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Public Bill Committee

NUCLEAR ENERGY (FINANCING) BILL

Third Sitting

Thursday 18 November 2021

(Morning)

CONTENTS

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Monday 22 November 2021

The Committee consisted of the following Members:

Chairs: † Yvonne Fovargue, James Gray

† Baker, Duncan *(North Norfolk)* (Con)
Blackman, Kirsty *(Aberdeen North)* (SNP)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Browne, Anthony *(South Cambridgeshire)* (Con)
† Cairns, Alun *(Vale of Glamorgan)* (Con)
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Doyle-Price, Jackie *(Thurrock)* (Con)
Duffield, Rosie *(Canterbury)* (Lab)
† Fletcher, Mark *(Bolsover)* (Con)
† Hands, Greg *(Minister of State, Department for Business, Energy and Industrial Strategy)*
† Jenkinson, Mark *(Workington)* (Con)
† Owen, Sarah *(Luton North)* (Lab)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
† Wallis, Dr Jamie *(Bridgend)* (Con)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)
† Whitley, Mick *(Birkenhead)* (Lab)
Whittaker, Craig *(Lord Commissioner of Her Majesty's Treasury)*

Sarah Ioannou, Rob Page, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 18 November 2021

(Morning)

[Yvonne Fovargue *in the Chair*]

Nuclear Energy (Financing) Bill

11.30 am

The Chair: I have a few preliminary reminders for the Committee. Please will you switch all your electronic devices to silent? No food or drink is permitted during sittings of the Committee, except for the water provided. I encourage Members to wear masks when they are not speaking. That is in line with Government guidance and that of the House of Commons Commission. Please give each other and members of staff space when seated, and when entering and leaving the room. *Hansard* colleagues will be grateful if Members could email their speaking notes to hansardnotes@parliament.uk.

We now begin line-by-line consideration of the Bill. The selection list for today's sitting is available in the room and it shows how selected amendments have been grouped together for the debate—there is one change. Amendments grouped together are generally on the same or a similar issue. Please note that decisions on amendments do not take place in the order in which they are debated, but in the order they appear on the amendment paper. The selection and grouping list shows the order of debates. Decisions on each amendment are taken when we come to the clause to which the amendment relates. Decisions on new clauses will be taken once we have completed consideration of the existing clauses of the Bill. Members wishing to press a grouped amendment or new clause to a Division should indicate when speaking to it that they wish to do so.

We will start with amendment 1 to clause 1, but first, Dr Whitehead, did you wish to talk about the change to the selection list?

Dr Alan Whitehead (Southampton, Test) (Lab): Thank you, Ms Fovargue. It is a pleasure to serve under your chairmanship. I want to say two things before we go into detailed line-by-line discussion: one is on the order in which we are debating the Bill—clause 1, clause 2 and so on. The other is to say to the Committee before we start that Her Majesty's Opposition voted in favour of the Bill on Second Reading and, therefore, we hope that the amendments before us will be seen and discussed in that light, which is that they seek to strengthen the Bill and to address specific concerns that we have about elements, in particular the RAB—regulated asset base—process.

The Chair: Order. This should just be about the amendments and groupings; there can be no general statements about the Bill. Is everyone content to group amendments 1 and 2 together?

Hon. Members: Aye.

The Chair: Are there any declarations of interest?

Mark Jenkinson (Workington) (Con): Ms Fovargue, I draw the Committee's attention to my entry in the Register of Members' Financial Interests. It is a matter of public knowledge that I worked in the nuclear industry before my election to this place.

Clause 1

Key definitions for Part 1

Matthew Pennycook (Greenwich and Woolwich) (Lab): I beg to move amendment 1, in clause 1, page 1, line 15, at end insert—

"(6) 'Owned by a foreign power' means owned by a company controlled by a foreign state and operating for investment purposes."

This amendment is a definition of "foreign power" set out in amendment 2.

The Chair: With this it will be convenient to discuss amendment 2, in clause 2, page 2, line 14, at end insert—

"(c) the nuclear company is not wholly or in part owned by a foreign power."

This amendment prevents the Secretary of State designating a nuclear company owned or part-owned by the agents of a foreign power.

Matthew Pennycook: It is a pleasure to serve with you in the Chair, Ms Fovargue. The amendments you have grouped stand in my name and that of my hon. Friend the Member for Southampton, Test.

Taken together, the purpose of amendments 1 and 2 is to ensure that in enabling nuclear companies to benefit from the RAB model and for the Government thereby to bring a large-scale nuclear project to a final investment decision by the end of this Parliament, as they are committed to do, the Bill nevertheless makes it clear what kind of companies it would be inappropriate for the Secretary of State to designate for that purpose. In moving the amendment, my assumption—Government Members may correct me if I am mistaken—is that the Committee as a whole would accept that it would be inadvisable to allow some nuclear companies to own and/or operate a nuclear reactor on British soil. That is because civil nuclear power is, without question, critical national infrastructure, the compromise of which would have real implications for national security, given that any company owning and/or controlling such infrastructure would have direct access to the national grid.

Conservative Members, or indeed the Minister when he responds, may argue that the amendments are unnecessary, because no Secretary of State would choose to designate a nuclear company to benefit from the RAB model that posed any threat to national security. Yet it is precisely because previous Secretaries of State have been content to allow companies that the Opposition would argue should never have been given the opportunity to own and operate UK nuclear plants that we believe we need such additional safeguards in the Bill.

Put simply, we want to ensure that the legislation is amended so that this Government, or any future Government who might wish to use the RAB model for new nuclear, cannot make the kind of error that was without doubt made in recent years. Namely, a company owned and directly controlled by a foreign state—a state that the integrated review is clear poses a systemic

challenge to our security, prosperity and values—was given the opportunity to own and access critical national infrastructure.

I will touch on the way in which the Government might, if they were minded to accept our amendments or table modified versions of their own on Report, differentiate companies owned and directly controlled by a foreign power and those in which a state merely has a majority financial stake. Before that, I will examine the error that I have mentioned and the lessons we might draw from it to improve the Bill.

On Second Reading, we made it clear that our strong view is that although the Bill has the appearance of a general piece of enabling legislation, it is in practice concerned solely with the future of Sizewell C, as the last potential nuclear project that could conceivably begin to generate by the end of the decade.

Alan Brown (Kilmarnock and Loudoun) (SNP): I note that the hon. Gentleman was choosing his words carefully. We all know that it is about the China General Nuclear Power Corporation; many people have concerns about its involvement in the nuclear sector, which I echo. He talked about when a state is a majority shareholder, which includes EDF in France, but surely the amendment says

"not wholly or in part".

As France is a majority shareholder in EDF, would that not eliminate EDF from participating in the RAB exercise for Sizewell C?

Matthew Pennycook: The hon. Gentleman pre-empts what I will come on to say. We are keenly aware of the need to differentiate different types of companies, which is why, thankfully, the Chair has allowed me to group this amendment with amendment 1, which clearly defines what we mean by "owned by a foreign power". It is not just owned by in terms of a majority stake, but directly controlled by in the way that I would argue EDF is not.

To return to the involvement of the China General Nuclear Power Corporation in UK nuclear more widely, we believe that the case of Sizewell C illustrates precisely why amendments 1 and 2 are required. Driven by an almost embarrassing enthusiasm for Chinese investment, which was shared and arguably surpassed by the coalition Government that preceded it, the Cameron Government eagerly embraced Chinese involvement in UK civil nuclear energy. As a result, Hinkley Point C, while largely financed by EDF, is underpinned by effectively foreign Government part-financing in the form of a 33.5% interest on the part of China General Nuclear Power Corporation.

When the final investment decision for Hinkley Point C was approved, associated heads of terms were agreed for CGN to take a 20% stake in Sizewell C and to secure majority ownership, complete control of planning and financing, and unfettered operation of the nuclear plant at Bradwell-on-Sea in Essex that would incorporate, subject to generic design approval, a Chinese-designed Generation III Hualong One reactor. Bradwell B was always the ultimate prize for CGN and why it was willing to take a significant stake in the Hinkley plant and a minority stake in the development work to progress Sizewell C toward a final investment decision.

As far as we can ascertain, although the present Conservative Administration have never said as much—I invite the Minister to remedy that if he wishes—there is now a general acceptance that acquiescing in the construction of a piece of critical national infrastructure at Bradwell that would be designed, planned, owned and operated by a subsidiary company of a Chinese state-owned enterprise, and, as all SOEs are in China, controlled ultimately by the Chinese Communist party, was perhaps not the wisest decision that the Cameron Government made.

Furthermore—I do not believe a Minister has said this explicitly, so I urge the Minister to provide greater clarity to the Committee when he responds—I take it as read that the present Government now take the view that such an arrangement is no longer tenable, and that it is their intention to remove the influence of the People's Republic of China from the Sizewell C project entirely, and, should any new nuclear view on that project prove necessary, the future UK nuclear programme more widely.

The press release accompanying the publication of the Bill stated:

"The RAB model will reduce the UK's reliance on overseas developers for financing new nuclear projects".

The Committee will appreciate that that statement is not a clear declaration of intent when it comes to rolling out foreign Government part-financing, ownership and control of civil nuclear power in this country. If it is the Government's intention to end foreign Government part-financing and ownership of new nuclear projects, the Committee should be told what that means in practice for the October 2016 Sizewell C strategic investment agreement, as well as what the Government's reneging on that deal would mean for CGN's 33.5% stake in Hinkley Point C. More specifically, it is right that the Committee is also given a sense of how, assuming it has been determined, the Government intend to remove the CGN minority stake from the Sizewell C company, or, if it has not, the various options being considered.

That brings me to the £1.7 billion committed to nuclear in the recent Budget, the purpose of which, according to the Red Book, is

"to enable a final investment decision for a large-scale nuclear project in this Parliament"—

the very same intention that we are told is the purpose of the Bill. As I am sure Members will appreciate, that statement contained in the Red Book is wilfully obscure. Given that Sizewell C is, as I have said, the last potential nuclear project that could conceivably begin to generate by the end of this decade, and the fact that this Bill creates the funding model that will almost certainly enable a final investment decision on it to be made, the Minister needs to be more transparent with the Committee about the future of the CGN minority stake, because the answer could have real implications for the applicability of the funding model set out in this legislation, and, as a result, the bills that consumers in all our constituencies will pay in the years ahead.

We heard from Professor Stephen Thomas in our evidence session on Tuesday that the cost of buying out the CGN minority stake in Sizewell C is likely to be a tiny fraction of the £1.7 billion allocated to nuclear in the Budget, so what will the rest of that public funding be used for? Will it in whole or in part be used to finance Sizewell C beyond financial closure? If so, how do the Government intend to require the consortium to allow them to participate, and will the investment of direct

[Matthew Pennycook]

public funding, if made, have any impact on the amount of RAB financing that will be required for Sizewell C to proceed?

Whatever the £1.7 billion committed to in the Budget is ultimately used for, the involvement of CGN in UK nuclear power over recent years illustrates the risks associated with foreign states, particularly ones of an authoritarian nature, financing and operating critical national infrastructure. We should not only learn the lessons of that, but ensure that clauses 1 and 2 are tightened so that the Bill cannot be used to facilitate such involvement in the future. That is the purpose of amendments 1 and 2. Taken together—this follows on from the point made in the intervention earlier—they would ensure that the Secretary of State cannot designate a given company to benefit from the RAB model provided for in the Bill if the company in question was owned and directly controlled by a foreign power. Their combined effect would not be to prevent the coming together of consortia that are not UK majority-owned. That would almost certainly render future projects unviable or more costly, but the amendments' incorporation in the Bill would ensure that consortia drawing upon the RAB model could not include investors owned and controlled by a foreign state.

The use of the word "controlled", as per amendment 1, is critical. This follows on from the point I made in response to the hon. Member for Kilmarnock and Loudoun. We are acutely aware that in attempting to amend the Bill to prevent a company such as CGN from benefiting from the RAB model, we would not wish to prevent all companies in which states have a majority interest—EDF is the most obvious example—from doing so. That is why amendment 1 specifically defines "owned by a foreign power" as one owned and controlled by a foreign state.

I hope the Minister responds to the amendments in the constructive spirit in which they have been tabled and that the Government will see the value of incorporating them into the legislation.

11.45 am

Alan Brown: It is a pleasure to serve under your chairwomanship, Ms Fovargue. In my intervention, I wondered if the amendments would technically preclude EDF under the RAB scheme. I hoped that the amendments were a stalking horse for Labour to come round to our way of thinking regarding a new nuclear power station, but unfortunately, that does not seem to be the case.

That said, I support the amendments. It is crazy that decisions have not been made before now about excluding China General Nuclear from critical infrastructure. The UK Government probably acted on the back of the United States's actions to remove Huawei from critical telecoms infrastructure, so it makes no sense that a Chinese state-operated nuclear company is allowed to participate and invest in and possibly, if it gets its way, construct a new power station at Bradwell. That makes no sense. I would like to hear what the Minister has say about that. In principle, I support the amendments, although, ideally, I would rather we were not doing new nuclear.

Dr Whitehead: Continuing briefly from my initial remarks, I want to make it clear that the amendments—and all our other amendments—are based on the idea that the Bill should be strengthened, not subverted in any way. I can assure the Committee that the hon. Member for Kilmarnock and Loudoun's hope that these two amendments are a stalking horse to remove EDF from the project is certainly not the intention. The intention is precisely to ensure that the nuclear programme in this country is sound, robust and integral to our security in all senses of the word.

We do not think the amendments will do anything other than put us in a much better position to ensure that the financing of nuclear is done on a clearer footing and on the basis that we know who is putting money into the project, in this instance Sizewell C. I concur with my hon. Friend the Member for Greenwich and Woolwich that effectively the Bill is pretty much about how Sizewell C gets going, comes to financial closure and gets into its construction period so that it produces electricity in good time for the grid.

It is important that the Committee thinks carefully right at the beginning of its proceedings about how we want to framework that nuclear financing; how we want to framework the arrangements which, after all, will be the umbrella under which we have all our other discussions in Committee. The framework that we have at the moment, particularly for Sizewell C, as my hon. Friend has set out, is a sequence of memorandums and a number of things further to memorandums, which appear to lock our nuclear development into an arrangement with the Chinese General Nuclear Power Corporation, which is very much an instrument of the Chinese state. Although companies have been set up—set up for the purpose of engaging in Hinkley—with one nominated director, given who those nominated directors are and how they go back to China it is very clear that those companies are centrally state-controlled, and are state-controlled vehicles for investment—just as we have stated in our amendment—for the promotion of that particular foreign power's interests, in this instance in nuclear power.

Given those interests in nuclear power, it is important that we do not lose sight of the overall scheme of things in considering investment or otherwise in Sizewell C. It is important to understand that the deals, as it were, that were made between 2013 and 2016 were very much about that sequence of events leading from investment in a power station with a minority stake, with a reactor that would be built in France, within a framework of a company controlling that, that is a private company but has substantial state connections, but nevertheless is a very different model from what we are faced with regarding the CGN investment.

So there has been a sequence of events that starts with Hinkley C, with a minority stake, a French reactor and a French company with its own investment in the majority of the plant, and then a contract for difference at the end of it for production, moving to the second event in the sequence, which was envisaged at that time to be Sizewell C, with an undefined arrangement at the time for investment elsewhere in the plant, but a clear stake in that plant, beyond financial closure, of the Chinese General Nuclear Power Corporation, coming to 20%. And then would come the prize at the end of the sequence—certainly the prize for the Chinese Government—of the entry into European nuclear development for the first time of a Chinese reactor, the Hualong One. That would be the basis of a Bradwell nuclear plant. That reactor would separately go through

a generic commissioning process; the initial moves towards that are being made. That reactor would then be at the core of the Bradwell plant, and Bradwell would be majority-owned, run, controlled and operated by the Chinese state nuclear corporation.

So, leading down the path of that sequence, Sizewell C being a stopping-post in that sequence and the end of it being Bradwell, is obviously the nuclear project that we are discussing at the moment. Therefore, the part-ownership of the nuclear company must be seen as integral to that overall process and that overall agreement; and if we do nothing and say nothing about that involvement, we are effectively condoning that whole sequence of agreements.

Those agreements were initially made in the form of a memorandum of understanding on civil nuclear collaboration in 2013, and effectively those stakes that I mentioned were set out then. George Osborne, the then Chancellor, stated that Chinese companies were taking a stake, including potential future majority stakes, in the development of the next generation of British nuclear power. So, it was pretty explicit, certainly from the UK Government side, what they thought that sequence was going to be about, and it was actually pretty similar to the idea that the Chinese had, as far as their involvement in nuclear was concerned.

That was followed, during Chinese President Xi Jinping's state visit to the UK in 2015, by a "Statement of Cooperation in the Field of Civil Nuclear Energy", which welcomed the minority investment and the proposal for a Chinese-led project at Bradwell B in Essex. What is less well known is that that was followed by a very lengthy document, "Secretary of State Investor Agreement", which was primarily about investment by a number of parties, including CGN, in Hinkley but which also related to the whole sequence. It is arguable, therefore, that there is a substantial lock-on of Chinese involvement not just in 20% of Sizewell but in the whole sequence, as laid out in the various memorandums of understanding and the investment agreements undertaken between 2013 and 2016.

The question is: what are we going to do about it? The proposal is for a RAB scheme to cover the project's investment costs. A decision will have to be made about how the RAB scheme will work and we will discuss the detail later, including how Ofgem will set out the allowable costs that form the backbone of a RAB agreement. Ofgem will have to assess the overall allowable ceiling for the project costs, particularly in its construction phase but also during its production phase. That will form the basis on which the money to meet those costs will be taken in from the general bill-paying public. The ceiling for those allowable costs will be determined to a considerable extent by how much investment is likely to be required and, therefore, how much of it will have to be underpinned by the RAB arrangement at the Sizewell plant. If a substantial part of the plant is to be financed by the China General Nuclear Power Corporation, then logically the allowable costs would relate to the rest of the required investment, rather than all of it. Crucially, the decisions and discussions that this Committee is going to enter into will be determined by what that 20% consists of.

The Red Book offers a tantalising clue as to what that might be. As my hon. Friend the Member for Greenwich and Woolwich said, a total of three lines focus on the £1.7 billion of new direct Government funding being made available, essentially for the Sizewell C project. He said that the Red Book is possibly wilfully obscure; it is certainly obscure, and for a number of reasons. All the Budget and spending review document has to say about the £1.7 billion Government funding is that it is being provided

"to take a final investment decision this Parliament, subject to value for money and approvals."

12 noon

What the Minister has already said, in response to previous inquiries I have made, is that Chinese General Nuclear Power Corporation remains a 20% holder in the nuclear company up to the point of a final investment decision. That means that the cost of all the work needed to reach a final investment decision—legal documentation, initial site planning arrangements, possibly some site clearance arrangements, and facilitation to enable the project to present itself in a clear light—will be borne by the present owners of the Sizewell nuclear company, which is 80% EDF and 20% CGN. In a way, that is a given, so the Secretary of State's statement about Chinese General Nuclear Power Corporation being a 20% owner of the company at this moment in time is a bit of a statement of the obvious.

What is less obvious, however, is the extent to which Chinese General Nuclear Power Corporation will be involved in the costs of the nuclear company up to the point of investment decision closure. We heard in evidence from Professor Thomas, and indeed I have heard from a number of other people, that it is extremely unlikely—to the point of not being likely at all—that the cost of those arrangements and activities will be anything near £1.7 billion. It will probably be a few hundred million pounds at most.

If I know that, then I am sure the Government know it, so they must have taken it into account when they calculated the sum of up to £1.7 billion for the Red Book. Surely they must have calculated that only a portion of the £1.7 billion allowed would be for those sorts of costs, and that if Chinese General Nuclear Power Corporation were to cease its activities at the point of the investment decision, then it might reasonably expect to have some of its costs repatriated, and presumably those costs might be met out of the £1.7 billion. That would leave perhaps £1.5 billion unallocated and unknown, as it were.

I do not know what the Government's intentions are for that substantial part of the £1.7 billion, but it would be very interesting if we were told. Not only would it be very interesting; I also think it is vital that we know. Does it mean that the Government think that Chinese General Nuclear Power Corporation might take up the offer, set out in the memorandum of understanding and so on, that it not only takes part up to the point of a financial investment decision, but actually then invests in the project as a whole? Do the Government intend to buy out what might have been in that investment element as the construction period continued? If they do, that does not look like it is enough to buy out something that was going into the company subsequently, but it looks too much to buy out what might have been in before the investment decision was reached.

There is a big question for the Minister: what is most of that £1.7 billion intended to cover? It is important that we know the answer for our discussions in the Committee. Without knowing it, there will be some

difficulty about which decisions to take about the RAB procedure as a whole. I await with interest what the Minister has to say about the money from the Red Book.

I also await with some interest what the Minister has to say about the mechanisms for breaking the cycle that I mentioned earlier—Hinkley, Sizewell and Bradwell being stepping-stones to the complete Chinese control of a nuclear power plant—assuming that the Minister wishes, as I think we all do, to break that cycle. Does the Minister agree that it is a bad idea to keep that chain intact and not try to break it at some stage? Does the Minister agree that, in order to break that chain, some method must be put in place whereby it can be broken?

Does the Minister also agree that if that chain is broken we must be clear about the consequences in terms of the actions of the Chinese General Nuclear Power Corporation, not just in relation to future projects but in relation to this project? Does CGN withdraw at this stage, before financial closure? Does it exercise its options and have to be bought out of those options? Does it insist upon that continuing? Does it insist on the whole chain continuing? If it does insist, what might be the financial consequences of buying out its interests in the entire chain and, of course, its interests in Hinkley C? I assume that the—I think—33.3% interest that it has in Hinkley C would continue because, if it did not, there may be some additional funding implications for Hinkley. It may be that the £1.7 billion has those implications in mind.

It is not satisfactory that, at this stage of the procedure, we are talking about all this with so little information about the Government's intentions, and so little information about how they intend to go about—if, indeed, as has widely been trailed in the press, they intend to—at the very least loosening CGN's hold on Sizewell, and not proceeding at all with the Bradwell project subsequently. I hope that the Minister will provide clarity on all those fronts. If he is not able to this morning, we will certainly pursue this as the Committee progresses, because it is vital that we get it right as we go through the Bill and are not sorry afterwards.

The Chair: Order. We will suspend for a few seconds to enable the sitting to be broadcast more clearly.

12.8 am

Sitting suspended.

12.9 pm

On resuming—

The Chair: We can now resume.

The Minister of State, Department for Business, Energy and Industrial Strategy (Greg Hands): Thank you, Ms Fovargue. It is a pleasure to serve under your chairmanship. I look forward to working with Committee members as we scrutinise this important and timely Bill. To begin, I want to briefly remind Members of the purpose and background of the Bill.

As all Members will agree, it is vital that the UK continues to lead the world in tackling climate change. That is why we have committed to a 78% reduction in emissions compared with 1990, as well as fully decarbonising our power sector by the year 2035, which will mean ensuring that the UK is entirely powered by low-carbon electricity, subject to security of supply. To deliver that, we will need new nuclear power plants, which are the only proven technology deployed at scale to provide continuous, reliable, low-carbon electricity.

Alan Brown: The Bill is mainly about Sizewell C. Can the Minister tell me where any European pressurised reactor is operating at scale connected to the grid at this moment in time? He is talking about proven technology.

Greg Hands: I am speaking in a general sense about nuclear being a proven technology, deployed at scale. That has been the case since 1957 or '56, with the very first nuclear power plant in the world here in the United Kingdom at Calder Hall just by Windscale.

However, it is clear that we need a new funding model to support the financing of large-scale and advanced nuclear technologies. The Bill will deliver that, in the form of the regulated asset base model. I am sure the Committee will discuss the detail throughout our sittings, so I do not intend to go into the minutiae now, but I want to outline the Government's position that this is the best way of delivering new nuclear projects while delivering value for consumers.

I am glad that the Opposition recognised that point through their support for the Bill on Second Reading. That support has been reiterated today by Her Majesty's official Opposition, if not by the Scottish National party. I am grateful for their useful contributions on Second Reading and look forward to further discussions in Committee. Similarly, I recognise the interesting points raised by the SNP in that debate. I recognise that the SNP has a principled—if, in my view, irrational—objection to new nuclear projects. Nevertheless, I am pleased to subject the Bill to the SNP's careful scrutiny as well.

I hope that as we move through Committee and the rest of proceedings on the Bill, we can work in collegiate and co-operative ways, considering the individual clauses of the Bill to ensure that it can meet its objectives. I think that was the position laid out by Her Majesty's loyal Opposition at the start of the debate.

I turn to amendment 1, tabled by the hon. Members for Southampton, Test and for Greenwich and Woolwich. It is linked to amendment 2 to clause 2, and I am happy to debate both together. The amendments seek to insert as a criteria for designation that the company is not wholly or partially owned by a foreign country. I want to touch briefly on the implications that the proposed definition could have for the wider policy of financing nuclear projects in this country.

If the definition as drafted could rule in all companies that were seen to be controlled by state sponsors, it could thereby rule them out of eligibility for a RAB. The RAB allows us to bring new sources of financing into nuclear projects and reduce our reliance on overseas developers, but it is not credible to introduce a blanket exclusion on developer participation in RAB companies, many of whom are to some degree state-sponsored, including some of our closest international partners. One has already been named during proceedings on the Bill and in Committee this morning.

I am sure that the intention of the hon. Members does not lie in that direction, as that could make it much harder to bring new, appropriate projects to fruition. We should never forget that the Bill's purpose is to make it more possible to finance nuclear projects in the future, not less so. However, I welcome the focus on national

security in one of the UK's key infrastructure networks, a point made by Her Majesty's Opposition. We will no doubt focus on that matter fully in our consideration of all the amendments.

I will take the points raised in turn. The hon. Members for Southampton, Test and for Greenwich and Woolwich both asked what the £1.7 billion in the Budget and spending review is made up of. We had an extensive debate on the Budget—I think it was four days in all—and there was a chance to examine this, but I will now reiterate the purpose of the money.

12.15 pm

The funding is to bring a project to final investment decision this Parliament, subject to value for money and all relevant approvals. This could include development stage funding to support the maturation of a project and to de-risk it. It could also include some Government investment at the point of a transaction. This will help to mobilise other private sector capital into a project, and that is very important. We are in active negotiations with Sizewell C on its nuclear project—the most advanced currently in the UK. The funding could be used to support development and investment in the project, subject to value for money and relevant approvals. It is an active negotiation.

Alan Brown: The Minister will have noticed in the evidence session on Tuesday when I put the question to the Sizewell C company about the derivation of the £1.7 billion and what discussions the company had had with the Government about that, the lady did not seem to know, or to believe there had been discussions with the Govt. How does this £1.7 billion get defined if the Sizewell C company does not know its derivation?

Greg Hands: To be fair, I also listened carefully to Sizewell C's evidence, and the company will be as aware as we are that this is an active negotiation. I was not in any way surprised that Sizewell C's representative did not wish to be drawn on the question of exactly where the £1.7 billion would be deployed. We have outlined in the Budget document the sorts of areas that would be in scope. None the less, this is an active financial negotiation.

Dr Whitehead: Does that mean that the evidence that was given to us in our session with Sizewell C was not correct, or was ill-informed? Or was it informed, but matters have moved on since then? Or was it—

Mark Fletcher (Bolsover) (Con): Diplomatic.

Dr Whitehead: Was it, indeed, as the hon. Member for Bolsover suggests from a sedentary position, diplomatic? If so, was that diplomatic answer given after any sort of instigation from the Government, or was it just diplomatic on the basis that Sizewell C did not want to tell us?

Greg Hands: I do not think the hon. Gentleman is correct. It is not fair to conclude that the evidence from Sizewell C was incorrect, or that it was ill-informed in any other way. This is an active commercial negotiation. We have laid out the parameters of the £1.7 billion, and is in no way surprising that our negotiation partners may not wish to comment on what they think it is likely to be spent on. After all, it is taxpayers' money, which will be deployed by this Government to move forward a nuclear project.

Alan Brown: The Minister made a key point: this is taxpayers' money. Surely, we as taxpayers have a right to know, even roughly, what services will be procured from this £1.7 billion. I would still expect the Sizewell C company to have discussions with the Government and say, "We need to do x, y and z in order to de-risk this project and get it to the final investment decision stage".

Greg Hands: I would say two things in response. First, Sizewell C may not feel it is appropriate to comment on the deployment of taxpayers' money. Secondly, I know from long experience of Government that often the best way of securing taxpayers' money in a negotiation is not to reveal too much about what approach the Government might be taking. We have laid out in the Budget document, which was quoted by the hon. Member for Southampton, Test, what we think is going to be in scope—what the £1.7 billion might be spent on.

The hon. Member for Greenwich and Woolwich asked a more general question about China. He asked whether this was about sending a message to China, or words to that effect. The answer is no. The UK welcomes foreign investment in our infrastructure, but as we have always said, that should not come at the expense of our national security. It is already the case in UK law that all investment involving critical nuclear infrastructure is subject to thorough scrutiny and needs to satisfy our robust national security and other legal and regulatory requirements. The National Security and Investment Act 2021 also strengthens our powers to act should we need to.

Matthew Pennycook: I take the point about the National Security and Investment Act. The Minister will know that that was given Royal Assent only in 2021. The strategic investment agreement that applies to Sizewell C was signed off—agreed—in October 2016. I think that I am right in saying that the National Security and Investment Act does not apply retrospectively, so how does it cover the specific arrangements in place as a result of that deal? Can he expand on what regulation is in force to give us assurance about safeguards in relation to foreign states and investment in civil nuclear?

Greg Hands: I thank the hon. Gentleman for that intervention. Of course, the final investment decision has not yet been taken on Sizewell C. All the relevant parts of the NSI Act will be in place—he is right to say that it got Royal Assent this year—but that final decision has yet to be taken.

The hon. Gentleman asked about Chinese involvement at Hinkley. May I be absolutely clear? The Bill is not reopening that decision. Hinkley Point C is vital to reducing our reliance on fossil fuels and exposure to volatile global gas prices. CGN is a partner in financing and building that important project. There is no involvement by any Chinese company in any major contract at Hinkley, including the instrument and control system.

As for Sizewell, to be clear, this Bill does not determine the ownership structure of Sizewell C or any other future nuclear project. That is another really important point to understand about the Bill. The Bill increases our options for financing nuclear projects, ending our reliance on overseas developers for finance—we are not

[Greg Hands]

excluding overseas developers—which has led to the cancellation of other nuclear projects in the UK. It will ensure that our own new nuclear power plants can be financed by, for example, British pension funds and institutional investors—often from our closest partners. That is the purpose of it.

Matthew Pennycook: I would like to pick up and press the Minister on the thrust of amendments 2 and 1, which is a consequential amendment. I take what he is saying about the purpose of the Bill being to attract, potentially, more UK investment—we do not know how much, but potentially—and about not wishing to exclude foreign investment. I take the point that he made earlier about the language used in our amendments and how he sees it as meaning a blanket ban. I would argue that it does not have that intent. There are complexities here, but does he not differentiate in his own mind between state-sponsored companies and state-controlled companies—controlled by foreign powers—that his own Government say pose a systemic challenge, and if he does, why does he not think that it is worth putting this in the Bill? Surely there is a need to differentiate and ensure that those types of companies—the latter—are not able to access RAB funding.

Greg Hands: I thank the hon. Gentleman for that intervention. Looking at the amendments, amendment 2 states that

"the nuclear company is not wholly or in part owned by a foreign power"

and amendment 1 states that owned by a foreign power means

"owned by a company controlled by a foreign state and operating for investment purposes."

To be frank, I have a different interpretation, or at least I am not fully seeing his interpretation as being what he has in the amendment. The amendment strikes me as being worded in such a way that it could, for example, include nuclear operators from some of our closest partners. I look at what I see in front of me, rather than necessarily what Her Majesty's loyal Opposition say that something might mean.

Matthew Pennycook: If the Minister is unhappy with our language, will he undertake to introduce Government language on Report that satisfies that differentiation?

Greg Hands: As I have made clear, we think that the Bill adequately addresses these issues, particularly in combination with the National Security and Investment Act, so I do not see it as necessary for us to make any further clarification. Ultimately, the Bill is about bringing in more financial options for future nuclear power, not cutting them.

The hon. Member asked about Bradwell. To reiterate, that is not a decision for now. CGN does not have regulatory approval for its reactor, nor has it submitted any applications to build a nuclear plant in Essex. We are in negotiations for Sizewell C, as the most advanced nuclear project in the UK.

Dr Whitehead: I am afraid the Minister cannot have it both ways. Either the Bill is about financing Sizewell C or it is about financing nuclear power more generally, in which case Bradwell surely has to come into the equation. We could be committing today to a RAB model that could, in principle, help to fund Bradwell, if it goes ahead. It is part of the linked sequence that has already been agreed in heads of terms by the UK Government and the Chinese Government, effectively. He says that it is not a discussion for today, but that is true only if the Bill is just about Sizewell C, in which case his statement that the Bill is potentially about other things is not correct. Which is it?

Although the Bill is effectively about financing Sizewell C, it has implications elsewhere. The Minister says that it is not relevant because the Hualong reactor does not yet have generic approval. That is not a question of making a decision about the involvement of foreign powers or anything like that; whether the reactor gets generic approval for use in UK nuclear markets is just a technical issue. I presume that he would want the nuclear authority to take that line and to give approval, or not, on the technical merits of the Hualong reactor, not on who is running it. That is the issue, however, concerning Bradwell. It has nothing to do with generic commissioning or otherwise; it is a much bigger issue, and he needs to recognise that.

Greg Hands: The hon. Member is correct that this is about future nuclear projects, but I stress two things. The original question from the hon. Member for Greenwich and Woolwich was about the future of Bradwell. I am reflecting on the specifics in relation to Bradwell. Of course, nuclear projects going forward are what the Bill is all about, but I will not comment on specific projects potentially going into a RAB process, because that, as we will discover later, is a properly defined process, set out with approvals from the Secretary of State after consultations. The Secretary of State will make essentially two determinations: will the project provide value for money, and is it sufficiently advanced? It would not be proper to comment on whether a specific project that we discuss today will have the ability in future to meet the two most important criteria laid out in the Bill.

Let me say a few extra things about amendment 2. The legislation gives the Secretary of State the power to designate a nuclear company and to modify the company's licence subsequently to include RAB conditions. The Bill requires the Secretary of State to consider the two criteria that I just mentioned when deciding whether to designate a nuclear project. The two criteria are that the development of a project is sufficiently advanced to justify the designation and that the project is likely to result in value for money.

The amendments seek to include additional criteria for the Secretary of State to consider before designating a project. As I said, amendment 2 requires that a nuclear company may not be owned by a foreign power. I have already raised concerns about the unintended consequences of that for our ability to pursue new nuclear projects in this country.

12.30 pm

Matthew Pennycook: The Minister is being incredibly generous in giving way, which I appreciate. On the basis of what he just said, could CGN continue to be involved in a future project as long as those two criteria were met for that project, whatever it might be?

Greg Hands: The National Security and Investment Act is also involved, so I do not think it would be appropriate for me to prejudge that process. I would ask whether the project is at a sufficiently advanced stage, whether it is likely to result in value for money and also whether it fulfils the other criteria set out in the Government's current legislative approach.

I will not go over the consequences again. It is enough to say that I think the amendments could threaten our ability to bring forward new nuclear projects, even with our closest international partners. I nevertheless appreciate the attention paid by Opposition Members to the protection of the UK's core infrastructure; we are wholly aligned on its importance and centrality. Although we welcome inward investment to the UK civil nuclear sector, we recognise the need to ensure that that investment is subject to appropriate scrutiny and is in the interests of our national security.

To reassure Members, I will focus on the robust protections that we have in place to control who invests in our critical infrastructure, which gets to the heart of many of the interventions by Opposition Members. Under the National Security and Investment Act, the Government will have significant oversight of acquisitions of control in a nuclear project.

Significantly, the Government will be able to intervene in any qualifying transaction, including an acquisition that would take the holdings to 25% or more of the shares or votes in an entity, or an acquisition of material influence over an entity. Such qualifying transactions would be subject to a national security assessment and would require the approval of the Secretary of State for Business, Energy and Industrial Strategy to proceed. That is a very tough condition on the sort of involvement that is at the heart of the interventions made by Opposition Members.

The Act also provides the Government with the ability to call in any acquisitions for assessment if there are national security concerns. From that assessment, the Secretary of State can order the prevention or alteration of the acquisition. The final funding model of any nuclear project would also be subject to full scrutiny from the UK Government prior to a final investment decision.

As currently drafted, both amendments would appear to violate the commitments we made in article 129 of the trade and co-operation agreement with the European Union, in which we agreed that we would treat investors from the EU no less favourably than UK investors. There may be multiple views within the Committee about that agreement with the European Union—the hon. Member for Kilmarnock and Loudoun voted against it in the hope of no deal—but those of us who support it believe that that article is important. The discrimination that the amendment appears to propose towards some of our closest partners and operatives in the nuclear sector would therefore be undesirable policy-wise and could put us in a difficult position.

I hope that I have convinced Members that the Government take seriously the need to ensure the security of our nuclear energy assets, including who can invest in them, and that the amendments as currently drafted are not workable. I ask the hon. Member for Greenwich and Woolwich to withdraw the amendment.

Matthew Pennycook: I thank the Minister for his response. I also very much welcome his opining on the sanctity of the UK-EU trade and co-operation agreement—a refreshing change.

I agree with the Minister entirely that we are aligned on the importance of national security in our critical national infrastructure, but I am afraid he has not done enough to reassure me. From the argument he made, as long as the two criteria that he spoke to are met, it seems that we could still end up, having passed the Bill, with financing from companies such as China General Nuclear in future UK nuclear projects. Also—this is critical—because of the sequencing agreement that has been spoken about at length and has been agreed already, that would allow China in theory to own, plan, finance and operate a site at Bradwell. We might have not only CGN financing involved, but CGN operation.

I remain unconvinced by what the Minister said about the national security regulation that is in place. In essence, he said, "Trust the Secretary of State when the point of decision comes", but we do not think that that is enough. We think this should be in the Bill. If he is unhappy with the wording of the amendment, I invite him to propose wording more appropriate to his mind, but that does the job. We will therefore press amendment 2 to a Division—not amendment 1, which is definitional in nature and consequential. I beg to ask leave to withdraw that amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Greg Hands: I think we have already had the debate, but I will say briefly that the clause defines the key terms referred to in part 1 of the Bill. Subsection (2) defines a "nuclear company" as one that holds an electricity generation licence granted by the authority for a nuclear energy generation project. The authority is the Gas and Electricity Markets Authority, the governing body of Ofgem.

The clause goes on to make a distinction between an ordinary licensed company and one that has been designated by the Secretary of State to benefit from a RAB through having its licence modified by the Secretary of State. Subsection (4) defines a "relevant licensee nuclear company". To become one such, it is necessary for the company to have had its licence modified by the Secretary of State to insert RAB special conditions and to amend the licence terms. It is also necessary for the company to have entered into a revenue collection contract with a revenue collection counterparty, so that RAB funding may flow to the company's project.

Alan Brown: I appreciate that the Minister has been generous with his time. Will he clarify whether Sizewell C has an electricity generation licence? I could not find that on Ofgem's website.

Greg Hands: I will write to the hon. Gentleman on that specific issue, perhaps this afternoon. I need to check whether Sizewell C has such a licence. I will get back to him.

Those steps in the clause are necessary to make clear the different stages that a company goes through under the RAB model.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

DESIGNATION OF NUCLEAR COMPANY

Amendment proposed: 2, in clause 2, page 2, line 14, at end insert—

"(c) the nuclear company is not wholly or in part owned by a foreign power."—*(Matthew Pennycook.)*

This amendment prevents the Secretary of State designating a nuclear company owned or part-owned by the agents of a foreign power.

The Committee divided: Ayes 5, Noes 8.

Division No. 1]

AYES

Brown, Alan	Whitehead, Dr Alan
Owen, Sarah	
Pennycook, Matthew	Whitley, Mick

NOES

Baker, Duncan	Fletcher, Mark
Cairns, rh Alun	Hands, rh Greg
Crosbie, Virginia	Jenkinson, Mark
Doyle-Price, Jackie	Wallis, Dr Jamie

Question accordingly negatived.

Dr Whitehead: I beg to move amendment 3, in clause 2, page 2, line 14, at end insert—

"(c) the Secretary of State is of the opinion that the nuclear company is able to complete the nuclear project."

This amendment requires the Secretary of State to give a view that a designated nuclear company is able to complete the project for which it is designated.

I am grateful to you, Ms Fovargue, for grouping amendment 3 on its own so that we can talk about it in its own right. Like the previous amendment, it seeks to add into the clause the designation of a nuclear company. We have not talked about the designation process, although I am sure we will.

The designation process is where a nuclear company that appears to have an interest in a plant, and has at least taken some steps to develop it beyond the conceptual state, is then given a preferential initial contract and a window—again, we will discuss the timescale of the window later—where it goes through the various processes of modifications of its licence to set itself up to take part in a RAB. It agrees to various things relating to the counterparty in the RAB process and agrees the initial ceiling for allowable costs for the project, which it has at the time of designation brought to a position where work can start to proceed. It is therefore on a track, but not in the RAB process at that point.

We attempted to put a third designation criterion in the clause a moment ago, which states that the designation criteria are that

"the development of the nuclear project is sufficiently advanced to justify the designation of the nuclear company".

In other words, the project is more than just a drawing board idea. As I am sure the Minister will be painfully aware, we have had a plethora of nuclear projects in this country at various stages of advancement that have fallen by the wayside for various reasons. Some of them were relatively advanced and some were just concepts, but they were all reflected in the original planning documentation in, I think, 2011 in terms of consortia and sites and various other things that were given an overall green light in the planning process. The sites were not designated in the sense we are considering here, for nuclear development, but it is certainly true that a number of the projects suggested for those sites would not have passed the designation test before us today on the work having been done to advance the project.

12.45 pm

I take that designation criteria—in subsection (3)(a)—as requiring evidence that the company is serious about its intentions and has started to invest money in some of the preparatory works, that a lot of the paperwork on how the company stands on the project has been completed, and that there is, most importantly, a significant grip on all the elements of the project, such that conclusions could start to be drawn, for example about the general area of allowable costs, in advance of the RAB process itself. That is criterion (a) of the designation criteria.

Criterion (b) is that

"the Secretary of State is of the opinion that designating the nuclear company in relation to the project is likely to result in value for money."

That is much more challenging. I assume it means that the Secretary of State would want to be satisfied that the resulting power from the plant would be at a reasonable cost, that the company would be able to get its construction done in such a way that value for money would result in the production phase, and that the costs and arrangements for the plant were reasonably curtailed and in good order.

What is missing from the criteria is the big question of whether the company would, in the Secretary of State's opinion at the time of designation—I appreciate that circumstances can change and so on—be in a good position to be able to complete and deliver the project.

Alan Brown: I understand where the hon. Gentleman is going, but where is the fall-back?. The Secretary of State is desperate to get a nuclear deal signed off, so he just signs it off: "Yes, I am of the opinion that this project will be completed." Ten years down the line, it all falls apart and the project cannot be completed, a bit like the Californian example. What protection would the amendment introduce? It seems that the Secretary of State can just sign this off based on his opinion. If there are repercussions down the line, they do not come back on that Secretary of State.

Dr Whitehead: The hon. Member makes an important point, at least part of which we will discuss when we come to the procedures under which a potentially failed project might be rescued or transferred to other undertakings so that it can be delivered and completed, or if already operating, can continue to operate.

Dr Jamie Wallis (Bridgend) (Con): In what circumstances is it conceivable that a nuclear project would be deemed not to have a realistic prospect of completion but at the same time to be value for money?

Dr Whitehead: It is quite possible that the Secretary of State could deem the first two criteria on the basis of work that the company had done to approach designation.

However, unless the Secretary of State has in mind the whole picture at the point of designation—in the previous group of amendments, we touched on some of the things concerning the whole picture—it would be possible for him to conclude that, yes, on the basis of the work done so far, the particular mechanisms looked like they might produce, say, value-for-money electricity at a rate per kilowatt-hour that was compatible with market levels of electricity at that point or in the future or with value for money as far as other electricity production is concerned, but he might still not have a handle on whether the undertaking that the nuclear company was about to engage in was sound in the overall, as far as completion was concerned.

The hon. Member for Kilmarnock and Loudoun touched on an important lesson in that respect, which ought to be put before the Committee. He mentioned a case in California—it was not quite in California; it was a little way a way, although it began with the same letter. I am talking about the experience of a nuclear power plant in South Carolina in the United States. When I say the experience of a nuclear power plant in South Carolina, I do not mean that—because there is no nuclear plant in South Carolina; there are a bunch of a concrete foundings, walls and various other things that look like a nuclear power station, but it does not operate, it has never produced a single kilowatt of electricity and it remains abandoned.

More significantly, that project not only was abandoned but was commissioned precisely on the sort of criteria that are contained in the Bill. All those things were gone through by the South Carolina legislature, which put in place something remarkably similar to a RAB. Indeed, the bill payers of South Carolina were required to stump up money for the project as it progressed, and I am sure hon. Members will be interested to know just how much money went from the bill payers of South Carolina to that project and how much they got out of it as a result of introducing a RAB model in South Carolina. The answer is nothing. Some £9 billion of customers' money went into the project, and they will continue to pay for that lump of concrete for the next 20 years in their bills because of the way in which the thing was constructed, all on the basis of agreements that looked pretty similar to what is in the Bill.

What South Carolina did not do was ask serious questions about the resilience of the various partners and companies involved in the project in the light of changing circumstances in terms of the construction of the project and the health of the companies involved. Among other things, costs went through the roof, the timescale increased substantially and one of the companies that was in charge of the project effectively went bust—it called for chapter 11 protection and was therefore unable to continue with the project. All those things could have been foreseen by the South Carolina legislature, but were not. The project went ahead, with the customers footing the bill, as various reviews subsequent to the collapse of the nuclear programme said, on the basis of something that was extremely unlikely to ever come to fruition as a nuclear power plant, not only because of the dodgy nature of the financing of the project but because it had completely unrealistic timescales—those involved expected to produce electricity within six years from the start of production and so on, none of which was properly overseen.

Alan Brown: I appreciate the hon. Gentleman giving way once more; I am starting to feel like I am on a mission to annoy each contributor—apologies. He makes valid points, and I understand his concerns and what he is trying to do, but I still do not understand how the amendment would preclude such a scenario. Surely, as well as the amendment, the Secretary of State would need to look at a list of criteria, with their sign-off verifying what factors have been considered to reach the opinion that the project is viable. Otherwise, the Secretary of State could just say, "I think this project will be completed—let's move on."

Dr Whitehead: Yes, indeed. The hon. Gentleman is right, to the extent that the amendment does not actually guarantee the success of a project as a result of its placement in the designation clauses. Of course, it is not possible to do that, because changing circumstances can mean that projects cannot come to fruition. The difference the amendment would make is that the Secretary of State would be required to look at all those sorts of things in the overall scheme of things as far as the company and the prospects for success of a particular project are concerned, in such a way that he could form an opinion, which he would undoubtedly have to publish, that he was as satisfied as he could be, having done all that work, that the project had a very high prospect of being completed, and he would have to underwrite that.

One thing I did not say about the South Carolina project is that a lot of it is now the subject of legal action, and various state officials are being hauled up before the courts for their lack of diligence in actually looking at the overall circumstances of the project when they gave the go-ahead on a similar basis to that which we are discussing. If the Secretary of State had to sign off, on the basis of the amendment being in the Bill, that it was all okay and could go ahead, and it turned out that it was not okay and could not go ahead, under circumstances that could have been foreseen, he would then be liable. That is potentially quite an important concentration of the mind, ensuring that the work had been done, as much as it could be done—I accept that it would not be a perfect operation—to ensure that there was a reasonable or good prospect that the company involved could complete the project. That is all the amendment says. It would be an important addition to the designation process.

We need to be clear that, as much as we can do the work, we have done the work in getting the designation clearly marked on the basis that the company really can deliver a nuclear plant and produce electricity for customers. As I have said, we are engaged in a RAB process, which ultimately lands on the customers. We absolutely do not want to ever land the customers of the United Kingdom in the same position that the customers of South Carolina are in today, so far as a nuclear power plant is concerned.

Ordered, That the debate be now adjourned.—*(Mark Fletcher.)*

1 pm

Adjourned till this day at Two o'clock.