procedure, thereby freeing your Lordships' time to consider legislation that can be further improved by your knowledge and expertise.

To pick up a couple of points that the noble Lord, Lord Stevenson, made, the Bill can only be used to modify primary legislation that is directly retained EU law. I hope that point reassures him. On his other point, where we say,

"over time and in all circumstances",

that generally refers to future needs to keep agreements operable in light of things like machinery of government changes. Failure to make these changes would technically put us in breach of our international obligations.

Returning briefly to scrutiny, the CRaG procedure does provides the statutory mechanism to prevent ratification of any treaty, including FTAs. Additionally, treaties cannot themselves change domestic law, and legislation to implement agreements would be scrutinised by Parliament in the usual way. With these assurances, I would ask noble Lords not to press Amendments 7, 9, 10 and 103.

The Deputy Chairman of Committees (Lord Lexden) (Con): My Lords, I have received two requests to speak after the Minister, from the noble Lords, Lord Lansley and Lord Purvis of Tweed. I call the noble Lord, Lord Lansley, first.

Lord Lansley (Con): My Lords, I am grateful to my noble friend the Minister for the assurances, although I note his powder is as yet dry in relation to some of the subjects we will discuss later.

If I may make a point about what I am looking for from my noble friend, it is very clear that if future trade agreements—not continuity agreements—give rise to a requirement for changes in domestic legislation that are of significance, that must be achieved by bespoke primary legislation. I am sure that is what he intended by what he said. That is why, I am afraid, the noble Lord, Lord Purvis of Tweed, said about Amendments 10 and 103 is wrong, because they would, in effect, create a super-affirmative procedure for the implementation into domestic legislation of future trade agreements. We do not want that. We want it to be done by primary legislation because then it is capable of being amended.

We have to keep in mind, as we go through this, that there is a clear difference: ratification of a trade agreement is not the same as changing our domestic law, as my noble friend just said. Therefore, the CRaG process does not change UK law; what it does is enable the Government to ratify, or not to ratify, a trade agreement or an agreement into which it has entered. That is the distinction that we have to continuously keep in mind: the CRaG process is not changing UK law; it is determining on what basis we have agreed with another country. If we then need to change our law, we must do it ourselves, and Parliament will have the ability to decide in what terms we do so.

Lord Grimstone of Boscobel (Con): I thank my noble friend Lord Lansley for giving me the chance to clarify my comments. We have already said, and I am happy to say again, that we will bring forward primary legislation as necessary for future FTAs with new trade partners. As my noble friend quite appropriately spotted, we could not implement those free trade

[Lord Grimstone of Boscobel]
agreements without bringing forward primary legislation. The CRaG process does not do that—it ratifies the treaty but cannot, in itself, alter domestic legislation.

Lord Purvis of Tweed (LD): My Lords, I listened carefully to the Minister. He said two things, one with regard to the scope of this Bill. We have heard Ministers many times state their desire for this Bill to be very limited in scope and look only at continuity of trade. The Government have brought amendments to this Bill to widen the scope quite significantly, for example on data sharing. The debates we will be having fall squarely within the spirit of what the Government have done to open up the scope.

We will be returning to this valid debate area, but I want to ask the Minister a specific question. I listened carefully to what he said. In objecting to some of the amendments, he referred to the fact that some of the agreements did not require scrutiny within this Parliament because, he said, they had already undergone the EU scrutiny process, mandate, negotiation and ratification stages. That was by the European Parliament, where British MEPs sat and were able to take part. For new agreements, we will have no equivalent. To be clear, is the Government's position that the EU scrutiny process—when it comes to the agreements that have been approved by the European Union and gone through it but not yet been put into domestic legislation—is equivalent to the CRaG process the Government are asking to use going forward?

Lord Grimstone of Boscobel (Con): My Lords, I thank the noble Lord, Lord Purvis, for his comments. The continuity agreements were those that were in force before 1 January or had been agreed to by the EU, even if not fully ratified, before then. We were fully participating members of the European Union then. The committees of this House and the other place that scrutinise European legislation—the noble Lord knows much more about that than I do, being a new boy—scrutinised these agreements and did that satisfactorily.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank everybody who has spoken in this debate. It has been a bit of a rollercoaster ride. I have felt optimistic at some moments and deeply depressed at others. I am going to end up being optimistic because I am that sort of chap. I will take the good that I have heard from my noble friends Lord Blunkett and Lord Haskel, in particular. I was grateful on this occasion not to be attacked by the noble Baroness, Lady Noakes. It is always a good day when that happens—I am only joking.

The noble Lord, Lord Lansley, made some good points about keeping in mind the difference between ratification and implementation as we go forward. He is right to stress that point and I am sure we will come back to it. The noble Lord, Lord Purvis, raised a number of questions that had a bearing on that. I started to get slightly worried about where he was heading —for example, on the issue about the implementation of agreements made under the royal prerogative being ratified under the CRaG arrangements. This is an obvious consequence of where we stand with our current procedures. It leaves the question open as to why we need primary legislation. If the Minister is saying that all future deals are to be made in relation to existing standards that will never be lowered, in view of not changing or disadvantaging our labour and environmental standards and our future arrangements on climate change—on the agenda later today—what is this primary legislation of which he speaks? This is something we will need to come back to and I will be thinking about it.

Finally, I want to pick up the point made by the noble Baroness, Lady McIntosh of Pickering, which I thought was a good one. Can I join her in asking the Minister whether he could write to us about it? Paragraphs 44 and 45 of the Explanatory Notes refer to varieties of trade agreements and the Minister did not deal with that in his response to the noble Baroness. The types of agreement within the definition of "international trade agreements" include memorandums of understanding and he will know that this matter has been raised with him by the International Agreements Committee of your Lordships' House. It is a topical point and I would be grateful if he could give us some further information when he is able to do so. With that, I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

The Deputy Chairman of Committees (Lord Lexden) (Con): We now come to the group beginning with Amendment 8. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate.

Amendment 8

Moved by ***Lord Berkeley***

8: Clause 2, page 2, line 14, at end insert—

"( ) an international treaty or private international law convention (including any amendment or protocol thereto) which facilitates trade or the financing of trade."

Member's explanatory statement

This amendment, along with another amendment in the name of Lord Berkeley, is intended to enable the Government to ratify the Luxembourg Rail Protocol to the Cape Town Convention to make it easier for the private sector to finance trade in railway rolling stock, from locomotives to passenger and freight wagons to metro trains and trams.

Lord Berkeley (Lab): My Lords, I am grateful for the opportunity to move Amendment 8. I will also speak to Amendment 19 to save the Committee time. This is a small issue compared with many of the ones the Committee will discuss today and in future days, but it is important for the rail sector and the financial sector that is linked to it. The amendment, which is a small addition to Clause 2(2), would enable the Luxembourg Rail Protocol to the Cape Town convention to be ratified.

I will try to explain what this is as quickly as I can. The Cape Town convention is a global treaty which, with the Luxembourg Rail Protocol, will make it easier and cheaper for the private sector to finance all types of railway rolling stock—locomotives, passenger and freight wagons, metro trains and trams, et cetera.

It creates a new global system for protecting and prioritising creditor rights in relation to secured financing or leasing of all types of rolling stock. It includes a facility to register security interests in an international registry. It is the first common worldwide system for uniquely identifying rail equipment.

This is nothing particularly new because it has been around in the air sector for many years and there is already a protocol in the Cape Town convention to benefit aircraft. The rail sector protocol has been signed but not yet ratified. I will give the Committee some examples. Aeroplanes obviously move around the globe. Occasionally, they get stolen or people take them to places where creditors cannot get at them. Members may wonder what this has got to do with the railways. When I was first chairman of the Rail Freight Group, about 20 years ago, and getting interested in international rail freight across to the continent through the Channel Tunnel, we came across a number of examples where rail freight wagons went to Italy and but did not come back. Nobody could seem to find them. Italy was different in those days. I do not think it is the case today at all. It was a worry because the people who had financed those wagons lost their assets. I am sure this can happen today in other parts of the world, but I am not going to start giving examples. This protocol is designed to prevent that happening without creditors knowing what has gone on.

5 pm

The good thing is that if the Government are able to ratify this, there will be no cost to government, and the people involved in developing this convention have said it is estimated that the savings to the UK domestic rail industry will amount to over £5 billion in 30 years, just in direct microeconomic benefits. The protocol will of course also underwrite new business and jobs from the incremental export opportunities for UK rolling stock manufacturers, as well as for financial services. That is particularly important due to the change in trade from Brexit, with exporters looking for new markets.

I hope that that summarises the purpose of this amendment and that the Government will accept the principle of these amendments. I am very grateful to the noble Lord, Lord Grimstone, for the discussions we have had by email, and I now look to discuss how this could be taken forward. I am always conscious that when one puts down an amendment, Ministers will often say that they have a better one and that they will come back at the next stage with something better. Of course, that is fine. I hope that I do not have to press my amendment at this stage, which would be unusual. However, I hope that the Minister can give me an assurance that an alternative, which he suggested, would be acceptable: the possibility of introducing an amendment to the private international law Bill in Committee in the other place, which I believe is due next week on 6 October, to facilitate either the ratification of the Luxembourg rail protocol to the Cape Town convention directly in that Bill, which obviously would stop it being used more generally, or by way of adding a regulation later to that Bill. Obviously, I would find that acceptable if it worked. An alternative would be for the Government to introduce their own amendment to the Trade Bill on Report.

Given the timescales involved, I request that the Minister facilitate an urgent meeting with his Ministry of Justice colleagues and the Department for Transport, which also has an interest in this, and myself, so that we can agree a way forward. I could then support, and, I hope, facilitate, a government amendment tabled to the private international law Bill in Committee in another place next week, or agree an amendment to this Bill which the Government might bring forward on Report. I beg to move.

Baroness Neville-Rolfe (Con): My Lords, this is the first time I have spoken in the brave new world of Grand Committee. We have lost Moses, and instead we have something that looks like the translation booths that I remember from my time as the UK Minister at the European Council in Brussels—the numbers were about the same, given the number of EU languages, although of course everyone spoke English informally.

As my noble friend knows well, I welcome the Bill and the Government's global ambitions. Again, I declare my interest as chairman of the UK-ASEAN Business Council. Today, it is with particular pleasure that I support the noble Lord, Lord Berkeley, and the noble Lord, Lord Bradshaw, for whom I think the noble Baroness, Lady Kramer, will speak. Although we sit on opposite sides of the House, the noble Lord, Lord Berkeley, and I share a practical bent when it comes to infrastructure, and especially to railways. Our Amendments 8 and 19 would make it easier for the private sector to finance trade in railway rolling stock, as he explained, and would allow the UK to implement the Luxembourg rail protocol to the Cape Town convention, bringing rail into line with aviation, which is important in the current climate. That would help to build a more dynamic rail sector, harking back to our heritage as a pioneer of rail technology. As someone descended from an engineer who helped Stephenson build the "Rocket", I find this extremely attractive.

As the noble Lord, Lord Berkeley, has indicated, another way forward that would achieve these aims may have been found. If so, I welcome that. I thank my noble friend Lord Grimstone for his assurances and work on this issue, and I associate myself with the comments of the noble Lord, Lord Berkeley, on the way ahead.

Baroness Kramer (LD) [V]: My Lords, I thank the noble Lord, Lord Berkeley, and the noble Baroness, Lady Neville-Rolfe, and bow to their expertise. I am stepping in in the place of my noble friend Lord Bradshaw, who is, unfortunately, not able to speak today. I know that the three of them have had sufficient conversation to enable me to be sure that I can support everything that has been said up to this point.

Many of us are utterly frustrated that, in this era when we are so concerned with climate change, the advancement of rail is frequently constrained by the concerns of rail equipment companies about the security of their rolling stock. This protocol addresses that issue. It provides a public registry for rolling stock, which would hugely facilitate cross-border operations of freight and passenger trains, and the certainty that a registry offers. It would free up financing for rail stock, because it provides mechanisms for repossession of collateral in cases of insolvency.

[Baroness Kramer]

Stimulating private investment in this arena is absolutely critical. This is not a burden that most countries around the world can carry at government level, so ensuring private participation is crucial. We move now into an era where our concern about climate change means that rail options, in contrast to aviation or road options, are increasingly attractive because of the environmental benefits, and very often it is far more cost-effective for exporters and importers.

As the noble Baroness, Lady Neville-Rolfe, said, the UK has increasingly become a player once again in the manufacture of rail equipment and it needs international markets. It would of course be of benefit if those markets had much greater certainty and confidence in those who are selling.

I am somewhat concerned because, when I last looked—and perhaps the Minister might correct me—only Luxembourg had actually ratified this treaty, although many countries have signed it, as the UK did in 2016. We really want to make sure that there is no obstacle to UK ratification, which would undoubtedly give others the confidence to go ahead and ratify, lifting the whole platform of rail as part of the ongoing future, so that it has much more significant international consequences than even domestic consequences.

I hope very much that we can use this opportunity to bring the issue once again to the Government's attention. I am very comforted: it sounds as though the Government have found a route for ratification to be achieved. I do not think any of us particularly care what the route is, provided that it is secure and effective. I look forward to hearing the Minister's comments on this issue.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I am grateful to my noble friend Lord Berkeley for introducing this amendment. I am afraid that it is outside my normal expertise area, and I listened with interest to what he had to say. We should support his argument that if it is possible through this Bill to facilitate the rail sector and its development, we should do so. I am happy to back up the points made by other speakers.

Viscount Younger of Leckie (Con): My Lords, we have a change of rider as I leap into the saddle. I turn to Amendments 8 and 19 in the names of the noble Lords, Lord Berkeley and Lord Bradshaw, and my noble friend Lady Neville-Rolfe. The noble Lord, Lord Berkeley, eloquently explained to this Committee the nature of and reasoning behind these amendments. Taken together, they would expand the scope of the Trade Bill, incorporating the implementation of private international law conventions to which the EU was signatory before exit day.

I thank the noble Lord, Lord Berkeley, for his constructive engagement with my noble friend Lord Grimstone and our departmental team of officials over recent weeks. As the noble Lord has outlined, this amendment would allow the UK to implement the provisions of the Luxembourg Rail Protocol.

Let me say at the outset that the Government are supportive of ratifying the Luxembourg Rail Protocol. We recognise the competitive advantages which this could bring to the UK rail sector and UK financial services, as the noble Lord, Lord Berkeley, outlined so convincingly in his speech today and at Second Reading. I also took note of the remarks of the noble Baroness, Lady Kramer, who pointed out the economic advantages.

However, I do not believe the Trade Bill is an appropriate vehicle to provide the powers necessary for the implementation of this agreement. As has been explained to your Lordships, the powers conferred by the Bill are limited and narrow in scope, yet wholly essential for the delivery of the UK's independent trade policy. It is our view that the contents of the Bill should not expand beyond essential readiness for life outside the European Union.

However, I can advise the noble Lord that the delegated power that was originally part of the Private International Law (Implementation of Agreements) Bill would have allowed the Government to implement domestically private international law agreements, including the private international law elements of a convention such as the one to which he refers.

The Government intend to reintroduce this in Committee in the other place, which, as the noble Lord, Lord Berkeley, said, I understand is to be as early as next week—I think 6 October. I therefore urge the noble Lord to encourage your Lordships in this Committee and beyond to support the reintroduction of the delegated power when the Private International Law (Implementation of Agreements) Bill returns to this House for Lords consideration of Commons amendments in coming weeks.

The Department for International Trade has engaged on an official level with the Department for Transport, which supports the Luxembourg Rail Protocol. The Department for Transport believes that the protocol has potential economic benefits for the UK, just as the noble Baroness, Lady Kramer, said.

I would be very pleased to facilitate a further conversation on this in conjunction with my noble friend Lord Grimstone in my capacity as a Whip with responsibility for transport and trade policy, and perhaps as an interdepartmental broker—I hope a very honest one. On that basis, I ask that these amendments are withdrawn.

The Deputy Chairman of Committees (Lord Lexden) (Con): My Lords, I have received no requests to speak after the Minister, so I call the noble Lord, Lord Berkeley.

Lord Berkeley (Lab): My Lords, I am very grateful to all noble Lords who contributed to this short debate and for the support they have shown. They all have expertise in this field and it is heartening that we have cross-party support, if I can put it that way. I am also grateful to the Minister for his helpful comments. If it is the Government's view that they do not want to widen the scope of this Trade Bill, I fully understand that, especially as the Minister appears to have found another solution to take this forward. Clearly we have further work to do when the other Bill comes to your Lordships, assuming there will be some ping-pong involved. We will have to try to convince various legal experts in this House that this is a particularly important thing to allow through in whatever state the Government are proposing when it comes from the other place.

I am grateful to all noble Lords who have spoken and to the Minister for his very helpful reply. On that basis, I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendments 9 and 10 not moved.

5.15 pm

Sitting suspended.

5.31 pm

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, we now come to the group beginning with Amendment 11. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate.

Amendment 11

Moved by ***Lord Stevenson of Balmacara***

11: Clause 2, page 2, line 23, at end insert—

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

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

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

(c) the primacy of human rights law;

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

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

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

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

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

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

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

Member's explanatory statement

This amendment would ensure that regulations made under the Bill can only be made if the trade agreement which the regulations would implement does not contravene the UK's international commitments with specific reference to human rights and related treaties, and must respect the sovereignty of parliament.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank the noble Baroness, Lady McIntosh of Pickering, for her support for this amendment.

This group deals with high-level considerations—whether we should have constraints and, if so, whether they should be introduced through primary legislation should the Government wish to depart from international agreements or standards which are subject to international treaties such as UN conventions.

We are of course party to a large number of international agreements. The amendment deals in particular with provisions of international treaties that have been ratified—for example, those on the sustainable development goals, international human rights law, international humanitarian laws, the obligations relating to workers' rights and labour standards, which we have already discussed under the ILO's Declaration on Fundamental Principles and Rights at Work, and various others relating to matters such as women's rights and the rights of children, although of course they are not limited to just the conventions that we have, such as the UN Convention on the Rights of the Child. So the list is very long and very important, and I am sure that no Government would wish to see us depart from any or all of them, should we be in a position to do so, simply for particular trade reasons.

Later groups will deal with our self-generated standards, and there are considerable overlaps. So in a sense this is perhaps a two-part debate, and this one will focus on the outward arrangements that we make with external agencies. But it should not constrain us, and I hope that the Minister will not keep his powder dry, as he said he would in an earlier debate on another issue.

Having said that, I suspect that the Minister's line will be that the Government will always adhere to the rule of law and treaty obligations, but I think it is fair to point out that trust has already been broken through the Government's own actions. Even so, it raises the question of why, if there is never to be an occasion on which we would wish to depart from our existing treaty obligations, we are talking about any constraints on the activities that the Government might wish to engage with in terms of their primary legislation agenda related to trade. However, that is for further discussion.

Also in this group is Amendment 18, led by my noble friend Lord Hendy, and that will lead to an interesting debate. In addition, the points made by the noble Lord, Lord Alton, and his powerful Cross-Bench supporters on Amendment 33 will be worth hearing and discussing. We also have an amendment in the name of the noble Lord, Lord Purvis, about reporting arrangements in relation to trade agreements, which I think will also be of value. I beg to move.

The Deputy Chairman of Committees (Baroness Barker) (LD): I call the noble Baroness, Baroness McIntosh of Pickering. No? I think the noble Baroness is unable to join us at this point, so I call the noble Baroness, Lady Bennett of Manor Castle.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I rise to speak primarily to Amendment 11, to which I attached my name, as moved by the noble Lord, Lord Stevenson of Balmacara, and in the name of the noble Baroness, Lady McIntosh. I thank the noble Lord for his very clear introduction.

[Baroness Bennett of Manor Castle]

We are well aware that compliance with international law is something of a sore point now, so on the basis of that sensitivity, one would hope that the Government would adopt this amendment as a matter of course. They have the opportunity, by agreeing with this amendment, to demonstrate their belief in the rule of law. However, it has to be said that we have, as the amendment includes, signed up to the sustainable development goals, but we are not on track to deliver a single one of them, even in our own country. UK trade and UK actions are damaging the push towards sustainable development goals all around the world. We need accountability and leadership, and we need a legal framework, which Amendment 11 would supply.

I will also speak briefly in support of Amendment 18, which seeks to guarantee the ILO conventions and the European Social Charter. Many years ago, I prepared a report for the ILO on child labour in Thailand. If I had needed a reminder of the importance of regulation, the rule of law and the risk of exploitation, I certainly had it with that. Given the reports that we have had from the garment sector in Leicester, those experiences are not as foreign as we might once have thought. Protecting workers' standards around the world has impacts on workers' standards in our own country.

I will also speak briefly in support of Amendment 33 in the name of the noble Lord, Lord Alton. In doing so, I will quote another Member of your Lordships' House, the noble Lord, Lord Patten of Barnes, in a meeting this morning of the All-Party Parliamentary Group on Hong Kong, of which I am a co-chair. He spoke of a sense of moral values being a bigger part of our foreign policy. I very much agree. I suggest that we also need to see that in trade policy, particularly in the purchasing practices of our Government. This amendment allows democratic oversight of key government procurement.

Finally, I will speak to Amendment 45 in the names of the noble Lord, Lord Purvis of Tweed, and the noble Baroness, Lady Kramer, reflecting the need to undertake human rights and equalities impact assessments of all trade deals before and after implementation. I am very aware that noble Lords have not yet spoken to all these amendments—I am reflecting the written material—but the same argument applies as in Amendment 33, and also the comments I made in my first contribution to this Committee. "First do no harm" is a medical phrase that, if applied to trade over recent decades, would have produced far less trade and a far healthier, less poverty-stricken, more rights-respecting, less damaged world. Given the fragile state of this planet and its people, we have no alternative but to apply that principle in our future trade policies, and the amendments I have named take us some steps in that direction.

Lord Hendy (Lab): My Lords, I speak to Amendment 18, which develops one aspect of Amendment 11, so ably introduced by my noble friend Lord Stevenson and the noble Baroness, Lady Bennett.

It is usual in free trade agreements to have a chapter which contains provisions on labour standards. Chapter 23 of the much-discussed EU-Canada Comprehensive Economic and Trade Agreement is typical. It requires each state party to ensure that its labour law and practices embody and provide protection for the fundamental principles and rights at work, which it lists as

"freedom of association and the effective recognition of the right to collective bargaining; elimination of forced labour; abolition of child labour; elimination of discrimination".

In that free trade agreement, the parties affirmed their commitment to respect, promote and realise those principles and rights, in accordance with the obligations of the members of the ILO and the commitments under the ILO Declaration on Fundamental Principles and Rights at Work, and its follow-up. They undertook that their labour law and practices would promote

"health and safety at work; minimum employment standards for wage earners, and non-discrimination in respect of working conditions, including for migrant workers."

That is all very well, but it is not enough. The United Kingdom has ratified many ILO conventions, including the core conventions. Indeed, 70 years ago this summer it was the first nation on the planet to ratify fundamental ILO convention 98 on collective bargaining. However, its potential trading partners may not have such a fine record. The USA is sadly lacking in this respect. Any free trade agreement should require a prospective partner to ratify those conventions which the UK has ratified—otherwise, there will be asymmetry in labour standards.

Ratification by partners is not enough. We should insist that our prospective trading partners customarily observe standards we have ratified. That is an obligation in CETA too, which states:

"Each Party reaffirms its commitment to effectively implement in its law and practices in its whole territory the fundamental ILO Conventions that Canada and the Member States of the European Union have ratified respectively."

That principle should apply to all the international treaty provisions that the UK has ratified, not just those of the ILO. We should therefore include those of the Council of Europe, its convention on human rights and the articles of the European Social Charter 1961, which we have ratified. Non-European states cannot ratify those provisions but they can certainly undertake to implement them. The effect, I hope, will be to uplift the labour standards of some potential trading partners to those we purport to uphold. It will also prevent the creation of an unbalanced playing field on labour rights, contrary to the level playing field that the Government claim to advance. Likewise, the free trade agreement should be compatible in all respects with the ILO conventions that this country has chosen to ratify; otherwise, standards can be watered down.

The amendment is surely uncontroversial in requiring that prospective FTA partners must uphold the sovereignty of Parliament, the authority of our courts, the rule of law and the principle of equality before the law. It is hard to conceive of a rational objection to the proposal that the minimum standards referred to in the amendment are required of any prospective trading partner, whatever may be said about our own Government's record on these points. I ask the Government to ensure that these requirements are embodied in the Trade Bill.

Baroness Kramer (LD) [V]: My Lords, as the noble Lord, Lord Stevenson, explained, the amendments in this group cluster around the importance of issues

such as human rights and other rights in trade agreements. I will focus on Amendment 45 in my name and that of my noble friend Lord Purvis of Tweed. It would require human and equalities rights assessments of all trade deals before and after implementation. The linking of trade agreements and human rights has become normal practice in recent years and is evident in almost every trade agreement signed by the EU.

I take heart from the fact that Liam Fox, when Secretary of State for International Trade, made it clear in some of his comments that the UK was fighting to ensure that human rights provisions in continuity trade agreements stayed in place as we transitioned out of the EU. I hope the Government continue to have that deep commitment and understand the importance of those clauses within the trade agreements. However, we had some disturbing comments in the same year. The then Minister for the Middle East, Andrew Murrison, discussed whether or not any future trade agreement with China would include human rights clauses. The question has been raised and I think, it needs to be answered in this legislation.

It is concerning the UK has indicated it does not want to apply the European Convention on Human Rights to its FTA with the EU in any way that is legally binding. This could be an unfortunate and concerning precedent and the Government need to provide an adequate response. There are huge implications if the ECHR is not included in trade agreements. If we take the trade agreement with the EU as an example, it has serious implications for data protection and for the Northern Ireland protocol. I hope we do not see this Government take heart from Dominic Cummings, who has an ideological hostility to the ECHR. The only country in Europe not a party to the ECHR is Belarus. As we all say, the convention was initially a British project to put in place a genuine defence for ordinary people following the horrors of the Second World War.

It is therefore key that appropriate clauses are embedded in the Trade Bill; otherwise, the message will be that the United Kingdom is showing flexibility around these key issues. That is not a position that I would like to see us negotiating.

5.45 pm

Lord Hain (Lab) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Kramer, who spoke very eloquently; I endorse what she said.

I will speak to Amendment 18, in the name of the noble Lord, Lord Hendy, and my noble friends, which I have signed. I very much endorse the speeches of my noble friends Lord Stevenson and Lady Bennett. On Amendment 18 in particular, I welcome and endorse the excellent contribution of my noble friend Lord Hendy, who adds enormous authority on these issues.

My noble friend mentioned that the Canada-European Union agreement—CETA—includes the very kinds of provisions that we are asking for in Amendment 18. I note that leading Conservatives—Brexiteers—have spoken of "Canada-plus" as a future basis for a trade agreement with the European Union. Does Canada-plus mean labour rights-minus? A failure to adopt Amendment 18 would imply that that is the case, and that that is the real agenda of the Brexiteers.

Amendment 18 would preclude the UK from agreeing any international trade agreement if its regulations contravened the UK's international labour law commitments. The UK is a member of the International Labour Organization and has been so since 28 June 1919. Under the auspices of the ILO, fully 88 conventions and two protocols have already been ratified by the United Kingdom. I cannot see why the Minister could not agree to this amendment and why the Government would not endorse it since, in effect, it reinforces the status quo to which we have already signed up in all future trade agreements.

Of course, that is unless the Government's real agenda is a kind of Singapore-upon-Thames, with a deregulated structure of labour rights, environmental rights and all sorts of other rights that we have come to expect as representing the standards that we want in Britain; an offshore haven of low labour regulations, low standards and low tax. That is what leading Conservatives, particularly the Prime Minister and his henchman Dominic Cummings, have been talking about. Surely we should not be racing to the bottom in every respect for British citizens and workers but seeking to match the best, such as the Scandinavian countries, which have high standards in these matters—high levels of public services and the public expenditure to sustain that. They have also had, by the way, much higher levels of productivity and economic success than Britain has had under this Government for the last 10 years, prior to Covid.

What sort of "taking back control" will it mean if we do not adopt Amendment 18, or at least a version of it that the Government might favour for technical reasons? What does "taking back control" mean for Brexiteers? Instead of high-quality, high-skilled standards it would mean low-quality, low-skilled standards, particularly on labour rights.

I should point out that the ILO standards that this amendment seeks to reinforce and insist on for any future trade agreements that the UK might strike with other countries are a minimum, not a maximum. They have been achieved by agreement across the world and therefore, inevitably, are not the maximum we should be aiming for. Surely we should, in a high-quality Britain that aims to be the best for its citizens, aim for the maximum. As my noble friend Lord Hendy said so poignantly, the amendment is surely uncontroversial because it asks the Government to adopt in future trade agreements what they have already signed up to in ILO conventions and protocols. I hope that the Minister will accept it or explain why not and what sort of agenda is really on offer for the British people from his Government.

Baroness Blower (Lab) [V]: My Lords, I have added my name to Amendment 18. As has been said by my noble friends Lord Hendy and Lord Hain, it is an uncontroversial amendment. I too look forward to the Minister's response, in which I am sure he will welcome it.

I consider it fundamental that the rule of law should be enshrined in the Bill, as should the legal authority of the United Kingdom courts and the principle of equality before the law. It should go without saying that respect for the rule of law can be relied on in the

[Baroness Blower]
United Kingdom. However, as doubts may have been cast thereon in recent weeks, this amendment is necessary to ensure that international trade agreements observe both the conventions of the ILO—mentioned frequently in this debate and up to which Britain has already signed—and the ratified articles of the 1961 European Social Charter.

My noble friend Lord Hendy has provided a full rationale for this amendment and, as amply demonstrated by reference to CETA, precisely how it can and should work. I fully endorse and concur with his remarks and I look forward to the Minister's response.

Baroness Chakrabarti (Lab) [V]: My Lords, it is a pleasure to follow my noble friend Lady Blower and to have added my name to Amendment 18, drafted by certainly the foremost labour lawyer in your Lordships' House, if not the country. I will try to be plain and succinct in support of Amendments 18 and 11 by logical correlation, and I need not read out my remarks; this is simple stuff.

In an ideal world, I would have loved a Bill that clipped the wings of the Executive and ensured that it entered into only trade agreements that comply with international human rights and other international obligations, but this Bill is not that. I accept that because it is very clear that its Long Title and scope are about implementing trade agreements, some of which might be of concern to me and to others on the basis of who those trade agreements are made with. Notwithstanding the assurances that this Government—and no doubt future Governments—care about the rule of law, so we cannot clip the wings of the Executive in relation to the royal prerogative on what agreements they enter into, we can say, without being creative or mischievous and without diverting by one iota from the Long Title of the Bill, that when regulations are made under its provisions, they must comply with the international rule of law, the domestic rule of law and, in particular, obligations that we have long ratified on workers' rights, children's rights, women's rights, sustainable development and so on.

Put simply, if the Minister in his response will neither happily agree to Amendments 11 and 18 nor offer explicitly to come back at the next stage of the Bill with something like them, that will raise a serious question as to why not. It is not enough to say, "But of course we would never make regulations that breach our international obligations." That can happen by accident as well as by design. Without being insensitive about this, I remind your Lordships that, in recent weeks, the Government have lost their most senior legal adviser and one of their most senior law officers over this very issue of setting a course whereby we put our international legal obligations and domestic statutes into conflict.

In summary, what is wrong with children's rights, workers' rights, non-discrimination at work and sustainable development goals? The Government would say—and have said—that there will be no levelling down, only levelling up. If that slogan means anything, any regulations made under the Bill when it becomes an Act must comply with our obligations. That must be on the face of the legislation to ensure that any regulations that accidentally breach our obligations will be ultra vires this Bill. It is very simple. I really look forward to the Minister's reply.

Lord Alton of Liverpool (CB): My Lords, I have pleasure in speaking to Amendment 33, which enjoys support from across your Lordships' House. It appears in my name and those of the noble Lords, Lord Blencathra, Lord Adonis and Lord Rooker. I am also grateful to the noble Lord, Lord Stevenson of Balmacara, for his remarks in opening the debate on this group of amendments.

As the noble Baroness, Lady Bennett of Manor Castle, said, at a meeting this morning of the All-Party Parliamentary Group on Hong Kong—of which I am vice-chairman—the noble Lord, Lord Patten of Barnes, expressed his support for this amendment and Amendment 68, which we will come to in due course and which homes in specifically on trade deals with states accused of genocide. The Committee may be interested to hear a little more of what the noble Lord, Lord Patten, said this morning. I quote him verbatim:

> "China has over the years broken both the spirit of what it had agreed to with the WTO negotiations and in many respects made a mockery of the letter, so that you cannot invest in China in the same way that China can invest here. China is involved at the moment in predatory purchasing wherever it can."

He went on to give instances of the imbalance, citing the example of robotics from Kuka, and of the interference and intimidation which follows when, for instance, a country speaks up for the beleaguered Uighur community or hosts the Dalai Lama. He described the Chinese Communist Party as

> "a regime which regards business, as well as the state-owned enterprises, as part of the political project."

At this stage, Amendment 33 is an attempt to open a debate on three things. First, what should be the constraints on business as usual with states which are undemocratic? Secondly, what regard do we have to our critical infrastructure? Thirdly, in making trade deals, what should be the role of Parliament? This is something on which we have focused a lot already in the opening stages of this Committee debate on the Trade Bill; what should be the role of Parliament if these first two conditions become matters of contention? I particularly agree with the earlier remarks of the noble Lord, Lord Blunkett, and, again, the noble Lord, Lord Stevenson.

In tabling Amendment 33, I return to issues that I raised at Second Reading of this Bill, as well as in Committee and on Report on the telecommunications infrastructure Bill. I know that some noble Lords, including my noble friend Lady Falkner of Margravine, will have concerns about drawing these provisions more tightly. Between now and Report, there will be time to address that point, preferably with the help of the Government. I should say that the noble Lord, Lord Blencathra, has played a major part in the drafting of this amendment; I am grateful to him for doing so.

It would be helpful to the Committee if the Minister could say what progress has been made in bringing forward a human rights threshold—an amendment which, it was agreed, would come forward when we had our debate at the Report stage of the telecommunications infrastructure Bill and was promised for Third Reading of that now-delayed Bill. I have written about this to

the Minister as well as to the noble Baroness, Lady Barran, the Minister overseeing the other Bill. It would be helpful if the Minister today could say what role the Government envisage for the Joint Committee on Human Rights in scrutinising trade deals; this might address some of the issues raised thus far.

6 pm

Why does this matter? I am particularly conscious that this Bill gives the Government significant powers to be exercised by secondary legislation using the affirmative procedure, a point made earlier by the noble Lord, Lord Lansley. Let us not fool ourselves that this amounts to effective scrutiny. The last time the House of Commons failed to pass an affirmative action Motion was the year before I was elected to the Commons: 1978. Unfortunately, other legislation currently rolling through this eviscerated Parliament like a juggernaut—I think of the medicines Bill and other examples that have been raised day after day as we come to debate other legislation—inevitably gives the Government authority to amend primary legislation in order to implement rolled over agreements via affirmative orders. That is why this amendment seeks to put control back into the hands of Parliament.

In these strange times, if we have seen the emasculation of Parliament, extreme global conditions have brought home our inadequate national resilience. I was struck that, in a briefing sent to your Lordships only this morning, the Trade Justice Movement said:

> "In the previous Trade Bill, Lords passed an amendment on parliamentary scrutiny. Since then, the government has not made good on promises to give Parliament a say in new trade deals. Lords should support a similar amendment in this bill."

In the present circumstances and context, that is more important than ever.

During the first stages of the Covid pandemic, thousands of doctors and patients were unable to get hold of life-saving equipment. In part, this was due to our reliance on China—and, by extension, its Government, the Chinese Communist Party—for medical supplies. As the noble Lord, Lord Patten, said this morning, there is a big difference between loving, honouring and respecting the people of China and doing the same for the Chinese Communist Party.

Following questions that I tabled, the Minister, the noble Lord, Lord Grimstone, was good enough to meet me, the noble Lord, Lord Blencathra, and Samuel Armstrong to discuss the Henry Jackson Society report, *Breaking the China Supply Chain*, which was published in May. The report says that "strategic dependency" on China means being a "net importer" of a good, sourcing more than 50% of that good from China and China having significant control of the "global market" of that good. The report found that the United Kingdom is strategically dependent on China for our supplies in 229 separate categories of goods. Equally troubling is that 57 of those categories service elements of our critical national infrastructure, including computers, telephones, antibiotics, painkillers such as aspirin, antiviral medicines, PPE and industrial chemicals.

The report recommends that we conduct a national review of the industries that are dependent on China and make reducing that dependency on China, and indeed on other human rights-abusing states, an aim of new trade deals. It also recommends that we campaign for the withdrawal of China's developing nation status at the WTO, another issue touched on by the noble Lord, Lord Patten, this morning. It would be good to hear the Minister's view on such a review and China's status at the WTO.

It would be good for the United Kingdom to move away from a position in which its economic dependency can be weaponised to discourage its leadership in championing human rights and the rules-based order. I would be interested to hear the Minister's view on the funding that we provide to China as a country that is no longer a developing nation. I find it bizarre that last year the United Kingdom gave it £67.9 million in aid, up by £12.3 million. Why are we spending money on manufacturing programmes in China? It simply bewilders me.

Concerns about our overreliance on the Chinese Communist Party have only grown stronger following the ways in which it has attempted to deploy economic coercion against countries such as Australia, following its call for an inquiry into the origins of Covid-19. As the Minister reminded us earlier, we enacted Section 1 of the Modern Slavery Act 2015 on slavery, servitude and forced or compulsory labour, but what do we do in our trade deals to ensure that items are not products of modern-day slavery, forced labour or any other form of criminal or unlawful conduct? The noble Lord, Lord Grimstone, referred to this earlier, but can he say how it is being implemented in the case of slave labour being used in Xinjiang?

Over the recent months, we have seen a number of reports emerging suggesting that many of the United Kingdom-based and UK trading brands have benefited from forced labour of the Uighur Muslim communities in China. I should mention in this context that I am vice-chairman of the all-party group on the Uighurs. A recent report by the Australian Strategic Policy Institute estimated that some 80,000 Uighurs are working in factories in the supply chains of at least 82 well-known global brands in the technology, clothing and automotive sectors, including Apple, BMW, Gap, Huawei, Nike, Samsung, Sony and Volkswagen. Some of the same companies also turn a blind eye to the use of child labour in Congolese cobalt mines.

Companies using forced Uighur labour in their supply chains are in breach of laws that prohibit the importation of goods made with forced labour or mandate disclosure of forced labour supply chain risks. How do we verify this? How do we do that in Xinjiang? This is surely something which Parliament is, and should be, entitled to hold a view about. Cross-departmental action is needed, which is why, if the Bill were amended to incorporate the concerns about egregious and gross violations of human rights, as I have suggested in a letter to the noble Lord, Lord Grimstone, we might be able to go some way to making progress on this.

It is not simply about Uighurs. I know the noble Lord, Lord Hunt, will address your Lordships in due course about the trade in organ harvesting, and when we come to the later amendment on genocide I will draw the Committee's attention to trade taking place under the umbrella of the Chinese authorities that deals in the trade of human organs.

[Lord Alton of Liverpool]

There is not time in Committee to go into all those details today, and there will be opportunities at later stages. These are some of the reasons why we need to take these issues more seriously. As part of the post-Brexit trade agreement policy, and in line with the Government's own national action plan, we should implement a cross-departmental plan to implement the UN Guiding Principles on Business and Human Rights, and the FCDO's human rights unit should be better resourced and given a major role in this.

In a letter to me in July, the Minister said: "We understand the importance of this issue and believe the United Kingdom should continue to set an example to other countries in this area and be a world leader in human rights procedures". He is right. I also remind the Committee that when we considered the earlier Trade Bill 2017-19, modern slavery was raised explicitly by Her Majesty's Opposition at Lords Report stage in Amendment 35 in the name of the noble Lord, Lord Stevenson, and in this Bill in the House of Commons at Third Reading as human rights amendments to new Clauses 12 and 21 and in Amendment 17. The amendment in the name of the noble Lord, Lord Stevenson, specifically required trade agreements to reflect the offences in Section 1 of the Modern Slavery Act 2015, which relates to slavery, servitude and forced or compulsory labour.

I hope that Amendment 33, or something like it, will commend itself to your Lordships and that even if we are still unready to wrest control of such matters into the hands of Parliament, when we come to Amendment 68, which co-sponsored by the noble Lords, Lord Forsyth and Lord Adonis, and the noble Baroness, Lady Falkner, that we will have no hesitation in saying that it cannot be business as usual with states that are complicit in genocide.

I complete my remarks with a quote from this morning's *Guardian* newspaper, from the right honourable Iain Duncan Smith, who said that he supports the amendments that have been laid before your Lordships' House. He said:

"The government has still not got it on human rights in China. If an African country was doing what China is doing, Ministers would be all over it, but because of China's size and influence at the UN, it runs away. It is time we stood up against the abuses under way within China."

I entirely agree with him.

Lord Blencathra (Con): My Lords, I am delighted to support Amendment 33 proposed by my noble friend Lord Alton of Liverpool, and I congratulate him on the excellent and thorough speech he has just made.

If the Committee will permit me for just a moment before I get into the substance of what I wanted to say, I was amused by the usual rant from the noble Lord, Lord Hain, against Singapore. I just had to comment on it. He does not like Singapore, and he does not want us to emulate Singapore: a country with the highest GDP per capita in the world, the wealthiest people and the best education system in the world, which is rated fifth in the world for happiness and the third highest for anti-corruption. If he considers that the bottom, I would prefer to be there than at the so-called top, or perhaps he still considers South Africa to be the hero state of his dreams.

I had better get back to the amendment. I pay tribute to the noble Lord, Lord Alton, who has campaigned tirelessly against the vile human rights abuses against the Uighurs perpetrated by the Communist Party regime in China—not the Chinese people but the Communist Party regime. The evidence is overwhelming about the concentration camps, the so-called training centres, and the use of these people as slave labour. Of course, the Uighurs merely join the people of Tibet, who have suffered the same oppression for decades. The communist regime in Peking wants to wipe out all people, races and ethnicities who do not comply with every aspect of their communist philosophy.

So, since these gross abuses of human rights are well-known to take place, what should we do about it? Would we dream of buying goods from the military regime in Burma or that of the late and thoroughly unlamented evil Mugabe in Zimbabwe? Of course not. So we must not trade with any country, including China, where there are human rights abuses, no democracy and no equality under the law.

I shall not spend time here on the list of critical infrastructure, since I think it is the same as in the definitive and highly respected Henry Jackson Society report called *Breaking the China Supply Chain*, which the noble Lord, Lord Alton, has more than adequately described to the Committee, and which revealed that the UK and, indeed, the Five Eyes countries are reliant on China for a frighteningly large number of goods and services that are vital to our critical infrastructure. I accept that we cannot disengage and reshore overnight, but I would like to hear from the Minister what progress we are making and what progress we expect to make on reshoring some of our critical goods and services.

I want to focus on the second part of the amendment proposed by the noble Lord, Lord Alton, setting out the criteria for "non-democratic". I am privileged to serve on the Council of Europe. The four criteria listed here are not our technical definition, but they summarise everything that we consider to be democratic. In fact, I do not think there is a technical definition of democracy anywhere in the world. The Council of Europe has three pillars: the rule of law, human rights and democracy. When we observe elections in, say, former Soviet Union countries, those are the main criteria that we consider to determine whether or not the elections are free and fair.

I simply say: can anyone in this Committee or in government disagree with the four criteria that the noble Lord has built in here? The amendment says that

"'non-democratic' means a country which does not have … a political system for choosing and replacing the government, through free and fair elections".

That may apply to a few countries. In fact, I have just reported on Belarus, which has severe deficiencies there although it, does not have some of the other deficiencies. However, China certainly does not satisfy criterion (a). A country is not considered democratic, in criterion (b), if it does not have

"the active participation of the people, as citizens, in politics and civic life".—

that applies to China—or, in criterion (c), if it does not have

"protection of the human rights of all citizens".

The noble Lord, Lord Alton, has just described the gross human rights abuses that are happening to the Uighurs and the people of Tibet. Finally, a country is not democratic if it does not have

"a rule of law in which the laws and procedures apply equally to all citizens, and the judiciary is independent."

There are quite a few countries in the world that that does not apply to, but it is certainly relevant to China as well. So, while one may identify some other countries, the one that is right in our sights here is China, because it fails to satisfy these four criteria that the noble Lord, Lord Alton, has built in.

I say to the Minister that this amendment, if accepted, would not ban trade with China or any other country. It simply asks that Parliament has the chance to look over the deals and approve them. No doubt, with the Government's majority in the Commons, they can approve and rubber-stamp anything, but we heard in our House yesterday in the Chamber unanimous demands from all sides that Parliament have a chance to approve new Covid regs before they are made. I suggest that the matters the noble Lord, Lord Alton, has raised here are every bit as important and, therefore, Parliament should have a chance to debate and vote on this. I support the noble Lord in his amendment.

6.15 pm

The Deputy Chairman of Committees (Baroness Barker) (LD): I call the next speaker, the noble Lord, Lord Adonis. No? Therefore, I call the next speaker on the list, the noble Baroness, Lady Falkner of Margravine.

Baroness Falkner of Margravine (CB): My Lords, I intend, unusually, to part company with my noble friend Lord Alton of Liverpool and shall speak against Amendment 33. Before that, I shall spell out why I think that amendment has come about, although some of what I shall say has been covered by him.

The motivation for Amendment 33 lies in the Telecommunications Infrastructure (Leasehold Property) Bill, which we last debated on 29 June. We were given an assurance then that the Government would return at Third Reading with an amendment to give legislative teeth to human rights safeguards in the use of infrastructure. The Minister, the noble Baroness, Lady Barran, assured the House that, when the Bill returned for Third Reading, the Government would have drafted a suitable amendment. On that basis, we were willing not to test the opinion of the House. We are still waiting for that Bill to return, and the Government have spurned an opportunity to have a limited, reasonable amendment. As a consequence, we have this sweeping proposal before us, which I was surprised was found to be in scope of this Bill.

My first point relates to paragraph 44 of the Explanatory Notes, which has been touched on previously by the Minister, the noble Lord, Lord Grimstone. Clause 2(1) refers principally to EU continuity agreements, but I cannot see how Amendment 33 is in scope. The agreements concerned would already have been scrutinised by the European Parliament, which I do not consider normally to be lax in its duty to recall human rights implications.

I also note, as the noble Lord, Lord Alton, said, that attempts are under way for UK courts to determine whether genocide is taking place in other countries. While I know that trade with China is the object of concern of many of these amendments, they could be used much more widely. I shall turn to the unintended consequences of such amendments in a moment.

However, I oppose Amendment 33 for three principal reasons: the impossible burden of scrutiny on Parliament for such large categories of goods; the breadth of critical infrastructure included in an overly comprehensive list; and the exclusiveness of the definition of "democratic", or "non-democratic", thereby taking in more than half the countries of the world.

Amendment 33 is overly comprehensive, in that it seeks an interventionist role for Parliament in agreeing regulations that cover so many facets of infrastructure that it would render Parliament as an inspectorate of all commerce. If we are truly to be charged with each resolution laid before us concerned with the 11 broad areas of commercial transactions in the five years envisaged—perhaps five years more, if the proposal is rolled over—we may do little else.

Let me take the first category, which is "critical infrastructure". Incidentally, critical infrastructure is not defined here, so I looked it up. Critical infrastructure,

"is a term used by governments to describe assets that are essential for the functioning of a society and economy".

That is incredibly broad, and very little is not covered by it. In the UK, the Centre for the Protection of National Infrastructure is the relevant representative body. I therefore ask the proposers of these amendments to say, when they conclude, if they have consulted that body in drawing up their sweeping list of categories, given that little would not be caught by the amendment.

My more significant concern is to do with how the movers have defined what they see as non-democratic countries. The four pre-requisites are perfectly clear, and most of us would agree with them as essential to what we might perhaps define as western-style liberal democracies. Therein lies my concern. If Parliament has to approve trade measures with all those countries we consider non-democratic, we would be in danger of becoming an autarky. For example, if we apply the definition of the noble Lord to BRICS—Brazil, Russia, India, China and South Africa—they would all come into that category, bar South Africa. Take, for example, China, which is the cause of much concern around the House. So much of what China exports to us could be caught by the definition of critical infrastructure. I am sure no noble Lord is proposing that we suspend almost all trade with China—even the Trump Administration have balked at doing that.

While China is a well-known example, what of India? This Government are ambitious to do a great deal with India. They already have partnerships on critical infrastructure with Indian companies—take OneWeb as an example, which is critical infrastructure by any category. If new opportunities for trade were to arise, India would be on the so-called watch-list as a non-democratic country for its treatment of Kashmiri Muslims—in fact, for its treatment of large swathes of its Muslim minority; some 200 million people—and

[Baroness Falkner of Margravine]
its treatment of women overall, or for the caste system and the treatment of Dalits, and thus would clearly come under categories (c) and (d) on the list.

Take Brazil under President Bolsonaro. It would definitely be caught by paragraphs (c) and (d), not least for its treatment of indigenous people in the Amazon, and not to speak of the rule of law. What of Saudi Arabia and the Gulf states, or even Israel? I do not want to labour the point, but by no step of the imagination could most countries in the Middle East be seen as democratic.

I also remind those concerned with such broad definitions of human rights to recall Article 25 of the Universal Declaration of Human Rights, which defines the right to economic well-being, broadly spelled out, and which might be denied to our citizens were we to agree such blanket measures against trade with other countries, or parliamentary scrutiny of trade with other countries. It is slightly disingenuous of noble Lords to claim that all they are asking for is parliamentary scrutiny. Once we open the can of worms as to what is democratic and not democratic, and once we start asking UK courts alone to rule on what is genocide or not, we are straying into an area where we are doing economic self-harm.

I know that human rights are increasingly accounted for in international trade agreements—as I said earlier, the EU is not impervious to that. However, Amendment 33 serves no useful purpose and we should rightly return to these measures in a very limited form in Amendment 68, which I will support when the time comes.

Lord Lansley (Con): My Lords, I am pleased to follow the noble Baroness, Lady Falkner of Margravine, because I think I can follow up precisely the point she made. I think that the debate we have had is an important and interesting one, but the amendments before us do not have the effect that they are intended to by those who are proposing them.

The amendments are in scope of the Bill because they relate to the regulations being made under Clause 2(1), but the regulations made under Clause 2(1), by virtue of the rest of that clause, relate to continuity trade agreements and not to future trade agreements. With respect to the noble Lord, Lord Alton, everything he said about China is, to that extent, not relevant. It is relevant to future trade issues, but it is not relevant to the Bill as it stands.

Amendments 11, 18 and 33 are in scope because they relate to continuity agreements, but I am afraid that we have to assess their impact in relation to the existing agreements with the European Union which we are rolling over. That is the hard graft which the movers of the amendments need to do. If they want to do this thing and impact on those regulations, they have to look at those agreements.

My personal view, which was reflected earlier in the debate, is that the European Union has to a large extent done that work, as will have the European Parliament. We do not necessarily need to do it. However, the breadth of the issues—for example, in Amendment 33—is such as to beg the question: is this really what the movers of the amendment are asking for? For example, the non-democratic provisions would imply that the agreement with Egypt would not be rolled over. That job has not been done and these amendments have not been exposed to that kind of scrutiny. I do not think that the movers of the amendments, or those who spoke in support of them, realise that they do not relate to future trade agreements but only to continuity agreements and so most of the arguments presented in their support have not been justified.

However, Amendment 45 is included in this group. Whether or not it is the right way of doing it, it raises a perfectly reasonable question that we should consider. When we come to exercise the scrutiny of trade agreements under the Constitutional Reform and Governance Act 2010, should we have a specific statutory requirement to assess the human rights and equalities impacts? There is a good argument for that. This may not be the way to do it at this stage, but we may need to return to that. Otherwise, I am afraid that, sympathetic as I am with all the arguments put for the other amendments, they do not do the job that is claimed for them.

Baroness Northover (LD) [V]: My Lords, in this group of amendments we are once more addressing standards. Amendment 11, in the names of the noble Lord, Lord Stevenson, and other noble Lords, rightly states that international trade agreements must not conflict with the provisions of international treaties ratified by the United Kingdom. One wonders quite how the Government will steer through any agreement with the EU if our Government are threatening at the same time to break international law in the treaty they have just agreed in relation to Northern Ireland. This amendment should not be needed but, as the noble Baroness, Lady Blower, said, it seems that it is.

The amendment also states that such agreements must be consistent with the SDGs, which aim to eliminate extreme poverty by 2030, leaving no one behind. They are wide ranging, covering women's rights, health, education, the environment and much else. The UK has signed up to deliver them, not only internationally but domestically. In a later group, we will come back to amendments specifically on the environment, but that is central to the SDGs. Given that we have signed up to the SDGs, the Minister should simply be able to accept this provision.

The amendment also references international human rights law and international humanitarian law. The Minister will have noted the very powerful cross-party support for such an approach, and strong support in the Lords for the defence of human rights globally. I am sure that his Bill team will have correctly written "human rights" in the column that means that this issue will need to be addressed.

In Amendment 45, my noble friends Lord Purvis and Lady Kramer seek to make it a duty to bring human rights and equalities impact assessments of all trade deals before and after implementation. As my noble friend Lady Kramer pointed out, this is now routine within trade agreements. Clearly, this is a sine qua non and the Government should simply accept this amendment. I note the support of the noble Lord, Lord Lansley, for this.

Amendment 33, in the name of the noble Lord, Lord Alton, and others, protects against, for example, making a damaging trade deal with China. Parliamentary

approval would be required if a trade deal were to be made with a signatory that was non-democratic and the trade deal affected critical infrastructure, as outlined here.

6.30 pm

We already know that the Foreign Affairs Select Committee in the Commons, chaired by Tom Tugendhat, is very exercised about the role of China and the part it may be playing, or may wish to play, in our critical infrastructure. The Minister emphasises that this is a continuity Bill; it is not likely that China would simply roll over the agreement with the EU, as an agreement with the whole of the EU, including the UK, promises much more than an agreement with just the UK, especially given that the Government have decided that we should be outside the single market and the customs union.

China has a massive and fast-growing market; we do not. We would not negotiate from a position of strength, as the EU can. That makes such a trade agreement even more challenging, and we need to bear in mind that China has broken the treaty on Hong Kong. It is vital that we consider how the Uighurs are being treated, as the noble Lord, Lord Alton, said. Is the Minister aware of the report of the China Tribunal, which concludes that the Uighurs and others have been subject to forced organ harvesting for transplants? Under those circumstances, can he think of any acceptable circumstance in which it would be appropriate right now to have a trade agreement with China?

This amendment raises some extremely important issues. We will find it challenging, going forward as a country alone, ensuring that any trade agreements we sign meet high standards in human rights, but that is what the Government have promised. It should therefore be straightforward to get that commitment into the Bill and to make sure that Parliament can scrutinise any proposed future trade deals to ensure that this is delivered.

Lord Inglewood (Non-Afl) [V]: My Lords, I shall speak to Amendment 11, a wide-ranging amendment, and make some general comments arising from it. I am particularly concerned about the relationship between leaving the single market—going it alone—and international law, because in various permutations there are a number of aspects that impact on a whole range of things here in this country and more widely, as quite a number of speakers have already pointed out this afternoon.

In particular, I would like to know how the Government would react to an international commitment, hitherto embedded in EU law but also part of international law, which they disliked. As we know from wider political debate over recent weeks, adherence to the rule of law is important—to Parliament, to the public and to the Government. On the other hand, one of the curious consequences of exercising sovereignty in its rawest form is that you are able to overrule the rule of law, whatever you might have signed up to previously.

Clearly, international law has a different impact at home and abroad, but the old, clear line of demarcation between home and abroad, and the relationship between the role of Parliament and the exercise of the prerogative is, I believe, mere fancy, as has been mentioned by a number of speakers. Decisions taken abroad, outside the jurisdiction, may not be directly enforceable in the courts at home, but they define a Government's standing and credibility and, if implemented, can have a far greater impact on the UK than much domestic legislation.

For all this, I believe that the Committee is fully entitled to a cogent, understandable and comprehensive description of the Government's approach to these matters, and that it should be given from the Dispatch Box to ensure the whole story—a kind of Pepper v Hart process. How this question is answered may very well determine how my votes are cast if and when amendments to the Bill are pressed: and I dare say that the same may be true for others.

Lord Rooker (Lab) [V]: My Lords, I will say at the outset that I was astonished by the speech of the noble Baroness, Lady Falkner of Margravine. I shall not comment on it, but I thought it was astonishing—astonishingly negative, I might add. The noble Lord, Lord Lansley, was helpful in the sense that he correctly pointed out the obvious: namely, that the defects of Amendment 33, as he sees them, can be knocked into shape for Report. But that is the purpose of Committee, so I do not see it as a problem.

I was very proud to add my name to the amendment in the name of the noble Lord, Lord Alton, and I agree with everything he said. We have some serious issues regarding China. In the normal meaning of the word, it is clearly using slave labour, and has been for many years. The issue of predatory purchasing of products around the world is really serious.

I hope that the Minister will have picked up by now that there is a general lack of trust in the Government. This has been brought about, I have to say, by speeches from the Prime Minister and other senior Cabinet Ministers. There is a feeling that we want to cut corners and buccaneer our way round the world, as we used to do. All that means is dropping standards and, as I said at Second Reading, less transparency.

I will not go over the points made by the noble Lord, Lord Alton. He will not remember this, but the last time I followed him was in 1978, just after his maiden speech. I said a few complimentary things about it and the late Eric Heffer went absolutely berserk. A review of dependency on China is long overdue. If we are subject to 229 categories of dependency, of which 57 are critical, that is a strategic issue for the Government to look at with our partners and friends, whether inside or outside the EU.

I understand what infrastructure means. I do not have a problem with trade in infrastructure, which is different to the trade in goods. The water for the cup of tea I have just had was boiled in a kettle made in China. The shop where I purchased it had 16 models of electric kettle; every single one was made in China. I am sad to say that the trousers I am wearing—which I would not be standing up in the House of Lords in—were made in China. That is not infrastructure, but I understand what that is; it is listed in the amendment.

It is time for a disengagement. Only one country in the world is named after a family; China is actually owned by a political party. We have to take cognisance

[LORD ROOKER]
of that. It is not the Chinese people, or even the infrastructure of China. It is the co-ordinated effects of the Chinese Communist Party and we ought to be aware of that. So I wholly agree with the sentiments of and the points made by the noble Lord, Lord Alton.

My message to the Minister is: there is a bit of a lack of trust in general, and the Government have to address that in this and other Bills. I too have been waiting for the telecoms Bill. Because of illness, I only got sworn in to the House in late June, so I could not participate in the debates on it, but there are some serious issues. I agree with the Government on telecoms; they are absolutely right. I agreed with Theresa May looking at Hinkley Point and I disagreed with the decision that was arrived at. These issues have to be looked at and addressed. The Minister has to take back to his colleagues that there is a general lack of trust in what the Government are saying and what they might do—hence these amendments.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I am delighted to support Amendment 33 in the name of the noble Lord, Lord Alton. I am a firm believer in the need for democratic oversight of key procurement areas in international trade agreements. As other noble Lords have pointed out, the noble Lord, Lord Alton, gave a comprehensive rationale for the amendment and why it should be placed on the face of the Bill.

Many Members of your Lordships' House are deeply concerned about human rights violations in China and feel that, if it is going to be involved in critical infrastructure procurement deals, the deals have to be subject to legislative rigour by way of primary legislation and, maybe, to regulation by secondary legislation. It is well worth noting the commentary from the noble Lord, Lord Patten of Barnes, earlier today.

Having done some research in support of Amendment 33, I note that there have been considerable abuses by the Chinese against the Uighurs, as has already been referred to. There has been forced sterilisation of Uighur women, organ harvesting and detention of Uighur people into classified re-education camps. In fact, earlier this year Dominic Raab said there were "gross and egregious" human rights abuses. In view of what the Foreign Secretary and the noble Lord, Lord Patten of Barnes—a former Governor of Hong Kong—have said, surely, based on their evidence and knowledge, it would be prudent to accept such an amendment in the Bill. The fact that they have also banned the Uighurs, who are Muslims, from fasting during Ramadan is a gross infringement of human rights and civil liberties. I have no hesitation in supporting this amendment and urge the Minister to give grave and positive consideration to ensuring that it is placed in the Bill.

Baroness Noakes (Con): My Lords, I note that a number of noble Lords say that they are "rising" to speak to amendments in this Committee. Under the rules that have been set for us, when we are in the Chamber physically we still rise to speak; when we are in Grand Committee, the new rules say we must not rise to speak. We are positively prohibited from doing so. The authorities have not yet taken it on themselves to pronounce whether those speaking from a location other than the Palace of Westminster must rise or not, but I observe that those I have seen beamed in have not been rising while they say they are. I make a plea to return to normal language in how we describe what we are doing in this Committee.

Turning to the amendments, I was going to make the point, made so ably by my noble friend Lord Lansley, that these are continuity agreements and so the amendments that start off by trying to constrain regulations made under Clause 2(1) confine themselves to continuity agreements and no more. There are a lot of words that will have no real impact at all. In terms of continuity agreements, we should judge whether something is needed in the Bill by reference to what the Government have done in the continuity agreements that have already been agreed and been through the parliamentary process.

I do not think any noble Lords have raised any concerns whatever under the various headings included in these amendments in relation to those continuity agreements. I see no need to amend this Bill regarding continuity agreements for the matters that seem to be exercising noble Lords. Those associated with these amendments may well wish to reconstitute them to seek to deal with non-continuity agreements—that is, free trade agreements on an ongoing basis. I will therefore offer one or two comments on the amendments themselves.

Amendment 11 seems remarkably vague or difficult to interpret. There are a number of references to specific matters in international law and conventions, but there are also some quite loose words about children's and women's rights which are not confined to particular conventions or obligations. I suggest that they are too vague to be left in any amendment. I also note in Amendment 11 that we have introduced

"the primacy of human rights law".

I do not think that there is primacy for any particular law or that we have a hierarchy of laws, whether established in this country or internationally. The wording of Amendment 11 is problematic.

6.45 pm

On Amendment 33, unlike the noble Lord, Lord Rooker, I thought that the noble Baroness, Lady Falkner of Margravine, spoke brilliantly about Amendment 33 and I could not add to anything that she has said. Amendment 45 does not fall foul of the continuity agreement problem, because it is drafted more broadly. I suggest to noble Lords that this is a very onerous amendment to seek to put on the face of the Bill because it requires human rights and equalities impact assessments after two years and then at intervals of not more than two years. Is this every two years in perpetuity for every agreement that is done? We are going to clog up the work of Parliament by receiving impact assessments that will probably get little attention.

I also suggest that the drafting of this leaves some things to be desired because it talks about the assessment of different sectors but makes no attempt to say how many or whether we are talking about broad or quite minute ones. It also does not say whether the report is about equalities and human rights in the United Kingdom,

the other country with which we are conducting an agreement, or the whole lot. If it is the latter, I suggest that that is over the top. Therefore, I see problems with all of these amendments, whether they are in their current form—restricted to continuity agreements—or more widely.

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, in response to the noble Baroness, Lady Noakes, I note that the guidance from the Procedure Committee says:

"Members have the permission of the House to speak from a seated position when participating remotely"—

which is standing order 26—

"and they must do so when participating physically in a hybrid Grand Committee".

So there.

Baroness Noakes (Con): That is what I said.

The Deputy Chairman of Committees (Baroness Barker) (LD): Yes. I now call the next speaker, the noble Baroness, Lady Stroud. My noble friend Lady Smith of Newnham will not be participating, so she will be followed by the noble Lord, Lord Judd. I call the noble Baroness, Lady Stroud.

Baroness Stroud (Con) [V]: I will speak in support of Amendment 33 and thank the noble Lord, Lord Alton, for his commitment to the question of who we will become as a nation when we Brexit, and not just what we can get. This is an important moment for us, and the choices we make now will define the character of Britain for generations to come. We look back at our history with moments of extraordinary pride, and the stories we tell ourselves and our children are often rooted in the choices made by many in this House to build a nation on the principles that drive prosperity, not only economic prosperity but the prosperity that comes from an ethical vitality driven by people of character.

However, when we look back, there are also moments in our history when we might have wished to have chosen to do things differently had there been a moment to pause and check the path we were choosing. This amendment ensures that such a moment is created. We are being asked to consider what checks and balances will improve the wisdom of our choices, ensure our blind spots are challenged, and that we have a moment to consider the character of the nation we are, the one we are seeking to business with, their motivation for a deal and whether we have considered its impact on us and on their people.

The purpose of this amendment is to require the Government to bring trade deals to Parliament for ratification where they involve critical infrastructure and are being made with countries that are undemocratic. As someone who believes in free trade, why am I speaking to this amendment? Without adequate scrutiny, our sovereignty, safety and security are at risk. When a nation is undemocratic, its priorities are not the same as ours, which are the creation of prosperity through freedom of speech, respect for property rights—including intellectual property rights—the rule of law, equitable market access and a strong social contract between the public, government and business. If our trading partner's objective is not the above but rather the strength of their state—and if their stated long-term ambition is the expansion and influence of their regime—our very sovereignty and the principles and values that define us as a nation could be undermined.

There are also issues of safety to be considered. The critical infrastructure named in this amendment—for communications, health, transport, food and water among others—is essential to the British people, and even more so in moments of crisis as we have just seen. Should provision in those sectors be withheld or slowed down, real harm would be created. As we move into an increasingly interconnected, networked world, our systems have become more productive but also more exposed.

There are also security challenges that we need to face up to and consider. Chinks in our security armour do not necessarily lead to hot war escalation, but we have seen recently in the Intelligence and Security Committee's report on Russia the subtlety and insidiousness of foreign interference. It is not just our security that we need to be wary of but that of our Five Eyes partners as well.

Britain is a global leader, so we should not underestimate our international influence. We demonstrate a standard not just for our neighbours but for emergent nations around the world. We do not want to set the standard that profit trumps national responsibility. At a time when soft power is bought and traded across Africa and the developing world, we need to demonstrate that true prosperity comes from upholding the principles and values of a democratic nation.

The amendment does not set out to block, cancel or modify existing trade agreements or to threaten or coerce our allies, neighbours and trading partners. It merely recognises that we need an effective mechanism whereby the wisdom of choices can be evaluated. The amendment is entirely reasonable. It does not argue that a trade agreement should not be reached, just that the Government should bring trade deals to Parliament for ratification where they involve critical infrastructure and are being made with countries which are undemocratic.

Lord Judd (Lab) [V]: My Lords, I have great sympathy with what the noble Baroness, Lady Stroud, has just said. It resonated with me as I am sure it did with others, and we must take her arguments seriously.

We in this Committee are spending a great deal of time dealing with what in the end are second-order questions, because the first-order question is: what is the driving and determining force behind the proposed legislation? I am convinced that the omissions with which we are concerned are not oversights; they are part of a deliberate policy in driving towards an unregulated and, as some would see it, free society untrammelled by the responsibilities which we have grown to take so seriously over the decades.

That is why—the noble Baroness, Lady Northover, was right about this—it is essential to have these important amendments in the Bill, so that the muscle of Parliament is backed up by what is said in the legislation. I believe that most of us right across the party divides understand that the rule of law is not just a matter of law which we must in a disciplined way

[Lord Judd]
follow; it is a matter of rational conclusion about how we can order our affairs, best protecting and enhancing the well-being of our people.

The conventions to which the amendments refer are vital, including the conventions covering collective bargaining. Most important are the conventions governing the rights of children, who are very vulnerable and at risk in the world as it is at the moment. The amendments talk of parliamentary sovereignty, and that is right too, but that does not mean sovereignty for Number 10 or for the backroom boys there with their ideological commitments: it means real, effective parliamentary scrutiny, which is the essential essence of sovereignty. I know that many of those on the government Benches would not dissent from the analysis that I have given, but the trouble is that we are faced with driving forces that rely on populism and that are determined at all costs to fundamentally change the nature of our society.

The problem is not just the Bill that we are considering now: noble Lords should think of what is going on at the BBC at the moment. What are we about? We are at a real moment of destiny in our country; we really have to take the gravity of the situation extremely seriously. I therefore commend the amendments in this group; the sooner we have them in the Bill, the better.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I am very grateful to be able to take part in this debate. I am speaking in support of Amendment 33, in the name of the noble Lord, Lord Alton. I have listened carefully to what the noble Baronesses, Lady Falkner and Lady Noakes, and the noble Lord, Lord Lansley, had to say, particularly the detailed criticism voiced by the noble Baroness, Lady Falkner, of the amendment. The noble Lord, Lord Alton, was clear in his opening remarks that he was prepared to rewrite and scale back the amendment, but as my noble friend Lord Rooker said, is it not the purpose of Committee stage to test out ideas, see what noble Lords think, consider the Government's response and then refine amendments for Report? I hope that the noble Lord, Lorde Alton, will stick to his guns on this and do just that.

My noble friend referred to the Henry Jackson Society report, *Breaking the China Supply Chain,* which, as he said, found that 229 separate categories of goods that the UK is strategically dependent on China for our supplies. As he said, it is surely right that we must consider moving the UK away from a position in which its economic dependency can be weaponised to discourage the UK from championing human rights or a rules-based order. As he said, my particular interest is in relation to the abhorrent practice of forced organ harvesting taking place in China and the importance of ensuring that the UK is in no way complicit in supporting it.

I raised this both in the telecommunications Bill and in the Medicines and Medical Devices Bill. So far, the Government have been disappointingly slow to respond, relying on the World Health Organization's view that China is implementing an ethical voluntary organ transplant system. That is simply not credible; it is based solely on a self-assessment by China itself.

A much more objective assessment comes from the China tribunal chaired by Sir Geoffrey Nice QC. The judgment released in March 2020 came to the conclusion that forced organ harvesting has been committed for years throughout China on a significant scale and Falun Gong practitioners have been one—probably the main—source of organ supply. In regard to the Uighurs, the tribunal had evidence of medical testing on a scale that could allow them, among other uses, to become an organ bank. Adidas, Nike, Zara and Amazon are among the western brands currently benefiting, according to a coalition of civil society groups, from the forced labour of the Uighurs in Xinjiang. A shipment recently seized by US Customs and Border Protection in July included wigs made from human hair, which is hugely concerning, considering many reports and personal testimonies of female Uighur Muslims having their hair forcibly shaved in the camps.

7 pm

Unfortunately, the UK, like many other countries, has pulled its punches when talking to China about these abhorrent practices. Of course, as the *Economist* has pointed out, China's economic power has helped it to avoid censure regarding the abuse of the Uighurs. Many companies in the west appear reluctant to use any leverage they may have to put pressure on China. That is clearly not helped by the reluctance of so many countries to upset China. But in the end, as a matter of principle, the UK should be making a stand. I hope that the Minister, when he responds, will respond on the basis of the principles contained in Amendment 33. I am very glad to support the noble Lord, Lord Alton.

Lord Purvis of Tweed (LD): My Lords, I remain be-seated to beseech the noble Baroness, Lady Noakes, and others to support Amendment 45 in this group. I shall try to address some of her specific points about that amendment a bit later.

It was very helpful that the noble Lord, Lord Hunt of Kings Heath, was able to take part in the debate on this group, and it is a pleasure to follow him. What he outlined very clearly, in many respects adding to what my noble friends Lady Kramer and Lady Northover said, is that it is now almost impossible to strip out human rights considerations from global trade. We require a degree of pragmatism from our Government in the scope of how much extra global trade we can have. Over the last couple of years, there has been a huge narrative saying that, once we are free of the shackles of the European Union, there will be massive growth potential in untapped markets around the world. Of course, there are constraints on that: in opening up those markets, there can be unfair access to our country that puts us at a disadvantage, or we can reduce standards or set them aside. That means setting aside new international norms on human rights and sustainability, inasmuch as they are a legitimate restriction on total and unlimited free trade.

The narrative therefore needs a degree of adjustment. I wish to address Amendment 45, which I hope is a reasonable addition to this debate but should also be seen within the package of Amendments 23 and 39, which are not in this group. It is about an overall framework of what the restrictions should be on our

entering into trade agreements, the level of scrutiny that should exist and how we report on their impact. I hope that together they might allay some of the concerns of the noble Lord, Lord Lansley, given what he said in the previous group about the need for a proper level of scrutiny.

Every year the Government publish a human rights and democracy report. This year, *Human Rights and Democracy: the 2019 Foreign and Commonwealth Office Report* ran to nearly 70 pages. The noble Lord, Lord Ahmad of Wimbledon, prefaced it, after the Foreign Secretary, by saying:

> "Every day, across the globe, UK Ministers and officials stand up for a set of universal rights that, if fully realised, would afford everyone, everywhere, dignity and allow people to flourish."

I agree with him, and I am not sure that anybody would disagree with that. It is now inevitable, since we have an independent trading policy, that the impact of our trading relationships will have to be incorporated into our reporting. I am fairly open-minded as to how that is done, as long as it is done, and I am very happy to develop the idea further along the lines of the discussions suggested by the noble Lord, Lord Lansley. But I want to give a reason why it is also important and raise some questions for the Minister.

As we have said, it has become the practice for human rights to be part of the political and social chapters of trade deals. That has been the case over recent years and it has been the case in the EU common approach to the use of political clauses agreed in 2009. According to EU practice, in trade agreements human rights are to be included in EU political framework agreements under "essential elements clauses". EU FTAs are to be linked to those political framework agreements. If no political framework agreement exists, essential elements clauses are to be included, and serious breaches of those clauses may trigger the suspension, in whole or in part, of the overall framework agreements. All the agreements, including the trade agreements, are linked. Are we seeking to continue this approach to future trade agreements? Will we deviate from an approach that we helped design in 2009?

My second point relates to Clause 2 powers, which we have already referred to this afternoon. I remind the Committee that it provides the authority to make regulations considered

> "appropriate for the purpose of implementing an international trade agreement",

including those that make provision for modifying primary legislation that is retained EU law. The Minister referred to that during debate on the first group. I remind the Committee that retained EU law includes primary legislation such as the Equality Act 2010, the Energy Act 2013 and the Modern Slavery Act 2015, as referred to. Therefore, it is important to know that the implication of the regulation-making power in this Bill is an ability to change primary legislation on human rights. For example, the Equality Act gives effect to four EU law mandates: the race equality directive, the equal treatment directive, the equal treatment in goods and services directive and the equal treatment recast directive. Therefore, to allay many of the concerns, can the Minister tell us whether the Government will rule out using this regulatory power to amend primary human rights legislation? If he cannot give that commitment, I am afraid that he will have to appreciate that concerns about the Government's intentions will remain, because the Bill has insufficient safeguards to ensure that human rights legislation, debated and voted on in primary legislation, cannot be amended by regulations.

Coming back to international trade, my final point concerns continuity and pragmatism. It is not the case that there has been no consideration of human rights in continuity agreements so far. I am a member of the International Relations and Defence Select Committee, which has written to the Government and the Minister about human rights considerations regarding trade and continuity agreements with Israel and the Palestinian Authority. We have agreements, that have been EU agreements, with Algeria, Cuba, Egypt, Eswatini, Iraq, Kazakhstan and the Palestinian Authority. They are all classified by Freedom House as not free, but all those agreements have human rights components within them. I will be the first to say that this is not a panacea and that some—with Vietnam, for example—are fairly problematic, but they all exist. Therefore, if the Government are seeking powers over the next five years to amend those agreements by regulations, what are their intentions for the human rights clauses of those continuity agreements? If the Minister can clarify that, it will be very helpful.

Canada has been referred to in debate on this group and it is a very interesting example. The approach for Canada has developed beyond simply those that we have had for other continuity agreements. A European Parliament briefing on the CETA says that

> "a particularly serious and substantial violation of human rights or non-proliferation, as defined in paragraph 3, could also serve as grounds for the termination of the EU-Canada Comprehensive Economic and Trade Agreement."

Therefore, for the first time, what is envisaged is not simply the suspension of trading relationships but the termination of those relationships—a nuclear option, as it were. One would imagine that that would never become the situation between Canada and the EU, but the possibility exists.

Given that it is government policy to have a Canada-style agreement, there is no reference in the draft text from the Government to the EU that they published over the summer to any equivalence for human rights. There is none at all. The only reference to human rights in the draft text would be to deny most favoured nation status to other third countries if they violate human rights. If we are to trust the Government, which the Minister says repeatedly for us to do, why is it that in their draft text for the EU agreement, they have not put in any draft text for any human rights clauses as far as we operate with the European Union? The very least we can do is to have the ability to ask the Government to report on its impacts.

With reference to the comments by the noble Baroness, Lady Noakes—and I will conclude on this point—the Government publish a comprehensive human rights and democracy report every year. That is not onerous; that is what the Government do. As they say, it underpins their foreign policy. With regard to sectors in our amendment, they are sectors linked to all of the sections within the agreement. That is fairly straightforward.

[Lord Purvis of Tweed]
When it refers to our commitments, and the countries we have signed commitments with, yes, it is the whole lot, because that also covers what we currently have within the Commission.

The only reference to human rights, in what the Government are proposing with future trade agreements, is other countries not adhering to them. We do not believe this is sufficient. I am very happy to speak to the Minister, and to the noble Lord, Lord Lansley, and others, if there is a better way of having this. Given the fact that trade is going to be a fundamental part of our foreign policy and our foreign relationships, we will require a reporting mechanism of the impact of trade on human rights for the United Kingdom and those we trade with.

Lord Grimstone of Boscobel (Con): My Lords, before I come to Amendments 11, 18, 33 and 45, I want to put on record that we have heard some very powerful views on human rights expressed by noble Lords in the Committee today. I deeply respect those views and when I say, with all due respect, they are not relevant to this Bill, which is about continuity agreements, I hope that is not in any way taken as me belittling those views that have been expressed. I would also like to put on record that we do not see it as a choice between securing growth and investment for the UK, and raising human rights. There is not a trade-off here that we are looking to make.

The UK is active in raising human rights concerns. In the case of China, it raises those concerns both directly with the Chinese authorities and in multilateral fora. For example, on 30 June the UK delivered a statement on behalf of 28 countries at the UN Human Rights Council, highlighting some of the matters that noble Lords have raised today—that is, highlighting arbitrary detention, widespread surveillance and restrictions, particularly those targeting Uighurs and other minorities, and urging China to allow the UN high commissioner for human rights meaningful access to Xinjiang. When I say these concerns are not relevant to the Bill, I am in no way say these concerns are not relevant in a wider context and deeply felt.

Coming to the amendments we have been debating today and turning first to Amendment 11, I am proud to say the UK has a strong history of protecting human rights and promoting our values globally. This will not change once we leave the EU. We have always been clear that we have no intention of lowering protections in these areas, as the Prime Minister set out in his Greenwich speech earlier this year. We are not engaged, as the noble Lord, Lord Hain, said or feared, in a race to the bottom. The bottom would not be an appropriate place for the United Kingdom to find itself.

It should come as no surprise that our continuity programme is consistent with existing international obligations as it seeks to replicate existing EU agreements which, of course, are fully compliant with such obligations. By transitioning these agreements, we are reaffirming the UK's commitment to international obligations on labour and human rights. As noble Lords know, we are seeking to provide certainty and stability in trading relationships for UK businesses and consumers through our trade agreement continuity programme.

7.15 pm

We are not in any way looking to modify or dilute standards but to ensure the continuity of effect of existing EU agreements after the end of the transition period. I know that the noble Lord is disappointed that we are constraining ourselves in this way in the Bill, but that is what the Bill is for. We have published parliamentary reports alongside the continuity agreements detailing any significant changes that were required to transition the agreement to the UK context. These will confirm that none of the 20 agreements that we have already signed has reduced standards in any areas. We will continue to publish these reports for the remaining continuity agreements so that noble Lords can satisfy themselves that we have not defaulted on our commitments not to reduce standards. The Government have been clear that any future deals must work for UK consumers and businesses, upholding our high regulatory standards. Our continuity agreements will safeguard, not undermine, our international obligations.

I turn now to Amendment 18. Let me repeat that the UK has a strong history of promoting world-class labour standards and this Government have no intention of lowering domestic labour protections and our commitments to international labour standards. I am happy to put that on the record. Our continuity programme seeks to replicate existing EU agreements which are themselves fully compliant with international standards such as the fundamental conventions and principles of the International Labour Organization. By transitioning these agreements, we are reaffirming the UK's commitments to these international obligations. Our continuity agreements will safeguard, not undermine, our international obligations and parliamentary sovereignty.

The noble Lord, Lord Hendy, spoke powerfully on this topic, as did the noble Lord, Lord Hain. Nothing that they said would I disagree with because we are not seeking to undermine these agreements. I cannot comment in detail on Chapter 23 of CETA, mentioned by the noble Lord, Lord Hendy, as negotiations are ongoing, but I can assure noble Lords that we aim to secure high standards of labour protection in all the agreements we are negotiating, both in the continuity agreements and for the future.

I will now address Amendment 23 and I pay tribute to the noble Lord, Lord Alton, for his excellent work on the vital issue of human rights in government foreign policy. I admire the way he keeps this issue at the front of our mind on many different occasions, helping to ensure that we conduct relations with countries in a way that underlines the UK's role as a leading nation in this field. I understand the concerns raised by the noble Lord. As he is aware, the Trade Bill does not contain powers to implement any trade agreement where there was not already a predecessor agreement with the EU on exit day. An example of that is China, which is not within the scope of our continuity programme, and a trade agreement with China cannot be brought in through the back door by this Bill. I can assure noble Lords that a trade agreement with China is not part of our plans.

In negotiations with all countries, we will not compromise on high standards in trade agreements. I can confirm to the noble Lord, Lord Purvis, that we

will not deviate from this in any way in respect of human rights. We have a strong history of safeguarding rights and promoting our values globally. While our approach to an agreement will naturally vary between partners, as these are negotiations, these agreements will always allow HM Government to have open discussions on a range of difficult issues, including human rights.

The second part of the amendment would seek to ensure that regulations cannot be made to implement agreements with non-democracies or which relate to critical infrastructure unless a draft of the implementing regulations has been laid before Parliament and approved by a resolution in both Houses. As my noble friend Lord Lansley remarked, not one of the continuity agreements is with any of the countries of which the noble Lord, Lord Alton, and others spoke. Perhaps more importantly, Part 2 of Schedule 2 already ensures that all regulations made under this power relating to any policy area will be subject to the affirmative procedure in both Houses, so this is completely covered by the powers we are seeking in the Bill. The introduction of this procedure has been widely praised by colleagues of all persuasions. The Delegated Powers and Regulatory Reform Committee, which my noble friend Lord Blencathra chairs, raised no issues about the delegated powers in the Bill.

I was pleased to hear the noble Lord, Lord Alton, and my noble friend Lord Blencathra raise the resilience of supply chains. This topic has not attracted enough attention in the past, but I reassure them and other noble Lords that we are now doing a lot of work in this area. We are analysing supply chains and working out where we are not resilient, and we will do something about it once that work is complete.

Finally, Amendment 45 would oblige the Government to publish equalities and human rights impact assessments before laying an agreement in Parliament. To give the noble Lord assurance that equalities and human rights are central to trade negotiations being undertaken by the department, I am happy to reaffirm our commitment to this, as requested by the noble Baroness, Lady Kramer. As a world leader in the area of human rights, the UK has played a key role in shaping the rules and institutions on which our human rights protections are based. The Government are proud of this record. It is part of the hallmark of the United Kingdom. Why would we want in any way to move away from that?

The UK helped to shape the EU's protections for human rights and equalities and they are some of the most rigorous in the world. They will be transferred on to the UK statute book in full by the EU withdrawal Act at the end of the transition period. This will provide a concrete statutory framework for protections in these areas. Given that EU agreements received comprehensive impact assessments at EU level, we do not believe it is appropriate to introduce yet another impact assessment into our trade regime.

Before I conclude, I come to a couple of the questions raised by the noble Lord, Lord Purvis. The powers that we are taking in the Bill to amend primary legislation can be used only to amend primary legislation that is retained EU law. Since trade continuity agreements would have been implemented substantially through EU law, this is necessary to implement any technical changes—I stress "technical changes"—to keep the agreements operable beyond the end of the transition period. The noble Lord also asked about the EU agreement and its clauses on human rights. I hope he will understand that as that agreement is presently under negotiation it would not be appropriate for me to comment on what is or is not in it. I would be happy to speak to the noble Lord further on this outside this session if he would find that helpful.

I hope I have provided sufficient reassurance to noble Lords, and I ask that Amendment 11 is withdrawn and that Amendments 18, 33 and 45 are not moved.

The Deputy Chairman of Committees (Baroness Barker) (LD): I have received a request from the noble Baroness, Lady Cox, to speak after the Minister.

Baroness Cox (CB) [V]: My Lords, I will speak very briefly, just to put on record the issues I would have highlighted in my speech if I had not ineptly failed to identify the amendments to which I intended to speak, for which I apologise. I will have much more to say when we reach Amendment 68, on genocide, at later sittings.

It is a privilege to speak in support of Amendment 33. On 29 June I spoke in support of an amendment, also moved by my noble friend Lord Alton, to the Telecommunications Infrastructure (Leasehold Property) Bill, saying:

> "This is not about China or Chinese companies … It is a conflict of values between … democratic societies and repressive, cruel regimes"—[*Official Report*, 29/6/20; col. 529.]

such as China—and I would add today, as they are especially relevant, Turkey and Azerbaijan.

China is undertaking religious persecution of Muslims and Christians, using slave labour and incarcerating Uighurs in concentration camps, as noble Lords have already heard. There is also the enforced sterilisation of Uighur women in four prefectures, which would violate the 1948 Geneva convention.

The United States has banned imports, including cotton and computer parts, from five regions in China, claiming that these extraordinary human rights violations demand an extraordinary response. This is modern-day slavery. As I finish my brief resumé, for the protection of our national security, our national interest and our values, I believe Amendment 33 is essential and Parliament should have the right to ratify trade agreements.

Lord Grimstone of Boscobel (Con): I thank the noble Baroness for those comments. I have carefully noted them.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I am conscious of time and I will try to be brief. We had an interesting discussion because this was a good group, even though it was quite widely drawn. We touched on the limits and what the Government should have to say about their policies going into negotiations. We talked about what aspirations they might have, how they go forward and the scrutiny arrangements that should follow. Out of that came a sense, that we all shared, that if you wanted evidence that trade matters to Parliament, this debate and particularly the

[Lord Stevenson of Balmacara]
section on the amendment from the noble Lord, Lord Alton, proved that we were talking about substantial issues at the heart of what we think about a democracy and that are important for how we relate to society more widely.

Having said that, we should not forget the earlier discussions, particularly those led by my noble friends Lord Hendy and Lord Hain. I thought that the speeches from the noble Baroness, Lady Stroud, and my noble friend Lord Judd, were also important and I also appreciated the comments made by my noble friend Lord Hunt. We covered a lot of ground, have a lot to think about and will read *Hansard* carefully. In the meantime, I beg leave to withdraw the amendment.

Amendment 11 withdrawn.

The Deputy Chairman of Committees (Baroness Barker) (LD): That concludes the work of the Committee this afternoon. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 7.28 pm.