

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NUCLEAR SAFEGUARDS BILL

Fourth Sitting

Thursday 2 November 2017

(Afternoon)

CONTENTS

CLAUSE 1 agreed to.

Adjourned till Tuesday 14 November at twenty-five minutes past Nine o'clock.

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

not later than

Monday 6 November 2017

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The Committee consisted of the following Members:

Chairs: JAMES GRAY, † STEVE McCABE

† Blomfield, Paul (*Sheffield Central*) (Lab)

† Bradley, Ben (*Mansfield*) (Con)

† Carden, Dan (*Liverpool, Walton*) (Lab)

† Debonnaire, Thangam (*Bristol West*) (Lab)

† Gibson, Patricia (*North Ayrshire and Arran*) (SNP)

Gill, Preet Kaur (*Birmingham, Edgbaston*) (Lab/
Co-op)

† Harrington, Richard (*Parliamentary Under-Secretary
of State for Business, Energy and Industrial Strategy*)

† Harris, Rebecca (*Castle Point*) (Con)

† Harrison, Trudy (*Copeland*) (Con)

Hendry, Drew (*Inverness, Nairn, Badenoch
and Strathspey*) (SNP)

† Lewer, Andrew (*Northampton South*) (Con)

† Maclean, Rachel (*Redditch*) (Con)

† Norris, Alex (*Nottingham North*) (Lab/Co-op)

† Robinson, Mary (*Cheadle*) (Con)

† Smith, Eleanor (*Wolverhampton South West*) (Lab)

† Sunak, Rishi (*Richmond (Yorks)*) (Con)

† Syms, Sir Robert (*Poole*) (Con)

† Whitehead, Dr Alan (*Southampton, Test*) (Lab)

† Wragg, Mr William (*Hazel Grove*) (Con)

Kenneth Fox, Rob Cope, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Thursday 2 November 2017

(Afternoon)

[STEVE McCABE *in the Chair*]

Nuclear Safeguards Bill

2 pm

The Chair: Before we resume, I should explain that I asked the Clerk for some further advice during the break. We were in a slightly unusual set of circumstances before lunch because I was anxious that you got an opportunity to break for lunch but I was also very conscious that Dr Whitehead was part-way through his remarks. He had spoken about the new clause but had not referred properly to the amendments. As I explained before lunch, normally, when a Member sits down, they would not be able to resume. However, I have had some further advice. There are no objections from the Minister. I think it is important in this Committee that people get a chance to hear what is being debated and what is the substance of the issue. With that in mind, I invite Dr Whitehead to make some concluding remarks that he was not able to make just before one o'clock.

Clause 1

NUCLEAR SAFEGUARDS

Amendment moved (this day): 1, in clause 1, page 2, line 14, at end insert—

“(3A) No regulations may be made under this section unless the Secretary of State has laid before both Houses of Parliament a statement certifying that, in his or her opinion, it is no longer possible to retain membership of EURATOM or establish an association with EURATOM that permits the operation of nuclear safeguarding activity through its administrative arrangements.”—(*Dr Whitehead.*)

This amendment would require the Secretary of State to certify, before making any regulations to provide for nuclear safeguarding regulations, that it was not possible to remain a member of EURATOM or have an association with it.

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

Amendment 3, in clause 1, page 3, line 3, at end insert—

“(11) Regulations may not be made under this section unless the Secretary of State has laid before both Houses of Parliament a report detailing his strategy for seeking associate membership of EURATOM or setting out his reasons for choosing to make nuclear safeguards regulations under this Act rather than seeking associate membership of EURATOM.”

This amendment would prevent the Secretary of State from using the powers under Clause 1 to set out a nuclear safeguards regime through regulations until a report has been laid before each House setting out a strategy for seeking associate membership of EURATOM or explaining why we cannot seek associate membership of EURATOM.

Amendment 8, in clause 4, page 5, line 6, at end add—

“(5) No regulations may be made under this section until—

- (a) the Government has laid before Parliament a strategy for maintaining those protections, safeguards, programmes for participation in nuclear research and development, and trading or other arrangements

which will lapse as a result of the UK's withdrawal from membership of and participation in EURATOM, and

- (b) the strategy has been considered by both Houses of Parliament.”

This amendment would require the Secretary of State to lay a report before Parliament on the protection and trading arrangements that arise from membership of EURATOM, and his strategy for maintaining them prior to making regulations concerning nuclear safeguarding.

New clause 1— *Purpose*—

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

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

Dr Alan Whitehead (Southampton, Test) (Lab): Thank you very much, Mr McCabe. I am obliged to you for your kind thoughts in that respect. I guess it is a good thing, as it transpires, that I did not tear up my notes at lunchtime after all.

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): You do not need notes.

Dr Whitehead: We will see.

I want to draw briefish attention to the three amendments that are in this group, in addition to new clause 1, which I have already spoken about and which would be a purpose clause at the front of the Bill. The three amendments effectively follow on from that purpose clause. Amendment 1 would require the Secretary of State, before regulations are made under clause 1—what is done under secondary legislation after we pass the Bill through the House—to produce a statement certifying that, in his opinion, it is no longer possible either to retain membership of Euratom or to establish an association with Euratom that permits the operation of nuclear safeguarding activity in the way that I described in my remarks on the purpose clause.

The amendment is important because we are in such uncharted waters as far as the demise of our arrangements with Euratom and what we will put in to replace them are concerned. Assuming the Bill comes to pass as a contingency, it is important that we know between us what has been done in respect of possible continued Euratom membership, and what has been done in respect of possible association with Euratom. Even after those things have been done, it will perhaps turn out that no progress has been possible on those particular areas. The Secretary of State should report to the House that that is the case—that the time for negotiations and discussions is over, that there is no prospect of going down that route and that therefore this Bill, as a contingency, comes into operation.

Were it to be passed today, the amendment would mark an important juncture in the Bill coming into play. Essentially, it would draw the line and, publicly by reference to Parliament through a report from the Secretary

of State, show that matters have been explored and avenues gone down but those avenues have now closed to us. That may be just because the time for making those arrangements has run out, or it may be because it is difficult to secure associated status with Euratom similar to that of Ukraine or to that envisaged by the Spaak report in 1956.

If the amendment is passed, such a certification would be put before the House so it can see that efforts have been made, what the situation is and what we can expect, as far as the legislation is concerned. That should be in the Bill because, as everyone agrees, this is contingent legislation. It is contingent on certain actions. The legislation will either be placed aside or work fully as an alternative to the Euratom safeguarding regime.

Amendment 3 follows on from that. It requires the Secretary of State, before that process, to place before Parliament his or her strategy for seeking associate membership or another form of association with Euratom. That is important. There is a number of possible routes by which an association with Euratom could be achieved. Clearly, as we said this morning, the ideal route is to seek full membership of Euratom after the UK leaves the EU. As the Minister said previously, and I am sure will say today, there is a considerable difference of opinion about whether a full membership arrangement is possible or whether our notification to leave the EU has already closed that door. A strategy for seeking associate membership—or, indeed, full membership—would securely lay that argument to rest one way or the other. If the advice the Government receive suggests that certain doors are closed, I anticipate that the strategy would reflect that and the kind of associate status the country might expect to undertake. The Government would report on what strategy would be used to achieve that and whether that kind of status would be sufficient to cover the question of nuclear safeguards. In Switzerland, that appears not to be the case, but in Ukraine it appears possible.

I am sure that the Minister agrees that any such associated status would have to be stitched carefully to reflect the particular circumstances of the relationship between the UK and Euratom. It would probably not be taken off a shelf. That is an additional reason for some kind of report—outlining the strategy, the possible arrangements, and the kind of outcome envisaged were the strategy to succeed—being laid before Parliament. That is what we seek to achieve with the amendment. It is not in any way intended to delay or alter how the Bill works; it is simply to achieve greater clarity about what we are doing, given the contingent nature of the Bill.

Amendment 8 concerns the fact that today we are only discussing one of Euratom's many functions in relation to UK nuclear activity. Euratom has a range of functions, concerning nuclear research and development, transport of nuclear and fissile materials, arrangements for making sure that nuclear materials are in the right place and in the right hands, and arrangements regarding who owns what when Euratom is or is not involved. Those are all essential functions of Euratom—functions in which the UK has participated wholeheartedly over many years. They will all have to be brought into national arrangements, but are not subject to the provisions of the Bill.

We are saying that we are in circumstances where we think that we have to leave Euratom as a whole and not just part of it, as part of the process of leaving the EU,

so it is right that the Government should have available to it and indeed should publish a strategy regarding how Euratom's other functions will be properly incorporated into the UK's activities after we have left. The amendment is essentially about laying a strategy before Parliament for maintaining the wider range of protections and facilitations that are within our present Euratom arrangements.

As the Minister himself has made clear, the Bill is about nuclear safeguarding—not nuclear safety, the transport of nuclear materials or any of those other things. Nevertheless, those things are an essential element of Euratom activity. We think it is important to take that into account—not to delay the Bill, but to ensure that a strategy for maintaining those elements is laid before Parliament and is considered by both Houses of Parliament before the regulations are made under this clause.

I commend those amendments. I think they are sensible additions to the Bill, not only in terms of Parliament considering these issues, but in terms of considering all the circumstances under which we will potentially leave Euratom and what kind of regime will be in place once we have left it and replicated, as well as we can, what happens now, for the future of the country. I hope that the Minister will, by acclamation, be able to accept the amendments or, at the very least, accept their bona fide purpose, which is to strengthen the Bill as it goes through the House.

2.15 pm

Patricia Gibson (North Ayrshire and Arran) (SNP): I want to speak in support of amendments 1, 3 and 8 and new clause 1. The Minister knows, as certainly it is no secret, that the Scottish National party absolutely does not support the decision to leave Euratom. We have been told that it is essential and a requirement that we do so, and that we are where we are, but I urge the Minister—as I have before—to explore to the fullest possible extent the legal advice that is, at best, differing and conflicting, as that may be the best way to go.

The Prime Minister has told us, and the Minister has reiterated it, that the UK Government seek a close relationship with Euratom. I suggest that the closest relationship would be to remain a member, but if we cannot and if the Minister stretches every sinew, explores every avenue and finds that we cannot remain a member of Euratom, we want to remain an associate member, as has been pointed out. We have heard that Switzerland became an associate member of Euratom in 2014, under article 206. That arrangement could be a way in which we can continue to access funding for nuclear research.

Although safeguard regulations are certainly reserved to the UK Parliament, the Minister will know that there are areas of regulation that are devolved to the Scottish Government, for example the regulation of waste and emissions from nuclear sites. When talking about nuclear safeguards I do not feel that we can properly and safely artificially separate those areas, so I hope that the Minister will involve the Scottish Government at every stage of the Euratom negotiation process to ensure, whatever the deal, outcome or final situation, that the deal also works for Scotland.

With regard to amendment 8, we must be mindful—I am sure that the Minister is—that critical pillars of scientific research and medicine must be considered as an important part of the Bill. Following our departure

[Patricia Gibson]

from Euratom—if that happens—the UK will have to strike new regulatory agreements with the EU and other trading partners, to continue to import nuclear materials. That will only be possible with a new regulatory system. I am tempted to quote the expert advice from Tom Greatrex, the chief executive of the Nuclear Industry Association, and of course a former Member of Parliament. He points out that:

“While medical isotopes are not classed as special fissile material and so not subject to safeguarding provisions, it is not accurate to say that Euratom has no impact. They are subject”

to the treaty.

He is echoed by the president-elect of the European Association of Nuclear Medicine, who tells us:

“The transport of isotopes across borders is regulated so it is not something you can send in a package”.

There is room for question and to search for more clarity, which I hope the Minister can provide. We need to know the strategy for the trading and transportation of nuclear materials, such as fuel for reactors and isotopes. EU officials and independent experts have stated that

“these isotopes would be subject to wider Euratom rules on the trade and transportation of nuclear materials after Brexit.”

I hope that the Minister will take the concerns addressed in the amendments on board. I am very interested to hear what he has to say.

Alex Norris (Nottingham North) (Lab/Co-op): I said earlier that I do not think there is public energy behind us not participating in Euratom in some way. Similarly, in our discussions, neither the experts we had in front of us nor hon. Members said that leaving Euratom is desirable and that we should actively choose to do it. Rather, it is a necessity of circumstance, and this Bill is a contingency to cover such an event.

I am in favour of this cluster of amendments and the new clause, because it is important that we provide evidence that we have taken every step to try to maintain what is currently a successful relationship. In doing so, we will resolve the debilitating difference of legal opinion on this matter, as my hon. Friend the Member for Southampton, Test characterised it.

The Minister said clearly that we are leaving Euratom, but on Second Reading of the European Union (Withdrawal) Bill, the right hon. Member for Clwyd West (Mr Jones), who at that point was a member of the ministerial team for the Department for Exiting the European Union, said:

“Triggering article 50 therefore also entails giving notice to leave Euratom.”—[*Official Report*, 1 February 2017; Vol. 620, c. 1131.]

I believe there is a difference between saying we are leaving and saying we have to leave, as, in effect, the right hon. Gentleman said. The Minister may say that that is a distinction without a difference. However, in the first sitting of this Committee, we took evidence from two senior lawyers in this area—Jonathan Leech and Rupert Cowan from Prospect Law—and I asked them whether triggering article 50 necessitated, as the right hon. Gentleman suggested, leaving Euratom as well. Jonathan Leech said, “No”, and Rupert Cowan said, “Absolutely not.” Jonathan Leech continued to say:

“The advice would be that you do not have to accept this and it may not be in your interests to do so.”—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 12, Q23.]

This is clearly contested space.

We subsequently heard, as my hon. Friend said, that perhaps it is something to do with the Government’s preferred future approach to the European Court of Justice. Perhaps they think we ought to escape immediately anything that seems to have some sort of tie to the ECJ. That may well be the view of the Prime Minister and No. 10, but it is considerably different from what was said on Second Reading of the European Union (Withdrawal) Bill, which is that we have to do it.

Leaving Euratom is a political choice and, as such, ought to be debated in the usual way. We should make a democratic decision about it. The best way for us to do that, as Members across the Committee have said, is to carry on with this contingency Bill, but in doing so prove the case either way. I am perfectly willing to accept that there will be conflicting legal advice. A Minister has been very clear in this place that he believes it to be absolutely one way, and this Committee has heard evidence to the complete contrary. The best way to resolve that is for us to see the information and talk about it. Critically, as these amendments require, future Ministers should lay before both Houses of Parliament what advice they have taken, what course they have chosen and why they have had to do that. If they do that, I believe that both the House and the public will have confidence that that very difficult, possibly traumatic, decision is the only one that could have been taken.

Paul Blomfield (Sheffield Central) (Lab): Unsurprisingly, I rise to speak in favour of this cluster of amendments and the new clause, which gets to the very heart of our purpose here. We should be at one—I am sure we are—with the Minister, who described the Bill as a contingency. We should see it as a safety net, but the overriding ambition should be to stay within Euratom.

All the witnesses we heard in our evidence session on Tuesday said, when the Minister pressed them on it, that they support the Bill, but only if we cannot remain in Euratom, which would be a far more preferable option. My hon. Friend the Member for Southampton, Test set out the case very well in his opening remarks. There is a strong case for having a purpose clause that frames the Bill, because of its unique characteristics. The other amendments will fall into place. If that is the position, we need to say that full membership is our negotiating purpose in the Brexit talks. If that proves not to be possible, we need to set out, as amendment 3 suggests, a strategy for seeking associate membership, recognising that the current examples of associate membership fall short of what we would hope to achieve. However, we are in unknown territory in all these negotiations over our departure from the European Union.

Amendment 1 sets out that, if this is a safety net, what are the conditions under which we have to open it? That should be in the form of a report from the Secretary of State. Amendment 8 clearly sets out the requirement for Parliament to fully explore the many other benefits of Euratom membership, whether in relation to medical isotopes or to the research work in nuclear fusion at Culham, which we lead the world in. This is an important cluster of proposals from Labour and we hope they are all helpful.

The contribution my hon. Friend the Member for Nottingham North made a moment ago brings us to a central political issue: why are we in this position when there appears to be such unanimity about wishing to remain in Euratom? He made a point about the discussion on Second Reading. As far back as February I challenged the then Minister of State at the Department for Exiting the European Union, the right hon. Member for Clwyd West, about suggestions that it was the jurisdiction of the European Court of Justice that had led the Government to issue a notice to withdraw from Euratom. In response, he told the House:

“it would not be possible for the UK to leave the EU and continue its current membership of Euratom.”—[*Official Report*, 8 February 2017; Vol. 621, c. 523.]

However, as we know, there are conflicting legal views on that. The Government have, apparently at the desire of No. 10, chosen to take one set of views, which is why they decided to trigger the departure from Euratom alongside the article 50 proposals. I am sure that the former Chancellor of the Exchequer is highly regarded by hon. Members on the Government Benches. In his new role he wrote, on 10 July, that the Secretary of State for Exiting the European Union

“was open to Britain remaining party to the Euratom Treaty...It was Mrs May who overruled Mr Davis and others in the Cabinet, such as Greg Clarke, to insist that we sacrifice those sensible international arrangements on the altar of the dogmatic purity of Brexit.”

I would not want to disagree with the former Chancellor of the Exchequer on this point.

Here we see a Bill that has been introduced partly because there has been an apparent surrender of the real negotiating ambition that we should have of remaining within Euratom, simply because of the jurisdiction of the European Court of Justice. That dogmatic red line, as the former Chancellor of the Exchequer describes it, is something we should be concerned about, because remaining in Euratom makes such overwhelming sense to everybody involved in the industry and to Members on both sides of the House. It was interesting when we had the debate on Euratom in Westminster Hall in July that the hon. Member for Stone (Sir William Cash), who is not a noted dove on issues relating to the European Union, said that we should surely explore some closer form of co-operation and that we should not rule out some form of associate membership of Euratom. There is a huge consensus on this issue. It is unfortunate that this red line about the ECJ has got in the way of what is transparently in the interest of not only the industry but our country. It is all the more ludicrous when we recognise that in all the period the ECJ has been the arbitration body in relation to the European Atomic Energy Community, the Minister would find it hard to identify a single ruling—there have not been many—that we have not supported.

2.30 pm

The fact that the Bill is being talked about in this way is unfortunate. These amendments give us an opportunity to move on from that place and to come together with an ambition that is far more sensible for the industry and the country. The Minister said earlier that we should try to reach a common place. That common place could be to state unambiguously that our negotiating ambition is to remain within Euratom. In that context, I hope he is open to accepting the new clause and the three amendments we have tabled.

Richard Harrington: I thank hon. Members for their contributions. I sympathise with the Opposition’s general aim, but I disagree with how they are going about it. I also disagree with the definition of “membership”, but I will come on to that in a minute.

I think the Opposition would accept that the Government would be reckless to do anything other than start what we are doing now, irrespective of the views of Members on both sides of the Committee about whether we should have membership, whether to call it associate membership, which I argue it is not, and whether it is a looser arrangement or a closer one. Contingency means that we are in the process of setting up a regulatory regime.

The amendments cover the fundamental issue of the UK’s future relationship with Euratom, which I understand. I think most commentators, experts and Members would accept that we have had many benefits from Euratom. As I said yesterday at the Business, Energy and Industrial Strategy Committee, we could not find any ECJ judgments that we have been involved in. There may be some, but the hon. Member for Oxford West and Abingdon (Layla Moran), who is probably a lot cleverer than me in many ways—she is a physicist—could not find any, and we have not found any. In practice, this has not been an appellate jurisdiction issue at all. It has been providing a set of rules that we have all abided by. As far as I can see, it has gone pretty well.

Paul Blomfield: This seems to be an appropriate opportunity for the Minister to confirm that he agrees with us that the Government’s negotiating ambition should be that we remain a member of Euratom.

Richard Harrington: I cannot, unfortunately, confirm that, but I can confirm that it is our intention to have as close a relationship as possible with Euratom, to cover the areas that Euratom covers with us at the moment.

The Government decided to serve the article 50 notice to leave the European Union. I am not a lawyer, but I accept the legal advice on both sides and have read a lot of the commentary around it. Whatever our views on that, it has been done, and it is our job as a Government to set up a suitable regulatory regime and negotiate with Euratom the closest possible relationship.

I would like to deal with the question of associate membership. It has been used in amendments to the European Union (Withdrawal) Bill, which will come before the House, and it has been mentioned a lot in conversation. I have had conversations with the Chair of the Business, Energy and Industrial Strategy Committee, the hon. Member for Leeds West (Rachel Reeves), and with my right hon. Friend the Member for Wantage (Mr Vaizey).

Associate membership implies a form of membership that I am sure one would have at the finer gentlemen’s clubs in London—not that I belong to any—where someone can be a member or an associate member. It is not like that, as I am sure hon. Members accept. I do not want to make too much of the terminology, because there is not an off-the-peg associate membership. There are agreements with two countries, which have been mentioned—Switzerland and Ukraine, with Ukraine being the most recent. I could go into more detail, and I am happy to if there are further questions.

[Richard Harrington]

Switzerland's agreement is purely for research and development—I do not make light of that; it is a really good thing—and Ukraine's is that and a little bit more, but neither is actually akin to Euratom membership. Those are a close form of association in their fields, but we are looking for a close form of association in every single field that Euratom covers, of which the nuclear safeguards is one element, although there are important others.

Paul Blomfield: The Minister will have noted that I pointed out in my remarks that both existing forms of associate membership—for Switzerland and Ukraine—would not meet the requirements to which we aspire. However, the difference there is surely that neither of those were formerly full members of Euratom. We are in the unique position of withdrawing from Euratom, and the negotiations therefore put us in a different sort of place, as other Ministers have argued in relation to other aspects of the negotiations.

Richard Harrington: I fully accept the hon. Gentleman's point. I only mentioned Ukraine and Switzerland because they were mentioned by the hon. Member for Southampton, Test in terms of associate membership. I accept that they are different; in fact, that would be one of my main points were I reading my notes, but I am not, because I am trying to respond to the question.

Article 206 of the Euratom treaty deals with association. I quote from it:

“The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.”

It may seem pedantic but I think it is an important point: it is an association, not membership. However, what is in a name? I accept that we or any country can try to negotiate any kind of arrangement it wants with Euratom or anyone else; it takes two sides and a lot of goodwill.

However, I feel that the coverage sometimes gives the impression to my constituents who take an interest in this—I accept, as colleagues have said before, that very few actually do—but who are not studying it in detail that there is an open option for associate membership or for rejoining after we leave. I am sure that anything is on the table with Euratom, but our negotiations are entirely on the basis that we will leave Euratom on the same date as we leave the European Union, and that we are negotiating for ourselves the closest possible agreements for all of the activities.

We have mentioned safeguards, but for the record—I know hon. Members are probably aware of this—I will briefly mention the other important activities: research and development, which we have discussed; the Common Market trade arrangements for nuclear goods or products—let us call it free movement of goods and products; free movement of nuclear workers, which we discussed the importance of yesterday, in the Business, Energy and Industrial Strategy Committee, and the day before; and the setting of safety standards through regulations and directives, even if they are not carried out directly by Euratom, as we discussed this morning. In many ways, the R and D side is the easiest of them.

We briefly discussed Ukraine and we certainly discussed Switzerland. I believe that progress can be made quickly on those things.

On the second article, article 101 gives the power to conclude various types of agreements with third countries. It is worth the Committee noting that the current “association” enjoyed by Switzerland, which, as I have said, specifically relates to research, was made under this narrow article—101—and not under the wider article 206, which I just quoted.

So, when hon. Members cite this “association” as a precedent that can be followed, I do not disagree—as I say, it is very encouraging—but I do point out the narrow scope and limited power under which it is achieved. It does not amount to what people would generally refer to as “associate membership”—not by a long way.

However, I must make it clear that nothing is off the table in discussions with the EU—nothing—because those discussions have not actually started yet. The preliminary discussions have, as has been well discussed before. They are what is called the “separation arrangements” and hon. Members will know, from discussions concerning the European Union (Withdrawal) Bill, the difference between the two types of discussions. We are in phase 1 of the negotiations, but the future relationship between the UK and the EU, and the details of any implementation period, are for the next phase of negotiations.

I accept that some areas of Euratom are linked to much wider issues, such as the free movement of goods and services. That must be linked to the general negotiations on the free movement of—well, materials that are not non-Euratom-compliant in every other sector, and very important they are. I do not underestimate the challenge that we face, in this area and in the wider negotiations.

However, given the uncertainty about the outcome of all the negotiations, it is absolutely vital that we continue to press ahead with work to set up an internationally approved safeguards regime and to put in place the nuclear co-operation agreements we will need. So, I am happy with the word “contingency”, which has been used, but “contingency” has to start now; it cannot start after all else has not succeeded. It is as much a logistical operation as anything else, but it would send a signal to our partners that we are serious, and we would be very negligent in our duties if we did not start it. I know that Her Majesty's loyal Opposition are not negligent in their duties; I am not saying that we are “holier than thou” and the other side could not care less; of course we are all very concerned, but we would be very negligent in our duties if we did not start on this “contingency” work now.

I know—well, I hope and I believe—that I have full cross-party support on that point, even from Members who do not believe at all in nuclear generally; it has been well publicised about Scotland. However, the safeguards regime element of nuclear, given that we have got nuclear, is as important to the Scottish Government as it is to the UK generally. I mean, it would be impractical and not right—and I would like to say that that is not believed at all by the Scottish National party or indeed any other mainstream party in Scotland.

I also acknowledge that the hon. Members who tabled this group of amendments are not trying to wreck the Bill at all. Their actions are not irresponsible; I hope

that we are having an informed and intelligent discussion on what to do, as we try to achieve the same object. I say that because amendments are always regarded in a partisan way. The Government put something forward; the Opposition, if you like, try to ruin it. However, that is certainly not the case in this instance and I would not like anyone to think so. There are quite a few experienced Members here—both Government Members and Opposition Members.

We must introduce the Bill to ensure that we meet international safeguards. This is to do with non-proliferation issues after we withdraw from Euratom. I would like to put it on the record that we are making very constructive progress in negotiations on the bilateral agreement with the IAEA and on the agreements with key partners such as the United States, Canada, Australia and Japan. They will all require—I say “will” because, obviously, they are not yet signed and finalised—or are contingent on our having the domestic safeguards regime in place on exit day.

We have to maintain the momentum and reassure the international community that the UK remains committed to nuclear non-proliferation and will provide clarity to the industry, which is very important. Tomorrow, I am meeting—possibly in this room but certainly on this floor—representatives of the nuclear sector, to discuss the nuclear sector deal. The industry wants to know that it can move vital materials, parts and expertise after exit day. Whatever word we use for our relationship—membership, associate membership, close association—the industry needs to know that it will be able to perform those functions.

2.45 pm

Paul Blomfield: The Minister told me in answer to a previous intervention that he was unable to commit fully to our negotiating ambitions in relation to membership. I hear what he says, but I am sure that what the sector wants to hear tomorrow is clarity. In a different context, the Secretary of State for Exiting the European Union has said that the Government intend to seek from our future trading relationship “the exact same benefits” that we currently enjoy from membership of the single market and the customs union. Is it, then, the Government’s ambition to seek in our future relationship the exact same benefits that we currently enjoy as members of Euratom? I am sure that the sector will be keen to hear that tomorrow.

Richard Harrington: I could not have put it better myself. I am sure my right hon. Friend the Secretary of State for Exiting the European Union will be delighted to have been quoted. But it is a serious point and I would confirm seriously that it is our intention to achieve exactly the same terms and conditions in this sector as we have enjoyed with the benefits of Euratom. I will make that clear tomorrow to the industry, as I have done before; I do not think that the industry would say otherwise.

We have to ensure that we are committed to nuclear co-operation. I would never joke about North Korea, but I cannot imagine that any responsible person in this Committee Room or in the whole Palace of Westminster could ever think that we could leave ourselves without nuclear safeguards, because then we would be like North

Korea. We must be able to compete internationally and do the things that decent countries do in this field. Euratom has provided that ability, and it is our full intention to ensure that that continues.

I hope that the hon. Members for Southampton, Test, for Sheffield Central and for Bristol West will withdraw their amendments. To summarise my argument, I would say that each of them would complicate or delay—in my view, to no good effect—the vital process of preparation that we are now embarking on. We are already committed to the path down which the amendments are trying to push us, so although I am sympathetic to them, I argue that they are not necessary.

New clause 1 would undermine our position in our negotiations with international partners beyond the EU. It would change the purpose of the Bill to permit arrangements for a safeguards regime to be put in place only in the wake of failure of the discussions with the EU. We need to pursue discussions bilaterally and with the IAEA now, while we await the start of negotiations with the EU on our future relationship. In fact, as I said, those discussions are well advanced. Over the past few days, several hon. Members from various parties have asked the Government in various forums how confident we are that new bilateral arrangements can be put in place in time. Our answer is that we are indeed confident, but only as long as we can continue to push at full speed; we cannot afford to await the outcome of our discussions in Brussels.

Amendments 1, 3 and 8 would risk delaying the legislation necessary to implement the domestic safeguards regime; I do not believe that that is their intention, but that would be their effect. I will address the transition period when we consider new clause 2.

The Government’s strategy is to progress the Bill; to continue to negotiate with the EU to achieve the closest possible future association with Euratom; to continue to negotiate an agreement with the IAEA, the importance of which I cannot overstate; to continue to negotiate nuclear co-operation agreements with our key trading partners; to increase the capabilities of the Office for Nuclear Regulation to deliver a robust domestic civil nuclear safeguards regime; and to push for research and training partnership, having committed to delivering the UK share of the Joint European Torus project after withdrawal from Euratom. I hope that after hearing those arguments, Opposition Members will feel able to withdraw their amendments.

Dr Whitehead: I am sorry if what I am about to say brings forth an uncomfortable image in hon. Members’ heads, but I cannot help thinking that the Minister has been dancing adroitly on the head of a very small pin. I say that because it is extremely difficult to conceive of circumstances where we would have the closest possible relationship with Euratom after we have left it or “the exact same benefits” as we would have as members but where that would not consist of an association with Euratom that one might call associate membership.

That association could not be the same as existing associations with Euratom; it would have to be a close association that was tailor-made for UK circumstances. My hon. Friend the Member for Sheffield Central made the important point that our circumstances are not moving us towards Euratom, so the association might

[Dr Whitehead]

be a preliminary status that could be added to later. That association carries on from a helpful, mutually satisfactory, long-term working relationship with Euratom that has served the UK, Euratom and the wider international community tremendously well over a long period.

The circumstances of the closest possible relationship, as set out by the Minister, and of the “exact same benefits”, as the Minister set out in agreement with my hon. Friend’s statement, almost have to be—I cannot think how they could not, in fact—a close associate membership of Euratom that would enable the nuclear safeguarding part of Euratom that we are talking about to be undertaken. The Minister, in dancing so well on the head of this particular pin, has underlined why the close relationship would manifest itself in that way. If the Minister is saying that we must have the closest possible relationship but that we cannot or will not define what that should be because—I am not quite sure of the line of logic here—that might in some way impede the progress of our future negotiations, I should have thought that the opposite would be the case. It would be rather good for future negotiations if we had an idea of what we wanted to negotiate about at an early stage.

Richard Harrington: I have been listening carefully to the hon. Gentleman. For the sake of this question, let us say that our negotiating ploy was to go to Euratom and say that we want full membership—the same as before. Its answer would surely be either yes or no. The Government want to replicate the five areas that Euratom covers and for those to be as close as possible to membership.

The hon. Gentleman accuses me of dancing on the head of a pin. The thought of me dancing on anything is a dreadful one, which I ask hon. Members to put out of their minds.

Dr Whitehead: You will be on “Strictly” next year.

Richard Harrington: Heaven forbid—although think about some of the people who have done it.

I am afraid that such a restriction invites a yes or no answer. The Government are saying, “We want the closest possible relationship on these different headings,” which may amount to what the hon. Gentleman says, but everything is in the negotiations. This is not a yes or no matter; these are complex negotiations. I cannot speak for him, but I believe that by using the wording we have—what I have put on the record about how close we want everything to be—we may well be asking for a series of arrangements that amount to what he wants.

Dr Whitehead: I thank the Minister for that clarification, which takes us a little further to the centre of the pin. The point is that the Bill clearly is not considered, has not been worked on and does not have its full set of secondary legislation attached, but it will practically come into force when the results of the discussion about the closest possible relationship are known. Let us say that, despite the Minister’s best endeavours to get the closest possible relationship, Euratom says no to

everything—“You’re on your own; you’re out.” The provisions of the Bill must then come into place to get us a fully functioning nuclear safeguards regime that seamlessly takes over from the point at which Euratom says no. That is my understanding of the contingent nature of the Bill.

That does not mean—and it should not be taken to mean—that the Opposition are in any way trying to impede the work that needs to be done to get the Bill in place in order to fulfil that function. Of course that work needs to be done now and not at a future date. However, it would be really good, for the purposes of framing the Bill properly—in the way I have described—to know what the Government will seek as far as associate membership or the closest possible working relationship are concerned. I am considerably reassured by what the Minister says about the Government’s intentions in that respect, but it would be really useful to have that clear and in front of us.

I do not think that would in any way cause Euratom to say yes or no. Indeed, I would have thought that having a strategy in front of us that says what we want to achieve would be positive as far as Euratom is concerned, because it would then know exactly where we stood and exactly the limits of the closest possible working relationship we wanted, and it would be reassured to negotiate accordingly.

3 pm

Richard Harrington: I worry that the shadow Minister and I are doing a duet on the head of this pin, because we are more or less in agreement about what we want. I thank him for his reassurances that he understands the need for the safeguards regime, which is the entire purpose of the Bill—it says so in the title. The Bill is not vague; it is deliberately precise, because we need to set up a safeguards regime.

I hope that I have made our strategy very clear, as I have on other occasions. Given that we have exactly the same intention, I ask the hon. Gentleman not to invite the answer yes or no, and to leave our negotiators to achieve the closest possible arrangement. That is what they are doing now, as confirmed at the Business, Energy and Industrial Strategy Committee yesterday.

This was supposed to be an intervention and it has turned into a speech, so I apologise for that, Mr McCabe. We need the Bill, and we need the Bill as it is, because in the doomsday scenario that the hon. Gentleman mentioned, where Euratom turns around and says, “Non,” or, “Nein,” we would still have a safeguards regime—not that any of us think that scenario will happen.

Dr Whitehead: That is absolutely right; that is the process by which the Bill comes into place, and that is the whole intent behind the trajectory of the Bill and the discussions ahead of it.

Sir Robert Syms (Poole) (Con): Getting an agreement with Euratom might well be one of the easier things, but it will get caught up in all the other negotiations, which means the EU might not say yes until the other things are considered. Even if there is an agreement before March 2019, it might not be ratified by the EU for some months—perhaps years—because the whole process could take a while. That leaves a gap in which we need a

regime that the world has confidence in, so that we can continue to have a nuclear industry. If we simply put our eggs in one basket by waiting for an agreement with Euratom, the risk is that we will be sitting around, unable to import, export or employ people. This is simply the Government's straightforward backstop position, which I think is sensible.

Dr Whitehead: I thank the hon. Gentleman for that intervention, but I cannot help feeling that there is some degree of misunderstanding going on here, for two reasons. First, it is not the case, and never has been, that the Opposition understand the process of moving from Euratom to our own arrangements—parallel to, and as close as possible to, Euratom—as involving any gap at all. Clearly, we need to have a regime in place to deal with whatever contingent circumstances take place; we are completely at one with the Government on that. We do not know exactly what those circumstances will be, so we need to be ahead of the game and have those contingent arrangements in place. Everybody, on both sides of the Committee, is in complete agreement on that point.

Secondly, however, it is not necessarily the case that the close association that we might want to seek will get embroiled in the rest of the EU withdrawal negotiations, because the Euratom treaty is separate from the EU treaty. Even if one considers them to be conjoined, it is more than possible—in fact, highly probable—that the actual negotiations will proceed on the basis of those two separate treaty arrangements, and therefore will not get entangled in those overall negotiations.

We are seeking clarity on what those arrangements might be; arrangements that would not stop the Bill from happening but might be there in place of the Bill, circumstances permitting. One builds the house and the roof hoping that it will not rain—at least not while one is still building—but clearly one has to proceed in all circumstances. That seems to me to be essentially what we are doing today in Committee. It is a separate point from what we might want to seek to achieve in terms of our future relationship with Euratom, and that is what the amendments are about.

To end the suspense for the Committee, if it is still wide enough awake to be in suspense—I am sorry if I have gone on for rather a long time on this point—we particularly want to press for the purpose clause, because we think that would clarify a number of the other intentions. I understand that the new clause has essentially been moved up in the order of consideration and is being debated today, but nevertheless as a new clause it will be voted on at the end of our proceedings, so it is not a question of asking whether we want a Division on it, because that will not happen this afternoon. The new clause has been moved into this debate, absolutely rightly, and has served its purpose well in framing the debate in the proper place; and because the amendments are contingent, in effect, on that clause, it is not our intention to divide the Committee on those individual measures this afternoon. However, depending on what happens with the vote on the purpose clause at the end, it is conceivable that we would return to them on Report. However, for this afternoon's purposes, we do not intend to divide the Committee. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Dr Whitehead: I beg to move amendment 4, in clause 1, page 2, line 41, leave out from “must” to the end of line 44 and insert—

- “(a) publish an impact assessment;
- (b) consult—
 - (i) the ONR,
 - (ii) the National Audit Office, and
 - (iii) such other persons (if any) as the Secretary of State considers it appropriate to consult; and
- (c) lay before Parliament a statement declaring that he or she is satisfied that the staffing and financial resource available to the ONR is sufficient for the purpose of assuming responsibility for nuclear safeguarding in the United Kingdom.”

This amendment would require the Secretary of State to declare that the ONR has the resources necessary to take on extra responsibilities for nuclear safeguarding in the UK.

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

Amendment 12, in clause 1, page 2, line 44, at end add

“and must publish the consultation and any written submissions”.

This amendment would require the Government to publish any consultation carried out before this Act is passed which could be relied upon to satisfy subsection 4 of Clause 1.

Amendment 13, in clause 1, page 4, line 5, after “carried out” insert “and published”.

This amendment would require the Secretary of State to publish any consultation on the regulations which will create a nuclear safeguards regime.

Dr Whitehead: This group of amendments revolves around the question of the staffing, the preparations and the enabling activities that need to take place to ensure that the nuclear safeguards regime being run entirely in this country can take place properly, smoothly and immediately, as we have already discussed. Amendment 4 sets out pretty exactly what we want to achieve in relation to an understanding of the preparedness for the new regime. It would require a number of things to happen before the legislation is fully in place. First, an impact assessment would have to be published—I hope that is on its way anyway. One has not been published yet, but I would welcome an indication from the Minister on what is in the pipeline in that respect.

Secondly, there should be consultation with the ONR, the National Audit Office and such other persons as the Secretary of State considers it appropriate to consult. Following that consultation, the Secretary of State should lay before Parliament

“a statement declaring that he or she is satisfied that the staffing and financial resource available to the ONR is sufficient for the purpose of assuming responsibility for nuclear safeguarding in the United Kingdom.”

The amendment would require the Secretary of State to set before Parliament, following consultation, a clear statement that he was assured—there would be information in the statement to underline that assurance—that it really is reliably likely that the ONR will be able to take up the mantle of nuclear safeguarding from day one, when we are no longer in a position to do that through Euratom.

The reason I think that is important arises from what we know about the present position of the ONR and, indeed, what we heard in oral evidence. We know that

[Dr Whitehead]

the ONR is mainly funded through charges to the nuclear industry at present; it recovers the money for its operations generally from a charge on the nuclear industry. However, it also receives some grant funding, which essentially pays for the nuclear safeguarding work, while the charges on the nuclear industry essentially pay for the ONR's other functions, which are not the subject of the Bill.

That distinction is important, because the Government intend to halve the grant to the ONR in the period up to 2020. At the outset of these negotiations we face the prospect of the ONR actually being able to do less work than at the moment. If it is to continue to do the amount it does at the moment, it will probably have to levy substantially more charges on the industry in order to make up for the loss of grant up to 2020. At the same time, however, this Committee is saying that the ONR will have to undertake a whole lot of new work that it had not previously budgeted for, that has not been in its terms of reference for a very long time and that will clearly require a lot more resource. As we heard in oral evidence, that is no mean amount of additional work for it to undertake.

We know that Euratom employs about 160 staff for all its functions, 25% of whom focus on UK installations. It does not take a great deal of maths to conclude that some 40-odd employees are pretty much focused on the UK. One can reasonably assume that it would be necessary to add that sort of level to the ONR's complement in order to allow it to take on the work that Euratom currently does on nuclear safeguarding.

At the moment the safeguards unit within the ONR comprises eight professional staff. Between now and March 2019 the ONR will have to find from somewhere roughly 32 staff—qualified, highly skilled and trained nuclear inspectors able to take over that responsibility. That is in addition to all the other things ONR has to put in place, such as additional IT systems and a whole lot of additional administration and resources, in order to allow it to take on board that nuclear safeguarding role.

3.15 pm

What did we hear in recent evidence about the likelihood of that happening, or the ease with which it could be done? I think that all of us were impressed by the quality of the evidence presented, particularly by Dr Golshan from ONR, who was a tremendously clear and unbiased witness. With great care, she told us how it was, what ONR's task is concerning its future staffing and what other things must be undertaken for it to perform its new role. In response to a question from the hon. Member for Mansfield, she said:

“It is fair to say that this is unprecedented territory for us as far as the size of the job is concerned. In the past we have not had to establish a new function from afresh to this extent, but we have got experience of setting out and working with officials from the Department for Business, Energy and Industrial Strategy—and previously the Department for Energy and Climate Change—to bring forward new regulation.”

She had said previously, in response to my hon. Friend the Member for Sheffield Central, that the Department was

“recruiting an additional 10 to 12 inspectors now, with the potential of a further 20.”

My hon. Friend asked whether that was the complete establishment, and suggested that about 40 people—the sum I mentioned earlier—was about the right level for nuclear safeguarding in the UK. Dr Golshan responded:

“Our intention is to start recruiting in the new year for the additional 10 to 12 people we will require. The reason is that we were waiting for the Second Reading of the Bill to give us some certainty in relation to the people we are going to take on permanently. That process will start. In relation to your next question, on Euratom's numbers, for its own purposes, Euratom carries out activities in the UK that, as a state delivering an equivalent regime, we would not need to deliver. The order of 20 to 25 is not far from what we need to staff ourselves to deliver this function.”—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 6, Q6-7.]

Dr Golshan has made it clear that that is the sort of number of inspectors that need to be recruited within the next year and a half. She appreciates what a challenge that will be, although she is reasonably confident that it can be achieved. Part of the problem was underlined by another excellent witness, Sue Ferns from Prospect the union, who was also informed, concerned and fair. She replied to another question from my hon. Friend the Member for Sheffield Central—he gets to ask all the good questions—about how long it would take to get the necessary staff in place, given that

“it had been suggested that it could take up to five years to train safeguards inspectors. Is that a reasonable period?”—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 35, Q69.]

It could take five years to train that sort of person, and we need 32 of them in 18 months.

Trudy Harrison (Copeland) (Con): Is the hon. Gentleman aware that the current safeguarding inspectors are members of the Prospect union? I have had sight of the job specification for our new nuclear safeguards workers. They require a degree, knowledge of nuclear material and potentially developed vetting clearance. Much of that is already present among the staff at Sellafield and across the 17 Nuclear Decommissioning Authority sites. They are already compliant.

Dr Whitehead: Indeed. My point was that, if we had to train nuclear inspectors from scratch, that would take about five years. As the hon. Lady rightly says, a number of people are already familiar with the necessary areas in order to get a position as a nuclear safeguard inspector, but those people have not all had experience of nuclear safeguarding issues; they have not had to because Euratom has carried out that role.

I asked Dr Golshan whether we could steal Euratom inspectors who might want to remain in this country, assuming they were allowed to do so, when the Euratom inspection regime comes to an end and ours starts. The answer was, “Maybe, that depends.” We cannot rely on that, so we have to get inspectors from somewhere else. It may well be that we can shorten the training period considerably by converting to nuclear safeguarding people who already work in the nuclear industry and are well versed in a number of general areas, but we should not underestimate the time that that would take to get right. It is not just a simple question of going along and saying, “You'll do, you'll do, you'll do. There you are. You are now nuclear safeguarding inspectors.” As I am sure the hon. Lady is aware, that is not going to work. There will be a lot of work involved in getting the inspectors in place.

Sue Ferns said that there are specific aspects of an inspector's role to be considered:

"This is a warranted role; this is not just working in the industry. It is not just about knowledge, but experience and commanding the confidence of the companies and the organisations that you deal with, so there are very specific aspects to that role."—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 35, Q69.]

She also alluded to the relatively small pool in which we are fishing. We have not just to fish in the pool; we have to fish very accurately and attract a good proportion of the people in the pool, in order to suddenly fill the gap. Consequently, she put a considerable question mark against whether it was possible for the ONR to be as ready as we would like for the tasks that we are going to give it.

I sincerely hope, as I am sure we all do, that those matters can be resolved. It may be a question of making sure that the ONR is funded to the extent that it can properly undertake the activity of fishing in a small pool, perhaps with pound notes attached to the end of the fishing line. There may be a number of other factors relating to nuclear inspection coming in. Euratom may be prepared as part of an associate agreement to lend the UK safeguarding inspectors. A number of different courses could be pursued. There is, nevertheless, a big question mark against the capacity and ability of the ONR, even with all best endeavours in place, to be properly ready in time, given its present circumstances, its possible future circumstances and how it will address those.

For that reason, it is important at the appropriate time to have a sign-off from the Secretary of State that we really have not just a regime in place, but the resources available to carry out that regime in the new circumstances it will bring up. That appropriate time would be when all the different possibilities have been explored and the different ways of doing it have been looked at. Amendment 4 essentially requires the Secretary of State to lay a statement before Parliament that he or she is satisfied at that point—not a hope that it is going to be all right, but a statement saying, "Yes, it looks like it is all right now and we can safely proceed on the basis that we know we have not only the powers in place, but the people to subsequently carry out those powers."

Amendments 12 and 13 are associated with amendment 4. They deal with the consultations that the Bill sets out will take place and are in respect of those activities, nuclear safeguarding in general and payments towards compliance costs. I have mentioned that the Secretary of State provides some money for ONR and that some money for ONR comes from the levies it places on the nuclear industry. The Bill makes provision for the Secretary of State, by regulation, to authorise and require the ONR to make payments towards compliance costs. It states that compliance costs mean "costs of complying with nuclear safeguards regulations or with specified provisions of nuclear safeguards regulations."

To make those payments, the ONR must obviously get the money from somewhere, either from grants or from a levy. As the clause says, there will be consultation on that, but the clause does not say that any of those consultations should be published. Therefore, we may not know what the consultations are about, what they say or when they are completed. The amendments are both minor, but they tie the process up properly with a

little bit of ribbon, to ensure that those consultations are published and in the public domain. Then we will know what has happened in those consultations, which are potentially very important, given everything that we have said about ONR's readiness for its purpose. The amendments ensure that the consultations are in the public domain and are properly reported and discussed.

I believe that these amendments are helpful in terms of what we know is the task in front of us, and how certain we want to be in this Committee that we are able to do what we want to do. I will go beyond calling them helpful and say that it would be irresponsible to proceed to the end of this legislation without some method of ensuring that we can deliver on what this House will have decided. I think that all hon. Members would agree that it would not be the first occasion on which this House legislated on something without securing the means to ensure it happened. In this instance it is not just a money resolution at the end of the legislation, but ensuring that an industry is equipped to do the different things that we want it to do and that it previously was not carrying out.

Again, we are in new territory, and we need particular measures in this legislation to reflect that fact. We also need to be sure, in making our way through that new territory, that we are doing so as safely and securely as possible.

3.30 pm

Alex Norris: I rise to support the amendment. I will start by stating something that is possibly a considerable understatement as well as possibly a major statement of the obvious. It is important that the arrangements that follow from the legislation work—that the arrangements that the Office for Nuclear Regulation puts in place to transition us from Euratom as the safeguard in our British law work. It is important for the jobs involved in the supply chain, for energy security and public safety. Although that may be an understatement and a statement of the very obvious, it is not inevitable that that is the case.

My hon. Friend the Member for Southampton, Test referred to Dr Golshan, who is leading for the ONR, and her oral evidence to the Committee on Tuesday. I want to pull a few paragraphs out of it. The most striking was when she said:

"Our aim, currently, is to have a system in place that enables the UK to fulfil its international obligations by March 2019, which is when we intend to leave Euratom. I have been very clear in the past—I will repeat it here—that we will not be able to replicate Euratom standards on day one."—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 7, Q9.]

So things will get worse before they return at some point to parity. I do not think anything in that is revelatory. The ONR and the Government have not got long to prepare. This will lead inevitably to conversations in future sittings of this Committee about what transition periods may or may not be available to the ONR for it to continue its work. Nevertheless, at its root, we need to understand that things are likely to be challenging for the ONR and for the regime that it puts in place.

As a result, it is absolutely imperative that we understand the extent of that, how we might be able to mitigate that and what support could be given from across the House. The best way to do that is through amendment 4, by fully publishing the impact assessment and by showing

[Alex Norris]

the evidence from the consultation with the ONR. The amendment is supportive and Ministers will be able to be clear that the ONR had the right resources.

I know we are on a budget at the moment. I was a member of the executive board of my council in my six years before coming to this place, which was obviously on a much smaller scale than here, but I know that at budget time there can be a bit of an arm-wrestle where even close friends have disagreements about priorities. It will be no surprise to hear me say I suspect that even happens at the highest level of Government. The amendment would strengthen the hand of Ministers to make sure that the ONR is properly equipped so that on day one the standards are as good and safe as they can be, and so that the gap that Dr Golshan talked about is closed as quickly as possible.

I will try not to duplicate anything quoted by my hon. Friend the Member for Southampton, Test, but forgive me if I do. There were clear warning signs in the oral evidence about how difficult it will be to get the basic personnel who will be so important. My hon. Friend touched on this, but Dr Golshan said that

“it has not been necessary for the UK and ONR to build capacity and resilience in this area.”

We have unwittingly deskilled ourselves over previous decades, so we are having to break that very quickly. She mentioned the success in recruiting so far:

“We know that we are dealing with a limited pool of expertise, and our success so far, although encouraging, is by no means the end of the story.”—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 5, Q3.]

She continues that theme later on. Although they are not looking for large numbers, she states:

“we are dealing with a limited talent pool...the expertise is unique...the UK as a whole has not had to focus on developing resilience in this area, so we are limited in what and who we can recruit.”—[*Official Report, Nuclear Safeguards Public Bill Committee*, 31 October 2017; c. 7, Q8.]

So the ONR has a real job on. Having talked to her, that was very clear. I have no doubt we will play this out when we return to future clauses that talk about transition. It means that two things are imperative: first, that Ministers and we, as legislators, are assured that those day-one safeguards will be the best they can be; and secondly, that the ONR is being properly resourced to do this job. The best way to do that is to lay before Parliament a statement, as referenced in amendment 4.

Yesterday was a significant day in Parliament. We had an Opposition day debate, to which my hon. Friend the Member for Sheffield Central contributed skilfully, about precisely this issue. The hon. Member for Poole said that this will inevitably get wrapped up in the wider conversation about leaving the EU, which I think is reasonable. We know that nuclear is one of the sectors on the list of impact assessments. The debate yesterday and the comprehensive vote showed the settled will of Parliament for those assessments to be revealed. Nowhere is that more important than in this area, because people need that assurance. That needs to be triangulated, too, not only by the Government's own sense of impact but by sharing the full consultation. We more than dipped our toe into this—we had a day's worth of experience—on Tuesday, when we talked to people with a variety of interests in the sector. We heard a lot of very important,

and in some cases quite concerning, messages. We need to see the whole consultation, as the Bill continues its passage.

The issue came up at the Business, Energy and Industrial Strategy Committee yesterday. People need to know that they will be kept safe; that is obvious. They also need to know what this will mean in pounds and pence and what resources the ONR will need, compared with the resources that go into Euratom. People would then have a full understanding of what has happened and why, and whether that has been a good thing.

Anything that involves leaving the EU is necessarily hotly contested space. The things we talk about are not necessarily so hotly contested politically. I think Members across the House would want to have a sensible conversation about this, as we have done today, and I do not think it offers much political opportunity or that there are votes in it in our constituencies—certainly not for me. People need to know that they are safe, and they need to know the financial consequences for them of the legislation. The only way to do that is to accept amendment 4, which is very helpful, and underpin it with amendments 12 and 13, to ensure we have full transparency.

Eleanor Smith (Wolverhampton South West) (Lab): I support the amendment on the impact assessment.

In my previous life, before coming into Parliament, I was a nurse, and part of my role was to look at patient safety and, of course, staff safety. We always had an impact assessment. Any new policies introduced by our trust were given a risk assessment to make sure the patients we were looking after and the staff working in that environment were safe. I have now come into Parliament and seen the different structures here and how it works, particularly through this Bill Committee.

I have to break it down to understand it. I see this as similar to what I would do if I was working in a hospital, looking at the safety of our patients. The only difference is that this is nuclear, which strikes me as really important. I would look for 100% safety for my patients, and I certainly would look for 100% safety within the nuclear power industry.

We heard from different witnesses, and from what I gathered, they agreed with the Bill. The one thing they want is the resources they need. To do that I want to see, as it says in the amendment, an “impact assessment” published, so that we can see for ourselves that everything put in place is 100% guaranteed safe—not 99%. I asked Sue Fern about training, because in hospitals they always say, “You’ll be able to do this and you’ve got the nurses required to do it.” But unfortunately, we never have the experienced nurses that we want. That takes time. I am sure that that will be same for inspectors, because it takes time to gather the experience—they cannot just be found. If those experienced people are not out there, the risk is that things will not be as safe as they should be.

I support the amendment so that we can have the impact assessment to see for ourselves that the ONR has the resources it needs to guarantee—that is the important point—the safety of members of the public. My constituency is not in a nuclear area but people work in those establishments and we have to guarantee their safety as well.

Richard Harrington: I thank hon. Members for their contributions on amendments 4, 12 and 13. I accept that the amendments try to address consultation on the implementation of the nuclear safeguards regime that the Bill will establish. I will come to that shortly.

I would like to address the consultation in respect of the ONR's capacity, raised in amendment 4. I understand that hon. Members seek confirmation that the ONR, which will be the regulator, has the resources necessary to take on extra responsibility for civil nuclear safeguards in addition to all its other functions, and that sufficient assessments have been made of the impact of the new regime.

In response to the original question put by the shadow Minister, the hon. Member for Southampton, Test, I can put his mind at rest and confirm that a full impact assessment is being undertaken and will be published in the coming weeks, certainly well before Report stage. I accept everything that the hon. Member for Wolverhampton South West said, with her interesting comparisons to her previous occupation. I remind her that we are not talking about safety—that does not make it less important—as that is covered by a completely different regime, but her points are well taken; particularly about the impact assessment.

The impact assessment will assess the main options for implementation of a domestic nuclear safeguards regime, which would happen after withdrawal from Euratom.

Patricia Gibson: Does the Minister have any concerns that nuclear regulation in the United Kingdom will face a post-Brexit skills crisis, as it prepares to take on extra responsibilities that it currently shares with its European partners at the same time that many of its current inspectors are ageing and approaching retirement?

Richard Harrington: The retirement of current inspectors—obviously not in safeguards—happens all the time and it is part of the general recruitment process. As for new inspectors for the new safeguards regime, the Department has regular and extensive discussions with the ONR, as one might imagine given the context. The recruitment process is initially for about 15 people; I accept that including other staff that comes to 32. I cannot quite remember the shadow Minister's words, but I accept the fact that recruitment does not happen by just saying, "You, you and you." That may be done in certain political parties' recruitment process for prospective candidates, but I accept the fact that something like this requires a very serious, qualified person.

I am pleased to hear from my hon. Friend the Member for Copeland that she believes there is a pool of people that is, at least partially, already working in the nuclear industry, but the Office for Nuclear Regulation are far from fools when it comes to this sort of thing. They have started phase one of their recruitment process and will continue that process. They needed the financial clearance, which came according to the rules after Second Reading, and I thank all hon. Members here and in the House generally for their support for that. The budget and everything is agreed with the ONR. As has been mentioned, it is not simply a question of recruitment, although that is important, but IT, premises and all the other infrastructure that goes with that.

I hope I have dealt with the impact assessment question.

3.45 pm

Alex Norris: On the impact assessment, I am heartened to hear that. Given what Dr Golshan said about us not being able to replicate the benefits of Euratom on day one, will that impact assessment state what we currently have the benefit of that we will not have on day one of the new regime?

Richard Harrington: It will not do that, because it is impossible to forecast how the recruitment and everything will go. I am not trying to dodge the hon. Gentleman's very legitimate question, but in recruitment at its most basic, when placing a job advert, it is unknown how many people are going to reply. I am not dodging his question, but the impact assessment cannot specifically say that.

I accept the quality of Dr Golshan's evidence. She spoke again yesterday at the Business, Energy and Industrial Strategy Committee and she meets regularly with all my colleagues in the Department.

Eleanor Smith: The Minister said that there will not be enough, but does that not have an effect on the safety? If there are not enough people to do the inspection, does that not compromise the safety?

Richard Harrington: I am sorry to be pedantic in front of the hon. Lady. It might affect the safeguards, which are to do with non-proliferation and so on, not the safety. If there were not enough inspectors to do safety, it would have the effect the hon. Lady mentioned, but this particular Bill it is to do with safeguards. I know that sounds like one word against the other, but it is a different regime—albeit a very good one, and it also has skill recruitment issues, just like any other. I am not making light of her comment, but in this case it is not safety in the sense of health and safety—people getting hurt or leaks—important though that is, but it would certainly affect the safeguards regime if the recruitment and other things were not done properly, which is why we have started this straightaway.

Paul Blomfield: Could the Minister clarify a little more the scope of the impact assessment in relation to staffing provision, because in response to concerns raised on this side of the House he suggested that it would address our concerns that we will not have an adequate safeguarding regime in place for March 2019, and then in response to an intervention from my hon. Friend the Member for Wolverhampton South West he said that it will be impossible to assess? What exactly will we get from this impact assessment in relation to the staffing needs and the ability of the ONR to address them, accepting that while Dr Golshan was a very impressive witness, representing what is clearly an impressive organisation, there are a number of factors beyond her control?

Richard Harrington: Dr Golshan is a very impressive person. I think in my answer to the hon. Member for, pardon me—

Alex Norris: Nottingham North.

Richard Harrington: I was brought up in Sheffield so it is all the south of England to me. Maybe I misunderstood the question asked by the hon. Member for Nottingham North, but I thought he was asking whether there would be enough staff in place, as opposed to whether we would have a suitable regime ready by the end of it. If I misunderstood him, I did not mean to. That is why I made the point that it is impossible to tell—because it is a recruitment programme.

When I said the word “hope” to the hon. Member for Leeds West (Rachel Reeves), the Chair of the Select Committee on Business, Energy and Industrial Strategy, she said that when she buys a lottery ticket she hopes she will win. I had to point out that it was not that kind of hope but an informed hope based on a proper recruitment and resources plan, which will be in the assessment that is wanted. However, that has to be based on assumptions. Everything has to be based on assumptions.

Although I do not make light of the number of people involved—be it 15, 30 or whatever—it is not hundreds or thousands of people. It is in the ONR’s sphere of what it estimates. To return to the example from my hon. Friend the Member for Copeland about Sellafield, it could be that a lot of people apply for these jobs and they are partly qualified because of their degrees and other experiences, so the recruitment could go more quickly than expected. Like in any forecast, we need to make assessments, but I have no reason to believe that there will be a problem with recruitment. The first phase has already started. In January 2018 it goes on to the next phase, and that has been planned for properly.

Dr Whitehead: Does the Minister not agree that because we are in a position where not enormous numbers but unprecedented recruitment will be going on in the ONR, as he has said, we cannot be absolutely certain that everything will go right and we cannot predict the future with certainty? Surely that is why we need some kind of report and statement towards the end of the process—whether it is in the form of the amendment or another form that the Minister might like to offer—to see we really are in a position where our hope has been realised, things can happen as hoped, and they are going well and will do so subsequently. It may not be necessary for that to be in the Bill, but some kind of assurance that the Minister would bring such a report to the House in particular to allow us to examine the proposition would be helpful.

Richard Harrington: That is a typically sensible suggestion from the hon. Gentleman. I will give that some consideration as to form or whatever, if he will bear with me. I remind hon. Members that the Bill already requires the Government to consult with the ONR and other persons that the Secretary of State considers appropriate. I know it may or must seem appropriate, but the intention is to consult widely.

On ONR capacity, which is the core of many of the amendments, I recognise the importance of transparency and the need for Parliament to be assured that the ONR is adequately resourced to set up the absolutely critical domestic civil nuclear safeguards regime. I have continually stated that we will allocate to the ONR the funding necessary to set up the regime. We have been transparent

about the costs and resources of setting up the regime. Current estimates of the set-up costs are set out in the explanatory notes to the Bill. They are under my file, but from memory they are about £10 million in set-up costs and about that annually, which is roughly the cost of Euratom at the moment to perform the same function. I know the figures are approximate, but they give hon. Members a perception of the scale.

The relevant section is “Financial implications of the Bill”, which I will read now, in case hon. Members do not have it in front of them—they will not have to scurry around for it. It says:

“The public expenditure resulting from the Bill are the cost of the establishment and operation of the new regime by the ONR in line with the regulations that will be made under the powers in the Bill.”

That is the £10 million. It continues:

“The costs to set up a UK domestic safeguards regime (which remain subject to further analysis) are potentially up to £10m. This would include procurement of a new IT system, recruitment and training of...inspectors and strengthening institutional capacity to deliver the project. This cost can be met from within BEIS’s Spending Review allocations. The cost of any equipment currently in the United Kingdom but belonging to Euratom is a matter currently under negotiation with the European Union.”

Ideally, we will want to purchase the kit: the cameras, recording equipment and other electronic surveillance equipment and so on. It continues:

“The regime is also likely to involve an ongoing cost of around £10m a year—

sorry, I have said this before, but just to confirm—

“which is in line with the United Kingdom’s current cost of Euratom safeguards activity in the United Kingdom.”

The Office for Nuclear Regulation has also been clear, in evidence to the Committee, and to the Department, about the resources required. The amount has not just come out of the blue. We are working closely together to ensure that the needs of the ONR are met. My Department has already agreed to provide funding for initial work undertaken by the ONR on scoping and additional recruitment.

The ONR currently anticipates that the next tranche of recruitment will be in 2017. To correct myself, when I previously referred to the beginning of 2017 I was mixing it up with the current round; it will be at the end of 2017. That is what it has asked us for; it is not the Government imposing anything or saying we think it is how it should proceed. It is committed to doing whatever recruitment is necessary for what it knows it has to do. I hope that I have assured hon. Members that we are working closely with ONR to ensure that sufficient resource and capacity will be in place to carry out the work needed. It is unnecessary to add to the Bill the level of detail in the amendment. It would not make any difference to a programme that is already costed and proceeding.

On amendments 12 and 13 and the issue of consultation more broadly, the Opposition made some valid points, and I agree wholeheartedly that, as was said on Second Reading as well as today in Committee, consultation is vital in the development of any regulatory system—and even more so when it concerns something of such national importance. As the hon. Member for Nottingham North said, what is important may not be the thing that

makes newspaper headlines; the general public may not realise something is important, but here we can all agree that this matter is critical.

I hope that Members on both sides of the Committee will agree that there have been great improvements in recent history in the working relationship between all Governments—I am not making a point just about the present Government—and the nuclear industry regulator, as well as with a wide range of stakeholders across the industry. Probably the main stakeholder, of course, is Lord Hutton, the former Secretary of State in the precursor Department to mine—and, in fact, nearly every other Department; it is very much a cross-party kind of industry. People listening to our proceedings might have felt that the Government had a disagreement with the two unions that gave evidence, but in reality there is far more in common between us—as there is in Committee today—than there are differences.

A good relationship is important, but I accept that that does not stand in the place of appropriate legislative mechanisms for consultation: I do not think that it is just a question of a few people getting around a table and having a meeting. I accept that consultation must be statutory; and, quite properly, it is. Future regimes or Governments, and future stakeholders, might have different views about each other. A Government who did not want a nuclear industry might behave differently, and so might a nuclear industry that did not want such a Government. I accept that things must be formalised.

The Bill therefore places clear requirements on the Government to consult. We have already made it clear that the development of the regulations that underpin the Bill will be subject to detailed consultation with the regulator and industry. Hon. Members will be aware that it is policy for such consultations to be made public, and we intend to do so in this case.

Patricia Gibson: What kind of consultation will the Minister undertake with the Scottish Government, and how inclusive will the process be, given that, as I have said before, with regard to regulation, waste and emissions are the responsibility of the Scottish Government?

Richard Harrington: If the hon. Lady will bear with me, I would much rather write to her on that subject, because the point is very specific and I do not have the answer to hand. It is a valid question, and she is perfectly entitled to ask it. If the Committee will bear with me, I can perhaps drop her a line or, if she would prefer, have a meeting with her on it. I know the point is important, but it is one point of many. It is not unreasonable, and I am sure she will chase me up on it if I have not responded by Monday, but I promise to do my best.

4 pm

The public consultations on the regulations, which we are absolutely clear we will hold, will not be the first opportunity for stakeholders to be made aware of the Government's intentions. It will not be their only opportunity, either, because the statutory consultation is the minimum consultation. This is a small industry for stakeholders, and there are regular ongoing discussions and consultations. They are not all public—not because anything is being hidden from the public, but because public consultation is different from the way a policy or a Bill evolves by speaking to stakeholders all the time. Since the Brexit referendum, we have had detailed

discussions with the nuclear industry. The whole Bill was not created in isolation by civil servants thinking about it on their own in BEIS in Victoria Street and not bothering to ask the relevant people, including the ONR and all the players in the nuclear industry. I am sure Members know that.

I have not been doing the job for very long, but we held a representative and stakeholder forum in September—from memory, it was before the party conference break but after the summer recess—where I provided industry leaders with an update on the progress of our preparations to leave Euratom. Officials are working with industry and interested parties, including the unions, on providing regular progress updates. I look forward to continuing to work closely with industry and other stakeholders as we take legislation forward, including—I put this on the record—on the development of the regulations.

In any case, new section 76A(9) requires the ONR to be consulted, along with other persons as the Secretary of State considers appropriate. Even if the Secretary of State considered the ONR to be inappropriate—not that it is—he could not not consult it because it is itemised separately. That drafting allows consultation with as many different organisations as possible, and different organisations are relevant for different parts of the regulations. We work closely with the regulator, the ONR. We expect a lot of consultation in the near future.

Clause 1(4) provides that the consultation carried out before Royal Assent will satisfy the consultation requirements imposed by the Bill. That takes account of the fact that the first consultation may need to take place while the Bill is still in Parliament. That is just a consequence of the schedule of events. The Government will respond conscientiously to the consultation on the UK's nuclear safeguards regime. I do not believe there is justification to write into the Bill a requirement of that nature, because consultation is so much part of our system. I hope I have explained clearly to Members' satisfaction that it is something we have to do, want to do and will do. I therefore hope that the hon. Gentleman will feel able to withdraw the amendment.

Dr Whitehead: The Minister is such a reasonable chap that it is fairly difficult to get too excited about some of the potentially contentious issues before us. This afternoon, we have made our points as strongly as we can about our concerns about what one might call the do-ability of the process over the next period.

The Minister said to me this afternoon that he is willing to consider a method by which it would be possible to report to the House what is happening towards the end of the process of recruitment and the shaping up of the ONR to put itself in a position to be able to undertake the duties that we hope it will undertake. If the Minister can devise a method whereby some kind of report to the House may be made, or an opportunity provided to examine the process in front of the House, as far as we are concerned it need not necessarily be on the face of the Bill. For that reason, we do not want to divide the Committee on the amendment.

Richard Harrington: I am perfectly prepared to give that undertaking. I cannot think quite how to do that at the moment, but I will give it a bit of thought. What the hon. Gentleman is suggesting is very reasonable.

Dr Whitehead: I thank the Minister for that statement.

On the other amendments and the publication of the results of the consultation, I am almost a little disappointed that such an extremely modest suggestion could not be taken on board by the Government, but I hear what the Minister says about the intention to ensure that there is full publication and knowledge of the matters to do with the consultation. Therefore, we will not proceed to a vote on those amendments.

I have, however, one note not of complete concord to strike. An impact assessment should really have been available to the Committee before we started proceedings on the Bill. The Minister said that one will be available before Report, but that means that a lot of the information will not be available to us while we are undertaking our deliberations in Committee. I am glad that an impact assessment will come out, and I appreciate that the Bill was introduced considerably ahead of its anticipated time, but it is essential that impact assessments are available in Committee to inform the decision making of the members. I am sorry that one was not available on this occasion, although I understand the position in which the Minister found himself.

Richard Harrington: The hon. Gentleman's explanation for the lack of an impact assessment is correct. I would have liked to have had it in Committee, but I am much more happy to have made the progress we have. When I say "before Report", I do not mean the day before Report or something like that. I hope the impact assessment will be more imminently available than that and I fully intend it to be so, but Government procedures have to be gone through. My priority was to get the Bill through, not to stop any form of discussion of the impact assessment or anything like that. I thank him for his good grace and understanding—the position he stated was correct.

Dr Whitehead: I thank the Minister for that.

Paul Blomfield: The Minister is talking about a very specific impact assessment on the work of the ONR, but a wider impact assessment has been completed of the impact of the withdrawal from the European Union on the nuclear industry. It was one of the 58 sectoral assessments that we debated in the House yesterday, when I made the point that it would help the work of

this Committee if that assessment were made available to us. Does my hon. Friend agree that the Minister might be able to give a commitment on that point too?

Dr Whitehead: My hon. Friend is absolutely right. That assessment would inform this Committee considerably and, since we are not meeting for a few days now, it might be possible for it to be available to us when we come back from the recess. If the Minister can use his good offices to make that available, that would be considerably appreciated by Members on both sides of the Committee.

Richard Harrington: I cannot comment on that—not because I do not want to, but simply because it is not within my Department's regime. I will obviously look into the subject, and we are happy to provide whatever information we have. I was not present in Parliament at the time of the debate—I think it clashed with my Select Committee evidence—so I do not know what was said. The impact assessment, which is directly in my control, will be ready imminently for the hon. Gentleman's reading. It will not be this weekend—I know he enjoys reading such things over the weekend—but I am sure I can fill one of his weekends very soon.

Dr Whitehead: So that we do not finish on an intervention, that is my lot. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: We have had a pretty extensive debate, and I can see the Whip indicating to me. I do not think there is need for a clause stand part debate, unless anyone is absolutely desperate to have one. I am conscious, Minister, that there are a couple of points at the top of page 2 to which specific reference has not been made. I do not know whether hon. Members want a very short clause stand part debate. If they do not, I am more than happy to move on. I am going to assume that hon. Members feel we have done sufficient duty to this subject.

Clause 1 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.
—(*Rebecca Harris.*)

4.12 pm

Adjourned till Tuesday 14 November at twenty-five minutes past Nine o'clock.