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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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

House of Lords

Tuesday 15 December 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Southwark.

Arrangement of Business

Announcement

12.06 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. Oral Questions will now commence. Please will those asking supplementary questions keep them short and confined to two points? I ask that Ministers' answers are also brief.

Covid-19: Arts Sector

Question

12.07 pm

Asked by ***Lord Black of Brentwood***

To ask Her Majesty's Government what steps they are taking (1) to support freelance workers in the arts sector during the COVID-19 pandemic, and (2) to ensure a return to live performances in that sector as soon as possible.

Lord Black of Brentwood (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and declare my interest as chairman of the Royal College of Music.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the Government recognise the significant challenge that the current pandemic poses to our arts sector and to the many individuals, including freelances, working across it. We are working very hard to help freelancers in those sectors access support, including through the self-employment income support scheme and funding from Arts Council England.

Lord Black of Brentwood (Con): My Lords, the Covid emergency has been a catastrophe for music and other parts of the creative economy, and in particular for the freelancers who make up 72% of those working in the performing and visual arts. Nearly four in five of them earn less than £30,000 per year and many are having to rely on universal credit. Can my noble friend tell us what steps are being taken to ensure that the support that the Government are giving to music and the arts, including the £165 million recently announced, will directly benefit freelancers, and when will freelancers have the security of a revised road map to return to live performances once restrictions are eased?

Baroness Barran (Con): The Government recognise the impact of the pandemic on this group, which my noble friend has spoken of so clearly, and on our wider and very brilliant arts and creative sector. Our focus is on keeping venues going financially and getting them open. We estimate that 12.5% of the business costs of culture recovery fund recipients will go to freelancers, artists and casual events staff. Of course, not all the fund is yet committed and we are keeping all options under review. In relation to the second part of the noble Lord's question, we absolutely understand the importance of a reopening date for planning. My honourable friend the Minister for Culture recently met the organisers of a number of festivals, including Edinburgh and the Isle of Wight, and as soon as we can announce more on that, we will.

The Lord Bishop of Southwark [V]: My Lords, will the Minister please comment on what is being done to support the huge supply chain of talent, materials and suppliers for live events and performances? As the Minister is doubtless aware, there are decades of expertise within these sectors, which also support film production, television and festivals—everything from catering to lighting, scenery, special effects, equipment hire, publicity and venue hire. These are all in danger of being wiped out and will be extremely difficult to re-establish if businesses and freelancers are not supported at this stage.

Baroness Barran (Con): The right reverend Prelate is absolutely right. The figures that I just gave to my noble friend Lord Black in relation to culture recovery fund recipients do not include the supply chain, where we think significant numbers of contracted employees will also benefit. We are very aware of these issues and share the right reverend Prelate's concerns.

Lord Flight (Con): My Lords, freelance workers in the arts sector have been among the worst hit by the Covid-19 pandemic, with all booked engagements simply cancelled with no remuneration. While the third grant to unemployed arts workers was indeed provided at the end of November, individuals who managed to finance themselves during the first grant and so did not need the grant at that time are unfortunately ineligible for third grants. Will the Government please install their eligibility? The recent measures mean that there will be no live performances in the London area, and the Greater London area theatres do not have the financial resources to put on live performances and will need help when government rules permit live performances.

Baroness Barran (Con): The Government share my noble friend's sadness at the impact of the recent decisions on London theatres but, obviously, that decision was taken on public health grounds. Under the new tiers that came into force recently, live performances are permitted in Covid-secure indoor venues in tiers 1 and 2. In relation to those self-employed people who did not access finance in the first two phases, they are not necessarily excluded from the third grant if their business has been badly impacted by Covid-19.

Viscount Colville of Culross (CB) [V]: My Lords, the noble Lord, Lord Black of Brentwood, talked about the 100,000 freelancers in the creative industry who fall outside the SEISS. I am especially concerned about new graduates who have been recruited into these industries. Those in last year's intake to the industries were not covered and they have now been joined by another year's intake who are similarly not covered. Do the Government have any specific plans to help these people?

Baroness Barran (Con): I can reassure the noble Viscount that we are looking in detail, with HMRC and the Treasury, at a range of reasons why self-employed people may be ineligible. That work is under way and I am assuming that graduates form part of it.

Baroness McIntosh of Hudnall (Lab) [V]: My Lords, I refer the House to my interests in the register. Has the noble Baroness had time to read the most recent report from the House of Lords Economic Affairs Committee, *Employment and COVID-19*? It has some pretty trenchant things to say about the Government's treatment of freelancers. In one example, it says that the Government have not taken action "to better target" the SEISS

"at those most affected by the pandemic, despite having had months to reform the scheme."

Reference to the culture recovery fund will not quite do, as important as that is. Highly skilled freelancers are leaving the arts now and, as the noble Viscount, Lord Colville, has just said, newly trained young people who hope to come in—especially those from under-represented backgrounds—are thinking again, such is the vulnerability of the sector. These are the performers, technicians, craftspeople and also the teachers of the future. How can the Government justify this waste of talent?

Baroness Barran (Con): The Government have not been wasting their time. We have announced the largest support package for the cultural sector of £1.5 billion, which we think will sustain the cultural ecosystem, allow venues to reopen and protect jobs. However, as I said to the noble Viscount, Lord Colville, we are working closely to understand where there are barriers to freelancers accessing support.

The Lord Speaker (Lord Fowler): We are making slow progress on this Question. I call the noble Baroness, Lady Bonham-Carter of Yarnbury.

Baroness Bonham-Carter of Yarnbury (LD) [V]: My Lords, the allocation last week of more from the culture recovery fund was received with relief by many venues, but performing arts production is not a tap that you can just turn on and off. The news yesterday that London is going into tier 3, as mentioned by the noble Lord, Lord Flight, has caused great anxiety. Can the Minister confirm that cultural venues will be eligible to receive tier 3 local restrictions support grant compensation?

Baroness Barran (Con): My understanding is that that is the case, but I will write and confirm to the noble Baroness if that is incorrect.

Baroness Warsi (Con) [V]: My Lords, I draw the House's attention to my relevant entries in the register of interests. My noble friend will be familiar with the individuals emergency resilience programme set up by the Northern Ireland Executive for those working in the creative industries, including freelancers, and the self-employed hardship fund established by the Scottish Government. These are very targeted funds, so what similar or additional plans have been put in place in England and Wales in response to London's tier 3 reclassification this week, specifically to assist individual artists or freelancers in this targeted way?

Baroness Barran (Con): The announcement on the London decision happened only yesterday, so I hope that my noble friend will give us a moment to work that through. However, Arts Council England has made over £26 million in awards to over 8,200 individuals through non-CRF funds this year, including £17.1 million through the emergency response fund for individuals.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, as my noble friend Lady McIntosh says, the current schemes have clearly not worked to support freelancers. Will the Minister please accept that and has she read the Museum Freelance report, which says that fewer than half its respondents have even been able to access government income, let alone survive over this period? What is she going to do about it?

Baroness Barran (Con): We would accept that some freelancers have either believed that they are not eligible for these schemes or are not eligible. But we have announced considerable funding, and £378 million was claimed by freelancers in the arts, entertainment and recreation sector under phases 1 and 2 of the scheme.

Lord Aberdare (CB): With the Covid-19 rules changing almost on a weekly basis, many music and culture venues which took the Government at their word and tried to reopen in a socially distanced way between lockdowns have now found themselves having to refund tickets already sold because of a reduction in the audience numbers allowed, even before going into tier 3. What specific plans do the Government have to help venues in this position, for example in the form of an indemnity scheme so that they are able to insure against this kind of eventuality?

Baroness Barran (Con): The Government recognise the tremendous efforts that many venues have gone to and we have a venues steering group, which is working through a number of these issues. We are looking at options around insurance and indemnity and are very happy to have conversations with the Treasury about this, but we need evidence that that is the only barrier to reopening.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the second Oral Question.

Regional Comprehensive Economic Partnership

Question

12.18 pm

Asked by ***Lord Howell of Guildford***

To ask Her Majesty's Government what assessment they have made of the Regional Comprehensive Economic Partnership free trade agreement.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, as a supporter of free trade the UK takes a close interest in RCEP, which should help standardise rules and facilitate trade between partners in the region. The Government are committed to enhancing our trade with RCEP members, having concluded the CEPA with Japan and negotiated with Australia and New Zealand, along with our intention to accede to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership—plus, of course, our bilateral trade engagement with partner countries.

Lord Howell of Guildford (Con) [V]: My Lords, I thank the Minister for that reply and congratulate him on the work that he and his colleagues have done in this whole area. But this new regional comprehensive liberalisation partnership, although it is much shallower than other market liberalisation such as the EU single market, for instance, is actually much bigger than any other. It covers 2.3 billion people and a third of the world's trade; and it is in the region where most of the world's growth will be over the next 10 years. Does my noble friend agree that we need to engage very closely indeed with this development? Now that we are aiming to join the revised Trans-Pacific Partnership, and are involved in the Japan agreement that he mentioned, does he agree that this should all be seen as part of what his right honourable friend Elizabeth Truss, the International Trade Secretary, calls the "Pacific mindset" in our overseas commercial strategy? That is thoroughly welcome and to my mind, as some would say, overdue.

Lord Grimstone of Boscobel (Con): I agree with my noble friend that RCEP is a very interesting trade agreement, and it is a notable achievement that it has been concluded. However, we feel that the Trans-Pacific Partnership is a significantly deeper agreement that will set standards globally in a large number of areas; that is our priority.

Viscount Trenchard (Con): My Lords, RCEP is a much shallower and less significant partnership than the CPTPP, as my noble friend just stated. Does he agree that it is hard to see how China could be accepted as a member of the CPTPP, given its provisions on transparency, anti-corruption, state-owned enterprises and labour and environmental protection? Does he also agree that it is very important that UK accession to the CPTPP should be fully agreed during Japan's presidency, which necessitates a formal request for accession early in the new year?

Lord Grimstone of Boscobel (Con): My noble friend is right: we intend to move forward as quickly as we can with the Trans-Pacific Partnership, and we hope to be able to make an application for accession early in the new year.

Viscount Waverley (CB) [V]: I fully take the point about the Trans-Pacific Partnership Agreement—regional integration and multilateralism, serving other nations' prosperity, is in the UK's interest, so fully endorsing the importance of our linking to major trade blocs is a priority. However, as the noble Viscount, Lord Trenchard, has just drawn attention to, the China relationship is fraught, as it is for others, for multiple reasons. Does China's inclusion hamper our ability to deepen trade relations with the RCEP community, or is RCEP viewed as a practical bridge-building mechanism?

Lord Grimstone of Boscobel (Con): We are watching RCEP closely, but at least six ASEAN and three non-ASEAN signatories need to ratify the agreement before it enters into force, and there is then a gap of 18 months before any other country can enter—so it would be many years before it would even be possible for us to consider entry into RCEP.

The Lord Speaker (Lord Fowler): I call the noble Lord, Lord Haskel. Lord Haskel? No? We will move on.

Lord Purvis of Tweed (LD): My Lords, before looking to very long-term ambitions for joining regional economic partnerships, is it not better for the Government to focus absolutely on the trade agreements that we already have and are struggling to roll over? The update from the Government yesterday says that, for the first time that we know of, we will, from 1 January, be trading on WTO terms with countries that we had a trade agreement with before—a real failure of this Government. One of the RCEP countries is Vietnam; when will we see the details for the rollover agreement for Vietnam so that we can debate it in this Parliament and judge whether the Government are performing as they should be?

Lord Grimstone of Boscobel (Con): My Lords, we have now concluded 27 agreements with 59 countries. There is a very small number of countries that we will not have completed agreements with before the end of this year, but I am pleased to say that the agreement in principle with Vietnam was concluded last week, during the Trade Secretary's visit, and full details will be made available to the House in the normal way in due course.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, when he answered the noble Viscount, Lord Waverley, a few minutes ago, the Minister was equivocal about whether the UK was considering joining RCEP. Could he give a clear yes-or-no answer as to whether, if China were a member by that stage—and it has applied to join—we would apply?

Lord Grimstone of Boscobel (Con): I am happy to give a clear answer to the noble Lord: at the present time, we have no intention of concluding a free trade agreement with China or of applying to join RCEP.

Baroness Altmann (Con): My Lords, I am delighted to hear that the Government have no intention of signing a free trade agreement with China, and I welcome RCEP because it could well have positive implications for companies in the EU and the UK. Does my noble friend agree that this arrangement will allow companies to ship products across the region more easily, without the rule-of-origin problems and with lower costs for those companies and their supply chains across the region? Does he agree that the UK would benefit from that if, rather than leaving the EU on WTO terms, we could retain our agreements with the EU?

Lord Grimstone of Boscobel (Con): My Lords, I have learnt that it is not easy to give answers that are completely up to date in relation to the EU negotiations. Noble Lords realise that these negotiations are proceeding, and a Statement will no doubt be made as to their conclusion in due course.

Lord Bilimoria (CB) [V]: My Lords, UK trade with CPTPP members is £110 billion—more than our trade with China. Does the Minister agree that UK accession to the CPTPP would be a clear display of intent that the UK would continue to back the international rules-based trading order after leaving the EU? Does he also agree that it would display that it intends to remain an open economy—and, therefore, securing an EU deal is all the more important to press on to seize these opportunities? Will he confirm that, with India not being a member of either the CPTPP or RCEP, the Government will make the most of the Prime Minister's forthcoming visit to India to fast-track an FTA with India?

Lord Grimstone of Boscobel (Con): My Lords, I completely agree with the noble Lord's comments in relation to India and am very pleased to be able to say that the UK and India have agreed to pursue an enhanced trade partnership, which is, of course, the first step to a wider road map to deepen trade ties. This is an ambitious approach, and I look forward to it moving to a conclusion in due course.

Baroness Bennett of Manor Castle (GP): My Lords, what assessment have the Government made of the climate impacts of RCEP, particularly its impacts on disciplining the fossil fuel subsidies around the world, which are currently $500 billion? Is this being considered in all our trade negotiations, along the lines that New Zealand and others are aiming for with the Agreement on Climate Change, Trade and Sustainability?

Lord Grimstone of Boscobel (Con): My Lords, because we have no intention of joining RCEP at present, we have made no assessment of its effect on climate change.

Lord Wallace of Saltaire (LD) [V]: My Lords, is it compatible with Britain's sovereignty to join the Trans-Pacific Partnership? We have just re-established our sovereignty by sloughing off the multilateral agreements we have made, which clearly share sovereignty with the European Union, so why on earth are this Government considering going into other multilateral agreements in which we will have to share some of our sovereignty with others, whichever countries they are? I am very glad that they do not include China.

Lord Grimstone of Boscobel (Con): My Lords, UK accession to the Trans-Pacific Partnership Agreement would secure increased trade and investment opportunities and help us diversify our trading links, and we believe that that would be to the benefit of the United Kingdom.

Baroness McIntosh of Pickering (Con): My noble friend said that we had signed 27 out of 59 free trade agreements; are those 59 agreements all those that we were party to through our EU membership? When might those negotiations on the remaining EPAs be concluded?

Lord Grimstone of Boscobel (Con): My Lords, only a small handful of agreements have not yet been concluded. We are anxious and keen to conclude those but, of course, it takes two to make a trade agreement, and we are in the hands of our partners for the timing of some of those.

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

Care Quality Commission Report

Question

12.30 pm

Asked by ***Baroness Bull***

To ask Her Majesty's Government what steps they are taking in response to the report by the Care Quality Commission *Out of Sight—Who Cares?*, published on 22 October.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, the Government are clear that in-patient care should be high quality, therapeutic and for the shortest time possible, and that any kind of restraint should be used only as a last resort and in line with strict protocols. That is why the evidence in the CQC report of poor care and excessive use of restrictive practices is so unacceptable. Our response to the report from the Joint Committee on Human Rights in October outlines many of the measures that we are already taking. We will respond formally to the specific recommendations in the CQC's report at the earliest opportunity.

Baroness Bull (CB): My Lords, this report details an horrific culture of restraint, seclusion and segregation in the care of people with learning disabilities and autism. NHS data seems to show around 3,400 in in-patient care, some in isolation for 13 years, with no meaningful activity, outdoor space, natural light, furniture or belongings—their food served through hatches and their only human contact via intercoms and screens. Does the Minister agree that, while that number is unacceptably high, it is low enough that the development

of pathways individualised to support community living should be possible? The costs might be high, but the cost of hospitalisation is higher. When will government deliver those long-promised solutions and end these abuses of human rights and human dignity?

Lord Bethell (Con) [V]: I am not sure that I completely recognise the numbers given by the noble Baroness. In August, there were 365 instances of seclusion and 10 instances of segregation of those with autism and learning difficulties, but I would be glad to correspond with the noble Baroness to clarify those things.

I reassure the noble Baroness that the progress that we are making to create the pathways to which she rightly alludes is very much the focus of the department. Earlier this morning, the Minister for Social Care chaired the first Building the Right Support delivery board, in which she brought together representatives of the NHS, LGA, ADS, DfE and MHCLG to make progress on exactly what the noble Baroness is talking about. I reassure her that funds of £74 million have been put in place to help those with autism and learning difficulties who are being discharged into the community.

Baroness Wheeler (Lab): My Lords, the 66 case studies across hospitals and community settings in this very shocking report were of extremely vulnerable people who have all been badly let down by the health and social care system. Most depressing of all is that the actions promised after Winterbourne View and similar appalling situations in the past, which we hoped would lead to major changes in treatment and understanding in the care and support of autistic people and those with learning difficulties, have just not happened. Once again, there is a litany from the patients themselves, and from their families and carers, saying that, if they had received help and support earlier, or when in crisis, they may not have needed hospital care. What are the Government doing to ensure that the right community support is in place for people with autism or learning difficulties in every local area?

Lord Bethell (Con) [V]: I completely endorse the noble Baroness's observations. She is entirely right that the 66 case studies in the report make very harrowing reading. That is why the report was commissioned in the first place, as an acknowledgment that the current state of affairs is not acceptable and needs to improve. Overall, £4.5 billion is going to primary care and community health services, and that is additional money to be committed by 2023-24. It is part of the Government's overall commitment in this area, and we look forward to publishing a White Paper on mental health shortly.

Baroness Fox of Buckley (Non-Afl): I thank the noble Baroness, Lady Bull, for tabling this Question. The Care Quality Commission report is deeply shocking reading—the utter cruelty of using seclusion and segregation in care settings for people who cannot advocate for themselves. I note that the report recommends that families and advocates are involved in the development of care plans, and I fully agree with that.

Would the Minister comment on the unintentional consequences of Covid regulations in care homes, which means that there has been a huge expansion of the numbers of those who are secluded and segregated who cannot advocate for themselves? For example, there are those with dementia who have been locked away, deprived of contact with their advocates and loved ones and, equally, treated with undignified and inhumane measures. Will he look at the harrowing examples detailed by the Rights for Residents campaign, which will show him that it is not just a small number now but many more, sadly, as an unintentional consequence of government policy?

Lord Bethell (Con) [V]: My Lords, I would be grateful to hear from the Rights for Residents campaign, which sounds like an important and valuable contribution. I reassure the noble Baroness that the numbers of those who have undergone restrictive practices who have autism or learning difficulties do not appear to have risen during the pandemic. That is not to say that the current numbers are acceptable.

Baroness Browning (Con) [V]: My Lords, I refer to my interests in the register. My noble friend has not mentioned—and I would like to remind him of it—that in 2009 Parliament passed the Autism Act. It is the only medically diagnosed condition, apart from mental health, considered important enough to have its own Act of Parliament. Many of the issues raised in the CQC report to do with diagnosis and failure to intervene at an early stage with appropriate and timely interventions are covered in the Autism Act. Will he ask his department to look again at that Act, which is subject to ministerial guidance, and make sure that not only is it implemented but there is sufficient funding for that Act to be put into practice?

Lord Bethell (Con) [V]: I am very grateful for the reminder from the noble Baroness, and I would be glad to take her recommendation back to the department and write to her on whether there are any measures that we need to put in place to ensure that we are fulfilling our commitments under the Autism Act. It was an important Act, and I suspect that we are well within the measures that it has enacted.

The Lord Speaker (Lord Fowler): Can we speed up a little, please? I call the noble Baroness, Lady Jolly.

Baroness Jolly (LD) [V]: My Lords, the noble Baroness, Lady Wheeler, is right to flag that this is not the first time that we have heard this catalogue of appalling treatment. The shame is that in some places local authorities and the NHS use a one-size-fits-all approach to commissioning services. We have to put the individual in care at the centre and treat them and their needs. When did a Minister last issue commissioning guidance to local authorities and the NHS in this matter, as the partners that have to commission the process? What family involvement is recommended in those conversations?

Lord Bethell (Con) [V]: I cannot go into details of commissioning guidance in this short Question, but I reassure the noble Baroness that, when it comes to family involvement, new guidance has been issued in response to the Joint Committee on Human Rights, which puts family involvement in any seclusion or restraint decision. That is an immediate development since the report in October.

Lord McLoughlin (Con): My Lords, one thing that comes clearly through the report is the vast amount of different government departments and agencies involved in providing this care. What are the Government doing to ensure that there is proper co-ordination between the various different bodies so that the patient, the person who has to get the care, is assured of getting it —for both them and their families?

The Lord Speaker (Lord Fowler): Did the Minister hear that in his babysitting duties?

Lord Bethell (Con) [V]: My Lords, my noble friend makes an extremely important point. The role of families and communities in the social care provided to those with autism and learning difficulties is extremely important and will be at the centre of every recommendation that we make in response to this report.

Baroness Finlay of Llandaff (CB) [V]: I declare my role as chair of the National Mental Capacity Forum. Are the Government considering the separation of learning disabilities from within the Mental Health Act to drive training in early crisis recognition and de-escalation in the community, learn from good practice and pilot alternative ways of providing places of safety in a crisis? The underlying social problems need social care solutions and are not always appropriate for, or amenable to, medical intervention.

Lord Bethell (Con) [V]: The noble Baroness makes her point extremely well. These are exactly the kinds of questions that have been considered by Sir Simon Wessely's review of the Act. As I said earlier, we are looking forward to publishing a White Paper on the Mental Health Act 1983 shortly, and those are exactly the kinds of issues that it will seek to address.

Lord Touhig (Lab) [V]: My Lords, I refer the House to my interests in the register. As vice-chairman of the All-Party Parliamentary Group on Autism, I know all too well the devastating impact this undignified and inhumane so-called care has had on many autistic people. A new autism strategy is crucial, setting out how the Government will ensure that autistic people receive the right support and social services care in the first place, so that they do not end up in these hospitals. Can the Minister assure the House that the autism strategy will address this and the services supporting it receive the funding they need so that autistic people can have the quality of life we all enjoy and take for granted?

Lord Bethell (Con) [V]: I completely acknowledge the noble Lord's championship in this area. He is right that autism is a distinct condition that should not necessarily be treated in a clinical surrounding, and I pay tribute to those in social care and community care who provide more thoughtful, considerate and sympathetic care environments for those with autism. I share his aspiration that those with autism should be cared for in a productive way that gives them fulfilled lives. He is entirely right that we need to continually refine our strategies to ensure this ambition.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the fourth Oral Question.

Extreme Poverty

Question

12.41 pm

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government, further to the report by the Joseph Rowntree Foundation *Destitution in the UK 2020*, published on 9 December, what steps they are taking to address any (1) increase in, and (2) intensification of, extreme poverty in the United Kingdom.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, tackling poverty is a priority for this Government. Throughout this pandemic, this Government have sought to protect jobs and incomes, spending billions on strengthening welfare support and ensuring the most vulnerable can meet their basic needs. Our long-term ambition is to level up opportunity across the UK by helping people back into work as quickly as possible, based on clear and consistent evidence of the important role work can play in tackling poverty.

Baroness Lister of Burtersett (Lab) [V]: My Lords, is it not shocking that the JRF found that

"even before the COVID-19 outbreak destitution was rapidly growing in scale and intensity",

with 2.4 million people, including over 500,000 children, in households unable to afford the essentials needed to eat and stay warm and dry? Given that this and other research identifies social security cuts and design flaws as the key cause of this hardship, what assessment have the Government made of the impact on extreme poverty of withdrawing the £20 UC uplift in April and refusing to extend it to disabled people, the unemployed and carers on legacy and related benefits?

Baroness Stedman-Scott (Con): Tackling poverty, as I said, is an absolute commitment and a priority for this Government. The noble Baroness raises the issue of the £20 uplift, and I can only confirm that the £20 uplift is in place until April 2021. Discussions between our department, the Treasury and others are ongoing, and a decision will be made in due course.

Lord Hendy (Lab) [V]: My Lords, before the impact of lockdown, in 2018, the United Nations special rapporteur on extreme poverty found that 14 million people in the United Kingdom were below the poverty line, 9 million of them in households where at least one person worked. Wages need to be increased to reduce poverty. To this end, and to increase demand, the OECD and the ILO advocate the promotion of collective bargaining. Does the Minister agree with them? If so, what steps to restore collective bargaining in the United Kingdom will the Government take to enable the voice of workers to be heard in the determination of wages?

Baroness Stedman-Scott (Con): I am pleased that the noble Lord recognises that being in good, well-paid work is a good route out of poverty. On collective bargaining, I will need to come back to the noble Lord in writing.

Baroness Janke (LD) [V]: The noble Baroness will be aware that many people in poverty and destitution do not have access to computers. They are often deprived of support and advice as well as crucial referrals to such services as food banks. Often, they do not pick up DWP instructions, and they end up being sanctioned through no fault of their own, adding further insult to injury. What plans do the Government have to bridge the digital divide and ensure access for the poorest and most deprived to such essential services?

Baroness Stedman-Scott (Con): The noble Baroness raises a really important point. As we move to more online activity, access to technology will be critical for people to get the information they need. I can confirm that our department is looking at how we can increase digital access as part of the work the Secretary of State is conducting across government on the cost of living. Indeed, this is one of the things the flexible support fund exists to help with. When people see their work coach and explain their difficulties with access to IT, the flexible support fund can help.

Baroness Eaton (Con) [V]: My Lords, to read the words "living in destitution" as a description of life for some people, particularly children, is acutely distressing. When will the Government bring forward a proper strategy for tackling poverty, which, as this latest report clearly shows, was rising and intensifying long before the pandemic?

Baroness Stedman-Scott (Con): I can confirm to my noble friend, as I already have, that this Government have consistently supported the lowest-paid families by increasing the living wage and continually strengthening the welfare safety net, including with an injection of billions extra this year for those in need. Our long-term ambition is to support economic recovery in this country by getting people back to work as quickly as possible.

Lord Woolley of Woodford (CB) [V]: My Lords, there have been two worrying reports this week: *Destitution in the UK* by the Joseph Rowntree Foundation and the Covid-19 Marmot review by Sir Michael Marmot. These reports paint a bleak picture of deprivation and destitution in the UK made worse by Covid-19. Both highlight the shocking, disproportionate impact these are having on black, Asian and minority ethnic communities, including Gypsy, Roma and Traveller. When will the Government acknowledge this specific fact and, more importantly, ensure there is targeted action to deal with it effectively?

Baroness Stedman-Scott (Con): This Government have acknowledged the issues the BAME community faces and taken action. In fact, the number of BAME community members going into work was increasing. The detail of the noble Lord's question might warrant, I may suggest, a meeting between us to talk about them further and in more depth.

Baroness Sherlock (Lab) [V]: My Lords, we all want to help people into work, but this report shows people are destitute now. It highlights the fragility of our social security system, pointing out that half of destitute households were getting universal credit or had applied for it. It says that needing to repay advances was leaving them with little to live on, and it warns that Britain is increasingly reliant on food banks as a core welfare response to destitution. This is scandalous—does the Minister agree with me? If so, what are the Government going to do about it now?

Baroness Stedman-Scott (Con): I certainly acknowledge the issues that people are facing; I do not shy away from that at all. But, at the risk of repeating myself, the Government are right now putting over £100 million extra into working-age welfare, we have the Covid winter support fund, we have the plan for jobs and the pandemic policies are under continual review. There are free school meals and money for food charities. I am not sure I agree with the noble Baroness's implication that we are not doing enough.

Lord Taylor of Goss Moor (LD) [V]: My Lords, we clearly face a completely unprecedented shock to the system, in which families who have been hard working and supporting themselves are being plunged into poverty and destitution by the economic shocks associated with coronavirus. One group that is often forgotten is those in rural poverty, whose difficulties are often made worse by their difficulty in accessing services that have been centralised. Will the Government put a priority on ensuring that at least some services are directed to the more remote, rural communities, where people in destitution often find themselves unable to get the help that people in more urban areas take for granted?

Baroness Stedman-Scott (Con): The noble Lord raises a very pertinent issue. I am well aware of the issues that rural communities face. What I would like to do, if he is happy with this, is go back to my colleagues in the jobcentre network in order to understand exactly what they are doing to target help at the rural communities, and come back to him in due course.

The Lord Speaker (Lord Fowler): I call the noble Lord, Lord Desai. No? In that case, I call the noble Lord, Lord Young of Cookham.

Lord Young of Cookham (Con): My Lords, the Government introduced a welcome measure to help up to 4 million people on low incomes in September, offering a grant of £500 to those who had to self-isolate but could not work from home and therefore faced a drop in income. However, some of the local authorities through which this grant is routed are running out of funds, thereby prejudicing the success of the scheme. What steps can my noble friend take to ensure that those who are entitled to these grants get them?

Baroness Stedman-Scott (Con): The £15 million allocated for discretionary payments is a fixed envelope to cover cases of exceptional hardship that fall outside the scope of the main test and trace support payment scheme. In addition, the Government have made a

[Baroness Stedman-Scott]
range of other support available to those on low incomes who have to self-isolate. That includes changing the rules to allow claims for statutory sick pay, increasing the standard allowance of UC and the Self-employment Income Support Scheme.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed, and that brings Question Time to an end.

12.53 pm

Sitting suspended.

Arrangement of Business

Announcement

1.30 pm

The Deputy Speaker (Lord Brougham and Vaux) (Con): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

Trade Bill

Report (Day 2)

1.31 pm

Relevant document: 15th Report from the Constitution Committee

The Deputy Speaker (Lord Brougham and Vaux) (Con): I will call Members to speak in the order listed in the Annexe to Today's List. Interventions during speeches or "before the noble Lord sits down" are not permitted and uncalled speakers will not be heard.

Other than the mover of an amendment or the Minister, Members may speak only once on each group. Short questions of 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 and it is not possible to de-group an amendment for separate debate. A participant who wishes to press an amendment other than the lead amendment in a group to a Division must give notice, either in the debate or by emailing the clerk.

Leave should be given to withdraw amendments. When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely wants their voice accounted for if the Question is put, they must make this clear when speaking on the group.

Amendment 12

Moved by ***Lord Lansley***

12: After Clause 2, insert the following new Clause—

"Ratification of international trade agreements and treaties

(1) The Constitutional Reform and Governance Act 2010 is amended as follows.

(2) In section 20 (treaties to be laid before Parliament before ratification), after subsection (1)(b) insert—

"(ba) where the treaty is an international trade agreement as defined in the Trade Act 2020—

(i) a Minister of the Crown has published an analysis of the requirement for the treaty to be implemented through changes to domestic legislation, and

(ii) where changes to domestic legislation would be required as described in the analysis under sub-paragraph (i), the necessary legislation has been laid in the form of a statutory instrument or the necessary primary legislation has been enacted,".

(3) In section 21 (extension of 21 sitting day period), after subsection (2) insert—

"(2A) Where a relevant Committee of either House of Parliament has recommended that a treaty constituting an international trade agreement as defined by the Trade Act 2020 should be debated in that House, the Minister of the Crown must ensure that the period does not expire before that debate has taken place.""

Member's explanatory statement

This new Clause amends the Constitutional Reform and Governance Act 2010 to require analysis of the domestic legislation needed to implement a trade agreement to be laid with the Treaty; that the legislation should be enacted or laid before ratification; and that the Minister must allow a debate on the Agreement if sought by a Committee in either House.

Lord Lansley (Con): My Lords, Amendment 12, in my name and that of the noble and learned Lord, Lord Goldsmith, was debated along with Amendment 6 on day one. It relates to the parliamentary scrutiny process for international treaty agreements under CRaG. In view of the support it received in the course of that debate, I wish to test the opinion of the House and beg to move Amendment 12.

1.33 pm

Division conducted remotely on Amendment 12

Contents 274; Not-Contents 209.

Amendment 12 agreed.

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1.46 pm

The Deputy Speaker (Lord Brougham and Vaux) (Con): We now come to the group consisting of Amendment 13. I remind noble Lords that Members, other than the mover and the Minister, may speak only once and short questions of elucidation are discouraged. Anyone willing to press this amendment to a Division must make this clear in the debate.

Amendment 13

Moved by ***Lord Fox***

13: After Clause 2, insert the following new Clause—

"Mobility framework with the European Union

For the purposes of facilitating the continuation of trade with the European Union, the Secretary of State must take all necessary steps to secure a mobility framework with the European Union that enables all UK and EU citizens to exercise the same reciprocal rights to work, for the purpose of the provision of trade in services."

Member's explanatory statement

The new Clause places an obligation on the Secretary of State to take all necessary steps to secure a mobility framework with the European Union.

Lord Fox (LD): My Lords, the amendment is in my name and I thank other Peers who have put their names to it. It would insert a new clause that places an obligation on the Secretary of State

"to take all necessary steps to secure a mobility framework with the European Union".

For some time, there was an assumption that any free trade agreement with the EU would include a chapter on mobility and mutual recognition of qualifications. It is clear that even if there is an FTA, no such provision would emerge by 31 December. Therefore, the amendment is a way in which to address the need for the Government to think again and focus on this issue, whether it is through the FTA or in some other way.

At Second Reading, the Minister—the noble Lord, Lord Grimstone—said that his aim was to maximise economic benefit. As I said in Committee, it is surprising, given the Secretary of State's acknowledgement of the importance of services to trade, that Her Majesty's Government are so blind to what they are doing by cutting off or making much more difficult the essential movement of people. In truth, the need for mobility has already been recognised in other deals. Indeed, other trade deals have mobility frameworks such as those agreed with Japan, which was presumably put there by the Japanese to facilitate the support of their manufacturing industry and financial sector, and with Switzerland, to allow the free movement of certain financial industry functions. However, in this context, movement between the UK and the EU is much more important in terms of meeting the Minister's aims of maximising the economy.

As the noble Viscount, the Minister, knows, the UK services industry accounted for over 40% of the UK's exports to the EU in 2018. As well as the acknowledged financial and banking industries, those exports include legal, accounting, advertising, research and development, architectural and other professional and technical services. Then there are all the creative, musical and artistic areas that involve people who have been moving seamlessly through Europe, adding not just to the cultural richness of our relationship with Europe but to the financial performance of the UK. From January, these sorts of movements will either not be possible or be extremely difficult.

In her speech in Committee to a similar amendment, the noble Baroness, Lady Bull, set out clearly the five modes of services traded across borders. I recommend that the Minister rereads her speech if he can. One of

the modes that she raised was fly-in, fly-out. Every month, according to industry, around 10,000 people move between UK and EU manufacturing, more than the Government's estimate of 53,000 per year. As the Minister will appreciate, they include engineers, technicians and the like, who are providing the services that keep manufacturing going. In return, EU people come the other way.

Let me give an example. I am using the Germany-to-the-UK version and I declare my interest as a vice-president of the German-British Forum. Let us say a German company sells machinery to British industry—as many of them have, to a great extent. That could include the transport, power supply or car industries. In many cases, both the installation of and ongoing technical support for that machinery comes from technicians who come from Germany. They are not necessarily German, but they come from Germany, sometimes at very short notice. If something goes wrong, as of today, a technical team of people who are specialists in particular pieces of equipment, which are often wide-ranging, will fly in. The number of people sent and the individuals in question depend on their availability and the other contracts that the company has.

As it stands, the current immigration policy for tier 5 temporary workers does not appear to cater for this sort of situation, which requires a reliable approach as individuals generally cannot be named in advance and the length and frequency of the stint that they perform when they are in this country are unknown. This is a real issue that has not been borne in mind. I understand that we are talking about the Trade Bill but trade involves the free movement of people to make things happen and make things flow.

Cross-border work is further hampered by the absence of mutual recognition of qualifications. In Committee in September, during the debate on a similar amendment, the Minister—the noble Viscount, Lord Younger of Leckie—said that negotiations with the EU were opening on this matter. That seemed late then, 90 days before the end of the transition period. It would be helpful if the Minister could update us on how those negotiations are going, what sort of mutual recognition regime we can expect on 1 January and, if there is no agreement, what the contingency plan is, so that we can make sure that the valuable skills of the people from the European Union working in this country are recognised and the valuable livelihoods of British people are still alive and kicking.

We are about to plunge into high unemployment; the figures show that unemployment is a very serious developing issue. However, the people being cut off are the sort of people who can to help to grow the UK out of this unprecedented situation. This sort of immigration policy and the lack of a mobility framework sends a message to would-be entrepreneurs from across Europe—people who tended to flock to the United Kingdom because they saw it as a great place, where they were welcome and could work to the advantage of everybody in the country. It is not just about them; it is also about the movement of the people who are not necessarily well paid but form their teams.

This amendment proposes a new clause that places an obligation on the Secretary of State to take all necessary steps to secure a mobility framework with the European Union. Trade is increasingly about people and this Trade Bill ignores this. This amendment requires the UK to negotiate that mobility framework. To fail to do this is to invite the law firms, architectural practices and many other service industries to set up offices that were in this country in the rest of Europe. To fail to do this is surrendering jobs and the considerable tax take they bring to other countries. It is cutting off cultural interchange and opting to make manufacturing in this country harder and less attractive. In short, the process we are entering is disrupting the human supply chain which keeps this country running and growing. I beg to move.

The Earl of Clancarty (CB): My Lords, I am grateful to the noble Lord, Lord Fox, to be able to support this amendment. We do not yet know whether we will get a deal with the EU or what exactly the deal will look like if we do. What we can say is that a no-deal on services will be a no-deal for the country, irrespective of whether we get a deal. The Government and the media have consistently underestimated the importance of service industries, both to this country and as part of our trade with Europe. Service industries are 80% of our GDP, a statistic we have repeated many times in this House. Our services trade with Europe makes up 51% of our services exports. As it stands, Europe is a hugely important market for services—the most important. Due to the significance of geography to service industries, it is one that is frankly irreplaceable.

Services have not been ignored in all quarters. In an interview with the *Observer* on 1 November before stepping down as director-general of the CBI, Carolyn Fairbairn said that her "really big disappointment"—her exact words—was the lack of help for services in the potential deal. The recent report by the EU Services Sub-Committee, *The Future UK-EU Relationship on Professional and Business Services*, raises similar concerns—not least those shown by the creative industries. The amendment moved by the noble Lord, Lord Fox, does not specify what the precise nature of the mobility framework should look like. The so-called mobility arrangement that Liz Truss has just signed with Switzerland agrees 90 days' visa-free work a year. If this a sign of what is to come for EU countries, it will still not be enough on its own for much of the sector—which demands longer stays and ease of movement between European countries. This will be—

Baroness Scott of Bybrook (Con): I am very sorry, but we have a technical problem and nobody else can hear at all. I suggest we adjourn for 15 minutes.

1.57 pm

Sitting suspended.

2.30 pm

The Earl of Clancarty (CB): My Lords, in the Chamber at least: take two.

I am grateful to the noble Lord, Lord Fox, for tabling this amendment, which I support. We do not yet know whether we are going to get a deal with the EU or what exactly the deal will look like if we do. What we

[The Earl of Clancarty]
can say is that a no deal on services will be a no deal for the country, irrespective of whether or not we get a deal. The Government and the media have consistently underestimated the importance of service industries both to this country and as part of our trade with Europe. Services are 80% of our GDP, a statistic we have repeated many times in this House. Our services trade with Europe makes up 51% of our services exports. As it stands, Europe is a hugely important market for services—the most important. Because of the significance of geography to service industries, it is one that is frankly irreplaceable.

Services have not been ignored in all quarters. In an interview with the *Observer* on November 1 before stepping down as director-general of the CBI, Carolyn Fairbairn said that her "really big disappointment" was the lack of help for services in the potential deal. The recent report by the EU Services Sub-Committee, *The Future UK-EU Relationship on Professional and Business Services*, raises similar concerns—not least those shown by the creative industries. The amendment moved by the noble Lord, Lord Fox, does not specify precisely what the mobility framework should look like. The so-called mobility arrangement that Liz Truss has just signed with Switzerland agrees 90 days' visa-free work a year. If this a sign of what is to come for EU countries, it will still not be enough on its own for much of the sector—which demands longer stays and ease of movement between European countries. This will be particularly so for the performing arts, IT and the holiday industry, for instance. Can the Minister supply more details of this arrangement and how it will affect those industries?

In the meantime, it is no wonder that potential clients across many sectors in Europe are now advertising for those who have European passports, while those with only British passports are expressly excluded in such advertisements. This is now the norm, as clients and so much of the sector see British workers as too much trouble and red tape if they are not to be allowed the necessary physical mobility these industries demand. If this is to be the case it will be a tragedy for our service industries. The bare fact is that without a meaningful mobility framework many will lose their livelihoods and others significant job opportunities.

There are allied concerns, some of which the noble Lord, Lord Fox, referred to. It is essential that there is a data adequacy agreement and mutual recognition of professional qualifications. For many, there are concerns about costs. According to the Incorporated Society of Musicians, in normal times over 20% of British musicians travel to Europe at least 11 times a year. The ISM has also calculated that in a worst-case scenario, musicians who carry instruments abroad may incur additional costs of £1,000 a year. Like many who work in services, most musicians are self-employed. Such costs would need to be borne personally, which for many may prove simply too prohibitive.

The creative industries are hugely important financially, and in terms of cultural exchange and soft power. Coming on top of the effect of Covid, all of this will be threatened without a mobility framework in Europe. Moreover, these industries, along with the rest of the services sector, are as much in the dark about a potential deal now, with 16 days to go, as they were four years ago. As I said in Committee, many in the sector are crying out that even now they lack real guidance.

The Government and the Opposition will note that the amendment from the noble Lord, Lord Fox, cuts to the heart of things and is a more focused version of the one he moved in Committee. Purely and simply, it asks for a mobility framework on services. At the same time, manufacturing will also be affected without such a framework because of the importance of servitisation —including maintenance and repair of goods—to those industries, and to which the noble Lord, Lord Fox, referred.

We know that deals that would have allowed better access to the single market will have been offered to the UK. We have also heard what the former Australian Prime Minister, Malcolm Turnbull, had to say on an Australian-style deal on WTO terms, with

"a lot of friction in the system in terms of services"—

surely an understatement. It is essential that a framework for services between the UK and the EU is put in place.

Baroness Bull (CB): My Lords, it is a pleasure to follow the noble Earl, Lord Clancarty. I pay tribute to him for his tireless advocacy on behalf of the creative industries, particularly the music sector. As he pointed out, the amendment does not seek to recreate the past, as was suggested in response to a similar amendment in Committee. It seeks very specifically to secure the continued success of UK services, and in doing so to preserve the employment the sector provides, the economic contribution it generates and, as the noble Lord, Lord Fox, outlined, its potential to contribute to this country's recovery from the pandemic.

The UK is predominantly a services economy, with services contributing around 80% of economic activity in 2019 and providing jobs for 85% of the UK workforce. It is not a coincidence that the primary destination for UK services exports is the EU's single market. One of the best-established empirical results in international economics is that bilateral trade decreases with distance. The closer the country, the easier it is to get feet on the ground. Aside from services provided remotely, all modes of service require this physical presence. Thus, there is an inextricable link between mobility and service success.

British in Europe, an organisation representing the 1.2 million British people living in other European countries, gave extensive evidence in June to the Select Committee on the Future Relationship with the European Union on the extent of the problems British citizens will face if they are denied appropriate mobility in Europe. To date, these concerns have been largely ignored, but they are proving to be well founded, with anecdotal evidence emerging of UK passport holders already missing out in exactly the ways anticipated even before the end of the transition year, with employers reluctant to hire UK citizens, job offers withdrawn, and, in one recent widely publicised example, British passport holders excluded from the casting call for the role of a British prince in a new film due to "new Brexit rules".

Contractors working across multiple European countries face even more complex issues in being obliged to comply with multiple different formalities

to gain a temporary right to continue working as a provider of cross-border services. Without a framework in place, British service providers will face exactly this patchwork quilt of unilateral solutions and immigration rules in the different EU countries to which their work takes them. Big companies that have the resources to tailor and adapt will probably survive, but individuals, freelancers and owners of small businesses will once again be the ones to suffer.

These small businesses are also likely to be hit hardest by any failure to secure an adequacy decision with the EU. A recent report from the New Economics Foundation and UCL estimated that SMEs are each likely to have to find between £3,000 and £10,000 to cover additional costs of compliance if they want to continue to transfer data from the EU to the UK, with the aggregate cost to UK businesses in the region of £1.6 billion. This is money that could certainly be better spent, especially as UK business recovers from the pandemic.

Even before Covid, the impact of leaving the EU without a mobility framework to replace the current one threatened the sustainability and the success of UK services. We know that Covid has had a devastating effect on those parts of the sector that rely on human gatherings: hospitality; air travel; the creative industries; arts and entertainment. In the creative industries alone, Labour Force Survey data from the ONS reveals job losses of 55,000, a 30% decline since March and significantly higher-than-average numbers of people leaving creative employment. This is clear evidence of the scale of the crisis in a sector which has, over recent years, contributed over £111 billion annually in GVA.

The absence of a mobility framework will not just put at even greater risk these elements of UK services that are already on their knees but risk also those which have been better able to weather the Covid storm—IT, financial and legal services—because of the barriers that it will impose on the continuation of trade. The UK service sector is one which can claim to be world-leading, and I am still at a loss as to understand why it has received so little attention throughout the Brexit negotiations. That is why I support this amendment, and in doing so, once again ask the Government to do everything that they can to secure an appropriate mobility framework with the EU. This will protect not only the jobs of four in every five UK citizens but the crucial contributions that services make to our economy and, through that, to communities up and down the country.

Baroness Noakes (Con): It is a pleasure to follow the noble Baroness, Lady Bull, but when I read Amendment 13 I thought that she and the noble Lord, Lord Fox, had temporarily forgotten that the Government were elected on a promise to get Brexit done, and that a part of that promise was to take back control of our borders. That means controlling who comes into our country. My right honourable friend the Home Secretary has made fantastic progress in reorienting our approach on this. I know that some noble Lords still cling to a faint hope that, even though we have left the EU, we can carry on much as before, and at the heart of this amendment is that very notion. Whatever noble Lords who support the amendment have said, at the heart of what they are trying to achieve is something akin to the status quo.

In the negotiations, which have been so tortuous, it has not been difficult to miss that mobility has simply not been on the table. Indeed, the provision of services that is the target for the amendment is not a significant part of the negotiations. These are facts. Do noble Lords think that, at this late stage, the UK should go back to the EU and say that negotiations should start all over again and build in a mobility framework? That cannot be more than a pipe dream. It might be realised in due course, but noble Lords must accept the reality that there will be no special arrangements in the near term. We must learn to live the new normal of the UK being outside the EU, with all that this entails. Some service providers, notably financial services, have already adapted their business models; others will have to follow. Noble Lords may not like change and may wish to cling to the past, but we have moved on, and this amendment belongs in another era.

Baroness McIntosh of Pickering (Con): My Lords, with all the respect and affection which I hold for my noble friend Lady Noakes, I must disagree with her most strongly. I hope that, when summing up this debate, the Minister will set out the facts as they are. We passed a statutory instrument looking especially at the free movement of lawyers, and we have undertaken in this country to grant access to lawyers of the European Union and EEA to come and practise on the same terms going forward as are currently available. I realise that, as it is a different department, the Minister may not have the answers at his fingertips, but I would welcome a written response, to get the facts as they are. What update can the Minister give today on the basis that we have allowed incoming professionals?

I am particularly interested in lawyers, but I accept that the noble Baroness, Lady Bull, and the noble Earl, Lord Clancarty, are looking at the overall picture, which is that 51% of all services that we export go to the European Union. That is an inescapable fact. Have we now progressed? Do we now have a situation in which those such as myself, some 30 or 40 years ago, will be able to go over on an ongoing basis—allowing those European and EEA lawyers to practise here, establish themselves and set up a freedom to provide a service as an attorney, lawyer or advocate—on the basis of reciprocity, so that mutual recognition is a two-way process? Is that now the case? Has that been agreed with our European partners? I believe that the generosity of spirit must be reciprocated by them.

2.45 pm

I also reiterate that I had the opportunity to practise EU law in two different European practices—"boîtes", as they are called—in Brussels. I was also an intern, or stagiaire, in the European Union. I have been contacted in my capacity as the co-chairman of the British-Danish All-Party Group. There are currently 30 or 40 interns from Denmark coming to London alone, and it is hoped that that will continue from January. I gather that this is not in the first order of the negotiations and is outside the Erasmus agreement, but the Danish Chamber of Commerce and the Danish Business Club operating in the UK hope that this will continue. Can the Minister say whether that offer of internship and the responsibilities which pass to the employers in

[Baroness McIntosh of Pickering]
London and other parts of the UK also will continue on a reciprocal basis? With those few words, I welcome the opportunity to speak in favour of this amendment this afternoon.

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Baroness, Lady McIntosh of Pickering, and to see her acknowledging, as she often does, the benefits and opportunities that freedom of movement gave to her life, and to see her seeking to preserve at least some of those for young people in the future. It is also a great pleasure to speak after the noble Baroness, Lady Bull, and the noble Earl, Lord Clancarty, such champions in your Lordships' House of the creative industries. We have heard a great deal of powerful testimony about the economic importance of those creative industries. I will take a second to focus on the importance to the quality of life for all of us and the way in which cultural exchange enriches all our lives. The loss of that will make us much poorer in the most fundamental terms, rather than just focusing on the economic ones.

I thank the noble Lord, Lord Fox, for tabling this amendment and all noble Lords who backed it. I urge that this be put to a vote, and very much hope that those on the Labour Front Bench find themselves able to support that vote, for the opportunities and freedoms which have already been outlined.

Picking up on the points made by the noble Baroness, Lady Noakes, I am not sure, given that we now have a deal along the lines of what has been outlined here with Switzerland, how this can be labelled a "pipe dream", given that it has already been achieved with one small part of Europe. The Government obviously do not think that it is a problem with taking back control to have that agreement with Switzerland. We know that Switzerland is particularly famous for its banking and financial sector, but one would hope that was not the only sector that the Government are focused on and wish to see this kind of freedom of movement in.

The Government's statement on that Switzerland mobility agreement says that

"UK suppliers will be able to do business in Switzerland as they do now. There will be no economic interest tests, no work permits and no lengthy processing times…This offer will be open to businesses of all sizes, including the self-employed."

What are the Government trying to achieve in the coming few days? What is the aim for next year? What is the aim for the future?

I also note that it would appear that we have lost a chance of involvement in Erasmus+. This is built on the kinds of relationships that the noble Baroness, Lady McIntosh of Pickering, referred to, with internships, interchange studies and apprenticeships. They set up the relationships that then create the opportunity to deliver these services for British businesses. How do the Government plan to ensure that those relationships are built in the future, so that the opportunities remain for British businesses and creative people to have those interchanges?

Lord Wigley (PC) [V]: My Lords, I shall speak in support of Amendment 13, so eloquently moved by the noble Lord, Lord Fox, despite the technical difficulties. I follow the noble Baroness, Lady Bennett, with great pleasure. It is good to see her back in the Chamber. I agreed with everything she said. I also welcome the comments of the noble Baronesses, Lady McIntosh and Lady Bull.

The amendment touches on a matter that is now assuming immensely greater interest among the people of these islands, as the harsh possibility of a no-deal Brexit dawns on them. People are awakening to the reality that their right to move to work in EU countries might now be limited as a direct result of the 2016 vote, notwithstanding the multitude of platitudes expressed by Brexiteers during that referendum.

Perhaps I may refer to one particular group in the service sector, and, in doing so, I draw attention to my registered interests. I highlight the need for those in the performing arts sector to have unrestricted free movement across the countries of our continent. The noble Earl, Lord Clancarty, has already very effectively addressed this dimension, which is so close to his heart. Such freedom of movement is absolutely basic to the cultural services they provide. Many of them, particularly those who are self-employed, have been devastated by the Covid lockdown, and restrictions on their movement once the Covid threats ease would be a second body blow that they just could not endure.

The Government claim that they support the securing of mutuality for the creative sector between the UK and the countries within the European Union. When the Minister responds, will he clarify where they stand on the Creative Europe programme? It is so important for the devolved nations in developing their existing links and helping them maximise their contribution to the UK's soft-power objectives.

Other people are expressing horror at the fact that they will not be able to take their pet dogs with them when they travel to and forth in our continent without pre-arranged veterinary certificates. Lo and behold, we do not have the number of vets required to handle such cases, as so many of them originate from the European Union and have been given the impression, rightly or wrongly, that they are no longer welcome here. With a proportion of them now opting to go home and very few new vets coming to the UK given the Brexit uncertainty, the whole of the animal sector faces a crisis. Apparently, there have been a significant number of qualified vets among refugees seeking a home in Britain. It would be very helpful if the Government could fast-track them to enable them to help us out in the plight that faces us.

The harsh, cold reality of a no-deal Brexit is now staring us in the face. There is something ironically, cruelly appropriate that the free movement of people—one of the original attractions of having our continent reunited after two disastrous wars during the first half of the 20th century—is now one of the first potential casualties of Britain's retreat into offshore isolation, hiding behind an array of gunboats to secure our place in the world. Presumably, that is the new normal to which the noble Baroness, Lady Noakes, referred. And is it not cruel that we—the generation who have enjoyed freedom of travel for work, education and leisure purposes—are the ones taking that great boon of unhindered travel away from our children and

grandchildren? We should be thoroughly ashamed of ourselves, and I can only shudder at how history will judge us.

I fully support the amendment, although I do not pretend for one moment that it will somehow begin to put right all the negative impact of Brexit in its worst, ugly guise that now stares us in the face. I say no more.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, it is a pleasure to follow the noble Lord, Lord Wigley. I agree with every word that he said, and he said it most eloquently.

I want to speak in support of the amendment moved by the noble Lord, Lord Fox. I have to say that very carefully because it is getting more and more confusing. We have the noble Lord, Lord Fox, the noble Baroness, Lady Fookes, the noble Lord, Lord Faulks, me—Lord Foulkes—and now there is another Fox here, although I think of the noble Lord as the friendly fox. I am sure I am giving nothing away when I say that.

These days, sadly, the Brexiteers comprise almost the whole of the Cabinet. It seems to be the only requirement to be a member of the Cabinet—not to have ability but just to have campaigned for Brexit. It is certainly not ability—that is very obvious. Also, this place is becoming increasingly packed with Brexiteers, who, sadly, inhabit both sides of the House.

I am what they all call a "remoaner". I ask the noble Baroness, Lady Noakes, whether "remoaner" is the right term. Well, I make no apologies for continuing to be a remainer—and I will continue to be one. Over the last 40 years we have had not just mobility for trade and reciprocal rights to work but free healthcare as we have travelled throughout Europe. We have had the right of abode, which we will now get for a measly 90 days. That will thwart some of the people on the other side of the House with two homes. We have had the right to study and many more reciprocal rights. I say to the noble Baroness, Lady Noakes, and others that that is sharing sovereignty, not surrendering it. Sharing sovereignty does not mean surrendering it.

I want to take this opportunity to say just one thing: that those of us who have valued, and continue to value, those rights should not be intimidated in any way by the Brexiteers. After all, they went on and on for decades until they got their referendum, which, sadly, they won. It is our right to continue to advocate the case for European co-operation. Incidentally, we should also not be put off by the faint-hearted in our own parties.

Those of us who believe in the European ideal—the European single market, a customs union, European co-operation generally, and working with our closest allies and neighbours—should keep on saying that. We should reaffirm our commitment and determination to return to membership at the first possible opportunity. After all, as others have, rightly, said, the current fiasco over Brexit makes it even more imperative that we should look at that option.

Bankers, those working in insurance and people in many other businesses are moving from the United Kingdom to the continent of Europe. That is one of the ironies of it, and some of them of course are Brexiteers. Jacob Rees-Mogg in the other place is making huge amounts of money out of investments in Ireland and not in the United Kingdom, and Jim Ratcliffe of INEOS, one of the leading Brexiteers, is moving production of the new Grenadier vehicle to the continent of Europe. That is not patriotism; it is despicable, and it should be criticised by people opposite who aver that they believe in the United Kingdom.

So let us reaffirm our belief and not be intimated by the Brexiteers, and let us start now. I remember the referendum when we reaffirmed our commitment to the European Union. I fought very hard for that and we have enjoyed the last 40 years. I hope that I will be around for the next referendum—I might just be if it comes sooner rather than later—to make sure that we return to the European Union, taking our rightful place as part of the united Europe that, sensibly, we have been, and ought to remain, part of.

3 pm

Viscount Trenchard (Con): My Lords, it is always a pleasure to follow the noble Lord, Lord Foulkes, although I regret to say that I do not agree with a single word he said. The noble Lord, Lord Fox, is right in his belief that continuation of trade with the European Union requires a reasonable degree of free movement so that companies may dispatch their people, often at short notice, to engage with customers and potential customers for their services.

In Committee, my noble friend Lord Younger said the Government were seeking to agree mobility arrangements with the EU as are

"normally contained in the services part of a trade agreement".—[*Official Report*, 13/10/20; col. 981]

Will my noble friend confirm that this is still the situation? Obviously we cannot continue unfettered free movement of people as we have had with EU countries, but we need to offer reasonable short-term entry permissions to EU citizens and to those of our other trade partners.

It is good that the UK-Japan EPA contains a mobility framework permitting UK companies to transfer their employees to live and work in Japan for up to five years. It also permits visa-free travel for short-term business visitors for up to three months in every six months. I regret that the EU has, as far as I know, offered short-term business visitors only up to a three-month stay in a 12-month period, which is rather less generous than the three-month stay in a six-month period which we have offered it.

I am a member of the EU Services Sub-Committee; we wrote in our report on professional and business services—referred to by the noble Earl, Lord Clancarty—that businesses need clarity on what is allowed while on business trips and how long they can stay. As the City of London Corporation explained in its evidence to the committee, the UK economy relies on the ongoing supply of international talent. The Government need to ensure that this supply continues into 2021 and beyond.

I regret that I cannot support this amendment because it seeks to compel the Government to introduce a mobility framework that would enable all UK and EU citizens to exercise the same reciprocal rights to work for the purpose of trade in services. I am not

[Viscount Trenchard]
clear whether the noble Lord is talking about the same rights as have hitherto existed to travel within the single market or if he is simply seeking reciprocal rights on a third-country basis for the UK and the EU, which, as of now, I think the EU has not placed on the table.

As my noble friend Lady Noakes reminded your Lordships, we have left the EU. Some observers think that the EU will continue to use regulatory measures to try to enforce repatriation of capital markets' business and other financial markets to the eurozone. That would be Europe's loss and would be resisted by European borrowers in the international markets, particularly as Europe's share of global markets continues to shrink. It is more important that the UK adopts business mobility rules which guarantee its openness to the world. This will help our services industries retain the world-leading position they hold today. If the EU declines a reciprocal mobility framework, that will be its loss more than ours. I cannot support this amendment.

Lord Cormack (Con) [V]: My Lords, unlike my noble friend, I can support this amendment. I was delighted that the noble Lord, Lord Foulkes, said that sharing sovereignty is not the same as sacrificing it. I feel deeply frustrated this afternoon for all manner of reasons. It is the first time since July that I have taken part in a debate without being in the Chamber; the frustrations of this afternoon, which have meant that I have to speak to your Lordships over the telephone, fill me with admiration for those who make that possible—we are all very much in their debt—but underline the unsatisfactory nature of our current Parliament. The sooner we can all be in the Chamber, the better. I certainly intend, God willing, to be back in the Chamber immediately we return from the Christmas recess, although we do not know when that will be.

The noble Lord, Lord Fox, talked about the importance of movement. Several members of my family, including both my sons, are in service industries of one sort or another. Movement between the UK and the EU is essential to our prosperity as a nation. It beggars belief that the Government should be jeopardising that prosperity when we are in the deepest recession in 300 years. I cannot for the life of me understand why, when Covid struck, we did not press the pause button on our negotiations with our friends and allies—and they are both. Every nation in Europe is convulsed by Covid. It is the priority on every national leader's agenda. For us to be coming down to the wire merely because of the mystical significance of 31 December is incomprehensible. Deadline politics is very rarely sensible or wise politics.

Those whose mobility is being frustrated are the very people on whom we will depend for our future: the innovative, the creative, those in the financial services and many others. The prospect of our leaving on 31 December without a deal—the Prime Minister tells us that is the most likely prospect—is a very harsh one. It makes me ashamed of my party and ashamed for my country. I just hope that, in this season of good will, some common sense and charity will prevail and a deal will be struck before or after 31 December, so that we can maintain proper convivial relations with our friends and allies in the European Union.

Of course we are out of the EU. I may regret that, but I do not think it practical that we can go back in, certainly not for very many years. We must make this work. We will make it work not by posturing but with true conviviality and a recognition that compromise is essential for progress in almost all walks of life. I am sorry not to be with noble Lords this afternoon. I cannot get back soon enough.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Cormack, who often dominates our proceedings from his position on the Conservative Benches—even when he is not physically present, he still has a lot to contribute. He put his finger on a number of important points in this short debate on the mobility sector.

The noble Baroness, Lady Noakes, as she is often wont to do, accused everyone who spoke in support of this amendment of trying to relive the Brexit debate. I hope that, when she reads the debate properly in *Hansard* and reflects on what has been said in response to her already, she will realise that that is way off course. My noble friend Lord Foulkes put it in his traditional bullish way, but he had a point. We are looking to a future that is not the same as the past, but a future with a significant disjuncture—the leaving of the EU—and this is here so that we can think again about how our future economic prosperity can be lodged in the things that make Britain a very successful economy, when we get it all right.

In introducing the amendment, the noble Lord, Lord Fox, made a number of key points in support of his argument. The best was about how this suggestion for mobility must sit in the context of our services industries, which he and others pointed out are the majority part of our economy. He also said—it is very important to bear this in mind—that most trade in physical goods these days has a services component. We have heard examples in recent debates about Rolls-Royce; although it supplies bits of parts and elements for aircraft and other machinery, it mainly makes its money from the service contracts accompanying them. The key to delivering that is flexibility so that, as the noble Lord, Lord Fox, put it, people are happy with the product they buy. There are cultural and social benefits as well.

The noble Earl, Lord Clancarty, and the noble Baroness, Lady Bull, made very powerful arguments in support of our creative economy. I liked the phrase used by the noble Baroness, Lady Bull—the "human-gathering industries". It is the first time I have heard that, but it may be more common in other debates and discussions. Our ability to create economic activity around the interaction of people clearly depends on people being able to move around and join together. Hospitality and other service industries rely on that, and it is very important that we get that right; it is what we do best in this country. We make most of the money that keeps our services going through that, and we must make sure that we have the right circumstances for it.

The narrow point about the cultural industries was, of course, made strongly by the noble Earl, Lord Clancarty. He has a long and distinguished record of saying important things about the creative industries in your

Lordships' House, and we should listen to him. It is a key sector of our economy and, of course, it depends on people travelling to perform or create in a way that is not true of many other traditional industries, but that is no reason to discriminate against it—indeed, we should do the opposite.

The old system we used to operate under, successfully, for many years has gone. We have to think about the new one, and we should not erect barriers to that. I am sure that the Minister will deal in detail with the points made when he responds, but will he answer a particular question that I have? It is noticeable that the free trade agreements being negotiated by his department, such as the recently signed Japanese agreement, often have a mobility component. Can he confirm that that is likely to be a feature of many of the free trade agreements going forward and, if so, in what way will that assist the noble Lord, Lord Fox, and those who have supported him in this debate?

Viscount Younger of Leckie (Con): My Lords, I start by giving my sincere thanks on behalf of the House to the technical staff for—how should I put it?—rebooting the House successfully. We remain indebted to them for their essential, continuing support.

Turning to Amendment 13, tabled by the noble Lord, Lord Fox, as I outlined in Committee, the Government have made it clear that our priority is to ensure that we restore our economic and political independence on 1 January 2021, as my noble friend Lady Noakes iterated. The rather depressing "new normal" that the noble Lord, Lord Wigley, outlined plays no part in our vision. I say to the noble Lord, Lord Foulkes—I think I have pronounced his name correctly—that we do need to move away from talking about Brexiteers and remainers. As the noble Lord, Lord Stevenson, said himself, we should look forward, because we want a relationship with the EU which is based on friendly co-operation between sovereign equals and centred on free trade.

We know that it is important for businesses to be able to send their employees to deliver services on a temporary basis. This was reflected in the debate in Committee, where several noble Lords noted the importance of these arrangements for service industries, which are a crucial part of the UK economy, as the noble Earl, Lord Clancarty, emphasised. I would like to pick up on his remarks, as well as those of the noble Baroness, Lady Bull. They are both absolutely right: there is a lot of talk, correctly, about the creative industries and, in particular, the importance of orchestras going on tour. This includes EU orchestras coming to the UK and touring here, and, equally, UK orchestras touring around the EU. It is very important indeed that that should continue, as well as in respect of touring companies. As I said in Committee, we are open to negotiating on the EU reciprocal arrangements that would and should allow this to happen, building on the provisions that are standard in trade agreements. By the way, this should include allowing lawyers practising both in the UK and the EU to have reciprocal arrangements, an issue raised by my noble friend Lady McIntosh.

A reciprocal agreement based on best precedent will mean that, on a short-term basis, UK citizens will be able to undertake some business activities in the EU without a work permit. This would also apply to EU citizens making business visits to the UK. Task Force Europe, led by Lord Frost, is negotiating the precise details, including the range of activities, the documentation needed and the time limit. I was interested in the good example given by the noble Lord, Lord Fox, of German technicians needing to come to the UK, often urgently, to undertake work over here. I suspect that this may come from his experience in the aerospace industry. As he will know, the commitments on mode 4, which sets out the terms under which businesspersons can move between trading partners, are a feature of every free trade agreement that covers services.

3.15 pm

On short-term business visitors specifically, we are seeking only to lock in on a reciprocal basis some arrangements that the UK already offers to third-country nationals. Let me go further by saying that businesses have told us that it is important for them to be able to send their employees to deliver services such as the ones outlined by the noble Lord, Lord Fox, on a temporary basis. As I said earlier, we are open to negotiating reciprocal arrangements to facilitate this, building on the provisions that are standard in trade agreements.

The noble Lord, Lord Fox, today and previously spoke about the business mobility arrangements in the UK-Japan free trade agreement. We have improved mobility for businesspeople in the UK-Japan FTA, securing more flexibility for Japanese and British companies to move talent into each country and covering a range of UK skilled workers entering Japan—from computer services to construction. This includes commitments that go beyond the EU-Japan deal, for investors, spouses and dependants, and a wider range of intra-company transfers. I know that this matter was raised by the noble Lord, Lord Stevenson. I will have to read again the question that he raised at the end of his speech and make sure that I get an answer to him.

The Government are not seeking to agree mobility arrangements with the EU beyond those normally contained in the services part of a trade agreement. This is consistent with the manifesto that this Government were elected on in December 2019. We will negotiate commitments on temporary entry without prejudice to the introduction of our points-based migration regime.

The issue of the Swiss agreement was raised, particularly by the noble Earl, Lord Clancarty, and the noble Baroness, Lady Bennett. The UK and Switzerland have indeed secured a far-reaching agreement for services suppliers to trade in each other's markets. Under the Services Mobility Agreement—the so-called SMA—UK suppliers will be able to do business in Switzerland as they do now. There will be no economic interest test, no work permits and no lengthy processing times needed for the first 90 days. To reassure my noble friend Lady McIntosh, the SMA also contains provisions on the recognition of professional qualifications.

Of course, as agreement is possible but far from certain, it is essential now that UK businesses actively prepare for the end of the transition period, since change is coming whether an agreement is reached or not. To answer a question raised by my noble friend Lady McIntosh, I am not able to update her on where we are with the talks, as she might expect me to say.

[Viscount Younger of Leckie]

To summarise, the Government are already open to measures in negotiations that seek to provide reciprocal arrangements. This would allow businesses to send their employees to deliver services on a temporary basis. Therefore, I ask that this amendment be withdrawn.

Lord Fox (LD): My Lords, I thank your Lordships for a good debate, and I thank the noble Earl, Lord Clancarty, for giving his speech twice. In the main, your Lordships spoke in favour of the amendment. Indeed, I even heard the noble Viscount, Lord Trenchard, say "The noble Lord, Lord Fox, is right"—words I had never expected to hear on this planet.

I am fascinated by the "take back control" defence because, first, it defines control as slamming the door. It does not define control as having the confidence to negotiate mutual relationships that will create opportunities for people. It is a very narrow definition of control—almost, frankly, paranoia. If indeed that was the Government's definition, would they have negotiated the sort of deal with Switzerland that we just heard about? Would the Japanese deal have been negotiated?

It seems to me that the Government are not adhering to the definition of "take back control" of the noble Baroness, Lady Noakes; for that we should be grateful. However, it seems that the baggage that comes with negotiating a similar deal with the European Union is harder to overcome. I think I heard the Minister make some slightly positive noises about future opportunities to create mutually recognised structures to move people around. Frankly, the point of this amendment was to move us in that direction.

The noble Baroness, Lady Bennett, was keen for a vote. Unfortunately, that enthusiasm is not shared by everybody on this side of the House—at least, not on these Benches. For that reason, as well as our having spent quite a lot of time waiting for the House to be rebooted, I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

The Deputy Speaker (Lord Brougham and Vaux) (Con): My Lords, we now come to come to the group beginning with Amendment 14. I remind noble Lords that Members other than the mover and the Minister may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this amendment or anything else in the group to a Division should make that clear in the debate.

Amendment 14

Moved by ***Lord Oates***

14: After Clause 2, insert the following new Clause—

"Conditions for trade agreements: climate change obligations

(1) The United Kingdom may only become a signatory to an international trade agreement if the conditions in subsections (3) and (4) are satisfied.

(2) The Secretary of State may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the conditions in subsections (3) and (4) are satisfied.

(3) The condition under this subsection is that a Minister of the Crown has made a statement to Parliament that the agreement is compliant with—

(a) the Climate Change Act 2008 as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (S.I. 2019/1056); and

(b) the United Kingdom's international obligations to tackle climate change, including but not limited to, the agreement adopted under the United Nations Framework Convention on Climate Change in Paris on 12 December 2015.

(4) The condition under this subsection is that—

(a) a Minister of the Crown has made a statement to Parliament confirming that the agreement will not give rise to a net increase in greenhouse gas emissions; or

(b) a Minister of the Crown has laid before Parliament a detailed schedule of measures to mitigate in full any net increase in greenhouse gas emissions arising from the agreement."

Member's explanatory statement

The new Clause ensures that trade agreements cannot be signed or approved if they are not consistent with the UK's climate change obligations or if the Secretary of State has not made statements to Parliament confirming that the agreement will not increase greenhouse gas emissions.

Lord Oates (LD): My Lords, Amendment 14 is in my name and those of my noble friend Lord Purvis, the noble Baroness, Lady Boycott, and the noble Lord, Lord Hain. The amendment sets out the conditions that must be met before a trade deal may be signed or laid before Parliament. Its objective is to ensure that trade agreements that the United Kingdom enters into comply with our domestic and international climate change obligations and do not lead to an increase in greenhouse gas emissions.

Proposed new subsection (3) of the amendment would require that, prior to signing a free trade agreement or laying it before Parliament, a Minister of the Crown would have to make a Statement to Parliament, confirming that the agreement is compliant with the United Kingdom's domestic obligations under the Climate Change Act 2008. as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019, and that it is compliant with our international obligations, including, but not limited to, the Paris Agreement on climate change.

Proposed new subsection (4) would require a Minister to make a Statement to Parliament, confirming that the agreement will not give rise to an increase in greenhouse gas emissions, or, if the Minister is not able to do so, to lay before Parliament a detailed schedule of measures to mitigate in full against any increase in greenhouse gas emissions arising from that agreement.

Mitigating any increase in emissions is the absolute minimum standard we should expect; wherever possible, we should be using trade deals to secure reductions in emissions. Some are sceptical that trade agreements can be used in this way; they believe either that increased trade must inevitably result in additional emissions and we just have to live with that, or that trade in itself is a bad thing that should be curtailed. As a spokesperson on climate change for the Liberal Democrats—a liberal green party that believes in the importance of trade—I reject both arguments. Just as trade has increased collective prosperity over centuries and seen millions lifted out of poverty around the world, the opportunity

now exists to use our trade policy to play an important role in tackling climate change. However, we have to be willing to take that opportunity, and to make the climate and ecological emergency that we face central to our trade policy thinking.

Sadly, at present, we are not doing so. At best, we are tipping our hat in that general direction and then passing by on the other side of the road as far as matters of trade are concerned. For example, the Government's impact assessment for the recently concluded Japan rollover deal suggests that the agreement will add 0.28% to domestic greenhouse gas emissions, and that it could increase fossil fuel consumption by the same percentage. The impact assessment does not indicate the impact on Japanese domestic emissions, although one might conclude that the increase will be significantly higher, given that the estimated benefits from the agreement are worth £15 billion, £13 billion of which accrue to Japan and just £2 billion to the United Kingdom. The assessment is also unclear on whether trade-related maritime emissions will increase due to the agreement; at present global freight shipping accounts for at least 3% of global greenhouse gas emissions.

Whatever the actual figures, any increase in greenhouse gas emissions cannot be acceptable at a time when the world is already on course to see increases in global temperatures at a level that the International Panel on Climate Change warns us will lead to "catastrophic consequences" for our planet. We cannot just shrug off trade-related increases in emissions, whatever their size, and say, "Oh well, it's an inevitable result of a trade agreement—nothing we can do about that". If that were really the case, I might join those in your Lordships' House who have a less positive view of trade, but it is not the case. If we choose to, we can work with our trading partners, and with the World Trade Organization, to ensure that trade agreements become an opportunity to tackle climate change, rather than vehicles that compound it.

In the first place, we should prioritise trade and trade agreements with countries that share a commitment to, and a sense of urgency about, tackling climate change. We cannot continue with an approach that celebrates our effectiveness in reducing carbon emissions in the UK when, in truth, we are simply offshoring them through trade that sucks in manufactured goods from high-carbon economies. We need to think carefully about how we approach our new trading relationships to ensure that they do not further exacerbate this trend, which is counterproductive to our climate objectives and damaging to our domestic industry because of the absence of—to coin a phrase—a level playing field. For example, there is much enthusiasm in government circles about the idea of the United Kingdom acceding to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, but have we really thought about what it will mean to be in a trade partnership with countries such as Australia, Vietnam and Malaysia, which remain heavily focused on coal-fired power generation and continue to invest in new coal-generation capacity? How would such a partnership be compatible with our climate goals? There is no point purporting to be committed to tackling the climate emergency if we continue to take decisions that will further fuel it. Equally, we should be clear that we will not pursue a trade agreement with the United States so long as the current US Congress's fast-track Trade Promotion Authority is in place. As noble Lords may be aware, it includes as one of its objectives

"to ensure that trade agreements do not establish obligations for the United States regarding greenhouse gas emissions".

Using our trade policy, by contrast, to prioritise agreements with low-carbon economies and support the decarbonisation of high-carbon economies could give an important lead to the world, not only in reducing trade-related emissions but in driving wider change in high-carbon economies.

Secondly, once we prioritise the countries we wish to enter into trade deals with, we need the trade agreements themselves to have climate and the environment at their heart. That does not mean a few warm words accompanied by passing references to the international agreements that the parties are already signed up to. It means dedicated chapters setting out concrete new actions agreed to by both parties. These will obviously vary from agreement to agreement, but they could include preferential treatment of environmental goods, removal of non-tariff barriers to trade and environmental services and technologies, agreements to phase out fossil-fuel subsidies, commitments on decarbonising merchant fleets, concordats on joint approaches to environmental trade measures at the WTO, et cetera. We should also be joining countries such as New Zealand and Norway, which, with others, have been pioneering an Agreement on Climate Change, Trade and Sustainability.

Whatever the precise measures, the key point will be to ensure that we have an ambitious negotiating agenda and to signal clearly to potential FTA partners that deals will not be concluded unless tackling climate change is at their heart. Sadly, the Government have demonstrated no such determination in their approach to date. In introducing the Bill in the other place, the Secretary of State did not refer to climate change once, and there is precious little evidence that the Government have even fully considered the opportunities offered by trade agreements to leverage action on climate change, let alone taken them.

3.30 pm

I do not intend to divide the House on this amendment this afternoon, but the Government should understand that we will come back to these considerations very frequently over the coming months, and they will certainly be front and centre as we consider the merits or otherwise of future trade deals and, in particular, the Government's proposals to join the CPTPP. I beg to move.

Baroness Boycott (CB): My Lords, I am very happy to follow the noble Lord, Lord Oates, and to support the amendment in his name along with the noble Lords, Lord Purvis of Tweed and Lord Hain, as well as supporting the amendment in the name of the noble Baroness, Lady Bennett of Manor Castle. Both amendments seek to safeguard our environment and are completely consistent with all our international agreements under the Paris Agreement, which turned five at the weekend.

[Baroness Boycott]

Trade is so much bigger than just imports and exports. It is arguably how we leave our mark on other countries. However, it is not something that most of us think about day to day. Trade deals are not usually rushed through. Many take absolutely years to happen and a lot of thought goes into them. They also last a very long time.

Having high standards is something we should be proud of, and the huge opportunity before us to trade on our own terms means that we must seize this moment to say no to other countries: "We will not trade with you if you are damaging the natural environment and worsening the effects of climate change". We are at a junction now where it is not enough simply to partake in these practices at home—something we do well. We need to make sure that we are not indirectly causing them to happen abroad. People often use the phrase: "Evil succeeds when good men"—I would say women—"do nothing". If we fail now to put these provisions in the Bill, we are as good as doing nothing in the face of all that we know.

I am proud that this country has led and continues to lead the way in decarbonisation. Some of this has been market-led. But 12 years ago we passed a Climate Change Act, and between 2012 and 2017 emissions from energy halved. That is not a coincidence; one logically followed another. Because this was legislated, successive Governments—we are on the fifth since it was passed—have absolutely had to pay attention to the process of decarbonisation. While it has not always been the number one priority, it has been absolutely impossible to ignore. To misquote Benjamin Franklin: "There are three certainties in our life: death, taxes, and now carbon budgets." The comparison I am trying to draw is that when we have foresight of an issue and put it into legislation, we get the rewards. That is what we must do with our trade policy. We are literally writing the book on blank paper. It would be incredibly remiss of us to miss out this crucial chapter.

At previous stages, Ministers have mused on the importance of halting climate change, but why are they reluctant to put it in the Bill in case there are "unintended consequences"? I argue that the unintended consequences of not placing this in the Bill will be far greater. David Attenborough said to this very House in January, in the Royal Gallery next door, that we are at a tipping point and that "once we pass it, it will be impossible to come back from". I do not think we have actually reached it yet but, as a responsible global leader, we need to say out loud and clearly, "We will not trade with you if you do not protect the environment." I worry that without one of these amendments, and given the competing priorities the Government have about so many things, as we are hearing this afternoon, these considerations could end up falling by the wayside. The only way for the Minister to ensure that this remains a priority is to put it in the Bill.

These amendments are fundamentally useful, as they will ensure that whoever is negotiating a free trade agreement will have to stop and think about the impact it has on climate change and, in the case of Amendment 14, find a mutually beneficial way which produces fewer emissions or ensure that in some way they are offset. This could be a key moment when we stand up and say that from now on the UK will not enter anything that increases global emissions. To reach net zero we need to cut our current emissions as well as not making any more.

I understand that Ministers are reluctant to allow certain amendments as they think it would cause a lot of work in the departments, and I understand that a popular Minister may not remain popular for very long if his staff have to do this. However, in the case of Amendment 14, the work will already have been done. I welcome the Written Statement that the Minister's colleague in the other place laid last Monday, which said that

"the Government will publish an independently verified impact assessment which will cover the economic and environmental impacts of the deal."—[*Official Report*, Commons, 7/12/20; col. 22WS.]

While I am not sure whether that is the full net-zero assessment I asked the Minister about in July, I recognise that this is progress and I thank him and his colleagues for making this happen. My point is that environment includes climate change and biodiversity. If I understand it correctly, the assessment should cover the work needed for Amendment 14 and for the greater part of Amendment 21. By putting this in the Bill we can give it the permanence that a ministerial Statement, however well meant, absolutely cannot. I do not doubt the Minister's sincerity or that he takes the issue seriously, but I worry that this conversation will have to be had every single time we have a reshuffle or a change of Government.

I have tried to show that when something is put in legislation it creates certainty and unlocks investments. This will not be a hindrance. The summit we hosted on Saturday shows the direction the world is going in. We have said that we will no longer invest in fossil-fuel projects abroad. Low carbon is our future, and the countries that are not on board risk being left out in the cold—or, indeed, in the increasingly hot world.

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Baroness, Lady Boycott, and her powerful speech, which clearly outlined why one of these amendments should be on the face of the Bill. Ministerial commitments are just words which apply only to that person in post. I thank the noble Lord, Lord Oates, for outlining Amendment 14, for which I express my support, but I will speak to Amendment 21 in my name, and I thank the noble Baroness, Lady Boycott, for her support for it.

Given that the noble Lord, Lord Oates, has already outlined Amendment 14 so clearly, I will briefly reflect on the practical reality of it. A radio talk-show host was talking to me and complaining that "Everyone talks green now." She got a little upset when she saw that I was smiling when she said that. As I said to her, although talk is great, there is a lot of truth in that statement, as it is only hot air until we have delivery and commitment. It is clear that the Government are making these commitments; as the chair of COP 26 they are taking their place at the forefront of the world's talk on these things. It is therefore hard to see why they would have any objection to either amendment. Amendment 14 in particular is on the climate emergency, on which the Government claim world leadership, and surely that leadership should be reflected in every Bill that goes through your Lordships' House.

I will focus mostly on Amendment 21. The noble Baroness, Lady Boycott, has already started on this point but I will go back to the words of the Minister, the noble Lord, Lord Goldsmith of Richmond Park, who on our first day of debate on these amendments answered an Oral Question from the noble Lord, Lord Randall of Uxbridge. The Minister said:

"The key principle of the convention on biological diversity is that biodiversity should be mainstreamed",—[*Official Report*, 7/12/20; col. 950.]

which means "present in everything you do and everything that is done". Biodiversity on its own does not entirely cover every environmental aspect we are looking at—there is obviously the COP next year on biodiversity, matching up with the COP on the climate. There are many other issues to raise, from soil health to plastics, but those are two good places to start.

I admit to your Lordships that Amendment 21 is rather long, so I will not go through it all in great detail. I will refer just to some of the key points. It is about

"the maintenance of the United Kingdom's levels of statutory protection in relation to … human, animal or plant life or health … animal welfare, and … the environment."

It is about

"achieving net zero carbon emissions by 2050",

and the

"goals and targets contained in an Environmental Improvement Plan, including the 25 Year Environment Plan".

It is about the United Nations' sustainable development goals. What is notable about all those things is that I am not setting out some wonderful Green Party targets for a transformed world. They are all things that I am sure the Government would tell your Lordships they have enthusiastically embraced and signed up to. This is about the Government living up to their own commitments and legal responsibilities.

We know—and your Lordships' House has played its part in ensuring—that when the Government skated up to dodging their international legal responsibilities in other Bills, they were then pushed away from doing it. That has done real damage to the UK's international reputation, so putting an amendment such as this into the Bill would go some way towards restoring the UK's international reputation.

I have one more point to reflect on, because it has been a long afternoon and may be a longer evening. At the moment, in the midst of a global pandemic, there is of course a huge focus on public health. Amendment 21 refers to public health, but it is not that public health and the environment are two separate things. We can have a healthy society, and have our people being healthy, only if they live in a healthy environment. These amendments are closely linked and essential to restoring the public health and well-being of the people of Britain, not just the environment as a separate category.

Baroness Hayman (CB) [V]: My Lords, I declare my interest as a co-chair of Peers for the Planet. I express my gratitude to the noble Lord, Lord Oates, and the noble Baroness, Lady Bennett, for tabling these amendments and for the way in which they introduced them, and for the speech of my noble friend Lady Boycott in favour of them.

I welcome the opportunity to contribute to the debate about how climate change obligations and aspirations can be integrated into the UK's trade agreements going forward. As has been stated, if the Bill remains silent on these issues we could risk offshoring our environmental impact, increasing emissions and undermining UK producers by allowing goods produced to lower environmental standards to be imported into the UK. But by being clear about our commitments on climate change in the Bill, we can do more than simply preventing harm.

In the last two weeks, we have heard a great deal about building back better and greener. The Government have published their *Ten Point Plan for a Green Industrial Revolution*. The Committee on Climate Change's report on the path to net zero has set out a detailed plan to take us to 2050. The energy White Paper was published this week, as was the report of the Economic Affairs Committee of your Lordships' House on post-Covid economic recovery. All these reports point to the opportunity and the urgent need for that green industrial revolution, and for it to be on a global scale. The need to ensure our future economic well-being and the need to address the climate crisis are not in conflict or extraneous to trade policy.

3.45 pm

In their 10-point plan, the Government made clear their aspirations:

"As the world goes green, we will seek to put the UK at the forefront of global markets for clean technology."

The CCC has estimated that the economic opportunities that low-carbon goods can bring amount to more than £1 trillion a year, so it is doubly disappointing that the Bill remains silent on climate issues. The only hint of recognition of the importance of addressing climate change came, as the noble Baroness, Lady Boycott, just said, in the Written Ministerial Statement on 7 December, giving the commitment that:

"When a signed treaty text is laid in Parliament, it will be accompanied by … an independently verified impact assessment which will cover the economic and environmental impacts of the deal."

When we discussed this last Monday, I think that the Minister signalled informally that I was correct to infer that "environmental" encompassed climate, and that the assessment could therefore include looking at the effects on the UK's net-zero commitments. He gave me a nod when I said that then, but it did not make it into *Hansard*. Rather than asking him for a wink today, can he make that explicit when he comes to wind up this debate? I would be very grateful.

The UK's contribution to the fight against climate change will be measured not only in the quantity of the emission reductions that we make but in the quality of the leadership that we give. We need to lead by example in every piece of legislation that we pass and every policy that we endorse in the run-up to the G7 and COP 26 next year, and beyond. We can do that by making it clear to our current and future trading partners that the UK wants to grow in a way that allows economic benefits to flow—which means a growing market in low-carbon goods—but that also does not hinder our net-zero and environmental obligations and ambitions. The climate crisis is a global issue; what better place to align with our goals than in the context of our global trading relationships?

Lord Sheikh (Con) [V]: My Lords, I support both amendments in this grouping. Amendments 14 and 21 are important because they are about aligning our climate and environmental targets with our trade agreements. I spoke on these issues in Committee and reinforce the point that these amendments would enable us to be an effective environmental leader. I commend the Government for their increasing attention and leadership on environmental issues, which will not just protect our health but drive our economic growth. This has been shown in the recent spending review and 10-point plan.

These are positive amendments, which will help us to have a proper green industrial revolution. In the late 18th century, the Industrial Revolution began in the United Kingdom and by the 1830s, it had spread to Europe and the United States. I hope that the green industrial revolution can do the same and that the UK can become a true leader in green growth. In Committee, my noble friend the Minister said that this Government have done a huge amount to protect and improve the environment. I completely agree that they have done so. However, this should not mean that we sit on our laurels. Amendments 14 and 21 will help drive our green agenda forward.

Amendment 14 would mean that future trade agreements cannot be signed or approved if they are inconsistent with our climate change obligations. This includes being compliant with the Climate Change Act 2008, and our international obligation to tackle climate change under the UN Framework Convention on Climate Change.

This amendment will help us reach these emissions targets by making sure that we have considered the impact of trade agreements on the climate. For example, subsection (4) states that a Minister would have to make a statement on any agreement

"confirming that the agreement will not give rise to a net increase in greenhouse gas emissions."

By doing so, we are sending a message that not only do we take emissions seriously but that we are helping to reduce our environmental impact. I welcome subsection (4)(b), which means that if a trade agreement leads to increased net emissions, detailed mitigation measures must be laid before Parliament. So, if we are at risk of emitting too much, we have the chance to put it right, not just for the benefit of our targets but for our own health and well-being. Given that the UK was one of the first major economies to set a net-zero goal, Amendment 14 means that we can properly commit to achieving this target and be a true leader in the run-up to our COP 26 presidency.

At the virtual Climate Ambition Summit 2020 last weekend, the United Nations Secretary-General asked nations to make their promise of a net-zero world a reality. During the summit, the Prime Minister announced the UK's ambitious targets to cut emissions by at least 68% by 2030, and this is the first time we have put forward our national climate plan separately from the European Union. Furthermore, in its sixth carbon budget report, released last week, the Committee on Climate Change said we need early action and key policy building blocks to reach net zero by 2050. This Trade Bill gives us a chance to do that and to shape our own trade policy. Amendment 14 allows us to be explicit about where we stand on slowing down the rate of climate change and should be supported.

The risk to the environment from poor trade policies is significant, but trade can play an important role in reducing our environmental impact. This is also something the Government said in their 25-year environment plan: environmental sustainability should be at the very heart of global production and trade. Amendment 21 means that future international trade agreements can be ratified and implemented only if their provisions are consistent with the achievement of our environmental and climate change commitments. Again, this is a positive amendment that will help us do what we set out to do and not hinder us. I am glad that subsection (5) outlines a range of commitments and agreements that are relevant to this amendment, including those to protect biodiversity and natural capital and to improve environmental quality, which has a direct impact on our quality of life. This is not limited to this list, so any new or updated commitments will also be relevant.

Amendment 21 requires that reports be made to Parliament. The first is

"a report that explains whether, or to what extent, the provisions of that international trade agreement … are consistent with"

achieving our environmental or climate change commitments and maintaining the protections outlined in subsection (3)(b). A trade agreement is eligible for signature or ratification only once a report has been laid before Parliament. This is very important in protecting our health and environment by making sure that sustainability is not an afterthought. The amendment also requires that a report be made to Parliament within 12 months of ratifying an agreement or making regulations assessing its impact on our commitments. This shows we are committed to being green leaders and are taking our impact on the environment seriously. Furthermore, these reports will incentivise deals and stimulate greater collaboration; for instance, on developing green technologies.

We have great potential in advancing offshore wind, driving the growth of the hydrogen sector and accelerating the shift to zero-emission vehicles. Amendment 21 would enable us to grow the market for low-carbon goods and provide a level playing field for British businesses, because our industries will not be undermined by foreign industries that do not meet our standards. Now we are leaving the European Union, we should of course control our own green agenda, but we need to ensure that our trade agreements support us in doing so. As a businessman, I can see that supporting Amendments 14 and 21 is a sensible business decision and the Aldersgate Group, which represents many major businesses, has also shown its support. The Committee on Climate Change has shown that by 2030, the market for low-carbon goods will be worth more than £1 trillion a year. More and more frequently, consumers in the UK are considering the environmental impact of their purchases. Is it not time to make this a key part of our trade agreements? Together, Amendments 14 and 21 can strengthen our economic competitiveness and truly make us a global leader in the environmental field.

I know that the Government have said they are committed to protecting the environment and mitigating climate change, but I say again that these amendments

will allow them to do so. I think that these are fair amendments and I hope that the Minister will consider supporting them.

Baroness McIntosh of Pickering (Con): My Lords, to pursue the analogy made by the noble Baroness, Lady Hayman, earlier, that a nod is as good as a wink, I shall nudge my noble friend a little further as to whether these amendments, the contents of which I support in principle, are actually required.

I understand that sustainable development and protection and preservation of the environment are already fundamental goals of the World Trade Organization; they are enshrined in the Marrakesh agreement that established the World Trade Organization and they complement the World Trade Organization's objective to reduce trade barriers and eliminate discriminatory treatment in international trade relations. So, while there may be no specific agreement dealing with the environment—and therefore, I understand, with climate change—under WTO rules, members can adopt trade-related measures aimed at protecting the environment, provided a number of conditions to avoid the misuse of such measures for protectionist ends are fulfilled. That is something that I welcome.

If, in the course of negotiating future free trade agreements, rather than rollover free trade agreements, this is something that other parties raise, would the Government look favourably upon it? We see that President Macron of France made a statement today, offering a referendum on climate change so that climate change will actually become part of the French constitution. This is something that seems to be happening among many of our erstwhile partners, so while I can see the thinking behind Amendment 14 on climate change obligations and Amendment 21 on environmental obligations, if this is already covered by the World Trade Organization itself, and protocols thereunder, is this needed, or is it implicit in what the Government's approach to free trade agreements will be?

4 pm

The Earl of Sandwich (CB) [V]: My Lords, there are very few doubters about climate change left in Parliament. I salute the efforts of the Government to reach the targets originally set out in Paris five years ago, but we all need to keep up the pressure. In Glasgow next year we will know whether the world as a whole has a chance of meeting the targets. The indications are that it will not unless considerable efforts are made by the USA, India and some countries in Europe which still depend on fossil fuels.

I was encouraged to hear about the forthcoming agreement with India, a country with which we will undoubtedly work well and closely on climate change. I support this amendment, which has been ably moved by the noble Lord, Lord Oates. It derives from my discussions about the recent UK-Japan agreement. I felt that the DIT was merely repeating the mantras of climate change. The EM said all the right things, but they are not in the agreement and nowhere are the parties committed to actual change. Indeed, the DIT has since admitted that the Japan agreement actually means that more greenhouse gases will arise from more economic activity. I had intended to say that in the debate on the agreement, but I was not able to take part in it.

It would have been good to see more practical examples, more encouragement of alternative energy sources such as electric vehicles, which were specifically requested in the evidence from the North East England Chamber of Commerce, as the Minister will remember, on behalf of car manufacturers in the area who will stand to benefit from this directly. The industry needs some encouragement. Does the Minister accept that there needs to be a lot more engagement on this issue in future agreements?

I spoke in Committee about new opportunities that are coming up in New Zealand and beyond, in the Trans-Pacific Partnership. The Prime Minister is now sounding much more serious about climate change—inshallah—and that new enthusiasm should be reflected in all our trade agreements.

Finally, I was cheered to listen to the noble Lord, Lord Foulkes, in his usual form on the previous amendment. He knows that, at this time, I am very sympathetic.

Lord Curry of Kirkharle (CB) [V]: My Lords, I will be brief. I shall speak to Amendment 14 in the name of the noble Lord, Lord Oates. It is a privilege to follow the noble Earl, Lord Sandwich, whose knowledge and experience is so impressive on these matters.

The issue of climate change is dominating our lives. It is already, quite rightly, impacting on the way we live, and will do so increasingly. The Government have set ambitious targets, as has already been mentioned, to reduce carbon emissions by banning the sale of new petrol and diesel vehicles by 2030 and to achieve net zero emissions nationally by 2050. In the farming sector, the NFU has set a net zero target by 2040. These are challenging targets, but it is my impression that the farming sector, businesses generally and the wider public are now willing to try to rise to the challenge and find solutions in order to adapt and thus reduce our carbon footprint.

It would be bizarre indeed if, having committed to meet these targets, we completely ignored the carbon impact of imported products. Meeting the climate change targets will not be achieved without significant investment and added costs on the part of businesses and disruption to our lives generally. It would be inconsistent to place domestic industries in an uncompetitive position by importing products that are not subject to the same ambitions. Not only could that negate progress, it could lead to the undermining of innovation and investment, which would be to the detriment of the UK economy.

If we do not accept this principle, the Government risk being accused of delivering conflicting messages: a commitment to the climate change agenda and taking a leading role in COP 26 on the one hand and being willing to undermine the progress of our domestic industries by allowing the import of products that are not produced to the same ambitious standards on the other. I hope that the Minister will consider this important amendment.

The Earl of Caithness (Con): My Lords, I support these two amendments. There is an overlap between them and the next ones tabled in the name of the noble Lord, Lord Purvis of Tweed. As my noble friend on the Front Bench will remember, I highlighted the

[The Earl of Caithness]
environment as one of the key areas in which ISDS could cause problems for the United Kingdom. I will say a little more about that in the debate on the next amendment.

Suffice to say on this amendment that we must realise that the trade deals we are making now will have a huge impact on each and every one of us. They are much more complicated than they were in the past. Some 80% of our fruit comes from Europe, along with 50% of our vegetables. If we do not have a sensible trade agreement with Europe which takes that into account, it will cause increased problems for the Prime Minister's campaign against obesity and the problems that the poorest in our country are already suffering with malnutrition and poor-quality food. It is well known that obesity rates increased in both Canada and Mexico after signing free trade agreements with the United States of America because the nutritional quality of food was lower than before. These free trade agreements are going to impact on us in all sorts of ways.

I am reminded that when we discussed this Bill on the first day of Report, my noble friend Lord Grimstone said that public health considerations would be excluded by the Trade and Agriculture Commission, although reports about them would be taken into account. Perhaps I may therefore press my noble friend: who or which institution is going to provide those reports on public health? We do not know. Public Health England is about to die a death. Which organisation will produce those reports? That is important. The reason I raise this is because the words "human" or "public" health are included in the proposed new clause in subsection (3)(b) of Amendment 21.

The other important area when it comes to health is the traffic light system that we put on packages to notify people about the nutritional quality of food. We all know that the United States of America hates the idea of a traffic light system and thoroughly disagrees with it. However, if we are trying to improve the quality of the food that we eat and get rid of some of the dependency that we have on processed foodstuffs, the traffic light system, which is currently the subject of further discussion, will play a hugely important part in that. This was part of the discussion and recommendations made by the Food, Poverty, Health and Environment Committee, whose report we have yet to debate. However, if we do not get things like this right, we will pay a huge price, and it is for that reason that I support these amendments.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, first, I thank the noble Earl, Lord Sandwich, for supporting what I said on the earlier amendment. It encourages me greatly, because the campaign for our rejoining the European Union is gaining momentum day by day.

Returning to this amendment, like the noble Baroness, Lady Hayman, I am also a member of Peers for the Planet, an excellent organisation, involving Peers from all parties, for raising awareness about the dangers of climate change. Indeed, it was the noble Baroness who recruited me to that organisation, and I agree with absolutely every word that she said and have very little to add.

Just to underline what the noble Baroness, Lady Hayman, said, I add just one thing, in relation to the United States of America. It will now be much easier to have a trade deal with the United States that incorporates these requirements. The election of President-elect Biden—and we can all, I hope, rejoice in the fact that he has now been confirmed as the President-elect—is a great step forward in that regard. He has pledged that one of his first actions in office will be to rejoin the Paris climate change agreement, and the United States could therefore formally be a member of that agreement before the beginning of March 2021. His transition website suggests an aspiration for net zero by 2050, which is a great improvement even on what President Obama agreed. President-elect Biden has named former Secretary of State John Kerry as his special envoy for climate change, with a seat on the National Security Council. That is very important, because it underlines the fact that climate change is also a national security issue.

I look forward to being around, if not in, Glasgow next November and welcoming to Scotland and the United Kingdom delegates from all countries from around the world in the COP 26. I say "welcome to Scotland"—I know that the Minister will agree with me wholeheartedly on that. We hope, expect and believe that it will remain part of the United Kingdom for many years to come.

Lord Mann (Non-Afl): My Lords, these amendments are like that Christmas nightmare, whereby you anticipate a guest bringing—or perhaps this year sending through—a case of high-quality Yorkshire ales because they promised the Christmas booze, but what is in fact delivered is a small bar of chocolate liqueur.

I hear that even the chocolate liqueurs will not be put to the vote today. It is a shame that that opportunity has been missed, and I obviously share the blame for not tabling a stronger amendment, because the green case for Brexit is absolute. I appreciate that those will not be welcome words here in remain central. However, the case was put here, and in the other place, repeatedly—for example, of the car industry, and Toyota cars. A single part would cross the channel 25 times that way and 25 times back—50 journeys per car part. That was put as a case for why we should stay in the European Union, even when the people had voted to leave.

It struck me both before and after the referendum that the green case on manufacturing was absolute. The future winners competitively would be those countries that reconfigured their industry and services not to be global in terms of absolute requirements but to be localised. I have always shared Schumacher's philosophy that small is beautiful. The worst entity for big and bold is beautiful was the European Union, with its entire structure dictated by trade across large borders. Now, as we leave, Parliament is obsessing again about trade agreements.

I want to see the new industries and technologies developed in this country. I want to see food and manufacturing parts not transposed over many borders and thousands of miles, because the planet cannot sustain that, as is self-evident, but localised supply chains and investment, and decisions by this place that facilitate that change—along with an energy policy not reliant on Russian gas and, thankfully, no longer

reliant on Chinese coal. I look forward to celebrating that. I can see two of the last six coal power stations from my house. One has now shut down and I look forward to the second going. That is what these amendments should be about.

We got derided for saying "British jobs for British workers". Perhaps the slogan should have been "Green jobs for a green economy", with local markets and supply chains. Nevertheless, even with the little chocolate liqueur of greenness on offer, should there be boldness from the Liberal Democrats in putting the amendment to a vote, they will have my vote.

4.15 pm

Viscount Trenchard (Con): My Lords, I understand the arguments in support of these amendments, but I do not believe that it is in our interests to seek unduly to restrict the list of countries with which we may choose to enter into trade agreements. The more that we interact with and trade with less developed countries—those least able to comply with the climate obligations that we have undertaken—the more we will assist them to raise their populations out of poverty and become prosperous. It is only by becoming prosperous that they will be free to accord the same importance to emission reductions as we are able to do. Furthermore, how on earth can a Minister of the Crown make a statement to Parliament confirming that any agreement will not give rise to a net increase in greenhouse gas emissions? The expectations of the noble Lord, Lord Oates, and the co-signatories to the amendment are surely unrealistic.

Amendment 14 would be counterproductive and could limit the volume of trade with many developing countries, which would negatively impact their ability to introduce climate policies similar to our own. Amendment 21 is unnecessary and possibly counter-productive. We have rolled over continuity agreements with 59 countries, and none has eroded our domestic standards on the environment, food safety or animal welfare. I have not heard any noble Lord cite an example of a domestic standard that has been undermined or an international agreement not adhered to. In the case of food safety standards, it is for the Food Standards Agency to ensure that all food imports comply with the UK's high food safety standards and consumers are protected from unsafe food. Decisions on those standards are a matter for the UK and are made separately from any trade agreements. We are a world leader in environmental protection, animal welfare and food safety. Could my noble friend confirm that the Government are committed to maintaining those positions and that he agrees that these amendments are unnecessary and inappropriate?

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this has been a very good debate, and we have ranged far and wide across the issues raised originally by the noble Lord, Lord Oates, and picked up later by the noble Baronesses, Lady Boycott and Lady Bennett, with their amendment. The noble Lord, Lord Oates, makes good points about future trade agreements needing to tie us to the net-zero carbon and other environmental standards that we have and points out the need for consistency of government policy across all the areas involved, not least trade, to achieve that. We need to think very carefully about how our new trading agreements, which the Government are very keen to see signed, and which we support, will use the climate change focus as they move forward.

When the Minister responds, he will undoubtedly say that we have very high standards and will never negotiate them away, but he must admit that the Agriculture Act 2020 has a non-regression clause covering environmental issues. So we look to him to reassure us that our standards are high and will not be diminished, but also to say why he is not prepared to see these broader issues, such as the environment and others, included in the Bill, because that seems to be how the Government are thinking with this policy.

Other noble Lords who have spoken in the debate have argued that we should do more than simply respect our own standards in the trade agreements and deals that we want to do. The noble Baroness, Lady Boycott, was very strong on the need to live up to our role as a leading advocate of decarbonisation and to lead the way for others. Again, her argument was that putting that in the Bill would be key, since it would show the world not only that we have the arguments and are practising what we preach but that we have a proselytising role to play in relation to the wider world.

It was good to hear the noble Earl, Lord Sandwich, and the noble Lord, Lord Curry, supporting points that have been made in this debate—particularly the view of the noble Earl that there are very few doubters left in Parliament. He may be wrong about that; I think there are one or two scurrying around. He also points out that the department has a bit more to do before it is walking the walk. We should think about that. He made a good point about the recent agreement with Japan and the lack of alternative energy proposals within it. The noble Lord, Lord Curry, also made a good point about how not just farmers, whom he mentioned, but the wider public want the Government to reach further on this to find zero-carbon targets in all that they do—and that of course applies to imports.

I look forward to hearing the noble Lord's response. He will understand that we think we will come back to this, perhaps not in the form of this amendment but on other related issues about non-regression of standards, as we progress through the Bill.

Viscount Younger of Leckie (Con): My Lords, Amendment 14 in the names of the noble Lords, Lord Oates and Lord Purvis, alongside the noble Baroness, Lady Boycott, seeks to prevent the Government from signing international trade agreements or laying an international trade agreement under CRaG, unless they confirm to Parliament that the agreements are compliant with domestic and international environmental obligations.

I assure noble Lords that we remain firmly committed to upholding high environmental standards. We understand and share the public's concern about protecting our natural environment. Having been lucky enough to visit both Antarctica and the high Arctic in the last five years, I can relate to the remarks of the noble Baroness, Lady Boycott, who cited Sir David Attenborough's deep concerns about our planet. She is right and he is right. I have seen climate change for myself and it is real.

[Viscount Younger of Leckie]

I take great pride in stating again that none of the 28 agreements signed with 57 countries has diluted standards in environmental protections. We have voluntarily published parliamentary reports for your Lordships' reference, alongside every continuity agreement, which provide evidence of our commitment to environmental protection and sustainability. To be helpful to the noble Lord, Lord Curry, over 130 hours of debate on the Bill and its 2017-19 predecessor, no Peer or Member of the other place has been able to identify a single example of any of our continuity agreements undermining our domestic or international environmental obligations. I do not believe that any example was provided in this debate either. My noble friend Lord Trenchard made this point in a powerful speech, and I believe he is right.

The Government have been very clear that any future trade agreements must uphold high standards in the protection of the environment. We will not compromise on this. I remind your Lordships that the EU (Withdrawal) Act already provides legislative underpinning by transferring the EU's rigorous standards on environmental protection and sustainability on to the UK statute book in full. Our high regulatory standards are not dependent on EU membership.

The remarks of my noble friends Lady McIntosh and Lord Trenchard hinted at our approach. We are using trade policy to promote the clean growth and climate change objectives of Her Majesty's Government, helping to deliver the full economic benefit of the UK's shift to a low-carbon economy. The energy White Paper, published just this week, underlines our ambition in this space, and your Lordships will be aware that a Statement will be repeated in the House tomorrow on this very subject.

The UK has often been a leader in the development of environmental standards, and we go significantly further than our trading partners. The UK was the first country in the world to introduce legally binding greenhouse gas emission-reduction targets through the Climate Change Act 2008. We were also the first major economy in the world to set a legally binding target to achieve net-zero greenhouse gas emissions across the economy by 2050. In our outline approaches to free trade agreements with the US, Japan, New Zealand and Australia, we have committed to securing provisions that will help trade in low-carbon goods and services, supporting R&D and innovation in sectors such as offshore wind. My noble friend Lord Sheikh cited the importance of this sector in his remarks.

The UK is already a global leader in offshore wind, with the largest installed capacity in the world. The UK aims to produce enough offshore wind to power every home, quadrupling how much we produce to 40 gigawatts by 2030. The UK could also establish a first-mover opportunity to develop advanced operations and maintenance services in wind farm decommissioning, which could become a £53 billion market by 2050.

Additionally, as many noble Lords are already aware, on 18 November, the Prime Minister—who by the way is taking a lead—set out his 10-point plan for a green industrial revolution. Covering clean energy, transport, nature and innovative technologies, the Prime Minister's blueprint will allow the UK to forge ahead with eradicating its contribution to climate change by 2050. All of this will come in the year that the UK chairs the COP 26 summit in Glasgow, as the noble Baroness, Lady Bennett, mentioned.

These are not the actions of a Government intent on reducing environmental standards—far from it. This is one of the most ambitious climate agendas in the world. I wholly disagree with the noble Lord, Lord Oates, who said that we just offer warm words on climate change and no action plans. He could not be further from the truth on this. I was particularly pleased to see that the former Vice-President Al Gore, either today or yesterday, praised the UK's leadership in banning the sale of petrol and diesel vehicles by 2030.

I remind your Lordships that we are seeking only to replicate EU trade agreements to which we already enjoy access. If this amendment applied to our continuity programme, it would result in up to 40 ministerial Statements, all of which would be nearly identical, confirming that we are replicating the status quo.

Amendment 21 is in the names of the noble Baronesses, Lady Bennett and Lady Boycott. As I have explained, our continuity agreements, the implementation of which is provided for by the Bill, are fully aligned with environmental obligations such as the UN sustainable development goals and the Paris climate change conference, and will remain so, as the Bill seeks to replicate existing EU agreements. It is indeed good news that President-elect Biden has iterated his support for the Paris Agreement, as the noble Lord, Lord Foulkes, remarked.

ClientEarth, the Trade Justice Movement, the NFU, the CBI and others all agree with the objectives of this work. As set out in the 25-year environment plan, our ambition is to be the first generation to leave the natural environment in a better state than we found it. As I reassured your Lordships not long ago, our continuity agreements are in full compliance with every other international convention named in the amendment, whether it was passed at the UN level or through other multilateral fora.

This amendment would also require the publication of an environmental report for every continuity agreement that we signed, and then additional update reports to be tabled every 12 months. This would result in over 100 reports over the lifespan of this Parliament, for a set of continuity agreements that simply replicate existing FTAs to which we are already a party. Surely noble Lords will agree that this is neither necessary nor proportionate. I listened carefully to the remarks of the noble Baroness, Lady Hayman, but I will have to write to my noble friend Lord Caithness, who asked questions about what the reports were, where they were coming from and whether they would report on health and the environment. I pledge to do that.

We already publish a parliamentary report alongside each agreement laid under CRaG, setting out our approach to delivering continuity, and will continue to do so for all remaining continuity agreements that we sign. These reports confirm our replication of sustainability chapters in EU agreements.

The Government have always been clear that we are wholly committed to the preservation and improvement of the environment. The continuity agreements we

have signed thus far maintain our commitment to vigorously defending and upholding environmental standards. As such, I ask the noble Lord and noble Baroness not to press their amendments.

4.30 pm

Lord Oates (LD): My Lords, I thank all noble Lords who have taken part in this important debate for their contributions, and I thank the Minister for his response. He said that no evidence had been offered that the Government had ever not met their obligations, but the Government's own impact assessment of the recent trade agreement with Japan, for example, says that this will lead to a rise—albeit a small one—in greenhouse gas emissions. That does not seem to me to be the way we should be using trade: we need to use it to bring down emissions. He also said that it was unfair to say the Government did not have action plans. The noble Lord, Lord Callanan, admitted to me following a question from the noble Baroness, Lady Boycott, a few weeks ago that the Government did not have a credible short-term action plan and that, according to *Hansard*, one would be forthcoming soon. So I am not sure about the Minister's point on that.

The Minister did not address the important point made by the noble Baroness, Lady Hayman. She was referring, I think, to Section 42 of the agriculture Act under which the Government are required to report that measures in an FTA are consistent with the maintenance of levels of statutory protection in relation to a number of issues, one of which is the environment. Could the Minister please tell us definitively—or he can write to us—whether, as the noble Baroness, Lady Hayman, asked, that covers climate change, because that is important?

It will not be a surprise to hear that I do not really agree with a word that the noble Lord, Lord Mann, said. As I set out in my opening remarks, I believe in free trade—that it has brought many benefits and raised many people in the world out of poverty. I do not take the protectionist approach that he does, but I share his regret that he did not table his own amendments and I look forward to seeing them at future points in the Bill.

As the noble Baroness, Lady Boycott, said, we led the world with the Climate Change Act and we could lead the world again as the champions of free, fair and green trade. As she said, words and targets may be positive—I do not decry for a moment that we have set these very positive targets—but as long as they are just targets, they are just words. What we need now is action across the piece, including on trade. I beg leave to withdraw the amendment.

Amendment 14 withdrawn.

The Deputy Speaker (Baroness Pitkeathley) (Lab): We now come to the group beginning with Amendment 15. I remind noble Lords that Members other than the mover and the Minister may speak only once, and that short questions of elucidation are discouraged. Anyone wishing to press this, or anything else in this group to a Division, must make that clear in the debate.

Amendment 15

Moved by ***Baroness Kramer***

15: After Clause 2, insert the following new Clause—

"Investor-state dispute settlement

(1) The United Kingdom may only become a signatory to an international trade agreement if the conditions in subsections (3), (4) and (5) are satisfied.

(2) The Secretary of State may not lay a copy of an international trade agreement before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the conditions in subsections (3), (4) and (5) are satisfied.

(3) The condition under this subsection is that an international trade agreement must include a commitment by all parties to the agreement to pursue with other trading partners the establishment of a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes.

(4) The condition under this subsection is that legal proceedings brought against the United Kingdom under investment protection provisions included in an international trade agreement must be heard by the courts and tribunals system of the United Kingdom.

(5) The condition under this subsection is that the provision in subsection (4) ends for any international trade agreement when a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes is established under that trade agreement."

Member's explanatory statement

This new Clause would ensure that there is a commitment by all parties to a trade agreement to pursue the establishment of a multilateral investment process to adjudicate on investor disputes.

Baroness Kramer (LD) [V]: My Lords, I will speak to Amendment 15 in my name and that of my noble friend Lord Purvis of Tweed. It is in essence very similar to Amendment 19 in the name of the noble Lord, Lord Stevenson of Balmacara. Great minds, as it were, think alike. I should give notice that, given the breadth of the agreement, I am minded to press the matter to a Division, unless the Minister concedes.

If anyone thinks for a moment that dispute resolution in a trade deal is a minor issue, I would point them to the impasse in the UK-EU trade negotiations. A trade dispute resolution goes to the very heart of any trading relationship, and that sits behind these two amendments. Traditionally, disputes under a trade agreement have been adjudicated through arbitration schemes—which are generally labelled investor-state dispute settlement, or ISDS—rather than a court system. To say that this has become problematic is an understatement. Decisions have a history of being inconsistent, they award compensation that can undermine domestic law, they typically act in secret, and they cannot be appealed.

ISDS arrangements are no longer fit for purpose. They have led to public suspicion and, frankly, hindered the drive to increase global trade; they were a major reason for the collapse of the TTIP negotiations. For this reason, during its time in the EU, the UK was instrumental in pushing for the replacement of ISDS with a multilateral investment tribunal and appellate mechanism—the appellate part being very important—thereby removing any suspicion of bias and providing for appeal. The EU has been clear, even with the UK's

[Baroness Kramer]
departure, that it intends to pursue this change, and it has been introduced in a number of its revised and latest trade agreements, notably, but not exclusively, with Canada.

I would argue, and I think many others were arguing, that the UK needs to remain at the forefront of this change. I am afraid that I am unclear whether the terms that the EU has agreed with Canada over dispute resolution have been replicated in our trade deal with Canada. Perhaps the Minister will enlighten me. The EU-Canada deal gives us a template. It will appoint 15 judges to hear cases on a rotational basis: five from the EU, five from Canada and five from among third-country nationals—in other words, neutrals. The rules ensure transparency of proceedings and clear standards of investor protection. But they also limit the grounds on which an investor can challenge a decision made by a state. For example, a challenge cannot be made simply on the grounds that profits are affected.

Amendment 15 would ensure that in all future trade agreements, the UK agrees with its trading partners at least on the principle of moving to such a mechanism for dispute resolution—it would be even better if it actually achieved it, but at least the principle is agreed. Amendment 15 also ensures that in the interim, until the new system is in place, the UK does not depend on arbitration systems to resolve trade disputes but is heard in the courts and tribunals of the UK. Amendment 19 follows a similar path of logic.

Effectively, these amendments stop the abuses associated with ISDS. I suspect that future speeches will provide some significant illustrations of the problems that have occurred. These amendments provide an incentive and create an opportunity to achieve the goal of a multilateral tribunal system. For that reason, I beg to move.

Lord Lansley (Con): I am very pleased to follow the noble Baroness, Lady Kramer. We are grateful to her and to the noble Lords, Lord Purvis and Lord Stevenson of Balmacara, for raising this important issue. Since we touched on these issues in Committee, events have moved on a bit, which allows us to further explore the Government's approach. I do not support the amendments, but they create a very good opportunity for the Government to tell us more about their approach to investor-state dispute settlement in the negotiation of international trade agreements.

I say to the noble Baroness, Lady Kramer, just to put Canada in context, that the Government did lay the Canada-UK agreement last Thursday, which I have had a chance to look at. What it effectively does, across a wide range of chapters, is incorporate the EU-Canada partnership agreement. But in this respect, on investor protection, it says that this is not to come into force. It says there will be a period of time during which the United Kingdom and Canada will review what their investor protection arrangement should look like, and, if they agree within something like a three-year period, they will replace what is in the current EU-Canada agreement.

Although the noble Baroness, Lady Kramer, said that the EU-Canada agreement is a model, it is not the model she is looking for in her amendment. The tribunal is a bilateral investor protection arrangement, with judicial members from the two parties plus independent members, but it is not multilateral. What it does say, in Article 8.29, is that both parties agree—and here the words are reflected in her amendment—

"to pursue with other trading partners the establishment of a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes."

Clearly, Canada has done that; it has put into the United Kingdom-Canada rollover agreement the opportunity to consider a multilateral investment court system. But we are not signed up to one, and we will have to see what the Government's approach will be. The EU and Canada have not actually brought this into force—it has not been ratified—so we have not seen anything final.

Having a multilateral investment court system depends on the consent of parties around the world, and they have not signed up to it. The New Zealand and Australia Governments resisted ISDS in the context of the CPTPP, or TPP 11 as they call it. That makes it difficult for us, in New Zealand and Australia agreements, to invite them to do more than they have already done. On the other hand, Japan has remained consistently supportive of ISDS provisions, and that, I suspect, is probably a simple reason why the EU-Japan comprehensive economic partnership agreement does not have an investment chapter.

I am afraid that the conditions for an amendment to the Bill that sets such a prescriptive approach to international trade agreements on investor protection do not exist. With too many of our leading partners—including, for example, Japan—we would have no agreement that would allow us to sign an agreement if this provision had been in statute. That is especially true where the United States is concerned. Japan does not have a difficulty with ISDS, not least because it has not been a respondent country to a claim. As it happens, only on five occasions have Japanese companies pursued ISDS claims against other countries. When we come to discuss this with the United States, the difficulties are legion because, when I last looked, the United States had 190 claims against other countries and ISDS procedures reported to UNCTAD and was the respondent to 17 claims. It not only adheres to ISDS provisions but uses them a lot. Therefore, it may be difficult to persuade the United States to adopt a multilateral investment court system. The other difficulty is that it would prevent us from pursuing our bilateral investment treaties in the way we have. We may want to continue with that, and assuredly we will. We have over 100 of them, and I do not think we want to let them go, until and unless there is a multilateral investment court system in place.

It would be interesting to know from my noble friend the Minister if the Government have a plan to pursue a multilateral investment court system, as has been the EU's approach in its negotiations. If so, I would agree, but that does not mean we should have a prescriptive measure in statute that means we cannot agree an international trade agreement with another country, except in the circumstances in which this is incorporated, not only for us but for the other parties. It is an interesting opportunity, but I fear I cannot support Amendment 15.

Baroness Bennett of Manor Castle (GP): My Lords, I offer my support to Amendment 19 in the name of the noble Lord, Lord Stevenson of Balmacara. I regret that we have not yet heard his explanation for it, but I look forward to that. Like the noble Lord, Lord Lansley, I also speak in opposition to Amendment 15 in the name of the noble Baroness, Lady Kramer, although for somewhat different reasons. I regret we are not being joined in this debate by the noble Lord, Lord Hendy, who gave an excellent outline of the problems with ISDS in Committee, and I urge noble Lords who have not caught up with that to go back to it, because it is an excellent explanation from an expert viewpoint.

4.45 pm

I am going to offer a climate viewpoint on this, as I did on the last amendment, and point out that 70% of the biggest ISDS awards since 2012 have been to fossil fuel companies. One of the large awards was $50 billion to a Cypriot company in a dispute over the confiscation of oil and gas assets in Russia. Russia did not pay that money because it pulled out of ISDS, but none the less it is a large award. This is a huge issue when you think of what is known as the carbon bubble. Most of the known fossil fuel reserves we have cannot be developed. Countries will have to stop them being developed. We have to do that through the COP climate talks, but countries are going to have to decide which companies cannot develop those reserves, and there will be very large sums of money that fossil fuel companies in particular could try to hold countries to ransom over, saying they cannot take climate action.

It is not just me saying this. I note that 150 MPs and MEPs, referring particularly to the energy charter treaty, which was signed in 1994 with the aim of integrating the energy industry of the former Soviet bloc into the broader European systems, said that the strong climate ambitions of the EU, domestically and internationally, are at risk due to the ISDS provisions in the energy charter treaty, and they are calling for it to be renegotiated. We have to draw a line in the sand here and say that Governments have to be able to make decisions in the interests of their own citizens and the planet and not face being held to account by undemocratic, untransparent ISDS tribunals.

Briefly—because I think this may be slightly academic so I will not take too much of the House's time—I suggest that a multilateral investment tribunal and appellate mechanism, as suggested by Amendment 15, is essentially an ISDS wolf in sheep's clothing. It is arguably a little more transparent and slightly less slanted in favour of the multinational interests, but it is still not what we need; we need to be able to rely on the courts and on democratic Governments.

The Earl of Caithness (Con): My Lords, my memory goes back to Committee and the powerful speech of the noble Lord, Lord Hendy, who set out the arguments against ISDS extremely well. There was a lot of powerful argument there. But I am also grateful for the intervention of my noble friend Lord Lansley, who always manages to sow those little seeds of doubt as to whether we are going in the right direction. Notwithstanding those seeds of doubt, I believe we are going in the right direction with these amendments, on the simple basis that ISDS permits any investor in this country to sue the UK Government for anything that might harm their profits in any way.

Therefore, I have one particular question on this matter for my noble friend Lord Grimstone. I believe I am right in saying that, since 1986, we have had an ISDS agreement with China. If that is the case, are the UK Government not widely exposed on the Huawei case? In relation to banning Huawei from operating in this country, there is no clause within the agreement, as I understand it, that says that we can ban a company from operating for national security purposes—so is not the UK hopelessly exposed? As a result of that, should not all our bilateral agreements be rethought, as suggested by my noble friend Lord, Lansley, because there is this loophole?

My second question to my noble friend concerns the Government's eagerness to join the Trans-Pacific Partnership. As my noble friend will be aware, New Zealand is seeking an exemption from the ISDS. In our negotiations to join this organisation, will we also seek an exemption from ISDS, and if not, why not? If New Zealand has set a precedent, it would be only logical for us to follow because that must be the right way forward.

Baroness Chakrabarti (Lab) [V]: My Lords, it is a pleasure briefly to follow those who have already spoken on this group, and I support Amendment 19 in particular. I am no expert in international trade law, but I rest assured that my noble friend Lord Hendy will speak very shortly.

Briefly, my concerns about ISDS are that the mechanism overrides the supremacy of Parliament—including your Lordships' House and the other place—overrides the domestic rule of law, discriminates on grounds of nationality in favour of foreign investment corporations and prioritises the profits of investor corporations over people and the planet, as we heard from the noble Baroness, Lady Bennett of Manor Castle. Therefore, I see the mechanism as a fundamental challenge to the rule of law, both domestically and internationally, and not what taking back control is about in the minds of most people in the United Kingdom and further afield, I suggest.

My one question to the noble Baroness, Lady Kramer, who spoke so clearly about her own concerns, is: will the multilateral tribunal that she anticipates really be capable of addressing those fundamental concerns about prioritising corporations over the wider public interest—climate catastrophe, human rights and so on? Will it be capable of designing something that is not the wolf in sheep's clothing that the noble Baroness, Lady Bennett, described? With those concerns firmly on the table, I support Amendment 19.

Baroness McIntosh of Pickering (Con): My Lords, the authors and mover of these two amendments have done the House a great service. I welcome my noble friend the Minister to his place for the first of these debates that he will be summing up this afternoon. This is a very vexatious area in trade disputes, and it has been very much at the fore of this critical stage of an agreement on free trade with our EU partners—

[Baroness McIntosh of Pickering]
I know that is not the subject of this afternoon's debate. It is worrying that, at this late stage, we are still arguing—and have been for two years, since the European Union (Withdrawal) Act was passed—about what the dispute resolution mechanism will be.

I will make a general point: it is extremely important at this stage that we know what the dispute resolution mechanisms will be. I place on record my acceptance as less than satisfactory of the arrangements of the World Trade Organization. I think it fair to say that the current position of the United States in this regard is less than clear. As I understand it, in his time, President Obama made moves to remove the US from the general World Trade Organization dispute resolution mechanism scheme—the next stage after disputes have been raised. It is by no means clear, and I have not yet heard—I may have missed it—what the incoming Biden Administration will do in this regard.

My noble friend Lord Caithness mentioned the Huawei decision, and, obviously, we are also caught, as I understand it, in the Boeing situation, with infringement tariffs being whacked on us for the Airbus scenario—and, latterly, we have come forward, seeking to do the same to Boeing, for similar infringements of the World Trade Organization arrangements there. As such, I am very uneasy that, in the current state of the Bill, I do not see any reference to what the dispute resolution mechanism will be in the agreements that fall under this—unless I have missed it—so I would like confirmation of what that resolution mechanism will be.

I welcome that the noble Baroness, Lady Kramer, said that the UK has been at the forefront of setting this in the EU-Canada arrangement—but then my noble friend Lord Lansley said that those arrangements have never been brought into effect in relation to the EU. This is a very grey area, and it is vital that, before the Bill leaves Parliament, we know what the dispute resolution mechanism in this regard will be. Mindful of the lengthy debate that we had in Committee, I seek further clarification at this stage, using these two amendments as an opportunity to probe in this regard.

Lord Hendy (Lab) [V]: My Lords, I am grateful to the noble Baroness, Lady Kramer, and my noble friend Lord Stevenson, for moving and speaking to Amendments 15 and 19, respectively. They significantly improve, but do not eliminate, ISDS. On that basis, I support them, since my assessment is that the elimination of ISDS is not currently politically feasible.

We now know a lot about ISDS, which is relatively common in international trade agreements. We know how objectionable it is and the chilling effect it can have. It is objectionable because it overrides the supremacy of Parliament, defeats the rule of domestic law—a concept familiar to all of us after recent debates—and discriminates on grounds of nationality. Far from taking back control and asserting British sovereignty, the current catchwords of government, ISDS surrenders both.

A couple of years ago, a petition against the inclusion of ISDS in the then-proposed EU-US trade deal, TTIP, attracted 3 million signatures—500,000 of them in the UK. The legitimacy of ISDS in EU agreements is now doubted by the Court of Justice of the European Union as well as by EU citizens. In Slovak Republic v Achmea, the court held that ISDS in the Netherlands-Slovakia trade agreement

"has an adverse effect on the autonomy of EU law"

and is therefore incompatible with it. By like reasoning, ISDS in UK trade deals will adversely impact the autonomy of UK law.

ISDS is a mechanism whereby a corporation of one state party to the international trade agreement can bring a claim for compensation against the other state. It sounds fair, but it is not fair. ISDS claims bypass the courts of both state parties, and bypass the laws of both states. ISDS is a special privilege accorded only to foreign corporations, for use, in the case of the UK, against a democratic sovereign Government. ISDS is a right to claim compensation against the host state in which the corporation has made its investment—a right denied to the corporations and citizens of that state. That point is important and goes beyond the insult to sovereignty.

ISDS offends against the rule of law because a right and remedy against a host state is given to one class of putative claimant—foreign investment corporations—and denied to all the citizens, companies, co-operatives, trade unions and other organisations in the host state. ISDS offends against the rule of law, whereby that right and remedy is exempt from the courts and the legal system of the host country. It offends the principle of non-discrimination because that right and remedy is only available to non-nationals of the host state.

5 pm

An ISDS claim is never that the host state has breached the law of the land. Indeed, it is invariably the converse: that a provision of domestic law has caused the foreign corporation loss of hoped-for profits. I refer again to the Philip Morris case as an exemplar, much cited in Committee. The Australian parliament passed legislation requiring plain-paper packaging for cigarettes. It was a democratic decision of a sovereign parliament. Philip Morris challenged the legislation in the Australian courts. It failed at every level, up to and including the High Court of Australia. Philip Morris then transferred ownership of its Australian companies to a subsidiary that it had set up in Hong Kong to enable an ISDS claim under the Australia-Hong Kong trade agreement. That claim ultimately failed but only because the transfer of ownership of the companies to Hong Kong post-dated the legislation giving rise to the claim.

Successful or not, ISDS claims can override the sovereignty of a parliament and domestic law by the chilling effect of the size of the compensation sought and often awarded. These amounts can be so large that even wealthy states shudder. The UN Conference on Trade and Development monitors international trade agreements and ISDS claims and awards. Although most ISDS proceedings are secret, of 1,023 known claims, UNCTAD has provided detail on 710. Your Lordships should know that no less than 104 of them—nearly 15%—were claims in excess of US $1 billion. In Committee, I gave an array of examples of multi-billion dollar claims and multi-billion dollar awards. I will not weary your Lordships by repeating them; they are set out in *Hansard* for 6 October. I am grateful for the

generous comments of the noble Baroness, Lady Bennett, and the noble Earl, Lord Caithness, for their endorsement of some of the points I made then.

It is sometimes asserted that ISDS is necessary to allow the corporations of developed states to avoid having to litigate in the corrupt or ill-administered courts of developing countries. However, UNCTAD's analysis undermines that justification. As the noble Lord, Lord Lansley, indicated, corporations have brought multiple claims against the USA, Canada, Australia, Germany and other states with well-developed legal systems, which have been bypassed in favour of using the special privilege of ISDS. The UK, under the wing of the EU, has so far been sheltered, but in future it will not be immune. For example, the UK seeks a trade deal with the USA. US corporations, as the noble Lord pointed out, have been frequent users of ISDS. We know that corporations have been establishing subsidiaries in other countries to facilitate possible claims against the UK.

The nature of ISDS claims is well established. The usual basis is that the accused state has failed to ensure fair and equitable treatment or has expropriated some asset of the investing corporation. Reported cases, such as that involving Phillip Morris, show how ISDS claims threaten Governments that exercise their democratic mandate to do such things as phase out nuclear power, renationalise a metro, exclude mining from national parks, limit pharmaceutical charges and so on. A future UK Government seeking to renationalise domestic power, water or railways, or, for example, to bring the disastrous and exorbitant track and trace regime into NHS ownership, could be at risk of ISDS. Such policies are controversial, but those who oppose them should defeat them at the ballot box—as, indeed, they have done so far—rather than by legitimating the offensive machinery of ISDS.

Nor should we support ISDS for use by UK corporations against other states. The ISDS challenge to our state cannot be justified by permitting similar challenges to other states. In any event, when UK corporations make investments overseas, they evaluate the risk that things could go wrong or that the state might change the law. That is a matter for them. Why should we risk our democratic decision-making to give UK commercial investors overseas a special legal privilege?

Finally, I note the benefits of the proposal for a multinational investment court in place of secret arbitration under ISDS. Transparency instead of secrecy and a fixed body of professional judges in place of ad hoc arbitrators, drawn often from those who conduct ISDS cases, are improvements. However, the central evil of ISDS is not resolved. ISDS before a panel of judges still remains an assault on the rule of law, parliamentary sovereignty and the principle of non-discrimination.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, one of the things that has often been frustrating in your Lordships' House in the seven years that I have been here is that we talk about incredibly important things, yet often our language is so obtuse and complex that, although we understand what we are talking about, other people outside do not. Therefore, a lot of these important issues do not get the sort of publicity that they ought to.

Following the noble Lord, Lord Hendy, is a mixed blessing. He gave a devastating outline of exactly why ISDS should not be any part of trade negotiations. At the same time, he has reduced my speech to ashes because that was exactly what I was going to argue. I honestly do not understand how any member of the Conservative Party can support the concept of not just countries but other corporations having any rights over our country. The mechanisms of ISDS are far worse than any charge that could be brought against the EU courts system. I do not understand how the Government think that it ISDS is reasonable.

The rule of law and the right to legal remedy are both important and are best served not by shady arbitration but openness and transparency and our legal court proceedings. The Minister should argue to everyone in his department that ISDS should not be any part of our trade negotiations. Your Lordships should now make it clear that we will reject any treaty that contains ISDS. The Government have made all sorts of promises about reclaiming sovereignty, but how on earth can they claim with straight faces that ISDS is an appropriate mechanism to put in any trade Bill.

While I have the Floor, I should like to say that the Minister in the previous group said something about the Bill being a useful mechanism for fighting climate change. The noble Viscount, Lord Trenchard, mentioned lifting other countries out of poverty through trade. Perhaps he could do something about that in Britain and start lifting out of poverty the millions of people who are on, below or close to the poverty line. There must be some mechanism that this Government could use. In any case, the whole concept of ISDS should be thrown out as fast as possible.

Lord Purvis of Tweed (LD): My Lords, my noble friend Lady Kramer moved this amendment very ably and indicated that, because of the cross-party support and the degree of consistency with Amendment 19, she would be minded to test the opinion of the House. So I will be brief, because I suspect that the only service I could bring would be to undermine her arguments if I speak at length.

I want to pick up on one point. I agree with others that the noble Lord, Lord Lansley, provides us with a service to make sure that we are as on the ball as we can be with regard to making our case. My noble friend's point about Canada is illustrative in trying to find out what the Government's intention is for the long term for the replacement of ISDS.

We already know two things. The Minister said at Second Reading:

> "ISDS is a subject which often causes excitement … I confirm that ISDS tribunals can never overrule the sovereignty of Parliament … There has never been a successful ISDS claim against the United Kingdom, but our investors operating overseas have often benefited from these agreements".—[*Official Report*, 8/9/20; col. 749.]

He gave the impression that the Government's position is that they are, at the very least, relaxed about ISDS being in agreements, and that they would not seek to move to a multilateral system as a replacement for ISDS.

[Lord Purvis of Tweed]

The second thing we know is that, since 2008, after the European Council made the decision for the EU policy to move beyond ISDS, it has systematically sought to include provisions in agreements going forward; those can include changes to the ISDS mechanism and having a different form of tribunal process. Further, as the EU-Canada joint statement with the signing of CETA said:

"The EU and Canada commit to join efforts with other trading partners to set up a permanent multilateral investment court with a standing appellate mechanism."

The issue then is: what was in CETA? We know that the changes to CETA included a right to regulate by both parties—the European Union and Canada—across all levels of government, regardless of investment protection; that there would be a clear break from an ad hoc arbitration system and a move to a permanent and institutionalised dispute settlement tribunal; and that members of the tribunal would no longer be appointed by the investor or the state but would instead be appointed in advance in a neutral manner.

My noble friend asked what the Government's position is regarding the UK replacement for CETA; this is illustrative of where the Government are, going forward. Inevitably, the Minister was not able to share that information in Committee but, as the noble Lord, Lord Lansley, indicated, we have now seen the text of the agreement. It is very interesting. As has been referred to, page 103 of 109 lifted our hopes against the noble Lord's fear that we would not be in a position to move to a multilateral system. It states:

"Therefore, the TCA represents an important and radical change in investment rules and dispute resolution. It lays the basis for a multilateral effort to develop further this new approach to investment dispute resolution into a Multilateral Investment Court. The United Kingdom and Canada will work expeditiously towards the creation of the Multilateral Investment Court. It should be set up once a minimum critical mass of participants is established, and immediately replace bilateral systems such as the one in TCA, and be fully open to accession by any country that subscribes to the principles underlying the Court."

That was reassuring from our point of view and it gave a signal, but there is a sting in the tail: this is subject to a comprehensive review within three months. If the noble Lord, Lord Lansley, is correct—he often is—the Government will have acceded to what Canada wanted but are holding their position. They are holding their position for this review so that they are not in a position where, effectively, they will have their sovereignty restricted because they know that, in entering into the CPTPP or any agreement with America, their partners will not be in favour of moving to a multilateral system.

Perhaps this is just like some of the other discussions taking place now. There is what the Northern Ireland announcement called a grace period. There is a grace period for the agreement for moving to a multilateral system, as in our amendment, but the Government are trying to triangulate. The Government need to be clear, because this cannot go on for much longer. The amendment moved so ably by my noble friend Lady Kramer is an opportunity for the Government to be clear. This is such an important issue, which is why we want to press the amendment: to get clarity from the Government.

At this stage, if the Minister can respond clearly on Canada, that would be a reassurance, but it does not negate the issue. The noble Lord, Lord Lansley, made the point that this amendment is perhaps unnecessary; the text of the UK-Canada agreement and the review means that this amendment is even more necessary to replicate in this Bill what the Government indicated in the UK-Japan agreement.

5.15 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this has been a good debate on an important issue. We have heard some very expert contributions from all sides of the House set out the scene clearly. In responding to the debate, I will also speak to Amendment 19 in my name, which I am pleased has some support from the noble Lords who spoke before me.

The issue that distinguishes my amendment from those in the names of the noble Baronesses, Lady Kramer and Lady Boycott, and the noble Lord, Lord Purvis, is—if I can use an inelegant term—the fact that I was trying to provide in the amendment a little wiggle room for the Government on ISDS. I mean that in the sense of offering the Minister and the Secretary of State, when a proposal for an ISDS mechanism comes forward within a trade agreement, the chance to argue the case in Parliament and get support for it, should that be necessary in his or her judgment in relation to the particular case concerned. However, today's debate has polarised the views of those who are concerned about ISDS. Probably the right thing to do is to signal at this stage that I support the amendment moved by the noble Baroness, Lady Kramer, and we would be prepared to follow her into the Lobbies if she wished to test the opinion of the House.

The reasons for that are easily summed up; we can look to the cases drawn up by my noble friend Lord Hendy, the points made by the noble Earl, Lord Caithness, and the concerns expressed by the noble Lord, Lord Lansley. For a moment, I thought that he was going to turn into a serial rebel with his victory earlier on in our debates this afternoon; I also thought that he might wish also to move against his own Government on this issue, but he was able to draw a line and point out both the transgressions that were being perpetrated within the Government and the opportunity for a rethink, in his terms, in the light of the schemes before us.

As the noble Lord, Lord Purvis, concluded, we probably need to draw a line in the sand and explain why we do not believe that ISDS is the model that the Government should be thinking about going forward. It may well be that the multilateral tribune approach is not yet right. There may also be a better case to be made for the use of our own courts; after all, we have an experienced and expert judiciary and a lot of court experience in these matters. If we are doing trade deals with countries that also have mature legal systems, it is hard to see why an ISDS scheme needs to be there unless, as my noble friend Lord Hendy said, this is part of some overall scheme of preferential treatment for those who have investment to spare but find the risks too great and need the assurances of an ISDS system to back up their support.

We live in different times. I do not know whether the old arguments will work, but I do know that what we see before us with ISDS is not right. It is no longer fit for purpose— it must change. We should start that progress by supporting the amendment moved by the noble Baroness, Lady Kramer.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, I turn to Amendment 15, in the names of the noble Baroness, Lady Kramer, and the noble Lord, Lord Purvis, and Amendment 19, in the name of the noble Lord, Lord Stevenson. These proposed new clauses concern the approach taken to investment protection and the settlement of investment disputes where these provisions are included in free trade agreements. I will try to restrict my comments to points germane to these amendments.

The UK has included these provisions in more than 90 bilateral investment treaties, which have been crucial for our overseas investors. The UK is one of the most open countries for investments. That is because one of the great attractions for foreign investment is the fair and independent legal system underpinning domestic and foreign investment. We look to use investment provisions in trade agreements to guarantee equivalent levels of legal certainty for our businesses expanding overseas. These businesses make sizeable investments and incur significant risks. It is therefore vital that they can operate in a free and fair environment with a means of independent redress where treaty commitments have been breached.

In response to points made by the noble Lord, Lord Hendy, and the noble Baroness, Lady Jones of Moulsecoomb—not that I expect I will cause noble Lords to change their minds, sadly—many major British companies tell me that the existence of ISDS in certain overseas countries is absolutely germane to their decision to invest in that country. I recognise that noble Lords are concerned that these interests are correctly balanced in our free trade agreements with the Government's right to regulate in the public interest. That is an objective I share. I was grateful to my noble friend Lord Lansley for answering the noble Baroness, Lady Kramer, on Canada in such depth and with such erudition—in words I could not hope to better.

Amendment 15 would permit the UK to sign a trade agreement only if it commits all parties to pursue the establishment of a multilateral investment tribunal system and an appellate mechanism for the settlement of investment disputes. It would also require all such disputes against the UK to be heard by UK domestic courts until such a system is in place. Your Lordships will no doubt be aware that not all trade agreements include investment protection and dispute settlement. It would not be appropriate to require all trade agreements to include a commitment to pursue a multilateral investment tribunal system or for disputes to be heard in UK domestic courts. In the absence of such a system, including this requirement would only hinder the progress of UK trade policy.

The UK is fully engaged in negotiations at the UN Commission on International Trade Law on the options to reform investor-state dispute settlement and the possibility of establishing a multilateral investment court —MIC. I confirm to the noble Lord, Lord Purvis, that the process of triangulation continues, and we have not yet come to a conclusion on the most appropriate way forward. Binding the hands of both the UK and our treaty partners before negotiations are concluded may not be in either their or the UK's best interests, especially, as my noble friend Lord Lansley noted, some of our major trading partners are against the concept of the MIC. My noble friend Lord Caithness asked about ISDS and China. I confirm, perhaps surprisingly, that we have had a bilateral investment treaty with China since 1986. However, perhaps to the relief of noble Lords, there has never been a case brought against the UK under that treaty—nor do I expect there to be.

As for the requirement for UK courts to hear investment disputes, depending on the circumstances foreign investors in the UK will already have a means to legal redress against the Government without resorting to ISDS. It is likely that if we impose a requirement for disputes to be handled only by national courts, this will need to be agreed on a reciprocal basis with treaty partners. This would then require disputes brought by UK investors against a host state to be heard in their national courts, undermining the access to independent ad hoc arbitration for UK investors which has successfully supported UK investors worldwide for the past 40 years. I have no doubt that our major investing companies would oppose this.

ISDS in its current form is valuable for UK businesses investing overseas. This in turn benefits UK citizens as their shareholders. Conversely, the UK has never been a respondent in an investment dispute before a tribunal that has gone against it. The UK's existing stock of bilateral investment treaties all contain ad hoc arbitration as the form of dispute settlement. Arbitration is a widely used means of resolving disputes between parties, including under international and domestic law.

Amendment 19 would similarly require the UK to pursue the establishment of a multilateral investment tribunal system and appellate mechanism. It would also result in the UK being unable to implement trade agreements containing ISDS unless the subject matter of a claim is something under which UK domestic law offers redress to UK persons. It would require the Government to approve a mandate for a free trade agreement containing ISDS provisions through regulations of both Houses of Parliament.

I will start with the redress available to investors under domestic law. The amendment overlooks the fact that, depending on circumstances, foreign investors in the UK already have the means to seek legal redress against the UK Government through domestic law, without resorting to ISDS. I humbly suggest that is one reason cases have never been brought against the UK under ISDS. As I mentioned, UK courts are regarded internationally as reliable and independent. It is worth reiterating that this is one reason the UK has never been a respondent in an ISDS case.

The amendment requires that the Government approve the inclusion of ISDS provisions through both Houses of Parliament. The Government have already committed to publishing their negotiating objectives, along with an initial impact assessment and a response to any public consultations, before entering negotiations. I humbly suggest that noble Lords know well that, as

[Lord Grimstone of Boscobel]
required under the CRaG procedure, the Government will lay the final treaty text alongside an explanatory memorandum before both Houses for 21 sitting days. This House has the power to prevent ratification should the ISDS provisions in the proposed treaty not be to the satisfaction of noble Lords. The House of Commons can do so indefinitely.

On the point raised by my noble friend Lady McIntosh about dispute resolution in any EU agreement, I am afraid that, like me, noble Lords will have to wait and see. I hope this reassures noble Lords and, on that basis, I ask for the amendment to be withdrawn.

5.30 pm

Baroness Kramer (LD) [V]: I thank everybody for a superb debate. The noble Lord, Lord Hendy, as always, put the case so powerfully. I thank my noble friend Lord Purvis for following up on the Canada agreement, and the noble Lord, Lord Stevenson, for his recognition that Amendments 15 and 19 are essentially the same. He was a little kinder, providing a little wiggle room for ISDS, under very limited circumstances, in his amendment, but I think he has become convinced that even that degree of wiggle room is probably best removed. I very much appreciate how supportive he has been.

I say to the noble Baroness, Lady Bennett, that we all have so many amendments to read that she may have missed the fact that, other than that little extra leeway for ISDS in Amendment 19, Amendments 15 and 19 take exactly the same tack and frequently use the same language—we derived our language from the same source. If she wants to look herself, if she looks at new subsection (5) in Amendment 19, she will see that the language on the international trade agreement in Amendment 19 is essentially identical to that in Amendment 15. Both amendments look, in the interim, to use the UK courts system.

I say to the noble Lord, Lansley, that I think he actually made a very powerful argument for passing this amendment. He pointed out that, in negotiations with the United States, it will be exceedingly difficult for the UK to object to ISDS language unless it is provided with some weapons, and this amendment is such a weapon. If Parliament makes it clear that it will require commitments to move to a multilateral agreement, that is a position on which the UK can take a stand. Without the amendment, we will face ISDS language in the US trade agreement, if that is ever concluded.

I was a banker in the United States for many years. It is a very litigious country, and I am also well aware that the clients that I dealt with, which were large multinationals, viewed ISDS as a weapon. That is often not the attitude in the UK or many other countries across the globe. Just as, internally in the United States, the law is frequently used to add advantage for a company against its competition, ISDS is regarded as a tool to gain advantage over domestic companies in other countries, and it is used effectively by very well-resourced legal departments. We would really regret signing a trade agreement with the United States that could not contain the traditional format of an ISDS arrangement.

The noble Baroness, Lady McIntosh, and, I think, the noble Lord, Lord Lansley, cast doubt on the new arrangements in the EU-Canada deal. I suggested that it provided a template, and my noble friend Lord Purvis was kind enough to expand on that issue and explain that what starts out as a bilateral arrangement is expandable into a multilateral arrangement, which strikes me as a very positive and sensible way to go. It is not yet in place, but that is because the complexities of putting a new system in place are not minimal. A big hurdle was passed in April this year when the ECJ ruled that the multilateral court process anticipated in the CETA agreement was in keeping with EU law. I understand that the first judges will be appointed sometime early next year. That is moving ahead, but it is not an instant process—indeed, the agreement itself anticipated a temporary arrangement while the new scheme was more fully developed.

I think this is a key issue. We really need to put down a marker that ISDS is simply unacceptable. The multilateral court system is one that we have supported and promoted and it very much fits with the UK's traditions. This is our opportunity to affirm that and ensure that our negotiators have that tool in hand when they step into trade negotiations. For that reason, I will, if I may, divide the House.

5.35 pm

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5.48 pm

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, we now come to the group beginning with Amendment 16. I remind noble Lords that Members, other than the mover and the Minister, may speak only once and that short questions of elucidation are discouraged. Anyone wishing to press this or anything else in this group to a Division must make that clear in debate.

Amendment 16

Moved by ***Lord Purvis of Tweed***

16: After Clause 2, insert the following new Clause—

"Prohibition of tied aid in trade and procurement

(1) The United Kingdom may only become a signatory to an international trade agreement with a Least Developed Country or a Lower Middle Income Country and Territory if the conditions in subsection (3) are satisfied.

(2) The Secretary of State may not lay a copy of an international trade agreement with a Least Developed Country or a Lower Middle Income Country and Territory before Parliament under section 20(1) of the Constitutional Reform and Governance Act 2010 unless the conditions in subsection (3) are satisfied.

(3) The conditions are –

(a) the United Kingdom commits in the agreement to complying with the Recommendation on Untying Official Development Assistance as adopted by the OECD Development Assistance Committee (DAC) on 25 April 2001, and as amended;

(b) no provision of the agreement is subject to a condition restricting the state the United Kingdom has made the agreement with from receiving aid other than those as agreed under the principles of the Recommendation; and

(c) the United Kingdom, so far as reasonably practicable, has committed that there will be no significant impediment in the purchasing process of goods or services from the United Kingdom which would have the effect of a narrower restriction than that on the states from which goods or services will be purchased by the United Kingdom using aid.

(4) If the conditions in subsection (3) are not included in an international trade agreement made before this Act comes into effect, no regulations can be made under section 2(1) to implement the agreement.

(5) The Secretary of State must include in the annual report required under section 1 of the International Development (Reporting and Transparency) Act 2006 (annual reports: general) a statement on how the UK has met its commitments under subsection (3).

(6) The Secretary of State may not make regulations under section 1 which are inconsistent with the OECD DAC Good Procurement Practices for Official Development Assistance.

(7) The requirements relating to trade and aid on the Secretary of State in this section are in addition to the duties as required in the International Development Act 2002, the International Development (Reporting and Transparency) Act 2006, the International Development

(Gender Equality) Act 2014, and the International Development (Official Development Assistance Target) Act 2015.

(8) In this section, the definition of aid includes support for—

(a) balance of payments and structural adjustment support;

(b) debt forgiveness;

(c) sector and multi- sector programme assistance;

(d) investment project aid;

(e) import and commodity support;

(f) commercial services contracts; and

(g) overseas development assistance to Non-Governmental Organisations for procurement related activities."

Lord Purvis of Tweed (LD): My Lords, in moving Amendment 16 I will speak to Amendment 25. Before I do so, it would be churlish of me not to congratulate the Minister on a victory on Report. I half expected him to move to adjourn and quit while he was ahead.

I tabled these amendments with a degree of regret. They should be unnecessary, but I am grateful to noble Lords who indicated that they would participate in this group, including my noble friends Lady Sheehan and Lord Bruce. Amendment 16 would put on a statutory footing a prohibition on tied aid, and Amendment 25 seeks to prevent economic disruption for some of the least-developed countries should the UK fail to agree continuity agreements at the end of December.

I mention regret because one of the reasons for tabling Amendment 16 was to respond to some statements that the Chancellor and the Foreign Secretary made recently on what I believe is a shameful decision to breach the UK's obligations under the 2015 overseas development target Act to meet its commitment to spend 0.7% of GNI on overseas development assistance. When that announcement was made, the Foreign Secretary also highlighted certain forthcoming reforms to assistance away from the legislative basis in the 2002 Act, under what is potentially a repeal of the 2015 Act.

My regret was also about the fact that we should not need to try to put into legislation commitments that Ministers have made. I am pleased that the noble Baroness, Lady Noakes, is following me because she has repeatedly made that argument. I think that we have a genuine disagreement on this—while not necessarily in principle then certainly in balance. We sometimes take Ministers' statements, accept their word and believe their intentions, and that does not necessarily have to be reflected in legislation. But there are also times when we wish to restrict a Government, regardless of any individual incumbent Minister or position and regardless of which party forms the Treasury Bench in the Government.

However, commitments on ODA and on our trading relationships with the least developed countries have been made repeatedly this year in the teeth of the Covid crisis, both previously and more recently. The Minister for Africa, James Duddridge, said in June that it is the law for us to meet 0.7% and we—meaning the UK—will obey the law. In July, the Foreign Secretary said that we remain committed to 0.7%, and in September the noble Lord, Lord Ahmad, said to the global NGO community in Geneva that we reaffirm our commitment. However, we now know that the Government no longer take that position.

The UK has adopted a convention and approach regarding tied aid since the OECD Development Assistance Committee introduced the principles against tied aid in the early 2000s. A number of commitments are reflected in the amendment and I do not need to rehearse them—I hope that the amendment speaks for itself regarding the obligations that we feel the Government should be bound by. I am sure that my noble friends will give egregious examples of assistance which should have been directed towards the most vulnerable and the poorest in the world having been used to advance British commercial interests—indeed, tying the assistance to those commercial interests.

The UK has been, and still is, a leader in that approach. We represent the top tier within the OECD for not having tied aid. Repeatedly and consistently, more than 90% of our overseas aid is not tied in any way, shape or form, and indeed the remainder comes within a degree of justifiability, which the OECD DAC already allows for.

So that begs the question: why would we seek to put into legislation the commitments that we have made and honoured? I repeat that it is because, unfortunately, we have seen commitments given by this Government but not necessarily adhered to. I hope the Minister can reassure the House that there is an absolute commitment that the UK will not renege on any of the OECD standards on tied aid and that we will maintain our high standing. It would be a very retrograde step if, while cutting our overseas aid around the world by a third over the next year, we also attached conditionality to the remainder for commercial interests. I hope that the Minister can be categorical on this.

I give the Minister notice that for me, this is a very strong issue. We know that the Bill will come back to us in the first week of January, so I am aware that if I seek the opinion of the House on Amendment 25, it will be after the 31 December break point. On the issue that the amendment seeks to raise—the Minister knows that I sought to speak to him about it—I hope that the Government can be persuaded to act at this eleventh hour to avoid unnecessary, possibly devastating impacts on exporters from Ghana and Cameroon in particular. We have tried to frame the amendment so that it captures both. Regardless of the exact drafting of the amendment, I hope that the Minister can understand its thrust.

In Committee—I think in a debate that the noble Lord, Lord Lansley, and I took part in on the global scheme of preferences—concern was expressed about Kenya, Ghana and Cameroon in particular. An agreement in principle with Kenya, although problematic with its regional partners, has been made and I welcome that, but the concerns about Ghana and Cameroon remain. I am aware of certain developments since I tabled the amendment. We were looking at the very bleak situation of Ghana and Cameroon trading on the previous basis and then on a potentially worse set of tariff procedures than under the EPA relationship.

With regard to Ghana, I understand that the UK has now agreed to use a regional text as a basis for negotiations. I understand that that had not been the case prior to very recent developments. Therefore, the current focus on looking at a holding mechanism between the UK and Ghana that will allow for a

[Lord Purvis of Tweed]
regional trade framework to be put in place could well be the means of moving away from the precipice of 31 December. The aim for agreement by the end of this year will, I think, be encouraged by most Members of the House, but of course we will have to see the detail, particularly regarding the liberalisation commitments in Ghana, which had been a concern. Therefore, I hope that the Minister can make it clear that there will not be a cliff edge for Ghana.

Turning to Cameroon, I understand that on the outstanding rules of origin issues, there have been holding arrangements for four months rather than three, to allow for a resolution of final issues—perhaps similar to the compromise recently reached for Northern Ireland. Can the Minister confirm my understanding of that?

Therefore, it looks as though there has been progress, but I want to close by giving one brief example of why this issue is important, not only for those working within fair and open trade in Ghana and Cameroon but for British consumers. On a recent visit to my nearest Sainsbury's in Kelso in the Scottish Borders, I looked at the fruit department and saw bananas from Ghana. Thursday of this week will be the deadline for exporters of bananas from Ghana. Shipments of bananas and pineapples have been processed and are ready to be shipped from Tema to the United Kingdom. Those exporters do not know the value of that cargo because they do not know what the tariff and border arrangements are for the following week. The deadline for them is Thursday of this week, so it is very important for the Minister to give a strong reassurance on that. Tuna exports have now ceased. They are cargoed and at Tema port, and there is also uncertainty regarding those exports.

At the very least, if any British consumers wish to buy fair trade bananas from their supermarkets or fruit and vegetable stores, or indeed fresh tuna, they might, through the example I have given, become aware of the dual consequence of a lack of government assurance. If the Minister is able to provide reassurance today, that will give exporters a degree of confidence. They will be able to proceed on the basis of the Minister's commitments and then provide that information to customers in the UK so that there is no disruption. I hope that the Minister is able to provide that information. I beg to move.

6 pm

Baroness Noakes (Con): My Lords, I shall focus my very brief remarks on Amendment 16 in this group—mainly because, when I saw Amendment 25, I had no idea what it was about. I have now heard what the noble Lord has said and I am sure that my noble friend the Minister will respond in due course. When I looked at Amendment 16, I really could not see what kind of problem it was trying to solve; not only is it unnecessary for a statute to repeat commitments that have been made but the environment for aid is now governed by the 2002 Act, which is pretty clear about where aid can and cannot be given.

The noble Lord, Lord Purvis of Tweed, may have concerns about what the Foreign Secretary may or may not have said, but for something to change the law may have to change and the noble Lord would have plenty of opportunity to engage with that issue as and when such a change was made. The noble Lord was good enough to say that the UK has an extremely good record on tied aid and has had so for a very long time; this is not a new commitment needing to be made. I repeat what I always say: it is unnecessary to put in legislation things that noble Lords are worried about—things that might be changed in the future or commitments that might not be kept up. However, if the noble Lord is merely tabling a probing amendment, looking for my noble friend the Minister to reiterate where the Government currently stand on tied aid, obviously there is no real issue. Apart from that, I just say to the noble Lord that the amendment is pretty unnecessary.

Baroness Sheehan (LD) [V]: My Lords, I will say a few short words about Amendment 16, which may enlighten the noble Baroness, Lady Noakes, as to why I think it is very important. I am grateful to my noble friend Lord Purvis of Tweed for putting it down.

The Pergau dam scandal of the early 1990s offers a timely reminder of how badly things can go wrong when tied aid becomes, as it did then, a regular feature of the aid budget—so much so that, in 1997, the UK's aid budget was removed from the Foreign Secretary's remit and placed with a newly formed Department for International Development. Maybe old habits die hard as this was followed in fairly short order by the International Development Act 2002, which tightly defined development assistance as two things: furthering sustainable development and improving the welfare of people in developing countries. It was designed to be pro-poor and, in effect, to ensure no more tied aid.

However, that and other Acts of Parliament on international development now have a sword of Damocles hanging over them. My noble friend Lord Purvis has outlined in quite a lot of detail the conflicting statements that we have heard with respect to the 0.7% target, which, as we now know, is to be reduced to 0.5%. He has therefore quite sensibly covered every eventuality in his Amendment 16 by invoking the OECD Development Assistance Committee's recommendation on untying official development assistance. I hope the Minister will add his assurances to those of the Foreign Secretary and tell us that the bad old days of tied aid are indeed over. Trust is a hard-won commodity, and it is running in very short supply with this Government. I ask the Minister, whose word I have no reason to mistrust, to ensure that assurances given at the Dispatch Box are followed through.

Turning to Amendment 25, to which I have added my name, the Government's early commitments post Brexit to protect current trading relationships with poorer countries, keep prices in check and help build our future trading partners are not turning out to be quite as reliable as we would have hoped, as with many other government commitments post Brexit. It now looks as though the world's poorest countries will instead face additional challenges post Brexit. Quite a lot are being overcome, but not all.

Amendment 25 is necessary to ensure that developing countries do not lose market access or share, either because time has run out to agree continuity deals or because other arrangements have run into difficulties.

Including some of those countries which could face higher tariffs in the list of least developed countries, as per proposed new subsection (2), would offer some protection.

My noble friend Lord Purvis has explained some of the issues surrounding our difficulties in agreeing a trading arrangement with Ghana. I hope the Minister will agree that insisting on a historic stepping-stone deal was unrealistic. As my noble friend said, Ghana asked that the existing ECOWAS EPA with the EU be used as a basis; I am delighted to learn from my noble friend that it will form the basis of ongoing negotiations. To have insisted that the stepping-stone agreement should form the basis of agreements going forward with Ghana was to disregard the fact that it is now a member of ECOWAS—the Economic Community of West African States—and as such has notified that agreement under the WTO. That would break international agreements, which I hope the Minister would agree is not a good look.

Ghana could have signed our agreement for the enhanced framework as a way out of the scheme but, as my noble friend Lord Purvis explained, it was presented with some difficulties in doing so because bananas are not included in the enhanced framework scheme. I hope this issue can be resolved so that other countries are not caught in the same trap. Had Ghana signed up to the enhanced framework scheme, about 30% of the bananas we eat in the UK, which come from Ghana, could not have got here. That would be a real shame, because a large proportion of them are Fairtrade; the Fairtrade Foundation has had great success in getting better working conditions and fairer deals for poorer farmers and the workers and communities that rely on them. I do not need to remind the Minister that the Fairtrade movement enjoys wide support in the UK. Proposed new subsection (3) is designed to overcome this difficulty for Ghana and other developing countries caught in a similar conundrum.

Time is tight, so I will move straight to the end. The regional economic unions in Africa—east, south, north and west—are now all pretty well established and the African Continental Free Trade Area, which represents a market of 1.2 billion people with a combined GDP of $1.3 trillion, opens on 1 January 2021. This October, just a few weeks ago, talks took place between the EU and the African Union on a modern relationship between the two trading blocs. What plans do we have for a modern trading arrangement with the African Union?

Baroness McIntosh of Pickering (Con): My Lords, in connection to Amendments 16 and 25, I really would prefer to go down the continuity agreement route than to adopt these two. It is my understanding that the UK has reached—I think the noble Lord, Lord Purvis, said this in moving Amendment 16—a rollover agreement with Kenya. Indeed, it was signed this month, less than a week ago, which I welcome. I know that we had a long debate in Committee about the asymmetry of many of the free trade agreements, but I do not know if that applies in this case. It would be my strong preference that we press the Government to continue their good work in reaching agreements, with the rollover economic partnership free trade agreements.

My question to the Minister is therefore very simple: could he say where we are in reaching agreement with Ghana—which reached an EPA with the EU relatively recently, in 2016—and Cameroon, which reached an EPA with the EU in 2014? Rather than at this stage lumbering the Government with even more add-ons, as set out in Amendments 16 and 25, it would be my preference to carry on the work that they have achieved with the Kenya rollover agreement. I urge my noble friend the Minister to continue to complete the agreements with Ghana and Cameroon.

My noble friend said earlier—it was not his exact phrase—that it takes two to tango. It takes two to complete these agreements, and if any specific obstacles have been raised with any specific products relating to the rollover agreements we currently enjoy, through our membership of the EU, with Ghana and Cameroon, it would be very helpful to know what they are this afternoon.

Baroness Bennett of Manor Castle (GP): My Lords, I rise briefly to speak in favour of Amendment 16 in the name of the noble Lord, Lord Purvis of Tweed, and Amendment 25, in the name of the noble Lord, Lord Purvis, and the noble Baroness, Lady Sheehan.

I want to reflect on the context in which we are having this debate: a double blow has come forward in terms of our international aid budget. Someone came to me on Twitter and said, "I'm really confused, because it seems like our GDP is going down, so our aid is going down anyway, so why are we also cutting the percentage of aid?" I had to say, "No, you're absolutely right, this is a double blow." We have often given very effective help to some of the poorest people in the world, so it is important that we do whatever we can to make sure that aid is directed in the right kind of way.

The second, contextual, point I want to reflect on is why these countries are in the least developed and lower middle-income categorisations. If you go down the road to the Foreign Office, up to Liverpool or across to Bristol, you will see the colonial legacy of lots of the wealth of these countries, which was sucked out in the past. That legacy continues to have extremely deleterious effects. There is also the impact of multi-national companies—very often corrupt—today, which hold down the essential development of many least developed and lower middle-income countries. I note what the noble Baroness, Lady Sheehan, said too about the history of how DfID came to be split from the Foreign Office, and the concerns that have to be expressed about that reunion.

In those contexts, it is really important to do whatever we can in your Lordships' House to defend, to hold the line and to keep whatever we have now. We will have the fight about the aid budget percentage when it comes along, but let us do what we can now in the Trade Bill.

Lord Lansley (Con): My Lords, I am very glad to follow the noble Baroness, Lady Bennett of Manor Castle, and to speak to these two amendments.

May I first say a word about Amendment 25? As the noble Lord, Lord Purvis of Tweed, said in introducing it, we had an interesting debate in Committee on the trade preference scheme—our unilateral preference scheme

[Lord Lansley]
—and, indeed, I might say to my noble friend the Minister, an even more useful subsequent round table, although we were virtual, about the structure of the trade preference scheme when it comes.

As far as I can see, Amendment 25's objectives should be able to be encompassed within the trade preference scheme using the Taxation (Cross-border Trade) Act 2018, and the regulations under its Section 10. I just want to see those regulations and have an opportunity for us to talk about them to check that they achieve that objective.

6.15 pm

There is an important point in Amendment 25; it is one which the Government may well have in mind. I would rather that, in due course, we arrived at tariff-free trade with eligible developing countries in the context of a broader trade agreement than in the context of the continuing unilateral offering of preferences. The European Union has migrated to trade agreements rather than the generalised scheme of preferences, and there is a lot to be said for that. It would solve the issue here about lower-middle income countries being in a customs union with others that are predominantly least-developed countries. I do not think we would want to arrive at the position—we may do so—that we are in with Kenya and other eastern African countries. We have a trade agreement with Kenya but the others rely on the generalised system of preferences. If countries are in an agreement with each other, they should be in a combined agreement with us. I hope that is where the Government aim to get to, and I would be pleased if they were.

On Amendment 16, I have to confess that I am confused. Amendment 16 is based on a proposition that the Government are about to do something which they are not. I have no knowledge of any reason why the Government are about to change what is now nearly two decades of practice, since 2002, of judging and approving development assistance against the basis of the measures described by the noble Baroness, Lady Sheehan. We have given up tied aid; not everybody else has. I think that in 2019, there was an increase internationally in tied aid from the figure for 2018. Some of our most important trading partners, such as the United States and Japan, still used tied aid but we do not—and I do not think we are about to. Curiously, Amendment 16 wants to put the issue of aid into a Trade Bill. Why, when I have no reason to think that we should? If there is an issue about aid and future legislation on it—I do not know whether there will be—that would be the place to put any assurances into legislation.

In practice, Amendment 16 would make life very complicated for the administration of negotiations for trade agreements. For example, I am not at all sure that I understand why, in Amendment 16, the least-developed and lower-middle income countries are identified. When I turn to the framework under the OECD and its recommendations, up to January 2019 it related to least-developed countries and the highly indebted poor countries. From January 2019, it was extended to include other low-income countries and those eligible only for financing from international development assistance. There is a series of categories of countries, which has not been reproduced in this amendment. I am not quite sure that I understand exactly who we are talking about. However, I am pretty sure that it would become highly prescriptive and very difficult for us to administer international trade agreements if, by reference to a moving and complex structure, we determined which countries were eligible to have this prescription relating to them placed in statute.

The Earl of Sandwich (CB) [V]: My Lords, as we have heard more than once, the Government are already committed to providing untied aid under the DAC agreement from nearly 20 years ago. However, to answer the points made just now by the noble Lord, Lord Lansley, and the noble Baroness, Lady Noakes: the Government have become a little ambiguous on aid legislation in relation to the 0.7% target. The noble Lord, Lord Purvis, is quite right to raise the issue at this stage. There is little doubt that the merger of DfID into the FCDO will have an impact on the integrity of our aid programme. It is now a stated policy that aid has become an instrument of diplomacy, and so why not of trade?

When it comes to fair trade, there can be little confusion, but with large infrastructure projects, there is a distinct motive to involve British traders and investors, even if that is not in the best interests of the poor. As the noble Baroness, Lady Sheehan, said, the names of Pergau and Narmada come to mind. The CDC will have to tread carefully from now on if it is to meet its declared target of poverty reduction.

Sustainable development goal 17 on trade was discussed earlier in Committee. It is one of the most intriguing development goals because it is both helpful and obstructive. That is because liberalisation opens up trade but it can also bring greater wealth to a minority and lead to the exploitation of poorer countries. The purpose of the SDG is to reinforce the longer-term concept of sustainable development. In more practical terms, apart from any trading concessions available, this means working closely in partnership with the country with which you are trading to ensure that the arrangement is fair. The noble Lord, Lord Purvis, has given us examples of unfair trade.

There are many examples of the enforcement of our own standards in developing countries, such as in food or textiles, to meet the demands of our importers and consumers. The Minister himself mentioned the negative effects on poor countries that can arise from overly high standards. Supply chains are now revealing more overt examples of trafficking and exploitation, perhaps indirectly, by corporations. What protection will there be for those countries after we leave the Cotonou agreement which protects many African, Caribbean and Pacific countries? The noble Lord, Lord Lansley, knows all about this. He has already taken us into the detail of GSP, GSP+ and the EBA—all of the things that are available to the least developed countries. This is not for today, but as we withdraw from the EU, especially now, I hope that we will come to on to these questions as well.

Lord Bruce of Bennachie (LD) [V]: I wish to speak briefly in support of these amendments. It is bad enough that the UK has cut its aid budget by potentially

£30 billion over this Parliament without legitimate or honest reasons, but just as the Government are giving a boost to the better-off to eat out at home, and possibly accelerating the spread of Covid-19 in the process—while being reluctant to extend the provision of free school meals to poorer children—so they have prioritised boosting defence spending by 0.2% of GNI and cutting aid to the poorest people in the world by precisely 0.2% of GNI.

These amendments rightly probe the Government's real intentions on aid and seeking to hold to the high standards of the past 20 years. I think that many of us are not as sanguine as the noble Lord, Lord Lansley, about the intentions of the Government. They are unclear and on the basis of betrayed promises made over a matter of weeks, so we need some answers. I am pleased to follow the noble Earl, Lord Sandwich, who has been consistent in his campaign to ensure that sustainable development will deliver for the poor and that the Government should explain their policy clearly.

Put simply, UK development assistance has been untied and we have all agreed to that. Moreover, it has been poverty-focused. The former Prime Minister, David Cameron, co-chaired the UN's high-level panel on the sustainable development goals. It set the objective of ending absolute poverty and leaving no one behind. The UK's contribution to achieving that will now be substantially reduced. These amendments seek to ensure that UK aid will still prioritise poverty reduction and not be used as a lever to extract concessions from poorer developing countries for the UK's mercantile or political advantage.

With a few exceptions, such as delivering emergency aid into conflict zones, the UK's engagement in developing countries is with the consent of the Governments of those countries. This gives scope for dialogue about good governance and agreement to work together to build capacity to manage programmes. It allows for honest discussion about problems of corruption, so it is not as if there is no engagement. It is not simply spending on a poverty programme without any government-to-government contact. That is what constitutes soft power. Contrary to what critics assert, aid programmes have contributed to the substantial reduction in poverty over recent decades. The challenge now is to sustain that progress in a post-pandemic world. I cannot think of a worse time for what has become one of the world's leading aid countries to give such a public declaration of its intention not to be the lead contributor to solving that problem.

We all know that prior to the International Development Act, as has been quoted by other speakers in this debate, our aid budget was misused to secure contracts for British companies, not always on the best terms or for the best purpose of benefiting the recipient countries. We surely do not want to return to those bad old days. The noble Lord, Lord Lansley, says that the Government have no intention of doing so, but the Government had no intention of cutting aid or of rolling DfID into the Foreign Office. Frankly, I say to the noble Lord, Lord Lansley: we cannot trust any of this Government's assurances on aid.

Whatever kind of Brexit emerges from these tedious negotiations, this Brexit Government will want to parade a succession of trade deals. The more important and powerful the partner with which we are negotiating, the harder it will be to secure agreement and the more likely it is that the UK will make concessions that are greater than those made when we benefited from the negotiating strength of the European Union. In that situation, the temptation to pressurise economically weaker and poorer countries could intensify accordingly.

The term "aid for trade" is open to a range of interpretations. In a proper development context, it should mean helping a country achieve standards that enable it to compete successfully in export markets. It should not mean securing concessions or trade-offs in exchange for details of access to the UK market, such as, "We will buy your flowers if you support us with your vote on the Security Council or the General Assembly, or if you buy our expensive digital equipment or services." If it were as blatant as that, it would contravene the DAC rules and the Government would struggle to achieve even 0.5%.

Alternatives could be offering aid in return for mining concessions or arms sales. If our aid is being cut, it is more important than ever that it goes unconditionally to help alleviate poverty and promote sustainable livelihoods, and enables countries to meet the challenges of pro-poor development: to end poverty and leave no one behind. To date, the UK has been leading the way on untying aid. It will be a sad confirmation of a new self-serving foreign policy if the next few years see a dramatic reduction in not only the amount of aid that we deliver but the quality and direction of the aid that we give.

The question is simple: is the overriding purpose and impact of the UK's official development assistance directed at poverty reduction and sustainability, or is it directly to further the foreign policy interests of a country reverting to British exceptionalism?

The Deputy Speaker (Baroness Pitkeathley) (Lab): The noble and learned Lord, Lord Morris of Aberavon, is not speaking, so we move now to the noble Lord, Lord Stevenson of Balmacara.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this has been a good debate at a more detailed level than we were perhaps expecting at this stage of our considerations on the Bill. It is none the less important for that.

I took Amendment 16, moved by the noble Lord, Lord Purvis, to be a probing amendment in a sense. It is trying to tease out the different strands of activity among the issues arising from sustainable development goals about trade, particularly with disadvantaged countries, and government policy in relation to it. That is linked to the reduction in funds available for future development work in this area.

We are going to return to this on many areas over the years, I suspect; the impact that this cut will have on our available resources to support and ensure development in countries that need it will be a feature of our debates in future. However, it is not capable of being sorted at this stage by a single amendment. What we need is a clear statement from the Government on their policy, and I hope that the Minister will be able to give that.

[Lord Stevenson of Balmacara]

The other amendment in this group follows on, as has been explained, from quite a good discussion in Committee and a subsequent meeting organised by the Minister, of which I had a readout, because I was not able to attend myself. It raises interesting issues, and the noble Lord, Lord Lansley, may be right that there is no issue here, because the Government are not going to do what they might be seen to be accused of in the terms of the amendment. On the other hand, there are doubts about how the whole EU structure for resolving how aid is given, and in what form it is given—in direct support and in ensuring that the impact of any support does not affect the ability of those countries involved to be able to trade their way out of their own difficulties—will be resolved. It needs to be resolved properly before we can say that we have a proper trade policy. I look forward to the Minister's response.

6.30 pm

Lord Grimstone of Boscobel (Con): My Lords, I thank the noble Lord, Lord Purvis, for raising the important issues of trade and international development. I am well aware of his deep commitment to this topic, and I admire the integrity with which he pursues it. I am pleased to say that the Government share his commitment to supporting international trade, prosperity and poverty reduction, and I am happy to explain the Government's policy on this topic.

The Government have a proud history of providing official development assistance in such a way as to achieve maximum impact on reducing poverty in developing countries, including through helping to build their capability to trade. The International Development Act 2002 requires that overseas development assistance is provided only for the purposes of furthering sustainable development of a country outside the UK or for improving the welfare of the population of such a country. I unequivocally assure all noble Lords who have raised the point that the Government are committed to providing international aid untied to commercial conditions. That ensures that international aid spending is procured through open competition to achieve best value for money. The UK's approach in this area is published in the 2015 UK aid strategy and further set out in the *UK Official Development Assistance: Value for Money Guidance*. The Foreign Secretary reaffirmed this commitment in the other place on 26 November. Through these provisions, the Government's approach to international aid is wholly consistent with both sets of OECD guidelines on official development assistance to which this amendment refers. I am happy to give the noble Lord, Lord Purvis, and other noble Lords a categoric reassurance that we have no plans or intent to change that.

I turn to Amendment 25. The Government, of course, share the desire of the noble Lord, Lord Purvis, to support trade with developing countries. We have engaged wholeheartedly with our developing country partners to secure economic partnership agreements that provide continuity of their market access. As has already been noted by noble Lords, I am pleased to inform the House that Kenya and the Ivory Coast have recently agreed economic partnership agreements with the UK, which will provide long-term certainty of their duty-free market access and provide a framework to develop our trade relationships in future.

We began discussing an economic partnership agreement with Ghana no less than three years ago, and we encourage Ghana to conclude those discussions to maintain our existing trade arrangements, including its duty-free access. I ask noble Lords to join me in that encouragement: we want to conclude an agreement with Ghana, and I give it that message loudly and clearly. On Cameroon, we are committed to securing an EPA. Further discussions continued as recently as last week and, again, I encourage that country to reach an agreement with us as soon as possible.

Further, I clarify that the Government's long-stated policy is to replicate the effects of the EU's generalised scheme of preferences, or GSP, and then in due course to go beyond it. This arrangement supports trade with around 70 developing countries; it increases global prosperity and reduces poverty while providing access to cheaper products for UK consumers. The most appropriate way in which to ensure continuity of this vital trade arrangement is to replicate the existing trade preference scheme, which is already known to be compatible with WTO rules, and regulations to create the GSP will be laid in Parliament shortly.

I absolutely took the point made by my noble friend Lord Lansley about the optimum arrangements for the future, and I will ensure that his comments are passed on. Transitioning the existing EPAs is absolutely not the limit of the Government's ambition in the area, and in the future we will look at how we can improve on these structures. Regarding proposed new subsection (2) in Amendment 25, introducing any changes to the eligibility criteria of the UK GSP at this point creates risk and uncertainty for the remaining 70 countries of the UK GSP, which I am sure noble Lords wish to avoid.

Regarding proposed new subsection (3), which proposes removing the tariffs on bananas for countries in the UK GSP's enhanced framework, I urge caution. Although this could provide a way to maintain Ghana's duty-free access to bananas, it would also extend this preferential access to the other countries in the enhanced framework. Some of them are already competitive banana producers and could increase their exports of bananas to the UK at the expense of existing banana producers, many of which are Commonwealth partners in the Caribbean. Such a proposal cannot be rushed. It must be based on careful analysis. For that reason, it cannot be accepted now.

I hope that your Lordships agree that there is a balance to be struck. While of course I share the concerns of the noble Lord, Lord Purvis, about the impact of a potential loss of duty-free access for Ghana if the worst comes to the worst, this amendment to the UK's generalised scheme of preferences could have negative consequence on other countries' trade relationships with the UK. I reassure noble Lords that if Ghana does not agree an EPA—I sincerely hope that it will—it will still receive tariff reductions on two-thirds of its product lines through the general framework of the UK GSP. Ghana can also apply for the enhanced framework of the UK GSP, which provides further trade preferences.

I am genuinely grateful to the noble Lord, Lord Purvis, for raising these important issues. I hope that I have clarified for him and other noble Lords who have spoken the wider consequences of the amendment. I also hope that I have reassured him and other noble Lords on the Government's policy to not tie overseas development assistance to procurement or trade from the UK, in line with international guidelines. I hope therefore that noble Lords agree that this amendment is unnecessary, and that the noble Lord agrees to withdraw it and not bring it forward on the later occasion.

Lord Purvis of Tweed (LD): My Lords, I am grateful to noble Lords who have participated in this short debate, which has focused on longer-term issues rather than more immediate ones. I am very grateful for the Minister's response, his kind remarks, and the courtesy with which he carries out his work. My noble friend Lord Bruce and the noble Earl, Lord Sandwich, addressed very clearly the point made by the noble Lord, Lord Lansley, and to some extent, that of the noble Baroness, Lady Noakes. I took the 2015 Act through this House on behalf of my then right honourable friend Michael Moore in the House of Commons. I refer to the subsequent Conservative Party manifesto, its 2017 and 2019 manifestos, and what has been said by every Conservative Minister from the passing of that commitment until three weeks ago. The noble Lord, Lord Lansley, asked whether the amendment was going to prevent the Government doing something that he said they were not going to do. Well, every statement from Ministers and three manifesto commitments has been breached.

Therefore, I hope that noble colleagues will forgive me for laying down a marker to indicate that the connection between trade and development is real. It may be that if, as the noble Baroness, Lady Noakes, has indicated, the Government bring forward repeal or significant amendments to the 2015 Act or, indeed, the 2002 Act, we will consider it then. I hope, of course, that they do not.

The noble Lord, Lord Lansley, made the point about blurring the lines, perhaps, between development priorities and trade priorities. He asked specifically about the drafting of the amendment. It is a fair question. I tried to blend the categories in the list at Part 3 of Schedule 3 to the Taxation (Cross-border Trade) Act 2018, which defines the countries that we will have, with what a trade agreement amendment would be—because as we know, the tied aid goes beyond trade agreements—but, of course, there are elements to be debated going forward. I hope we will not need to debate these. I think that the noble Baroness, Lady Noakes, is right. I hope that what the Government say about having no plans for change will be right. I believe that the Minister has a very high degree of integrity and I am very grateful for the explicit and categorical assurances, and therefore I shall not press Amendment 16.

On the most immediate point, I am grateful for the Minister's response. I was hoping that he might be in a position to confirm the movement that I understand has been made, because while I freely admit that my amendment is only one option—the noble Baroness, Lady McIntosh, indicated other options and the Minister has indicated certain other areas; we might need to approach this in a different way—the principle is the same. Agreements have not been made. I hope that they will be, but if they are not within a week's time, assurances need to be made for goods that are in port now, ready to come to the UK from some of the least developed countries in the world. I am glad that the Minister has given reassurance, and I hope very much that we will not need to come back to this after January, because this is now a real, live test that needs to be resolved so that the people paying the price for the end of the transition period are not the people working in some of the least developed countries in the world. However, I beg leave to withdraw the amendment.

Amendment 16 withdrawn.

Consideration on Report adjourned.

The Deputy Speaker (Baroness Pitkeathley) (Lab): My Lords, the next business on the Order Paper is the repeat of a Statement on Covid-19.

Viscount Younger of Leckie (Con): My Lords, therefore, with the leave the House, I beg to move that the repeat of the Statement on Covid-19 be postponed until after consideration of the United Kingdom Internal Market Bill.

Motion agreed.

6.43 pm

Sitting suspended.

United Kingdom Internal Market Bill

Commons Reason and Amendments

6.50 pm

The Deputy Speaker (Baroness Pitkeathley) (Lab): My Lords, these proceedings will follow guidance issued by the Procedure and Privileges Committee. Any Member of the Chamber may speak, subject to the usual seating arrangements and capacity of the Chamber. Anyone intending to do so should email the clerk or indicate when asked. Members not intending to speak should make room for Members who do. All speakers will be called by the chair. Short questions of 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.

When putting the Question, I will collect the voices in the Chamber only. Since there is no counterproposition, the Minister's Motion may not be opposed. We will now begin.

Motion A

Moved by ***Lord Callanan***

That this House do not insist on its Amendments 1F, 1G, 1H, 1J, 1K, 1L and 8M to which the Commons have disagreed for their Reason 8N, but do propose the following amendments in lieu—

Commons reason

8N: Because the Lords Amendments would be detrimental to the clarity, simplicity and certainty of the United Kingdom internal market regime to be established by the Bill.

Amendments in lieu

8P: Clause 10, page 7, line 23, at end insert—

"(2A) The power under subsection (2) may, for example, be exercised to give effect to an agreement that—

(a) forms part of a common framework agreement, and

(b) provides that certain cases, matters, requirements or provision should be excluded from the application of the market access principles.

(2B) A "common framework agreement" is a consensus between a Minister of the Crown and one or more devolved administrations as to how devolved or transferred matters previously governed by EU law are to be regulated after IP completion day.

(2C) References in this section to devolved or transferred matters include reference to corresponding matters in England.

(2D) When determining whether a matter is a devolved or transferred matter for the purposes of this section, the following provisions are to be ignored—

(a) section 30A of the Scotland Act 1998;

(b) section 109A of the Government of Wales Act 2006;

(c) section 6A of the Northern Ireland Act 1998.

(2E) In making regulations under subsection (2), the Secretary of State must have regard to the importance of facilitating the access to the market within Great Britain of qualifying Northern Ireland goods."

8Q: Page 7, line 25, at end insert— "

(7) In this section—

"devolved administrations" means—

(a) the Scottish Ministers,

(b) the Welsh Ministers, and

2 United Kingdom Internal Market Bill

(c) a Northern Ireland department;

"qualifying Northern Ireland goods" has the same meaning as in section 43."

8R: Clause 17, page 12, line 40, at end insert—

"(2A) The power under subsection (2) may, for example, be exercised to give effect to an agreement that—

(a) forms part of a common framework agreement, and

(b) provides that certain cases, matters, requirements or provision should be excluded from the application of this Part.

(2B) A "common framework agreement" is a consensus between a Minister of the Crown and one or more devolved administrations as to how devolved or transferred matters previously governed by EU law are to be regulated after IP completion day.

(2C) References in this section to devolved or transferred matters include reference to corresponding matters in England.

(2D) When determining whether a matter is a devolved or transferred matter for the purposes of this section, the following provisions are to be ignored—

(a) section 30A of the Scotland Act 1998;

(b) section 109A of the Government of Wales Act 2006;

(c) section 6A of the Northern Ireland Act 1998."

8S: Page 12, line 45, at end insert—

"(7) In this section "devolved administrations" means—

(a) the Scottish Ministers,

(b) the Welsh Ministers, and

(c) a Northern Ireland department.".

8T: Clause 31, page 23, line 39, at end insert—

"(c) any interaction between the operation of those Parts and common framework agreements;

(d) the impact of common framework agreements on the operation and development of the internal market in the United Kingdom."

8U: Page 24, line 16, at end insert—

""common framework agreements" has the meaning given by section 10;".

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I turn now to government Amendments 8P through to 8U regarding common frameworks. During many weeks—it seems like it anyway—of thoughtful and robust scrutiny, it is the discussions of the common frameworks programme that have at times proven the most thorough and considered. I pay tribute to and thank colleagues on all sides of the House, on the Opposition Benches, and from all sections, for the positive and collaborative tone with which they have approached discussions on this matter. I pay particular tribute to the noble Lords, Lord Stevenson of Balmacara, Lord Fox and Lord Purvis, and to the noble Baroness, Lady Hayter, who have probably spent more time with me than they would have liked in the run-up to Christmas. I thank them for their engagement.

I also give particular thanks to the noble and learned Lord, Lord Hope of Craighead, who has worked so warmly and collaboratively with the Government, and in a wonderful spirit, to try to find common ground. His contributions to each debate, as always in this House, have been hugely constructive and I want to record my gratitude to him.

We have heard praise from every corner of your Lordships' House for the common frameworks programme and I put it on record again that I concur entirely with this praise, and reiterate once more this Government's commitment to the common frameworks. The Government have been clear that the market access principles will work in tandem with the common frameworks. We have been asked to provide as much clarity as possible, and to state our continuing commitment to the programme, and we have thought long and hard about this over recent weeks.

As I have previously said to your Lordships' House, it is key that we respect the flexibility of common frameworks, that we pay close attention to the interests of other parties involved in the common frameworks programme, and that we protect the voluntary and consensus-driven nature of the programme. These aspects are key to the effectiveness of these processes.

The Government have listened carefully and reflected on the points put forward many times by your Lordships' House on putting common frameworks in the Bill, and I am pleased to say that today we are able to act. Given the strength of feeling on this matter, we would like to demonstrate our commitment to the programme, first, as requested by many noble Lords, by placing common frameworks in the Bill. Secondly, we are clarifying a relationship that we see between agreements made under the common frameworks processes and the internal market principles established by this Bill.

Specifically, we want to put it beyond doubt that the delegated powers under Clauses 10 and 17 may be utilised to, among other things, make provision to reflect common framework agreements. This can be achieved by excluding specific divergence agreed through

the common frameworks process from the operation of the market access principles where all parties to the common framework are in agreement.

We believe that these amendments meet the objectives I have set out. They put beyond any doubt the Government's commitment to the programme while respecting the voluntary nature of the common frameworks programme. They also make it clear that divergence may occur where there is agreement under a common framework, and that such divergence could be excluded from the market access principles. Regulations to give effect to such an agreement can be made under Clauses 10 and 17. In those cases, the Secretary of State would be able to bring to the House a statutory instrument to exclude from the market access principles a specific agreed area of divergence. This would follow consensus being reached between the UK Government and all the relevant parties that this is appropriate in respect of any specific defined topic within a common framework.

It is worth being clear that the regulation of professional qualifications is very different from that of goods and services. Unlike Parts 1 and 2, there is no power for the Secretary of State to amend the exclusions in Part 3. Although the amendment cannot apply in the same way to this part of the Bill, as your Lordships will be aware, Part 3 contains provisions for an alternative system. This will allow relevant authorities to retain control over professional standards and access to their professions.

For Parts 1 and 2, previous amendments have provided for consent to be sought from the devolved Administrations. Thereafter MPs and Peers from all parts of the United Kingdom would be able to debate and, if appropriate, agree to the change. We do not currently expect that such cases will arise very frequently, but we want to be clear that appropriate means are in place to respect them when they do. In our view, this is an appropriate way to ensure that the market access principles in the Bill can act to ensure certainty and a seamlessly functioning internal market while respecting limited divergence agreed under the common frameworks programme.

There has, of course, been significant debate in both Houses regarding the relationship between the common frameworks programme and the market access principles in the Bill, and the impact one has on the other. It is nevertheless important that such examples can be identified and that these matters are reported on rigorously, independently and transparently. In line with other government amendments to enhance the overall transparency of the UKIM Bill and the role of the office for the internal market, Amendment 8T demonstrates our commitment to transparency and evidence building regarding the interaction between the market access principles and the common frameworks programme. Therefore, as part of the OIM's five-yearly review into the effectiveness of Parts 1 to 3 of the Bill in supporting a healthy internal market, the OIM will now also address how Parts 1 to 3 have affected the operation of agreements under common frameworks, including the effect that those agreements have had on the operation of the UK internal market.

We are confident that the amendments provide an appropriate way to ensure that the market access principles in the Bill can act to ensure certainty and a seamlessly functioning internal market. They do this while allowing for a degree of agreed divergence, reflecting different circumstances in particular parts of our United Kingdom. As noble Lords would expect, our partners in the devolved Administrations have been updated on this approach.

These amendments are the product of many weeks of robust and constructive debate. As I said, I thank all noble Lords from both the opposition Front Benches who have been involved in the debate. The amendments reflect the Government's steadfast commitment to the common frameworks programme, to enhancing the overall transparency of the Bill and to making clear the Secretary of State's power to exclude areas of divergence agreed under common frameworks. I beg to move.

7 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, a stranger to our Parliament would find this whole ping-pong process completely bizarre and almost impossible to follow. I have some sympathy, as this is my first time going right through ping-pong from beginning to end, even though I have been in the House for over 10 years. However, the Motion paper before us today, which I think has reached everybody, although superficially complex, tells the story rather well—over eight pages, it must be said.

In essence, we are where we are because we took the view that the internal market Bill as originally drafted was unbalanced between market access principles, which we felt might provoke a race to the bottom on standards, and the managed but limited divergence of standards which we thought would naturally flow from the wish of the devolved Administrations to reflect the views of those who elected them and the particular circumstances, as the Minister says, of their areas. We wanted to make sure that market access principles do not always trump the common frameworks process. We believe that that process has many benefits to offer in building coherence and a feeling of engagement with the UK internal market.

We made that position clear to the Ministers involved in this Bill in our first meeting. Motion A tells the story of the progress in recent weeks. As the Minister said, the meetings were often robust. That is not to be regretted because it is only through real engagement with some of the deeper issues raised by Bills that you can understand the positions of the two sides and make progress, where it is clear one has to compromise one way or another. There were, as the Minister said, many meetings and exchanges of drafts. It is fair to say that when Bills involve many departments—in this case, three separate departments—it is difficult to work across them and sometimes it is hard to manage meetings that necessarily involve 20 or even 30 advisers and others, who need to be involved in developing the thinking behind them.

To cut a reasonably long story short, the meeting that unblocked the situation took place last week, when the noble and learned Lord, Lord Hope, found the key by building a dialogue with Ministers on where and in what form the changes he wanted to see, which we supported, could be made, and in such a way that the issues raised by those responsible for the original drafting would not be sacrificed.

[Lord Stevenson of Balmacara]

I would like to thank the Ministers—in particular, Chloe Smith, Martin Callanan and Nick True—for sticking the course with us. It would have been easy for them to stamp their feet and say, "Get lost; we have a majority of 80 and we're going to see this through", but they did not. I think they sensed there was an issue that needed to be bottomed out for the good of the country as a whole, and I admire them for that.

A special mention needs to be made of the noble and learned Lord, Lord Hope. He is the last person who would want to be singled out for praise, but we would not be where we are today had he not spotted an issue he wanted to address early on, and used his skill and experience in drafting and interpreting the law to pick away at the issues and come up with a solution. He said in his last speech to your Lordships' House on this issue that it was a bit like unwrapping a Christmas present overenthusiastically wrapped with lots of paper that concealed a rather small present. I said to him that he should have extended the metaphor and said that good things come in small packages. He felt that that was not the way to go, but I will use it now, because it gets to the point of what I am saying.

What the noble and learned Lord has drafted and we and the Minister have accepted is a very small change to the Bill as originally drafted. But it is really important, because it restores the balance that we feared was lost without giving undue prominence or unbalancing the general principles underlying the Bill. It respects how we do things in this country, and the devolution settlement in particular. The noble and learned Lord, Lord Hope, should accept the plaudits offered to him for having the idea in the first place, seeing it through and finding the key that unlocked the differences between us. The differences were real and important, and we have resolved them. I am very grateful to the Minister for what he said today. It has been a good process, and I recommend accepting the measure; we hope it will work well in practice.

Lord Fox (LD): My Lords, I will not go through the same list of people to thank as the noble Lord, Lord Stevenson, and the Minister did. I just want to add my thanks and express my admiration for the dogged wisdom of the noble and learned Lord, Lord Hope, in getting us to this point.

Never knowingly unchurlish, I would say that this Bill is not the direction we would have chosen to go in—that is a fact—but, over the course of the past five weeks, I have become absolutely convinced that, thanks to the dialogue between all the parties involved, this Bill has been improved substantially. The illegality was taken out, of course, but the sensitivity toward the devolution settlements, which was not there to start with, has been gradually installed, piece by piece. To get there, we have talked of Welsh coal. We have talked of Scottish teachers. We have talked of drinking straws and Scotch whisky, and of many other examples.

In our thoughtful debate, we have heard from people—including Members on these Benches—who care passionately about the union and felt that things had to happen to this Bill. It is with great pleasure that I can say that many of those things have happened; we are in a much better place and, clearly, look forward to hearing what the devolved authorities have to say.

If I have one reservation, it is about the mechanics of how this market will work and how the office for the internal market will sit alongside the CMA going forward. Clearly, that story may well run but, as the Minister set out, the OIM will have a pivotal role in monitoring how this market runs and in informing the process. How that is configured, who is in it and what its process are will, in the end, be the measure of how successful, smooth and, frankly, unfettered this internal market ends up being.

With those words, I again thank the Minister and his colleagues, and give a special mention to the Bill team, which has also worked relentlessly on this. We look forward to sending the Bill away from this place unmolested by any further amendments.

Baroness Hayter of Kentish Town (Lab): I also welcome the Motion moved by the noble Lord, Lord Callanan.

We are delighted that the Government have responded to the repeated and really quite strongly supported urgings from this House to hardwire, if you like, the common frameworks process into the Bill. After all, as we have heard, the Bill was introduced to deal with powers returning from the EU—powers that are devolved but might need to be used in ways that would not interfere with the development of our own UK single market.

Indeed, it was for that reason that the common frameworks process was established in 2017. The Government are about to write into the Bill—in a few moments' time, when we will vote for it—that, in cases where a particular divergence in a market area is agreed under the common framework, such an agreement can be exempted from the market access principles. This recognises in law that uniformity is not always necessary in an internal market, allowing some divergence and differences to suit the particular circumstances of parts of our union.

Furthermore, as has been said, a review will take place to judge how that interplay between the framework and the market access principles is working in this new internal market. We hope that this review will show that a consensual approach to these issues works well with the wider aim of achieving a successful internal market. However, as the noble Lord, Lord Fox, said, it will also be interesting to see whether the review looks at how this works with the CMA and the OIM. We all have a lot to learn on this.

The Motion means that the frameworks are included in the Bill, which was lacking at the beginning. I thank Ministers for finding a route forward. I think they sometimes have to break more arms on their side than on ours—though they would know more about that than we do. We join them tonight in confirming the recognition of the devolved settlements and our wish to strengthen both devolution and the future of the union. We see those two aims as entirely compatible and I think they do too.

As we close this chapter of our adjustment to the post-Brexit situation, we also thank the Ministers for their other amendments, to ensure that the OIM appointments and most regulations are agreed with the devolved authorities. I think the Minister had a hand in the recognition of my particular pet project of

recognising the importance of the internal market working for computers—sorry, consumers; too much time on Zoom. I do thank him personally; I know he had more than a little hand in that.

I thank all concerned. The Bill team have worked wonders. All those who have voted have enabled us to push on this. I thank the magnificent Lords clerks who have worked against the clock and conflicting interests to get this done, our colleague Dan Harris, my noble and learned friend Lord Falconer and my noble friend Lord Stevenson, who has led us on the Bill so well. I also thank our very special Leader, who gets us all here, my noble friend Lady Smith of Basildon. For the moment, let us put this Bill to bed.

Lord Callanan (Con): There is a new "computers for consumers" skill that we also need to get passed in a future amendment. As the debate draws to a close, I am once again enormously grateful to those who have contributed to the discussion. These debates have been noteworthy for the breadth of ground covered and the depth of expertise on display. Everyone has acted in the finest traditions of your Lordships' House. I would like to put on record my thanks for the contributions of colleagues on all sides of the House.

Today's debate and amendments are the product of intense engagement, often to very tight timescales. I have already thanked colleagues who were involved in long team Zoom calls at different times, but the noble and learned Lord, Lord Hope, deserves all the praise that has rightly gone his way. I also add to the thanks from the noble Lord, Lord Fox, and the noble Baroness, Lady Hayter, to the Bill team. I thank the Bill manager, Shreena Kotecha, and Jayne McCann, Satchi Mahendran, Jefferson Yen, Dominic Entwistle, Katrina Gajewska, Bridget Micklem, Greg Dyke, Amy Smith, Dominic Bull and all their colleagues. I thank Martynas Zekas in my office, who has done such a fantastic job. They have all worked many long hours, late into the evening and at weekends, in difficult circumstances and often from home. They have all acted in the finest traditions of the Civil Service and we should put our thanks to them on the record. I also express my thanks to my ministerial colleagues—my noble friends Lord True, Lady Bloomfield, Lady Scott and Lady Penn. They have made invaluable contributions and helped to get this measure on the statute book. Thank you very much to all of them.

Throughout these debates, the enthusiasm for the common frameworks programme has been heartening. While discussions have been robust, as always, it is encouraging to hear unanimous support for the programme, which is a cornerstone of mutual co-operation between the Government and devolved Administrations. These amendments are the result of these discussions and underline the Government's commitment to the programme. They make clear in the Bill the relationship between common frameworks and market access principles. I hope noble Lords will agree to support the Motion. I say to the noble Lord, Lord Fox, that some amendments go back to bring common frameworks into the Bill. I hope noble Lords will agree that this represents a positive conclusion to the work of your Lordships' House on this Bill.

Motion A agreed.

Covid-19 Update

Statement

The following Statement was made in the House of Commons on Monday 14 December.

"With permission, Mr Speaker, I would like to make a Statement on coronavirus. We are nearing the end of such a tough year, where the British people have united and had to make so many sacrifices for the common good. I know the whole House and the whole country have been cheered by the progress we have seen in the last few weeks, which means we can now roll out the vaccine programme that will ultimately set us free.

I can tell the House that, today, the NHS has begun vaccinations through GPs in England and in care homes in Scotland. Day by day, we are giving hope to more people and making this country safer. It is life-saving work. However, it will take time for its benefits to be felt far and wide, so we must persevere, because the virus remains as dangerous as it has always been.

Average daily hospital admissions are up 13% and the latest figures show that average daily cases have risen by 14% in the last week. As before, the rise and spread are not even across the country. We are seeing a sharp rise in south Wales, in London and in parts of the east and south-east of England. This is a trend that we are also seeing in other parts of Europe, in countries such as Sweden, where nearly all the intensive care beds in Stockholm are currently in use; in Germany, where they had to announce tougher new restrictions over the weekend; and in the Netherlands, which today has announced further measures. Until we can vaccinate enough vulnerable people and ensure that they get the second dose so that they are protected, we must act to suppress this virus.

Our strategy throughout, as set out in the winter plan, has been to suppress the virus while protecting the economy, education and the NHS until the vaccine can make us safe. Today, I would like to update the House on the latest steps we are taking in this mission. First, I want to update the House on a new development in the virus itself. Over the past few days, thanks to our world-class genomic capability in the UK, we have identified a new variant of coronavirus, which may be associated with the faster spread in the south-east of England. Initial analysis suggests that this variant is growing faster than the existing variants. We have identified over 1,000 cases with this variant, predominantly in the south of England, although cases have been identified in nearly 60 different local authority areas and numbers are increasing rapidly. Similar variants have been identified in other countries over the past few months.

We have notified the World Health Organization about this new variant, and Public Health England is working hard to continue its expert analysis at Porton Down. I must stress this point: there is currently nothing to suggest that this variant is more likely to cause serious disease, and the latest clinical advice is that it is highly unlikely that the mutation would fail to respond to a vaccine, but it shows that we have to be vigilant and follow the rules, and that everyone needs to take personal responsibility not to spread this virus.

[Lord Callanan]

The first formal review of tiering decisions is taking place this Wednesday, two weeks after the new rules came into force. However, I need to tell the House that over the last week we have seen very sharp exponential rises in the virus across London, Kent, parts of Essex and Hertfordshire. We do not know the extent to which that is because of the new variant, but no matter its cause, we have to take swift and decisive action. Doing so is, unfortunately, absolutely essential to control this deadly disease while the vaccine is rolled out. In some parts of these areas the doubling time is around every seven days. This is no longer just about rising rates among school-age children, but about rising rates in all age groups, including the over-60s.

We know from painful experience that more cases lead to more hospitalisations and, sadly, the loss of more of our loved ones. Hospitals across the capital, Essex and Kent are already under pressure. We know that the doubling of cases will be mirrored in hospital admissions, and it only takes a few doublings for the NHS to be overwhelmed. Our NHS is straining every sinew to cope with the pressures, as it always does, but if cases continue to double, even it will be overwhelmed.

We must act now to shift the curve, because when the virus is growing exponentially, there is not a moment to spare. We are, therefore, acting ahead of the formal review date. I am very grateful to colleagues at Public Health England, NHS Test and Trace and the Joint Biosecurity Centre, whose surveillance of this virus means that we can act very rapidly when a problem arises. We have therefore decided to move Greater London, the south and west of Essex—that includes Basildon, Brentwood, Harlow, Epping Forest, Castle Point, Rochford, Maldon, Braintree and Chelmsford, along with Thurrock and Southend-on-Sea Borough Councils—and the south of Hertfordshire, which means Broxbourne, Hertsmere, Watford and the Three Rivers local authority, into tier 3, the very high alert level.

That means that people can only see friends and family whom they do not live with, or with whom they are not in a support bubble, in outdoor public places and, of course, in line with the rule of six. Hospitality settings must close except for takeaway and delivery, and people should avoid travelling outside their area and reduce the number of journeys they make wherever possible. I know that this is difficult news. I know that it will mean that plans are disrupted, and that for businesses affected it will be a significant blow. This action is absolutely essential, not just to keep people safe but because we have seen that early action can help to prevent more damaging and longer-lasting problems later.

These restrictions will come into force at midnight on Wednesday morning, because when the virus moves quickly we must move quickly too. We must take actions that are not necessarily easy but that are effective. We will continue to stand with those who are most impacted, through our furlough scheme and support for the self-employed. We have already begun to surge mobile testing into these parts of London, Essex and Kent, and we are extending community testing too.

In addition, I can tell the House that this weekend, as part of our expansion of community testing, we are extending it to 67 local authorities across England. Further, today we will be publishing a guide for colleagues to promote, support and champion local community testing and contact tracing. We will be using millions of newly invented tests to reduce the rate of infection in areas where infection is highest and to help them move down through the tiers and closer to normal life.

Thanks to the forces of science, help is on its way. While we know now that that day will come, this is not over yet. While we deploy the fruits of scientific endeavour to keep the country safe, we must do what it takes to protect our loved ones and our NHS now. I know that these steps are hard, but we must not waver as we enter the final stretch, so that when we look back on this time of crisis, we can all say that we played our part. I commend the Statement to the House."

7.15 pm

Baroness Thornton (Lab): My Lords, I thank the Minister for the debate today. A total of 34 million people will be living under tier 3 Covid rules from midnight tonight after London, parts of Essex and Hertfordshire were placed under the most severe level of restrictions. My first question for the Minister is: what have been the criteria for deciding these tiers, and will the Government commit to publishing the rationale for their decisions?

It was noticeable during the Statement yesterday that the Secretary of State spoke with firmness and confidence when he announced the new restrictions and why he was making them, and spoke about the worrying new strain of the virus. It was only when he was pressed on the effect of, and scientific story behind, the Christmas relaxation that he became less sure. One has to ask why that might be the case.

Talk of acting decisively and boldly seemed to go out of the window. In its place came fudge and obfuscation, dither and blather. Professor Chris Whitty, when commenting on the Christmas rules, said:

"This is, in a sense, a limited relaxation which will have some impact on the upward pressure on the coronavirus."

Well, yes. The Government's answer seems to be to fall back on the idea that this is all about "personal responsibility"—about the public taking a minimalist interpretation of the rules, not a maximalist one. The Health Secretary eventually gave a vague bit of concrete advice on Christmas, coming close to saying that we should self-isolate for a few days before meeting grandparents.

"The best thing you can do if you want to see elderly relatives at Christmas is to be extremely careful now about who you see"

was how he put it.

I therefore have to ask the Minister whether the Christmas relaxation is being reconsidered. What is the Secretary of State's plan to keep people safe through Christmas and avoid huge pressures on the NHS in January? What is his plan to support an exhausted, underfunded and understaffed NHS through January to deliver the care that patients will need? Is he confident that our NHS will not be so overwhelmed in January that it impacts on the vaccination programme? Will the

Government publish an impact assessment on their decision to allow a temporary relaxation that will allow three households to mix over the festive period?

This is a virus that, without adequate restrictions in place, spreads with ferocity. Case rates are increasing again, hospital admissions are climbing and the R is edging up. Last week, the England-wide rate was 159 per 100,000; now it is 188 per 100,000. That is a 20% increase. Across London, cases have increased by 30% and across the east of England by 36%. None of us is therefore surprised at the action that the Secretary of State took yesterday. Indeed, he was warned that tier 2 would not be enough to contain the spread of the virus in many places. It looks as though in some areas, such as Kent, tier 3 is not enough to contain the spread there.

Elsewhere in the country, tier 3 appears to be forcing the virus to flatline. Indeed, in the north-west it is trending down. However, overall, cases in the increasing areas are rising faster than those in the decreasing areas are falling. As things stand, we are heading into the Christmas easing with diminishing headroom. As my honourable friend Jon Ashworth said yesterday:

"The buffer zone that the tiers were supposed to provide is getting much thinner."—[*Official Report*, Commons, 14/12/20; col. 25.]

London, like other parts of the country, will now suffer dreadfully from these further restrictions, which we support, but we think there are some serious problems. Businesses and livelihoods will suffer and there will be a cost to mental health and our NHS. The Minister has often praised Liverpool, but is not the biggest lesson to draw from Liverpool that people still struggle to isolate if they do not have the financial means to do so? The eligibility criteria for the £500 payment are still too tightly drawn: people need decent sick pay, people in some circumstances need alternative accommodation and people need help with their shopping and medicines. Surely, some of the £22 billion spent on test and trace could be reallocated to offer people adequate isolation support—as has happened elsewhere in Europe and the world?

Why is there still not a plan to make lockdown easy for people to do? Will the Government address the wide gaps that exist in economic support for the self-employed, for example? The IFS has noted that many would

"fall through the gaps completely"

and estimated that nearly two in five people with some self-employed income were excluded from the Government's support schemes—this is not adequate.

I turn to the vaccine. Can the Minister update us on how many people have received the vaccine? Can he set out exactly when unpaid carers will be given the vaccine, given that they spend their time caring for extremely vulnerable people and could pass on the virus? I echo what my honourable friend Jon Ashworth said in the other place yesterday, when he asked whether priority could be given to those who are terminally ill to get the vaccine as soon as possible.

Can the Minister also explain what guidance is being put in place for autistic people, for example, in in-patient settings to go home for Christmas? Autism charities have warned that autistic people in residential care will have to isolate for 14 days when they come back from visiting their families—that is not fair on those who need routine and support. The Government must make their guidance autism-friendly.

The PHE report last month found that people with learning disabilities had a death rate 4.1 times higher than the general population, and this could be 6.3 times higher—what steps are being taken to protect them as infections rise? In November, the Minister in the other place said she was asking SAGE to review this report and make further recommendations; what is the outcome of that?

Baroness Jolly (LD) [V]: I support the points made by the noble Baroness, Lady Thornton, on lockdown; she and I have repeated them regularly in these debates, and yet there is no change. My points will be around vaccines, acute hospitals and their staffing, and Christmas. I thank the Minister for repeating the Statement and join him in welcoming the news about vaccines. Anyone in need of a real feelgood story should watch last night's "Panorama" programme about the development of the Oxford team's AstraZeneca vaccine.

How confident is the Minister of 100% vaccine coverage, for those that are entitled, by Easter 2021? This is a lot of people, and we are not certain of all vaccines being available by that time. Could he explain to the House what determines who receives the AstraZeneca vaccine and who the Pfizer—or indeed any other vaccine that may come along? Is he confident that the new vaccines will be effective against the new variant that is emerging?

Can the Minister give us a statement about acute hospitals in tier 3 areas? At the moment, it looks as though the rise in cases in the London area and the south-east is almost matched by the rise in hospital admissions—they are just a percentage point apart. Are the Government confident in London's hospital capacity? We know that, in some areas, there are Nightingale hospitals; is the NHS intending to bring them into use if necessary? Are there the clinical and other staff to run them?

For many of us, an in-person Christmas may not be possible. We need to look at the impacts that Thanksgiving had on the US Covid-19 figures and assess our risk. Many of my contemporaries have decided not to travel to celebrate with friends and family, and our children have told us that this is what we are going to do as well, so it looks as if many will be resorting to whatever is their favourite conferencing software to catch up with family.

Finally, will the Minister outline the Government's communication strategy for Christmas? Clear messaging is imperative but many of the public who have been interviewed are unclear. Will ads be used in newspapers, broadcasts and online social media? Christmas is 10 days away, and people would appreciate a clear steer from the Government. This needs urgent and professional communications attention.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, I am extremely grateful for the clear and thoughtful questioning from the noble Baronesses, Lady Thornton and Lady Jolly. Both of them are right: we are seeing a

[LORD BETHELL]
sharp rise in south Wales, London and parts of the east and south-east of England, which is making us rethink some of our approach to Christmas. We have seen a sharp rise in the virus across London, Kent, parts of Essex and Hertfordshire, and reports of a new variant. We saw the evidence of this starting in the 15 to 19 year-old age group and we have taken swift and decisive action but, unfortunately, more may be necessary. We know that this rise will be mirrored in hospital admissions, and it takes only a few doubling times to put pressure on the NHS. The noble Baroness, Lady Jolly, is absolutely right to question whether we have the resources in place to see such doubling take place over time. This is a trend we are seeing all over Europe, in countries such as Sweden, where nearly all the intensive care in Stockholm is currently in use, and even in Germany, where tougher new restrictions were announced over the weekend.

It is entirely natural that we look very closely at the Christmas relaxation, but I am not in a position to share any update on that this evening. The noble Baroness, Lady Thornton, asked: what is the Secretary of State's plan to keep us safe? We have plans, and I will be glad to share them with noble Lords. However, may I just say a word about personal responsibility? The noble Baroness, Lady Thornton, put it well: it is up to each and every one of us to decide whether we will take a minimalist or maximalist interpretation of the rules. At the end of the day, it is a personal decision on what kind of risk approach one will take to Christmas. The SAGE advice has been published and it is clear. It does not make very comfortable reading for those of us with elderly relations who have been looking forward to seeing us, but it clearly states that we should be looking to spend time at Christmas with as few people as possible for as short a time as possible and, wherever possible, outside instead of inside. I am afraid to say that that will be what a responsible Christmas looks like for everyone. It is not something that the Secretary of State can ordain; it is, unfortunately, what the spread of the virus requires.

I acknowledge—the noble Baroness, Lady Thornton alluded to this—that the tier 3 regimes, particularly in the north of England, have had a profound impact. The behaviours of people in the tier 3 areas have been considerably amended, and that has seen a sharp reduction in the infection rates in those areas. It demonstrates that restraint works, and I take a moment to applaud all those who have played a role in that achievement.

On the vaccine, I will be very happy to provide an update on the special cases that the noble Baronesses alluded to. Both the case for unpaid carers and the case for the terminally ill are powerful, and we are listening carefully to them as they are made. However, the JCVI has put in its priority decision and that is what we are working to at the moment. Any further complications or refinements to that create profound operational challenges, but we are listening very sensitively to the case being made for the special cases.

I share the tribute of the noble Baroness, Lady Jolly, to the AstraZeneca team. The "Panorama" programme last night was a tonic for the soul during these difficult times, and I would recommend it to everyone.

As to the new variant to which the noble Baroness, Lady Jolly, alluded, the preliminary scientific judgment is that it does not at the moment show any evidence that it will escape either the vaccine or any other therapeutics that are targeted at Covid. That is always the natural concern in these circumstances; we are studying it very carefully indeed and will, of course, update the House if any changes do emerge. However, the new variant, which has been correlated with higher levels of transmissibility in Kent, does remind us that the threat of Covid is undiminished and we must remain committed to the restrictions in place to contain this horrible virus.

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, we now come to the 30 minutes allocated for Back-Bench questions.

7.31 pm

Lord Patel (CB) [V]: My Lords, we know that all viruses evolve and, while we do not yet know whether the genomic variant identified is more infectious, we do know that the transmission rate of the virus is rising exponentially. By the way, the Minister just said that the new variant correlates with increases in infection; the word "correlates" suggests cause and effect that has not yet been proven. Can the Minister tell us what scientific matrix the Government will use over the next week to make the political decision on whether to ease or otherwise the current restrictions, going forward to Christmas and beyond?

Lord Bethell (Con) [V]: My Lords, I am extremely grateful to the noble Lord, Lord Patel, for his description of affairs, which, as ever, is as thoughtful as we would hope. However, I clarify and disagree with him in that correlation and causation are not the same things. I chose my words extremely carefully: there is a correlation with higher transmissibility, but there is no evidence that this is caused by the variant; I want to be crystal clear about that. I pay tribute to colleagues at the Sanger and at COG, the genomics collective that is doing the work on tracking down the science of the new variant. Their insight is profound and they will be playing into the decisions about whether any judgment on the variant should play a role in the decisions about any future restrictions.

Lord Hayward (Con): My Lords, does my noble friend the Minister accept what I deem to be the position in relation to the younger generation: that they are suffering from lockdown fatigue and are not responding to government messages? I suggest that, rather than having government Ministers and some scientists conveying the message of the importance of acting responsibly, they consider along with Jonathan Van-Tam somebody like Marcus Rashford, Rio Ferdinand or Harry Kane to convey the message that we are failing to get across? In association with that and the comments that have been made elsewhere, can the Minister tell us whether he has any information, in light of the FDA's announcement, as to whether the Moderna vaccine will be recognised in this country in the near future?

Lord Bethell (Con) [V]: My Lords, I feel the point that my noble friend makes extremely personally. I am currently isolating with a 14 year-old; like many

14 year-olds, he and his friends never demonstrate any symptoms of Covid whatever and yet it would seem that they are carriers and vectors of the infection. The recent explosion in transmission in London and the south-east was led and probably caused by the 14 to 18-year-old age group, even though almost all of them are completely asymptomatic. We have worked with celebrities and opinion leaders in the youth groups to try to get this message across, but I point my noble friend to the announcement today of a very large increase in the use of asymptomatic testing in schools in the new year, as an indication of our commitment to ensuring that transmission among asymptomatic young people is contained.

Lord Winston (Lab) [V]: I thank the noble Lord for repeating the Statement. I concur with what the noble Baroness, Lady Thornton, said from the Front Bench. We know from the history of plagues that they occur through travel. This happened in the 1340s and again in the 1660s with the plague of London. Now we are seeing people travelling to London, which is a massive hub of travel; they come to the airport, they do not leave a phone number or address—they are not required to do so—and tests at the airport are voluntary. Many people go missing and are not followed up by a proper track. When they get tested, they pay for it, so it is entirely voluntary. Does the noble Lord feel that these arrangements are sufficient, given that so many people travel to London and that there is a risk of this plague continuing just as they have done historically?

Lord Bethell (Con) [V]: I am grateful for the noble Lord's insight. He is right that travel is the friend of the virus. Many of the growths in transmission have been associated with it; one thinks of the ski resort holidays at the beginning, the spring break migrations in America and other examples. I reassure him that, while he is right to question the arrangements around our airports and transport hubs, we have brought in a much more strenuous test to release programme which is much more realistic than the previous isolation programme. The procedures around the passenger location ports have been tightened up and the enforcement and tracking arrangements for passengers have been supplemented. There is now a very strong body of evidence to suggest that passengers are abiding by the testing programme. As he may know, private tests were launched yesterday, and their uptake has been incredibly impressive.

Baroness Hollins (CB) [V]: My Lords, 200,000 people are on their GP's learning disability register and get the flu jab on the same terms as over-65s, but only one in 10 of this group has been prioritised for vaccination. My research 25 years ago found that these people were 58 times more likely to die before the age of 50 in ordinary times, and PHE research found a death rate 30 times higher for 18 to 34 year-olds with learning disabilities than for others of the same age during the first wave. To require them to wait until their chronological age group is eligible seems discriminatory. Will the Minister commit to look at this again?

Lord Bethell (Con) [V]: I completely acknowledge the correlation between mortality and learning difficulties that the noble Baroness alludes to. PHE has looked at this in respect of Covid very closely. That evidence played into the JCVI prioritisation process; it landed on age as the main determinant for that process but continues to review this based on evidence. The noble Baroness makes a good case, but I reassure her that the JCVI has looked at all this evidence very closely.

Lord Robathan (Con): My Lords, during all these restrictions and over the lockdown we had for one month, which ended on 2 December, we have been told that the Government are following the science—the "unstoppable force of science", to quote the Secretary of State in yesterday's Statement. However, in late September SAGE recommended circuit breakers of two to three weeks, which Wales imposed for 17 days until 9 November; it now has coronavirus rates that are nearly three times those of England. What confidence does the Minister have in the scientific advice he is given?

Lord Bethell (Con) [V]: My Lords, the restrictions in England have never been based on a two-week circuit breaker. It was not a policy that the DHSC supported.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): The noble Baroness, Lady Blower, has withdrawn, so I call the noble and gallant Lord, Lord Craig of Radley.

Lord Craig of Radley (CB) [V]: My Lords, the Statement refers to a new variant of the virus. Is this the only variant, or are others being found overseas? Porton Down is working to discover whether the current vaccines will remain effective. When does it hope to report? I declare an interest: I was vaccinated in the Fakenham medical centre in Norfolk this morning—a very efficient and reassuring experience—which had 365 planned for today.

Lord Bethell (Con) [V]: I massively congratulate the noble and gallant Lord on his vaccination this morning. I am extremely proud of that moment and glad that he has taken a step towards safety. It is a fantastic piece of news, which we should all celebrate.

On the noble and gallant Lord's question on the variant, there are dozens—possibly hundreds—of variants, some of which are minimal and insignificant. The one that has been thrown up in Kent is being singled out only because it correlates with an increase in transmissions in Kent. It is not certain whether this is because of the variant or because of behaviours in Kent, but naturally we are worried about it. I am not a biologist, but I am assured by the biologists that the new variant does not seem to show any attributes that would mean that it could escape the vaccine. Naturally, we are looking at it very closely and hope to have an answer to his question shortly.

Lord Randall of Uxbridge (Con) [V]: My Lords, the Government are between a rock and a hard place with regard to the Christmas arrangements. If it is decided that circumstances now dictate a change, does my noble friend agree that it is imperative that the public are given as much notice as possible of any changes?

Lord Bethell (Con) [V]: My Lords, we always seek to give the public as much notice as possible. But I accept that one of the most frustrating aspects of this pandemic has been that the virus does not behave as predicted, and that the response to restrictions and policies by the public has not always turned out exactly as we planned. It is therefore sometimes true that our policies need to change at short notice. This is incredibly challenging for the public—I do not duck that point in any way—and I am extremely grateful to the public for their forbearance under the circumstances.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, I can fully understand the necessity for additional measures announced by the Health Secretary in another place yesterday in light of the statistics. It is not just Covid deaths likely to increase but, of course, the deaths from diagnostics not being carried out on potential cancer and stroke patients—not to mention the pain and misery being inflicted on patients who have to postpone elective life-altering surgery. Is there not now a powerful case for the Government to consider reversing the superspreader travel festivities bonanza during the five days of Christmas which, as night follows day, will inevitably lead to more infections, hospital admissions and deaths, as has happened in America following Thanksgiving?

Finally, having heard the Minister's considered responses this evening, am I right to feel a little more optimistic?

Lord Bethell (Con) [V]: My Lords, the noble Lord, Lord Mackenzie, makes a powerful case. There is undoubtedly a dilemma about what we should do in the approach to Christmas. The country does deserve a break, because it has done so much this year to contain the virus, and yet the consequences of too much social mingling are harsh, as he rightly describes. I reassure him that we have done a huge amount to restart elective surgery and other diagnostics and to get the NHS working as hard as we possibly can. It is our objective to ensure that the non-Covid death rate is not affected by the Covid response.

Lord Campbell-Savours (Lab) [V]: My Lords, can I return to the issue of masks, which I have been pushing since February? With London in lockdown, a new variant and the prospect of an explosion in transmission in the new year, why not, in this rapidly developing crisis, adopt a vigorous belt-and-braces approach, follow worldwide mandatory practice and require mask wearing in all public places outside the home? Why not ban the use of valved masks, apart from in clinical settings? They protect only the wearer. Now is the time for really tough decisions; there is a big crisis that confronts us.

Lord Bethell (Con) [V]: My Lords, I pay tribute to the campaign and advocacy by the noble Lord, Lord Campbell-Savours, on masks. He has moved the needle on this subject. I would argue, perhaps, that there is a huge amount of mask-wearing, particularly in public places; certainly in shops, on transport and even in the House of Lords, mask-wearing has become mandatory. So, he has already come a long way. We continue to review additional options in this area. His point on valve masks is extremely well made and is one that I have made to the relevant officials.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I declare that I chair the National Mental Capacity Forum. I ask the Minister to express thanks to staff in his department as they continue to work with us and the Ministry of Justice to run a rapid-response webinar on Friday, requested from primary care leads yesterday, following their pilot, to support primary care as vaccination is rolled out to care homes, where many residents have seriously impaired capacity. We aim to disseminate the latest guidance and ensure appropriate information to support understanding for consent to vaccination, including easy-read and pictorial versions of information.

Lord Bethell (Con) [V]: I am enormously grateful for the work that the noble Baroness, Lady Finlay, and the National Mental Capacity Forum have done during the pandemic. The issue of mental capacity and consent has been addressed in official guidance that the NHS and others have issued to medical professionals who will administer the Covid vaccine in care homes. I understand that officials at the DHSE and the MoJ are supporting the forum with the webinar planned for this Friday, and I am absolutely delighted to reaffirm the Government's support for the forum's work on these important areas.

Baroness Verma (Con): Will my noble friend do a communications strategy or campaign to debunk the idea that the vaccines have animal content? There are messages going around on social media that would stop people from minority communities, in particular, from having the vaccine if it did have animal content.

Lord Bethell (Con) [V]: I thank my noble friend for providing this opportunity to scotch that unhelpful rumour. I confirm that there are absolutely no animal components in the vaccine. That point has been endorsed by the British Islamic Medical Association, members of which issued a fatwa earlier this year confirming that the vaccine was halal. My noble friend is right that there are stories on social media that are extremely distracting. We engage with sympathy with those who are concerned about the vaccine, but these stories are completely wrong, and I would like to put them to bed.

Lord Hunt of Kings Heath (Lab) [V]: May I continue on the theme of vaccines? Has the Minister seen the very recent survey by King's College and Ipsos MORI, which found that 46% of all 16 to 34 year-olds say that they have seen or heard messages discouraging the public from getting the vaccine? Alarmingly, 27% of them believe that the real purpose of a mass vaccine programme against coronavirus is to track and control the population. Social media is playing such an important role in vaccine disinformation. Is the Minister really satisfied that all is being done to combat it?

Lord Bethell (Con) [V]: My Lords, the noble Lord, Lord Hunt, is right to be concerned. Some of the data we have on public attitudes is of extreme concern and the statistics he has referred to show exactly why we have focused on this area as much as we have. We have worked extremely closely with social media platforms to try to minimise the availability of this material, and

we have a large communications programme to engage with those concerned about taking the vaccine. I reassure him that our experience to date has been that when those who are considering taking the vaccine reach the moment of decision, their confidence increases, and I am hopeful that that will continue.

Baroness Stuart of Edgbaston (Non-Afl): My Lords, in the Statement made in the other place, reference was made to notification to the World Health Organization about the new variant. The Statement went on to say:

"Public Health England is working hard to continue its expert analysis at Porton Down."—[*Official Report,* Commons, 14/12/20; col. 23.]

I invite the Minister to make it absolutely clear that the work done at Porton Down is on behalf of the whole United Kingdom, not only Public Health England, and that any of the vaccinations which have been procured are procured on behalf of the whole United Kingdom. He may also want to say how the vaccines are to be distributed.

Lord Bethell (Con) [V]: The noble Baroness is entirely right. The vaccine is a great success story for the union and for the United Kingdom. We have had a four-nation approach and the distribution of the vaccine shows the union at its best. She is right to say that the work done at Porton Down is on behalf of all the nations of the United Kingdom and that the communication to the WHO was on behalf of the whole country. That communication demonstrates that our approach to the vaccine is to put transparency first and that we have moved extremely quickly to share this insight with our colleagues overseas.

Viscount Waverley (CB) [V]: My Lords, I am reliably informed that only two of the 14 passengers in a carriage on the 5.48 am Southeastern train from Gravesend to the London terminus this morning were wearing masks, so clearly the message is not getting through. Adding to the words that the Minister offered to the remarks of the noble Lord, Lord Winston, on the challenges that have appeared this morning of the long-awaited test release scheme, I ask: why not resolve this in part by passengers obtaining a test evidencing a negative result within 72 hours of travel into the UK? Further, if they have received a vaccination abroad or a negative test result abroad, will official confirmation from an appropriate authority from abroad be acceptable to the United Kingdom?

Lord Bethell (Con) [V]: If I have heard the question correctly, that is exactly how the test release scheme works. Travellers are invited to sign the appropriate forms and after some days they can be released from isolation early by taking tests. That scheme has been signed off by the Chief Medical Officer and data from the test is transmitted to Public Health England. We currently have a UK-only testing regime and we do not take tests from overseas, but we are keeping the scheme under review.

Lord Balfe (Con): My Lords, it appears that it is among younger people where the spread is now concentrated. What is the severity of the infection? It has been put to me that it is not that severe and that, indeed, many younger people are saying that they have to learn to live with it. I do not think that things are helped by the harsh rhetoric of "4,000 deaths a day" and so on. It just goes over people's heads. They are saying, "This is not believable. They are going on about it, but it doesn't matter." Instead of using punitive terms, could the Minister go for more of a nudge theory, as put forward by David Cameron, and try to persuade people that it is in the interests of everyone to do certain things, rather than terrify them all the time—because that is not working?

Lord Bethell (Con) [V]: My noble friend Lord Balfe is entirely right to say that the symptoms in young people are zero in many cases. There are issues of both saliency and believability among many young people who think that this is a disease that simply does not touch their lives. It is understandable that they may think it implausible that they could be carrying the disease. However, the statistics are crystal clear. When looking at the heat maps, you can see easily how infections grow among the young and then graduate through the demographics until they hit older people, and then hospital admissions rise. I am extremely sympathetic to young people and why they find this idea a challenge to believe in, but we have to hit home with this message—otherwise, we will not be able to contain the disease.

Baroness Bennett of Manor Castle (GP): My Lords, my question follows that asked earlier by the noble Lord, Lord Young of Cookham, to the noble Baroness, Lady Stedman-Scott. It referred to how some local authorities have run out of funds to give the £500 payment for people to self-isolate, when they would not otherwise be able to financially. In response, the noble Baroness said that there is only a fixed envelope of money, suggesting that no more would be provided to those local authorities. As Health Minister, would the noble Lord agree with me that, whatever tier people are living in, they have to be able to self-isolate and feed themselves, pay their rent, et cetera? Do people not need that £500 in every part of the country, without there being a postcode lottery?

Lord Bethell (Con) [V]: My Lords, the noble Baroness is entirely right: the whole purpose of the isolation payments and the idea behind them is the recognition that people who are being asked to self-isolate, particularly if they come from a low-income household, to which the isolation payment is targeted, need financial support to fulfil their civic obligations. That is why we put the scheme in place. It is true that it has been tremendously successful in some areas. We continue to review whether that fund needs to be topped up.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): The noble Lord, Lord Rooker, and the noble Baroness, Lady Fox of Buckley, have withdrawn, so I call the noble Lord, Lord Singh of Wimbledon.

Lord Singh of Wimbledon (CB) [V]: My Lords, the Statement rightly emphasises the need for swift and decisive action to control the deadly virus, which is increasingly affecting schoolchildren. Yet, when a few

[Lord Singh of Wimbledon]
schools in London planned to close a few days before the end of term but to continue with internet classes, they were threatened with legal action. Does the Minister agree that, while children's education is important, their health and that of their parents and grandparents should also be considered before rushing to legal threats?

Lord Bethell (Con) [V]: The noble Lord makes his point well, but I respectfully disagree. One of the great challenges from closing schools is that young people then socialise and spread the disease much further and wider than they would if they stayed at school. This has been demonstrated time and again around the world. Also, to keep our hospitals open and our businesses and education systems going, and to stop deprivation from accelerating, it is desperately important to keep schools open. That is why, today, we announced the rollout of a much greater and enhanced asymptomatic testing regime for schools, in the new year, which will see bubble and teacher testing, so that schools can remain open.

Baroness Uddin (Non-Afl) [V]: My Lords, in the light of the *British Medical Journal*'s formal joint letter with the *Health Service Journal*, I hope that the Minister will reconsider the Christmas relaxation of the rules. The point I wish to make really echoes those of my noble friends Lady Verma and Lord Hunt. It is about the scepticism around medicine within some sections of the communities—in particular within Bangladeshi communities, where disproportionate numbers of deaths and infections have occurred. In the light of many noble Lords raising questions about communication issues, will the Minister urgently meet me and some of the local specialist media to consider reviewing the messaging that targets some of these communities?

Lord Bethell (Con) [V]: I completely accept the point made by the noble Baroness. It is incredibly frustrating that the exact communities which have often seen some of the highest mortality rates are also those which are sceptical about the vaccine. This is one of our biggest challenges; it has been for months and will continue to be so. I pay tribute to colleagues at the Department of Health and the Cabinet Office who have done a huge amount in working with specialist media—radio, magazines and online forums—to target exactly these communities. They have used advertising and direct engagement with the presenters to put the message across, often in local languages, and this has proved increasingly effective.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): My Lords, all speakers have been called.

Taxation (Post-transition Period) Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

House adjourned at 8 pm.