Vol. 808
No. 151

Thursday
26 November 2020

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https:/hansard.parliament.uk/lords/2020-11-26

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

Thursday 26 November 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of St Albans.

Arrangement of Business

Announcement

12.07 pm

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, 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. I ask those asking supplementary questions to keep them to no longer than 30 seconds and confined to two points. I ask that Ministers confine their answers to two points as well, and be brief.

G7 Summit

Question

12.08 pm

Asked by ***Lord McConnell of Glenscorrodale***

To ask Her Majesty's Government what priorities they will set for the G7 Summit to be held in the United Kingdom in 2021.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, the Government are developing an ambitious agenda for the UK's G7 presidency, focusing on our people, prosperity and planet. We will seek to build off the G7's shared values as democratic and open societies to address the key health, economic and climate challenges of the day and build back better for all.

Lord McConnell of Glenscorrodale (Lab): My Lords, I am certain that I speak for noble Lords on all sides of your Lordships' House when I express my disappointment at the resignation of the noble Baroness, Lady Sugg. She has been an excellent Minister who has done an incredible power of work, particularly for women and girls around the world, and enhanced Britain's reputation as she did so. We are disappointed that she has left the Government.

In 2005, I felt an enormous sense of pride at Gleneagles in Scotland as the UK used our leadership of the G8 summit to bring the world together, to unite the world and ensure that there were increased and accelerated commitments from G8 leaders and others to help those living in extreme poverty. Is it not shameful that in 2021, the Government will use the months ahead of the G7 summit in the UK to do the exact opposite and, like the worst kind of playground bully, after a year in which a pandemic has reminded us of the interdependence of our world, to pick on the most vulnerable and break a promise to the poor?

Lord True (Con): My Lords, I share the noble Lord's tribute to my good friend and noble friend Lady Sugg. The Government are committed to supporting international development and helping the world's poorest people, as we have shown already in 2020, hosting the world's biggest ever summit to raise funding for vaccinations in the poorest countries, and we continue to commit to supporting developing nations against the coronavirus problems.

Lord Sikka (Lab) [V]: My Lords, I draw attention to the *Register of Members' Interests*, which states that I am an unpaid adviser to Tax Justice Network. We all know now that tax revenues are vital for economic recovery. A report by Tax Justice Network has estimated that, globally, more than $427 billion is lost each year due to corporate tax abuses and private tax evasion. The UK's Crown dependencies and overseas territories are responsible for more than one-third of global tax losses. Will the Government ensure that curbing tax abuse is on the G7 agenda?

Lord True (Con): My Lords, of course I note the points made by the noble Lord. The Prime Minister will give further details on the agenda for the G7 shortly.

The Deputy Speaker (Baroness Garden of Frognal) (LD): Is the noble Lord, Lord Walney, with us? I do not see him, so I call the noble Baroness, Lady Fall.

Baroness Fall (Con) [V]: My Lords, the G7 started life as a fireside chat between the most powerful people in the world, a chance to resolve some of the most critical issues of the day—at the moment they will be spoiled for choice. If we want to see global action on climate change, Covid, mass migration, combating terrorism, eradicating poverty and dealing with China's growing influence in the world, the provision of 0.7% is a very good way to start. Will the Minister explain how the cutting of ODA at this particular time, when we are about to take over the leadership of the G7, will prepare for those huge challenges?

Lord True (Con): My Lords, the Chancellor set out very clearly yesterday that our intention is to return to 0.7% when the fiscal situation allows. According to the latest OECD data, the UK will remain the second-highest aid donor in the G7.

Baroness Smith of Newnham (LD): My Lords, in his initial Answer the Minister talked about "our people". Can he reassure the House and, indeed, any current recipient of overseas development aid, that "our people" means everyone, and that the United Kingdom, with the presidency of the G7, will be outward looking and supportive, not introspective, inward looking and narrow minded?

Lord True (Con): Absolutely, my Lords.

Viscount Trenchard (Con): My Lords, today it is increasingly the Indo-Pacific that holds the keys to global stability and prosperity. An international commission established by Policy Exchange has put forward the idea of an Indo-Pacific charter, modelled on the Atlantic Charter. Does the Minister agree that Britain should seek G7 backing for an Indo-Pacific charter, as already endorsed by Stephen Harper, Shinzō Abe and Scott Morrison? Does he also agree that our playing a leading role in that would fit well with our intended accession to CPTPP, signalling our repositioning as "global Britain"?

Lord True (Con): Again, my noble friend touches on very important aspects of international relations for this country and within the G7. But, as I must repeat to the House, the detailed policy agenda is being discussed with G7 partners and will be announced by the Prime Minister in due course.

The Earl of Sandwich (CB) [V]: My Lords, I declare an interest as an adviser to the British College in Kathmandu. The UK-led global education summit next year proves how much this Government value international development. So how can HMG maintain their G7 leadership role in aid giving if, against the advice of senior colleagues, they are determined to sacrifice soft power and legislate against the 0.7% target which has brought so much relief to the poor throughout the world?

Lord True (Con): My Lords, I repeat that, despite the budgetary decision announced by the Chancellor yesterday, the UK will remain the second-highest aid donor in the G7—more than France, Italy, Japan, Canada or the United States—with next year's figure estimated at around £10,000 million.

Lord Collins of Highbury (Lab): My Lords, this crisis is global as much as it is domestic. In 2008 Gordon Brown persuaded fellow leaders to act as one, agreeing a synchronised stimulus alongside aid for developing countries. What is shocking this time is that the world's leaders have done so little work together in response. On the progressive agenda for the G7, can the Minister tell us whether the work already started with the Finance Ministers in relation to debt relief will continue? Will he give us an update on this and will it be a priority for the G7 presidency ahead?

Lord True (Con): My Lords, as I have said, the Prime Minister will be announcing details in due course. I understand that my right honourable friend the Foreign Secretary will make a Statement in another place later; I cannot anticipate that. But I agree with the noble Lord opposite that the G7 does have a track record of delivering meaningful outcomes under successive leaderships. Indeed, it has taken action to save 27 million lives from AIDS, tuberculosis and malaria.

Lord Oates (LD): Does the Minister recognise that a key priority for the G7 must be how it supports developing economies, which have suffered the severest economic impacts from Covid? Is it not therefore disgraceful that the Government have chosen this exact moment to betray our commitment to the poorest in the world in order, shamefully, to spend the money on weapons instead?

Lord True (Con): My Lords, the noble Lord's intervention was strong on adverbs and adjectives. I will give your Lordships a fact: 0.5%, or £10,000 million, whatever noble Lords say, is more than all 29 members of the OECD development committee contribute. Their average is 0.38%. I repeat that we are the second-highest donor in the G7 and will remain so.

Baroness Boycott (CB): Several countries have announced contributions to help replenish the Green Climate Fund to reach a total of £5.5 billion. The Minister has made it clear that climate change will play a big part in the G7. Presumably, a lot of agreements will get made around this table which can then be presented in Glasgow next year. How far has this particular fund got, taking into account that Covid has caused a lot of financial problems? Is it going to meet that target?

Lord True (Con): My Lords, unfortunately, I was not able to catch every word of the noble Baroness's question but certainly, as I have said, the commitment to helping the fight against Covid, such as through the COVAX initiative, will continue, and I can confirm that climate change will be one of the priorities, as I said in my opening Answer.

Baroness Verma (Con): My Lords, does my noble friend agree that the G7 also has a responsibility to look at how it will respond to women and girls, post Covid, because the biggest impact has been on them? Will he please ensure that, as we hold the presidency, they will be at the forefront of access to finance for enterprise and education?

Lord True (Con): My Lords, my noble friend makes a profoundly important point. Again, within the constraints of not being able to anticipate announcements, I say that further details will come. What I can say to her is that, as she and I are both aware, girls' education and training have always been a priority for the Prime Minister, and I am certain that he will drive that forward through the G7 discussions.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, all supplementary questions have been asked and answered and we now move to the next Question.

Special Educational Needs

Question

12.18 pm

Asked by ***Lord Blunkett***

To ask Her Majesty's Government what progress they have made (1) in developing the SEND Futures initiative, and (2) in their internal review of special educational needs provision.

Baroness Penn (Con): My Lords, we are determined to deliver lasting improvements to the SEND system, taking into account the impact of Covid-19. We remain committed to the cross-government SEND review and intend to publish findings early next spring. The SEND Futures research study is progressing well. The value-for-money feasibility study was published on 5 November and fieldwork for the longitudinal study, which will track the outcomes and experiences of children, is set to commence in March.

Lord Blunkett (Lab): My Lords, before Covid there was a welcome in this House for the capital spend on additional physical places for special educational needs, but a deep worry, which has been reinforced by Ofsted's most recent report and by the knowledge we have across the country, that young people with special educational needs and disabilities are the ones who have lost out most during the Covid crisis. Surely the Government will now come forward with programmes that will use the existing £350 million for tutoring, but without the charge on schools of having to find a quarter of the cost, which is making it prohibitive in terms of being able to deliver the kind of support that all of us would wish for.

Baroness Penn (Con): My Lords, the Government absolutely recognise that children with special educational needs have been hard hit by the Covid crisis. We are pleased that the vast majority of them are now back in school. I say to the noble Lord that in the other part of that catch-up package—the £650 million to support schools to make up for lost teaching time—specialist settings are getting £240 per funded place in comparison with mainstream schools, which get £80 per pupil. That additional weighting is to reflect the higher costs of specialist settings.

Lord Wigley (PC) [V]: My Lords, I draw attention to my relevant interests in the register. Will the Minister assure the House that the outcomes of the review will not lead to any dilution or reduction of those rights and protections for children and their parents that are provided for in current legislation?

Baroness Penn (Con): My Lords, without pre-empting the results of the review, I can give the noble Lord that reassurance. The aim of the review is to improve outcomes for children and their families across the country, deliver on commitments that we have made in legislation and improve value for money for the investment that we are putting in.

Lord Kirkhope of Harrogate (Con) [V]: My Lords, following the recent, welcome feasibility study and its conclusions, is it not nevertheless now even more difficult to design comparable but specific plans everywhere for individual children and young people with EHC needs?

Baroness Penn (Con): The feasibility study findings re-emphasise that there are diverse levels of support needs and differing approaches to meeting these needs. The challenge that this presents is something that the SEND review is addressing. The findings confirmed that it is feasible to undertake a value-for-money assessment in the near term, and also outlined how to fill existing evidence gaps in order for the department to complete more value-for-money assessments over the longer term.

Lord Ramsbotham (CB) [V]: My Lords, will the Minister please tell the House whether government provision includes young offenders with special educational needs?

Baroness Penn (Con): My Lords, the Government have a commitment to deliver for young people with special educational needs, regardless of the setting that they are in. That includes young offenders.

Baroness Massey of Darwen (Lab) [V]: My Lords, the SEND review is most welcome and urgent. Charities such as Sense are fighting for families to get special needs recognised and addressed, particularly at this time of Covid crisis. Often, complex needs such as autism might not be recognised for a long time, if ever. Will the Minister say how the review is addressing such complex needs and what extra support is needed?

Baroness Penn (Con): One of the key principles of the review is co-production with parents, families and carers, so that they can input into that review their diverse range of experiences. I cannot pre-empt the outcome of that review, but I can tell the noble Baroness that we are already putting additional resources into the system, with £730 million going into high needs next year, which is a 10% increase.

Lord Addington (LD): My Lords, I remind the House of my declared interests. Does the Minister agree that many parents have to fight to get their child recognised as having special educational needs? We simply do not train our teachers sufficiently to spot even the most commonly occurring conditions, such as dyslexia, which affects about 10% of the population. Does she agree that, unless this is dealt with, there will always be problems later on when people try to catch up when problems are spotted?

Baroness Penn (Con): My Lords, since 2018 the department has funded the National Association for Special Educational Needs on behalf of the Whole School SEND Consortium for a programme of work to embed SEND into school improvement practice and equip the workforce to deliver high-quality teaching across all types of SEND, including dyslexia.

Lord Lucas (Con) [V]: Does my noble friend agree that the enormous difference between local authorities in the rate of giving EHC plans, the huge variation in schools in the percentage of children labelled as having SEND, and the variation in SEND by birth date all indicate that we have serious problems in both diagnosis and definition? Does she agree that, unless these are sorted out first, any data that we collect is going to be seriously compromised?

Baroness Penn (Con): My Lords, one of the things that the SEND review wishes to address is the differing experience across the country. It is looking at ways to ensure that people receive consistently high-quality services across the country, regardless of where they live.

Lord Bassam of Brighton (Lab) [V]: [*Inaudible*] Labour has managed to identify that £300 million will be spent in 2021-22 on children with special educational needs and disabilities. Can the Minister confirm that this is all new money and advise the House as to how many new places that will support? How will the Government ensure that we have an integrated strategy across the education, health and care sectors and what further thought have they given to ensuring that poorer-performing authorities level up so that young people with special educational needs and disabilities have fair access to services, regardless of their postcode?

Baroness Penn (Con): My Lords, I am afraid that I missed the beginning of the noble Lord's question, but I believe he may have been referring to the £300 million that we are investing in capital projects to support the creation of new high-needs places and improve existing provision across a range of settings, including mainstream and special schools. On support for local authorities that may be struggling with the delivery of their support services, we have started a programme of visits by Ofsted and the CQC, working with local areas to understand the experiences of children and young people with SEND and their families during the pandemic and to make recommendations for improvements.

Lord Singh of Wimbledon (CB) [V]: My Lords, SEND pupils comprise a whole spectrum of children with widely varying behavioural and medical problems, requiring individually tailored intervention to maximise the education and life chances of the child. Does the Minister agree that close liaison with parents or carers is key both to combating behavioural problems before these become entrenched and to understanding and meeting medical needs?

Baroness Penn (Con): My Lords, I absolutely agree with the noble Lord about the important role of parents and carers; that is why we have put co-production at the heart of our work on special educational needs.

Baroness Eaton (Con) [V]: My Lords, delays in education, health and care plans—worsened by Covid—are hindering children with 22q and 3q29 and other genetic disorders from accessing either places at special schools or additional support in mainstream settings. I have familial experience of these genetic conditions, but they are largely misunderstood, making EHC plans particularly essential for accessing timely help with disabilities, which are often hidden. What are the Government doing to reduce delays and heighten awareness of the myriad complications arising from genetic disorders?

Baroness Penn (Con): My Lords, as I said in an earlier answer, we have started a programme of visits by Ofsted and the CQC, working with local areas to understand the experience of children and young people, and helping local areas prioritise and meet their needs where, for example, there might be delays in producing education, health and care plans. The Government have also made more resources available: £4.6 billion has been made available to councils to respond to the pressures of Covid, including funding for children's services.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the time allowed for this Question has now lapsed. I apologise to Baroness Hussein-Ecce, as we did not have time for her question.

Rural Economy

Question

12.29 pm

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government, further to their response to the report by the Select Committee on the Rural Economy *Time for a strategy for the rural economy* (HL Paper 330, Session 2017-19), what progress they have made towards their strategic vision for rural communities.

The Lord Bishop of St Albans: I beg leave to ask the Question standing in my name on the Order Paper, and I draw attention to my interest in the register as president of the Rural Coalition.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, our vision remains that rural communities should prosper, benefiting from the full range of government policies designed to level up opportunity and take the country forward. Defra will shortly publish the first annual rural proofing report on how the needs of rural areas are being addressed across all domestic departments.

The Lord Bishop of St Albans: I thank the Minister for that reply. The Government's commitment to rural communities is welcome and, I am sure, forms a major part of strategies such as the UK shared prosperity fund, the Covid-related green recovery fund and the levelling-up agenda. The Campaign to Protect Rural England noted the lack of funding for rural areas in the comprehensive spending review. What actual evidence do Her Majesty's Government have that the rural proofing promised in their response is making a real and significant difference? Could the Minister give us some specific examples? If not, could he write to me with those examples?

Lord Gardiner of Kimble (Con): My Lords, I think the best thing here is that I will be able—very soon, I hope—to furnish the House with the first rural proofing report. Following this House's Select Committee report work has been under way on the formation of a rural

affairs board, and indeed, because of Covid, the Rural Impacts Stakeholders Forum, of which the CPRE is a member.

Baroness Chisholm of Owlpen (Con): My Lords, as we know, one size does not fit all when it comes to our rural communities; Norfolk's needs are not the same as Cumbria's. I ask my noble friend to ensure that the Government take note of local data gathered together by community agencies when they come to think of their infrastructure and other policies that they want to make for these already very fragile communities.

Lord Gardiner of Kimble (Con): My noble friend is right. Rural areas can be very different from each other, and we believe that local people are often best placed to judge what is right for their communities. For instance, the Government provide grants of up to £18,000 to groups that wish to pursue a neighbourhood plan. Defra itself provides funding to the 38 rural community councils across England.

Lord Berkeley of Knighton (CB) [V]: My Lords, I declare my interests as listed in the register. I am sure the Minister will agree that one of the greatest problems in rural communities is employment. Therefore, with the Government moving towards more environmentally friendly support for agriculture, might there not be possibilities to employ more people—for example, to do things that are labour intensive, such as planting trees? Secondly, transport is essential for farm workers. Have the Government thought about how the move to electronic vehicles might impinge on the ability of farm workers, who are on very low salaries, to buy these cars?

Lord Gardiner of Kimble (Con): My Lords, on the transport issue, on Tuesday the Department for Transport launched a call for evidence to shape a future rural transport strategy. I shall take back to the department what the noble Lord said. On the economy, everything that we have been doing, not only through the Covid crisis but throughout, is to ensure that there are vibrant opportunities and indeed many small and medium-sized enterprises in the countryside, which we wish to support.

Baroness Pitkeathley (Lab) [V]: My Lords, today is Carers Rights Day. The latest research shows that carers have had to take on huge extra responsibilities during the pandemic. Their needs may be particularly acute in rural areas as many voluntary and community services have simply disappeared. Does the Minister agree that any rural policy must make support for community and voluntary services that support carers and those they care for an absolute priority?

Lord Gardiner of Kimble (Con): My Lords, I absolutely endorse that the work of carers throughout our community has been absolutely profound during this crisis. The Department of Health and Social Care is working on addressing the main health and care inequalities—particularly, in this case, as experienced by people in rural areas—and continuing to ensure that a higher share of funding goes to geographies with high health inequalities.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, the County Councils Network has recently conducted work on the effect of Covid on the decline of the rural bus network. The Government are committed to a rural bus strategy, but will the Minister give assurance that consideration will be given to providing a range of passenger transport services to provide positive benefits to residents in rural areas?

Lord Gardiner of Kimble (Con): My Lords, the Government have provided £220 million of new funding to support a better deal for bus users. This includes £20 million for the rural mobility fund to trial new on-demand services and to improve existing services in rural and suburban areas.

Baroness Hayman of Ullock (Lab): Askham Bryan College has stated its intention to close the Newton Rigg agricultural college in Cumbria, saying that students may wish to explore options at other colleges regionally. However, Cumbria's young people need to learn how to farm in Cumbria, where its unique landscape brings unique challenges. Can the Minister clarify that the Government support the ongoing needs of agricultural and rural industries in Cumbria through the vital and sustainable future of Newton Rigg College?

Lord Gardiner of Kimble (Con): I assure the noble Baroness that that is hugely important. We agree that attracting bright new talent into agricultural and horticultural careers and having a skilled workforce in place are vital for the future of UK food and farming. My understanding on Newton Rigg agricultural college is that the Department for Education is looking at the matter very closely.

Baroness Redfern (Con) [V]: My Lords, rural economies have untapped potential as well as challenges. From living in a rural environment, I understand how important our rural economy and personal well-being is. However, there are concerns in particular about action on surface water flood risk to homes and businesses. How are the Government enforcing their drive to bring together all partners to improve the management assessment of surface water flood risk to make our rural places, infrastructure and growth more resilient to our future climate?

Lord Gardiner of Kimble (Con): My Lords, the Government will double the amount we invest in the flood and coastal defence programme in England to £5.2 billion over six years from 2021. This will help to protect a further 336,000 properties, including 290,000 homes.

Lord Curry of Kirkharle (CB) [V]: My Lords, my interests are as recorded in the register. Yesterday the Chancellor reaffirmed the Government's commitment to the long-awaited shared prosperity fund, which the right reverend Prelate mentioned. Can the Minister confirm that there will be a committed element of the fund dedicated to the rural economy, as recommended in the report *Time for a Strategy for the Rural Economy*?

Lord Gardiner of Kimble (Con): My Lords, I confirm that the UK shared prosperity fund will take into account the specific needs of rural communities and will help to support investment in rural infrastructure as well as rural businesses.

Baroness Mallalieu (Lab) [V]: I declare my interests as stated in the register. With increasing numbers of people wanting to both live and work in the countryside, what steps are Her Majesty's Government proposing to take to ensure that rural areas are not left behind in the rollout of 5G as they were with broadband?

Lord Gardiner of Kimble (Con): That is absolutely why we are investing and working with the £5 billion programme to support the rollout of gigabit-capable broadband, as well as the joint investment of over £1 billion in the shared rural network on mobile, both of which are extremely important. It is the case that 5G is a continuing challenge for the hard-to-reach areas, and that is what we want to work on in particular.

Lord Foster of Bath (LD): My Lords, given the Minister's very clear promise to the committee that I had the privilege to chair that there would be robust rural proofing of all government policies, how does he explain the clear absence of rural proofing in the Government's recent proposals on changes to the current planning system, which will have a devastating and disproportionate effect on the provision of affordable homes across rural England?

Lord Gardiner of Kimble (Con): My Lords, affordable homes are clearly important, including in rural communities. Two consultations are going on at the moment—on changes to the current planning system and planning for the future. We in Defra will work closely with our MHCLG colleagues on the matter.

The Earl of Caithness (Con): My Lords, in their reply to the committee chaired by the noble Lord, Lord Foster of Bath, the Government said:

"The Minister for Rural Affairs … is specifically charged with ensuring that the needs of rural areas are taken into account across all government business."

How many meetings has the Minister had with fellow Ministers, and what further meetings does he propose to have to combat the sort of unintended problems that the noble Lord, Lord Foster, has just mentioned?

Lord Gardiner of Kimble (Con): I have many meetings; I have had meetings on digital, on crime and on a range of other issues. As I mentioned, as part of the response to the Covid-19 pandemic, we formed a rural impact stakeholder forum comprising many of the key stakeholders we work with, so that we could we in Defra could respond to other Whitehall departments about the specific dynamic of difficulties—for instance, with the pandemic—in rural areas. I continue to work on that. The stakeholder forum was meeting weekly; it now meets fortnightly. That work, as well as the work of the rural affairs board, is very important.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, all supplementary questions have been asked and answered, and we now move to the fourth Oral Question.

Official Development Assistance

Question

12.41 pm

Asked by ***Lord Bruce of Bennachie***

To ask Her Majesty's Government what assessment they have made of their statutory obligation to spend 0.7 per cent of gross national income on official development assistance.

Lord Bruce of Bennachie (LD) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and draw attention to my entry in the register of interests.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the Covid-19 pandemic has had a severe impact on our economy, which has fallen by 11% this year. This has forced Her Majesty's Government to take a tough decision to spend 0.5% of our national income next year on official development assistance to help the poorest countries, rather than the usual 0.7%. My right honourable friend the Foreign Secretary will shortly set out in the other place the future plan on how the aid budget will be managed to deliver better results for every penny spent, and to ensure that it is focused on strategic global priorities, which are vital as we recover from the pandemic and prepare for our presidencies of both the G7 and COP 26 next year.

Lord Bruce of Bennachie (LD) [V]: My Lords, I pay tribute to the noble Baroness, Lady Sugg, for her honourable decision to resign from the Government yesterday in protest at the decision to cut aid, which she clearly stated she could not defend. She achieved a great deal in her role, and she was a pleasure to work with. I wrote yesterday that the decision was "unconscionable and mean-spirited". It is all the more shameful because the Government fought two elections in quick succession committed to 0.7%, and this guarantee was repeated by the Foreign Secretary, and by the Prime Minister in a letter to me, when DfID was absorbed into the Foreign Office a few short months ago. The 0.7% is enshrined in law. Do the Government intend to disregard the law again, or will they seek to amend it? Will legislation come before this House? Is the Minister aware that the law allows for a legitimate retrospective shortfall, but not for a planned cut in the 0.7%?

Lord Ahmad of Wimbledon (Con): My Lords, I join the noble Lord in his tribute to my noble friend Lady Sugg. She was not only a noble friend but a friend within the FCDO, and will be sorely missed both by the department and, I am sure, by your Lordships' House in this role. As I have said, my right honourable friend the Foreign Secretary will lay out some details

on the issue of legislation. The noble Lord has raised two important points, and I can assure him that we are very cognisant of our obligations both in terms of the Act and to the House. As for the cut that has been announced, as my right honourable friend the Chancellor of the Exchequer laid out only yesterday, it was a difficult decision, but it was necessary on the basis of the challenges we face. None the less, in real terms we will still spend £10 billion to fight poverty and climate change, among other key priorities in overseas development.

Baroness Blackstone (Ind Lab): My Lords, the Minister has paid tribute to the noble Baroness, Lady Sugg. I too want to pay tribute to her for her honourable decision to resign when the Government broke their manifesto commitment on development assistance. She said that was fundamentally wrong. Does the Minister agree with this, and with her letter to the Prime Minister, which said:

"Cutting UK aid risks undermining your efforts to promote a global Britain and will diminish our power to influence other nations to do what is right"?

In answering that question, perhaps he would also indicate when the Government intend to restore development assistance to 0.7% of GNI.

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Baroness's first point, I have already mentioned my long support of and friendship with the noble Baroness, Lady Sugg. Of course, she discussed her decision with both the Prime Minister and my right honourable friend the Foreign Secretary. I pay tribute to her efforts and her work in both DfID and the FCDO. As the Chancellor said only yesterday, the cut is temporary and we will return to the 0.7% when the fiscal situation so allows.

Baroness Sheehan (LD): I too pay tribute to the noble Baroness, Lady Sugg, who was an outstanding Minister, and who acted with integrity yesterday. The £2.9 billion cut in the aid budget already announced for this year represents a cut of more than 19%—far more than the projected 11.3% drop in GNI. Will the Minister support the Government if they choose to break the law and knowingly undershoot the 0.7% target?

Lord Ahmad of Wimbledon (Con): My Lords, in the current year we will meet the 0.7% target. On our obligation to your Lordships' House to uphold the laws on the statute book, I have already alluded to the fact that my right honourable friend the Foreign Secretary will lay out further detail shortly in the other place.

Baroness Meyer (Con): My Lords, the gang of five Prime Ministers, in objecting to a temporary reduction in our aid budget, surely protest too much. Is it not the case that, despite our enduring the worst economic crisis in 300 years, the UK provision of international aid, at 0.5% of GNI, will still be one of the highest in the world, and the second highest in the G7 group of industrialised countries?

Lord Ahmad of Wimbledon (Con): My Lords, my noble friend is right: we will remain one of the most generous G7 donors, spending more of our national income, in percentage terms, than the United States, Japan, Canada or Italy. I further assure my noble friend that we stand very firmly in ensuring that, when we look at poverty alleviation, fighting famine, our commitment through the various vaccine summits we have held and the importance of our COP 26 presidency —with the commitment we have made on climate finance —we stand ready to continue to meet our obligations both domestically and internationally.

Lord Crisp (CB) [V]: My Lords, this cut is short-sighted and mean-spirited; it will damage our national interests and scar the lives of millions. Disturbingly, there is no end point. We are all aware of the financial situation, but what other options were considered? The UK will spend billions on vaccines from its aid budget and elsewhere for people in low and middle incomes as well as its own citizens. Could it not have made a virtue of this by using the aid budget to commit to vaccinations for all, not just making a cut but demonstrating UK leadership on the protection of the world's health and providing a welcome boost for UK science and technology? Was this considered, and why was it not done? If the Minister does not know the answer, I would be grateful for a letter.

Lord Ahmad of Wimbledon (Con): I do not agree with the noble Lord. On the specific issue of the vaccine, he will recall that, when my right honourable friend the Prime Minister returned from his own challenge with Covid-19, the first summit he chaired was the Gavi summit, which committed £330 million per year to other vaccines. As the Minister responsible for south Asia, I know that issues of polio still impact vulnerable communities in places such as Afghanistan and Pakistan. Equally, we have led from the front on the importance of the Covid-19 vaccine, with a commitment of £571 million to the COVAX Facility. The Covid-19 challenge, along with climate finance, are arguably the two biggest challenges facing the world today and through 2021, and we have shown leadership on both and will continue to do so.

Lord Collins of Highbury (Lab): My Lords, I, too, praise the noble Baroness, Lady Sugg, and hope that we can work on a cross-party basis to oppose this move by the Government. The Minister said that there would be £10 billion of ODA in 2021-22, but this represents a cut of £5.1 billion compared to 2019. Yesterday, the noble Lord, Lord Parkinson, said that the Foreign Secretary's savings for this financial year to maintain the budget within 0.7%—and we should not forget that that has meant real cuts—

"prioritised the UK's global response to the Covid-19 pandemic, including on poverty reduction for the bottom billion, climate change and reversing biodiversity loss, championing girls' education and protecting our operational capacity."—[*Official Report*, 25/11/20; col. 249.]

Will the Minister tell us which of these priorities will now be cut to meet the Chancellor's breach of the law and the Conservative manifesto?

Lord Ahmad of Wimbledon (Con): My Lords, the short answer to the noble Lord is that they remain, and will continue to be, priorities, and I note the additional

[Lord Ahmad of Wimbledon]
support that we have announced within the defence budget, for example. As Minister for the UN, I am sure that all noble Lords acknowledge the vital role our Armed Forces play in the delivery of aid, bringing peace and resolving conflict. We will ensure that the priorities my noble friend listed only yesterday will continue to be sustained and strengthened through 2021.

Lord Roberts of Llandudno (LD) [V]: Have the Government been in touch with the new incoming regime in the USA? It seems that President-elect Biden will be far more ready to co-operate with us on these massive problems in relation to overseas aid.

Lord Ahmad of Wimbledon (Con): My Lords, my right honourable friends the Prime Minister and the Foreign Secretary have both been in touch with incoming Biden Administration on these important priorities.

Baroness Tonge (Non-Afl) [V]: My Lords, I, too, add my dismay about the resignation of the noble Baroness, Lady Sugg. Does the Minister agree with the World Bank that the provision of sexual and reproductive health and family planning services alongside girls' education is the most effective intervention we can make in developing countries? Will he, therefore, ensure that, despite the reduction in overseas aid, the money currently donated for those services will remain unchanged and will not be reduced proportionately?

Lord Ahmad of Wimbledon (Con): My Lords, on that very issue, as the noble Baroness will know, I articulated very strongly for us to sustain our support for this important priority. As the noble Baroness may be aware, between April 2015 and March 2020, we reached an average of 25.3 million women and girls accessing modern methods of family planning per year. This remains an important priority, and, as the lead on PSVI in particular, I say that this remains very much in my policy and planning.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the time allowed for this Question has now elapsed. I apologise to the noble Baronesses, Lady Nicholson and Lady Armstrong, and the noble Lord, Lord Bilimoria, who were unable to put their questions.

Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020

Agriculture (Payments) (Amendment, etc) (EU Exit) Regulations 2020

Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2020

Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2020

Motions to Approve

12.52 pm

Moved by ***Lord Gardiner of Kimble***

That the draft Regulations laid before the House on 5 and 19 October be approved.

Relevant documents: 31st and 33rd Reports from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 18 November.

Motions agreed.

12.53 pm

Sitting suspended.

Arrangement of Business

Announcement

1.30 pm

The Deputy Speaker (Lord Brougham and Vaux) (Con): My Lords, hybrid proceedings will now resume. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

We now come to the consideration of Commons reasons on the Parliamentary Constituencies Bill. These proceedings will follow guidance issued by the Procedure and Privileges Committee. When there are counter-propositions, any Member in the Chamber may speak, subject to usual seating arrangements and the capacity of the Chamber. Any intending to do so should email the clerk or indicate when asked. Members not intending to speak on a group should make room for Members who do. All speakers will be called by the Chair.

Short questions for elucidation after the Minister's response are permitted but discouraged; a Member wishing to ask such a question, including Members in the Chamber, must email the clerk. The groupings are binding. Leave should be given to withdraw.

When putting the Question, I will collect the voices in the Chamber only. Where there is no counter-proposition, the Minister's Motion may not be opposed. If a Member speaking remotely intends to trigger a Division, they should make this clear when speaking on the group. Lords following proceedings remotely but not speaking may submit their voices, Content or Not Content, to the collection of the voices by emailing the clerk during the debate. Members cannot vote by email; the way to vote will be via the remote voting system.

Parliamentary Constituencies Bill

Commons Reasons

1.32 pm

Relevant document: 13th Report from the Constitution Committee

Motion A

Moved by ***Lord True***

That this House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A.

1A: Because the Commons consider that eight years is a balanced and appropriate approach to ensure that parliamentary constituencies are updated sufficiently regularly.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, in moving Motion A, I will also speak to Amendments 2, 6, 7 and 8, on which I shall also beg to move that the House do not insist on those amendments, to which the Commons have disagreed.

Amendments 1 and 2 provide that a boundary review would be carried out every 10 years. The Commons have opted to disagree to these amendments, as eight years is deemed a better balanced and appropriate approach to ensure that parliamentary constituencies are updated sufficiently regularly without disruption to local communities and their representatives.

The Commons disagree to Amendment 6, which proposes a bespoke appointment system for boundary commissioners. The Commons consider that the existing public appointments system and the requirements of Schedule 1 to the Parliamentary Constituencies Act 1986 are sufficient. The public appointment system used to recruit commissioners is robust and has led to the appointment of impartial and effective candidates for decades.

The noble and learned Lord, Lord Thomas of Cwmgiedd, has since tabled an amendment in lieu on this topic, which we will return to in more detail later. However, I wanted to take the opportunity at this point to thank the noble and learned Lord for his constructive and positive approach to engaging with me and officials, and indeed other senior Ministers in the Government, on his amendment throughout the passage of the Bill. It was a model of the approach for a revising Chamber.

We have had many conversations at every stage since this Bill entered the Lords and have thoroughly debated the aspects of the amendment. Even though the Government were unable to accept the noble and learned Lord's amendments, I hope he has found our exchanges of a good nature and believes that they have resulted in reassurances that made them worth while.

Under Amendment 7, the number of voters in each constituency would be permitted to vary from the UK average by plus or minus 7.5%, which equates to a total tolerance range of 15%. The Commons—the elected House—consider that the existing law on this matter, that of a tolerance range of 10%, is sufficient to ensure equal parliamentary constituency boundaries.

Finally, turning to Lords Amendment 8, this required the Government to make proposals for improving the completeness of electoral registers. The Commons consider that the Government have provided sufficient explanation of action they have taken and are taking to improve the completeness of the electoral registers.

I would like to take this opportunity to pay my respects to the noble Lord, Lord Shutt of Greetland, who so sadly passed away and who tabled the original amendment. It was a privilege to call him my noble friend when he was my Deputy Chief Whip during the years of coalition. In those Quaker values which have so enriched the Liberal party—as it was—and the Liberal Democrats over generations were rooted his principles of straight talking and straight dealing, which we all remember, as we remember his passion for his work and his good humour. He will be sorely missed, particularly by colleagues on the Liberal Democrat Benches.

Since then, the noble Lord, Lord Woolley, who had not previously taken part in the Bill, has tabled a new amendment in lieu. The Government cannot accept this amendment for reasons I have privately explained to the noble Lord, Lord Woolley, but we will no doubt have an opportunity to discuss this further.

As is quite proper, this House asked the Commons to re-examine the detail of this Bill. The House of Commons did so and have returned a Bill to us that is now ready to go to Her Majesty for Royal Assent. The elected Chamber, to which this Bill directly relates, has considered your Lordships' amendments, and indeed accepted three in relation to the automaticity provisions, and has made its will now known. I therefore urge noble Lords not to insist upon these amendments. I beg to move.

Lord Thomas of Cwmgiedd (CB) [V]: My Lords, I begin by thanking the Minister for the courtesy and pleasure, if I may say so, of being able to debate the issues that lay behind the original amendment I put forward. I am extremely grateful to him for the courtesy and the trouble to which he has gone, and to his officials, who went beyond their ordinary tasks even in these most difficult times to help me.

I have put forward today an amendment to the original clause that was carried by this House. It is plain that the original clause would have brought about a better appointment system, but the decision has been made by the other place that they do not agree. As regards the amendment I have tabled today, it deals with a narrow and specific point of some constitutional importance. That is why I have put the amendment forward: to amend the clause on a very narrow basis.

However, I wish to make it clear now that I do not intend to press this amendment to a Division because, in the ultimate analysis, it must be for the other place to accept it. However, given the times in which we live, I think it is important to record the matter formally, because it may turn out to be of great importance in the future. As regards the more general points, they are of very considerable relevance at the present time. Although in what I have to say I will be a little critical of the Government, I wish to make it abundantly clear that anything I say in no way criticises the present Secretary of State and Lord Chancellor. This is a more general point, directed at the Government as a whole, now and for the future.

The amendment today, on this narrow point, has the objective of bringing the provisions for the appointment of the deputy chairman of the Boundary Commission into line with the principles of the Constitutional Reform Act 2005, which changed the position of the Lord Chancellor. Noble Lords may recall that the debate on the position of the Lord Chancellor was an extensive one. There were very detailed discussions between the judiciary, at that time led by the noble and learned Lord, Lord Woolf, and the Department for Constitutional Affairs led by the Lord Chancellor—as he then truly was—the noble and learned Lord, Lord Falconer of Thoroton.

[Lord Thomas of Cwmgiedd]

A concordat was reached in 2004, which sets out very clear principles that were embodied in the Bill. Those principles were that the deployment and appointments to posts of judges were for the Lord Chief Justice. In respect of some, the Lord Chief Justice was obliged to consult the Lord Chancellor and, in the case of one or two, obtain his concurrence, but the important point is that the decision was that of the Lord Chief Justice. That was because the Lord Chancellor ceased to have any judicial functions and to be head of the judiciary. That is a basic and fundamental constitutional position. The Lord Chief Justice became head of the judiciary and responsible for judicial deployment and the allocation of responsibilities and—importantly—of cases.

The power of appointment to the post of deputy chairman of the Boundary Commission dates from a time when the Lord Chancellor was a judge and head of the judiciary. It is noticeable in the Act that the powers of the Lord Chancellor did not extend to the appointment of the deputy chairman in Scotland or Northern Ireland, because the Lord Chancellor was not head of the judiciary there. Unfortunately, though I think it is hardly surprising, having been involved myself at the time, this provision was overlooked. There were literally hundreds of posts and duties that the Lord Chancellor had accreted over the centuries; that one or two slipped by is not surprising. It is essential to rectify the position now for two reasons: first, to correct an error and, secondly—far more importantly—because the position of the Boundary Commission has changed. It is no longer advisory and its decisions are not subject to any review by Parliament; it decides and Parliament and the Executive Government carry out the decision. The position, as I made clear on the last occasion, is no different to the selection of someone to decide a case. When a judge decides a case, the matter must be enforced by the Executive and adhered to by Parliament. It is quite clear that the Lord Chancellor could not pick a judge to decide a particular case; it would be wrong.

As I could not understand why the Government were opposing this change, I asked three question that I hoped would elucidate the reasons for the decision. I asked if the Lord Chancellor was satisfied that a decision by him as Lord Chancellor, or by any successor, personally to appoint the deputy chairman would be in accordance with legal principles, given that it would be a decision in which the Lord Chancellor—unless he were a peer, which was of course the case prior to 2005—had an actual interest, as the Commission would be determining the boundaries of the Lord Chancellor's own constituency. The answer I got was that, in making such an appointment, the Lord Chancellor would have to act within established law principles. It seems clear that the Government accept that there is a personal interest in this matter. My second question was whether it would be susceptible to a legal challenge. To that I got the answer that in making such an appointment the Lord Chancellor would have to act within established public law principles. Thirdly, I asked whether it was consistent with the duty placed on the Lord Chancellor to uphold the continued independence of the judiciary. The answer was that is not inconsistent for the Lord Chancellor to have a role in appointments that involve the selection of one member of the judiciary over another. Indeed, because the Lord Chancellor is still ultimately accountable for senior court appointments, it was considered sufficiently important for there to be ministerial accountability to that extent for the judicial appointment system. The same could be said of these appointments.

1.45 pm

I am afraid that—as I shall explain in a moment—I must disagree with that last answer. Having received those answers drafted by his officials, I considered the matter of such constitutional importance that I asked the Lord Chancellor to confirm that he agreed with those answers, and that confirmation was given. I was told that he wanted it noted that the role of a constituency MP and Lord Chancellor were separate, and that the Lord Chancellor would always have to act consistently with public law principles.

To turn to an analysis of those answers, it seems quite clear that it is accepted—as the Government had to accept—that the Secretary of State for Justice and Lord Chancellor had an interest in the decision to appoint a deputy chair, as a decision is being made about his own constituency. The position is plainly different. This is a decision in which the person selecting the chairman has a direct interest. It seems quite clear, therefore, that the decision of the Lord Chancellor to appoint a particular judge is susceptible to judicial review. Obviously, one cannot predict what will happen in the future, but there must be a real risk that an appointment could be challenged, either when made or, more seriously, subsequently. It would be said that it was impossible for someone who had such a conflict of interest to make a fair and impartial decision and, as importantly, to be seen to make a fair and impartial decision. The real risk here is for the future. Let us just assume that the Lord Chancellor does this: the Boundary Commission is appointed, someone is disappointed or unhappy with the result, the decision of the Government that it is for the Lord Chancellor to make this decision would provide a perfect means of bringing a judicial review of the appointment of the deputy chairman. This would risk—to my mind a matter of great regret—leaving the decision of the Boundary Commission open to challenge by an attack on its deputy chairman. That would be a very serious inroad into this new system, with which otherwise I entirely agree.

The decision to proceed on the basis is justified by the reason that the Lord Chancellor has an role in the appointment of judges but, as the parts of the amendment that I am not speaking about today make clear—because those parts were modelled exactly upon the way in which judges are appointed—the role of the Lord Chancellor is extraordinarily limited. He can ask the appointers to think again or he can give reasons for rejection, but those reasons must be in writing. Of course, if the Lord Chancellor had any role whatever in the future career of a judge who he would be entitled to appoint to be deputy chairman, there would be a serious risk of impropriety. Some would be able to say, "He appointed Judge X; Judge X knows what may happen in the future and knows the Lord Chancellor could advance him" and therefore his decision would not be an acceptable one.

The Lord Chancellor and Secretary of State for Justice has been kind enough to write to me to confirm one matter on which the Government have relied—the practice that has hitherto existed of the Lord Chief Justice being consulted. I shall return in a moment to the way in which this is put. I am grateful to the Lord Chancellor for confirming that, although there is no statutory requirement, he gives an assurance,

"that I will commit to the Lord Chancellor formally consulting the Lord Chief Justice on all future appointments."

However, that does not deal with the question of principle, which is clear in the Constitutional Reform Act that it is for the Lord Chief Justice, as head of the judiciary and the person responsible for the allocation of responsibilities in deployment, to make the decision. The consultation should be the other way around. This course of action that the Government are taking is in flagrant contradiction of well-established constitutional principles laid down in the Constitutional Reform Act.

I do not understand that, because the reasons given so far in this House and the other place, and by the Lord Chancellor, do not explain why there is to be this departure from principle. One inference could be that there is something to be gained from it. I do not understand what that could be, but of course I am not really involved in politics, so I am not sure why this is being insisted on. Possibly it could be said that the principles in the Constitutional Reform Act are somehow inapplicable. I do not understand that either. Or, more seriously, there may not be a commitment to the principles of the Constitutional Reform Act that underpin the independence of the judiciary and, as I shall explain in a moment, the rule of law. By insisting on retaining the position and not following the clear constitutional principles, Her Majesty's Government are wrong in what they seek to do. It is a potential attack on the independence of the judiciary and thus corrosive of the rule of law.

I need not say much about that, because this House is well familiar with the attitude to the rule of law, having only recently had to consider Part 5 of the United Kingdom Internal Market Bill, which, I will just add, has damaged the position of the judiciary in the UK. In the position I have, I am in at least weekly contact—possibly more frequently—with lawyers and judges across the world, and it ought to be clear that very substantial damage has been done by Part 5 of that Bill. People who had always highly respected our system were deeply shocked at the Government's decision to abnegate the rule of law.

Now, apart from the question of the views that others take of us, it is also quite important to realise how damaging it is when we turn away from the rule of law.

Baroness Scott of Bybrook (Con): My Lords, the noble and learned Lord has been speaking for 20 minutes. Could he now wind up, please?

Lord Thomas of Cwmgiedd (CB) [V]: I will be a moment longer. I just want to add one final point—and it is this. One can see the damage done when a country such as China criticises Her Majesty's Government for going back on a treaty. Its comments speak for themselves.

I will conclude by saying that we should be vigilant for the future. The threat to the rule of law is still there, and there are more matters to come. I hope very much that on future occasions this Government will be much more careful about the independence of the judiciary and the rule of law.

Lord Woolley of Woodford (CB): My Lords, I first apologise to the House and my fellow noble Lords for coming to this debate very late in the day. I am new to the Chamber, as many noble Lords will know, and I would argue that I and many others were thrown off track by the pandemic. I apologise, and for that reason I will not be putting my amendment to a vote—because I respect noble Lords and I respect this House.

However, I will not apologise for wanting to ensure that hundreds of thousands of young people are registered to vote and have a voice in our society. I have dedicated most of my adult life to ensuring that young people and those from black, Asian and minority ethnic communities can be part of our society—and without a vote, you do not have a voice.

Before I go into that, I pay tribute to David, Lord Shutt, who, as the Minister said, was our friend. I knew David more than 20 years ago when I was an activist, just starting out with Operation Black Vote. We had no money—and no money any time soon. I was asked by Stephen Pittam, who was the social and racial justice director of the Joseph Rowntree Charitable Trust, to put in an application. So I did, and I was called to a panel, and David Shutt was the chair. I said to him, "You and I know that Martin Luther King had a dream. But he had more than a dream. He had a plan. And step one of that plan was to politically empower African Americans and white poor people to be in a situation where they are not asking for justice and equality but demanding it. And they demand it by voter registration, by having a strong voice". In typical Yorkshire fashion, David turned around and said—I hope noble Lords will excuse my language—"You've convinced me. Give him the bloody money, and good luck". And we then began a journey, going out the length and breadth of our nation to register our communities to vote.

Our focus has been on black, Asian and minority ethnic communities where, as many noble Lords will know, the deficit is the greatest. We laid bare about 10 years ago the fact that more than 50% of young Africans in London were not registered to vote. The average for black, Asian and minority ethnic communities is 25%-plus, when the average across the board is around 15% to 17%. The problem that we are facing is not that there is a neutrality in some of our communities towards registering to vote and voting—there is antipathy towards it. People say, "Why should I vote when I do not see our institutions, locally or nationally, looking like us? There is no representation. How are they going to speak for me?" Too many say, "Why should I vote when policies are not addressing the deep-seated racial inequalities and disparities that affect our lives—in housing, education, health and many other areas? Why should I bother?" We as activists tell our communities and young people across the board, "That's precisely why you should vote—because if you don't have a voice, you can't change anything".

[Lord Woolley of Woodford]

Twenty-five years later, from activist to one of your own as a fellow Peer, I come into this place and, once again, I bump into my old friend David, the late Lord Shutt. He says to me, "Young man, great to see you. We've got work to do. Your first step is to come and make a presentation to our committee"—which I did. He said, "Give us chapter and verse on how we can turn this round. Give us the tools to empower black, Asian and minority ethnic communities and young people across the board." I said to him, "Look, it's a no-brainer. At the very first instance, we should have automatic voter registration. You give them the insurance number and you make sure they're registered. At least then our challenge to get them to vote is halfway done; we just need to give them the tools to do it."

2 pm

When I was presented with a proposition to come to the House and move this amendment, I jumped at the opportunity because, in terms of advising people when you give them their national insurance number on how they register to vote, this amendment is about the lowest-hanging fruit that there could be. In fact, it is so low, it is practically on the floor. Of course, I want us not just to take this low-hanging fruit. I spoke to the noble Lord, Lord True; I would like to think that we have become good friends since this conversation began. He said to me—I take you true to your word, sir—that not only will we look at this, but we must look at other areas of political empowerment for our young people, including in schools, colleges and universities. We have to bridge this in full citizenship mode. We must ensure that our communities are empowered.

Noble Lords know as well as I do that the Covid-19 pandemic has had a devastating impact on our society, particularly on elderly people, too many of whom have died, but also right across the piece. The pandemic has also had a particularly devastating effect on young people. Many will lose their jobs, as has been said. Many will be from black and minority ethnic communities, who are disproportionately losing their jobs. Given that they are dramatically affected, it is incumbent on us to give them the tools to put things right. That cannot happen unless they have a political voice to make demands on us. As parliamentarians, it is our job to make it as easy as possible for them to play a role in our society—including through registering to vote and voting—by forging a future pathway that will give them the opportunities that they deserve.

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, the following Members in the Chamber have indicated that they wish to speak: the noble Lords, Lord Rennard, Lord Beith and Lord Lexden. I will call each in turn, then if anyone else in the Chamber wishes to speak, they too can be called—[*Interruption.*] I beg noble Lords' pardon; they are quite right. The noble Lords, Lord Adonis and Lord Blencathra, both told me that they wished to speak; I just left them off the list because I did not write it down properly. I will call each noble Lord in turn then I will seek any other speakers in the Chamber. To begin with, I call the noble Lord, Lord Rennard.

Lord Rennard (LD): My Lords, the last words in this House of my late noble friend Lord Shutt of Greetland helped to carry an amendment to this Bill by 293 votes to 215. The majority for that amendment was 78 in a vote in which more than 500 Peers took part and which was supported by more than 80% of the Cross-Bench Peers who voted—but it was not accepted. The whole House should now be grateful to the noble Lord, Lord Woolley of Woodford, for having tabled a compromise amendment on a subject with which he has a long history of involvement and about which he spoke so powerfully and persuasively.

The suggested compromise is based on one of the key recommendations of the Select Committee, which studied electoral registration issues over many months and received evidence from more than 60 people, many of whom are experts in the field. The noble Lord, Lord Woolley of Woodford, was one of those experts. As he said, he has many years' experience of campaigning with Operation Black Vote on the underrepresentation of black people on electoral registers. He pointed out in his evidence that he has been talking to such committees for more than 10 years; he said that the questions remain the same but there remains a lack of political will to deal with them. He also explained that the introduction of individual voter registration has had a huge impact in reducing the levels of registration from diverse communities.

The noble Lord's amendment today is not the same as that of Lord Shutt and his colleagues. The Government are not asked in this amendment to consider the introduction of any form of automatic voter registration. In fact, they are not asked to do anything at all except tell us what proposals they have to do what they say they want to do anyway. As the noble Lord, Lord Woolley, said, it is the softest amendment possible. Ministers claim repeatedly that the Government want to improve the accuracy and completeness of the electoral registers. The noble Lord's amendment simply asks them to consider inviting young people to register to vote when they are notified of their national insurance numbers. Such a notification would cost nothing. The easiest way of registering to vote is with a national insurance number, so the best time to register is when you get your national insurance number.

Young people about to attain the age of 18 are all supposed to be registered and included in the calculations of the Boundary Commissions; their absence, and that of others, makes those boundaries unfair and, many would suggest, gerrymandered. These young people need to be registered in order to vote, obtain credit and be summoned for jury service. However, the latest figures from the Electoral Commission show that 75% of them are not registered to vote, as against only 6% of those aged over 65. This is an enormous disparity. The Government talk about their efforts in relation to registering young people, but if only 25% of those about to turn 18 are registered compared with 45% five years ago, those efforts are clearly failing—unless, that is, their real efforts are to reduce the number of young people registered to vote. If so, they should be honest about voter suppression, which might come from the Donald Trump playbook. Or, if this is not their aim, they should say why they have been unable to provide a single reason for not registering young people in

this way. They have not been able to do so at any point in the four months that we have been considering this Bill.

As the noble Lord, Lord Woolley, said, the figures for registering young black people are even worse than they are for young people generally. The Joint Committee on Human Rights recently raised concerns that 25% of black people are not registered to vote, compared with 17% of the total population. If these figures are correct, they would mean that more than 80% of young black people about to attain the age of 18 are not registered to vote—and the danger is that they may never be, and that they may never take part in our democratic society.

This issue affects our democracy. It affects social mobility, as those not registered may not be able to obtain credit when they apply for it. It affects justice, as juries drawn from the electoral registers may be unrepresentative. The criminal sub-committee of Council of Her Majesty's Circuit Judges recently described problems with jury service, saying that

"there are currently many who are eligible but are not registered to vote and are not called for jury service."

The amendment tabled by the noble Lord, Lord Woolley, is a compromise. It does not go as far as the Select Committee on the Electoral Registration and Administration Act 2013 recommended, with cross-party support. The principle of registering young people automatically, or in this way, was supported by the senior Conservative election strategist the noble Lord, Lord Hayward, in that Select Committee and in the Grand Committee considering the Bill.

The same principles were strongly supported by the Conservative Party's official historian, the noble Lord, Lord Lexden, in the Select Committee and on Report. I am pleased that he is again supporting the principle of the amendment today. The last Labour Minister responsible for handling such issues, the noble Lord, Lord Wills, is sadly unable to attend, but he is a strong supporter of the principles of the amendment. All 133 of the 133 Labour Peers who voted on Lord Shutt's original amendment voted for something that went far further than the amendment from the noble Lord, Lord Woolley, seeks today.

I recently reread the House of Commons debate on Lord Shutt's amendment. The principle of automatic voter registration was strongly attacked by Mr Jacob Rees-Mogg. He spoke knowing that he had vetoed MPs voting electronically in the same way that we do in this House, so he was speaking in the knowledge that the Conservative Whips could cast around 200 votes as proxies without MPs being allowed even to press a button for themselves. Even from this House we can say that that is an affront to democracy. Even with all his debating skills, Mr Rees-Mogg could voice no argument against notifying young people about how to register to vote when they are notified of their national insurance numbers. That is because there is no democratic argument against it.

The noble Lord, Lord Woolley, skilfully suggested a compromise of the kind that this House should be proud to support. My noble friend Lord Tyler will ensure that there is an opportunity for Members to vote on this issue. Please use your vote today to make sure that young people can vote in future.

Lord Beith (LD): My Lords, I thank the Minister, the noble Lord, Lord True, for his generous and kind words about Lord Shutt of Greetland—our friend David Shutt. They were very accurate and true. I knew David for over 50 years. He was a liberal to his fingertips, a democrat in every way, a proud upholder of nonconformist and Quaker values, and a proud Yorkshireman. He was a larger than life figure in this place and we will miss him enormously. If there is anything that I can do today by casting a vote that would further the cause in which he so profoundly believed—that young people must be drawn into our democratic system—I will do so with enthusiasm.

I refer to the amendment in lieu from the noble and learned Lord, Lord Thomas of Cwmgiedd. He has worked assiduously on the Bill to try to safeguard the important principles at stake. It was obvious to me and everybody else that, the moment that Parliament could not delay or block Boundary Commission proposals, attention in some political quarters would shift to those who draw up those proposals. The pressure would be on who is appointed as boundary commissioners. It therefore became important to look at that carefully. We have done so over the course of the Bill, but I do not think we have reached an ideal solution.

We are in an anomalous situation on the position of Lord Chancellor, as was pointed out by the noble and learned Lord, Lord Thomas, by detailed reference to the debates on changes to the post, which I remember vividly. I have great respect for the present Lord Chancellor, who served on the Justice Committee when I chaired it. I know that he is committed to the most important principles of our legal system, but this is not an ad hominem case; we cannot make it depend on one individual. It is about the system we have for the future. When many other changes were made, powers previously held by the Lord Chancellor shifted to the Lord Chief Justice, as head of the judiciary. This power should have gone the same way.

2.15 pm

We are no longer in an era in which we can safely rely on people to do the right thing, if we ever could. The political context has changed significantly, and we have had some examples of that, including the United Kingdom Internal Market Bill and the Prorogation row. Things that people assumed would not happen happened. Positions that people assumed would not be taken up were taken up. We are no longer in an era in which we can safely assume that the holder of a political office will always put the integrity of the system ahead of pressing political concerns or matters that might seem important and high priority, but which should not be achieved by damaging the system and its fairness in the application of the rule of law.

That is why we should free the Lord Chancellor from any suggestion of political involvement in the appointment of the deputy chairman of the Boundary Commission. Put that safely in the hands of the Lord Chief Justice, who is not a political officeholder and is not subject to the same pressures. I wait with interest, but not, I am afraid, a great deal of optimism, to hear what the noble Lord, Lord True, says about the position.

[LORD BEITH]
Expressions of confidence that people would never do things that they have not done in the past can no longer be relied on.

Lord Lexden (Con): My Lords, I support the amendment proposed by the noble Lord, Lord Woolley of Woodford. Like him and other noble Lords on all sides of the House, I deeply regret that the amendment cannot be moved by the noble Lord, Lord Shutt of Greetland, who so effectively made the case for action to get more young people on the electoral registers just a few weeks ago on Report. Lord Shutt of Greetland will be remembered vividly and affectionately by all his colleagues, of whom I was one, who worked with him on the all-party Select Committee that considered the state of our country's electoral system in detail, seven years after the passage of the Electoral Registration and Administration Act 2013. It would be a fine tribute to his memory if what might be termed the Shutt-Woolley amendment was incorporated in the Bill. If it is not, I hope that something like it wins parliamentary approval before too long.

When I spoke on the earlier Shutt amendment, I asked Members of the House to bear in mind that it provided two alternative routes by which tomorrow's voters could be brought on to the electoral registers, at the ages of 16 and 17, in readiness to cast their votes when they turn 18. The first, as we have heard, proposed automatic registration if electoral registration officers were satisfied of their eligibility when national insurance numbers were issued. The Shutt amendment offered a second way to the goal, which all supporters of democracy surely must share—that of ending the grave under-participation of young people aged 18 and over in our country's elections. The second method, as we have heard, involved no more than providing them with information about the process by which the precious right to vote can be acquired.

In responding to the amendment, the Government chose to ignore the second part altogether. Not one word was said about it from the Government Front Bench. Its supporters were called on to vote against it, on the grounds that automatic registration was objectionable in principle—an objection that many Conservatives do not share. The same thing happened when the Shutt amendment was debated in the Commons.

The new version before us omits the provision for automatic registration on which the Government based their entire opposition to the original amendment. The amendment proposes, in modest terms, that it should be permissible for young people, on whom the future success of our country depends, to be notified of what they should do to gain the right to cast a vote and play their part in our democracy. Can there really be a serious argument for not informing our country's youngsters, who stand at the gateway of democracy, about what they need to do to pass through it, when information can be supplied to them readily and at very little cost as a result of today's electronic miracles?

The Deputy Speaker (Lord Duncan of Springbank) (Con): For noble Lords' information, the next three speakers will be the noble Lords, Lord Adonis, Lord Blencathra and Lord Cormack.

Lord Adonis (Lab): My Lords, I agree with every word that the noble Lord, Lord Lexden, has said, with the noble Lord, Lord Rennard, and with the very eloquent speech by the noble Lord, Lord Woolley. The Minister said that the House of Commons had given a view on this, but it is perfectly reasonable and normal for us to ask it to think a second time on issues where we believe that there is a very strong public interest, particularly constitutional issues, since we are a constitutional safeguard. There are not many others in our system. One is the courts, and we have heard from a former Lord Chief Justice, who also spoke extremely eloquently about the composition of the Boundary Commissions. When a former Lord Chief Justice raises concerns about possible gerrymandering of the Boundary Commissions, we should take note.

For all the reasons that have been given so far, the issue of engagement of young people in our democratic system is fundamental. It is not a peripheral issue for the future of this country, and it is all the more fundamental because of the current evidence of massive underregistration of young people. The noble Lord, Lord Woolley, spoke with great passion about how ethnic minority groups are even more underrepresented than young people at large. The evidence is that in the 2017 election, only 64%—not even two-thirds—of 18 to 24 year-olds were even on the electoral register, so the rest were not even able to participate unless they went through the laborious process of registering themselves during the election. Many would then have missed the deadline, and I had not even thought about the very powerful point made by the noble Lord, Lord Rennard, that if they are not on the electoral register, they are not available for jury service either. All these attributes of citizenship, which are fundamental to the future of our democracy, they are not engaged in.

Only 64% being registered is a huge condemnation of the status quo. The Minister cannot say that the system works and therefore, "if it ain't broke, don't fix it". The system is fundamentally broken, and not because of changes that go back a long time and which are hard to tackle but because of the introduction of individual registration, a reform introduced only six years ago, and which was itself, in respect of young people, unnecessary because, as the second aspect of this amendment which the noble Lord, Lord Lexden, referred to, makes clear, we know who all the 16 year-olds in the country are. It is not a mystery. They all get a national insurance card. The state thinks that it is important for them to be registered for taxation, but not to be registered to vote. These are fundamental issues, and if we have any role in our constitutional development as a country, we should be drawing them further to the attention of the House of Commons, and we should certainly be putting on the record, as emphatically as we can, that the status quo does not work satisfactorily at the moment.

In the previous two elections, since we have had individual registration playing through, there has been a fundamental underrepresentation of young people, particularly in minority and poorer groups. Also, young people are becoming increasingly politicised because of the scale of the issues affecting them—Brexit, Covid-19 and so on—and as soon as elections come, they suddenly and frantically seek to register. The figures from the

Electoral Commission are that in the general election in 2019, 1.4 million young people registered after the calling of the election, and apparently most of the new registrations on 10 of the 15 days with the highest number of new registrations were of young people at that general election.

The Minister might say that this shows that the system is, to some extent, working, but I do not think that it shows that at all. It shows a massive crisis in registration. When young people realise that they are not registered, some, but only a proportion, take the active steps necessary to correct that in that very short window between the calling of the election and the final date for being able to register. This is not a system that is working, it is one that is fundamentally broken, and one where the remedies are very straightforward. Automatic registration is very straightforward to implement. It could be done immediately and should have been done under this Bill, but the Government rejected it. The further amendment on the paper today, which I absolutely believe that we should carry, would simply draw to the attention of young people that they should be registered.

When there is a fundamental problem of this kind, one does not need to look for the motivation behind it because, in the time that I have been in this House, this is the fourth occasion on which we have addressed the issue of individual registration. It looks very straightforward and clear to me. Not all members of the Conservative Party, but the electoral advisers of the Conservative Party think they have a direct political interest in voter suppression in general and in the underregistration of young people in particular. Looking at the tactics in this populist movement that has been sweeping the United States and Britain, unfortunately the Prime Minister, who is a representative of it—not as bad as Donald Trump but still pretty bad—is perfectly content to resort to such methods so that fewer young people are registered and vote. On all the evidence, that appears to be the case. This makes me, and, I hope, other noble Lords who take these issues to heart, all the more determined that these issues should be aired, not suppressed, and that we should send this issue back to the House of Commons a second time.

Lord Blencathra (Con): My Lords, I just popped in today to see this Bill put safety to bed, having participated extensively in Committee and on Report—speaking on it for far too long, noble Lords may wish to shout. I was therefore surprised to see the amendment in the name of the noble Lord, Lord Woolley, and to hear his speech. I congratulate him on a passionate and thorough speech, but one which should have been made at Second Reading. It was a perfect example of a Second Reading speech, and it would also have gone down perfectly well in Committee.

The noble Lord has apologised to the House for coming to the matter late in the day, as he put it, for which he blamed the pandemic. We have all had to change our modus operandi because of the pandemic, but I cannot imagine why, over the past four months, he was unable to participate in any stage of this Bill, online or in the Chamber. While I participated upstairs in Grand Committee, the noble Lord, Lord Tyler, participated from somewhere in the south-west—Devon, I presume—and many other noble Lords participated online. As a new Member, I made mistakes on the procedures, etiquette and courtesies of this House and had to apologise. I know he has apologised today, but the procedure that he has adopted, coming in with this amendment out of the blue at this late stage, is not the right thing to do in this House. I hope that he has not been used as a Trojan horse by the Liberal Democrats, because this has all the smell of a Liberal Democrat ploy. Someone else moves an amendment, the noble Lord has said that he will not vote on it, but it looks as though the Liberal Democrats will force a vote on ping-pong at this stage.

Irrespective of the merits of the arguments and the passionate speech by the noble Lord, Lord Adonis, we should follow the usual customs and courtesies of this House at ping-pong.

Lord Cormack (Con): My Lords, my noble friend Lord Blencathra makes a very important point, one that was acknowledged in his speech by the noble Lord, Lord Woolley, when he said that he would not be pressing his amendment to a Division. That is right. Reversing that famous quote from TS Eliot's "Murder in the Cathedral", he was doing the wrong thing for the right reason, rather than the right thing for the wrong reason. I have great sympathy with him. We should move on with this Bill now, but we cannot escape facing up to the realities of compulsory registration.

Some of your Lordships may recall the phrase, "no taxation without representation". If you are obliged to have your national insurance number and to pay tax, you should be obliged to be on the electoral register. I would go one step further: I believe in compulsory voting. That does not mean you cannot destroy your ballot paper or write, "A plague on both your houses" on it. I believe it is a civic duty to take part in the electoral process whether by casting or spoiling your vote.

2.30 pm

I understand that the noble Lord, Lord Woolley, will not move his amendment to the Motion. A little bird tells me that it might be moved by the noble Lord, Lord Tyler. I would not support that because it would not be appropriate.

I join in paying tribute to the late and delightful Lord Shutt of Greetland. I had the honour of dining opposite him on the long table in the week before he died. He brought a rumbustious good sense and good humour to our proceedings. As the noble Lord, Lord Beith, said, he will be sorely missed in all parts of the House.

It is important to move on. This is the Parliamentary Constituencies Bill. The other place has considered our amendments. While we should not refrain from playing ping-pong for quite a long time on certain Bills, such as the infernal market Bill, as I call it, in this case we should take heed of what the Commons has said and move on.

The noble and learned Lord, Lord Thomas, also said that he would not put his amendment to the Motion to the vote. However, he raised a very important point on which we should all reflect at some length.

[LORD CORMACK]
The Lord Chancellor is now not really a judicial figure at all, but a political one. The Lord Chief Justice is not. The fundamental point that the noble and learned Lord, Lord Thomas, made at some length and with great eloquence is valid and should be taken on board. However, for today, we should move on.

The Deputy Speaker (Lord Duncan of Springbank) (Con): Are there any noble Lords present who were here at the beginning of this debate who would like to take part at this stage? No? In which case, I return to the list and call the noble Lord, Lord Tyler.

Lord Tyler (LD) [V]: My Lords, before I concentrate on the amendment in the name of the noble Lord, Lord Woolley, I will make some general comments about the Bill. The Government's response to the improvements made by your Lordships to the Bill, with large majorities, has been profoundly disappointing. However, my disappointment will pale into insignificance when many Conservative MPs discover in a couple of years' time just how they have been fooled into thinking that their seats will be unaffected by boundary changes. The most careful independent analysis has demonstrated that the Government's insistence on sticking to the narrow 5% variance in the electoral quota means that some two-thirds of all seats will be changed—all for no real correction of the perceived imbalance. Those MPs will not merely be disappointed; hundreds of Conservative MPs and their constituents will suffer unnecessary disruption. Even more significantly, there will be many blue-on-blue contests for the more winnable new seats in the mid-term of the Parliament, just when the Government is least popular.

As my noble friend Lord Rennard pointed out, Mr Rees-Mogg made no reference to that when, during an inevitably sparsely attended debate, he managed to overturn the improvements passed with large cross-party majorities in your Lordships House. It will be interesting to witness the reaction of his fellow MPs when they realise what he has let them in for. There would be an element of wry amusement for the rest of us if it were not for the avoidable impact on historic, natural and well-established communities. All being well, the political integrity of Cornwall will be protected, but such a desirable outcome will not be guaranteed elsewhere.

This was perhaps the major issue during our debates on the Bill. However, removing some of the other improvements may in due course also be recognised as counterproductive and constitutionally defective. I fear we may live to regret that the House could not endorse the proper concerns expressed by the noble and learned Lord, Lord Thomas, and my noble friend Lord Beith.

I and my colleagues are especially pleased that the noble Lord, Lord Woolley, from the Cross Benches, has tabled his amendment to the Motion on the vital issue of electoral registration. Had this been at a different stage of the Bill, a quartet of senior Members from all parts of the House would have signed it. This is underlined by the strength of supporting speeches on all sides this afternoon. It is particularly appropriate that the noble Lord should lead on this. He has been a powerful champion and campaigner in non-party efforts to get more young people—especially from BAME communities and through Operation Black Vote—to take up their civic responsibilities and rights by registering. He gave evidence on the registration issue to the Select Committee of this House, chaired by our much-missed colleague Lord Shutt of Greetland.

At this point I should say how much I and my noble friends on the Liberal Democrat Benches appreciate the tributes to David from all sides during the Commons debate and again this afternoon in your Lordships' House. After a lifetime of principled devotion to this cause, his sincerity and clear advocacy of these practical steps towards a more comprehensive democracy shone through during his successful speech on Report.

As the noble Lord, Lord Woolley, and others have emphasised, this modest proposal would give practical effect to the aims to which Ministers have committed themselves. Without this kind of simple administrative adjustment, there is a real danger that the missing millions of unregistered young citizens will remain outside the system.

Ministers have reminded us that registering to vote is a civic duty. Unlike voting, which is entirely voluntary in Britain, co-operating with the registration process is a legal obligation unless the eligible citizen has a specific reason to be exempted. As my noble friend Lord Rennard reminded the House, the register is used to select for jury service. That is an important civic responsibility, which is not entirely voluntary. Failure to co-operate can lead to a fine of £1,000.

This proposal is not a form of automatic registration. Despite the support of the noble Lord, Lord Cormack, it is not on the table for decision today. However, if the Government continue to block sensible ways to maximise registration, it could be argued that they are in a sense condoning law-breaking.

It has been clearly indicated that many of your Lordships on all sides of House wish to support this simple improvement. Therefore, if the noble Lord, Lord Woolley, is not able to move his Motion E1 to propose Amendment 8B in lieu, I should be happy to do so and to seek the opinion of the House at the appropriate moment.

I again pay tribute to all who have helped to ensure that your Lordships' House has fulfilled its proper scrutiny function. This includes the Minister, the noble Lord, Lord True. As I have said previously, that is the fundamental right and responsibility of this House, not least when MPs and the governing party may need the corrective of relatively dispassionate, non-partisan and independent scrutiny on electoral law. We do not have the same special interests to declare as they have, which could take them into very unfortunate realm of special pleading, as the noble and learned Lord, Lord Thomas, made apparent.

Finally, I put on record on behalf of the Liberal Democrats, particularly all those who have worked on the Bill, our thanks and admiration for all those who have assisted the House, not least our excellent legislation adviser, Sarah Pughe. I thank the two Ministers and their team, the Public Bill Office and other officials of the House, as well as Members from all sides who value the integrity of the democratic process. I add

thanks to those academic experts who gave us all such well-researched, non-partisan advice through all stages of the Bill.

Baroness Hayter of Kentish Town (Lab): My Lords, this has been a useful debate on some important amendments, which were agreed by your Lordships' House but which, in their complete lack of wisdom, the Government chose to overturn in the Commons—and two of which, rightly, have merited special attention today.

I am grateful to the noble and learned Lord, Lord Thomas of Cwmgiedd, and the noble Lord, Lord Woolley of Woodford, for tabling their counter-propositions. The former made a persuasive and constitutionally important case, to which I will return.

Before doing so, I would like to add my tribute to the late Lord Shutt of Greetland. His contributions on 8 October were, sadly, his last in this Chamber. His untimely death was of course a shock, but it is somehow fitting that that last speech was on expanding voter registration and encouraging people to engage in the democratic process—a cause which, as we have heard, he had championed for years, and one which the Government should take up with more than just warm words. If the future of our democracy is to mean anything, it will be through the full involvement of all our citizens in elections, be they at local, regional or national level.

The noble Lord, Lord Cormack, made reference to "no representation without taxation". I very gently point out that his party wants to extend representation without taxation by extending the right to vote to people who left this country maybe 40 or 50 years ago and have long since ceased to pay tax. But that is not on the agenda today.

I am saddened, although not surprised, by the Government's rejection of all five amendments. Far from making the Government's life difficult, they sought to address genuine concerns in a constructive manner. I particularly regret the lack of a bit of greater tolerance, which would, as the noble Lord, Lord Tyler, said, have helped even Conservative MPs—but it would particularly have helped those who are drawing lines round the valleys and mountains of Wales to have seats that had coherence for the Member seeking to represent them.

However, it is clear that there is not a mood for compromise, regardless of the merit of our arguments. To borrow a famous phrase, you can lead the Minister towards a sensible position but, unfortunately, you cannot make him adopt it—or, at least, not now.

One of the major arguments that we had with the coalition Government, which of course included the Liberal Democrats as well as the Minister's own party, was over the reduction in the number of MPs from 650 to 600, despite the population having grown and despite almost the same number being put into your Lordships' unelected House at the same time. We warned the two parties then and we voted against them, but they were determined. So I am delighted that they have now seen the sense of our arguments. Welcome to our viewpoint—and perhaps in due course they will see the good sense behind Amendments 1, 2 and 7.

In particular, given the cogent arguments, and the concern of this House, we had hoped in all sincerity to see some movement on the amendment proposed by the noble and learned Lord, Lord Thomas of Cwmgiedd. Given that Parliament will no longer have any backstop role over boundaries, the independence of commissions —which will no longer be advisory; they will effectively be law-makers—is even more vital. The noble and learned Lord sought to depoliticise, and therefore legitimise, the appointments process.

The Government's position is a little concerning. It is true that some might be comforted by the departure of certain personnel from No. 10; nevertheless, the only true guarantee of independence is a transparent process guaranteed in law. Indeed, dealing, as we are, with this issue just at this moment, or, in the words of the noble and learned Lord, Lord Thomas, in the times in which we live, when others such as Peter Riddell and the noble Lord, Lord Evans, have questioned how supposedly independent appointments are actually made, a very clear signal in this Motion that no elected politician would have any say would have been warmly welcomed.

2.45 pm

The noble and learned Lord's proposal—that appointments should be made by the Lord Chief Justice of England and Wales, rather than by the Lord Chancellor —is an obvious way of ensuring and demonstrating the required independence. As he set out, given that the old rules were made when the Lord Chancellor was a Peer—and thus had absolutely no personal interest in the boundary of any seat—and a senior lawyer with other roles in judicial appointments, bringing today's Boundary Commission appointments in line with other such appointments would have made absolute sense. The involvement of an elected MP, possibly a non-lawyer, in a role historically held by a non-elected senior lawyer simply does not make sense.

Again, sadly, we have to recall that the Government's record in the vow of their recent Lord Chancellor—nothing to do with today's—to uphold the rule of law was somewhat undermined when the judges were attacked over Brexit and the then incumbent failed to rally to their support. As the noble and learned Lord, Lord Thomas, said, the current Lord Chancellor has stated that

"the roles of constituency MP and Lord Chancellor are separate and the Lord Chancellor will always have to act consistently with public law principles".

I hope that that will indeed be the case when the new appointments are made, but I still regret the Government's failure to accept Motion C1.

The Motion in the name of the noble Lord, Lord Woolley, is surely sensible, and is hardly in conflict with any government policy. It aims to provide information on voter registration to new recipients of a national insurance number. It could not be easier and, as the noble Lord, Lord Woolley, said, it is the right thing to do. Further, as the noble Lord, Lord Lexden, said, it is cheap—in fact, it is probably free. The text drops the original provision for automatic registration but would achieve some of that by "catch them early and then keep them".

[Baroness Hayter of Kentish Town]

As has been said, participation is the lifeblood of any democracy. The Prime Minister may have struggled in recent weeks to say that every vote in a certain election should be counted, but I think that the overwhelming majority of the public takes that for granted. As the noble Lord, Lord Woolley, said, regardless of age, ethnicity or any other circumstances, everyone deserves a voice. I go further: we need to hear those voices. We should all be worried that there are groups in society, predominantly of course the young and BAME people, whose voices are not heard. They are disproportionately absent from our elections and then, I fear, sometimes from the policies that shape their lives.

There really is no reason why the Government should not accede to this amendment, unless they have some very good new initiatives that are about to be announced, or a more suitable way of achieving the same end. This would be just one step towards increasing registration but it would be helpful and, as we have said, could be done at no cost.

As I have said on other amendments and other ping-pongs, it is actually the Government, not the House of Commons, whom we are seeking to persuade. I am certain, by the way, that on a free vote this amendment would have been passed overwhelmingly in the other House, although of course on a whipped vote the original amendment was overwhelmingly defeated. So sending it back, when the whip in the Commons remains, would, I fear, achieve absolutely nothing, except perhaps some publicity for Liberal Democrat newsletters—but, seriously, no more than that. They know it and we know it—it would be back here tomorrow afternoon if we are sitting, and, if not, presumably on Monday: that sort of timing.

My plea to the Minister is to take up the suggestion, if not in legislation then in actuality, because it does not need an Act of Parliament to do what the noble Lord, Lord Woolley, has asked. Ultimately, progress can be secured only with the support of the Government. Passing an amendment today that would be overturned in hours would simply give false hope to those who seek this change. However, more worryingly, it would be defeated down there, and that would be the worst thing to happen. For this suggestion—that all people getting their NI number should be told about how to vote—to be rejected by the House of Commons would not further the cause, contrary to what the noble Lord, Lord Beith, said; it would make it look as though it might be stopped. That would be regrettable for those who support the cause—we all want this to happen—and it would not help.

Lord True (Con): My Lords, I thank all noble Lords who have contributed to this debate. My brief rather optimistically said "this short debate". In fact, it has not been a short debate because it has been an important one. Perhaps at times, as someone said, it has strayed a little closer to Second Reading than consideration of Commons Reasons, but I fully understand the passion and commitment with which all noble Lords have spoken on the amendments they are concerned with, including, of course, the noble Lord, Lord Woolley.

Not to waste time, I turn to the two amendments before us. They are in the names of the noble and learned Lord, Lord Thomas of Cwmgiedd, and the noble Lord, Lord Woolley. As we know, the amendment in lieu tabled by the noble and learned Lord, Lord Thomas, relates to the role of the Lord Chancellor in appointing deputy chairs of the Boundary Commissions and proposes that the Lord Chief Justice appoints them rather than the Lord Chancellor. Some people have expressed concern about the nature of the Lord Chancellor, including the noble Baroness opposite, but I must remind her that it was her party which so sadly removed the Law Lords from your Lordships' House, to its great detriment. Indeed, that created the nature of the Lord Chancellor about which she complains today. It was a creation at the back of a press release by the Labour Government. This is something that we have to deal with and people with the integrity of my right honourable friend the current Lord Chancellor are seeking to deal with it.

The noble and learned Lord, Lord Thomas, provided us with some questions and I undertook to answer them. However, the noble Lord read out the questions and the answers that we had provided. I shall not go through them all. The record is there in *Hansard*, but I will repeat that the Lord Chancellor has confirmed that the roles of constituency MP and Lord Chancellor—and indeed any other Minister—are separate and that the Lord Chancellor will always have to act consistently with public law principles in making this or any appointment.

As for whether it is susceptible to legal challenge, as the noble and learned Lord, Lord Thomas of Cwmgiedd, speculated, the Lord Chancellor's role in making such an appointment is subject to established public law principles and could be challenged by way of judicial review. The noble and learned Lord lamented that. On other occasions I have been urged in this House not to press proposals and propositions that do not allow for judicial review. That is the position and your Lordships must draw your own conclusions.

I was also asked whether it was inconsistent for the Lord Chancellor to have a role in appointments that could involve the selection of one member of the judiciary over another. Indeed, the noble and learned Lord spoke at some length on this question. It is, however, the process currently for the appointment of High Court judges. The reason the Lord Chancellor is still ultimately accountable for senior court appointments is that it was considered sufficiently important for there to be ministerial accountability to that extent. Ultimately, for something so important, ministerial accountability to Parliament is of great importance. The same could be said of these appointments.

The noble and learned Lord referred to a letter that he had received from the Lord Chancellor, part of which he quoted. Perhaps with the authority of a Minister speaking from the Dispatch Box, I can read it out as binding on the Government:

"I would like to assure you",

wrote the Lord Chancellor,

"that I will commit to the Lord Chancellor formally conducting the Lord Chief Justice on all future appointments."

My right honourable friend the Lord Chancellor said that he hoped that would provide the noble and learned Lord, Lord Thomas, and the House with the assurance they seek. For that reason, I am pleased to hear that the noble and learned Lord is minded to withdraw his amendment and I hope he will do so.

I return to the amendment tabled by the noble Lord, Lord Woolley. As many noble Lords have said, it is an amendment in lieu to Lord Shutt's original amendment. I will not repeat what I said about Lord Shutt at the start. I offered that spontaneously and I do not think I can do better than that, so I will not reiterate the fine, warm and justified words from other noble Lords in this debate. However, respect for an individual does not necessarily make a case for making law. Respect for an individual and their life's work imposes a sense to remember the witness of that individual and to reflect on the things that they said.

My noble friend Lady Scott of Bybrook and the Leader of the House in another place spoke at length in Grand Committee, on Report and in Commons consideration of your Lordships' amendments. The Government have taken and continue to take action in great detail in this important space of increasing voter registration. Noble Lords who been taking part in these debates will know that I have said that the House will have the opportunity to return to debate electoral issues such as this again when parliamentary time allows. I cannot make any promises, but it is legislation that I hope will come sooner rather than later.

We do not see this amendment as necessary. While the Government agree that the completeness and accuracy of the electoral registers is critical and have set out on numerous occasions the work we are doing, we do not believe that the amendment is necessary. We have introduced online registration, which has made it easier, simpler and faster for people to register to vote. It can take as little as five minutes. We are liberating more time for EROs, on whom the statutory responsibility for maintaining complete and accurate registers lies, to have more time to do their jobs efficiently and effectively, including making changes to the annual canvass. Improvements have been made and will be made in legislation in future Sessions. Scepticism was expressed about that sentiment but it is important to note that recent elections have been run on the largest ever electoral registers.

Although I have not yet had the opportunity to discuss the matter with the noble Lord, Lord Woolley, I told him at a meeting we had on Tuesday—which I greatly appreciated and the Government look forward to working with him in future, as he asked for in his speech—that when a national insurance number is issued, the individual receiving it is informed that they can use the number to register to vote. That happens now. Could this wording be made clearer? I am sure it could. I can confirm that officials are already working with their counterparts across government in DWP and HMRC to see what can be done.

However, I do not believe that this requires a statutory amendment at this late stage; it can be done through non-legislative means. Obviously, the Government will report back on the progress of that consideration: if not, we will no doubt be probed in future electoral registration in this matter. I hope, in answer to the noble Baroness opposite, many of whose remarks towards the end of her speech I agreed with, that it is possible to take this forward through non-statutory means. I hope we will do so, having put that on the record in your Lordships' House.

I hope we will not have a Division on this. As my noble friends Lord Cormack and Lord Blencathra reminded us, it is not the manner in which your Lordships normally operate at this late stage. I was surprised, therefore, to hear the intervention from the noble Lord, Lord Tyler, who had not had the kindness to inform me, as Minister responsible, that he was proposing to do this—I use the word "kindness" rather than another. I wonder whether the noble Lord had an IT problem when it came to tabling his own amendment. I am not following my noble friend Lord Blencathra's speculations, but it is interesting that this action is coming from the Liberal Democrat Benches. It is an unusual action in this House to deny permission to a noble Lord wishing to withdraw his amendment. Surely, it is all the more unusual at this very late stage on a new amendment.

The House is facing great difficulties in conducting business in a hybrid way during the coronavirus crisis. It appears that all sides are behaving with great patience and restraint and deserve the highest praise. I believe that this is surely an occasion for restraint. The noble Lord, Lord Woolley, has asked to withdraw his amendment, and in all respect to him, I believe that he should be allowed to do so. The Boundary Commissions, as my noble friend Lord Cormack said, need to start their work; the elected House wishes them to start their work. The last review was delayed by the Liberal Democrat Party, as we know, and I hope it is not going to be a case of "Here we go again."

I do not believe that there is any reason for further delay and I remind the House that, under the Bill, the review that we in this House and the other place are endorsing will be based on the number of electors, including attainers, on the electoral registers as at 2 March 2020, so it will not be possible for the Boundary Commissions to take into account any changes to registration levels after that date for the purpose of the 2023 review. Therefore, the amendment would, in any case, be ineffective in acting on the review before us. I sincerely hope, in these circumstances, saying as I do that we will give the highest respect, now and in future, to the sentiments expressed by the noble Lord, Lord Woolley, and others, that the noble Lord, Lord Tyler, will not take the exceptional action he proposes in denying permission to withdraw.

Throughout the passage of the Bill, noble Lords from all sides of the House have provided invaluable scrutiny and, in one respect at least, a major improvement through the amendment pressed by my noble friend Lord Young of Cookham. They have provided invaluable scrutiny and expertise, which we will carry forward when we consider electoral legislation in Sessions to come. The Government have listened to that advice and the Bill has been amended, as I said.

While we have not always agreed on the detail, this has been a novel experience for me: it is the first Bill that I have had the opportunity—the honour, I should

[LORD TRUE]

say—of taking through your Lordships' House. I thank all noble Lords who have taken part and tabled amendments for the brilliance and, often, the brio with which their arguments have been put. The word "passion" has been used, and I accept that word. In particular, I thank the noble Baroness, Lady Hayter, and the noble Lord, Lord Lennie, and the noble Lord, Lord Wallace of Saltaire, and his team for the constructive and courteous way we have gone about things. It has meant a lot to me personally, and it has been extraordinarily helpful, productive and reflexive in carrying our public debate forward. Like others, of course I thank all the officials involved, and particularly my own Bill team for the prompt service they have given us all.

The legislation will allow the Government to deliver a manifesto commitment to updated and equal parliamentary boundaries to ensure that every vote counts the same. Current boundaries are horribly out of date and there is no time for delay. It is surely time, as my noble friend Lord Cormack wisely urged, that the Bill now passes and the Boundary Commissions will be able to begin their next review without further delay and finally have constituencies that are updated and reflective of the past two decades of demographic change.

Motion A agreed.

Motion B

Moved by ***Lord True***

That this House do not insist on its Amendment 2, to which the Commons have disagreed for their Reason 2A.

2A: Because the Commons consider that eight years is a balanced and appropriate approach to ensure that parliamentary constituencies are updated sufficiently regularly.

Motion B agreed.

Motion C

Moved by ***Lord True***

That this House do not insist on its Amendment 6, to which the Commons have disagreed for their Reason 6A.

6A: Because the Commons consider that the existing public appointments system and the requirements of Schedule 1 to the Parliamentary Constituencies Act 1986 are sufficient.

Motion C1 (as an amendment to Motion C) not moved.

Motion C agreed.

Motion D

Moved by ***Lord True***

That this House do not insist on its Amendment 7, to which the Commons have disagreed for their Reason 7A.

7A: Because the Commons consider that the existing law on this matter is sufficient to ensure equal parliamentary constituency boundaries.

Motion D agreed.

Motion E

Moved by ***Lord True***

That this House do not insist on its Amendment 8, to which the Commons have disagreed for their Reason 8A.

8A: Because the Commons consider the Government has provided sufficient explanation of appropriate action the Government has taken and is taking to improve the completeness of the electoral registers.

Motion E1 (as an amendment to Motion E)

Moved by ***Lord Tyler***

At end add "and do propose Amendment 8B in lieu—

8B: Insert the following new Clause—

"**Improving completeness of electoral registers for purposes of boundary reviews**

(1) Within a year of this Act coming into force, the Secretary of State must lay before Parliament proposals for improving the completeness of electoral registers for purposes of boundary reviews.

(2) The proposals in subsection (1) may include requirements for the Department for Work and Pensions to notify individuals of the criteria for eligibility to vote and of the process for making an application to join the register when they are issued with a new National Insurance number, and to encourage them to do so.""

3.07 pm

Division conducted remotely on Motion E1 (as an amendment to Motion E)

Contents 129; Not-Contents 276.

Motion E1 (as an amendment to Motion E) disagreed.

Division No. 1

CONTENTS

Addington, L.
Adebowale, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Boothroyd, B.
Bowles of Berkhamsted, B.
Bradshaw, L.
Brinton, B.
Bruce of Bennachie, L.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Cameron of Dillington, L.
Campbell of Pittenweem, L.
Campbell of Surbiton, B.
Carlile of Berriew, L.
Chidgey, L.
Clancarty, E.
Clark of Calton, B.
Clement-Jones, L.
Cohen of Pimlico, B.
Cooper of Windrush, L.
Cotter, L.
Coussins, B.
Cromwell, L.
Desai, L.
Dholakia, L.
Donoughue, L.
Doocey, B.
D'Souza, B.
Featherstone, B.
Field of Birkenhead, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Goddard of Stockport, L.
Greaves, L.
Grender, B.
Grey-Thompson, B.

Hamwee, B.
Harries of Pentregarth, L.
Harris of Richmond, B.
Hollins, B.
Humphreys, B.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jolly, B.
Jones of Cheltenham, L.
Kerslake, L.
Kilclooney, L.
Kramer, B.
Lee of Trafford, L.
Ludford, B.
Mackenzie of Framwellgate, L.
Mair, L.
Mallalieu, B.
Marks of Henley-on-Thames, L.
McNally, L.
Meacher, B.
Neuberger, B.
Newby, L.
Northover, B.
Oates, L.
Paddick, L.
Palmer of Childs Hill, L.
Pannick, L.
Parminter, B.
Pinnock, B.
Prashar, B.
Purvis of Tweed, L.
Randerson, B.
Razzall, L.
Redesdale, L.
Rennard, L.
Ricketts, L.
Roberts of Llandudno, L.
Scott of Needham Market, B.
Scriven, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Smith of Finsbury, L.
Smith of Newnham, B.
Somerset, D.
Stern of Brentford, L.
Stern, B.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taverne, L.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thurso, V.
Tonge, B.
Tope, L.
Trevethin and Oaksey, L.
Truscott, L.
Tyler of Enfield, B.
Tyler, L.
Verjee, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Watkins of Tavistock, B.
Wheatcroft, B.
Willis of Knaresborough, L.
Wills, L.
Wrigglesworth, L.
Young of Hornsey, B.

NOT CONTENTS

Aberdare, L.
Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Anderson of Ipswich, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Astor, V.
Balfe, L.
Barran, B.
Barwell, L.
Bates, L.
Bellingham, L.
Berridge, B.
Bertin, B.
Bethell, L.
Bhatia, L.
Bichard, L.
Black of Brentwood, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Brabazon of Tara, L.
Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Broers, L.
Brookeborough, V.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browning, B.
Brownlow of Shurlock Row, L.
Buscombe, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Caithness, E.
Callanan, L.
Carey of Clifton, L.
Carrington of Fulham, L.
Carrington, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colgrain, L.
Colwyn, L.
Cork and Orrery, E.
Cormack, L.
Courtown, E.
Couttie, B.
Cox, B.
Craig of Radley, L.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
Dannatt, L.
Davies of Gower, L.
De Mauley, L.
Deech, B.
Deighton, L.
Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dunlop, L.
Eames, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Fall, B.
Faulks, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Fox of Buckley, B.
Framlingham, L.
Freud, L.
Freyberg, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garnier, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Glendonbrook, L.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Goschen, V.
Grabiner, L.
Green of Deddington, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Hammond of Runnymede, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayman, B.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Hogan-Howe, L.
Hogg, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Houghton of Richmond, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Bethnal Green, B.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Janvrin, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Maginnis of Drumglass, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
Masham of Ilton, B.
Mawson, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Morrow, L.
Moylan, L.
Moynihan, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Loan, B.
O'Neill of Bengarve, B.
O'Shaughnessy, L.
Parkinson of Whitley Bay , L.
Patten, L.
Pearson of Rannoch, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Powell of Bayswater, L.
Price, L.
Rana, L.
Randall of Uxbridge, L.
Ranger, L.
Ravensdale, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ridley, V.
Risby, L.
Robathan, L.

Rock, B.
Rose of Monewden, L.
Rotherwick, L.
Rowe-Beddoe, L.
Russell of Liverpool, L.
Saatchi, L.
Sanderson of Welton, B.
Sandwich, E.
Sarfraz, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Smith of Hindhead, L.
St John of Bletso, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L.
Tebbit, L.
Thurlow, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wakeham, L.
Waldegrave of North Hill, L.
Walker of Aldringham, L.
Walney, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Wilcox, B.
Williams of Trafford, B.
Wilson of Dinton, L.
Wolfson of Aspley Guise, L.
Woolf, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

Motion E agreed.

Heavy Commercial Vehicles in Kent (No. 1) (Amendment) Order 2020

Motion to Approve

3.23 pm

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

That the draft Order laid before the House on 22 October be approved.

Relevant document: 33rd Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, this package of statutory instruments ensures that traffic can be managed effectively in Kent should there be any disruption on the short straits. This project is called Operation Brock.

As noble Lords will be aware, the Government have been working with partners in Kent to continue to develop Operation Brock during the transition period. Brock is a co-ordinated multi-agency response to cross-channel travel disruption, specifically when capacity for heavy commercial vehicles—HCVs—to leave the UK through the port of Dover or the Channel Tunnel is significantly restricted. We are prepared to use Brock should cross-channel disruption occur due to the UK's departure from the EU at the end of the transition period, although it could also be deployed as a result of disruption relating to bad weather or industrial action. These three orders are a vital part of Operation Brock, as they will significantly expand and strengthen the enforcement regime that underpins it.

The first SI—the (No. 1) (Amendment) order—will see the extension of the sunset clause in the Heavy Commercial Vehicles in Kent (No. 1) Order 2019 to 31 October 2021. To give some history: the Heavy Commercial Vehicles in Kent (No. 1) Order 2019 provides powers to direct drivers to proceed to a motorway, removing the vehicle from the local road network, and powers to direct drivers not to proceed to the Channel Tunnel or the port of Dover except via a specified route or road.

The (No. 1) order 2019 also sets out the amount of the financial penalty deposit for offences relating to Operation Brock, and it may be helpful if I briefly explain the roadside enforcement regime. A driver with a UK address who commits a road traffic offence can be issued with a fixed penalty notice, which can be paid immediately or within 28 days. However, if a driver does not have a UK address and could avoid that follow-up enforcement action, the police or the Driver and Vehicle Standards Agency can require the immediate payment of a financial penalty deposit. If a driver cannot pay the deposit, their vehicle can be immobilised. This regime is used for many road traffic offences and ensures that penalties are paid. The deposit for breaching the traffic restrictions included in the other two 2019 orders as amended, and for failing to comply with a traffic officer exercising the (No. 1) order 2019 powers, is set at £300. The fixed penalty notice amount is also set at £300 by the (No. 3) (Amendment) order 2020.

The (No. 2) (Amendment) order is a "made affirmative" order that will extend to 31 October 2021 the sunset clause of the Heavy Commercial Vehicles in Kent Order (No. 2) 2019, which prohibits cross-channel HCVs from using local roads in Kent other than those on the approved Operation Brock routes. To facilitate traffic flow, the legislation also requires cross-channel HCVs to remain in the nearside or left-hand lane when using those parts of the Operation Brock routes that are dual carriageway local roads. Appropriate exceptions to this prohibition have been provided after consultation with the Kent Resilience Forum and freight associations.

Finally, the (No. 3) (Amendment) order has been laid using the negative procedure. This order extends the sunset clause of the Heavy Commercial Vehicles in Kent Order (No. 3) 2019 to the same date as the others, so they will all expire on 31 October 2021.

The amending order further defines the strategic roads which will require HCV drivers to obtain a Kent access permit through the GOV.UK "Check an HGV is ready to cross the border" service before setting off on an international journey via Kent. This amending order would also allow vehicles carrying specific priority goods to obtain a priority goods permit that allows them to bypass the Operation Brock queues. It also clarifies to whom local haulier permits may be issued in line with Kent County Council guidelines.

To summarise, these amending instruments continue the powers from the 2019 orders by extending the sunset clause. These instruments allow for an enforceable border readiness check to be conducted. At the end of the transition period, the UK will become a third country and the customs authorities in EU member states will introduce EU border and customs rules. Traders will need to complete new processes for customs and provide documentation to their hauliers, who will

need that documentation when carrying goods, to enable smooth movement across the border. The border readiness checks will look to see whether a haulier has those documents. This is important because, without the right documentation, drivers may not be able to complete their journey to the EU. The UK port may turn them away if they do not have the required documentation—for example, some of the customs documentation will need to be scanned at the Eurotunnel check-in before the vehicle can board the train.

These orders are vital to sensible traffic management in Kent. It is critical that we demonstrate to the public and to businesses that Operation Brock has been developed and strengthened from the 2019 orders and that it will be ready, fully operational and enforceable on day one should it be needed to deal with the impact of any cross-channel disruption. I beg to move.

3.28 pm

Lord Whitty (Lab) [V]: My Lords, I thank the Minister for her words. She made it sound as if these amending orders were a relatively straightforward way of dealing with the post-Brexit situation but, taken together with everything else we know, it conjures up something closer to a hard border in Kent than the free, frictionless trade we were promised after Brexit.

I have four areas to raise with the Minister but, when she winds up, can she first indicate whether any of this is likely to be included in any trade agreements that might be reached within the next few days? Rumour is that there is a specific sub-agreement on road haulage that might make life a bit easier than what she has described when Operation Brock would be needed.

The first point I want to raise is on guidance. Over the weekend, I tried to read the Government's 24-page guidance for hauliers and commercial drivers. It is not an easy read or particularly user-friendly, but it is better than the 262-page document they issued the previous month. However, it is not comprehensible at a glance. What efforts have the Government made to ensure that information is communicated to haulage offices and to individual drivers, who themselves may be of multiple nationalities, in a form that is easily comprehensible? What is surely needed here at this late stage is a user-friendly handbook, plus perhaps an electronic equivalent. Can the Minister report on discussions with the industry and the trade unions on a short, easy-to-read guide for hauliers and drivers to understand?

Secondly, on the related point of enforcement, failure to produce correct documents will fall on individual drivers who may have their vehicles demobilised or turned back, and who may themselves be fined £300, as the Minister explained. My point is that the penalty should surely fall on the company, which has the legal responsibility for documentation, not on individual drivers. It is surely wrong to penalise the worker or subcontracted driver for the failures of the haulier's administration. Has any discussion on this arrangement involved the trade unions representing drivers? I understand that the Minister's colleague, Rachel Maclean, told some of our colleagues that she would meet Unite the Union but that, as of this morning, no such meeting has yet been arranged.

The majority of drivers employed by foreign and British hauliers operating on the cross-channel routes are not British nationals; many are, of course, eastern European. There is a difficulty not only of communication but, potentially, of collecting any fine if it falls on the driver and not the company. There is another problem here as well. There will be a need to differentiate drivers and trucks of different nationalities. I understand that there will be an electronic system, which is not completely working properly. It will be able to do so to a degree, but what then happens? For example, trade between Ireland and the remaining countries in the EU mainly transits via Great Britain, but Irish lorries from an EU member state—Ireland—will presumably have easier access through French and Belgian ports, so should the UK side of this operation not allow them to go through more easily? What arrangements have been made for this Irish trade? Will it be given priority, as would logically be the case? While I am about the Irish trade, what are the equivalent arrangements at Holyhead and Fishguard?

Regarding Operation Brock, traffic management and parking, these regulations imply an enormous operation. They envisage situations where the traffic is either near static or gridlocked. Does responsibility for enforcement and Operation Brock, with traffic management on the M2, M20 and feeder roads, fall on the Kent Police or some new organisation? I understand that document checks will be carried out by DVSA personnel. Is the cost of all this to come out of general taxation or a grant to DVSA, Kent County Council or Kent Police? Does the operation involve customs officers and Border Force staff in checking other aspects of the documentation? What are the additional cost and manpower resources for that operation? It is potentially an enormously substantial traffic management task.

Moreover, how will local commercial traffic which operates only within Kent and south-east England—not in international trade at all—be allowed to proceed and not get caught up in the gridlock of international trade? How, for example, will those lorries given key priority because they are carrying live animals or fresh produce be able to work their way through and who is responsible for seeing that they do? Is that the police or the DVSA, and how will they have the authority to get them through?

Are there systems for communicating severe delays back upstream, so that lorry drivers coming through the country either divert or rest well before they reach Kent, so that the situation does not get worse? I understand that hauliers and Unite the Union have also raised the question of facilities at the lorry parks, where drivers may have to stay for hours, if not days, in some cases, if the situation gets really bad. Frankly, a few Portaloos scattered along the M20 is not sufficient.

Finally, can the Minister clarify something on phasing in? In dealing with traffic coming the other way, into the UK, the Government have indicated that they do not initially intend to impose heavy checks at Dover and that the system will be phased in in five stages. Is there a similar understanding with the EU, or with the French and Belgian authorities, so that there will be a phasing-in of their controls the other side of the channel?

[LORD WHITTY]
If that were the case, it would ease the problem on this side to a degree and much in these orders would therefore not often be needed.

3.36 pm

Lord Bradshaw (LD) [V]: My Lords, building on what the noble Lord, Lord Whitty, has said, a large number of drivers involved in international haulage working for either British or continental companies are saying that if the arrangements in this country for their conduct through it are too onerous, they will opt not to come to Britain and seek work elsewhere. If that is to be the case, it will lead to a crisis in the haulage industry. Drivers will obviously not travel here from Spain with fruit, for example, if they are to be heavily delayed because that will far outweigh the earnings which they would get.

I hope that the Minister will think about the use of traffic officers to enforce very carefully. I remember that when PCSOs were introduced into the police force there was a lot of argument about what powers they had. Bearing in mind the reluctance of government to allocate enough police to roads anywhere, it seems time that the Government faced up to the question of how much power will be given to officers, particularly if they are to undertake duties as envisaged in these instruments.

My major point, and I have told the Minister of this, is that I believe we are in danger of having, virtually, a hygiene crisis along the whole of the routes in and out of the ports. There is already a problem in Kent with a lot of human waste. It is a lot of trouble. Haulage firms have never provided adequate facilities for drivers, as is the case in most other industries, but it is important that these issues are faced. The noble Lord, Lord Whitty, referred to a few Portaloos strewn here and there along the motorways. It is a much more serious problem than that. These people have to be able not only to use the loo but to wash, eat and sleep. The proper facilities will need to be provided, unless the arrangements with the EU are much easier than we believe.

The noble Lord, Lord Whitty, referred to some part of the agreement which might make things easier, but it is a very fragile arrangement which depends on timely arrivals of vehicles at points of departure and their swift clearance away from points of arrival. Unless that is met, after Christmas the Government will be faced with an almighty crisis, which they are going to have to deal with.

3.40 pm

Lord Pendry (Lab): My Lords, I wish to declare a kind of interest in this debate. I am a resident of the Isle of Thanet in the county of Kent, and as such have an interest in some of these important issues, especially those before the House today: the commercial and environmental aspects that impinge on the county of my birth—St Peter's, Broadstairs, to be exact. Some noble Lords will have other, very meaningful reasons for entering this debate, and I look forward to hearing those and, indeed, the Minister's reply to this short debate. As a remainer, I would have hoped that the instruments before us were unnecessary—although there have been traffic problems surrounding the outskirts of Dover for as long as I can remember—but we are where we are.

In this short debate I wish to dwell on the amount of money that has been expended in such a prolific way, reflecting the level of stupidity, when taking these three instruments together, mindful of the fact that no doubt the problems envisaged may never take place at all. I wish to dwell on that narrow yet important part of the instruments before us today. In that regard, I recently asked some Parliamentary Questions of the Minister sitting on the Government Bench today. I was concerned about the costs to the taxpayer that have already been expended in relation to the Manston Airport project. As an aside, I am sure everyone here will know that Manston Airport is the largest airstrip in the country and played a great part in the Battle of Britain in the Second World War.

The Answers to the Questions that I put to the Minister concerning the Manston Airport project were that

"between August 2015 to June 2020, the Department for Transport (DfT) has paid a total of £19.4m for the use of Manston Airfield as a lorry park"—

it might be of interest to noble Lords that not one lorry has been parked at Manston during that period—and that some £10.3 million has been expended

"as part of the EU Exit no deal preparation contingency planning and £9.1m for the use of Manston Airfield for business as usual",

whatever that means,

"and Operation Stack. This has enabled DfT to use Manston Airfield to hold HGVs for traffic management purposes"

in the event of a dispute. Yes, Minister, the money spent is of concern, but imagine the net effect on the villages of Manston, Minster and Monkton, and the surrounding areas, of what they have had to put up with for over a year. What the Minister's department refers to as a temporary backup holding lorry facility causes disruption not only to the villages mentioned but to traffic generally. The department described the measure as temporary—needed for a period of six months based on current planning, it was said—when in fact it has been going on for some 18 months.

That is not the end of the disruptions taking place for those people: there is also the extra cost of floodlighting, security and road diggers, while the entire airfield has been covered in cones for months for no obvious reason. For those reasons, I hope the Minister will respond and give some very good explanations for why so much money has been expended unnecessarily on these projects.

3.45 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow the noble Lord, Lord Pendry, who obviously knows what he is talking about and speaks with great local knowledge.

I thank my noble friend for setting out these orders so clearly, but they raise concerns. In effect, they extend the sunset provisions from the end of this year to the end of October 2021. I have various questions for my noble friend based on the Explanatory Memoranda for the orders. First, the orders refer to a position where in January it seems about 60% of the normal flow will be unimpeded—the memorandum states that

that is about 6,500 vehicles—but that rises to 7,000 in February 2021. I wonder why it rises; is that because of increased usage in February?

Nothing is said beyond February 2021, but the sunset provision lasts until October. Is it anticipated that this will continue until October, and is there any assessment of what its impact is likely to be thereafter? Presumably, if it is extending until October 2021, there must be an anticipation of delays throughout that time. The orders talk of a risk of some additional friction at the border, at least initially. I appreciate that, but it seems to be quite some friction if it is going on for nine months plus—10 months, in fact.

I want to ask my noble friend about local involvement. It is to be welcomed that the Kent Resilience Forum is central to the implementation of the orders, but I wonder how it is being engaged. How often does it meet the ministerial team? When was the last time they met so that some of the forum's local knowledge could be made use of and the ministerial team was made truly aware of the impact that this is going to have in Kent?

With regard to the implementation locally of Operation Brock, how many staff have been recruited, what training has been put in place for them and, importantly, who is paying for those staff? Like the noble Lord, Lord Whitty, and others, I am concerned about the lavatory and washing facilities that are going to be made available. It is so important that we have proper hygiene facilities. As can be appreciated at the moment, this is something that everyone is rightly going to be concerned about. Could my noble friend expand on what proper facilities are being provided for the 6,500 vehicle drivers anticipated in January and the 7,000 anticipated in February?

It is not just washing and lavatory facilities that are important, important though they are; what about food outlets and so on? I also wonder, given the importance of having the appropriate paperwork, if there is going to be internet access, whether at Manston airfield or anywhere else. If my noble friend could say something about that, it would be appreciated because that point is central.

Are there any special considerations in the Covid pandemic period that have been brought to bear? Obviously, when this was first considered in terms of an earlier possible delay to a Brexit agreement, there was no pandemic. There has been a pandemic since. How has that been factored in? Is the prospect of all those people in close proximity presenting particular problems? How are we addressing that?

Like the noble Lord, Lord Whitty, I am concerned about the position regarding Holyhead and Fishguard. I appreciate that is not directly an issue here but I wonder whether my noble friend can say something by way of reassurance that we are on top of that issue. I know this point came up yesterday at Oral Questions, at least with regard to Holyhead, and it appears that there are some difficulties there too, although perhaps not of the same magnitude. Perhaps she can say something about that.

These orders appear to be specific to Kent. I understand that, but given the impact that all this is having, are we sure that it will not have an impact on the surrounding counties of Essex, Sussex and Surrey, and the capital, London, as well? If not, what are we doing about the position in the adjoining counties and areas? Are we ensuring that there is proper publicity in the surrounding areas—indeed, throughout the country—so that people travelling to Kent will be aware of the problems involved in doing so, particularly close to Dover, Ashford and so on? There are many considerations, and I appreciate that my noble friend might not have answers to all the questions. If she does not, I shall be happy to receive a letter from her, with a copy placed in the Library.

3.50 pm

Lord Snape (Lab): I am grateful to the Minister for introducing the orders. However, she did so somewhat blithely, as if these were a couple of routine matters that could swiftly be disposed of—whereas, as my noble friend Lord Pendry outlined, we are talking about events that will have an enormous impact on the county of Kent and elsewhere.

There are also some radical departures from what has been accepted as normal policing in the United Kingdom. I refer the Minister to the explanatory memorandum issued with the orders, and especially to paragraph 6.1, which mentions

"a financial penalty deposit of £300 to be taken immediately at the roadside from a person without a United Kingdom address who is believed to have committed the offence of contravening the new restrictions".

This is a vast departure from our normal procedure. The Police Federation has for many years been emphatic about the police's desire not to be seen as fine collectors on behalf of Her Majesty's Government. I wonder what conversations have taken place with the federation about these proposals. Can the Minister tell us whether there are any other motoring offences that involve the police habitually stopping motorists at the roadside and given them on-the-spot fines? I know that happens in other parts of the world, but it does not happen in the United Kingdom.

Three hundred pounds is a not insubstantial sum. How many lorry drivers drive around the United Kingdom with £300 in their back pocket? Maybe there will be other arrangements. Will Visa be acceptable, or perhaps PayPal? Will people have to use a mobile phone to arrange a transfer from a bank account? Have these proposals, and their impact on the ground, been thought through?

Who will administer all this? The noble Lord, Lord Bourne, spoke about the number of heavy goods vehicles that could be involved under the orders, but when I looked online, the Kent road police unit appeared to consist of about 100 officers. Are they to be deployed entirely on Operation Brock, or are they still expected to carry out their other duties? Has the police and crime commissioner for Kent been consulted about the deployment of the police in this way? The Explanatory Memorandum mentions 5,000 or 6,000 lorries. That will be no small task for police documentation checks. Traffic officers are specifically mentioned in the Explanatory Memorandum, but this is difficult to envisage with only 100 traffic officers. If they are to be deployed entirely on Operation Brock checks, what will happen to road policing generally in that part of the United Kingdom?

The documentation issue was barely mentioned. The Government have talked about recruiting 50,000 extra customs officers to deal with the documents.

[Lord Snape]
Perhaps the Minister can tell us how many of those customs officers have actually been recruited, as we come to finally leaving the European Union.

Her Majesty's Government are supposed to be producing a driver's explanatory handbook to explain all these regulations to drivers. It is going to be in 18 languages. So far, we have not even seen one in English; I cannot speak about the other 17. Can the Minister tell us when this handbook is to be produced, bearing in mind that we are only a few weeks away from its being necessary?

The Road Haulage Association—the very people most involved in these matters—has been fairly scathing about the Government's preparatory work in the run-up to 31 December, recently describing the proposals as "incomplete" and "inadequate", and using terms such as "total incompetence". Those are the RHA's words, not mine. It is not exactly thrilled by the prospect. Have the trade unions—especially Unite, which is responsible for the organisation of lorry drivers in the United Kingdom—expressed an opinion? What are their views about the proposals?

The figure of 5,000 to 7,500 lorries has been mentioned. If I may digress a moment from the actual orders, while remaining on the subject of cross-channel traffic, I can tell noble Lords that 30 years ago, those of us who supported the Channel Tunnel were assured that one of its enormous benefits would be that, for the first time in this small country, there would be the opportunity for long rail freight hauls right across Europe. Many of us looked forward to seeing those trans-European freight trains. But now, 25 years after the tunnel opened, when 1.2 million lorries per year use the Eurotunnel railway merely as a shuttle to get between our country and the continent, how many freight trains are scheduled every 24 hours? Six. There is a slight imbalance there, and given the likely chaos foreseen not just by me but by lots of other people, I hope the Minister and her department will look again at that imbalance between international road and rail freight, and see what can be done.

Funnily enough, the ports of Dover and Folkestone, and many other affected parts of the United Kingdom, were the areas that voted most heavily for Brexit in the referendum. They may find that "getting their country back" means that their county is likely to be choked by a torrent of heavy goods vehicles going nowhere, and their areas will be considerably affected by the carbon deposits that the vehicles will leave. Pollution and congestion could well be the outcome of these two orders.

3.57 pm

Baroness Altmann (Con) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Snape, and I thank my noble friend the Minister for setting out the orders so clearly. I welcome these SIs, and the pragmatic decision to extend the time-limited regulations for a further nine months, especially because there is no clarity at all on our future EU trading relationship from next month onwards, and because of the disruption we have seen over the past few months due to the pandemic. It is inevitable that we must prepare for chaos at our ports from 1 January 2021.

My noble friend suggests that the orders may not, in fact, be needed—but I must confess that I cannot share her confidence. Whatever the outcome of the trade talks, customs declarations will be required for all British-EU trade. Even if we waive rules for the first six months, we cannot know whether the EU will do the same. If drivers do not have the correct import-export documents or customs declarations, they could be fined, and have their cargos seized or even destroyed. These SIs rightly aim to deal with the logistical consequences of the delays that this might cause at the ports and the Channel Tunnel when drivers are in Kent.

Following the traffic chaos that we have seen during 2020 as a result of hold-ups for various reasons at ports on the other side of the channel, these SIs will ensure that Operation Brock traffic controls will be extended. They also introduce some modifications. I welcome the introduction of special fast-track procedures for perishable goods, but I am more concerned about the Kent access permit for heavy commercial vehicles, to allow them to use the A2/M2 or the M20 to get to the Channel Tunnel terminal in Cheriton, or to the Port of Dover. The noble Lord, Lord Whitty, mentioned the threat of £300 fines for those who travel on local roads without a permit. I agree with him that the fine should surely be levied on the company rather than the individual driver.

All of this is certainly not what was promised when Brexit was proposed to the people of this country. Far worse than this, it is now four years since that referendum and a little over four weeks until the transition period ends, yet we are told that much of the detail that operators need for effective planning is not yet complete. I ask my noble friend what the reason for this is and how it is being considered in the current EU negotiations.

These regulations are certainly going to be required according to those directly involved. For example, the operations director of the Customs Clearance Consortium suggested that there was

"more than a 50% chance there will be delays"

on Kent roads as a result of the disruption at the ports. Earlier this month, the Commons Committee on the Future Relationship with the European Union was told by road haulage leaders that there is an 80% chance of "chaos in Kent", as the necessary computer systems, lorry parks and customs agent needed to avoid delays were not yet in place.

I was struck by the observation that Ministers seemed to be relying on

"self-belief in their own rhetoric … that everything will be okay".

Could my noble friend please comment on, for example, remarks by the chief executive of the Road Haulage Association that far fewer than the 50,000 customs agents needed to process the 200 million additional forms generated annually by Brexit are already in place? How many agents does her department estimate are, in fact, in place? If she does not have this, and the other, information I am asking for, please could she write to me? When will the full functionality of the IT systems needed for efficient post-Brexit operations be provided? Do the Government have information on the availability of the heat-treated pallets, which are apparently in short supply but are essential for exports to the EU from January?

I express particular concerns about smaller hauliers, which have limited resources for preparations of this magnitude. Like the noble Lord, Lord Whitty, I also tried to look up the Government's guidance and found it difficult to identify precisely what is needed to ensure readiness. The officials preparing such documentation clearly have a much greater knowledge than those who have never had to deal with customs before because of our free movement rules within the single market and customs union. The Government have always faced significant challenges in communicating policy to the public, struggling to provide user-friendly information.

Once again, I echo the words of the noble Lord, Lord Snape, asking: when will this business handbook that was promised to help hauliers prepare for the radical new systems be in place? The idea that there will now potentially have to be passport-style checks just to get into Kent, and of then having to go through those checks and potentially still queue in giant lorry-holding facilities, is rather shocking. I echo the concerns of my noble friend Lord Bourne and others, and I ask my noble friend what restroom facilities will be available for drivers with delays of many hours. I know that we were told that Brexit would mean an end to free movement, but I do not think anyone ever imagined that that would mean ending free movement inside our own country as well.

4.04 pm

Lord Berkeley (Lab) [V]: My Lords, I am grateful for the opportunity to speak in this short debate, and I congratulate the Minister on at least updating previous documentation and giving us a sight of what will be needed for the next six months or, probably, a year. It is all highly complex, as other noble Lords have said. I declare an interest as a member of the EU Goods Sub-Committee. We have taken evidence from many of the people involved in this flow issue over the last two or three weeks, including Unite the Union and many of the business groups whose members get involved in it.

The situation is really serious, from what I understand. I shall not repeat what other noble Lords have said, but I hope we will get a comprehensive response from the Minister when she winds up—or at least she could, perhaps, write to us afterwards. I have always thought that one of our problems is that we spend a lot of time talking—quite rightly—about what is going to happen in Kent, but very little time talking about what is happening on the other side of the channel. That is before we even get to the Northern Ireland/Republic of Ireland situation.

We recently took evidence from the Port of Rotterdam and the Port of Calais. They were very polite about us, as you would expect, but I got the distinct impression from the representative of the Port of Rotterdam that they thought that everything on their side of the water would be all right, but they did not have much of a clue about what will happen on our side. The message they were getting from their colleagues was that the situation was—shall we say—confused. They probably would have been rather ruder if they had not been giving evidence to our committee.

On that issue, perhaps the Minister could explain the location of the controls between Dover and Calais. This applies to trucks going in both directions. We have heard that the French immigration—or emigration—people will deal with the drivers' DIT work before they get onto the ferry. However, we then heard that, in fact, the French customs and immigration people would deal with incoming freight at Dover. As the Port of Dover told us, there is no room there—that is a minor detail. We need to know where all the different controls will take place and in both directions. That applies if and when Manston and Sevington and all the other places come into force, because of traffic jams. On the Calais side, there is much more space, but I would like to know where every control is taking place there.

This leads me on to a subject on which many noble Lords have spoken: the location of restrooms—some people call them restrooms; I call them toilets. Where will they be? Again, we got some rather sad evidence from Highways England, which is responsible for motorways in Kent. It is good to know that there will be portakabins and good facilities in Sevington and Manston, but the problem is that, going down the motorway, there are four lanes on the M20 and there might be a situation where there are two lanes in one direction and two lanes in the other, but it is difficult to know where you could put even a portaloo down there. You cannot really put them on the verge, because people will stop on the hard shoulder and, when they are moving, that is highly dangerous. Of course, once they have stopped and there is a traffic jam that lasts for goodness knows how many hours, where will the facilities be? It is very hard to solve, unless portakabins are to be airlifted in, which sounds pretty stupid. We need some answers

My second question for the Minister is about enforcement, mentioned by my noble friend Lord Snape. When stopping a truck, or even going up to a stopped truck, and dealing with the kind of fines mentioned by my noble friend—the £300 and everything—the first question is: who is liable to pay it? Is it the driver? Is it the forwarder? Is it the owner of the goods, the owner of the tractor unit or the owner of the trailer? All of these could well be different people. How long does it take a police officer to administer a fine or a charge? As my noble friend said, £300 is a lot of money. Where are they going to stop the trucks to do it? I do not know whether the Minister has an answer to this question, but I suspect that the answer is that this will not be done—they cannot do it because they do not have enough people. Then, we will get into a really chaotic situation.

I echo previous noble Lords in saying that we have known about this for four years. We had hoped that the single market would allow a freer flow of goods, but there were going to have to be some checks somewhere. There will be checks not just at Dover and the Channel Tunnel but at ports all the way up and down the country, to which drivers may well want to divert to avoid reported jams at Dover and the Channel Tunnel. Are we in a situation where we are going to get chaos everywhere? If so, it is we and our businesses who will lose out.

From having talked to many of the firms involved, I know that, in spite of the fact that we may have 80% of the drivers and trucks coming from eastern Europe and being driven for eastern European companies, if

[Lord Berkeley]
they get held up too much, none of the people or customers will want to try that again. As a consequence, the big and small firms that use these services to move their goods across borders several times in the course of manufacture may well say, "Enough's enough, we're going to move it all to the continent". I hope that I am wrong, but we have to get this right, and at the moment the industry clearly does not think that we have. I look forward to the Minister's response.

4.11 pm

Baroness Wheatcroft (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Berkeley, who asked some very pertinent questions.

I thank the Minister for introducing these statutory instruments, which are clearly necessary. She explained them clearly; nevertheless, they will not ease the concerns of the nation's hauliers, who are still in doubt about what their position will be at the end of the year. Can the Minister tell them, for instance, whether they will need ECMT documentation? If so, we have a major problem, since only a fraction of our hauliers would be able to collect such documentation.

Other noble Lords have spoken about the problems that we will have under these arrangements and the new proposals. I have grave concerns about the impact that all this will have on Kent, a county once renowned as the garden of England. I declare an interest: I have a house on the Kent coast. I am therefore very familiar with the weight of freight traffic, which pounds up and down Kent's road network.

Operation Fennel is the Government's plan to provide —[*Inaudible*]—for up to 7,000 lorries in the event of delays at the Channel Tunnel and the Port of Dover. More than—[*Inaudible*]—4,000 provided at what was Manston Airport. The noble Lords who referred to hygiene are absolutely right. The prospect that, very soon, 8,000 drivers could be cooped together in cramped conditions, inevitably mixing with each other, is nothing less than horrifying. A Covid outbreak would be almost certain. Can the Minister say how drivers displaying symptoms would isolate? This would be in a district—Thanet—with the second-highest Covid rate in England. Thanet District Council's director of operational services said:

"An outbreak at Manston would have a significant impact on already stretched services."

Equally, an outbreak at Sevington, where up to 3,400 drivers could be held, could cause—[*Inaudible*.] The nearest hospital, the William Harvey Hospital at Ashford, is already under strain. But Manston has many other—[*Inaudible*.] The A229, a road with no hard shoulder, and other nearby roads are likely to become log-jammed, blocking the road network around both Margate and Ashford hospitals.

But it is not just hospitals that cause a problem. If there is a fire in the area, emergency services could find it almost impossible to get through, given that the planned parking lanes leave little leeway for them to pass. Thanet's council leader has said that a lack of information from the Government on vital issues such as traffic flow proposals is seriously hampering the council's ability to plan how to mitigate the effects on residents. As recently as Tuesday, the council was still waiting for key information, such as an assessment of the traffic movement in the area, analysis of key environmental impacts and comprehensive operational management plans for the lorry parks. Do the Government realise the dangers they risk imposing on east Kent?

Already there have been months of delays on the M20 as—[*Inaudible*]—parking lanes were put up, taken down, and have now been put up again. I do not understand why they were taken down, as at that stage we did not have a trade deal. Surely putting them up once and leaving them there would have been a more sensible and economical decision. The area is now being defaced by the creation—without any public consultation —of a monstrously ugly visible lorry park at Sevington.

The Government seem very loath—[*Inaudible*]—the people of Kent. Recently, they turned the Shorncliffe army camp into a camp for migrants who—[*Inaudible*]—crossed the channel. The local council handled the issue rather more sensitively than the Government, and the local—[*Inaudible*]—welcomed the newcomers. Nevertheless, the lack of consultation is a real cause for concern. Now, without consultation, the area faces the prospect of many thousands of drivers, from all over the UK and Europe, being stranded in cramped, risky and potentially insanitary conditions in an area in which Covid is already rampant. So what alternative plans do the Government have to ameliorate this potentially dire situation? In the event of a Covid outbreak in one of these lorry parks, how would the Government react?

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the noble Lord, Lord Foulkes of Cumnock, has withdrawn, so I call the noble Baroness, Lady Randerson.

4.17 pm

Baroness Randerson (LD) [V]: My Lords, once again we are updating SIs that we dealt with last year. It is worth remembering that at that time the concept of lorry drivers needing a Kent passport was shocking, and that when the Minister was asked whether the timing of the sunset clause was sufficient, we were strongly reassured that it was generous. The first of these SIs extends the sunset clause from 31 December this year to 31 October 2021, so I ask the Minister again if she is convinced that this new date will be long enough. Are the Government convinced that they will not need Operation Brock after next October?

I am comparing the situation in Kent with the crisis the Government are facing in providing lorry parking for Holyhead. It was clear from an Answer given yesterday to a Question that there is no hope of a lorry park near Holyhead being up and running before July. In the meantime, customs clearance processes will take place in Warrington and Birmingham, over 100 miles from the port. This is obviously an open invitation for all manner of evasion of export and import controls. I echo the concerns of the noble Lord, Lord Bourne, about the serious disruption in north Wales, although the *Reasonable Worst Case Scenario* the Government produced seemed to dismiss this entirely.

In September, the Cabinet Office issued a *Reasonable Worst Case Scenario for Borders at the End of the Transition Period*, as I have just said. That estimated

that 30% to 50% of trucks might not be border ready on 1 January and that this would lead to daily queues of 7,000 HGVs in Kent by February. I am assuming that we are now in that worst-case scenario, as we are 36 days away from the end of the transition and there is no deal. We had a taste of this earlier this week when the French border authorities trialled the new passport checks that will be required and five-mile queues of lorries developed on the M20.

So freight operators are being told to prepare for the change, and their very loud response is to ask exactly what kind of change they are supposed to prepare for. A spokesperson for Logistics UK has quite reasonably pointed out that the Government's own hauliers' handbook is incomplete, and press reports suggest it is pretty incomprehensible. As a large percentage of the hauliers crossing via the channel ports are not British, if it is to work, it also needs translation. Do the Government intend to translate the handbook, and when do they expect it to be ready? I am conscious that I have also asked this as a Written Question but I had not received a reply by the start of the debate. I apologise if I have received a reply since it started.

Like the noble Baroness, Lady Altmann, I will take this opportunity to ask about the state of preparedness of the government IT systems for the new border controls and what progress has been made on recruiting the additional staff required. How near the target are the Government?

These orders make some additional amendments to the 2019 orders as well. They modify the approved routes that an HCV can take to the ports and require them to have a Kent access permit when using the local road network. That is understandable as communities in Kent have suffered considerable disruption and inconvenience in the past when there have been short-term problems. The disruption we are discussing here will probably last for some months, of course, and it could possibly be semi-permanent. It will certainly cause supply problems, as an HCV held up on the journey out will almost certainly be delayed on its return, along with its load. So it is regrettable that this is all so close to the wire.

There is an additional specific exception in the Heavy Commercial Vehicles in Kent (No. 3) (Amendment) Order 2020, which goes along with these two, allowing hauliers from east Kent and Faversham to use local roads. Was this the only request for such an exception? As I said when we discussed this issue before, there are bound to be hold-ups for other local commercial traffic simply trying to go about its daily business in Kent.

Retailers and hauliers are particularly concerned about perishable goods, so these orders allow priority to hauliers carrying highly perishable goods, live animals and goods which

"would give rise to a disproportionate economic impact on a geographical area of the UK."

The first two are clear but I wonder whether the Minister can help me with the very strange phraseology of the third exception. It strikes me that this could apply to a very large proportion of lorries. What about steel from south Wales or tinned peas from Lincolnshire? Each of those is very important to the local economy. Forgive me for being sceptical, but this sounds like a last-minute addition put in by a Minister to help a friend.

There is to be a prioritisation site at Ebbsfleet. Can the Minister tell us exactly how that will work? I am concerned that the criterion is that a lorry has to be carrying a single load of fresh or live seafood. Surely the issues about freshness and welfare of animals apply just the same if you have other items in your load as well?

The big pharmaceutical companies are concerned that supplies of medicines and vaccines could well be interrupted and delayed. Can the Minister explain why are they not included as a priority category? The Government apparently do not hold strategic food reserves. Can the Minister tell us what discussions the Department for Transport has had with other departments about shortages of strategic supplies and how they might be minimised?

Finally, I take issue with the Explanatory Memorandum's impact assessment, which must surely go down in history as stretching credibility until it snaps. It says:

"There is no significant, lasting impact on business … the Check an HGV service will have a limited burden on industry once familiarised".

That refers to a required set of documentation that will, according to Sainsbury's, cost thousands of pounds per load. It continues:

"There is no … significant … impact on the public sector."

Tell that to the police or the NHS or the local councils concerned—

Baroness Penn (Con): I am sorry, I have to remind the noble Baroness of the time limit for contributions in this debate.

4.25 pm

Lord Rosser (Lab): My Lords, the orders extend the sunset clauses of existing 2019 orders, as the Minister said, from the end of this year so that heavy commercial vehicles can continue to be regulated by traffic officers in Kent until the end of October next year. That is to keep Operation Brock, which is intended in particular to keep the M20 in Kent open in both directions, on the road in a bid to avoid the consequences of cross-channel travel disruption. The orders also provide for penalties for drivers of heavy commercial vehicles who do not have a valid Kent access permit, and for heavy commercial vehicles carrying priority goods via the Channel Tunnel or the Port of Dover to be given priority when travelling through Kent.

Since we are only just over a month away from the end of the transition period, could the Minister place on record the Government's latest assessment of the likely level of cross-channel travel disruption from the beginning of January, since I assume this is a matter that the Government now keep constantly under review? The Explanatory Memorandum says:

"The Government's reasonable worst-case scenario suggests that there might a freight flow of 60% to 80% of usual volumes at the short Channel crossing in the weeks following the end of the transition period, and that could lead to queues of up to 6,500 HCVs for January 2021 rising to 7,000 in February 2021 in Kent."

What does that actually mean in terms of travel disruption? It also says:

[Lord Rosser]

"The traffic management measures proposed would only be used during temporary activations of Operation Brock".

How often, and in what circumstances, is it expected that Operation Brock will be activated? Is it expected to be activated after February, since the Explanatory Memorandum refers to queues of numbers of heavy commercial vehicles only up to February 2021?

The Government are introducing an online check for heavy commercial vehicle drivers taking goods from this country to the EU, which would enable them to confirm at the point of loading their goods that they had the appropriate border documentation. If so, they would then be advised that they could continue their journey. If they did not have the necessary documentation they would be told not to take the goods until the trader had provided all the relevant documentation. Use of the online check for heavy commercial vehicles will be necessary to obtain a Kent access permit, enabling travel on the M20 or the A2/M2. The Government intend to make the use of this online check mandatory for those travelling through Kent to reduce the number of heavy commercial vehicles coming into the county that were not border-ready to travel from Dover or through the Channel Tunnel.

To what extent do the Government expect the new mandatory online check to reduce the need to use a stretch of the M20 and off-road holding areas in Kent for heavy commercial vehicles waiting to cross the channel? Will it eliminate that need? If not, to what extent will they still be needed, and by a maximum of how many heavy commercial vehicles at any one point? What will be the extent of delays if on-road and off-road holding areas have to be used? How much longer, on average, will it take a heavy commercial vehicle to complete the journey across the channel, once in Kent, than it does now?

If there are to be delays for heavy commercial vehicles in Kent and the need for the use of holding areas, what facilities will be available for use by the drivers of those vehicles from the end of the transition period? Can the Government guarantee now that there will be no issue of insufficient driver welfare facilities, including sanitation, toilets and food, being available from the end of the transition period at the beginning of January? Is it expected that the arrangements provided for in these orders will not be needed at all after the end of October next year, when the orders cease to have effect, or do the Government anticipate having to extend them again?

It is suggested that a reason for delays in Kent could be queues created by extended checking procedures at the port of disembarkation on the other side of the channel, causing blocking back. Is that the case, and by what length of time will journeys for heavy commercial vehicles be extended by new checking procedures at the port of disembarkation on the other side of the channel? Will there be new checking procedures that extend journey times for heavy commercial vehicles travelling in the other direction from France to the UK via Dover or the Channel Tunnel and, if so, will that be as a result of checks this side or the other side of the channel? By how much would journey times be extended on average?

What will be the increase in the number of customs declarations per annum required to be processed in respect of heavy commercial vehicles travelling through Kent en route to the other side of the channel after the end of the transition period, compared with the current annual figure? A question was asked during the debate in the Commons on these regulations about the number of additional customs agents who would be required to manage the increase in customs declarations, but it did not receive an answer. How many customs agents will be required after the end of the transition period, compared with the number needed to handle the current number of customs declarations each year, and how many additional customs agents recruited will be in place from the end of the transition period in some five weeks' time?

The regulations provide for financial penalties to be imposed on drivers who breach these regulations, most of whom will not be residents of this country. Will there be on-the-spot fines payable immediately, or will there be a set number of days in which to pay? Will a breach of the regulations in all or any cases be regarded as a criminal offence? As my noble friend Lord Whitty and others have asked, is it right that a driver should be fined for having incorrect documentation, which is surely the responsibility of the company sending the goods?

The heavy commercial vehicle sector of the road haulage industry has helped keep our country going during the coronavirus outbreak; in particular, in maintaining essential deliveries of food, medical supplies and other goods. We do not want to see this vital sector hit by chaos at, or near, our major points of exit for UK trade in goods at Dover and the Channel Tunnel. I hope that the Government will be able to respond now or subsequently to the many questions and points that have been raised by noble Lords, including me, during this debate, and provide assurances that chaos at our major point of exit for UK trade in goods is not going to materialise.

4.43 pm

Baroness Vere of Norbiton (Con): My Lords, I am extremely grateful to all noble Lords for their contributions to this important debate. I already know that I do not have a hope in answering all their questions. I will therefore deal with as many as I can and, of course, will write on points that I have been unable to cover. I should like to address up front some of the points that noble Lords raised.

This SI covers Kent because it is the area that will be most under pressure, but I reassure noble Lords that we are working closely with local resilience forums at all the major ports. We do not expect levels of disruption to be as significant at those other ports. Indeed, many plans are already being put in place by local resilience forums. We will keep an eye on that but this measure is about Kent. More than any of the others, the short straits is the crossing that is most used. I reassure noble Lords that the Kent resilience forum liaises closely with surrounding counties. It is not just about Kent but about movement of traffic that is sometimes a significant distance away. The Kent forum liaises with the surrounding areas.

A number of noble Lords mentioned the date and whether 31 October is sufficient. We believe it is. It is right to come back to Parliament to seek to extend it. I hope not to be back in October to face the music in your Lordships' House. The purpose of the entire project is to enable traders to have time to adjust to the new customs requirements. Once that has happened and the hauliers know which documents to expect from their traders, this will not be required. You need customs documents at borders in all sorts of places, across the world. This is not a unique circumstance; it is a transition.

This will be activated. The simplest answer to when it will be activated is when it is needed. That depends on the readiness and volume of the hauliers approaching at any time. Many variables will go into the decision by Kent Police to put Operation Brock in place.

Many noble Lords talked about the level of disruption. Our current estimates state that there could be up to 6,500 HCVs in January. Given a slight increase in usage of the crossing in February, if trader readiness does not improve—and I hope it does—the queue could reach up to 7,000 HCVs. These are maximum or reasonable worst-case figures. This is not what we expect or anticipate to happen; it is what we are planning to happen. Our motto in the DfT is to plan for the worst and hope for the best. It is important to recognise that: there will not be 7,000 HCVs parked in Kent, every day, from January to 31 October. It will get better.

I will address the recent disruption in Kent, which I recognise happened, on Tuesday. The French authorities trialling their post-transition boarding systems was one factor, but there was also a power outage at Eurotunnel, which exacerbated the situation and caused delays on the M20. That disruption was contained and further measures were not required.

Local consultation is important, because we all recognise the impact on residents in Kent, which is why we want this to be resolved as quickly as possible. We want traders to be ready and for things to go back to where they were before, when one could get on the Eurotunnel easily and quickly, whether one was a private driver or in a HCV. So we have been in consultation with local people, which is incredibly important. We consulted local people, unions and various stakeholders on the policy changes that are before your Lordships' House today.

Picking up the point made by my noble friend Lady Wheatcroft, the site at Sevington, previously known as MOJO, was put in place using an SDO—special development order. It is a quicker way of getting planning permission. However, even that requires engagement with local residents. There is a 14-day engagement period, when the views of local stakeholders can be gathered. It is important to understand local concerns and to mitigate them where we can. We understand that we probably cannot make everybody 100% happy but, where we can improve the situation, we are committed to doing so. We continue to communicate closely with local residents and businesses.

Also mentioned by my noble friend Lady Wheatcroft was the on/off nature of the barrier in the middle of the M20. The permanent barrier was removed, because it requires a speed limit of 50 miles an hour, which slows down the traffic. We have a much better solution now; we have a monster machine that can move a barrier in place when we need to put a contraflow into action. We do not expect that barrier to be in place most of the time.

A number of noble Lords had questions on fines and enforcement. Basically, if you are stopped as a driver, you will get a piece of paper that says, "You need to pay £300." You will either get a penalty charge notice, which gives you 28 days to pay, or, if you are a foreign haulier, you will get a piece of paper saying, "We want the money now", in the nicest possible way. I reassure noble Lords that fines can be paid by direct transfer or credit card. It is very unusual for cash to be used in these circumstances.

A number of noble Lords also asked why the driver is at fault here. It is because the driver has done something wrong. The driver is not being fined for having incorrect documentation. The driver is being fined for driving on a road that they should not have been driving on. The driver is being fined because they committed the offence.

A number of noble Lords expressed deep concern about the DVSA and whether it would be able to do this. The DVSA does this every day. This is what it does. It does enforcement. It levies fines for various areas including overloads, drivers' hours and construction and use defects. This is what the DVSA does. It takes about 10 minutes to issue one of these fines. and the DVSA is perfectly capable of pulling over a vehicle into a layby.

A number of noble Lords asked which vehicles are included, whether some vehicles would get priority and all that sort of stuff. The noble Lord, Lord Whitty, asked whether we would give special dispensation to vehicles coming from the Republic of Ireland through to the short straits. All vehicles of whatever nationality will be treated equally, whether they start in the Republic of Ireland or anywhere else. These Kent access permits can be booked at any time of day. They last for 24 hours, so that should not cause a problem with planning journeys.

I forget which noble Lord mentioned emergency vehicles and their ability to pass. That is the point of these orders. They define exactly where HGVs can park up and stop and therefore leave the routes clear for private motorists, local traffic and emergency vehicles. That is the entire point of these orders.

We talked about prioritisation. It is very important. It is right that it is limited for animal welfare reasons to single loads of fresh and live seafood and day-old chicks. Defra estimates that on average about 70 HGVs a day would be of such exports. As I mentioned earlier, because the orders are in place we know where the trucks will be. They will be able to bypass the trucks and get on to the ferry or the Eurotunnel train quicker. Local haulier permits are needed only if they are going abroad. It means that they do not have to go to the back of the queue and can go straight to the departure point.

On information for drivers, I recognise that one type of information will not fit all. That is why we are providing information in different formats, in different

[Baroness Vere of Norbiton]
locations, in handbooks and in physical advice sites. Our engagement with Logistics UK and the RHA is ongoing. It is extensive and we take great heed of what the unions have to say. On driver welfare, the Kent Resilience Forum is looking at that in great detail. Facilities will be in place at Sevington and at Manston Airport. There will be wi-fi at Manston Airport. There will be loos. There will be catering facilities. We are looking at putting in medical facilities. I believe that by the time we get to use these facilities they will have all that is needed for driver welfare. I will also remind my honourable friend Rachel Maclean about her offer to meet Unite. It is only Thursday and the offer was made on Monday, so I think we can give her a few more days.

I have many other questions that I really wanted to address but I have gone over so I will have do so in writing. They were on customs agents, heat-treated pallets and Covid contingencies. I go back to the key point that after 31 December we will need customs documents. Therefore, these arrangements may be required. It is essential that hauliers and traders are ready for 31 December. The more they are ready, the less likely it is that we will need these arrangements.

Motion agreed.

Heavy Commercial Vehicles in Kent (No. 2) (Amendment) Order 2020

Motion to Approve

4.44 pm

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

That the draft Order laid before the House on 22 October be approved.

Relevant document: 33rd Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Law Enforcement and Security (Separation Issues etc.) (EU Exit) Regulations 2020

Motion to Approve

4.45 pm

Moved by ***Baroness Williams of Trafford***

That the draft Regulations laid before the House on 13 October be approved.

Relevant document: 32nd Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the House will be aware that the Government have been preparing for the end of the transition period on 31 December. This statutory instrument forms one of the legislative changes that we are making as part of these preparations to ensure the law is clear and accessible on cross-border law enforcement and criminal justice matters.

I hope it is clear from the statutory instrument and accompanying documents not just what the regulations do, but also what they will not do. These regulations are required under any EU exit scenario. They will not enact the outcome of any negotiations; in that sense, they are scenario agnostic. Instead, they will provide legal and operational clarity on the handling of live law enforcement and criminal justice cases and procedures at the end of the transition period. They will ensure that the UK has a fully functioning statute book.

They will do this in three ways. First, they will make the changes needed in UK law to give full effect to the separation provisions contained in the withdrawal and separation agreements with the EU and the EEA-EFTA states. These provisions concern ongoing cases and procedures at the end of the transition period and place reciprocal obligations on the UK, EU and EEA-EFTA states regarding their handling. For example, should UK authorities receive a European investigation order—an EIO—from an EU member state or vice versa and be unable to execute it before the end of the transition period, there will be a legal obligation to finish executing that request under the EIO procedure after the transition period ends. Ensuring these separation provisions are in place for this and other EU measures will enable the orderly completion of those ongoing cases and procedures.

Secondly, and in a similar vein, they will make the necessary amendments in UK law to give full effect to the related data provisions contained within these agreements. These provisions concern data accrued before the end of the transition period or under the separation provisions and will provide clarity for operational partners on the handling of those data. As an example, where a European Criminal Records Information System—ECRIS—request for criminal record information is made by the UK to an EU member state, or vice versa, before the end of the transition period and the information is received after the end of the transition period as a result of that request the restrictions on the use of personal data under ECRIS will still apply.

Thirdly, the regulations will address a number of deficiencies that would otherwise arise at the end of the transition period, for example, where new EU law has come into force during the period since the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 were passed. Addressing these remaining deficiencies will ensure that the UK has a fully functioning and relevant domestic statute book at the end of the transition period.

Overall, the scope of this statutory instrument is narrow. It gives full effect to the separation provisions contained in the withdrawal and separation agreements by making the necessary technical changes in UK law. This will provide legal and operational clarity on the handling of live law enforcement and criminal justice cases at the end of the transition period and will therefore enable the UK to meet its legal obligations under these agreements. I am sure noble Lords will agree that that is essential.

The safety and security of our citizens is the Government's top priority and this statutory instrument helps to support that. I commend these regulations to the House. I beg to move.

4.49 pm

Lord Reid of Cardowan (Lab): My Lords, first, I thank the Minister, who I think is aiming for the Stakhanovite prize for her endeavours at the Dispatch Box.

I say right at the beginning that it is a bit of an obfuscation for the Minister to say that the regulations are scenario-neutral. They are in the limited sense, in that whatever the nature of the deal, they will be put through, but of course they are being introduced in the whole context of Brexit, which is the biggest change imaginable in the scenario for law enforcement and counterterrorism. The Minister's allusion to the neutral scenario reminded me that one old philosopher used to say, "We have free will", but, as he pointed out, we do not have free will in circumstances of our own choosing. So the regulations might be scenario-neutral but they are in the wider scenario of Brexit, and that is what I want to refer to today.

Obviously, as the Minister implied, I, like others in the House, will not oppose these regulations. It is in all our interests to have confidence in our law enforcement capabilities and operations after Brexit. Therefore, I do not intend to oppose them but I want to make some observations.

The first and most obvious to everyone is the desperate lack of time available for our law enforcement agencies to adjust to any new framework or operational procedures. It is obvious that we are now only weeks away from the end of the transition period and still the two parties—like children in the playground playing "Don't push me or I'll push you"—are issuing statements every week without any word of substantial advance in them. Meanwhile, our law enforcement and security services still do not know what legal regulatory framework they will be operating under after New Year's Day. Nor do they know what the practical impact or implications of any security and criminal justice deal will be for their ability to keep the public safe.

Will the Minister therefore tell us how the Government have engaged with our law enforcement agencies or, for that matter, with their European counterparts to ensure that the appropriate arrangements will be in place so that relevant cases can be actioned with confidence and not delayed or stopped? Later, I will refer to ECRIS, the European Criminal Records Information System, to which the Minister referred. Obviously, we need confidence that outstanding cases will not grind to a halt, as that would diminish our ability to tackle criminality and prevent terrorism.

The second issue arising from this timing pressure is the uncertainty caused. We do not know, even at this stage, whether we will have a deal or no deal. Regardless of the assertions that this measure is scenario-neutral, it will have an effect on the practical application and operational capabilities of our law enforcement agencies. In November, the Minister—not the noble Baroness but the Minister in the House of Commons—rather blithely told the House that if negotiations

"do not conclude successfully, we will move back to pre-existing tools and powers."—[*Official Report*, Commons, 5/11/20; col. 528.],

as though this was, again, scenario-neutral. But presumably those pre-existing powers and tools were less effective and less satisfactory than the subsequent arrangements made within the European Union, otherwise there would have been no point in adopting the new arrangements. To reinforce that point, Mr Martin Hewitt, the chair of the National Police Chiefs' Council, laid out the consequences, and I could not put it more concisely myself. He said that

"the loss of some or all of the tools will mean that, even with contingencies in place, the fallback systems will be slower, provide less visibility of information/intelligence and make joined-up working with European partners more cumbersome."

That could not be plainer. Does the Minister therefore accept that a failure to conclude negotiations successfully will inevitably involve a deterioration in our capacity to combat crime and insecurity, as laid out by Mr Martin Hewitt, who presumably knows a little bit about these matters? I have some specific questions for the Minister. In her opinion, what is the likelihood of that situation arising? What contingency plans are in place for the loss of these vital tools? What is the certainty regarding Europol arrangements or the Schengen Information System? What about the loss of the European Criminal Records Information System, which effects about 4,000 requests every month? If I understood the Minister correctly, applications that are already in that system will continue. I accept that, but what about the 4,000 a month that will happen after 1 January 2021? What are the arrangements and availability of information for those? What are the details of the fast-track extradition arrangements, which are to replace capabilities enjoyed under the European arrest warrant? Is it not the case that diminished capabilities on data and information sharing would seriously damage the fight against crime, terrorism and insecurity?

The fact that such questions remain unanswered at this late stage indicates just how precarious the position is. As I said at the beginning, I am not opposing this. Today's regulations are necessary, but they are not sufficient to inspire confidence or engender certainty that our agencies will maintain the standards of law enforcement that they have hitherto reached in order to fulfil our legal commitments on law enforcement and counterterrorism. That is why I give them my very qualified support.

4.57 pm

Lord Mackay of Clashfern (Con) [V]: My Lords, it is a privilege to follow my fellow countryman, who has such experience of the Home Office and its capacity to prophesy and made a very notable analysis of the Home Office in his time. I propose to restrict myself to dealing with this statutory instrument, rather than with prophecy.

When I saw this instrument on the list, since I was not involved in any Bill, I thought that I should participate. Although I have a fairly general knowledge of the criminal laws of the United Kingdom, I felt a profound difficulty when I looked at this instrument, until I came to the bottom of the last page of the Explanatory Note and the reference to the Explanatory Memorandum.

I congratulate the Home Office on the dramatic clarity of this document and the way it directs us to the sources of the provisions. As the Minister has said, these are contained in the withdrawal legislation relating to the withdrawal agreements from the EU, EEA and

[Lord Mackay of Clashfern]
EFTA, with the powers given in statute to deal with the deficiencies that might arise in retained EU law. As a result, it is easy to check that the provisions have direct statutory authority or are reasonable exercises of the power given to Ministers to deal with deficiencies in retained EU law. The inclusion of material with no legal effect was a judicious use of the author's clarity of exposition. It is also welcome that the instrument has been agreed by the relevant devolved Administrations.

I hope that this vitally important area of the law will be consolidated at the appropriate time. I congratulate the Minister on the clarity with which she introduced this statutory instrument, and I thank her for it.

5 pm

Baroness Jones of Moulsecoomb (GP): My Lords, it is a pleasure to follow the noble and learned Lord, Lord Mackay of Clashfern, but I disagree quite strongly with him. We have had a lot of these statutory instruments coming through, some of them excruciatingly boring, and we use them as an opportunity to talk about much wider issues. Some are actually quite dangerous and some—this is one—are really quite messy. The Explanatory Memorandum admits as much. The statutory instrument jumps around dozens of different areas of law enforcement co-operation with the EU and makes little tweaks here and there to try to fix deficiencies for when we finally leave the EU. I accept that we need this sort of statutory instrument but, quite honestly, I do not see the clarity here.

One thing we saw throughout the last few months of the pandemic was the confusion, particularly for the police, over the advice from the Prime Minister and the later comments and suggestions from Ministers interpreting it, versus the rules and the actual law. There was a lot of confusion and the police overstepped the mark quite a lot. I basically feel, although I do not have much confidence in our law enforcement agencies, that they were not to blame—it was actually the Government. They presented so many confusing scenarios that the police did not really have much chance to enforce the law. What will the Government do to make sure that this is a clear law, properly understood by the police and security services, so that we do not see the abuses we have seen over the past nine or 10 months? What plans do the Government have to bring consolidating legislation—to put it all in one place and reduce the chaos? It simply is not fair on the police that the Government throw out this stuff and do not give them the time, as the noble Lord, Lord Reid, suggested, or the clarity to be sure that they are not breaking the law when they try to apply this.

The Deputy Speaker (Baroness Garden of Frognal) (LD): The noble Baroness, Lady Goudie, has withdrawn, so I call the noble Baroness, Lady Ritchie of Downpatrick.

5.02 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Jones of Moulsecoomb. I thank the Minister for her explanation of these regulations. Although she says they are limited, they cover quite a wide range of law enforcement and security issues, including some 50 regulations on important work on cross-border surveillance, extradition and exchange of information and intelligence between law enforcement authorities, EU agencies such as Eurojust and Europol and EU security databases. It has become apparent to us, to follow what was said by the noble Baroness, Lady Jones, that the withdrawal Act was actually quite skeletal: we are filling out all the various sectors and sectoral areas through the use of statutory instruments.

While I acknowledge the need for these regulations, I have some questions for the Minister. I have been told that there is total lack of certainty regarding the UK's future security and law enforcement relationship with the EU. We are some five weeks away from the end of the transition period and our law enforcement agencies still do not know what legal and regulatory framework they are winding down to, nor the practical day-to-day impact of any security and criminal justice deal—or, indeed, no deal at all. What will be their ability to keep the public safe, because that is always the issue when we concentrate on law enforcement? Will the Minister indicate whether there has been any movement from uncertainty to certainty in such matters? I know the Minister said that this is simply about legal and operational clarity and does not deal with the negotiations, but are any of the law enforcement issues or policies part of the discussions in the negotiations?

I am reminded of what the chief constable for Northern Ireland told the Northern Ireland Affairs Committee in the other place: with the end of the transition period just a few months away, there are concerns about how the PSNI can track people and how to move information around to keep communities safe. They have the added difficulty of the implications of the internal market Bill and the impact on the withdrawal agreement and the potential creation of a hard border with the EU on the island of Ireland, and thus that intersection with the Northern Ireland protocol. What thought has been given to those issues, in terms of law enforcement and security separation issues after we leave the EU?

There is also the added complication of the customs posts in Belfast, Larne and Warrenpoint. What will be the law enforcement and security role in those? The PSNI, as the local law enforcement agency in Northern Ireland, does not seem to have any information on how to deal with this. I am sure that the noble Lord, Lord Reid of Cardowan, as a former Secretary of State for Northern Ireland, will know how important the PSNI is to maintaining good security and good policing in Northern Ireland on a cross-community basis. Could the Minister provide an update on this matter? Could she also outline whether there has been any resolution around the National Crime Agency? It believes that reduced UK ties with EU instruments will damage UK security since maximum co-operation is essential to address sophisticated international threats. What is the current position? Albeit that these regulations are limited, they open up Pandora's box—hence my list of questions.

I understand from some research that the UK is still seeking access to Europol databases, as if it never left the EU. What is the situation with data sharing, as I understand that the PSNI has been presented with challenges in this area? Apparently the UK Government

want to be a de facto member of the Schengen Information System, without being an actual member, to gain access to information on migrants, border security, terrorism and other areas of law enforcement. Has there been or will there be an agreement on law enforcement, criminal justice and data-sharing arrangements? Will the UK also remain engaged with the European Global Navigation Satellite Systems Agency, which manages Galileo, the EU's satellite system, which provides encrypted services for police and border control?

It is patently clear that leaving the EU will have a substantial impact on UK security, given the close co-operation established over many years in policing, crime prevention and criminal justice. That level of evidence base must not be allowed to wither on the Brexit vine.

5.08 pm

Lord Garnier (Con) [V]: My Lords, the noble Baroness, Lady Ritchie, always informs our debates. One of the fears that I had during the Brexit debate before the referendum was that if we left the EU, we would damage the co-operation, and its speed and effectiveness, between the law enforcement and investigatory agencies of the United Kingdom and the remaining 27 states. Since we joined the EU, the bilateral assistance that our agencies have given individual EU countries and vice versa has only improved. Although there have been some glitches and a few eccentric decisions flowing from the use of European arrest warrants, the EAW system, as well as the wider international assistance in law enforcement and co-operation between the security services, has worked well to our mutual benefit.

I agree with my noble and learned friend Lord Mackay of Clashfern; my noble friend the Minister has clearly explained the ambit and purpose of these regulations. They should ensure that, when translated into our national law, they will be every bit as effective as before and deal with any deficiencies in retained EU law. There is a list of about 20 separate areas of law enforcement activity covered by these regulations in which we have, as a member of the EU, co-operated with other EU countries. No one can doubt their continuing importance to our own and our shared protection from the activities of the most serious criminals.

It is clearly vital that these regulations should be in force before 31 December this year and I doubt that the regulations themselves are controversial. The Government's intentions are clear and understood. That said, the noble Lord, Lord Reid of Cardowan, has made some pertinent points. However, I should like my noble friend the Minister to reassure me that, even when we have finally left the EU in the new year, the practical and operational work covered by the current legal framework will not diminish in volume and quality.

Terrorists, money launderers, cyber criminals and human traffickers will exploit any lack of international co-operation. They do not care or mind whether we are in or out of the EU. Investigations into their activities, and their prosecution with evidence gathered from both sides of the channel, must carry on without reduction or legal impediment after 31 December with the same, and even increased, operational vigour as they have until now. Departure from the EU is no reason for any alteration in our approach or metaphorically to cut the wires between the United Kingdom and the EU 27.

5.11 pm

Lord Bhatia (Non-Afl) [V]: My Lords, the Law Enforcement and Security (Separation Issues etc.) (EU Exit) Regulations 2020 allow for the implementation of the separation provisions in the UK-EU withdrawal agreement relating to law enforcement and security co-operation. Although the UK has left the EU, it continues to participate in a range of EU law enforcement and criminal justice co-operation schemes. This participation will continue until the end of the transition period.

The Home Office states that this SI has three functions. First, while the EU withdrawal agreement Act implemented the withdrawal agreement, this SI would make the "necessary further, specific amendments" to give full effect to the LECJ separation provisions in the agreements. The separation provisions require the continued application of EU measures in cases still ongoing at the end of the transition period. Secondly, the regulations amend UK law to give effect to provisions which require the preservation of relevant law on criminal justice data and information collected prior to the end of the transition period. Thirdly, as the body of EU law relating to LECJ co-operation either ceases to apply in the UK or is transferred into "retained EU law" at the end of the transition period, the regulations would make amendments to "address deficiencies" in the retained law. For that purpose, the current regulations would amend the two regulations passed in March 2019 to take account of EU law which has come into force since they were made.

On 18 November, the Minister for Security said that scope of the regulations was "narrow" and they would be required under any scenario in which the UK had left the EU. He went on to say that this SI

"will provide legal and operational clarity regarding the handling of live law enforcement and criminal justice related cases and procedures at the end of the transition period, and will ensure that the United Kingdom has a fully functioning statute book."—[*Official Report*, Commons, Fifth Delegated Legislation Committee, 18/11/20; col. 3]

5.14 pm

Lord Mann (Non-Afl): My Lords, having listened to the Minister and read in detail the documentation, I can recall what I said in the House of Commons 18 months ago and privately, as well as publicly, on many occasions at the time, when I was one of a tiny handful of enthusiastic backers of the agreement that the European Union made with the British Government of the time, which Parliament chose to reject. I said that there is no such thing as a no-deal scenario because this means thousands of deals, but those will have to be done separately and in isolation. One of the problems with that is that there will be so many.

In the context of these changes—which I do not oppose—will the Minister tell us how many separate agreements will be required, purely from the scope of these regulations? Are we talking about bilateral deals with each country, or are we talking about a single

[Lord Mann]
deal on a range of different issues with the European Union? Will those deals be in place from 1 January? Do we have the capacity? We have had all sorts of complications, because of Covid, in terms of how we work. One thing Covid has not done is make negotiations easier; it has made them more difficult. It is harder to get people and it is harder to fix meetings for decisions of any kind to be made. When they are multilateral and require negotiation, if we do not have a deal—though I suspect that we will probably end up with one, and I feel that is the way things are moving—are all the individual deals required in place to allow law enforcement to act as it did? I suggest that that is not possible: the capacity to do that in that timescale is not possible.

Will we potentially have the following scenario from January? The Home Secretary and the NCA previously described an earlier operation against organised crime, in which the NCA had managed to break into phones in some way, as the most successful in the history of policing in this country because we managed pretty simultaneously, across many different European countries and in this country, to arrest many hundreds of serious organised criminals. As I understood from what the Home Secretary and the NCA said at the time, these were people who were involved in major crimes—gun crimes and the rest—who were significant and dangerous criminals, and that happened across Europe, including in this country. Are the arrangements going to be in place that would allow a new such operation to begin seamlessly on, say, 2 January?

Will there be criminals in this country whom we have problems extraditing to another country because a deal will not have been negotiated with that other country by the time we get to January? Will there be criminals whom we wish to bring back from other countries—from Spain, France or wherever—to face the prospect of justice in this country, where we might not be able to do so because the agreements are not in place? Would I be right in thinking—as some of these agreements will be very technical and complex—that the presumption has been for a long time that any changes that might come would actually be in the light of a deal, and so would be negotiated over a much longer and more rational time period, rather than forced through in an incredibly short period simply to hold the system together?

Will there be bits of information that we cannot access purely because we do not have a deal in place, in a no-deal scenario? As I said—and I am sure that the Minister will agree—there is no such thing as no deal; it merely means that the deal on these issues has not been concluded because there has not been the opportunity to finish and finalise it, since we do not even know if we need it, as that is dependent on whether we get the bigger deal.

I appreciate that this is not the responsibility of the Minister—although it will be part of her department's problem and the Ministry of Justice's problem—but it is the problem of government and it is the problem of Parliament, because a scenario that allows criminals more freedoms than the law would wish to give them, simply because of jurisdictions crossing borders, is not—I think I can say without equivocation—what anybody voted for or perceived would happen.

The taking back of control that I and others argued for, voted for and won a referendum on was predicated precisely on the ability to do the things that we want to do and have international agreements in place. As I say, I was very relaxed with what was described as the Theresa May deal—I always tried to describe it as the European Union deal because that was the other party to it—because we would have avoided all these problems. I suspect that I am not the only person in this Chamber now who was of that view. However, we were a tiny majority, unfortunately, and we were unable to persuade any party. We failed the people there—I apologise for my part in that failure—but we tried. At least we recognised that this is probably for the British people the single biggest problem. No politician would be able rationally to explain, "Well, the criminal got away with it because we don't have the agreement in place because we've not had the time to get the agreement in place. We will do but we can't do so, sorry, come back next year and we'll try again."

Are those dangers or am I overstating the risk? I do not think that I am, having heard the Minister and read the documentation. There is a problem, which therefore suggests that, even with this deal at this current stage, the deal that can be agreed would have bigger positives for the country than the so-called no-deal option. That would mean thousands of further deals having to be negotiated, including many in the immediate future; we do not have a good capacity for that, and no one could have the capacity to do that.

5.21 pm

Lord Paddick (LD) [V]: My Lords, I thank the Minister for introducing these regulations.

The stream of worrying statutory instruments dealing with our final severing of links with the EU at the end of the transition period continues. We have already debated regulations that will weaken UK border security; now, we have regulations that deal with the end of co-operation with the EU on a whole range of criminal law, investigatory powers, policing and criminal justice issues. When a similar raft of regulations, which these regulations amend, was debated, the Secondary Legislation Scrutiny Committee, as it put it,

"published a critical report because the 2019 Regulations bundled together a large number of topics without adequate information on any of them."

Here we are again, with one SI containing 50 regulations relating to a wide range of law enforcement and security issues.

The regulations cover extremely important issues, such as cross-border surveillance, extradition, the exchange of information and intelligence, Eurojust and Europol, and security databases such as the Schengen Information System—SIS II—and the European Criminal Records Information System, or ECRIS.

The Minister explained the purposes of these regulations and the noble Lord, Lord Bhatia, repeated them so I see no point in repeating them again. However, I share the concerns expressed by many other noble Lords this afternoon. It is 36 days until the end of the transition period. Let me remind the House what these regulations are about. At the moment, there are arrangements in place to allow law enforcement and

security services to follow dangerous criminals, including terrorists, across borders. So if the National Crime Agency has undercover officers following a gang involved in people smuggling, for example, they can pursue them across the channel and across the EU. As things stand, that ability will end on 31 December.

At the moment, rapid extradition from the EU to the UK, including of a country's own nationals, can be achieved using the European arrest warrant. As things stand, that will end on 31 December.

At the moment, information and intelligence can be shared between law enforcement authorities in the UK and those in the EU. This includes the Prüm database, which allows rapid electronic matching of fingerprints and DNA samples found at any crime scene in the UK with those in databases of criminals held across the EU. As things stand, we will no longer have access to these databases come 31 December.

At the moment, the SIS II database is in place, which triggers an alert when someone travelling across an EU border is wanted or of interest to the police or security services. It also provides information about what action border security officials should take. As things stand, we will lose access to that database from 1 January.

At the moment, Eurojust co-ordinates investigations and prosecutions involving more than one country by helping to resolve conflicts of jurisdiction, for example. As things stand, we will no longer be a member of Eurojust on 1 January.

Finally, Europol co-ordinates law enforcement activity across the EU to deal with serious and organised crime, such as drug and people trafficking, terrorism and cybercrime. Crucially, it produces threat assessments in these areas, which pose the most serious criminal threats to the EU and the UK. These are used to prioritise law enforcement activity. As things stand, the UK will go from being one of the agenda-setting countries in Europol to having observer status. I say, "as things stand", but we have only 35 days to prevent these things.

Can the Minister give us a detailed account of which, if any, of these measures, which are vital to the security of the UK, are likely to still be in place on 1 January? Let me help her a little. The BBC reported last week that the UK wanted to maintain the same access to Prüm, SIS II and the other EU databases that are vital to our security, but that the EU says that those are not on offer to non-EU members. We know from the experience of Norway and Iceland that non-EU members cannot be part of the European arrest warrant, and the second-class alternative they have does not allow extradition of a country's own nationals. Even that took over a decade to negotiate and come into force. So can the Minister confirm that whatever security treaty the UK is able to negotiate with the EU will not include access to EU databases or the European arrest warrant?

Metropolitan Police Assistant Commissioner Neil Basu, Britain's top counterterrorism officer, told the BBC last week that the UK will be less safe without an EU security deal in place. Is it not the case that the UK will be less safe whatever security deal is agreed, or if no security deal is agreed, as it will not include access to EU databases and the European arrest warrant? I am sure these regulations—all 50 of them—are necessary, but they provide a stark reminder of what we are losing as a result of leaving the European Union.

5.28 pm

Lord Rosser (Lab) [V]: I too thank the Minister for her explanation of the content and purpose of these regulations. They make amendments to UK law to give effect to the separation provisions relating to law enforcement and criminal justice co-operation contained in the withdrawal and separation agreements. They provide for the winding down of cross-border judicial and police cases in progress at the end of the transition period, including by requiring that data protection arrangements will continue to apply to any information required before the end of this year. In that particular sense, the provisions of these regulations are effectively time-limited. The regulations also amend the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 since they address new developments since the 2019 regulations were made, including in relation to the application of the Prüm directive to the UK.

The Government argue that these regulations are necessary to ensure a smooth transition to alternative arrangements regarding the handling of live cases and procedures at the end of the transition period. The reality is that the regulations provide little clarity or certainty to either the people of this country over the arrangements applicable from 1 January next year, or to our law enforcement and security services, who still do not know, five weeks from the end of the transition period, what legal and regulatory framework they will be winding down to, or what the practical day-to-day impact of any security and criminal justice deal, or no deal, will be on their ability to keep our people safe—a responsibility which is surely one of the most important priorities for any Government.

On cross-border data sharing and information sharing, lowering current capabilities would be very damaging and would adversely affect our country, hindering our ability to receive alerts, search for criminal records and extradite criminals. My noble friend Lord Reid of Cardowan referred to a letter published last week to the Select Committee on Home Affairs from the chair of the National Police Chiefs' Council, which said that

"the loss of some or all of the tools will mean that, even with contingencies in place, the fallback systems will be slower, provide less visibility of information/intelligence and make joined up working with European partners more cumbersome."

Could the Minister do something that the Security Minister in the Commons failed to do three times, and say whether the Government agree or disagree with that assessment by the chair of the National Police Chiefs' Council?

Could the Government also say in their response what assessment they have made of the scenario that British law enforcement will find itself in on 1 January—in five weeks' time—in light of concerns about the effectiveness of contingency arrangements and the clear view of police leaders on the need to retain EU tools to retain current levels of operational effectiveness? Could the Government tell us what capabilities we will

[Lord Rosser]
have after the end of the transition period in relation to the Schengen Information System, SIS II, which we use extensively and appear set to lose?

Could the Government tell us what fast-track extradition arrangements there will be to replace existing capabilities from which we currently benefit under the European arrest warrant? What will replace the loss of the European Criminal Records Information System, affecting 4,000 requests every month? What will our position be after the end of the transition period in relation to Europol and future partnership working on law enforcement across Europe, which has been so effective? What will the position be in relation to future access to a passenger name records database, providing information on terrorists and criminals trying to enter our country, and the Prüm database for DNA, fingerprints and vehicle registration data?

The specific regulations we are debating are needed to fulfil our legal commitments on law enforcement and criminal justice separation provisions. But to have law enforcement, counterterrorism and security services winding down operations, knowing that some will not be wound up again and that some, if there is a deal, may or may not be wound up again to effective levels in the new year, is hardly a satisfactory situation to be in when we are talking about the safety and security of our citizens. In addition, the uncertainty is causing focus in our law enforcement agencies to concentrate less on day-to-day priorities in order to address this uncertainty over what arrangements will be applicable after the end of this year.

Along with other noble Lords who have spoken in this debate, I await the Government's response to the points and questions raised, including by myself, and will be looking for meaningful assurances, not unsubstantiated statements of hope, that our law enforcement agencies and security—[*Inaudible*]—protect us all.

5.34 pm

Baroness Williams of Trafford (Con): I have to tell the noble Lord, Lord Rosser, that he was cut off just at the appropriate moment, as he was about to finish. I thank him and all noble Lords for their contributions to this debate and their constructive approach to the regulations, although many noble Lords did not talk about the regulations at all; they took this opportunity, and rightly so, to talk about other issues around the end of the transition period. I also thank my noble and learned friend Lord Mackay of Clashfern, who never fails to impress me, for explaining the whole thing in a few sentences. I was glad to hear that echoed by my noble and learned friend Lord Garnier.

As demonstrated by the debate, there is consensus on the need to provide operational and legal clarity at the point of transition for our operational partners. Doing so enables the orderly completion of ongoing cases and procedures. It is also evident that there is support for the Government meeting our legal obligations under the withdrawal and separation agreements. This is exactly what the statutory instrument does.

The noble Lord, Lord Paddick, bemoaned the 50 different elements to the SI. Interestingly and unusually, there were no comments on this from the Secondary Legislation Scrutiny Committee. The noble Lord, Lord Reid, talked about the lack of time. I cannot deny that time is pressing; we need to establish and conclude these things before 31 December.

The noble Lord, Lord Mann, asked me a question about how many deals. It is impossible to say at this point. The focus is clearly to reach agreement, which we are working intently to achieve. I cannot comment beyond that. My noble and learned friend Lord Garnier made the correct point that criminals do not care whether we are in or out and will exploit any softening of co-operation. That is absolutely correct. I reassure my noble and learned friend that we will continue to work closely with our European partners to tackle our shared security threats and promote the safety and security of our citizens.

We have been negotiating an agreement on law enforcement and criminal justice to equip our operational partners on both sides. There is a good degree of convergence on the operational capabilities that the UK and EU have been negotiating, and we have been able to make progress since we began negotiating legal texts. It is clearly in the interests of both sides to reach an agreement.

The noble Lords, Lord Reid and Lord Rosser, talked about a day-one non-negotiated outcome. We must continue to prepare for all possible scenarios at the end of the transition period. In the event that it is not possible to reach an agreement, the UK has well-developed and well-rehearsed plans in place. They involve transitioning and co-operation with EU member states to alternative non-EU arrangements by the end of the transition period, where available. Broadly speaking, they would mean making more use of Interpol, Council of Europe conventions and bilateral channels. They are tried-and-tested mechanisms, which the UK already uses for co-operation with many non-EU countries. Interpol was the primary means by which the UK exchanged warnings and alerts with EU member states as recently as 2015, and we continue to work closely with the police and other law enforcement and criminal justice agencies in the UK, as well as the devolved Administrations, to ensure that we are ready for a range of possible outcomes at the end of the year.

The negotiators have been in contact almost every day since 22 October and they are continuing to work intensively to bridge the gaps that remain between us. There has been some progress in recent days but, as the noble Lord, Lord Reid, pointed out, time is now very short. We have been consistently clear that if we cannot reach an agreement that fully respects UK sovereignty, we will leave on Australia-style terms and prosper in doing so.

Law enforcement partners have been working for some time to transition to Interpol channels. We have established and funded the International Crime Coordination Centre to drive readiness. Alongside extensive domestic preparations, we are engaging bilaterally with member states.

The noble Lords, Lord Paddick, Lord Reid and Lord Rosser, talked about the loss of SIS II. We recognise the mutual loss of capability that UK non-participation in SIS II entails. As I have said, Interpol channels provide a tried and tested mechanism for exchanging alert information. It remains the primary means by

which EU member states share information with partners within the EU and globally that do not have access to SIS II. We are committed to making our use of Interpol channels as effective as possible. All Interpol circulations received by the UK are now routinely made available at the front line for police and border officers. Measures such as the Extradition (Provisional Arrest) Act give our officers the power to act effectively on information received. The noble Lord, Lord Reid, asked about bilateral agreements as a fallback for losing SIS II. As I have said, there is extensive engagement around EU member states' ability to use Interpol channels if no agreement can be reached on SIS II.

The noble Lord, Lord Paddick, referred to Neil Basu's comments. The safety and security of our citizens is the Government's top priority. If it is not possible to reach an agreement with the EU, the UK has well-developed and well-rehearsed plans in place. Broadly speaking, we would have to make more use of Interpol, Council of Europe conventions and bilateral channels. We want to continue to be a global leader on security and one of the safest countries in the world.

The noble Lords, Lord Reid and Lord Rosser, referred to the letter from Martin Hewitt. There is a good degree of convergence in what the UK and the EU have been negotiating in terms of operational capabilities. On law enforcement, it is self-evidently in the interests of both sides to reach an agreement that equips operational partners on both sides with capabilities to protect citizens and bring criminals to justice. We continue to work closely with the police and other law enforcement agencies in the UK to ensure that we are ready for a range of outcomes at the end of the year. As regards his comments on SIS II, we have always said that there will be some mutual loss of capability in the event that the UK no longer had access to it. That is why we offered to reach an agreement with the EU that delivers a similar capability. The European Commission has consistently maintained that it is not legally possible for a non-Schengen third country to co-operate through SIS II but we have maintained our offer to that end.

Noble Lords talked about the loss of the European arrest warrant and the diminishing of safety to that end. We have left the EU and the EAW is used exclusively by EU member states. Our proposals include greater safeguards than those within the European arrest warrant and the UK will continue to be, we hope, one of the safest countries in the world.

The noble Lord, Lord Paddick, and the noble Baroness, Lady Ritchie, talked about Europol and Eurojust. We are not seeking membership of either agency. That is not how third-country arrangements with these agencies work. In line with the UK approach, our legal text provides for co-operation between the UK and Europol, and the UK and Eurojust, to facilitate multilateral law enforcement and criminal justice co-operation. The type of relationship that we are proposing is in line with third-country precedents, going beyond those only where it is in our mutual interests to do so.

The noble Baroness, Lady Ritchie, also talked about the Northern Ireland protocol. We are committed to implementing our obligations under the withdrawal agreement, and published a Command Paper in May that sets out the approach we will take. We have also laid secondary legislation to implement aspects of the withdrawal agreement to help provide certainty for businesses and citizens in Northern Ireland, to ensure that the statute book is fully functioning for the end of the year, and to discharge our obligations under the protocol.

As for our engagement with the devolved Administrations, the collaborative work with them on the secondary legislation programme covering devolved matters required for EU exit and during the transition period has been a success, with around 300 UK Government SIs laid with the agreement of the devolved Administrations. We have made no secondary legislation without the consent of the devolved Administrations.

We have engaged constructively with the devolved Administrations on readiness legislation, including sharing a list of all expected SIs to the end of the transition period that legislate in areas of devolved competence. Regular forums are held with them, at both official and ministerial level, for legislation to be discussed and any concerns raised. I know that the Home Office regularly meets about 20 delivery partners to review the preparations and monitor any risks, including any in relation to the PSNI.

The noble Lord, Lord Rosser, asked about transfers of passenger name records post transition period. In the event of a non-negotiated outcome, we will engage directly with all EU airlines operating to the UK to conclude arrangements for the transfer of PNR data to the UK in compliance with UK law requiring disclosure of data. The proposed agreements will set out the data protection safeguards operated by the UK that can enable EU airlines to disclose data in compliance with EU data protection legislation. It is a decision for each airline whether to conclude a data transfer agreement with the UK. In the event of a negotiated outcome, where there is a legally binding international agreement on PNR between the UK and the EU, transfers from EU airlines can continue without any issue. I hope that I have covered all the points that noble Lords have made, and I commend the regulations to the House.

Motion agreed.

House adjourned at 5.48 pm.

Grand Committee

Thursday 26 November 2020

The Grand Committee met in a hybrid proceeding.

Arrangement of Business

Announcement

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 before and 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.

The microphone system for physical participants has changed. Your microphones will no longer be turned on at all times, to reduce the noise for remote participants. When it is your turn to speak, please press the button on the microphone stand. Once you have done that, wait for the green flashing light to turn red before you begin speaking. The process for unmuting and muting for remote participants remains the same.

The time limit for the following debate is three hours. The timing is quite tight, so I urge speakers to keep to their time.

Comprehensive Economic Partnership (EUC Report)

Motion to Take Note

2.32 pm

Moved by ***Lord Goldsmith***

That the Grand Committee takes note of the Trade Agreement between the United Kingdom and Japan for a Comprehensive Economic Partnership, laid before the House on 23 October (*16th Report from the European Union Committee*).

Lord Goldsmith (Lab): My Lords, this debate is on the UK-Japan trade agreement, on which the International Agreements Sub-Committee reported last week. I shall provide a summary of its key findings, but the debate is also an opportunity to talk about the process of scrutiny with a test case before us. It is a novel process, and we can draw some initial conclusions about what works well and what does not. I trust that Members will permit those remarks about the bigger picture. I look forward to the debate and to hearing what noble Lords will say; I look forward in particular to the maiden speech of the noble Lord, Lord Darroch of Kew, about which more will be said later.

The report is the culmination of months of talking to stakeholders and discussing negotiations in confidence with the noble Lord, Lord Grimstone, who is in his place today and has been generous with his time—I thank him for that on behalf of the committee—and senior officials, including the chief economist and the chief negotiator. We also spoke to and corresponded with the Secretary of State before the summer.

The International Agreements Sub-Committee has sought to work in a complementary fashion with the Commons International Trade Committee, whose report on CEPA largely concurred with ours. The report principally contrasts CEPA with the JEEPA—the Japanese-European agreement that existed and still does—looking to understand impacts of any deviations and what stakeholders wanted the Government to achieve. Parliamentary scrutiny is a second route for their concerns and ambitions to be heard, and we tried to do justice to that evidence base in our report.

Where appropriate, we have considered the Government's published objectives, but they are, to be frank, generic, and the Government have not cross-referenced CEPA with those published aims to set out whether all of them in their view have been effectively met. Parliament is not involved at the moment with that objective-setting process. We can say after the fact whether we think that they got the objectives wrong and what other objectives might have been sought, but our role here is severely limited. That is a matter which the House may wish to think further about.

We have also evaluated the Government's final claims about what CEPA achieves and what it does not. Our principal conclusion in this regard is that the Government have oversold several provisions in a way that risks undermining what is ultimately a respectable continuity-plus agreement.

Looking at our specific key findings and starting with the successes, we note that CEPA goes beyond JEEPA in some of its digital and data provisions, which is welcome. This will benefit UK and Japanese businesses across sectors, in particular those in service industries. Those provisions have found favour with many of our witnesses, such as the City of London Corporation and the Motion Picture Association. However, some others, such as the consumer organisation Which?, and the Open Rights Group, have asked whether CEPA's provisions might indicate a change of thinking from the Government about how to ensure the protection of personal data. Overall, we did not view CEPA as creating a potential personal data protection loophole, but we would be interested to hear from the Minister whether the UK envisages diverging from the EU on data protection.

Another key area of provisions relates to agri-food products. Those provisions are split through several chapters in our report, but I shall summarise them here together. First, overall, CEPA is useful to UK producers. Tariff reductions and their staging are maintained, allowing UK exporters to continue to be competitive with EU exporters. I do not really want to mention the supposedly cheaper soy sauce—the little incident on Twitter—but Members may recognise that as an allusion to an unfortunate and wrong statement that the deal would make soy sauce cheaper. Our report

[LORD GOLDSMITH]
covers some areas such as trade in malt and tariff-rate quotas because the Government made quite a big deal of them, although they are relatively small in trade terms. Regarding the malt trade, the Maltsters' Association of Great Britain told us that this agreement

"offers the same benefits as the existing system"—

access to the Japanese market tariff free through Japan's autonomous tariff-rate quotas—yet the Government have advertised CEPA as delivering "more generous market access". The Minister might like to comment on that.

Tariff-rate quotas, or TRQs as I will call them, were one of Japan's key concessions to the EU to avoid greater liberalisation of tariff lines. Japan liberalised 97% to the EU's 99%. In this UK deal, 94% of Japanese tariff lines are liberalised, to 99% of ours, but CEPA maintains access to only 10 of JEEPA's 25 tariff-rate quotas, and then only after EU exporters have used them as much as they wish. That creates some uncertainty for UK producers and Japanese importers, who may now need even to provide bankers' guarantees when importing UK products lest additional duty eventually needs to be paid. That does not make UK goods attractive, and access for the UK via the headroom left by the EU may disappear in only a few years. The Government say that joining the CPTPP will fix this, but that seems a contingent basis for dismissing the difficulties that exporters will face.

Finally, on a matter on which other noble Lords may touch later, there are new provisions for geographical indicators. The Government advertised CEPA as though they had won these protections, but in fact there is still an application process to be completed during which there may be objections from any of the 11 CPTPP countries or other producers.

Turning beyond agricultural and food products, CEPA has significant effects on trade in other goods. We thought particularly and had evidence particularly about automated manufacturing, as that is an area of key inward investment in the UK. Let me be clear: CEPA's provisions are necessary and therefore welcome, but they are not sufficient. CEPA enables UK and Japanese manufacturers to use EU products and count these as their own for the purposes of cumulation. However, what the Society of Motor Manufacturers and Traders and the North East England Chamber of Commerce told us was most vital was cumulation for products exported to the EU. CEPA cannot deliver this on its own; only the UK-EU deal can, and it seems increasingly from press reports that it is unlikely to do so. I hope that other noble Lords may cover this topic.

The noble Earl, Lord Sandwich, regrettably cannot be with us for debate today, but I know that he would have wanted to highlight the sustainable development provisions of CEPA—the noble Lord, Lord Oates, may touch on some of these issues later. CEPA retains JEEPA's sustainable development chapter but does not go any further. We were concerned at the lack of focus on environmental goods in CEPA overall. Cornwall Council highlighted in evidence to us the absence of any mention of green technology and the North East England Chamber of Commerce wanted more attention paid to low-carbon goods and services, including renewable energy, which are an important part of its regional economy.

As for the Government's impact assessment, that itself notes uncertainty about whether CEPA can increase investment fall and the export potential of low-carbon goods and services. Again, I hope that the Minister will say something more about these issues in his speech.

I will illustrate how these issues are all interrelated. The North East England Chamber of Commerce highlighted that the accumulation of Japanese content in UK automotive manufacturing products being exported to the EU was "crucial", in particular for electric vehicles, as the EU is not well developed in electric vehicle production and many parts come from Japan.

I will say a word about the Government's explanatory documents. The brief summary of our findings that I have just given indicates the importance of looking closely at variations from the existing Japanese-EU agreement, JEEPA. However, the Government's impact assessment does not allow us or the public to answer the question of whether the UK-negotiated deal serves UK businesses and consumers better than the existing one. The impact assessment compares CEPA only with no deal with Japan—that is, with WTO terms.

The committee does not want to use this report to relitigate Brexit, of course; that was not the purpose or intent behind that conclusion. However, we think the question is important and that the information to answer it should have been provided. We note that the Government's own impact assessment of JEEPA estimated a GDP increase of £2.1 billion to £3 billion. That is much more than CEPA's estimated £1.5 billion boost. We understand that the methodology and context of those two assessments differed, but we believe that the Government should have addressed this issue head on.

Our conclusion is thus forward-looking. For Parliament to best scrutinise the Government's exercise of their new powers, which will be increasingly important for the country as we develop more new trade deals, we must have the data necessary to judge whether the Government have done a good job.

The Grand Committee previously debated our report, *Treaty Scrutiny: Working Practices*, and allied reports, when there was significant support for an enhanced mechanism for parliamentary scrutiny of treaties, including trade deals. That has also been evidenced in debates on the Trade Bill, and is likely to feature on Report when it comes about. Our inquiry on CEPA and those on the ongoing talks with the US, New Zealand and Australia—all of which are under way—have all yielded evidence from stakeholders about parliamentary scrutiny processes and their importance. This is not simply Members enjoying an opportunity to talk about themselves, but an important issue that we must get right.

Producing this report has been challenging. It is a testament to the willingness and ability of Members and staff to absorb and consider a vast amount of information quickly that we have been able to produce this report to allow the House to hold a debate within the CRaG scrutiny period. As we said at the working practices discussion, that is a short period. However,

success that we were able to produce this report should not lead the House or the Government to think that this has been easy or will be easy in the future. We had notice and we planned accordingly, and because the deal is largely identical to an existing one, it does not raise some of the thornier issues, such as respect for human rights or food standards, that may well arise in other deals and agreements, and still it is very challenging to do CEPA justice.

We said in our working practices report that we reserve the right to recommend changes to CRaG if we conclude that, overall, the required pace is detrimental to the House's scrutiny function. Nevertheless, I want to recognise that DIT has worked hard to make the process as it is work as well as it can in the circumstances, and the Minister and his staff should be commended for their efforts—I thank them, and particularly him. I look forward to hearing what noble Lords say in this debate. I beg to move.

2.44 pm

Lord Oates (LD): My Lords, I welcome the opportunity to debate this report. I have the privilege of serving on the International Agreements Sub-Committee and the rapid production of such a comprehensive report is due in no small part to the skills of our chairman and those of the clerk to the committee, Dominique Gracia, and her team, who have done a brilliant job pulling it together in such a constrained timetable.

In the limited time we have available for debate, I want to focus particularly on the data provisions in the agreement, how we use trade agreements to advance decarbonisation and the importance of building trust in trade policy.

First, on data provisions, the IAC received evidence from Dr Emily Jones and Beatriz Kira, of the Blavatnik School of Government at Oxford, which raised a number of concerns. In particular, I hope the Minister can tell us more about the decision of CEPA to expand the scope of protection of mandatory disclosure of source code and software beyond that in the EU deal to include algorithms expressed in that source code. Will the Minister tell us in his response the reason for that expansion, which is a matter of concern given the impact that algorithms can have on decision-making and the need for this to be transparent to the public?

Secondly, as the noble and learned Lord, Lord Goldsmith, has said, while it is welcome that the agreement retains the references in the EU deal to international environmental commitments, including the Paris Agreement, and commits both parties to working to secure mutual environmental aims, it seems like a missed opportunity not to have sought more, particularly on green technologies and services. The impact assessment predicts an increase in greenhouse gases as a result of the treaty, and while in itself it is not a significant increase, we need to think about how we can use trade policy to bring down greenhouse gas emissions, not to raise them—however small the amount may be.

In future deals, we will need to take a radically different approach, and we have an opportunity to do so in the New Zealand negotiations, given New Zealand's credentials in this regard and its ground-breaking initiative to negotiate an agreement on climate change, trade and sustainability with Norway, Costa Rica, Iceland and Fiji. I hope we will take the opportunity this offers to create a forward-looking trade agreement with New Zealand which puts protection of the planet at its heart.

Next, I want to address the issue of public trust in our trade policy, which has not been well served by the way in which the Government have tried to oversell this agreement. Announcing the deal on 11 September in a press statement, the Secretary of State for Trade said:

> "The agreement we have negotiated …. goes far beyond the existing EU deal".

However, the impact assessment for this agreement suggests that it will increase UK GDP by £1.5 billion per annum in the long term, whereas the impact assessment for JEEPA, the Japanese-EU trade agreement, published in May 2018, estimated that it would increase UK GDP by £2.1 billion to £3 billion over the long term—a significantly larger figure. The Government will doubtless argue that the figures cannot be compared because they are modelled differently. However, if the Government will not provide us with comparative modelling, we can only go by their own previously published figures, and they do not in any way bear out the Government's claims that this deal provides significant benefits over JEEPA—in fact, they show the contrary.

Overselling in this way undermines trust. That may be less important in respect of this deal, which has not given rise to significant public concern, but it will be a real problem when we come to more controversial deals, such as a potential agreement with the United States. I therefore urge the Minister to ensure that lessons are learned from this experience and, in future, that deals are communicated objectively on their merits rather than spun to be something other than they are. In this case, the Government should simply have stated the reality: that a rollover deal, with a few additions and a few subtractions, had been secured. That was the reality, full stop. That is what the Government should have said.

2.49 pm

Lord Lansley (Con): My Lords, I am very pleased to follow my colleague on the International Agreements Sub-Committee, the noble Lord, Lord Oates, and our chair, the noble and learned Lord, Lord Goldsmith, who has so well set out the basis of our report that I will not follow him in most of that. I will focus on what I think is really important, which is that this is a continuity-plus agreement. I want to focus on the plus, which I think is more significant than people have perhaps yet realised.

I declare an interest. In addition to being a member of that committee, I am the UK chair of the UK-Japan 21st Century Group, which was in online conference with our Japanese colleagues on 11 and 12 September this year, when the agreement was signed. Among our colleagues from Japan were seven members of the Japanese Diet and former Ambassador Tsuruoka, who will be known to a number of Members.

The sense of positive welcome given by our Japanese colleagues to the agreement reflected their view that this was not simply a rollover of the EU agreement—although much of it might look that way—but presaged

[Lord Lansley]

a significant broadening and deepening of the UK-Japanese trading relationship. I will focus on that. First, on digital trade, I think the EU, because of its lack of a digital single market, continues not to enter the kind of expansive agreements available with other countries. This agreement much more nearly reflects the content of the CPTPP, the Trans-Pacific Partnership Agreement: things such as free flow of data, net neutrality, consumer protection online, no data localisation and more open government use of anonymised data. All of those are really important for digital trade, and the United Kingdom is a world leader in digital trade. For us to have such agreements is increasingly important.

That is also true on financial services, where the lack of potential agreement in the EU-UK agreement is a matter of continuing regret. Here, with Japan, are some starting points much welcomed by the City on facilitating UK firms licensing in Japan, on regulatory co-operation and reference and deference to each other's regulatory structures and, generally for service industries, the mobility of staff and their families to work in Japan.

There are improvements on agricultural tariffs and things such as the administrative scheme enabling more geographic indications to be protected in the Japanese market—they are modest, but they can be developed, as the noble and learned Lord, Lord Goldsmith, said, in the CPTPP context, as long as we make progress there. I think we can and we will. It is not unimportant that Japan holds the chair of the CPTPP in 2021, and things such as digital trade developments and agricultural market access will be much improved if we are able to accede to the CPTPP. I hope that the Government will take that forward early in the new year.

The plus also includes areas where we want to go further—on financial services, on mutual recognition of qualifications, on the ability of people from this country to go to work in Japan, on the environment and sustainable development and for there to be an investment chapter, given the relative significance of Japanese investment in this country and that in the opposite direction, and in audio-visual and creative industries, where both we and Japan are world leaders and should be encouraging continuing trade. The noble Lord, Lord Foster, may want to say something about that.

Finally, using this agreement is really important, and I commend our colleagues in the embassy in Tokyo, because they recently appointed a digital trade and an agricultural trade attaché. If they, business, including SMEs, and the department use this agreement fully, we can make this a significant increment to our UK-Japan trade.

2.54 pm

Lord Trees (CB) [V]: My Lords, I am sure that all of us welcome this trade agreement—the first post-Brexit trade agreement—and may many successful agreements follow. However, it is being scrutinised under the so-called CRaG rules, and it illustrates the limitations of that system with respect to parliamentary scrutiny, as was emphasised by the noble and learned Lord, Lord Goldsmith, in his opening remarks. There has been no input into negotiating mandate or oversight during negotiations, no proper involvement of devolved Administrations and no guarantee of a vote at the end of the debate. There has been very limited time for consideration by parliamentary committees.

For all those reasons, I welcome Her Majesty's Government's recent agreement to not only set up but extend the life of the Trade and Agriculture Commission for at least three years and to require the Secretary of State to lay a report before Parliament with regard to free trade agreements involving agricultural products, explaining their consistency with UK statutory protection in relation to human, animal and plant health, animal welfare and the environment.

Returning to this UK-Japan agreement, I shall focus on my particular interest in standards of food products, animal welfare and the environment. We were assured by the noble Lord, Lord Grimstone, in a letter of 11 September that, with reference to the Japan agreement,

"we have maintained all existing protections for our high standards of … animal welfare".

How will we ensure that imported food products have been produced to standards no lower than our own, and who will do that? I ask that in the knowledge that the World Animal Protection ratings for animal welfare in general are E for Japan compared to B for the United Kingdom; and for farm animal welfare legislation, G for Japan, lower than the UK's rating of D. Japan has no specific legislation on animal transportation, the rearing of pigs, laying hens or chickens, and it still permits sow stalls and conventional battery cages for chickens—all in contrast to the range of legislation on these subjects applicable in the UK and to our UK farmers. Furthermore, it is not clear how many of the 14 farm animal welfare guidelines of the World Organisation for Animal Health—the OIE—Japan has put into law. Of global significance is the fact that there is no reference in the agreement to antimicrobial resistance or measures in Japan to reduce antibiotic use in farm animals. In fact, in general, there is little reference to animal welfare standards in the UK-Japan agreement.

The Department for International Trade's impact assessment on animal welfare is very limited, but it does state that

"imports will continue to meet the UK's food safety standards".

I do not doubt that food safety standards will be met—we have the FSA and the FSS to ensure that—but food safety is not the same as welfare standards. The former relates to the safety of the edible products from animals, the latter to how those animals were kept. These are different issues which require different expertise and processes to audit.

It is welcome that provisions in the UK-Japan trade agreement commit both parties to co-operation on matters of animal welfare. In addition, the DIT has committed to scrutiny of animal welfare standards in free trade agreements through a range of measures, including, where appropriate, assessments of animal welfare impacts. But the Regulatory Policy Committee report which assessed the DIT's impact assessment stated that it should have given more detail on the impact on animal welfare and identified animal welfare as an area to be improved in future impact assessments. How will the DIT do that? Does it have the relevant

expertise? Will the DIT fully utilise the Trade and Agriculture Commission? Particularly with regard to breadth and depth of expertise, will it co-operate fully with Defra on this?

I would welcome a response from the Minister to those questions which will provide further assurances that, in future trade agreements, the UK's standards will not be compromised.

3 pm

Lord Hain (Lab): My Lords, I look forward very much to the maiden speech of the noble Lord, Lord Darroch, with whom I worked very productively when I was Europe Minister and who has the great virtue of being a Chelsea fan.

The EU-Japan agreement, from which the UK, as an EU member, has benefited, entered into force on 1 February 2019 and is the world's largest bilateral trade deal, creating an open trading zone covering nearly one-third of global GDP. In his evidence to the International Agreements Sub-Committee, the Minister, the noble Lord Grimstone, confirmed that this new agreement with Japan is a "continuity" agreement. His departmental colleague confirmed that

"in almost all respects the tariff liberalisation is the same as it is in the EU agreement".

It is therefore surprising, perhaps, as the noble Lord, Lord Oates, pointed out, that the Secretary of State, Liz Truss, called the agreement a

"ground-breaking, British-shaped deal",

which she said went far beyond the existing EU-Japan trade deal. On 19 November, when questioned by the shadow Secretary of State, Emily Thornberry, she was unable to explain how this was the case, and has failed to produce any economic modelling to prove otherwise.

A government impact assessment in October found that the £15.66 billion projected boost to bilateral trade claimed by the Government was, in fact, a comparison with no trade deal with Japan, rather than with the existing EU-Japan deal. It also showed that of these benefits, 83% would go to Japanese exporters and only 17% to the UK's. Officials confirmed that the deal was expected to add a mere 0.07% to UK gross domestic product, and this was again as compared with no deal with Japan, rather than with the status quo EU-Japan deal.

The UK had sought access to tariff-rate quotas for value-added agri-food exports such as cheese. As the Japanese had promised their farmers that there would be no such new quotas, Britain failed to secure these, and instead has to use any quota left over by the EU in only 10 out of 25 such products covered by the EU-Japan agreement. Moreover, the UK Trade Policy Observatory found that all the tariff "wins" claimed by the Secretary of State are for goods that the UK does not actually export to Japan. The 10 products concerned include obscure items such as birds' eggs, raw hides, fur skins, and ultra-strong spirits of at least 90% alcohol. The gain to British exporters was therefore found to be "zero".

The trade observatory study also concluded that:

"In services and investment liberalisation, it is clear that Japan's commitments to the EU and the UK are almost identical".

Foreign direct investment is therefore one notably important area missing from the deal. The UK is Japan's second-largest destination for FDI, totalling £131 billion in 2019. Japanese investment supports over 100,000 jobs in the UK in sectors such as manufacturing and scientific research. However, as Mr Motegi, the Japanese Foreign Minister said, at the signing of the deal:

"It is of paramount importance that the supply chain between the UK and the EU is maintained even after the UK's withdrawal."

He therefore had "high hopes" of a deal between London and Brussels—as I trust that we all do.

As the *Financial Times* pointed out on 13 September, the UK-Japan deal commits the UK to tougher restrictions on state aid than those that it has said it would accept in the context of a trade deal with the EU. Why, then, do the UK Government continue to regard state aid as a make or break issue for the crucial trade talks now taking place with Brussels?

The UK has said that this deal will be a stepping stone to the UK's membership of the Trans-Pacific Partnership, but trade deals with countries on the other side of the world cannot replace those with the EU, the biggest and richest market on our doorstep, worth 47% of the UK's trade in 2019.

The Government have sought to overplay the significance of the UK-Japan trade deal as cover for the chaos looming if the UK fails to secure an EU trade deal. As the *Guardian* business leader said on 13 September:

"A Japan trade deal is little consolation if Britain is locked out of the EU."

3.05 pm

Lord Foster of Bath (LD): My Lords, as a relatively new member of the IA committee, I have been impressed by the expertise of fellow members; by the skill and professionalism of the committee staff, to whom great credit must go for this report; and by the dedication and, above all, patience of our chairman, the noble and learned Lord, Lord Goldsmith.

Whatever the merits of the Government's claim that the Japan deal is more than a rollover of JEEPA, it should be welcomed as providing

"valuable continuity for businesses, consumers and other stakeholders",

and as a stepping stone to joining the CPTPP. But it is nowhere near as ambitious as many had hoped. Agreement to negotiate a deal was not reached until January last year, but it was a further 17 months before negotiations even began, so they had to be conducted at pace. I congratulate our negotiators on what they were able to achieve in such a short time, but it meant that nothing that required any change to primary legislation in either country could be included. Hopes for an ambitious deal were dashed and many proposals from consultees had to be ditched, calling into question the claim that this is a comprehensive deal.

Indeed, as other noble Lords have already pointed out, there are several examples of the Government overselling the deal. I hope that the Minister will accept that criticism. I note also that the UK's overselling is in marked contrast to the Japanese who, despite appearing to gain far more from the deal than we do, have been much more muted. But working out those gains is difficult given current limitations in economic modelling and because, unhelpfully, the Government

[Lord Foster of Bath]
have compared the deal against trading on WTO terms rather than against JEEPA. I hope that this will not be the case in future deals.

Operating on a compressed timetable reduced ambition, but it also meant confusion and disappointment for the numerous stakeholders. The intellectual property chapter provides a good example. Of those aspects impacting the creative industries, our report says that, despite government claims of significant improvements on JEEPA,

"many of the additions focus on future discussions and awareness raising about existing enforcement procedures in both countries, rather than securing new … protections."

To protect IP, the creative industries had sought much more. They wanted tougher measures to enable blocking of websites containing illegal content, along the lines that we already have in our own Digital Economy Act —but they did not get them. Can the Minister confirm that the UK will be reliant upon Japan's existing IP enforcement procedures and that the deal does not commit Japan to any specific changes to those procedures?

The other two creative industry asks—public performance rights and artist resale rights—were not achieved either. Does the Minister acknowledge that stakeholders were given inaccurate expectations of what could be achieved in the deal?

The creative industries and other sectors may benefit from provisions on digital and data. But, as my noble friend Lord Oates pointed out, there are concerns about those provisions. One is that they could herald the lowering of our current GDPR-based data protection standards, perhaps to enable us to gain admission to the CPTPP given the lower standards of data protection in the Asia-Pacific region. In JEEPA, onward data flows are specifically excluded. Under CEPA, however, data which flows from the UK to Japan could be passed to other countries, through trade deals that Japan has with those countries, where lower data protection standards apply, thereby giving reduced protection to the personal data of UK citizens. I am not a believer in conspiracy theories, so will the Minister give an assurance that nothing in this agreement, or any future agreements, will reduce the standard of protection of the personal data of UK citizens from what is currently enjoyed?

This is a welcome deal because of the continuity that it provides. But it is little more than a rollover deal, one which has been oversold by the Government, appears to be far more beneficial to Japan than to the UK, and for which the Government have not even provided analysis to enable comparison of it with what we currently enjoy.

3.09 pm

Sitting suspended for a Division in the House.

3.14 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, the Grand Committee will now resume with the noble Lord, Lord Lilley.

3.14 pm

Lord Lilley (Con): My Lords, I welcome this trade agreement, not only because it secures the benefits of the existing EU-Japan free trade agreement. It goes beyond that, especially in digital and data, and, potentially, on geographic indicators and rules of origin, and it helps to pave the way for our future membership of the TTP, or the CTP—you know what I mean.

Before elaborating on those aspects, I repeat my habitual warning, like a cracked record, about the excessive importance attached to trade deals in public debate in this country and, indeed, in your Lordships' House. Trade agreements like this are useful but far less important than most people imagine. What really drives trade is producing goods and services that people want to buy then getting out and selling them, preferably aided by a competitive exchange rate. Sadly, a significantly lower proportion of British small and medium-sized enterprises engage in international trade than is the case for similarly sized companies in our major competitors. That weakness in our business culture has been exacerbated by an exchange rate sustained at an uncompetitive level by the sale of assets, rather than by selling as much goods and services as we import.

This agreement with Japan is sometimes belittled, not just relative to the existing EU-Japan agreement but because it is not nearly as deep as the single market arrangements that we are leaving at the end of December. It is the accepted wisdom that the European single market represents the most comprehensive and deepest trade agreement that exists, whereas the WTO is treated as of little fundamental importance. I happened to be the Secretary of State for Trade and Industry who had to implement the single market legislation and helped to negotiate the Uruguay round which set up the WTO. Despite the optimistic speeches that I made at the time about how much the single market would boost our exports, we find that, over the ensuing quarter of a century, our goods exports to the 14 countries which founded the single market have little more than stagnated: they have grown by some 18%, barely 0.5% a year. By contrast, our goods exports to the 14 largest countries with which we trade just on WTO terms have grown by 80%—six times as fast—over the same period. As for the impact that either may have had on our GDP, that is almost impossible to assess, even in retrospect; it is certainly imperceptible, looking at the trend in our trade in recent decades.

I am sceptical in the extreme about the figures shown in the impact assessment of this trade agreement with Japan, and even more so about attempts to break this speculative impact down by region. As someone said, such figures serve only to make astrology look respectable. Government statisticians would be better employed trying to calculate cost-benefit assessments of the effect of the Covid restrictions on lives and livelihoods than those of the CEPA.

On the CEPA itself, the most striking element is the agreement on digital trade and data, which, according to the brief, accounts for as much 30% of our trade with Japan—a figure I find it hard to get my head around. If it is correct, the positive measures in this agreement are likely to be important to trade with Japan, and even more valuable as a template for future trade agreements across the world.

The Deputy Chairman of Committees (Baroness Garden of Frognal): We now welcome the maiden speech of the noble Lord, Lord Darroch of Kew.

3.18 pm

Lord Darroch of Kew (CB) (Maiden Speech) [V]: My Lords, I am delighted and honoured to join your Lordships' House. In my 42 years as a British diplomat, I sometimes sat in the official Box in this House on the deeply questionable basis that I could offer useful advice to the Minister at the Dispatch Box. Later in my career, especially in my last two overseas postings, as ambassador to the European Union and to the United States, I had the honour of giving evidence to committees of this House. I remember in particular two features that stood out whenever I gave evidence: the matchless courtesy with which proceedings were conducted and the forensic accuracy and pertinence of the questions posed. So it is a relief that I am now on the other side of the table.

I start with some words of sincere thanks to the staff of the House for the help that they have given me over the past few months. They have been models of professionalism, not least the IT expert who spent more than an hour on the telephone to me—though to him it must have seemed much longer—helping me with the theoretically simple task of setting up my email account.

There is a particular reason for my choice of this debate for my maiden speech. Tokyo was my first overseas posting, and I was there for four and a half years in the early 1980s, so there is a certain symmetry in UK-Japan relations being the focus of my first intervention in the House.

I was in the political section of the embassy but, at that time, there was absolutely no question about the central task of the embassy: it was about the economic and trade relationship, opening up the Japanese market and encouraging Japanese investment in the UK. If anyone ever thought that diplomats were interested only in political and national security work and not in trade or inward investment, they should have seen the British embassy in Tokyo in the early 1980s.

While it was nothing to do with me, labouring away in the political section, my colleagues in Tokyo succeeded —it took a while—in opening up the Japanese market. Tariffs and quotas were reduced or eliminated, and the first big Japanese investments—notably the Nissan factory up in Sunderland—were enticed to the UK, all of which paved the way for a substantial boost to the commercial and investment links between the two countries and the thriving bilateral relationship that we see today. A lot of officials, diplomats and Ministers have played a part in this progression, but I like to think that the seeds were planted by my economic and commercial colleagues in those now distant early 1980s days, back in the Tokyo embassy.

That brings me to this new UK-Japan Comprehensive Economic Partnership Agreement. I start by congratulating the International Agreements Sub-Committee on its report on the agreement, which is an excellent piece of analysis, and the summary of conclusions and recommendations is a model of its kind. I am tempted to say that I agree with every one of them and leave it at that, but, having got the Floor, I would like to offer briefly three reflections.

The first is to highlight one of the central themes of the committee report: the overselling of the gains of this agreement. This is not to discount or diminish the work of our negotiators. I spent many hours negotiating around the EU table and know that negotiations are always a hard slog. But to quote the committee's report, the Government are

"presenting as a new gain the retention of EU negotiated provisions."

There are some modest advances, such as faster reductions in tariffs on, for example, leather goods, some more liberal rules-of-origin provisions, and some improved financial services provisions. However, there are also some deficiencies in comparison with the EU agreement—in particular, the arrangements for continued access for UK companies and some tariff-rate quotas are suboptimal and introduce uncertainty. There is further uncertainty about whether UK exporters will actually gain the additional 60 or so geographical indicators that are promised, and around how the provisions of this agreement on application to Northern Ireland will work in practice.

With so little good news around in these coronavirus days, I can understand the temptation to talk up successes. I repeat that it is good to have this agreement, but overselling always brings consequences down the track.

Secondly, the committee's report highlights the important succession to the Trans-Pacific Partnership Agreement. I strongly agree. This is the part of the world enjoying the strongest economic growth, and it is coping with the pandemic better than Europe or the United States. The stronger our trade relations with the region, the better for the UK in the medium term.

My third point is a wider one. As the report notes at paragraph 105, the Government have estimated that the agreement with Japan will increase GDP by 0.07% a year, though they have not offered a figure for what benefits the agreement brings over and above those that were enjoyed by the UK as a member of the EU-Japan agreement. I note that in another part of the post-Brexit forest, the Government have estimated that a free trade deal with the US would boost the UK economy by 0.16% over the next 15 years. I point out the contrast between these figures and the impact on the UK economy of no-deal Brexit. A recent study by the London School of Economics estimated that no-deal Brexit would have a long-term impact on the UK of 8% of GDP—that is not too far from the Government's own forecast, back in 2018, of 7.6% of GDP.

The point is obvious: these trade deals with the likes of Japan and the US can have a positive but modest impact on our future economic growth, but they are dwarfed by the implications—positive or negative—of the current negotiations with the European Union. Nothing is more important than a successful outcome to that process. This is, I recognise, hardly an original or controversial point, but the clock is ticking, it is the 11th hour, and the risks are growing.

3.24 pm

Lord Kerr of Kinlochard (CB) [V]: What a privilege it is to follow the noble Lord, Lord Darroch, and be the first to congratulate him on an excellent maiden speech. We come from the same Diplomatic Service

[Lord Kerr of Kinlochard]
stable, where, in Washington, Brussels and Whitehall, he served five Prime Ministers with verve and distinction. He was famous in our service for hard work, good judgment, a certain joie de vivre and conspicuous loyalty to his team. I was rather luckier than him in some ways, because the Presidents I watched in Washington were rational and predictable, and all the Prime Ministers I worked for saw loyalty as a two-way street. We have just had an insight to and foretaste of the huge contribution that the noble Lord, Lord Darroch, will, with his wisdom and experience, make in the House. Despite his being a Chelsea fan, I welcome him very warmly.

As a member of the committee, I begin by congratulating the noble and learned Lord, Lord Goldsmith, on his judicious and magisterial chairmanship. I also congratulate the noble Lord, Lord Grimstone, and thank him for his courteous and co-operative relationship with the committee. I particularly congratulate our clerk, Dominique Gracia, who mustered our thoughts graciously, skilfully and fiercely

I am one who welcomes the agreement and think that its principal merit is continuity; it prevents a cliff edge on 31 December. There are small pluses—on digital, on data and on regulatory co-operation, though nothing on investor protection and no separate chapter on digital—and there are minuses. There are minuses on TRQs, as the noble Lord Darroch, has said, and on geographical indicators. I would not make a big deal of these minuses—indeed, I would not mention them at all—but for the fact that the department chose to present them as pluses by comparing the deal not with the status quo of the EU deal that we have enjoyed up to now but with the straw-man of what WTO terms would have been.

I join the noble Lords, Lord Foster, Lord Hain and Lord Darroch, in warning of the dangers of overselling. It is actually unfair to our negotiators, who have produced a perfectly respectable rollover deal, that there should be Twitterstorms and criticisms over claims that are, at best, exaggerated. I think it would be wise, if we are comparing the benefits that we will secure from the agreement, to compare them with the status quo.

These points have been well made and I do not want to labour them. I would like to make a different and more general point. For 40 years, the dominant factor in our economic relationship with Japan has been its inward investment in this country, first in electronics, then in the automobile sector and then more widely. The benefits to us have been enormous, not just in employment but in learning from Japanese production techniques of automation and now digitisation. The Japanese came here because they saw us as a springboard into Europe. I was one of those who, despite strong Italian and French opposition, persuaded Jacques Delors's Commission that Nissan's investment in Sunderland would produce European cars, not Japanese cars, and they would be just as European as Fiats or Peugeots. If we had failed, the Japanese would not have come here. What worries me now that Sunderland is outside the single market—which Jacques Delors, Leon Brittan and Margaret Thatcher built—is that the Japanese may be forced to take a different view. Whether Nissan and Toyota now pull back—or, worse, follow Honda and pull out—depends not on the agreement that we are discussing today but on the agreement we strike with the European Union and what it says about rules of origin and what the return of customs formalities and frontier checks means for just-in-time supply chains. We must cross our fingers and hope for a no-tariff deal and minimal frontier friction. If we do not get those, the relationship with Japan will wither.

For all the fine talk of Asian opportunities and the CPTPP, the rule of thumb for trading in goods is that trade halves as distance doubles. That is why the Japanese have chosen to make things here, and if we lose them the European market, we will lose them, full stop. They will make things in continental Europe instead. I hope that the Prime Minister understands that.

3.31 pm

Lord Risby (Con): My Lords, it is a pleasure to be a member of the International Agreements Committee, and I warmly congratulate the noble Lord, Lord Darroch, on his speech.

I begin my remarks by referring to our trade and investment exports, which in recent years have been supported in a transformed way. For the past eight years, I have been one of the Prime Minister's trade envoys. It has been a dramatic change, not least of course the huge expansion of the facilities of UK Export Finance.

It is widely accepted that the UK-Japan agreement is not significantly different from the precedent of the EU-Japan agreement, and inevitably there will be caution in Japan pending the outcome of the Brexit talks, most particularly on trade and goods. But given that the only committee briefing I have participated in was on financial services, it is appropriate that I should confine my remarks to services and data. Last year, 56% of service exports to Japan were financial, so there is certainly further scope, and an agreement has potentially opened the door to that and, importantly, to further regulatory co-operation in financial services and digital trade.

We all know how often individual countries are most reluctant to embrace fully foreign banking and insurance activity. There is considerable professional admiration for our financial service structures. The CEPA, including our three pillars—HM Treasury, the Bank of England and the Financial Conduct Authority—sends a clear signal. It is now possible for our financial services to offer products on the same basis as Japanese companies, but that has to involve mutual trust. Although it is the intention that meetings will take place regularly, it will be done within a voluntary framework, not forced, with regulators eventually controlling the dialogue. I wonder whether my noble friend the Minister believes that this voluntary framework adequately sets out a mutually beneficial trajectory.

If we look at CEPA as the basepoint for future advances, during our time as members of the European Union, in my view we greatly benefited from mutual professional recognition. My understanding is that this matter will be explored further and is to be strongly encouraged. Again, my noble friend may wish to express a view on how we can take this matter forward.

What is gratifying is that both Japan and the United Kingdom instinctively favour open economies, but work needs to be done to address the challenges of digital e-commerce, given that half of services trade is now digital. This is a hugely sensitive area, not least to prevent money laundering and enforce the know-your-customer rule.

It is also clear that the matter of investment protection needs to be revisited; again, perhaps within a voluntary mutual context, but certainly that of a defined dispute resolution that may require additional powers.

Unfortunately, the view on trade matters of both countries is not widely shared internationally. However, I acknowledge that both Governments, in being committed to the free flow of data, are also committed to a legal framework that provides for the protection of personal information. This is certainly an area that is beset with potential concern and abuse, so it is good that CEPA addresses only data flows between the two countries directly, with onward transmission abroad disallowed. This is an understandable concern with regard to personal and medical data, but the two countries are of like minds, as indeed are New Zealand and Australia.

Thus, while it is perfectly true that CEPA largely mirrors the Japan-EU agreement, the architecture has been put in place for future digital advance. It is not a matter of controversy that higher levels of economic growth are forecast for countries broadly in the Pacific basin. I hope therefore that the successful conclusion of CEPA will open the way to our participation in the CPTPP in due course, not only for economic but for geostrategic reasons, bringing together countries that believe in open markets at a time when their value has been challenged, with negative consequences for world trade and prosperity.

I believe that the committee's report clearly points to areas where further clarity and progress can be advanced.

3.05 pm

Baroness Liddell of Coatdyke (Lab) [V]: I am delighted to join in the congratulations to the noble Lord, Lord Darroch, on his excellent maiden speech. As both a Minister and a cuckoo in the nest of the Diplomatic Service, the noble Lord was one of those I always looked up to—including, of course, the noble Lord, Lord Kerr of Kinlochard. The noble Lord, Lord Darroch, is joining us at a critical time and we look forward to his judgment.

I am also delighted to be a member of the International Agreements Committee. I welcome the UK-Japan Comprehensive Economic Partnership Agreement, but like my noble and learned friend Lord Goldsmith, I have to say that the way the deal has been oversold detracts from what is in the agreement, and it tends towards scepticism about progress on other agreements. I hope that those who are responsible for the overselling recognise that, so that we do not have this in other agreements. I am sure that the uncertainty about the outcome of the UK-EU talks means that there must be question marks around the rest of the agreement, not least the fact that it was measured against WTO rules. That was regrettable.

While I welcome the improvements in data and digital to which others have referred, I feel that the agreement lacks a proper investment chapter, which is a critical key to maintaining Japan's interest in the UK. That could come from greater investment by the UK to Japan, not just in the other direction. The UK will no longer be a gateway to the EU, so an investment chapter would have mapped out continued encouragement for future Japanese investment throughout the economy. There is a real need to seek opportunity and to consolidate it, and we should be seeking a bigger export market for UK goods into Japan. At the moment, the UK exports more to the Netherlands than it does to Japan; we have to reverse that.

I echo the conclusion of the report of the chair on the agreement that there is a lack of ambition. I do not deny the challenge of getting a deal done against the timetable, but the lack of ambition in the agreement, and the exaggeration surrounding its launch, really does create an atmosphere of scepticism for future deals. Looking closely at the three impact assessments which have been published, we can see that for every pound we make, Japan makes five pounds. We have to get a better balance in something like that.

There is one area about which I have serious concerns. I am worried about the commitment to trade and women's empowerment. I was greatly encouraged to hear this referred to at the start of the negotiations, because it is an issue for women doing business with Japan, as well as for very talented Japanese women.

The *Global Gender Gap Report* published by the World Economic Forum since 2006 covers 153 countries. It measures the gender gap between men and women in four areas: health, education, the economy and politics. It has the Japanese at 121 and the United Kingdom at 21. I can find no reference to the Secretary of State referring to women's economic empowerment as an element in the UK's trade policy; all I can find is advice on training and the exchange of information and experience, but no binding commitment. More troubling is that Article 21.4 excludes it from CEPA's dispute settlement procedures. Where I come from, that would be called kicking it into the long grass.

I am also very concerned about the arrangements for SMEs. Can the Minister give us an idea of the extent to which the scoping exercise showed the difficulties that SMEs might encounter in doing business with Japan? What consultations have taken place with representative organisations and is facilitation, and little else, a last point of exercise for SMEs?

It was said earlier that lessons have to be learned for the future handling of these agreements, in particular around the interaction with Parliament. We are not the enemy, but it is our job to scrutinise the interaction that leads to these agreements and, in doing so, make them much more robust. I look to the future and to lessons learned.

3.40 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I, too, congratulate the noble Lord, Lord Darroch, on his maiden speech and look forward to future contributions. I was fortunate enough to be able to rely on his wisdom in his role as the UK's ambassador in Brussels, which was especially helpful when I became the chair of the Economic and Monetary Affairs Committee and had a scrap or two while finding my feet.

[Baroness Bowles of Berkhamsted]

I welcome the UK-Japan trade agreement. Trade agreements are not simple or speedy matters, and the corollary to that is recognition that this one is an achievement—although in my previous EU Parliament role I knew what was going on during trade negotiations and did not have to wait until the end. I have at times wondered what planet trade negotiators were on—and I say that in a friendly way, having once contemplated being one. But the fact is the negotiations are political, detailed, complex and slow. They remind me of the science fiction story "The Waitabits", where the alien planet operated on such a slower timescale that it was described as "unconquerable". Maybe that is the point of trade deals; there should be no great victory of one side over another and no conquering, nor any need for exaggerated boasting.

I did not expect massive changes on goods, but there are some interesting things in the detail, such as tariffs on UK products being applied upon arrival rather than applied for in advance, which looks happily streamlined, at least until the point when products arrive to find the low-tariff quota already filled. One hopes that will be worked through to something that really works in the end.

On services, there are changes in direction compared with the EU-Japan agreement, especially digital services, and that gives rise to questions about where they lead over time and what may have become a change in policy that might otherwise have been expected to be in primary legislation. Digital trade moves towards positions in the United States-Mexico-Canada Agreement and setting the UK up for accession to the CPTPP. I understand that positioning, but I am not certain of how much is now rendered a fait accompli and how much marks a potential path that will still have subsequent monitoring by Parliament. Perhaps the Minister could give more guidance on that.

There is no denying that data is important to the digital economy, and there are global differences of opinion on who owns it. Put crudely, the EU considers that it is owned by the individual, the US that it is owned by companies, and China that it is owned by the state. How far down the track from the EU to the US position has the UK gone, and how will Parliament be involved in the detail?

I broadly welcome the agreements around intellectual property but, again, the devil will be in the detail. Simplified trademark registration is welcome. Given the difficulty in protecting algorithms by formal mechanisms, I understand the reasons for agreeing that there should not be forced disclosure. However, can the Minister confirm that this will not result in lack of information concerning accountability and oversight over automated decision-making, especially vis-à-vis individuals' rights to explanation and inferences? I think the A-level results fiasco taught us all a thing or two about surprising and wrong things that can be found in algorithms and consequential inferences affecting people. It is necessary to be able to have explanations and understanding of the parameters that are used even if algorithms are not disclosed. Can the Minister confirm that requirements for this type of information are not prevented by the agreement?

3.45 pm

Lord Howell of Guildford (Con) [V]: My Lords, I join in warmly congratulating the noble Lord, Lord Darroch, and welcome him and indeed his wisdom to our counsels. I declare interests in advising for many years two major Japanese companies and writing a regular column since the 1980s in their newspapers, and as UK chairman for 10 years of the UK-Japan 2000 Group, renamed the UK-Japan 21st Century group when we got to the millennium, which in those days included such legendary giants as "Sony" Morita and Shoichiro Toyoda. However, I want to concentrate here on the less business-related and more strategic significance of this agreement.

The agreement, which is thoroughly modern in focusing on digital trade and services, has had a rather grudging reception in some quarters, like the *Financial Times*, which has emphasised the undoubtedly small immediate trade aspects compared with large issues like the EU, or, as some have said, a new trade deal with the United States—although I have always been a bit sceptical about the wisdom of disturbing our present very strong trade with the USA by going for something bigger still: a slight case of the dog with a bone seeing the bigger bone in the pool.

This new agreement with Japan has also had a thorough and impressive going-over, as we have heard, from our EU International Agreements Sub-Committee, as well as from the independent Regulatory Policy Committee. It made the point, which I agree with, that we have no bilateral investment treaty with Japan, nor does this agreement create one, which is slightly odd when one considers that foreign direct investment is, has been and will often be the main trade driver.

However, the new agreement is significant for the UK—and maybe for Japan—for a number of reasons that go very much deeper than just trade. It marks a firm step towards the realisation in British policy circles that the future will be increasingly Asian. It could therefore herald a new era of increased collaboration with Japan, not just in trade relations but in much wider fields. For instance, extending the Five Eyes intelligence alliance would be an obvious next step on this front. Opening the gateway for us to join the Comprehensive and Progressive TPP is another, already featured. Aid co-operation could also increase, although it is worth noting in passing that Japan runs an excellent aid programme at only 0.29% of its GDP.

Another shift of huge significance could be about to occur on the UK home front as well. Ten years ago we were all talking about a golden era of UK-China relations, ushering in extensive Chinese involvement in many aspects of the British economy, from nuclear power to railways, ports, property, public utilities and even football clubs. However, in the decades since then, under the rule of Xi Jinping, China has forfeited much of the UK's broad goodwill by its growingly assertive and prickly attitudes and disruptive policies, not least in Hong Kong. Maybe this will change under better leadership but, meanwhile, it could be that the golden era of UK relations with China is set to be replaced by a golden era of relations with Japan. The trade deal is a harbinger of just that. This would make a great deal of sense, since the two nations working in

tandem could be a considerable force for good in a fragmented and frightened world and at a time when the voice and influence of a divided United States has regrettably become "an uncertain trumpet"—at least up until now.

Perhaps the new Prime Minister, Yoshihide Suga, could open his premiership not only by welcoming the new trade deal, as he has already done, but by recognising that this is one step along a road to very much closer co-operation in almost every field—security, defence, culture and intelligence included—and that Japan and the UK, working in harmony, constitute a formidable nexus around which the 21st-century connectivity between east and west can continue to be expanded.

3.49 pm

Lord Loomba (CB) [V]: My Lords, I share the Government's pleasure at signing the trade agreement between Japan and the UK, their first trade deal outside the EU. However, the agreement raises some issues, especially as there appears to have been some overselling by the Government on their achievement in signing it.

The first issue relates to an agreement with the EU on diagonal cumulation, so that goods bought from Japan and then incorporated into British goods can be sold on in the EU with the UK as the country of origin. At this point, we do not have such an agreement in place. This is no small matter, as without it—and time is tight on reaching agreement—businesses may find themselves unable to sell their product in an EU country either at all or, to be able to do so, with increased costs.

Secondly, tariff-rate quotas are problematic for UK companies. For instance, there is a mixed bag for agriculture, with products such as cheese and wheat capable of zero-rate tariffs, while products such as butter, whey and sugar have lost all access to lower tariffs.

There also appears to be some confusion over how access to zero tariff-rate quotas will operate in practice. One report suggests that zero rates will be available only once EU companies have used up their share of the quota, while a second believes that the zero rate will be available on point of delivery. One suggests that UK companies will only benefit from anything left after the EU has taken up its share, while the other says that UK companies that get in first will access it. Can the Minister explain the correct position?

3.52 pm

Lord Gold (Con) [V]: I too congratulate the noble Lord, Lord Darroch of Kew, on his insightful maiden speech and welcome him to the House. I am sure that, when we return to normal business, we will all want to hear his reflections on the soon-to-be-ending Trump White House.

The Government are to be commended for securing a new economic partnership with Japan in what has been an extremely short timespan when compared with normal trade negotiations. The achievement is particularly notable, as this is the first time that the UK has had to negotiate a trade treaty in some 40 years. When asked by the EU International Agreements Sub-Committee to identify the most significant feature of this agreement, one witness stated that it was in securing the agreement itself, in that by concluding an agreement we have avoided a trade impasse from 31 December and avoided being at a competitive disadvantage with EU exporters, which would have been particularly damaging.

Although the Government's aim in their negotiations was to create an agreement as ambitious, high-standard and mutually beneficial as the EU-Japan economic partnership agreement, enhanced in areas of mutual interest, the reality is that this is a rollover of the EPA with certain additional features. As some have said, it is a rollover or continuity-plus agreement. This in itself is to be commended.

In acknowledging this achievement, however, there was no need to oversell what had been achieved, which, as other noble Lords have pointed out, the Government have to some extent done. As the report acknowledges, the agreement provides valuable continuity for businesses, consumers and other stakeholders and it avoids a return to WTO trading terms. Those negotiating our post-Brexit arrangements with the EU should please take note.

However, as other noble Lords have stated, the agreement is not perfect. For example, with regard to tariff-rate quotas for agriculture and food exports to Japan, the EU is given priority and the UK can only use the remaining headroom if there is any. Importers will not know until some time after purchase whether the imported items attract duty. Indeed, they may even have to pay the duty in advance or give security without knowing whether duty is payable. These factors may well be a disincentive to purchasing British products.

Nevertheless, the add-on features to the Japan agreement may prove significant, particularly in financial services and in relation to digital and e-commerce. The agreement also offers a potential extension of geographical indications for unique British products from seven to potentially over 70, although whether this can be fully achieved is at present somewhat speculative and may take some time.

In its work, the sub-committee, of which I have had the honour of being part, has learned a great deal, both on the way in which scrutiny of treaties might be undertaken and on how the process of negotiation might be improved. The Government have established a series of new trade advisory groups, which will identify business needs and set out what they seek in their aims for the negotiation. For true benefit to be gained from these advisory groups, it is necessary that they are kept informed and that there is an open dialogue with the relevant group so that those negotiating the treaty are aware of any worrying concerns and can hopefully cover these in the negotiation. Once the text is drafted, it may be too late to make changes.

The CRaG procedure provides a tight timetable for scrutiny of new treaties. By briefing the sub-committee in both public and private sessions and by providing confidential access to documents, the department has enabled the committee to undertake its work far more efficiently than would otherwise have been the case. I hope that the department has itself benefited from timely feedback from the sub-committee as the negotiations have continued and that this will be a regular feature as further treaties are negotiated.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I call the noble and learned Lord, Lord Morris of Aberavon. Lord Morris, are you there? Lord Morris, we cannot hear you. We may need to carry on and come back to you if there is time. I now call the noble Lord, Lord Shipley.

3.58 pm

Lord Shipley (LD) [V]: My Lords, I congratulate the noble Lord, Lord Darroch of Kew, on his excellent maiden speech and on his clear analysis of this trade agreement.

I am pleased that we are having this debate today and I say at the outset that this trade agreement with Japan is most welcome. I live in a region—the north-east of England—that has benefited significantly from Japanese investment in recent years and wants to go on doing so. The north-east has a long and valued history of trading with Japan, ever since the first official delegation from Japan came to the UK in 1862. The delegation visited two cities, London and Newcastle, to understand better the impact of the Industrial Revolution, where it met civic leaders, engineers and inventors. It was the start of a long and fruitful trading relationship over several decades.

Today, Japanese investment has generated many thousands of jobs in the north-east. Yet we still do not know what our trading relationship with the EU will be in just 36 days' time. This matters profoundly. This trade agreement is good news in keeping tariffs down, but Japanese companies in the UK need markets to sell into without barriers to their trade. A week ago, in an interview with Reuters, Nissan's chief operating officer said that its UK business would not be sustainable in the event of a Brexit that added major costs to its business model.

Many thousands of jobs are dependent on the Government securing a good EU trade deal. Is there going to be one? There are, as I said, just 36 days to go. The concerns of the North East England Chamber of Commerce, which we heard about earlier, are amply justified. This is the UK's first trade agreement on a large scale and it is with our fourth largest trading partner outside the EU, with trade being worth £32 billion in 2019.

It is, however, unfortunate that Ministers were so tempted to engage in hyperbole by claiming that the agreement would increase UK-Japan trade by £15.2 billion over 15 years, somehow forgetting that the estimate of the growth in trade was actually based on the expected increases from before the introduction of the EU-Japan trade agreement two years ago when we were still EU members. Can the Minister confirm what the real increase is expected to be as a direct result of the negotiation of this agreement?

As we have heard, the agreement projects a growth in GDP of 0.07% over 15 years. It broadly replicates our existing agreement via the EU with Japan, with the addition of some important improvements in digital services and in the system of geographical indications. But today trade between the UK and the EU is 20 times bigger than that between the UK and Japan. This agreement will be of limited value if we cannot access EU markets as we do now.

As we have also heard, the EU will remain so much bigger a market for the UK for the foreseeable future, even allowing for possible further access to Pacific markets. Some 50% of UK trade is with the EU, compared with 2% with Japan; that is, £672 billion with the EU, compared with £32 billion with Japan. These are important figures for us to remember as we seek to develop our trading relations with Japan, which we can and must. But to do so requires continued access to EU markets, as we have it now and as so many speakers today have emphasised.

4.02 pm

Baroness Hooper (Con): My Lords, although I am not a member of the committee which prepared this report, as a recently appointed trade envoy for three central American countries—Panama, Costa Rica and the Dominican Republic—I am naturally interested in the very important scrutiny procedures which we will now have to carry out. I congratulate the noble and learned Lord, Lord Goldsmith, and his committee on producing this report in record time. This debate, and yesterday's in the House of Commons, are therefore very useful in raising issues that need further clarification and, indeed, in emphasising the importance of completing the EU trade agreement.

I should also flag up the fact that I am a long-time vice-chairman of the All-Party Parliamentary Group on Japan, so I am fully aware of the cultural links and the good will which exist between our two countries. This, I believe, will be helpful in interpreting the deal in the future and in resolving any disputes that may arise.

As the 18th speaker in this debate, I am aware that many of the questions which I had in mind have been well aired, so I will confine myself to three. First, on the ongoing analysis and monitoring that are envisaged, the analysis which caught my eye and on which the deal was based suggests that there will be a trade increase of £15.7 billion and an increase in UK workers' wages of £800 million, compared with the 2019 levels. That is quite a statement. What procedures are envisaged to check that these statements are fulfilled? Will it be left to Parliament to initiate debates and question Ministers or are the Government committed to regular reporting?

Secondly, since we recognise that trade agreements by themselves do not create trade, it is a question of boots on the ground; my noble friend Lord Lilley underlined this and the noble Baroness, Lady Liddell, also talked on this front. In terms of trade promotion for SMEs in particular, what plans do the Government have to encourage SMEs to get involved? I believe that on the whole the big boys can look after themselves but SMEs certainly need support and, as a result, may be able to take advantage of some of the new niche business opportunities that are made available as a result of this agreement.

Thirdly and finally, I am tempted to raise the issue of energy. As the Energy Minister in your Lordships' House way back in the 1980s when we were privatising the electricity industry, we stood shoulder to shoulder with Japan on the subject of nuclear energy being a clean energy. There was a particularly memorable

meeting of the IAEA—the International Atomic Energy Agency—in Paris when Sweden was urging the closing down of all nuclear production, when that relationship was very useful. But in the context of today and of this debate, green energy and renewables have to be at the forefront. What are the Government's expectations on this front?

4.06 pm

Lord Bilimoria (CB) [V]: My Lords, the total trade in goods and services between the UK and Japan was almost £32 billion last year. Japan is the world's third largest economy and the UK is the fifth or sixth largest, at any time, and a major importer and exporter of goods. The UK is currently Japan's 12th largest trading partner, accounting for 2.1% of all Japanese trade.

The deal has further economic significance because it lays the foundation for the UK's future accession to the CPTPP, as many noble Lords have mentioned. Given that Japan is the second largest investor in the north-east of England, the UK could have used the agreement to incorporate commitments to boost and diversify Japanese investment across the country. The next step must be for the Department for International Trade to monitor implementation and launch a targeted campaign to ensure that businesses of all sizes take advantage of the deal. Does the Minister agree? As president of the CBI, I say that we stand ready to work with the Government to promote the deal to businesses in all regions and nations of the UK.

The additional benefits that the deal provides are perhaps not as significant as they might have been had the deal been negotiated over a longer period of time. As has been said, the pressure to secure a deal before the end of 2020 meant that both sides had to be realistic about their ambitions in what was really about four months of negotiations. The strategy was always to secure continuity as a baseline and avoid defaulting on WTO terms. In that regard, the DIT has achieved its aim and deserves full credit.

The Government see the agreement as a platform for the UK's accession to the CPTPP and their hope was that by joining the CPTPP—whose signatories, let us remind ourselves, make up around 13.5% of global GDP—UK businesses will have improved access to the fast-growth Asia-Pacific region and the ASEAN trading bloc, while increasing the resilience and diversity of UK supply chains in this area.

The deal has huge economic significance. If you compare the UK-Japan CEPA with the EU-Japan JEEPA, the agreement has, broadly, secured continuity of the existing agreements with the EU, with some additional provisions that address business asks. The key areas where it goes further include e-commerce, rules of origin, IP and financial services. UK business sees this Japan CEPA as an opportunity to increase market access in services, reducing obstacles to mobility and leading to the development of a more inclusive labour market. This is particularly important for financial services, which of course are the UK's biggest export to Japan, accounting for 28% of all UK exports.

The main gain for business in this area is that CEPA contains some new mode 4 provisions, which broaden the scope for obtaining business visas for intra-transferees. UK business also saw this agreement as an opportunity to tailor provisions to address UK-specific concerns and data standard protection, bearing in mind the slightly different approaches to data taken between JEEPA and the CPTPP. Improving intellectual property rules will tackle the counterfeiting of UK products and allow free bilateral data flows to take advantage of the UK Japanese partnerships in R&D innovation and technologies. In these areas, UK businesses will benefit from commitments such as prohibition of data localisation for stricter regulations on IP infringement.

I congratulate the noble and learned Lord, Lord Goldsmith, and his committee on this report. It mentions that the SMEs chapter of CEPA, while welcome, does not in itself offer significant benefit to UK SMEs. Unlike SME chapters in many other trade deals, including the EU-Japan agreement, it simply offers facilitation. As I have said, this is where the Government need to work to encourage businesses to take advantage of FTAs. As president of the CBI, I can say that it stands by to help do this.

The CEPA does not offer a comprehensive stand-alone investment chapter, which would have been of benefit to the UK once it is no longer a member of the EU. The UK-Japan agreement is also important because it sets a baseline for the EU and US agreements.

The noble Lord, Lord Darroch, whom we welcome—particularly as a fellow Chelsea supporter—and the noble Lord, Lord Kerr, in their excellent speeches, stated the importance of the EU, as did the noble Lord, Lord Hain. It accounts for 47% of our trade. If we look at it in perspective, Japan is much smaller. America is our biggest trading partner with 15%, Germany is number 2 with 9% and Holland number 3 with 7%. The whole of the Commonwealth accounts for 10%. This rollover is very important. We nearly did not roll over the Canada deal. It has been rolled over now, but the main point is that the Canada deal rollover is the basis for building on a super-duper bespoke deal for the UK and Canada going forward. Let us hope that we get an EU deal now that can be the basis on which we can build for the future.

4.12 pm

Viscount Trenchard (Con): My Lords, I declare my interests as stated in the register. I thank the noble and learned Lord, Lord Goldsmith, for his report and for introducing this debate today. Having spent 11 years living and working in Japan and a considerable additional period on business trips to the country, I am delighted that the UK-Japan CEPA was the first of our EU trade agreements to be rolled over, as an enhanced continuity trade agreement.

I also welcome the noble Lord, Lord Darroch of Kew, to the House and congratulate him on his impressive maiden speech. The noble Lord and I gained our first experience of expatriate life in the same city, Tokyo, at the same time, which is interesting. I served under six ambassadors in Japan, including the great Sir Hugh Cortazzi, who perhaps was the one person whose effectiveness inspired me to study Japanese seriously.

The committee's report is somewhat too grudging in its assessment of what has been achieved in only four months and against the predictions of the naysayers. It is perhaps also too reluctant to give fair credit to the

[Viscount Trenchard]
political significance of the agreement against the background of Brexit and the launch of global Britain. Does the Minister also agree that it underestimates the importance of the side letter to CEPA, in which the Government of Japan express their firm determination to support the early accession of the United Kingdom to the CPTPP?

Japanese officials have been encouraging the other 10 members of the CPTPP to understand the benefits of UK accession for some time. The US had persuaded Japan to include significant agricultural quotas in its CPTPP schedules, which are still there after US withdrawal. This is one reason why early UK accession makes a great deal of sense. In addition, Japan believes that early participation by the UK and the workings of the CPTPP will maximise British influence, which will help to ensure that the CPTPP develops as a global beacon and exemplar of the benefits of rules-based free trade, contributing greatly to growing prosperity for many millions across the world.

In May 1998, I was honoured to be allowed to introduce a debate in your Lordships' House on the state of Anglo-Japanese relations at the time the then Emperor and Empress of Japan arrived for their state visit. At that time, Japanese companies in Britain accounted for 65,000 jobs. Twenty-three years on, the planned state visit by Japan's new Emperor and Empress has regrettably had to be postponed as a result of the Covid-19 pandemic. But the number of jobs provided in the UK by Japanese companies has more than doubled, to around 150,000. Since then, trade and investment have grown impressively and the cumulative stock of foreign direct investment from Japan now stands at £128.9 billion.

Cultural and educational exchanges between the two countries have also continued to develop impressively. In 1998, defence co-operation between Japan and Britain amounted to not much more than the provision of courtesy vehicles by Honda and Mitsubishi Motors at the Royal International Air Tattoo. Now, Japan is an increasingly important partner in both defence operations and procurement, all three armed services having conducted exercises with their Japanese counterparts in the last three years. Our Japanese friends had been disturbed by the emphasis placed on the UK's developing relationship with China and are now relieved that Ministers have stopped talking about the "golden era" of our relationship with that country.

Japan's soft power on the diplomatic stage has increased dramatically since 1997, particularly during the period in office of Mr Shinzō Abe, who has recently had to stand down for health reasons. My right honourable friend the Secretary of State for International Trade and her team deserve to be congratulated on the CEPA, but it has also been possible to execute it in such a short timescale as a result of the very positive approach towards Anglo-Japanese co-operation held by the previous Prime Minister, Mr Shinzō Abe and his Government, including his chief Cabinet Secretary, Mr Yoshihide Suga who, of course, has now succeeded Mr Abe as Prime Minister. This augurs well for the continued positive developments in bilateral relations. Given more time, perhaps the agreement might have included an investment protection chapter. Will the Minister tell us whether that could be added later? Does he also agree that the digital and data provisions illustrate well the benefits of being able to diverge from cumbersome EU regulations in that field?

4.17 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, coming this far down a long and distinguished speakers' list, including the welcome expertise of the noble Lord, Lord Darroch of Kew, whom we already know has a very sharp eye for political realities and the ability to communicate them clearly, I seek to meet my regular aim of adding to the debate, rather than repeating points already made. However, I note how many speakers have highlighted how this continuity-plus agreement has been radically oversold by the Government as ground-breaking.

That the Government have a problem with trust is a statement of the obvious. They seem to fail to understand that assertion is not fact. The disrespect for reality-based politics dates back to at least the second Bush Administration in the US and seems to have spread its tentacles across the Atlantic with great success. Our Government would do well to recover a respect for reality when commenting on future trade agreements, not just for their own future, but for the level of trust and engagement in politics. The noble Lord, Lord Woolley, has just powerfully commented on that in the Chamber. It is something that the UK has a particular problem with.

As a former resident of Bangkok, where I counted as friends a number of members of the large Japanese community, I found the extended focus on blue cheese exports particularly grating—not to coin a pun. Of course, we can understand the attraction of strange and exotic foods, but 100,000 tonnes a year in sales is not, I venture to say, something we are likely to see growing significantly in this particular market.

There are many things missing here. A crucial area, highlighted by the consumer organisation Which?, is the digital. This potentially undermines the general data protection regulation, and threatens the data adequacy agreement with the EU, as many noble lords have already addressed. There are also grave concerns in the area of animal welfare. As the RSPCA has noted, there is no new language, only poor existing language that does not even recognise animals as sentient beings, something that my noble friend Lady Jones of Moulsecoomb has often addressed in the House. There is no provision to implement the Government's commitment not to lower animal standards in free trade agreements. We come back to trust again. This part of the agreement says:

> "The Parties will cooperate for their mutual benefit on matters of animal welfare with a focus on farmed animals with a view to improving the mutual understanding of their respective laws and regulations."

I can only concur with Compassion in World Farming in saying that this wording is meaningless.

I want to focus an issue that I have been engaging with this week through the All-Party Parliamentary Group on Antibiotics. In 2017, the UK used 281 tonnes of antibiotics in animal agriculture and Japan 809 tonnes. Those figures come from the excellent Antibiotic Footprint website. It struck me in preparing for today that

perhaps we could bring our technological leadership a step further, compared to the other place, by bringing slides into our speeches, for the image of the size of each nation's footprint is a compelling and telling one—although, of course, the United States looms enormously, as it would in a similar graphic for greenhouse gas emissions and so many other environmental destructions, something to keep in mind when a trade deal there is potentially on the table.

Japan is working on reducing antibiotic use, but is clearly well behind us, something to think about at the end of World Antimicrobial Awareness Week. That is closely related to the issue of animal welfare, which is a crucial issue in its own right but also crucial for human health, as the issue of mink and Covid-19 has recently illustrated only too clearly. The risks of factory farming anywhere in the world are obvious, and trade should be one of the mechanisms we are using to tackle that.

To pick up a point made by the noble Lord, Lord Oates, about the truly world-leading work by Costa Rica, Fiji, Iceland, Norway and Switzerland with New Zealand on the Agreement on Climate Change, Trade and Sustainability, and to quote their agreement,

"trade policies, practices and rules have an important and substantive role to play"

in tackling the climate emergency, and indeed broader issues of sustainability.

Your Lordships have heard me ask before a question too often ignored. What is the economy for, and what is trade for, as a subset of that question? Growing GDP is the assessment most commonly used, yet we know that GDP is a terrible measure of national progress. Chasing it has given us a trashed planet, an insecure society and a dreadful state of public health. This agreement does not live up to the Government's promises of improvement and does not meet the crises facing us, so it can only be called a failure, and a failure to live up to the promise. New Zealand and its allies are leading; we are again trailing far behind.

4.23 pm

Baroness Henig (Lab): My Lords, I congratulate the noble Lord, Lord Darroch, on his excellent speech. Clearly, he will be a great asset in future debates in your Lordships' House, and I look forward to hearing from him.

This is an important deal for the United Kingdom, but it also raises significant issues relating to scrutiny, as my noble and learned friend Lord Goldsmith and the noble Baroness, Lady Hooper, have said. Effective scrutiny requires access to clear and relevant information. I turned first to the Government's impact assessment and read it with increasing frustration and bewilderment. I found it turgid, difficult to follow and very unhelpful. It clearly was not aimed at a Back-Bench Member of the Lords such as me, seeking to understand the key aspects of this deal. Who was the impact assessment aimed at and why was it written in the way it was?

I felt better when I read the verdict from the International Agreements Sub-Committee on the assessment, that it

"fails to provide the information that Parliament and the public need if they are to evaluate"

the benefits of the agreement, and that it left many questions unanswered. The committee further cautioned the Government not to oversell their achievements, and I would endorse that, having followed the infamous Twitter debate about duty on soy sauce, which caused huge interest on the internet. It illustrated very clearly the dangers for the Government of inviting ridicule over their inflated claims. I note that the Minister agreed that her original tweet was an error, and she put it down to a display of exuberance. We really need to be able to access sober and realistic financial and economic analysis from the Government on trade deals.

In contrast, the report of the International Agreements Sub-Committee was excellent: clear, informative and helpful in its assessments. However, there is still one issue where I am unclear about what impact the agreement may have—along, I think, with many other noble Lords—in relation to the new provisions on international data flows. Like the noble Baroness, Lady Bennett, I have seen it suggested that these provisions will endanger a deal on data adequacy with the EU, which many businesses say will be crucial to them. Can the Minister clarify the Government's position on that issue?

I note that other provisions hinge on a deal with the EU for their effectiveness, especially in Northern Ireland. Has the Minister any updates for us on the EU negotiations, given how close we are to the wire on that one?

I was extremely concerned to hear about the time pressures that the International Agreements Sub-Committee felt that it was under in scrutinising this treaty and hearing from a sufficiently broad range of experts. Clearly, more time is going to be needed in this area. I have in the past suggested that trade deals should be accompanied by an independent expert assessment of the main issues covered in a deal. Is that something that might assist the committee in its future treaty scrutiny? I think that those of us who are not members of that committee would find an independent report and the committee's assessment of it, alongside the Government's impact assessment, very helpful.

I also query whether a three-hour debate such as we are having now is sufficient time for Back-Bench scrutiny, especially in future, when the treaty is not mainly rolled over but may be a completely new agreement.

Finally, I mention involvement of NGOs and trade bodies. We have had useful feedback from some of those bodies that were consulted, such as the City of London Corporation, the Blavatnik School of Government at Oxford and Which? I very much agree with Which? about the importance of safeguarding consumer rights and protections in future deals. I also agree with the noble Baroness, Lady Fairhead, who stressed recently in Committee on the Trade Bill the importance of engagement with wider audiences. I know that some trade bodies are regularly in contact with the Department for International Trade, but many are not on official lists, and it will be vital in future to mobilise as wide a range as possible of businesses and commerce effectively behind future trade deals. I agree very much with the noble Baroness, Lady Hooper, on that one.

[Baroness Henig]

I have a suggestion for the Minister. The treaty with Japan has as one of its objectives to pave the way for the United Kingdom to join the CPTPP. That will raise issues far more fundamental and complicated for businesses and consumers than anything in this largely rolled-over treaty. The text of the CPTPP is already in the public domain, so there is nothing to stop the Government openly engaging and consulting on it and inviting a wide range of businesses, NGOs and trade bodies to participate in preliminary discussions. That would be a clear demonstration that the Government are serious in their desire to consult widely and engage fully in their future trade negotiations, not just with Parliament but with the wider business community and consumers.

4.28 pm

Baroness Bottomley of Nettlestone (Con): My Lords, I am delighted to speak in this debate, and congratulate all those involved. Fortunately, I am in the minority as someone who was not a member of the International Agreements Sub-Committee, so your Lordships will be spared my insights on that matter—but I have certainly enjoyed the comments from members of the committee, and will quite soon regard myself as an expert as well, I am sure.

I am delighted to have been present for the maiden speech of the noble Lord, Lord Darroch. I have always thought of him as a man of erudition, insight and wisdom. As someone who has served in Brussels, Washington and Japan as well as Whitehall, he evidently has a huge amount to offer us in our deliberations. My only disagreement is that I heard him say that he had always been treated with "matchless courtesy" and "forensic accuracy" when he appeared before committees. Any colleagues who have previously been in another place would not necessarily describe finding those things in a parliamentary Select Committee—but long may it last, and it may be a sign of things to come.

This trade agreement is a tremendous achievement that enables Britain to reassert our long-standing commitment to open, rules-based free trade as we leave the EU, stepping back on to the international stage as an independent, competitive trading nation with a global perspective.

I need to declare my interests: first, I am on an advisory council for a Japanese research-based pharmaceutical business and, secondly, I am a long-term director of the International Chamber of Commerce UK, an organisation which is unequivocally committed to free trade and has worked relentlessly over the years and in many ways to assist in this critical area of policy development, which is all too easily jeopardised in today's world.

Japan is one of the largest, most open economies in the world, with 4% of world's GDP. It remains our fourth-largest non-EU export partner and 12th including EU countries. Great credit should be given to the key International Trade Ministers who have invested massive energy, commitment and tenacity in this outcome. When visiting Japan recently, I was struck by how highly our Ministers are praised for their determination, energy and positivity, in particular the former Secretary of State for International Trade, the right honourable Liam Fox MP, and the present Secretary of State, the right honourable Liz Truss. A wonderful addition to the team has been my noble friend Lord Grimstone, a seasoned expert in many parts of the world and a wily, knowledgeable individual who greatly adds to our activities to secure effective, positive trade agreements.

Of course, this is only the beginning. I was influenced by the late Minister, Ernest Marples, who said, "You don't need brains to be a Minister; the civil servants have them all". I pay credit to the civil servants at the Department for International Trade, particularly Antonia Romeo, who from a standing start have developed a highly effective department. Thinking of the noble Lord, Lord Darroch, joining us, we are also much indebted to successive, highly-talented ambassadors, most recently Paul Madden—who my noble friend Lord Lansley referred to—Sir Tim Hitchens and Sir David Warren. When I was around, there was Sir John Whitehead, Sir John Boyd and Sir David Wright, all of whom were shrewd and wise in developing those commercial relationships and highly knowledgeable and effective.

Like others of my generation, I was influenced by the injunction of my Prime Minister at the time not overly to focus on the EU but to befriend and emulate Japan, a country where she found so many areas for common cause. Japan is the future. Over subsequent decades, as the noble Lord, Lord Kerr, said, we have seen investment, trading relationships and so forth develop. I led a delegation with Sir Richard Sykes, Prescribe UK, on the important pharmaceutical industry. We have heard about electronics, the motor industry and whisky—an ongoing saga even in my first visit in 1987 with, I believe, my noble friend Lord Howell. Anyone who heard yesterday's debate in another place will have witnessed the degree to which Members of Parliament up and down the country, particularly those from the north-east and Wales, talked about their important trading relationships with and investments from Japan.

As with all agreements where trust is required to deliver sustainable results, soft power plays a central part. Our positive relations with Japan go much deeper than the commercial and economic. I have mentioned the tremendous work done by the British Council and VisitBritain over the decades. In 2019, the UK was ranked fifth for the most desired overseas travel destinations among people in Japan. Our cultures, though different in many ways, share a profound mutual fascination. When the V&A's William Morris exhibition went on tour to Tokyo, more people visited it there than did in London. I remember Sir Geoffrey Cass, then chairman of the Royal Shakespeare Company, talking about the rapt, massive audiences who followed its performances there.

I hope that all my noble friends have purchased my noble friend Lord Howell's delightful book, *The Japan Affair*, in which he details 35 years of the Japanese-British relationship based on his regular articles for the *Japan Times*. I for one strongly endorse his argument that we should recognise the strategic significance of this agreement and build it wider.

Viscount Younger of Leckie (Con): I am sorry to interrupt the noble Baroness. It would be wise if she could conclude her remarks.

Baroness Bottomley of Nettlestone (Con): Whether this agreement is a great leap forward or a simple step, we will learn from it and, I hope, in future develop it. I am delighted that it was with Japan that we made this first trade agreement.

4.35 pm

Lord Morris of Aberavon (Lab) [V]: My Lords, I regret that there were technical difficulties when I was called earlier. My noble and learned friend Lord Goldsmith has introduced most persuasively the report of the committee on which I serve as presented to the House. It is one of many that will be presented in due course.

My noble and learned friend has made a major contribution in the way in which he has chaired the committee and mastered the tsunami of paperwork which has passed over our desks. I fear that my expertise in trade matters is limited and I confine myself in my membership of the committee to ensuring that the devolved Governments are properly consulted and that all treaties help support agriculture, on which I have some knowledge.

The proceedings of the committee brought back happy memories of a visit I made many years ago leading a UK mission to Japan to seek inward investment. As an aside, perhaps I may say that I was introduced to the president of the Japanese rugby union, with whom I shared a common interest. He told me that he was an ex-kamikaze pilot. When I queried the "ex", he said that he was alive and well because he had been ordered back due to engine failure.

The United Kingdom has always been regarded by Japan as a stepping stone to the European Union, particularly for the motor, television and electronic industries. Given that so many parts required for automotive building in the UK flow backwards and forwards between many countries, I am far from sure about what the future holds for existing and further inward investment. I am not optimistic from the noises and the decisions that apparently have already been made.

One of the attractions of the UK for such investment is the quality and flexibility of labour. On my visit to the Japanese Sony plant at Bridgend when I was the Welsh Secretary, I was impressed by the prominence given by the management to the full-time official of the one union on the plant. One union in a plant was a basic requirement of the Japanese, and it worked.

I come to the issue that I wish to emphasise. In our report, we say that the Government in some respects have presented the Japanese deal in a way that is

"overselling the extent of CEPA's achievements in going beyond JEEPA".

The International Trade Committee of the other place has noted that the difference between CEPA and JEEPA

"may not be as extensive as claimed".

I want to ensure that this agreement has not been oversold. That would be a terrible tragedy. Both committees share a common reservation about the Government's impact assessment and its failure to provide information to enable us to evaluate how well they have done. If proper examinations by both Houses are to be the blueprint for future agreements, I hope that the Minister will note specifically our concern and that of the other place about this matter. It is essential in all these matters that the Department for International Trade provide the assessment of the value of the benefits that CEPA presents above and beyond those conferred by JEEPA as an example for future examination of treaties. That must be a requirement and a blueprint for the future.

4.40 pm

Lord Liddle (Lab) [V]: My Lords, I, too, welcome the noble Lord, Lord Darroch, to the House of Lords. In my seven and a half years in Downing Street, I worked closely with him and, for me, he is in a long line of very distinguished diplomats who tried to make the best of Britain's relationship with Europe. I was very interested to hear his comments about his early posting in Japan. The Japanese economic relationship with Britain is crucial, and I remember how, in the 1980s, a decade of industrial gloom, inward investment from Japan was a symbol of hope, particularly in the north-east, south Wales and other depressed areas. The noble Lord, Lord Kerr, is right to remind us that a lot of what lay behind that was our membership of the single market, which was then being born and being deepened. If there is a lesson of that history, it surely must be that the future success of our relationships in the Pacific, which will be very important—the doorway opened up to the Pacific partnership is very important—depends on us maintaining our close relationship with the European single market, which is still our biggest market.

What of the lessons of the present agreement? If I were being cynical about it—and I think this is how a European trade official would describe it—Japan has extracted a high price for what is effectively a continuity agreement. Eighty-three per cent of the increased trade is estimated to be on the Japanese side. That 83/17 balance is a pretty good result for the Japanese. This was a predictable result: we were the demandeur. There is a political need on the Government's part, which I think they must be very wary of, to demonstrate that deals can be done and to claim that any deal is a great success. There is also the timing. It took forever to negotiate the EU-Japan deal—I think it started off when my noble friend Lord Mandelson was Trade Commissioner. This deal we achieved in four months, so it was never going to be a great advantage to us.

In future, we must be more strategic and less naive about trade. To again use a Brussels expression, we need to be much clearer about where our offensive interests lie in trade negotiations. What are we trying to achieve? Where are we going on digital issues? Where are we going on geographical indications? What is our aim in terms of attracting inward investment? We must have a clear strategic view of these questions rather than just ad hoc negotiation. The Government have not given enough attention to thinking about these issues strategically.

The other point, which is that of the committee's report on the deal that we are discussing today, is that the quality of our debate about our future trade strategy depends on transparency from the Government—not secrecy, which is what we have had—about how the negotiations have gone. We need transparency and honesty.

[Lord Liddle]
I see a crucial role for this House, because of our depth of expertise and the civilised way in which we conduct ourselves, in contributing to that public transparency, as the report from your Lordships' committee has done. I very much hope that, in the review of our committee structures, which is ongoing today, we will continue to devote resources to such scrutiny because if we are not prepared to do it, I do not know who else will be.

4.45 pm

Baroness McIntosh of Pickering (Con): My Lords, I thank the noble and learned Lord, Lord Goldsmith, and his committee for securing this debate and for their excellent report, which has been most helpful in preparing today.

I also welcome most warmly the noble Lord, Lord Darroch of Kew, and congratulate him on his maiden speech. I take this opportunity to thank him for all the help he provided me in my capacity as MEP when he was at the UK representation and its help in briefing MEPs for debates in the European Parliament.

The noble Lord, Lord Liddle, and others have spoken of the asymmetry and imbalance in the rollover agreements that have been secured to date. I think it was the noble Lord, Lord Purvis, who secured our debate in the previous Parliament on our agreement with the Faroe Islands, to which we export £90 million—mostly fish—but from which we import £200 million, mostly fish. The noble Lord, Lord Liddle, set out the asymmetry in the agreement before us today.

I welcome the Minister and am delighted to see him in his place today. I take this opportunity to pick up on some his remarks in the form of questions that I hope he will be able to answer. What stood out in the agreement, but which I do not think anyone has mentioned today, are the state aid rules and the rules on subsidies, which are much stricter and reflect the state aid rules we currently have as a member of the single market since the new arrangements came into place. In much the same way as my friend, the noble Baroness, Lady Henig, asked about the deal currently being negotiated, surely my noble friend and his department would wish to move by maintaining the current state aid rules that we have with the European Union if that were to mean that we could close in on a deal on our future relationship with a proper free trade agreement there.

The noble Lord, Lord Trees, asked who will uphold our animal health and environmental protection standards in any future trade deal. I hope my noble friend Lord Grimstone will reply that it will indeed be the Trade and Agriculture Commission. That begs the question that several noble Lords have posed in the debate today about the scrutiny that will be permitted of future trade deals. I hope my noble friend will have a chance to consider the amendment that several of us—I like to think the four wise ladies—have tabled to the Trade Bill to allow sufficient time to scrutinise not just free trade agreements but the recommendations of future Trade and Agriculture Commission reports to enable us to view the criteria it has set and its recommendations on to what extent such agreements reflect and follow those criteria. I congratulate my noble friend and his department on moving to ensure that the commission will have a degree of permanence, which I hope will be further extended before the initial three-year term expires.

I also pay tribute to my right honourable friend Elizabeth Truss, the Secretary of State for Trade. She appointed the first ever agriculture attaché to Beijing, which at the time and since has brought enormous benefits, particularly in the agri-foods sector, which I care about passionately, and more especially in pork. It has enabled all the pork parts that we do not savour in this country to be exported to China and other countries. I hope that, as my noble friend Lord Lansley said, that will be a forerunner and that we will see many more such examples. Learning from a small country like Denmark, it never ceases to amaze me that its exports of agricultural foods often outstrip our own.

I welcome this rollover agreement, although I regret that it is perhaps imbalanced in favour of Japan. However, I hope that it will be the forerunner to others. I hope also that before the 31 December deadline is reached, this House will have had a chance to approve a trade deal on our future relations with the European Union.

4.51 pm

Lord Purvis of Tweed (LD): My Lords, as is the case in many of these trade debates, it is a continuing pleasure to follow the noble Baroness, Lady McIntosh, and I agree with much of what she said. I am sorry to see the Minister's discomfort with his eye and I admire his resilience during this debate. I wish him a speedy recovery. I also commend the able way in which the noble and learned Lord, Lord Goldsmith, introduced the committee's report. I commend all the members of the committee who have contributed to the debate today, including my noble friends Lord Oates and Lord Foster. I also agree with the noble Baroness, Lady Henig, that not only is this a thorough report, it is a very readable one. On many aspects, for those of us who are not steeped in the language of negotiation, readable reports on the consequences of trade agreements are of the utmost importance. I also welcome the maiden speech of the noble Lord, Lord Darroch. I serve on the international relations Select Committee. When we visited Washington, he hosted us for a great visit to the embassy and gave us valuable insights into American politics then under the Trump Administration. To our great benefit, everything that he says now will be on the record, and we will value his ongoing contributions.

In Committee on the Trade Bill, I think that the Minister felt that sometimes I was being rather churlish and a bit dour in some of my remarks. He challenged me to welcome signed trade agreements, and I do so; I welcome this agreement. However, not to disappoint him, I regret that we will be starting next year with fewer free trade agreements than we had prior to leaving the EU. I regret that businesses are facing more costs, more complicated red tape, more bureaucratic government processes and export procedures that are still confusing. I did reflect that page 9 of the scoping document for the UK-Japan agreement states:

"We will ensure that processes are predictable at, and away from, the border."

Unfortunately, at the beginning of 2021, we will have anything but that.

This is a rollover agreement with some elements of addition which have been debated. I have said on a number of occasions during the passage of the Trade Bill and before it that my party has as one of its founding principles free, fair and open trade. We have been a champion of that for over a century. But we also believe in proper parliamentary scrutiny and accountability. For us to judge the benefits of agreements such as this, the scrutiny as set out in the report of the committee is both welcome and necessary. We will require ever deeper analysis to be able to come to a balanced view of the relative benefits to the UK, as the noble Lord, Lord Liddle, and others have indicated, compared with our trading competitors.

However friendly our trading competitors are, they are still competitors to the UK economy. It is my view that the scrutiny processes need to be enhanced, and we will debate that on the Trade Bill over the coming weeks. The reality for trade agreements, which I have learned during my time in this House, is that a Government who need the agreement the most will concede the most. Fundamentally, therefore, we have two questions today: is this deal good for Britain and is it a negotiated deal that provides comparative advantage for the UK as compared with Japan? We have had a lot of references to the Government selling this, but I think that we often operate a John Lewis trade policy—never knowingly undersold. There has certainly been no shortage of hyperbole. The *Daily Express*, in response to the announcement by Liz Truss of the signature for this deal, shouted

"Brexit Britain makes history as staggering £15 billion Japan trade deal secured."

If grandiosity was an exportable commodity, our economic woes would be over, and I think that most *Daily Express* readers would be staggered to learn that, of that £15 billion, only £2.6 billion is to the benefit of the UK and the remainder is to the benefit of Japan. Therefore, parliamentary oversight and the ability for us to approve the mandates and then the agreements signed is vital. It should not be lost on Members of the Grand Committee that while we do not have a say on the setting of the mandate, and nor do we have a say on the final deal, the Japanese Diet will be voting for ratification on an up and down vote.

It is fair to compare the objectives set by the Government with what has then been realised. The Government published their strategic approach document in May 2020, which said that we would see a growth in exports of 21.3% over 15 years, but the final impact assessment states that we will see an increase of 17.2%, falling short of their ambition by nearly 25%, as the committee has alerted us. Can the Minister explain why we have fallen so short?

I want to look a little more closely at the comparative benefit, notwithstanding the remarks of the noble Lord, Lord Lansley, who knows that I hold him in high regard on these issues. The Government's impact assessment for the UK on the EU-Japan agreement was published in May 2018. It stated that

"The economic assessment is carried out against a baseline"

where the EU-Japan EPA has not been implemented. This was the same for the scoping assessment for the UK-Japan agreement published in May 2020 and the same for the impact assessment published by the Government in October, so the same baseline makes for interesting reading. The Government's impact assessment for the UK component of the EU-Japan agreement said:

"Compared to a baseline in which the EPA is not in force, we estimate that the beneficial impact of the EPA on UK GDP could range from between £2.1 billion to £3.0 billion per annum in the long run."

The impact assessment of this agreement suggests that it is just £1.5 billion. The impact assessment for the EU went on to say:

"We estimate that because of the EPA, UK bilateral exports to Japan could increase in the range of £3.3 billion to £5.6 billion."

The reality set out in the assessment in October this year is £2.6 billion. So even in the estimates of the UK impact on the EU agreement, we fall short. Let us remember that this uses the same baseline as if there had been no agreement in the first place.

Let us look at the sectors. My noble friend Lord Shipley referred to the motor industry in the north, which is absolutely vital to the area. The impact assessment of the EU agreement for the UK would see an increase for the motor vehicle industry of £1 billion, while the impact assessment for this shows no change. The UK is not at any comparative benefit from where we were with the European agreement. I accept that it can sometimes be difficult to compare baseline data when looking at the different circumstances—that is fair—but we are looking at comparisons between 2018, 2019 and 2020 from the same Government. Therefore, if there are differences, the Minister should say in his response that it is difficult to draw direct parallels, and it is incumbent on the Government to give us tracking data showing why the baseline indications are different.

I have a great deal of sympathy with the contribution made by the noble Lord, Lord Lilley. Having sparred quite consistently with him during the trade negotiations on this, I hope that it will not offend him or make him feel uncomfortable if I say that I agree with every single thing he said in his speech today. I am not sure if that helps at all with our relationship, but I do. To try to get a balanced view, I did something I have not done before, which was to read the report of the Regulatory Policy Committee, the existence of which I admit I was not thoroughly au fait with before. It has reviewed the impact assessment well. Page 5 of the report indicates something quite interesting when looking at the baseline data:

"The uncertainty around the use of the 'do nothing' baseline should be made clearer in the IA and set in context with the existing EU-Japan FTA."

I agree. In judging the long-term versus the short-term benefits, in a wonderful understatement it also states on page 5 that:

"There is a noticeable tendency towards highlighting and exploring the beneficial sides of CEPA."

It goes on to say:

"The motor industry will see a contraction as a result of this."

The Regulatory Policy Committee goes on to talk about there being no information about the comparative people movement, as the noble Lord, Lord Lansley, indicated. I shall conclude on the element of the UK-Japan balance of trade. On the key element of what our strategic

[Lord Purvis of Tweed]
comparison of benefit would be and the impact on our balance of trade, page 43 states that UK exports would increase by 17.2%, as we have heard, but that:

"The paragraph focuses on the increase in the overall trade between the UK and Japan, but does not discuss the UK's balance of trade, which according to these figures would weaken by £10.4 billion."

If we are to judge the merits of a trade agreement, we have to look at the comparative benefits for each of the two signatories. We have to compare accurately what the Government said it would be, and the reality. On the overselling of the agreement, I agree with noble Lords: it will put at risk the reputation of all trade agreements going forward if the Government actively oversell the agreement. We are in debt to the committee for bringing many of these points to our attention and I hope the Minister will respond positively to many of the contributions made in this debate. If he can do anything, perhaps he can persuade the Secretary of State to sell a little less and to deliver a little more.

5.01 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank all speakers for their contributions today. I welcome the noble Lord, Lord Darroch of Kew and congratulate him on his maiden speech. His reflections on the trade agreement before us after such a short time in your Lordships' House illustrate that he will fit in very well, and we all look forward to his further contributions. I also welcome back my noble friend Lady Liddell and thank her for her contribution today. I extend my sympathy to the Minister on his recent eyesight problems and wish him a speedy recovery.

I welcome the report from the International Agreements Sub-Committee and thank my noble and learned friend Lord Goldsmith for his excellent introduction. From the comments of members of the committee who have spoken today, it is obviously a committee which is already working well in what is a new activity, which is probably just as well, as it seems to have quite a lot on its plate. This first substantive report from the IAC is, as its chairman pointed out, about the CEPA signed earlier this year between the UK and Japan, but it is also witness to the scrutiny process for trade treaties that the Government are bringing in. In that sense, it is an historic first for this House and for Parliament. We have had useful and insightful comments on both issues and, as was the case in the Commons when it debated the report of its Select Committee on International Trade yesterday.

Several speakers have mentioned that, notwithstanding changes relating to agriculture and data, and the inclusion of dedicated chapters on women's economic empowerment and SMEs, CEPA almost entirely replicates the EU-Japan free trade agreement. I agree with the noble Viscount, Lord Trenchard—a rare occurrence—that there is a lot to commend the fact that a roll-over continuity deal is a good thing to have at this time of uncertainty, but the Government would do well to learn from the criticisms made today and elsewhere about their apparent overclaiming of benefits, unwillingness to provide accurate baseline figures and testable estimates of benefits. There is a sensitivity about gaps in the treaty, such as pointed out today, about the lack of an inward investment chapter and better and more targeted support for our creative industries.

I will not go through every issue raised by speakers today, but I would like to mention a few. First, it is obvious that there is an imbalance in the treaty. It is tilted very much in Japan's favour with the final estimate, if we can believe the figures, revealing that about 83% of the projected increase in trade will go to Japanese exporters. Obviously, no Government should design a trade policy around the minimisation of trade deficits, given that that would lead to a protectionist rejection of imports. Nevertheless, these figures demonstrate that there much greater benefits in the deal for Japanese exporters. However, according to the impact assessment, increased imports from Japan will boost employment in certain industries. But the Government also estimate that there will be negative effects for employment in sectors where Japanese imports will provide cheaper alternatives to home-grown products. As the noble Lord, Lord Kerr, said, it is a bit ingenuous of the Government not to make it clear how much CEPA depends on a satisfactory deal with the EU on cumulation, rules of origin and zero tariffs. I hope the Minister will respond to this when he comes to reply.

Secondly, we need to do better on tariffs, and particularly on TRQs. The EU has 25 separate TRQs with Japan on agricultural goods, of which the UK has managed to secure partial access to 10. Of those 10, the UK gets only leftovers of what the EU has not taken up that year. When you learn that, in practice, Japanese importers have to secure a bank guarantee to import UK goods at the reduced tariff, with a higher tariff charged retrospectively by the Japanese authorities at the end of the year if the EU has taken up its full quota, that means that this bureaucracy and uncertainty will inevitably reduce what Japanese importers will opt for in terms of UK agriculture, which is surely a great pity. The Government have argued that UK exports will not lose out because, by the time the EU increases its use of the TRQs, we will have already joined the CPTPP, therefore securing zero tariffs. However, as others have said, that is hardly a proper response to the issue. Perhaps the Minister will comment when he comes to respond.

On labour issues, trade unions were not able to provide input on any text during the negotiations and drafting of the UK-Japan EPA. This is the latest of a long list of times when the DIT has brushed aside union concerns and rejected opportunities to consult them. Why is this? In many cases, the lack of trade union consultation shows. The labour provisions of the deal have not advanced on those agreed in the EU-Japan EPA, and they are weak and unenforceable. Alongside the missed opportunities to strengthen labour provisions, the UK-Japan CEPA rolls back civil society dialogue. The UK and Japan have to meet with civil society groups only two years after the deal comes into effect, rather than the one-year wait that was contained in the earlier agreement. Will the Minister comment on that?

On digital matters, raised by several noble Lords, including the noble Lord, Lord Oates, the Government say that CEPA will enable a free flow of data while maintaining high standards of protection for personal data. However, many of these elements of the UK-Japan

deal are not new. Some are but, by not requiring each other's companies to follow data localisation, disclose algorithms or hand over encryption keys used to guard proprietary tech and data, CEPA has removed some of the provisions insisted on by the EU to give it control over the activities of Japanese tech companies. Is this a good thing? As well as bringing benefits for UK firms operating in Japan, as it largely will do, these provisions will reduce burdens on and increase proprietary protections for Japanese digital firms wanting to expand business in the UK. However, is this light-touch approach really the way forward? I would be grateful if the Minister could respond when he comes to reply on whether this light-touch regulatory system does not run counter to the Government's concerns over data protection or, indeed, the imposition of stricter controls on companies over the access to online content. What about the online harms Bill? Does the Minister believe that the positions taken on data localisation can be squared with getting agreement with the EU on the data equivalence issues, and will the position on net neutrality not cause difficulties with the US and Australia, where powerful media interests have been engaged in long-standing campaigns against the principle?

Finally, as others have said, this is a report on the new system of scrutiny, which the Government—sometimes somewhat reluctantly—are ushering in. The Japan deal is being ratified under the procedures laid down in the Constitutional Reform and Governance Act 2010, which dictates that all international treaties must be laid in Parliament for 21 sitting days before they become law. There is no obligation under CRaG for the Government to hold today's debate but they are doing so, in part to nullify criticism from us, from the committee, the International Trade Select Committee, their own Back-Benchers and the House of Lords about the inadequacy of CRaG as a mechanism to allow scrutiny and approval of trade agreements.

We ought to do better on this. As the noble Lord, Lord Trees, and other noble Lords have said, today's debate focuses on the signed treaty but ignores the other important steps in this process: the approval of objectives, the receipt of progress reports and the ratification procedure itself. We can do better, and I do not believe that we are far apart. The Government seem adamant that we should continue to operate under the royal prerogatives and leave the CRaG processes alone. I happen to disagree. In the interests of making progress, I suggest to the Minister that we use the time before Report to find a way forward which builds on the progress so far evident today and the experiences that we gain in the next few years, to sort out a proper process worthy of the importance of trade to our country.

5.09 pm

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, this has been an extensive and compelling debate. The many thoughtful and measured contributions that we have heard this afternoon have reiterated this House's ability to express its expertise clearly and authoritatively on the most important issues of the day. The 11 years spent by my noble friend Lord Trenchard in Japan perhaps deserves today's gold star for knowledge.

On a personal level, I very much thank the noble Lords, Lord Purvis and Lord Stevenson, for their kind remarks about the underlying cause of my rather piratical appearance before noble Lords today.

The UK-Japan comprehensive economic partnership is a very important agreement, not least because it is the first in nearly 50 years that the United Kingdom has struck on its own account with another major economy. It strengthens Britain's relationship with the third-largest economy in the world. It not only secures the benefits of the existing EU agreement—I ask noble Lords to remember that that was something that many said was impossible—but it goes further in a number of key areas, such as digital and data, the protection of geographical indications, and rules of origin.

At this point, perhaps I may welcome the noble Lord, Lord Darroch of Kew, to his place this afternoon and thank him on behalf of all of us present for electing to make this debate the occasion for his maiden speech. It was a particularly appropriate choice, given his deep experience of Japan. It is clear from his insightful remarks today, combined with his outstanding record of public service, that he will make a significant contribution to the quality of our proceedings.

I also take the opportunity to thank the staff and members of the EU International Agreements Sub-Committee, so capably chaired by the noble and learned Lord, Lord Goldsmith, for the timely production of their report on the UK-Japan CEPA. I fully recognise the enormous amount of effort and labour that it involved, and I am extremely grateful for their work. As the noble and learned Lord, Lord Goldsmith, said, at least we have ended up producing a respectable agreement. I also thank the many members of the committee for their very informed contributions today. I should also thank my noble friend Lady Bottomley for her kind remarks about my officials.

We will talk about scrutiny later, and we will certainly discuss it further at the Report stage of the Trade Bill, but, having examined the sub-committee's findings and from listening to the many contributions from noble Lords today, it is clear that this thorough and considered report has enhanced the House's understanding of the key issues in this agreement. To my mind, that is what scrutiny is all about. With those key issues in mind, I would like to address specifically as many of the points raised by noble Lords as I can in the time available.

I will talk, first, about agricultural market access. I believe that we have negotiated a deal that will secure the continuation of strong tariff reductions across a range of agricultural exports—most notably, higher-value pork, beef and salmon. Noble Lords will note that I used the word "continuation". We will continue to benefit from access to the low tariffs for key food and drink products covered by quotas, such as Stilton cheese, tea extracts and bread mixes.

It is perhaps worth noting that in 2019-20 total UK agri-food exports to Japan were worth around £402 million, of which £271 million related to beverages, spirits and vinegar, and £131 million to other agri-food products. I know that noble Lords have been concerned about tariff-rate quotas, but I remind them that only

[Lord Grimstone of Boscobel]
around £1 million of those exports was covered by TRQs. The deal that we have negotiated has, I think, provided a pragmatic solution, focusing on those quotas with the highest usage and of most value to the UK. The new arrangements cover 99% of the value of UK exports under EU TRQs in 2019-20.

We expect there will continue to be enough surplus volume in the EU TRQs until around 2024, by which time we hope and expect to have joined Trans-Pacific Partnership. The CEPA arrangements therefore—and I may come back to this later—form a pathway to further market access under CPTPP. That has, of course, been committed to by Japan as part of our agreement. The UK and Japan will monitor the implementation of the scheme for all products. Japan has provided a ministerial side letter committing to work closely with the UK to ensure the effective operation of the new scheme, such that the UK receives unfettered access to any under-utilised EU quota for the 10 TRQs covered by the scheme. I can assure the noble Baroness, Lady Bowles of Berkhamsted, that we will work hard to make sure that this process is as streamlined as possible. I will write to the noble Lord, Lord Loomba, if I may, on the points he raised about the TRQs.

Some noble Lords today have raised queries relating to geographical indications. Seven UK GIs are already covered in the agreement. The agreement sets out an improved process for the addition of new GIs. Under CEPA, it has been agreed that all eligible British products will be put through Japan's GI approval process automatically. This arrangement is significantly better than the terms of the EU-Japan EPA, under which the EU was not able to put forward any new products for protection without explicit Japanese agreement. We have achieved agreement with the Japanese on this.

A number of noble Lords have raised queries concerning digital and data. The UK is committed to maintaining high standards of protection for personal data, including when it is transferred across borders. I can confirm to the noble and learned Lord, Lord Goldsmith, and the noble Lord, Lord Foster, that the rights of UK users are not impacted by the deal with Japan and data protection standards will not be lowered as a result of the deal. UK data rules, which will continue to be enshrined in the Data Protection Act 2018 and the GDPR, will continue to apply. Moreover, CEPA does not interfere with the high level of protection afforded to personal data which is transferred out of the UK under the UK's data protections laws. CEPA goes further than the existing EU-Japan agreement on many aspects of digital trade with a number of cutting-edge rules that reflect the status of the UK and Japan as digital leaders. This includes—and a number of noble Lords have referred to these points—a ban on unjustified data localisation. This prevents potential costs for companies that result from requirements to store data within national borders. It also includes an agreement to avoid unjustified restrictions on the free flow of data between the UK and Japan. This ensures that data will be able to be collected, processed and transferred between the two countries, without facing unnecessary red tape. Very importantly, we have a commitment to uphold world-leading standards of protection for individuals' personal data when data is being transferred across borders. UK data protection laws, I say again, are not undermined or changed by the deal with Japan; any transfers of personal data to Japan must satisfy the UK's high standards of data protection. The changes in the agreement directly benefit the UK's digital economy, which in 2018 delivered £675 million in services exports to Japan.

The noble Lord, Lord Oates, and the noble Baroness, Lady Bowles of Berkhamsted, raised the question of algorithms. If I may, I will write to them about that.

On the matters relating to financial services, I was grateful to my noble friend Lord Lansley for emphasising the welcome that the FTA has received in the City and for the comments from my noble friend Lord Risby. I have to say that I am optimistic about the way forward in this area and the scope for further advances. This is important to us because financial services are of course our biggest export to Japan, accounting for around 25% of all UK exports to Japan in 2019. The CEPA provides improved market access for financial services firms, including greater transparency and streamlined application processes for UK firms seeking licences to operate in Japan. There will be an annual dialogue between Her Majesty's Treasury, UK financial regulators and the Japanese FSA that will explore ways to further reduce regulatory friction.

The noble Lord, Lord Foster, raised some important points about intellectual property, and if I may, I will write to him on that. The existing EU-Japan agreement contained a high standards IP chapter, but the CEPA contains a number of improvements to the EPA, covering designs, trademarks, copyrights and enforcements. I believe these improvements will bring benefit to both creative industries—for example, the music industry—and IP-intensive businesses.

A number of noble Lords raised issues relating to SMEs. The noble Baroness, Lady Liddell of Coatdyke, referred to the importance of this, and I can assure her that we consult widely with organisations that represent SMEs when we negotiate and carry forward agreements such as this. The CEPA will support SMEs through a dedicated SME chapter, which will ensure that SMEs are provided with the tools and resources necessary to seize the opportunities of exporting to Japan. This will include a commitment to making sure that information on doing business in Japan is available to UK SMEs in English.

I know that there is, rightly and properly, a strong interest across our House in the automotive industry, which was referred to in particular by the noble Lord, Lord Kerr of Kinlochard. The CEPA will continue to support jobs in the manufacturing sector—major investors such as Nissan and Hitachi, as well as our own manufacturers—through reduced tariffs on parts which already come from Japan, streamlined regulatory procedures and greater legal certainty for their operations. UK tariffs on two tariff lines covering electrical control units, often used in cars, will be put to zero as of 1 January 2021. By bringing in reductions on tariffs on car parts, UK-based auto manufacturers will benefit from lower costs of productions, which they could pass on to consumers.

As I mentioned earlier, on rules of origin, we have included a provision that seeks to recognise Japanese inputs that are contained in UK goods that are exported to the EU, and of course this is particularly important for the auto sector. While we have included this provision in CEPA, as the noble Lord, Lord Loomba, noted, this arrangement would also need to be agreed between the UK and the EU in order for it to come into effect. Of course, as a number of noble Lords have referenced, that most important negotiation is still ongoing. However, I ask the noble and learned Lord, Lord Goldsmith, and perhaps others, not yet to prejudge the outcome of those negotiations.

On the important question of food safety and animal welfare, I can reassure the noble Lord, Lord Trees, that we have locked in the benefits of the EU agreement on SPS and animal welfare, and nothing in the CEPA prevents the UK from continuing to uphold its high environmental, food safety and animal welfare standards now that the UK has left the European Union. I will write to the noble Lord, Lord Trees, and the noble Baroness, Lady Bennett of Manor Castle, with more details of the important animal welfare points that they raised.

I was pleased that my noble friend Lady McIntosh of Pickering rightly reminded us that when we debate matters such as this, we will have the benefit of expert advice from the Trade and Agriculture Commission, which I am pleased we are putting on to a statutory footing.

I know that climate change is an issue of great importance, and I recall the noble Lord, Lord Oates, speaking formidably on this topic after my maiden speech in September, as again he did today. I assure him and the noble Baroness, Lady Bennett, that the UK-Japan agreement locks in the benefits of the EU-Japan deal, including various provisions on climate change, such as those that reaffirm our respective commitments to the United Nations Framework Convention on Climate Change and the Paris Agreement.

On labour standards, I say to the noble Lord, Lord Stevenson, that the agreement includes provisions that commit the UK and Japan to reaffirm their obligations to internationally recognised principles on labour. In addition, the UK continues to meet its obligations under the International Labour Organization. I am pleased to acknowledge that we have now set up a trade union advisory group so that, as I am sure the noble Lord would support, we will be able to draw directly on the experience of trade unionists in future negotiations.

On standards, we have made it clear that the Government will never compromise the UK's high environmental protection, product, animal welfare and food safety standards in this or any deal. I can confirm that nothing in the CEPA prevents the UK continuing to uphold these.

A number of noble Lords referred to the Trans-Pacific Partnership. It is clear that the CEPA also has wider significance in this context. We see the CEPA as part of our ambition to put the UK at the centre of a network of free trade agreements, making us even more of a focal hub for global businesses and investors.

Accession to the Trans-Pacific Partnership continues to be a priority for the Government and a key part of our trade negotiations programme. It complements bilateral agreements we have with TPP members, including this Japanese CEPA, deals we hope to strike with Australia and New Zealand, and existing EU agreements with Canada, Chile, Mexico, Peru, Singapore and Vietnam that we hope to transition into bilateral UK deals. We hope to be able to apply for formal accession in early 2021. I note the view of the noble Baroness, Lady Henig, that there should be wide consultation on this in due course. I was glad of the wise words of the noble Lord, Lord Darroch of Kew, and of the support from my noble friend Lord Risby and the noble Lord, Lord Bilimoria, in relation to potential accession. As recognised by my noble friend Lord Trenchard, Japan's clearly stated support for this is extremely valuable and important to us.

I want to address directly noble Lords' concerns that there may be greater benefits for Japan than for the UK in this agreement. It is true that the analysis shows that UK exports to Japan could increase by around 17% in the long run whereas UK imports from Japan could increase by around 80%, compared to no agreement. However, I say with all respect to noble Lords, including the noble Lords, Lord Liddle and Lord Stevenson, that cheaper imports lead to lower prices in British shops and make our businesses more efficient and competitive in global markets.

I acknowledge that our economic modelling does not compare the impact of the UK-Japan agreement with the impact of UK membership of the EU-Japan agreement. Our modelling compares the impact of CEPA against a situation where we do not have an agreement with Japan: that is, trade on MFN terms.

A number of noble Lords—I happily list some of them: the noble and learned Lord, Lord Morris, the noble Lords, Lord Purvis, Lord Stevenson, Lord Darroch, Lord Oates, Lord Hain, and Lord Foster, and the noble Baronesses, Lady Liddell, Lady Henig, and Lady Bennett of Manor Castle—expressed concern, which I acknowledge, about the way in which the agreement was publicised on media platforms and the claims that were made in relation to it. With a certain degree of trepidation, I will draw these comments to the attention of my colleague, the Trade Secretary.

I say to noble Lords that the right comparison for assessment is this deal versus no deal rather than the hypothetical continuation of our membership of the European Union. Going forward, I reassure the Committee that the UK and Japan will meet each year in a joint committee and, as part of the DIT's transparent and inclusive approach to monitoring, I confirm that we will publish a monitoring report every two years.

I hope that my closing remarks have provided a broad assessment of the deal's clear value and scope. The scrutiny the agreement has had has been extremely valuable. I apologise to noble Lords who have not had their questions answered directly, and I will write to noble Lords as varied as my noble friend Lord Howell of Guildford, the noble Baroness, Lady Liddell, my noble friend Lord Trenchard and other noble Lords, answering questions I was unable to answer today.

[Lord Grimstone of Boscobel]

In conclusion, this agreement represents an historic milestone in the UK's future as an independent trading nation. We will come back to the question of parliamentary scrutiny in our debate on the Trade Bill shortly. I hope that we will be able to take full advantage of the clear economic opportunities presented to us by this deal, and I am confident that this agreement will set a clear path and provide strong momentum to secure high-quality future trade agreements with friends and partners from around the world. I beg to move.

5.32 pm

Lord Goldsmith (Lab): My Lords, I thank the Minister for those remarks and his thorough observations on what noble Lords have said, but I particularly thank noble Lords who have taken part in the debate. When we first thought we would have a debate on this agreement, I was a bit nervous, because I knew that some of the very controversial areas that concern trade—the things that fill newspapers—would not arise on this agreement: it would be some sort of continuity agreement. I was quite wrong to think that this might not be a valuable debate; it has been very valuable. I, for one, will come back to things that many noble Lords have said in this debate when we look at other agreements; they are valuable and important.

I thank noble Lords for what they said about the report. To the extent that there is credit, it goes to my colleagues on the committee, but particularly to our staff. I pay particular tribute to the staff, who worked very hard under very pressing circumstances to get this scrutiny done, led by Dr Dominique Gracia, who is leaving us today, I think. She can rest on the laurels of a successful report and a debate in the House of Lords as, perhaps, her final official act, and I thank her.

Like other noble Lords, I congratulate the noble Lord, Lord Darroch of Kew, and welcome him. I had the privilege and pleasure of working with him in government, as did many noble Lords, and knew what a tremendous contribution he would make to this House. His clarity of thought, perceptive insight and incisive judgments will be very welcome here—perhaps much more than they were by the outgoing president of another country. I therefore very much look forward to his further contributions.

Time does not permit me to go through the important themes of our debate now, but we will return to them, including the question of scrutiny. I worry that we were able to do this in the time that we had partly because of the co-operation of the noble Lord Grimstone, and his staff, and on the back of an agreement that largely replicated an existing one. How we could have done so on something completely new, with a new text, worries me enormously. We will come back to that, and not just in debates on the Trade Bill.

Meanwhile, we are feeling our way. I think the Government are feeling their way as well, but I heard the Minister say that they have found this scrutiny helpful. That is what we intend: to be helpful to the people, but also to the Government. We think that, as examples in other countries demonstrate, scrutiny can help in negotiations. On that note and with those hopes, I beg to move.

Motion agreed.

The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB): That completes the business before the Grand Committee this afternoon. I remind Members to sanitise their desks and chairs before leaving the room.

Committee adjourned at 5.35 pm.