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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

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House of Lords

Wednesday 6 June 2018

3 pm

Prayers—read by the Lord Bishop of Carlisle.

Immigration: "Right to Rent" Scheme

Question

3.08 pm

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

To ask Her Majesty's Government what assessment they have made of the impact and effectiveness of the "right to rent" scheme following the most recent report of the Independent Chief Inspector of Borders and Immigration into their "hostile environment" measures, *An Inspection of the "Right to Rent" Scheme*.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government have undertaken to reconvene the landlords consultative panel and to work with it to monitor the operation and impact of the scheme. We continue to raise awareness in this sector to promote compliance and in the past year the right to rent guidance has been viewed online nearly 450,000 times.

Baroness Lister of Burtersett (Lab): My Lords, that is welcome news and it is also welcome that the Government are reviewing their hostile/compliant environment regime, though it is not clear to what extent that will include a proper, thorough review of right to rent schemes. In view of the inspector's damning observations that hitherto there has been no attempt to measure its impact and that it has yet to demonstrate its worth, plus evidence from the Residential Landlords Association and others of discriminatory consequences, will the Government now suspend the scheme until they have conducted this proper, thorough evaluation that the inspector and others have called for?

Baroness Williams of Trafford: My Lords, the Government have no intention of scrapping the scheme. The first phase of the scheme, in the West Midlands, was subject to evaluation by Home Office Analysis and Insight to test its impact on discrimination, vulnerable groups and homelessness, as well as its impact on the sector and local authorities. The Home Office report published on 20 October 2015 found no evidence that the scheme was having any adverse impact on any of these. It is important that noble Lords note that the right to rent scheme is relatively new. It should not be seen in isolation but as one of a number of provisions that deter illegal immigration and restrict the number of illegal migrants establishing a settled life in the UK.

Lord Paddick (LD): My Lords, the chief inspector's report calls for monitoring and evaluation of the right to rent measures in terms of racial and other discrimination. He, like many in this House when the issue was debated, is concerned that risk-averse landlords could refuse to rent to black and minority ethnic tenants or those who have foreign-sounding names. Will the Minister tell the House how the Government are monitoring racial and other discrimination, and what baseline data they are using to determine whether discrimination has increased as a result of the right to rent scheme?

Baroness Williams of Trafford: As I said to the noble Baroness, an evaluation by the Home Office found no evidence of discrimination. We have found no levels of discrimination to date but we intend to reconvene the panel and monitor the effects of the scheme, as we do with any legislation.

Lord Green of Deddington (CB): My Lords, does the Minister agree that, given the difficulties of removing what might be up to 1 million illegal immigrants, it makes good sense to try to bring in measures that would encourage them to leave of their own accord? Is she aware that recent opinion polls have shown that between 70% and 80% of the public agree with the measures that the Government are taking?

Baroness Williams of Trafford: I agree with the noble Lord that if someone is here illegally, they should leave of their own accord. He is absolutely right that the public support that approach. It is also important to note that in 1997, as part of the "compliant environment" measures, the then Labour Government introduced the right-to-work proposals. To date those have worked well. Nobody should be in this country if they are not legally entitled to be.

Earl Cathcart (Con): My Lords, when the Bill went through this House, a number of us warned that the Government were turning landlords into unpaid and unqualified immigration officers as they now had to check on the immigration status of tenants or face penalties. As a landlord, I quite understand why landlords want to play it safe and rent only to people with bona fide UK passports, thus discriminating against the 17% of UK citizens who do not have a passport and those people who have a perfectly legal right to rent in this country but do not have proper paperwork. Is it right that landlords such as myself should be treated as unpaid immigration officers?

Baroness Williams of Trafford: My Lords, the Government do not expect landlords to be immigration experts. They are asked to carry out checks based on checks that were previously carried out in the sector. Landlords and agents are reminded in a code of practice of the need to conduct checks against all prospective tenants in a consistent manner. I understand my noble friend's concerns but I say to him that the list of acceptable documents is broad and it is clear that the checks are not based solely on the examination of passports or immigration documents.

Lord Kennedy of Southwark (Lab Co-op): My Lords, recommendation 3 of the independent inspector's report called on the Government to establish,

"a new 'Right to Rent Consultative Panel'",

[LORD KENNEDY OF SOUTHWARK]
with a remit to tackle the very issues the noble Earl raised in his question. Why have the Government not agreed to that?

Baroness Williams of Trafford: My Lords, we have agreed to that and we are planning to reconvene the landlords consultative panel this year, in response to the noble Earl's question.

Lord Best (CB): My Lords, I declare my interest as the co-chair of the consultative panel on right to rent at the Home Office. I am delighted to hear today that we are to be called together again; it has been 18 months since we last met. Looking at this report from the Independent Chief Inspector of Borders and Immigration, does the Minister share my disappointment that, regarding the hostile environment we hoped would be created for rogue landlords, who willingly and knowingly take in illegal immigrants and then exploit them because they know no one will ever complain—whatever the rent and however awful the conditions—the report indicates that in fact very little has happened in that regard?

Baroness Williams of Trafford: I am glad that the noble Lord has brought up rogue landlords because during the housing Bill—a period of our lives we will never forget—we discussed this at length. To date, 400 rogue landlords have been fined. I hope the noble Lord is on the reconvened consultative panel—

Noble Lords: Oh!

Baroness Williams of Trafford: Because he brings such great expertise in this area.

Courts: Modernisation

Question

3.16 pm

Asked by ***Lord Beith***

To ask Her Majesty's Government when legislation to modernise the courts system will be introduced, as set out in the Queen's Speech.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the Government introduced the Courts and Tribunals (Judiciary and Functions of Staff) Bill into the House of Lords on Wednesday 23 May of this year. This legislation is the first step in implementing the wider reform package and the Government remain committed to implementing further court reform legislation as soon as parliamentary time allows.

Lord Beith (LD): My Lords, it was nice to have such a quick response after tabling my Question but it really is a little mouse of a Bill. It has some useful provisions but why has it been stripped of almost all the court modernisation measures which were promised in the Queen's Speech? How is it that halfway through a two-year parliamentary Session the Government have not found time for urgently needed and relatively uncontroversial provisions to enable the courts to modernise and speed up processes which cause delay and distress to court users, and which cost money that could be better spent improving access to justice?

Lord Keen of Elie: My Lords, this is a mouse that roared. It may be a small Bill but it has extensive implications for the operation of our court system. Splitting the legislation originally set out in the Prison and Courts Bill will allow the Government to progress these vital reforms utilising the time available in both Houses.

Lord Pannick (CB): My Lords, one matter that the Bill does not deal with is what was addressed in Clause 37 of the Prison and Courts Bill. It provided for rules for an online procedure in courts and tribunals in appropriate cases. The Lord Chief Justice, the noble and learned Lord, Lord Burnett of Maldon, has recently stated the urgent need for such procedures. When will the Government act on this much-needed reform?

Lord Keen of Elie: As I indicated to the noble Lord, Lord Beith, we intend to bring forward all of the reforms anticipated in the original Bill, which fell at the time of the general election, and we will do so as and when parliamentary time allows.

Baroness Couttie (Con): My Lords, the Federation of Small Businesses is concerned that, with the online court system that has just been mentioned, there will be several disputes that small businesses will not be able to use the system to resolve. I would like to understand what the Government are doing for the offline dispute system to ensure that it is speedy, effective and cost effective in resolving some of these more difficult disputes.

Lord Keen of Elie: My Lords, first, with regard to the online system, which is being piloted in a number of areas, over 16,000 people have already engaged with the pilots relating to online matters such as divorce and minor pleas in road traffic cases. In addition, we have the online system with regard to payment claims. We appreciate that there are those who will continue to have to engage with the offline systems and we are of course concerned to ensure that we make further progress with regard to court reform. But as I indicated earlier, that will be brought forward as and when parliamentary time allows.

Lord Marks of Henley-on-Thames (LD): My Lords, what we need is accessibility: a set of proposals, properly financed, for court staff, in person and over the phone, court documents and online resources all to be committed to helping court users, particularly litigants in person, to navigate their way through the litigation process. This will mean court officers changing their traditional position that they are not there to give advice. What proposals do the Government have along these lines?

Lord Keen of Elie: My Lords, there is no reason why reallocated court staff will not be in a position to provide advice as they have in the past. We are at the

commencement of an extensive reform of our court processes. Indeed, I quote the Lord Chief Justice and the Senior President of Tribunals:

"While there is still much work to do, the introduction of this Bill is a positive first step in legislation to deliver reform".

The Earl of Listowel (CB): My Lords, the recommendations of my noble friend Lord Carlile's inquiry into youth justice were, in particular, to use youth courts, not adult courts, for young people, and more problem-solving courts. Does the Minister agree that we need to be more effective in dealing with young people in the courts so that we stop the revolving door into custody?

Lord Keen of Elie: My Lords, I entirely agree with the observations of the noble Earl.

Lord Beecham (Lab): My Lords, the Government's concept of modernisation of the court system seems to include court closures up and down the country and a reduction in the availability of legal aid, which has led to a growth in the number of litigants in person, causing great delays in the courts. In the circumstances, is it not the Government's duty to ensure that any modernisation of the system is reflected in securing access to justice as opposed to making some fairly minor financial savings?

Lord Keen of Elie: My Lords, of course what is paramount in the context of this reform is access to justice. As the reform programme progresses, we expect that we will need fewer courts and we will continue to review our estate to make sure that it is able to maximise the benefits of the reformed courts and tribunal service.

Lord Vinson (Con): My Lords, there is an associated problem: the high cost of litigation. With lawyers' fees running at around £575 an hour and barristers' fees at more than £1,000 an hour, people are priced out of justice. Is it not time that this cabal against the public is looked at and examined by the Competition Commission?

Lord Keen of Elie: My Lords, I cannot accept the estimates of counsels' fees that have been advanced at either the lower end or the higher end. Of course we are taking steps to contain the cost of access to justice, and it is important that we do so.

Brexit: Negotiations

Question

3.23 pm

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they expect to reach a full agreement with European Union negotiators on the United Kingdom's withdrawal from the European Union before the European Council meeting in October.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, we have made significant progress on a withdrawal agreement, reaching agreement on more than three-quarters of the legal text and locking down the full chapters on citizens' rights, the implementation period and the financial settlement. We are continuing to work hard and at pace to reach a final agreement by October.

Lord Dykes (CB): I think the whole House appreciates that the Minister has been working hard to reassure Members of this House about these complicated matters. However, are the Government aware of the looming catastrophe they face, not least because the end-June meeting of the European Council is most unlikely to bail them out of their own mistakes? Is not, therefore, the moment of truth approaching—when the single market and the customs union will be the only practical options?

Lord Callanan: No, we have been very clear that we are leaving the single market and the customs union, and we remain optimistic, like the EU, that we should be able to reach an agreement by October.

Baroness Hayter of Kentish Town (Lab): My Lords, this is rather a shambles, is it not? In fact, we are reading on the Channel 4 website that tempers within the Government are "fraying". That is hardly surprising. The White Paper that David Davis said would be the,

"most significant publication on the EU since the referendum",

is not appearing. I do not know whether the fact that the White Paper has not come out is worse for Parliament and the people here or for our negotiating partners in Brussels. Either way, we need to know what is going on. Will the Minister talk to his bit of the usual channels if I talk to mine and ensure that we have a proper debate on these negotiations immediately after the June summit?

Lord Callanan: When the noble Baroness said it was a shambles, I assumed she was referring to the Labour Party's position on the EU, which, given the statements yesterday and by Keir Hardie on the radio this morning, is a disgraceful shambles—

Noble Lords: Starmer!

Lord Callanan: It would indeed be impressive if Keir Hardie had gone on the radio this morning. I am sorry, I was of course referring to Keir Starmer.

Baroness Ludford (LD): Will the Government be advising citizens to stock up on dried, tinned and frozen food, jerry cans of fuel and their prescription medicines, given that it was reported at the weekend that Whitehall is planning for the port of Dover to collapse on day one of a crash-out no-deal Brexit, leading to a critical shortage of supplies? Will the Government share this planning with the public?

Lord Callanan: The claims that the noble Baroness refers to are completely false. A significant amount of work and decision-making has gone into our no-deal plans. We hope there will not be a no-deal situation but, as a responsible Government, we need to plan accordingly.

Lord Cormack (Con): My Lords, setting aside both Cassandra and Keir Hardie, when is the White Paper due to be published?

Lord Callanan: The White paper will be published when it is ready.

Lord Pearson of Rannoch (UKIP): My Lords, when will the Government see that they hold all the best cards in these negotiations? Why do they not offer Brussels continuing security, mutual residence and free trade—all of which are much more in the interests of the real people of Europe than they are of ours—and then tell the Eurocrats how much cash we will give their failing project, which will depend on how they have behaved with all of the above? Why should that take more than a month?

Lord Callanan: As the noble Lord is aware, we have offered the EU unconditional security guarantees, as is right and proper, and we are negotiating in good faith to achieve the free-trade relationship that he talked about.

Lord Wigley (PC): My Lords, a moment ago the Minister made reference to the Government's no-deal plan. Will he therefore confirm that the Government are seriously confronting the likelihood of leaving without a deal?

Lord Callanan: As I also said, we hope there will be a deal. We are working towards a deal and negotiating in good faith, as we believe our European partners are. However, as a responsible Government, it is important that we plan for all eventualities.

Lord Forsyth of Drumlean (Con): My Lords, will my noble friend confirm that if indeed we are in the unfortunate position of leaving without a deal, we will not be paying the £40 billion to the EU?

Lord Callanan: If there is no deal then there will be no withdrawal agreement, and that bill would be included in the withdrawal agreement so the noble Lord is correct.

Lord Tomlinson (Lab): The Minister said we are negotiating in good faith. I thought the White Paper was supposed to be our negotiating plan. If the Government have a plan and we cannot see it, when are we going to see it? If they cannot see it either, what are they negotiating about?

Lord Callanan: We are negotiating on the issues that we discussed in the first round. We have reached agreement on citizens' rights and the financial settlement, and we are discussing the Northern Ireland border. Of course what we want to do is get on to discussing the free-trade agreement and all the other settlement issues, which we will do in due course. We will publish a White Paper setting out our position in detail when it is ready.

Lord Wallace of Saltaire (LD): My Lords, have the Government done enough to ensure that they carry domestic public opinion, including the right-wing press, with the deal that they eventually strike? I see announcements from the Government that we are going to continue to respect the decisions of the European Court of Justice in a number of areas, and clearly we are going to continue to contribute to a large number of European financial arrangements, according to the proposals that have been put out in the slide shows that were slipped out over the last two or three weekends. This is going to arouse a lot of anger on the Back Benches of the Conservative Party and in the *Mail* and the *Telegraph*. Should the Government not be preparing domestic public opinion for the necessary compromises that they are already beginning to propose to their European counterparts?

Lord Callanan: I am not sure that I would accept the scenario outlined by the noble Lord. We have always been clear that where there are areas in which we can co-operate with our European partners, in some small areas, we will make an appropriate contribution to the costs, but we have also been clear that the days of making vast contributions to the European budget are at an end.

Lord Spicer (Con): Where does the noble Lord, Lord Dykes, get his forecasts of doom and gloom from? I hope it is not the Bank of England.

Lord Callanan: I must apologise; I did not quite catch that question.

Lord Spicer: My Lords, where does the noble Lord, Lord Dykes, get all his forecasts of doom and gloom from? I hope it is not the Bank of England.

Lord Callanan: I do not presume to assume where the noble Lord gets his predictions of doom and gloom from, but they are probably wrong.

Lord Lea of Crondall (Lab): My Lords—

Lord West of Spithead (Lab): My Lords—

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, I must leave it to noble Lords on the Labour Benches to observe the courtesies of the House.

Lord West of Spithead: My Lords, the security of Europe is critical for the security of our nation. Seventy-four years ago today, we and the Americans invaded Normandy and ensured the safety of Europe. Do we now have agreements with the EU in the defence and security arena, because that is crucial for us?

Lord Callanan: The noble Lord is of course correct about our proud history of contributing to the defence of Europe, and we should remember the sacrifices that were made on this historic day. We do not yet have agreement on security matters, but our offer of security guarantees is unconditional and, I think, very generous.

Abortion

Question

3.31 pm

Asked by ***Baroness Barker***

To ask Her Majesty's Government, in the light of the result of the referendum to repeal the eighth amendment of the constitution of the Republic of Ireland, what assessment they have made of its impact on the ongoing criminalisation of women seeking access to abortions across the United Kingdom.

Baroness Barker (LD): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest as the chair of the All-Party Parliamentary Group on Sexual and Reproductive Health.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, under existing arrangements women across the United Kingdom have access to high-quality, safe abortion services. Parliament decided the circumstances under which abortion can be legally undertaken. It is accepted parliamentary practice that proposals to change the law on abortion come from Back-Bench Members and that decisions are made on the basis of free votes.

Baroness Barker: I thank the Minister for that Answer. Do the Government not think it is wrong that women in Northern Ireland can be coerced to continue with a pregnancy under legislation passed in 1861 by MPs, all of whom were men elected solely by men? Does he not agree that to overturn Sections 58 and 59 of the Offences against the Person Act would enable the men and women of Wales, Northern Ireland and England to determine under what circumstances women should be able to access safe, legal abortion?

Lord O'Shaughnessy: It has been the position of successive Governments that abortion policy and law is a devolved matter for Northern Ireland, to be decided by elected politicians in Northern Ireland on behalf of the people of Northern Ireland. That is our position: they should be the group that makes the decision.

Baroness O'Loan (CB): Can the Minister confirm, given the decision by a majority of the democratically elected Northern Ireland Assembly made in February 2016—an Assembly elected by the men and women of Northern Ireland—that it does not wish to change abortion law, and given that it has been recognised since the Government of John Major that Westminster would not impose abortion on Northern Ireland, that if the Government move to decriminalise abortion in England and Wales or to direct rule in Northern Ireland, they will not impose any change in abortion law on the people of Northern Ireland, particularly at this most difficult and sensitive time?

Lord O'Shaughnessy: Our intention—that of the Government and the Northern Ireland Office—is to restore a power-sharing agreement and arrangement in Northern Ireland so that it will be up to the people of Northern Ireland and their elected officials to decide on abortion policy.

Baroness Thornton (Lab): My Lords, the Northern Ireland Assembly is not meeting at the moment. This matter, which is the issue of the Question put by the noble Baroness, is not a devolved matter. Could the Minister give the House an indication of the Government's response to the debate led by my honourable friend Stella Creasy in the Commons yesterday? A cross-party amendment will be tabled to the upcoming Domestic Violence Bill that will seek to decriminalise abortion across England, Wales and Northern Ireland through the repeal of Sections 58 and 59 of the Offences against the Person Act 1861. That is not a devolved matter.

Lord O'Shaughnessy: I merely reiterate the point that abortion policy is a devolved matter. Indeed, that has been the policy of successive Governments of all hues. Of course, it is ultimately up to Parliament to make a decision, and any move that came from Parliament would emanate from within Parliament, from the Back Benches, on the basis of a free vote, as I set out in my first Answer.

Lord Morrow (DUP): My Lords, would the Minister agree with me that if, in fact, Westminster legislates on this matter, effectively devolution has been put off for a long time? Does he accept that this is a matter for the people of Northern Ireland and its elected representatives? Incidentally, the DUP is ready to go back into the Assembly tomorrow morning.

Lord O'Shaughnessy: I agree with the noble Lord that it is and should be a decision for the elected representatives of the people of Northern Ireland. As anyone who watched or read the transcript of the debate in the Commons yesterday will know, there is a profound disagreement about what the implications would be of repealing Sections 58 and 59 of the 1861 Act. If that were brought forward, there would be a discussion in Parliament on the consequences of that and on its interaction with the devolution settlement.

Baroness Jenkin of Kennington (Con): My Lords, following yesterday's debate in another place, the Minister for Women and Equalities said:

"With authority comes responsibility. Message from NI Secretary of State today: NI should take that responsibility. Message from the House of Commons: if you don't, we will".

Does my noble friend agree?

Lord O'Shaughnessy: The position of the Government is that this ought to be a decision for the elected representatives of Northern Ireland representing the people of Northern Ireland, which is why we are determined to restore power-sharing agreements and arrangements as soon as possible—so they can make that decision.

Baroness Suttie (LD): If the Supreme Court rules tomorrow that Northern Ireland's abortion laws are in contravention of human rights laws, will the Minister

[Baroness Suttie]
confirm that the Government will move to repeal sections of the 1861 Act and decriminalise abortion in Northern Ireland?

Lord O'Shaughnessy: As my right honourable friend the Secretary of State for Northern Ireland set out in her statement yesterday in the debate, we are aware of the decision coming imminently tomorrow and that both we and the Northern Ireland Executive will consider that judgment carefully.

Lord Alton of Liverpool (CB): My Lords, will the Minister agree that the caricature of the people of Northern Ireland as living in some antediluvian society has to be measured against a law that has led in Great Britain to some 9 million abortions—that is one every three minutes, 20 every single hour and 600 every working day, with one in five pregnancies now ended by abortion, and abortion up to and even during birth in the case of babies with disabilities, leading to 90% of all babies with Down's syndrome being aborted? Is that something that we have a right to export to Northern Ireland, or do we not have a belief in devolution and the right of people in Northern Ireland to make up their mind on that issue for themselves?

Lord O'Shaughnessy: I would not presume to make a caricature of the people of Northern Ireland in one way or another. What this debate has demonstrated is that there are deeply held beliefs in this area and, of course, there are significant consequences of decisions on abortion law in one regard or another. It has emphasised that those decisions, which are incredibly significant, ought to be made by the people whom they affect, via the elected representatives whom they put in power.

Rape Trials

Private Notice Question

3.39 pm

Asked by ***Lord Morris of Aberavon***

To ask Her Majesty's Government, in light of the statement given by the Director of Public Prosecutions yesterday that between January and mid-February this year there were 47 cases where the CPS failed to disclose vital evidence before a rape trial, what action the Government intend to take to ensure that this does not happen in the future.

Lord Morris of Aberavon (Lab): My Lords, I beg leave to ask a Question of which I have given private notice.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the Government are clear that ensuring disclosure requirements are met is vital for a fair trial and public confidence. The Attorney-General is leading a wide-ranging review of disclosure practices and aims to report by the summer. The findings of the review of rape and serious sexual offence cases, published by the Director of Public Prosecutions yesterday, will feed into a wider operational response to delivering necessary improvements in the system.

Lord Morris of Aberavon: My Lords, the disclosure of unused material that assists the defence or undermines the prosecution is vital to a fair trial. Does the noble and learned Lord still stand by his earlier reply that we have not gone backwards? Would he like to comment on yesterday's evidence by the Director of Public Prosecutions, which differs wholly from her bold assertion in January that she did not think disclosure failings would have led to people being wrongly jailed? Where is the failure to grip the situation: the police or the CPS?

Lord Keen of Elie: My Lords, the review that was undertaken involved consideration of 3,637 cases in the period between 1 January and 13 February this year. In respect of those cases, 47 were identified where there were concerns about the management of disclosure. However, that does not mean that this was the reason for the discontinuance of the prosecution in each and every one of those cases. There is of course concern that disclosure should be carried out fully and properly pursuant to the legal requirements of the Criminal Procedure and Investigations Act 1996. That obligation lies not only on the police and Crown Prosecution Service but on the defence, which is required within a certain period—28 days—to give a defence statement. That, in itself, indicates where there may or may not be room for further investigation of material that could pertain to the prosecution case or assist the defence. It is necessary for all parties involved in this process to engage in order that it can be properly discharged.

As I indicated earlier, further work is being undertaken by the Attorney-General to deal with this question, which we hope to report upon by the summer. I do not accept that we are going backwards. Technology is going forward, and very quickly indeed. We now live in an environment in which there are vast quantities of social media apps—Instagram, Facebook and the like—that can be contained on one or two mobile devices and which make demands upon the police service, the Crown Prosecution Service and indeed the defence. They did not exist 10 years ago. We are seeking to meet those demands; it is important that we do so.

Lord Marks of Henley-on-Thames (LD): My Lords, the number of recent cases collapsing following late disclosure—many of them well publicised—is frankly a disgrace. It is made even worse because it has often happened when defendants have been remanded in custody pending their trial. The Director of Public Prosecutions says that the prosecution is disclosing relevant evidence to the defence in the vast majority of cases, but it needs to be—so far as it can be achieved—invariable. I hear endless anecdotal reports from criminal lawyers that these failings are widespread and attributable largely to a lack of resources, often to download and go through smartphone records—as the noble and learned Lord's last answer implicitly recognised. We accept that trawling through records harvested from confiscated smartphones is time-consuming and expensive, but fairness and justice require it. Can the noble and

learned Lord guarantee that the Government will respond to recent failures by giving all necessary resources to be devoted to this work to ensure that we achieve full disclosure of relevant material to the defence?

Lord Keen of Elie: My Lords, we must always aspire to full disclosure in circumstances when material could otherwise undermine a prosecution or assist the defence to a criminal charge. No one would doubt that for a moment. As I understand it, there has been no complaint to date about a lack of resources as regards the police and the CPS. I go back to the point I made earlier, that these obligations with regard to disclosure extend beyond the police and the Crown Prosecution Service to the defence as well. I am not in the business of giving guarantees, but we will look clearly, unambiguously and carefully at the findings of the Attorney-General's investigation in the summer and will respond appropriately to its conclusions.

Lord Judge (CB): How can the obligations imposed on the defence by the 1996 Act excuse or explain failures by the prosecution to disclose relevant material?

Lord Keen of Elie: They do not necessarily explain such a situation. However, in circumstances where the defence actually obtempers its obligation to provide a defence statement, it is possible to identify further areas of inquiry for the disclosure of material. For example, if the defence statement discloses that that there was a pre-existing relationship between a complainer and the defendant, it will be possible to make further inquiries to ensure that material that might otherwise have gone unnoticed is disclosed to the defence. Therefore these matters are connected.

Baroness McIntosh of Pickering (Con): Will my noble and learned friend clarify his comments on social media and the extent to which, in cases where the prosecution has information that is available on social media, it is disclosed to the defence counsel?

Lord Keen of Elie: In circumstances where it has been possible to download material that involves communications either between a complainer and the accused or between the complainer and third parties, that material will be analysed and all relevant material will be taken and disclosed to the defence. Of course, it is not always possible to access this material. We now live in an environment of encryption and of WhatsApp and Instagram, where sometimes this material is simply not accessible.

Lord Campbell-Savours (Lab): What about those cases where men have been found guilty and are in prison, and there was inadequate disclosure during the course of their trial, whereas if there had been full disclosure they would have been found innocent? Are they simply to be left in prison and not have their cases reviewed?

Lord Keen of Elie: My Lords, I am not aware of any such cases. However, clearly, we have a series of filter mechanisms in our criminal justice system that includes the criminal cases review operation where there has already been a conviction and material comes to light.

Lord Davies of Stamford (Lab): My Lords, the noble and learned Lord has referred several times to the obligations placed on the defence by the 1996 Act. Is he suggesting or is he aware of any evidence which indicates that some of these cases that have collapsed have done so as a result of a failure by the defence to meet its obligations under that Act?

Lord Keen of Elie: Recent inquiries indicated that in something like 25% of cases a defence statement was not produced or not produced timeously.

Lord Paddick (LD): My Lords, the noble and learned Lord said that he had not heard that a lack of resources was to blame for these failures. He may not have heard my noble friend the former Director of Public Prosecutions say on "Newsnight" last night that he felt that it was as a result of a 25% reduction in funding for the CPS and the loss of hundreds of lawyers—and, I add to that, the loss of thousands of police officers and an ongoing 25% reduction in their resources could be to blame.

Lord Keen of Elie: I note the noble Lord's careful use of "could". That is why we will await the outcome of the present inquiries and investigations before we draw any conclusions.

Lord Cormack (Con): My Lords, did my noble and learned friend see that rather disturbing programme about the Criminal Cases Review Commission? He referred to that commission. Is he entirely satisfied that it is working in a proper and seemly way?

Lord Keen of Elie: My Lords, I am not a regular viewer of the television and I am not aware of the programme to which my noble friend refers. However, at present there are no indications that the criminal cases review operation is not operating in accordance with its remit or that it is not capable of discharging its functions.

Lord Beecham (Lab): My Lords, the chief constable of Surrey has described the situation as having had a "catastrophic effect". It is two years since warnings were first given about this problem. Will the Government now ensure that further inquiries are made for the period before that time to see whether other cases need to be dealt with? Will he also ensure that a view will be taken not just in relation to sex offences, which have been the subject of the present findings, but across the field of criminal offences? Clearly, there is a risk that we will see the same kind of failings affecting other offences.

Lord Keen of Elie: My Lords, a joint justice systems inspectorate investigation on disclosure issues took place in 2016 and the report was published in July 2017. We were in the process of implementing a series of recommendations when a number of further cases

[Lord Keen of Elie]
arose in early 2018, and that is what has given rise to the Attorney-General's determination that there should be a review. We will await the outcome of that review before taking further decisions with regard to disclosure. However, disclosure is not of course limited to cases of rape or other sexual assault. We appreciate that this issue has to be addressed across the board so far as the criminal justice system is concerned.

Nuclear Safeguards Bill

Commons Amendment

3.51 pm

Motion A

Moved by ***Lord Henley***

That this House do not insist on its Amendment 3, and do agree with the Commons in their Amendment 3A in lieu.

3A: After Clause 3, insert the following new Clause—

"Request for continuation of existing arrangements

(1) The Secretary of State must make a relevant request to the European Council if neither of conditions 1 and 2 is met at the beginning of the period of 28 days ending with exit day.

(2) Condition 1 is that all of the principal international agreements have been signed.

(3) Condition 2 is that—

(a) one or more of the principal international agreements have not been signed, but

(b) in respect of each agreement that has not been signed, arrangements for the corresponding Euratom arrangements to have effect in relation to the United Kingdom after exit day—

(i) have been made, or

(ii) will, in the Secretary of State's opinion, have been made before exit day.

(4) A "relevant request" is a request, in relation to each principal international agreement that has not been signed and in respect of which subsection (3)(b) does not apply, for the corresponding Euratom arrangements to continue to have effect in relation to the United Kingdom after exit day until—

(a) the principal international agreement comes into force, or

(b) arrangements have been made for the corresponding Euratom arrangements to have effect in relation to the United Kingdom until further notice.

(5) The "principal international agreements" are—

(a) agreements relating to nuclear safeguards to which only the United Kingdom and the International Atomic Energy Agency are parties;

(b) agreements relating to nuclear safeguards to which the United Kingdom is a party with, respectively, the governments of Australia, Canada, Japan and the United States of America (and for this purpose "agreement" includes an agreement or other arrangement that modifies or supplements an existing agreement).

(6) A reference in this section to "the corresponding Euratom arrangements" is a reference—

(a) in the case of an agreement referred to in subsection (5)(a), to whichever of the Safeguards Agreement and the Additional Protocol corresponds to the agreement;

(b) in the case of an agreement referred to in subsection (5)(b), to whichever of the agreements to which Euratom is a party with the government of Australia, Canada, Japan or the United States of America corresponds to the agreement (and for this purpose the reference to an agreement to which Euratom is a party includes any agreement or other arrangement that modifies or supplements the agreement).

(7) In this section—

"exit day" has the same meaning as in the European Union (Withdrawal) Act 2018 (and references to before or after exit day are to be read accordingly);

"the Safeguards Agreement" and "the Additional Protocol" have the same meaning as in the Nuclear Safeguards Act 2000;

"signed", in relation to a principal international agreement, means signed by both parties to the agreement."

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, as the House is aware, the amendment in lieu was proposed by the Government in the House of Commons in response to Amendment 3 made on Report in this House. Although the Government opposed Amendment 3 on Report, my honourable friend Richard Harrington and I have listened very carefully to the arguments and concerns put forward in both this House and another place about ensuring continuity for the nuclear industry. I hope that this amendment in lieu exemplifies the commitment to compromise and to engaging with Parliament that I believe the Government have demonstrated throughout the passage of the Bill.

Amendment 3 would have required that, where particular agreements relating to nuclear safeguards were not in place on 1 March 2019, the Government would have to request that the UK's withdrawal from Euratom be suspended until those agreements, or continuation arrangements, were in place. This amendment in lieu would, like Amendment 3, apply 28 days before exit day, on 1 March 2019. Under this amendment, if any principal international agreement were not signed and no other equivalent arrangements in respect of unsigned agreements had been made or would be made before exit day, the Secretary of State would have to ask the EU for,

"corresponding Euratom arrangements to continue to have effect",

in place of the unsigned agreements. The relevant agreements are those on safeguards between the United Kingdom and the International Atomic Energy Agency—the voluntary offer agreement and the additional protocol—and the four priority nuclear co-operation agreements with the United States, Canada, Japan and Australia.

Although the Government were not able to agree to Amendment 3, the House of Commons has made this amendment in lieu, which I hope the House will agree addresses its concerns on this matter. I beg to move.

Lord Broers (CB): My Lords, as one whose name was on Amendment 3, it gives me pleasure to support the replacement of that amendment with Commons Amendment 3A. The Commons amendment supports the basic proposals that we put forward in the Lords amendment but is more detailed and will better ensure that, if adequate agreements are not in place 28 days before exit day, the Secretary of State must request the continuation of the present Euratom arrangements. Amendment 3A more tightly defines the request that the Secretary of State must make and the relevant principal international agreements, and seeks to eliminate other possible ambiguities.

I would also like to say how much I welcome the Government's acceptance of other Lords amendments, particularly the one that specifically points out that civil nuclear activities for peaceful purposes include production, processing or storage activities, electricity generation, decommissioning, research and development—a particular interest of mine—and any other peaceful nuclear activities.

Overall, I observe that the way this Bill has been handled is an excellent example of what can be achieved when there is constructive collaboration between the political parties, we Cross-Benchers and even between the Lords and the other place. Our parliamentary system has really worked well in this instance and it is my sincere, if naive, hope that this admirable spirit of collaboration continues throughout the consideration of all of the other Brexit-related Bills.

Lord Teverson (LD): My Lords, I am also very pleased that we have come to a suitable arrangement. I support this amendment and reflect the comments of the noble Lord, Lord Broers. However, the challenges in achieving this are still major. We know from the leak from the risk assessment of the Office for Nuclear Regulation that we have an IT system that has only just been commissioned and timescales are very short for that £100,000 programme. We know that training has not been fast or easy in terms of recruitment or giving skills to those people to ensure that we have the right number of people in the Office for Nuclear Regulation. We have already had a concession that the standards that can be met by Brexit day are best international, rather than the Euratom standards the Government originally wished for.

Also, I understand that we have not yet had ratification of any of those nuclear co-operation agreements. Although I recognise and welcome the fact that we have agreement with the United States, agreement is not ratification. As the Minister himself said in a Written Answer to me:

"Ratification in the US requires the agreement to remain in Congress for 90 joint sitting days, whereby the US Senate and House of Representatives both sit, and the consent of two-thirds of the US Senate. Congress also has the option of adopting either a joint resolution of approval, with or without conditions, or standalone legislation that could approve the agreement. UK officials have held detailed discussions with the US and both sides are satisfied that this process can be completed ahead of the UK's withdrawal from Euratom".

I am glad to hear that optimism, but I still believe that that is a very difficult timetable to meet. I will be interested to hear from the Minister where we are on the other three nuclear co-operation agreements as well.

Lord Carlile of Berriew (CB): My Lords, as another who took part in the earlier stages of this debate, my eye joined with my noble friend Lord Broers in expressing thanks to the noble Lord, Lord Henley, for listening to the arguments that were made earlier, and to the Government for showing that the dynamic relationship that sometimes exists between your Lordships' House and the House of Commons actually improves Bills, even in the febrile context of Brexit. I hope that this result today on Motion A, which I certainly support, will be a clear message to those who are given to say glibly that your Lordships' House is merely trying to wreck Brexit. That is just not true. What is happening this afternoon is clear evidence, which the Government should cite, that there can be constructive work between the two Houses to improve even the legislation on this very difficult issue.

Lord Hunt of Chesterton (Lab): My Lords, one of the features of this provision is that it does not mention the exact question of finance. Clearly, we are working on some large and expensive programmes, particularly on fusion. In replying, will the Minister comment on whether new budgets will have to be created for the new arrangements, or will they fit within the existing budgets?

Lord Inglewood (Con): My Lords, I declare an interest that I share with my noble friend the Minister: we are both Cumbrians. Obviously, Cumbria is deeply affected by the nuclear sector, which is potentially very hazardous both to those who are engaged with it and to those living close to it. Therefore, having the strongest possible safeguards in place, which I believe that this amendment will help to bring about, is a great reassurance to those who would be affected should anything go wrong.

Just as my noble friend the Minister is absolutely certain that his house is not going to burn down, I am sure that that has not stopped him taking out an insurance policy. Equally, the Government, who are convinced that Brexit will take place, should recognise nevertheless that there is a possibility that, for various reasons, something may not happen as they hope. Having the strongest form of reassurance in the Bill in this regard is important because it is something to which those who might be affected were something to go wrong will be able to turn.

4 pm

Baroness Featherstone (LD): My Lords, to be frank, I wish that we could have just stayed in Euratom, which would be the simplest and most straightforward answer to nuclear safeguards, but I am relieved that the Government have listened to the concerns expressed on all sides of the House during the passage of the Bill, and I am very grateful that an amendment has been laid with which we can all agree. It is an important point that addresses any potential disaster, such as what if bilateral agreements were not in place, and avoids the cliff edge that we, like the Government, hope will never be reached. However, as the noble Lord opposite has just said, an insurance policy is a good thing and we now have that.

Lord Grantchester (Lab): My Lords, it is a moment to be enjoyed when a Government Minister brings back to your Lordships' House an amendment that all sides can resoundingly support. This amendment in lieu is in essence the amendment agreed on Report—admittedly, more deftly drafted—to ensure a responsible, less risky and more certain transition from the Euratom-monitored safeguarding regime to a uniquely robust regime operated by the ONR to full international recognition. The final version of the Bill is a vindication of the work of your Lordships' House and the Government are to be congratulated on finally getting the legislation correct in the other place. While some

[Lord Grantchester]
noble Lords would contend that the Government had no need to trigger withdrawal from Euratom, given the difficulties around the notification letter and the Article 50 Bill, the House was right to focus this Bill on securing that the withdrawal from Euratom should proceed on a sound basis, satisfying all the contingencies that could arise during the process. This amendment in lieu allows the House to reflect on the fact that it has fulfilled its role successfully. Let us examine that in detail.

First, the Bill strengthens Parliament's oversight and improves transparency by putting the Government's reporting commitments on a statutory basis. Secondly, on the recommendations of your Lordships' Delegated Powers and Regulatory Reform Committee, the Bill puts a further definition of "civil activities" on the face of the Bill and sets a time limit on the Government's use of so-called Henry VIII powers. Thirdly, the Bill provides further information to the report that the Government will be making periodically. It may include arrangements with Euratom relating to nuclear research and development, as well as the import and export of qualifying nuclear material such as medical isotopes. The facility at Culham and the JET programme will be pleased with this outcome.

Finally, in this amendment in lieu the Government are agreeing that the practical realities of the UK's withdrawal from Euratom will need to be recognised. The Euratom arrangements will cover all the conditions and standards to allow a continuation of trade and non-proliferation certification without disruption, interruption or dilution. At all times, whether phased or not, the UK's withdrawal will not be put at risk and will not jeopardise the present status of operating within fully recognised international IAEA standards in place. The implementation period is still to be fully agreed and put on a statutory basis. It will qualify under Section 3(b) as a corresponding Euratom arrangement. This will allow a further period in which the Government can recruit and train inspectors. In addition, from exit day, we are satisfied that, where needed, the amendment would cover the six vital agreements necessary to maintain the status quo. Two of them cover agreements with the IAEA and there is one for each of the four countries with nuclear co-operation agreements: namely, the USA, Canada, Japan and Australia.

I am grateful to the Minister for his letter following our meeting to discuss the amendment. Together with the Minister in the other place, Richard Harrington, and the noble Baroness, Lady Vere, he has put considerable effort into recognising and addressing valid concerns in both Houses throughout this process. I thank him and his team for co-operating with us on the Bill. The nuclear industry can be reassured that it may not need to face a cliff-edge moment and that the UK will continue to work constructively with Euratom. All sides recognise that the UK still has some way to go, yet we now have the right framework to bring that about.

In conclusion, I thank the House for its support and those who have participated so persistently and decisively in the Bill, namely the noble Lords, Lord Broers, Lord Warner, Lord O'Neill, Lord Carlile, Lord Teverson, Lord Hutton and Lord Fox, the noble Baronesses, Lady Featherstone and Lady Neville-Rolfe, and the noble Viscount, Lord Hanworth. I certainly cannot forget my noble friend Lord Hunt on the Front Bench, with the expert assistance of Grace Wright in Labour's support team. This Bill has been a fusion of all the talents: it is a job well done.

Lord Henley: My Lords, I thank the noble Lord, Lord Broers, for both his support for the amendment and for setting such a good and welcoming tone for the debate. I thank all other speakers for their positive remarks—although I accept that there are still challenges ahead, as the noble Lord, Lord Teverson, put it. As I made clear during the passage of the Bill, I want to continue to provide information to the House as we proceed to make sure that everyone is happy with what we are doing to ensure that the right arrangements—or the appropriate insurance policy, as my noble friend Lord Inglewood and the noble Baroness, Lady Featherstone, put it—are in place.

The House will be aware that the passing of this Bill is just one of the steps needed to establish new nuclear safeguards arrangements for the United Kingdom. It is only one aspect of the Government's efforts to maintain close and effective arrangements on civil nuclear co-operation, safeguards and safety with Euratom and the rest of the world. To that end, we have made good progress both at home and abroad. The Office for Nuclear Regulation has enhanced its organisational capacity and capability to deliver the future safeguards regime. I assure the noble Lord, Lord Hunt, that we have increased its available funding to £10 million, which includes the procurement of the new IT system. I assure the noble Lord, Lord Teverson, that we will do all that we can to make sure that the system is appropriate. We are also recruiting and training a large number of new inspectors and strengthening the institutional capacity to deliver the project within budget.

We will soon consult on nuclear safeguards regulations. An early draft of that was provided to this House. The department and the Office for Nuclear Regulation will continue to engage stakeholders individually and through wider events. I assure the House that only this morning, in Vienna, the IAEA board of governors formally approved new bilateral international safeguards agreements with the United Kingdom to replace the current agreements, which include Euratom. We expect that they will be signed tomorrow. The conclusion of these agreements, which will take effect once Euratom arrangements cease to apply to the UK, once again demonstrates this Government's sustained commitment to the civil nuclear sector, international safeguards and nuclear non-proliferation.

I can further reassure the noble Lord, Lord Teverson, that on 4 May, as I think he is aware, the Government signed a new nuclear co-operation agreement with the United States of America. That will be ratified by Congress and laid before Parliament before ratification in the UK. Again, I will make sure that the House is kept informed of that process. On further NCAs, good progress continues to be made to put in place respective arrangements with Australia, Canada and Japan ahead of March 2019. Again, I will inform the House when that happens.

As part of EU exit negotiations the UK and the EU have agreed the terms of an implementation period, as the House will be well aware, running until the end of December 2020. That means that existing Euratom arrangements, including international agreements, would continue during this period.

I hope that I have given all appropriate assurances to noble Lords who have taken part in the short debate on this Motion. I beg to move.

Motion agreed.

Airports National Policy Statement

Statement

4.11 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, with the leave the House, I shall now repeat a Statement made yesterday by my right honourable friend the Secretary of State for Transport in the other place. The Statement is as follows:

"I would like to make a Statement about the proposed expansion of Heathrow Airport. This Government have a clear vision—to build a Britain that is fit for the future: a Britain with a prosperous jobs market and an economy that works for everyone. That is why I come to this House to mark an historic moment. Today I am laying before Parliament our final proposal for an Airports National Policy Statement, which signals our commitment to securing global connectivity, creating tens of thousands of local jobs and apprenticeships, and boosting our economy for future generations by expanding Heathrow Airport. It is an example of how this Government are taking forward their industrial strategy.

Mr Speaker, you know that taking such a decision is never easy. This issue has been debated for half a century. My department has met with local residents and fully understands their strength of feeling, but this is a decision taken in the national interest and based on detailed evidence. In 2015, the independent Airports Commission concluded that a new north-west runway at Heathrow was the best scheme to deliver additional capacity and in October 2016 we agreed. We ran two national consultations during 2017 and received more than 80,000 responses. All the points raised have been carefully considered, and today we are publishing the Government's response.

To ensure fairness and transparency, we appointed an independent consultation adviser, the former Court of Appeal judge Sir Jeremy Sullivan. Our draft NPS was scrutinised by the Transport Committee and I would very much like to thank the chair of the committee and her team on that committee for all the work they did and the thoroughness of that work. I am very pleased that they, like me and my colleagues in government, accepted the case for expansion and concluded that we are right to pursue development through an additional runway at Heathrow. We welcome and have acted upon 24 out of 25 of their recommendations. Our response to the committee is also being published today.

This country has one of the largest aviation sectors in the world, contributing £22 billion to our GDP, supporting half a million jobs, servicing 285 million passengers and transporting 2.6 million tonnes of freight last year. The time for action is now. Heathrow is already full and the evidence shows the remaining London airports will not be far behind. Despite being the busiest two-runway airport in the world, Heathrow's capacity constraints mean it is falling behind its global competitors, impacting the UK's economy and global trading opportunities.

Expansion at Heathrow will bring real benefits across the country, including a boost of up to £74 billion to passengers and the wider economy, providing better connections to growing world markets, and increasing flights to more long-haul destinations. Heathrow is a nationally significant freight hub, carrying more freight by value than all other UK airports combined. A third runway would enable it nearly to double its current freight capacity.

In addition—and this is crucial—this project has benefits that reach far beyond London. We expect and intend up to 15% of slots from a new runway to facilitate domestic connections across the United Kingdom, spreading the benefits of expansion to our great nations and regions. As well as new routes, I expect there to be increased competition on existing routes, giving greater choice to passengers. I say clearly that regional connectivity is a key reason for the decision that we have taken.

I recognise the strong convictions that many Members of this House and their constituents have on this issue, and the impacts on those living in the local area. It is for this reason that we have included strong mitigations in the NPS to limit such impacts. Communities will be supported by up to £2.6 billion towards compensation, noise insulation and improvements to public amenities—10 times bigger than under the 2009 third runway proposal. This package is comparable with some of the most generous in the world and includes £700 million for noise insulation for homes and £40 million to insulate schools and community buildings. The airport has offered 125% of the full market value for homes in the compulsory and voluntary purchase zones, plus stamp duty, moving costs and legal fees, as well as a legally binding noise envelope and more predictable periods of respite.

For the first time ever, we expect a six-and-a-half-hour ban on scheduled night flights. But my ambitions do not stop there. If this House agrees, the NPS is designated and the scheme progresses, I shall encourage Heathrow and airlines to work with local communities to propose longer periods of respite during a further consultation on night flight restrictions.

We will grant development consent only if we are satisfied that a new runway would not have an impact on the UK's compliance with air quality obligations. Advances in technology also mean that new planes are cleaner, greener and quieter than those they replace. Earlier this year, a community engagement board was established and appointed Rachel Cerfontyne as its independent chair. It will focus on building relations between Heathrow and its communities, considering the design of the community compensation fund—which

[Baroness Sugg]
could be worth up to £50 million a year—and holding the airport to account when it comes to delivering on its commitments today and into the future.

There has been much debate about the cost of this scheme. Our position on this could not be clearer: expansion will be privately financed. Again crucially, expansion must also remain affordable to consumers. We took a firm step when I asked the industry regulator, the Civil Aviation Authority, to ensure that the scheme remains affordable while meeting the needs of current and future passengers. This process has already borne fruit, with the identification of potential savings of up to £2.5 billion. I am confident that the process can and should continue, that further cost savings can be identified and that the design of expansion can continue to evolve to better reflect the needs of consumers. That is why I have recommissioned the Civil Aviation Authority to continue to work with industry to deliver the ambition I set out in 2016 to keep landing charges at or close to current levels. This will include gateway reviews, independent scrutiny and benchmarking of proposals, which I know are of paramount importance to British Airways, Virgin and the wider airline community.

I want now to talk about scheme delivery and ownership. The north-west runway scheme put forward by Heathrow was selected by the Government following a rigorous process. Since then, Heathrow has continued to make strong progress, having already consulted on its scheme design and airspace principles earlier this year. Some stakeholders have suggested that we should look again at who delivers expansion. While I will always retain an open mind, my current assessment is that caution is needed at this stage. Heathrow is an operational airport under a single management, and I am clear that it is currently the only credible promoter who could deliver this transformational scheme in its entirety.

I welcome the Civil Aviation Authority's April consultation, which expects Heathrow to engage in good faith with third parties to ensure expansion is delivered in a way which benefits the consumer. However, this needs to be balanced against the need for timely delivery, and that is why my department will work closely with Heathrow to enable delivery of the new runway by the current target date of 2026.

Heathrow is already Britain's best-connected airport by road and rail, and this will be further strengthened by future improvements to the Piccadilly line, new links to Heathrow through Crossrail, connections to HS2 via an interchange at Old Oak Common and plans for western and southern rail access to the airport. On 24 May, I met the industry and financial backers who can potentially come forward with plans to deliver the new southern rail access to the airport.

Even with today's announcement, a new operational runway at Heathrow is still a number of years away. The Airports Commission recommended that there would also be a need for other airports to make more intensive use of their existing infrastructure and we consulted on this in the aviation strategy call for evidence last year. So I can confirm today that, apart from Heathrow, the Government are supportive of other airports making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged on their individual merits by the appropriate planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.

Furthermore, in April we set out our next steps, which will see us work closely with industry, business, consumer and environmental groups to develop an aviation strategy that sets out the long-term policy direction for aviation to 2050 and beyond, while addressing the changing needs and expectations of passengers. It will set out a framework for future sustainable growth across the UK, how we plan to modernise our congested airspace and use innovative technology to deliver cleaner, quieter, quicker journeys for the benefit of passengers and communities. Airspace modernisation has to be taken forward irrespective of the decision on the proposed new runway, and to do so we expect multiple airports across the south of England to bring forward consultations on their own proposals on how to manage the airspace around them.

Returning to Heathrow, the planning system involves two separate processes: one to set the policy effectively outlining planning consent, which is our NPS; and then, if this House votes in favour of it and it is then designated, a second process for securing the detailed development consent that the airport will require. The next step would therefore be for Heathrow to develop its plans, including details of the scheme design and airspace change, and hold a further consultation to allow the public a further say on the next phase of Heathrow's plans and additional opportunities to have their voices heard. Any application for development consent will, of course, be considered carefully and with an open mind, based on the evidence provided. The process includes a public examination by the independent planning inspectorate before any final decision is made.

Alongside the NPS today, I have published a comprehensive package of materials that I hope and believe will enable Members of this House to make an informed decision ahead of the vote. It is a very comprehensive package that I hope will provide answers to the questions that Members will have. I hope that the House will feel that this scheme is crucial to our national interest and that we need to work together to deliver it, in order to create what I believe is an absolutely vital legacy for the future of this country. I hope that Members across the House will get behind this plan and support this nationally strategically important project. I commend this Statement to the House".

4.22 pm

Lord Tunnicliffe (Lab): My Lords, I thank the Minister for repeating the Statement and for providing the extensive documentation that went with it. Labour's position on Heathrow was set out by my honourable friend Andy McDonald MP in the other place yesterday:

"Labour will consider proposed expansion through the framework of our well-established four tests: expansion should happen only if it can effectively deliver on the capacity demands; if noise and air quality issues are fully addressed; if the UK's climate change obligations are met in their entirety; and if growth across the country is supported".—[*Official Report*, Commons, 5/6/18; col. 172.]

Labour's decision will emerge in due course.

The Statement says:

"To ensure fairness and transparency we appointed an independent consultation adviser, the former Court of Appeal judge, Sir Jeremy Sullivan".—[*Official Report*, Commons, 5/6/18; col. 169.]

I invite the Minister to set out in a little more depth what the role of that individual was and whether it will continue into the future.

I turn to the Government's response to the Transport Committee's report. Recommendation 2 of that report says:

"We recommend that both Houses of Parliament allow the planning process to move to the next stage by approving the Airports National Policy Statement, provided the concerns we have identified later in our Report are addressed by the Government in the final NPS it lays before Parliament".

Does that mean that we will have a debate in this House on a divisible Motion?

Turning back to the Statement, it says:

"Our draft NPS was scrutinised by the Transport Committee, and I thank the Chair of the Committee and her team for the thoroughness of their work. I was pleased that they, like me and my colleagues in the Government, accepted the case for expansion and concluded that we are right to pursue development through an additional runway at Heathrow. We welcome and have acted on 24 out of 25 of its recommendations. Our response to the Committee is also being published today".—[*Official Report*, Commons, 5/6/18; col. 169.]

For the avoidance of doubt, I will tell your Lordships that the 25th recommendation was recommendation 22, which was about an incinerator. Does "acted upon" mean "We have agreed with the recommendation"? Clearly, it does not. The committee's recommendation 19 is that there should be a seven-hour noise ban at night and the Government have responded by saying, "No, you will get only six and a half". I have done my best to try to understand the response to the committee, which is vague and, at times, woolly.

On capacity, the Statement says:

"Expansion at Heathrow will bring real benefits across the country including a boost of up to £74 billion to passengers and the wider economy, providing better connections to growing world markets, and increasing flights to more long haul destinations".—[*Official Report*, Commons, 5/6/18; col. 169.]

That makes it sound like thousands. In fact, the committee's report says:

"The NPS states that the NWR scheme is 'expected to lead to more long-haul flights and connections to fast-growing economies'. The DfT's forecasts show that, at the UK level, the NWR scheme will offer one more destination overall to emerging and fast-growing economies when compared with no expansion".

One seems a rather modest number.

The Statement touches on savings. It says:

"We took a firm step when I asked the industry regulator, the Civil Aviation Authority, to ensure the scheme remains affordable while meeting the needs of current and future passengers. This process has already borne fruit, with the identification of potential savings of up to £2.5 billion".—[*Official Report*, Commons, 5/6/18; col. 170.]

Is this saving coming from the mooted scheme, which I believe Heathrow is consulting on, to reduce the length of the third runway from 3.5 kilometres to 3.2 kilometres? If it does, will there be any significant operational impact of that reduction? When, many years ago, I was privileged to be a co-pilot on 747s, 2,500 metres seemed enough, and certainly many of the operations presently at Heathrow require nothing like 3,500 metres. Given how expensive the M25 issue is to this scheme, are further reductions to the runway length being considered?

We increasingly appreciate the importance of air quality, as well as its fatal consequences. What is the commitment on air quality? There is a commitment in the Statement but there was another in the Government's response to the Transport Committee, which said very solidly:

"No scheme would be allowed to proceed if it did not comply with air quality obligations".

Can the Minister flesh out what those air quality obligations are?

On noise, once again the Statement is fairly bullish. It says:

"Communities will be supported by up to £2.6 billion towards compensation, noise insulation and improvements to public amenities—10 times bigger than under the 2009 third runway proposal".—[*Official Report*, Commons, 5/6/18; col. 170.]

That may be, but Heathrow Airport Holdings Ltd has recently proposed a cap of £3,000 on any insulation project. Anybody who has their house insulated against noise knows that that is a trivial sum. Can the Minister confirm that there will be no cap and that Heathrow will pay what it takes to achieve the appropriate levels of noise insulation?

It is a shame to see that the references to the community came right at the end of the document. It is the community that will be very impacted by this scheme. Towards the end of the Statement the Secretary of State said:

"Earlier this year a community engagement board was established, and we appointed Rachel Cerfontyne as its independent chair. It will focus on building relations between Heathrow and its communities, considering the design of the community compensation fund, which could be worth up to £50 million a year, and holding the airport to account when it comes to delivering on its commitments today and into the future".—[*Official Report*, Commons, 5/6/18; col. 170.]

Can the Minister set out what powers the independent chair will have? Will she in fact be acting as something like a tribunal and able to direct Heathrow in disputes to provide the appropriate money?

Baroness Randerson (LD): My Lords, this Statement has an air of Alice in Wonderland about it. Governments have been considering this problem for 20 years but I am afraid that the question is out of date, and so is the answer. Hub airports are no longer the growth area in aviation; the growth area is now in direct long-haul flights. The idea of concentrating ever more development in the overcrowded south-east will, the Government say, benefit other parts of the UK as well. Yet the report by the New Economics Foundation, *Flying Low*, shows that a new runway at Heathrow will cost regional airports 14 million passengers a year. It will harm them, not benefit them.

The first lack of reality is on the timescale, since 2026 is ridiculously optimistic. The idea that you are going to build a runway as well as demolishing 800 houses, moving an incinerator and dealing with the public inquiry, with development consent and—I am fairly certain—with challenges in the courts from local councils suggests to me that the Government do not have

[Baroness Randerson]
realistic expectations in that regard. This is important because it will have a big impact on the ability for any airport development to help our trade situation. There is also a level of fictional economics, which is that the Government have assigned this a zero cost by saying that it is a private development. Can the Minister clarify her attitude to Transport for London's estimate of a £6 billion cost to the public purse for public transport? Who will pay for the cost of the disruption to the M25 and M4?

I greatly regret that there is a very brief paragraph on air quality. We were hardly aware of emissions issues when this problem was first investigated. Can the Minister provide us with more detail on how this development will enable the Government's compliance with international obligations? Will she particularly address the issue of surface transport access and surface transport within the airport?

This is supposed to be a national statement yet there is only one brief paragraph in it referring to anywhere other than the south-east of England. How do the Government intend to achieve their promise of supporting other airports to make best use of their runways? Is that a concrete promise of support or is it simply wishing them well in the process? Liberal Democrats believe that the Government should be using airport development as a springboard for the development and prosperity of the north and the Midlands. They should be spreading prosperity across the whole country.

Finally, I warn everyone who is interested in this to look carefully at the wording in the Statement, especially that on page two. All the reassurances are couched in weasel words.

"We expect up to 15% of slots",

will "facilitate domestic connections". What does that promise to other parts of the UK? The Government expect,

"up to £2.6 billion … compensation",

to be paid. They expect not at least £2.6 billion, but up to that figure. They,

"expect … a six-and-a-half hour ban on scheduled night flights".—[*Official Report*, Commons, 5/6/18; col. 170.]

What exactly are the guarantees, not the Government's expectations, on compensation and night flight bans?

Baroness Sugg: My Lords, I will attempt to get through all the questions, but if I do not I will follow up in writing. The noble Lord, Lord Tunnicliffe, asked about the consultation adviser Sir Jeremy Sullivan. He reviewed the Government's consultation process and provided challenge to Ministers and officials to ensure that it was of a high standard, and produced two reports, which have been published. However, the role was on the government consultation, so it has now been completed.

On the Transport Select Committee comment on approval of the NPS, noble Lords debated the draft NPS on 15 March and the formal scrutiny period ended on 23 March. The proposed airports NPS needs approval by resolution of the House of Commons before it can be designated. This House has an agreed process for national policy statements, which is laid out in the *Companion*, and that is what we are following. Any further debate in this House will, of course, be a matter for my noble friend the Chief Whip.

On the Transport Select Committee's recommendations, as the noble Lord pointed out, we agree with what it is seeking to achieve in 24 of the recommendations. Several of those recommendations will be addressed at a later stage through the development consent order, for example, or by other means, such as the regulatory framework. We have published a detailed response setting out our approach for each of those recommendations.

The noble Lord was right to point out that for long-haul flights there are net additional emerging market destinations by 2050, and emerging markets are a subset of the long-haul group. It is often more helpful to consider destinations served on at least a daily basis, as that frequency is especially important to business passengers. The north-west runway scheme would lead to an additional 14 long-haul designations being served daily by 2040.

Our analysis demonstrates that the scheme can be delivered without impacting on the UK's compliance with limits set out in the EU ambient air quality directive. However, it is not for the NPS to set out the legal obligations in detail.

On community compensation, particularly for noise insulation, the current public commitment is to contribute up to £3,000 for noise insulation. That commitment will be examined during any planning process which follows the designation, if it happens, of the NPS. The NPS makes it clear that the Secretary of State will consider whether the applicant has put the correct mitigations in place, at least to the level committed to in the Heathrow Airport public commitments, before finally agreeing.

On community engagement, Rachel Cerfontyne has been appointed to the Heathrow community engagement board. She was previously at the Independent Police Complaints Commission—the chair has no powers, per se. The role is as more of an advocate. Although independent, she will obviously have connections with senior levels at DfT and will help to influence where necessary. I met her recently, and I believe she will do an excellent job of holding Heathrow to account.

I turn to the points raised by the noble Baroness, Lady Randerson. On the question of hub status, we think it gives us the best of both worlds. A large hub airport can compete for transport passengers to provide the connectivity that the UK needs while at the same time enabling growth for other airports around the UK. On timing, obviously we will be working closely with the developer should the NPS be designated. We have had the timing independently and expertly appraised, and as things progress we will be working very closely on that. On costs for surface access, the applicant would pay in full the cost of any surface access required purely for airport expansion. If there are other benefits, the question of how those schemes are funded will be discussed.

To return to air quality, we have always been clear that development consent will be granted only if the air quality obligations are met. The environmental assessment and mitigations proposed by the airport will be carefully scrutinised, independently and in public, before any decision is made on whether to

grant the development consents. The NPS outlines some of the measures that Heathrow may adopt to demonstrate these requirements, including the potential emissions-based access charge, the use of zero-emission or low-emission vehicles and an increase in public modes shared by passengers and employees.

On domestic connectivity, one of the reasons why the Government chose the north-west runway is that we fully recognise the importance of air services to everyone across the UK. The Secretary of State set out his ambition for 15% of slots from the new runway to be used for domestic routes, and we expect the majority of those domestic routes to be commercially viable. I know Heathrow is already in discussions with many airports across the country on that. We think that in the first instance it is a commercial decision for airlines, and we will hold the airport operator to account on how it has worked constructively with airlines and regional airports to protect and strengthen the domestic connections. Heathrow Airport Limited has already set out a number of pledges to support domestic connectivity, including financial support for the new routes, but if those measures do not meet our expectations, the Government can take action where appropriate to secure routes through the public service obligations.

I hope I have got to every point. If I have not, I will follow up in writing. The noble Lord, Lord Tunnicliffe, referred to the Labour Party's four tests: meeting climate change obligations, protecting air quality, supporting growth across the country and addressing noise issues. I hope the noble Lord and his party, once they have read through the documents, will agree that the revised NPS meets them.

4.42 pm

Lord Brabazon of Tara (Con): My Lords, I commend the Government on finally making this decision. As one of my noble friend's predecessors, albeit 26 years ago, I can confirm the remark that the issue has been debated for half a century. I was not there for all that half a century, although my noble friend Lord Spicer was there for part of it. The decision is the correct one. Heathrow is the only answer. It is all very well talking about putting other runways elsewhere but you need the hub connectivity that Heathrow will give. Whatever the noble Baroness on the Liberal Benches says about hubs, they are absolutely essential: a proper hub gives people in this country the ability to fly to more destinations around the world, and this will do much to enhance that, so I commend the Government on having made this decision.

I have a question for the Minister about the night ban. I declare an interest as someone who lives in west London underneath the flight path into Heathrow. I live slightly further away than I did before but I am still affected by it. The noble Baroness, Lady Randerson, queried the word "expect" with regard to a six and a half hour ban. I hope we will be getting such a ban, if not a longer one, and that it really will be a ban. At the moment you are not allowed to fly within certain hours, except that there can be half a dozen or so in the morning. When they start coming in at 5 am, that is what becomes really irritating. I hope my noble friend can confirm that this will be a real ban and that there will be no flights, even emergency flights, between those hours.

Baroness Sugg: I thank my noble friend for his support on this decision. As he said, he is a predecessor of mine, and I am sure that he was discussing it then, so it is great to take this step of laying the final national policy statement. We need to act now. Our latest analysis shows that all five London airports will be full by the mid-2030s, and we are losing ground to our competitor hubs in Europe and the Middle East.

The night flight ban will be at least a six and a half hour ban on all scheduled flights. It could be more than that, with predictable respite. Once designated, that will go to further consultation with local communities to agree the exact detail.

Lord Soley (Lab): My 20-year campaign to expand Heathrow covered the period when I was a Member of Parliament for two west London constituencies. Of course, some people are vocally against it. I have to say that they are frequently the people who fly more often, which came out in a number of constituency meetings that I did in the area. An awful lot of people who do not speak out clearly are desperately in favour because of high-quality jobs. When I spoke in schools in the area, teachers were often against it, for understandable reasons—because of the noise—but when you asked the children how many of them had family or friends who worked at the airport or in an airport-associated job, nearly all of them did. Please ensure that we take account of the needs of those local people, too.

The regions are incredibly important. We cannot expect the regions of England to do well unless they are linked into the hub airport. If all the other countries have hub airports and are developing them, there is a common-sense question: why is that? The common-sense answer is because you need interchange—interchange for Scotland, Wales, and the south-west of England, which is often underestimated. They need links too. Please will the Minister pursue this and take into account the crucial importance of jobs in south-west London and related areas?

Baroness Sugg: I thank the noble Lord for his supportive comments. This expansion will absolutely deliver jobs for the local area: I think that the latest figure is 114,000 and 5,000 apprenticeships, which will obviously be welcome for young people. We have not underestimated the potential impact of this decision on local communities, or the importance of listening to them and doing it in the right way. I personally met some of the local groups which have been campaigning hard on this issue and saw at first-hand their strength of feeling. The NPS commits up to £2.6 billion towards compensation, noise insulation and improvements to public communities but, as the noble Lord said, expansion has support from local communities as well as opposition.

Baroness Kramer (LD): My Lords, I declare an interest, in that I live under the flight path and belong to many of the community organisations that the Minister will have met. I am appalled by this proposal, as will be the majority of the community where I live and the surrounding communities. Will the Minister confirm that it is clear in the report that daytime respite periods will be shorter under this plan? It says in parenthesis that they will be cut. Perhaps she will confirm that. That matters because there may be money

[Baroness Kramer]
for insulation, but that is not very useful for children who want to play outside or for people who want to walk outside or sit in a garden. Perhaps she will tell us the number of hours of peace that we are about to lose every day.

To answer the question of the noble Lord, Lord Brabazon, airlines will be permitted to run a full service from 5.30 in the morning under the new plan. The night-time ban is six and a half hours: 11 pm to 5.30 in the morning. Currently, they cannot run a full service until 6 am. That is done because Asian Governments are concerned that their residents are being disturbed by departures, so instead our local residents are to be disturbed by arrivals.

Will the Minister confirm what is clear to me from the report: that the required noise level that the airport has to achieve is that in existence in 2013, giving up five years of improvement? All the surface transport mitigations listed are those under way or in place to deal with current congestion, current overcrowding, the air quality problems of the current airport, and the forecast growth in demand in the local community. There is no additionality to deal with 41 million people, a doubling of freight and no indication of who will pay.

On air quality, there are just vague aspirations without any guarantees, clarity or targets. Will the Minister confirm that?

Baroness Sugg: My Lords, on the respite periods, the final flight paths obviously have not been confirmed yet, and I understand why there is frustration about that. The proposals to change airspace design have to follow the new airspace change process, which will be done in the coming years, in close consultation with the community.

On the 6.5 hour ban, it has not been decided between periods of 11 pm and 5.30 am exactly where that will go. As I say, that will also be done in consultation with local communities. We think that there could be more respite than that, and predictable respite too. Obviously, with a third runway, there will be more aircraft movements in the sky, so I acknowledge that there will be more noise. We have set out a comprehensive package of compensation, which includes noise insulation and improvements to public amenities.

On the surface access point, there is lots of investment to come on that. I would mention Crossrail, HS2 and Southern Rail and western rail access. There are clear commitments to 50% of public transport use by 2030 and 55% by 2040. Where that is directly to deal with expansion, it will be paid for by the developer.

Lord Craig of Radley (CB): My Lords, I thank the Minister for repeating the Statement, which talks about ensuring timely delivery. One aspect of this will be a large number of legal challenges. What powers do the Government have, if any, to ensure after due process that this very expensive and ambitious programme will continue and be completed on time?

Baroness Sugg: My Lords, the noble and gallant Lord is quite right to point out that there may well be judicial reviews around this. Obviously, we are expecting that. The Airports Commission asks that the runway is delivered by 2030. As I said, Heathrow is working to 2026, and we have independent appraisals on that and will work closely with it. We will of course follow correct judicial processes on this, but we will work with Heathrow to get this delivered for 2026, as I say.

Lord Swinfen (Con): My Lords, what consideration is being given to using Manston Airport on the Isle of Thanet, particularly for freight, to relieve both Heathrow and Gatwick? I know that it is some way from London, but it is easily reached by road and rail, both of which run alongside the airport, which has the longest runway in Europe. Aircraft can go straight out over the North Sea and down the Dover Strait and into the English Channel.

Baroness Sugg: My Lords, I know that there are some very interesting proposals around Manston Airport. One of the reasons why we chose Heathrow was because of its freight capacity and the expansion will deliver doubling of freight on that. Alongside that, we are already full at Heathrow, and expect to be full at other airports very soon. Alongside the laying of the final NPS, we announced the policy on making best use of existing capacity to ensure that other airports can do that.

Lord Davies of Stamford (Lab): My Lords, it is extremely good news that this project is finally going to go ahead but I fear that, as the noble Baroness, Lady Randerson, said—and I think that the Minister has already acknowledged the point—we may run into quite a lot of obstacles and sources of delay. If we do, I hope that the Government will consider proceeding by some accelerated legislative process to carry this through without undue delay. Undue delays in infrastructure projects are surely a great national economic handicap which we have had for some time, but will the Minister agree that this is a particularly egregious case? We have had delays of at least eight years, due to indecision, vacillation and the setting up of quite otiose inquiries, when their results were already known in advance, merely to delay the outbreak of conflict within the Conservative Party and disputes between that party and the House of Commons. That is a very bad example. I think that future generations and the international world as a whole would have noticed that. Does she accept that, had the last Labour Government won the 2010 general election—I declare my interest: I served in that Government, but I had nothing whatever to do with civil aviation or airports—this new runway would have already been built?

Baroness Sugg: My Lords, I welcome the noble Lord's welcoming of the NPS. He is quite right to point out that this has taken some time and has been the subject of many conversations, which is why we were so pleased to be able to lay the final NPS yesterday. We absolutely need to get on with this. As to whether this would have happened should the Labour Government have won in 2010, I am sure a lot of things would be different, but I am not sure whether the runway would now be built.

Lord Young of Cookham (Con): My Lords, there is considerable appetite to ask questions; can I make a plea for shorter questions?

Lord Trefgarne (Con): My Lords, what is the future for RAF Northolt as this project goes ahead?

Baroness Sugg: My Lords, I do not think that this project will affect RAF Northolt; it obviously is a long-standing RAF airport and the laying of the NPS and the future designations should not affect that.

Baroness Tonge (Non-Afl): My Lords, at the end of the terminal 5 public inquiry, in which I was involved, we were promised that there would be no further expansion of Heathrow Airport, and especially not a third runway there. In view of the fact that the Minister has just told us that there will be huge expansion of capacity at Heathrow, can she tell us how long we have to wait before there will be plans for a terminal 6 or even a terminal 7 at Heathrow? Will there be any end to the expansion there? Finally, can she relay a message to the Foreign Secretary that I am very willing to lay down with him at any time, providing it is in front of a bulldozer?

Baroness Sugg: On further expansion at Heathrow, I acknowledge that the third runway has been talked about for some time. The Conservative manifesto in 2017 set out our support of it and that we look to proceed on it. I will pass that message on to my right honourable friend the Foreign Secretary.

Lord Spicer (Con): My Lords, is my noble friend aware that I have mixed feelings about this decision? Having been the House bore on the subject for many years, of course I am pleased that we have moved with greater certainty towards a final decision on this matter, but it has come very late. When I was Minister for Aviation in the 1980s, Heathrow was by far and away the busiest international airport in the world, whereas now it is well down the pecking order. My noble friend has today used the words "Heathrow is full" and then, when having to be asked what we do about that, rather mumbled, I am afraid, that we will look at other airports. The fact is that if we are to have enough capacity in the late 2020s in this country, we have to build a runway of the size of those at Heathrow at every single one of our London-based airports over the next 10 years. This has not even barely begun to strike us. The decision is good news in so far as it is happening, but it is terribly late and we will have to do a lot of catching up now.

Baroness Sugg: I thank my noble friend for his support. I again acknowledge that this has taken some time, but we have now laid the final NPS. On other airports and reaching capacity, demand for flights is growing and will continue to grow. That is why, alongside the NPS, we also made the announcement of other airports being able to make best use of their existing capacity.

Lord McKenzie of Luton (Lab): My Lords, I welcome this Statement. It has been a long time coming, and of course there is a long way to go yet; even if the noble Baroness, Lady Randerson, is not right about the timescale, the development control order will not be completed until the early 2020s, according to the Statement, and by the time it is actually built it will probably coincide with us moving back into this place. I particularly support the encouragement of other airports, and in doing so I declare my interest as a board member of London Luton Airport. I think the Minister is aware that Luton is already seeking to make best use of its runways and to build additional capacity. I will ask about the planning system, because all this is putting a great deal of pressure on certain bodies, whether it is PINS or local planning authorities, and this Statement will exacerbate that. What assessment have the Government made of the capacity of the system to cope expeditiously with all the good stuff that could come from this?

Baroness Sugg: I thank the noble Lord for his support. I was pleased to visit Luton Airport recently and hear about its exciting plans for its development. On the planning process, we absolutely believe that there is capacity to do this. The scheme promoter will consult on the proposals before submitting its application, which will give people a further opportunity to have their voices heard, and then, after the development consent application, the Secretary of State will consider it. However, we are satisfied that there is capacity to do that.

Lord Bradshaw (LD): My Lords, the Statement makes clear to us that the airport will be built with private capital. Will the compensation package be met by the airport, and will the other infrastructure improvements which are necessary be met by the Government or by the promoters?

Baroness Sugg: My Lords, I am happy to confirm that all those costs will be met by the developer: the compensation package and the cost of the development will all be privately financed. The provision of on-surface access and anything which is needed for the airport to expand will be met by the developer.

Lord Elystan-Morgan (CB): What discussions are the Government having with the devolved Administration in Cardiff as to the likely consequence for the land and nation of Wales of this massive development?

Baroness Sugg: I am happy to confirm that I spoke to my opposite number in Wales yesterday, who absolutely welcomed this proposal. They are excited about it and are keen to see it go ahead, and I will visit him soon to discuss it further.

Baroness O'Cathain (Con): My Lords, how many more M25s, M42s, M6s and so on will we need to be built alongside this expanded Heathrow Airport just to get the passengers to the airport or from it?

Baroness Sugg: My noble friend is right to point out that work on the roads will be needed, and there is some information out there already with the details of that. As I said before, where it is needed for airport

[Baroness Sugg]
expansion, the developer will pay for it. I also mentioned earlier the targets of increased public transport for people travelling to the airport. We have many investments in that already, and we expect that to increase.

Brexit: The Future of Financial Regulation and Supervision (European Union Committee Report)

Motion to Take Note

5.03 pm

Moved by ***Baroness Falkner of Margravine***

That this House takes note of the Report from the European Union Committee *Brexit: The Future of Financial Regulation and Supervision* (11th Report, HL Paper 66).

Baroness Falkner of Margravine (LD): My Lords, on behalf of the EU Sub-Committee on Financial Affairs, I am delighted to introduce this EU Committee report, *Brexit: The Future of Financial Regulation and Supervision*. Our inquiry was undertaken between September and December 2017, and subsequently, four members have left the committee. They are the noble Lords, Lord Haskins, Lord Skidelsky, Lord Woolmer and Lord Fraser of Corriegarth. I wish to acknowledge their contribution to this inquiry and to the overall work of the committee.

The already small secretariat of our committee became smaller during the course of the inquiry, but we were served by an outstanding policy analyst, Dr Holly Snaith, who left us for the Bank of England. However, we did a nearly direct swap, as we were joined in turn by Matthew Manning, the current clerk to the committee, who is with us today. We are enormously grateful to them both for their work on this report, particularly in light of the challenging circumstances in which the committee has operated in the last seven or eight months.

As noble Lords will be aware, the financial services sector is a vital and thriving part of the UK economy, and questions about our access to the single market in financial services are a highly contentious component of discussions about the UK's future relationship with the EU. In undertaking this inquiry, we were conscious of the position of the United Kingdom as the pre-eminent financial services centre and the threat that Brexit poses to this very special ecosystem. Therefore, in assessing the future of financial services in the UK, regulation and supervision seemed to us to be key. Although we recognise that the UK will start its future relationship with full regulatory alignment, the nature and extent of maintaining that alignment and managing divergence to the extent that it might occur are vital to the UK's interests.

In our inquiry we heard evidence from a range of academic experts, industry practitioners and the UK regulatory authorities. Given the EU's decision to designate Michel Barnier as the sole negotiator, we were unable to take evidence from EU institutions directly. However, we are particularly grateful to Brussels-based economic and financial think tanks, which recognise, perhaps more perceptively than the Commission, that dialogue will need to be an essential element of future co-operation and which therefore freely offered us their insights into some of these issues and challenges. I particularly want to put on the record our thanks to the Centre for European Policy Studies, whose CEO, Dr Karel Lannoo, travelled to London to give us evidence—but of course we are grateful to all those who contributed to the inquiry.

Almost immediately, the agreement of a transition period emerged as an urgent priority. We considered the matter to be of such importance that we chose to write to the Chancellor part way through the inquiry, in November 2017, to emphasise that any agreed transition period was, in his own words, a "wasting asset"—in other words, a delayed agreement would be scarcely better than no agreement at all. Andrew Bailey, chief executive of the Financial Conduct Authority, put it even more bluntly when he told us that an agreement needed to be reached "PDQ". I think that that needs no interpretation. Catherine McGuinness of the City of London Corporation told us that financial services firms need three things: certainty, stability and proportionality for business.

During our inquiry and in the period since, we have repeatedly been promised a White Paper on financial services by, not least, the Secretary of State for Exiting the European Union. It is therefore disappointing that this has yet again been postponed. This is surely a first and, frankly, minimal step towards providing the industry with an indication of what the Government will seek in a future relationship.

Returning to the transition period, we are pleased that the Bank of England has had the foresight to allow firms to plan on the assumption that a temporary permissions regime will be put in place in the event of there being no deal. However, without an equivalent assurance from the EU authorities that UK firms passporting into the EU 27 can plan on the assumption of a withdrawal agreement being in place, it appears that firms based in the UK passporting into other member states are indeed having to plan on a no-deal scenario. So transition offers little, if any, comfort at the moment. This puts firms in the unfortunate position of implementing costly plans that may be economically and strategically irreversible at the point at which any agreement is reached, thereby negating much of the value of such an agreement.

Another important consideration emerged during the inquiry—that of contractual continuity. In many cases, firms have written contracts that may entail liabilities extending potentially for decades. This is a special concern for the insurance industry. For that industry, agreeing a transition period merely postpones the problem. If firms cannot maintain or service their contracts because they are legally prevented from carrying out licensed activity in another member state, individuals and businesses both stand to lose.

Mr Sam Woods, deputy governor of the Bank of England, told us that the maximum penalty for UK firms conducting a regulated activity without a licence under the Financial Services and Markets Act 2000 was a two-year prison sentence or an unlimited fine. As he put it,

"boards may have some appetite for legal risk, but I do not think many are going to have that kind of appetite".

Contractual continuity is not just a problem for large, cross-border conglomerates. Consumers, pensioners, drivers and travellers all face the risk of being effectively uninsured. Moreover, the problem of how to treat existing cross-border business overall cannot truly be resolved except within the context of an agreement on a future relationship. Otherwise, firms will remain exposed to risks on their books that they might not be able to mitigate on a continuing basis. Mr John McFarlane, chairman of Barclays, was clear that,

"transitioning is most valuable if it is to somewhere worthwhile at the end".

Our witnesses were also clear that the effects of no agreement on mutual market access would be negative for both the UK and the EU. The UK is, after all, the single biggest provider of financial services to EU member states. The market fragmentation that would result from a loss of access would harm EU businesses and consumers as well as those in the UK. Indeed, market fragmentation will likely increase financial instability, reversing the improvements put in place as a result of the post-crisis regulatory developments of the last decade.

One key finding emphasised by many of our witnesses was the inadequacy of the EU's current equivalence framework—that the process of granting equivalence status is political and capable of being unilaterally withdrawn by the Commission at very short notice. The recent experience of Switzerland is telling in that regard. Switzerland negotiated over a considerable period for an open-ended equivalence ruling from the Commission similar to that given to Australia and the US. At the 11th hour, it was granted a single year until the end of 2018. The UK's vast financial services industry, with the plethora of services that it offers, cannot depend on such a tenuous, politically driven and insecure form of access. An agreement to base market access on a bespoke and genuinely mutual equivalence agreement is far preferable.

In that regard, we took evidence from the International Regulatory Strategy Group comprising senior financial services leadership in the United Kingdom. It recommended that the most suitable form of relationship between the UK and the EU was mutual regulatory recognition. We understand that this is now the Government's own position, which is why we would have wished to have seen some detail on how they expect the negotiation to proceed.

Until it is clear what form of access the UK and EU will agree on, it is impossible to say with any certainty what opportunities will arise for regulators and firms. Many witnesses were keen to emphasise the considerable resources that they had devoted to complying with EU requirements, however onerous they might have been, and were therefore not necessarily in favour of making changes to the regulatory regime post Brexit. That was especially the case where regulatory divergences might endanger market access. Nevertheless, we heard from some witnesses about possibilities to tailor and strengthen the UK's regulatory framework once we had exited the EU. Those possibilities must be explored against the background of international standards developed by organisations such as the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.

Indeed, the EU's regulations are to a large extent merely the European implementation of these internationally agreed standards, and the UK has played an outsize role in their development. This has depended on a deep pool of exceptional talent within the UK regulators. As Andrew Bailey pointed out,

"the work that has been done by the G20 and the Financial Stability Board which Mark Carney"

the Governor of the Bank of England—

"chairs, has been fundamental in putting stronger global standards in place".

As the UK leaves the EU, it must continue to play an active role in these organisations. Can the Minister tell us what conversations he is having with UK regulators to ensure that their pre-eminent role is maintained?

Some areas where change might be targeted include those where the EU has gone beyond international standards. We heard evidence from witnesses such as Mr Stephen Barclay, the now former City Minister, that the EU has done so in applying prudential requirements to all firms, not just the large cross-border institutions that Basel has traditionally focused on. We believe that there is scope to apply a more proportionate and risk-based prudential framework to smaller domestically focused firms. Indeed, this may encourage the competitiveness that has always been the UK's strength. It may need to be accompanied by a reconsideration of the regulator's mandate, but that will be dependent on future developments.

The primary instrument of the offshoring process, the withdrawal Bill, has now been debated by this House. The complexities of transposing the aspects of the acquis relevant to financial services into UK law were raised by many witnesses but not really addressed in the Bill. The sheer volume of statutory instruments that will need parliamentary scrutiny is enormous and we await the detail of how that work will be done. This only highlights the importance of finalising a transition period as a no-deal scenario would place enormous burdens on Parliament's ability to pass the necessary legislation.

There are also questions about the Government's proposed approach, specifically to financial services. Several witnesses highlighted the inappropriateness of transposing level 1 EU legislation into primary and secondary legislation. Some of the rules are technical and should, we thought, be left for regulators to make, because they possess the necessary expertise to ensure that they are fit for purpose. Amending them at the speed necessary to keep the UK's framework adaptive and responsive to change is incompatible with the timescale of parliamentary processes.

In conclusion, I want to highlight that a productive and fruitful relationship between the UK and the EU based on mutual market access is to the benefit of both sides. Without this, financial instability will increase and we will jeopardise the UK's economy, financial stability and global leadership. I beg to move.

5.17 pm

The Earl of Lindsay (Con): My Lords, as a member of the committee I am delighted to follow our chairman, the noble Baroness, Lady Falkner. In doing so, I echo her thanks to our excellent clerk and to our then policy analyst, who sadly is no longer with us. I should

[The Earl of Lindsay]
also take this opportunity to commend the noble Baroness as our chairman. She has been very effective at chairing us as members and indeed the many witnesses with whom we have engaged over the course of preparing this report.

I want to highlight two important issues raised in the report, both of which were anticipated by the noble Baroness in her speech. They are challenges, but equally they should be seen as opportunities. The first relates to what the final Brexit deal needs to achieve in respect of the future regulation of the financial services sector in the United Kingdom. The challenge as I see it is as follows. Without exception, all the witnesses we heard from, along with the submissions we received, agreed on the continuing need post Brexit for the United Kingdom to have a robust and internationally trusted regulatory framework to promote financial stability and underpin confidence in our financial services sector. Equally, all agreed that the processes of our departure from the EU and the nature of the post-Brexit regulatory arrangements must not compromise the UK's continued participation with international standards and the globalised financial system that this country has been so instrumental in shaping. Fragmentation should be avoided as it is likely to undermine financial stability and increase costs.

Our witnesses and the evidence also agreed that the UK and the EU should seek a post-Brexit outcome that allows mutual market access in financial services between the UK and the EU 27, underpinned by broad and deep supervisory co-operation between the UK and the EU. At the same time—here lies the challenge—none of our witnesses and none of the evidence submitted could envisage that a post-Brexit outcome based on the EU's current equivalence framework would be reliable or realistic, as the noble Baroness said. None wanted an outcome that sees the UK as no more than a passive rule-taker, given that aspects of future EU financial regulation may not be appropriate to the needs of either the United Kingdom or the global client base—including customers in the EU 27 served by the UK financial services sector.

Furthermore, our witnesses saw the merit of the United Kingdom having the ability to tailor and evolve the regulatory framework post Brexit as an important opportunity. They saw it as enabling, where appropriate, the UK to improve the design or detail of former EU regulations so that they are more efficient and effective and better aligned with UK circumstances and international standards, better adhere to the UK's well-developed principles of better regulation and, importantly, are fit for the future in anticipating the regulatory requirements of the fast-developing fintech industry and other areas of innovation.

The challenge is squaring the post-Brexit circle between the United Kingdom's ability to evolve its own regulatory framework at its own discretion and the parallel need to maintain mutual recognition, trust and market access with the EU. To a number of our witnesses, the challenge can be resolved if the Brexit negotiations are clear-headed and arrive at an arrangement that would serve both UK and EU interests. We summarised this opportunity in the last paragraph of the summary at the start of our report:

"Furthermore, international standards could provide a bridge between the UK and the EU in defining a future relationship based on shared outcomes, rather than the literal interpretation of rulebooks. We believe that a future relationship can be secured that is to the benefit of both the UK and EU, provided that a mutual commitment to effective regulation and supervision is maintained".

The opportunity to achieve such an eminently satisfactory and desirable relationship should obviously be the objective of the UK Government and our Brexit negotiators. Common sense suggests that it should also be an objective of the EU negotiators. The continuing importance of London and the UK financial services sector to customers and clients across the EU 27 suggests that they should have as much of an incentive to achieve that outcome as us.

Likewise, the second issue I want to raise is both a challenge and an opportunity: whether the United Kingdom has in place the right regulatory architecture and processes, the right checks and balances and the right accountability and parliamentary oversight for financial regulation post Brexit. This question falls not just to the Government and regulators—although they are key in leading the discussion and consideration—but to Parliament, the industry and its stakeholders. Underlying this issue is the need, as we have heard, for the UK to transpose the EU's body of law relating to financial regulation into UK law. Careful and intelligent judgment is needed on how that transposition is best achieved between primary legislation, secondary legislation, regulators' rulebooks and binding guidance. As we say in our report:

"The Government will need to adopt a nuanced approach towards the translation of EU regulation into domestic law".

Flowing from this transposition is the devolution of significant powers from the EU to our domestic regulators, namely the Bank of England, the Prudential Regulation Authority and the Financial Conduct Authority. Pre-Brexit, those powers have been defined and overseen by the EC, various EU bodies, a relatively well-resourced European Parliament and a very strong committee structure. Should additional and better-resourced parliamentary oversight be developed in the UK post Brexit to avoid what our report refers to as,

"an unintended deficit in democratic scrutiny and accountability"?

The committee believes the answer to that question is yes and it makes three recommendations in the report to this end. In doing so, it anticipates not only the significant increase in the powers of UK regulators but the need for future changes to financial regulation in the UK to be subject to the appropriate scrutiny. The committee acknowledges that the much greater flexibility that the UK will have post Brexit to revise and reform financial regulation, regulators' rulebooks and so forth, including regulatory enforcement, is an opportunity that none the less needs the appropriate checks and balances.

The committee was not alone in recognising this need. It was also the conclusion of a recent report from the IRSG—the International Regulatory Strategy Group, which the noble Baroness mentioned—produced with Linklaters in December 2017, just as our committee was finishing its report. At the launch of its report, *The Architecture for Regulating Finance after Brexit*, the IRSG stated that,

"Brexit will require the UK to update its regulatory structure for financial services, creating new checks and balances to ensure the system remains proportionate, coherent and fit for purpose".

It is an interesting report. It sets out five principles for an effective regulatory framework and makes some useful recommendations for consideration. These recommendations cover powers, resources, responsibilities, scrutiny and oversight of UK regulators; the legislative and regulatory process; consultation and review mechanisms; and, importantly, it includes proposed checks and balances that should apply where regulatory change in the UK would produce material divergence from the EU 27.

The challenge that both our committee and the IRSG report recognise is that while the current regulatory landscape may have served the UK effectively in a pre-Brexit world, it will need to be reformed to be fit for purpose in a post-Brexit world. However, as the IRSG states in the foreword to its report:

"There is … an opportunity for targeted reform following the UK's withdrawal from the EU in order to maintain and enhance the UK's position as an international financial centre underpinned by a trusted and globally leading regulatory system, that delivers the best possible outcomes for customers and clients".

Updating the United Kingdom's regulatory landscape in anticipation of Brexit is an opportunity that the Government, regulators, Parliament, the industry and others must be thinking about now. Any necessary reforms ought to be put in place for when they are needed, not thereafter.

5.28 pm

Baroness Liddell of Coatdyke (Lab): My Lords, I too pay tribute to the clerks of the committee and to our distinguished policy adviser, who was so good that she was pinched by one of the people giving evidence to us. That is a sign of the excellence of the background briefing we received. I also pay tribute to the noble Baroness, Lady Falkner of Margravine, for her chairmanship of the committee, her great technical knowledge, her commitment and her discipline in getting us through what is a complex and technical piece of work.

As we have heard from the noble Earl, Lord Lindsay, there are a lot of technical conclusions that have come out of our deliberations. However, it is important to stress that there was unanimity on the committee on the conclusions that we arrived at—cross-party, including the Cross-Benchers—and so the committee did not look at these issues in a partisan way.

Although this is very much a technical piece of work, as I have said, we must not lose sight of the fact that some 1 million people in this country work in the financial services industry. Now, lots of people may think of "financial services" as meaning bankers in Mayfair, but that is not the true picture of British financial services. There are financial services companies throughout the country, certainly in the great historic centres such as in the City and in Edinburgh and, more recently, in Canary Wharf, but there are also thriving financial centres in Glasgow, Leeds, Bristol and other places.

What we are talking about here is not just academic issues of regulation but how we create an industry that will protect, and magnify, those jobs into the future. They are good jobs; they are, by and large, well-paid jobs; and they have become very much a cornerstone of our economy, creating a surplus of £60 billion. I cannot think of any other industry that can create a surplus such as that. As the noble Baroness, Lady Falkner, pointed out, our financial services industry is a global asset, which we must be very careful to protect. It has not happened by accident; it has happened because of innovative ideas, sound regulation and ambition, and we must make sure that we do not destroy that.

I am concerned at the extent to which many of our witnesses, especially those from the industry, exhibited real frustration. There was a sense that no one was listening to them or taking them into their counsels. The decisions that are being taken at the moment will have an impact on the industry, and indeed on the country, for generations to come. We cannot allow a situation to continue where such a key industry feels that it is out in the cold. Any well-run business—and there are some very distinguished businesspeople in your Lordships' House—can cope with change; in fact, they make their money out of the ability to cope with change. What they cannot cope with is uncertainty, and that is what we have seen again and again.

When we began our inquiry, the business leaders were telling us in public and in private that, if they had some idea of what was going to happen by the autumn, they could start planning. Then we were told it would be by Christmas. And then we were told it would be by the end of March. None of that has happened. Instead, the Prudential Regulation Authority has now asked the major businesses to prepare their plans for the worst possible outcome. Those plans are all done now, and increasingly it is becoming obvious to us that businesses are considering what to do with them. Now, regulated businesses do not have a choice. Regulated businesses have to ensure that they are operating within an environment that is regulatorily sound and where they can continue to do business. Here we are with a real global asset, where we have been global rule setters, and we seem to be in a state of stasis. That is not good enough.

As the noble Baroness pointed out, we were expecting a White Paper, but we have been told that it has been delayed yet again. There is a general White Paper due, but there is also supposed to be a financial services White Paper due. People need these answers, not because they just want to make mischief but because they need them to do their day-to-day work. Crucial decisions need to be taken now, and there seems to be little realisation within the Government—and, indeed, within the Commission as well—about the necessity to ensure that these decisions are taken.

Few people realise the scale and complexity of the issues. I commend the report for going into the scale and complexity involved, much of which I did not know—and I have spent a fair amount of my life kicking about in City circles as a Minister and otherwise. This is complex. The Brexiteers may not like it, but the UK has played a key role, in many cases a pivotal role, in establishing the strength of EU regulation and in putting in place the kinds of structures that allowed us to come through the 2008 financial crisis.

As one of our witnesses, Karel Lannoo of the Centre for European Policy Studies—the noble Baroness has already referred to him—said, the growth of the

[Baroness Liddell of Coatdyke]
single market is in almost direct correlation with the growth of the City. It is impossible to overstate the need for the UK to ensure that we continue to have pre-eminence in shaping standards. Both the Chancellor of the Exchequer and the Governor of the Bank of England have said that we must be rule makers and not rule takers. I would love the Minister to explain how we can maintain our role as rule makers. Not only has that been for the good of this country but Britain has been in the lead when it comes to the personnel involved in global negotiations. Global negotiations are even more important than EU negotiations because they set the framework and parameters within which UK companies can trade around the world. I have seen some of our negotiators work in intense international situations. One concern I have is that so much is down to the talent of the people who do that negotiation. We must ensure both that their talent continues to be heard and that we grow the next generation, as this is an issue not just for our generation but for the next one as well. The emphasis must be on good standard-setting and we have to ensure robust democratic accountability.

The noble Earl, Lord Lindsay, talked about the urgent need for us to revisit how we deal with the regulatory and legislative framework as a consequence of our exiting the European Union. It will not be simple; it will be extremely complex. We need to ensure that no one drops the ball between the day we leave and the day we start doing it for ourselves again. We must be rigorous; we must also be competitive.

A seat at the table is essential for all that. I see no indicators that a mechanism has been put in place to ensure that we retain that seat. Sir Jon Cunliffe, an outstanding negotiator of ours over many years and now Deputy Governor of the Bank of England, has said that,

"we need the strongest international governance relationships".

That needs to be a priority. There are those in the industry who are equally concerned about us losing our international clout. We need to give signals as to where our thoughts are and in what direction we are about to move.

I turn to a slightly more contentious issue. In the past few days we have seen business leaders meeting the Prime Minister and saying that they are losing faith in the handling of Brexit. We cannot afford that to continue. The clock is ticking. We have less than a year until exit day. There is a need for us to come together to ensure an open and credible discussion about where we go from here. The situation that we are in at the moment is tantamount to coming to the edge of a cliff and saying, "Let's take one step forward". We cannot afford to do that. International business leaders have already made it clear that they will not invest in Britain as long as Brexit-driven uncertainty exists. I cannot put it any more strongly. The clock is ticking, as I say. I ask the Minister to make representations on our behalf in the strongest possible terms. Whenever the Government responded to our paper they did so in a very positive way and the Minister expressed his satisfaction that a transition period had now been agreed. However, as John McFarlane of Barclays pointed out when he met us, a transition period is of value only if you know what you are transitioning to and how long it is going to take to transition there. All that needs to be sorted out.

A lot of people have great hope for a free trade agreement. There was one recently with Canada. There have been three free trade agreements recently: one with South Korea, one with Ukraine and one with Canada. Only one, with Canada, had any element of financial services in it. It was only a very small reference and, frankly, it is not much better than—in fact, it is not even as good as—what WTO rules would be. There is not a history of including financial services in free trade agreements. We find ourselves in a situation where we have to show our interest and our vigour in ensuring that we remain world leaders. There is no short cut to this. If the Government are not prepared to share with your Lordships' House or with the wider community where their thoughts are going, please share it with the leaders of the industry, take their advice and listen to what is feasible and possible.

I thoroughly enjoyed working on this report. I became depressed on quite a few occasions, as noble Lords may have gathered, but it is an intensely interesting piece of work. We have all seen our financial services industry take a kicking in the past few years, but there is little doubt that we lead the world in our integrity, our sense of responsibility and our regulation. It is the Government's job—indeed, it is our job—to ensure that we continue that.

5.41 pm

Lord De Mauley (Con): My Lords, I am also a member of the sub-committee and I echo the complimentary opening words of my noble friend Lord Lindsay about those who run us and those who help us. It is the responsibility of the regulators and supervisors to regulate and supervise, so that the financial services markets are safe and fair for those who participate in them and, in particular, for those who rely on them. This is a country with a reputation as a safe place for investors and retail banking customers that predates our membership of the EU. Indeed, as the noble Baronesses, Lady Falkner and Lady Liddell, said, our experts have taken a disproportionately large part in designing the EU regulatory and supervisory framework precisely because of their experience and fine reputation.

I think I can safely say that our meetings with the Bank of England and others did more than enough to convince us that our regulators and supervisors are capable of designing and operating systems to maintain the stability of our financial system and investment markets. However, there is an opportunity here, perhaps in the medium to longer term, for systems which are purpose-designed for the United Kingdom. We would benefit from systems which, while keeping our investors and retail bank customers safe, at the same time avoid a bureaucracy that stifles the appropriate risk-taking we need if we are to benefit from new technology, new opportunities and new potential trading partners.

Our report covered a number of important matters, all of great complexity and all of which require a great deal of work and a co-operative attitude on both sides of the channel to achieve them. I acknowledge that the negotiations under way will need both sides to compromise if we are ultimately to agree. I also acknowledge the

issues raised in the debate so far by other noble Lords, but I want to focus on where we discovered scope for the United Kingdom to regulate our financial services sector better and more appropriately than the EU currently regulates it. Both the noble Baroness, Lady Falkner, and my noble friend Lord Lindsay referred to this.

Our report provides examples of where EU regulation and supervision, which of necessity has to cater for widely differing markets, fall short. In paragraph 189, for example, we say:

"Some areas of the EU's current regulatory framework have proved problematic in the UK context. The EU, according to UK Finance, 'has always faced the challenge of regulating a market with an exceptionally diverse set of financial services businesses', resulting in compromise solutions on legislation that are not always coherent when applied to domestic markets. Lloyd's accordingly concluded that 'the process of arriving at a level playing field can have disadvantages .... Brexit may, therefore, present an opportunity for the UK to amend its regime in order to make it more fit for purpose'".

In paragraph 39 we say:

"Furthermore, Professor Moloney stated that by virtue of its decision-making process, the EU's policies may not always be optimal. One benefit of Brexit may be 'a breakaway from groupthink about financial regulation. The EU is a monolith and it has big structures designed to produce compromise positions. That is not necessarily good for the global financial governance system'".

Looking at specific areas of business within financial services, I will take investment management first. In paragraph 35 we say:

"TheCityUK criticised asset segregation rules in the Alternative Investment Fund Manager Directive (AIFMD) and Undertakings for Collective Investment in Transferable Securities (UCITS), and the Short Selling Regulation (SSR) on trading practices, as areas where the EU has taken unwelcome action, commenting that 'the overlap of these pieces of legislation are a central cause of the reduced liquidity in the market but critically are not based on international standards'".

On insurance, we say in paragraph 194:

"There are areas of the UK regime that have incorporated EU standards in ways that may have been detrimental to the UK's domestic market … Julian Adams of Prudential told us: 'There are a number of aspects of Solvency II that not just the industry but the regulator does not think work appropriately'".

On fintech, an area where the UK has taken an early lead, in paragraph 42 we mention that the regulatory sandbox had,

"demonstrated the FCA's greater commitment to flexibility and supporting innovation compared to other regulators".

In paragraph 209 we say:

"The UK's innovative approaches to FinTech regulation have served as a model for other regulators. In the words of Charlotte Crosswell, the sandbox 'has been successfully copied across the world'".

But in paragraph 43 we say:

"While the UK currently possesses a degree of autonomy in FinTech, which it uses to put in place innovative supervisory practices, there is the potential for EU intervention. Karel Lannoo, Chief Executive of the Centre for European Policy Studies, told us that 'The EU is now working on a regulatory approach to FinTech. Is it needed?'".

Turning to the mainstream business of banking itself, in paragraph 32 we say:

"Deloitte's written evidence argued that the EU's proposals for the CRD 'demonstrated a growing willingness to depart from implementing global post-crisis banking rules', in particular by discounting risk weights derived from the fundamental review of the trading book … by 35% for the first three years of application'. The EMIR review is, as we have noted, a matter of concern for the clearing industry".

In paragraph 38 we point to some of the risks of membership of the EU:

"The Financial Services Consumer Panel made a related point, suggesting that a 'weakness of the EU regime has been a lack of consistent supervision across Member States. Regulatory expertise and resources across the EU28 vary greatly', which in turn 'creates risks for all consumers and undermines trust in the market, especially for passported products'".

As we say in paragraph 201:

"The second aspect of the UK's current regime, as derived from EU regulation, that was cited as problematic was the regulatory treatment of smaller firms operating domestically rather than internationally. As the ICAEW"—

the Institute of Chartered Accountants in England and Wales; I declare an interest as a fellow—

"pointed out, this has been especially problematic in the context of prudential standards, as 'the approach to bank capital is an area where there have been differences between the international and EU approaches'. They explained: 'The Basel Accord was originally intended for internationally active diversified banks. In the EU (CRD IV, CRR) we have elected to apply the same Basel rules to all banking and investment firms. The US, in contrast, has not. It applies the Basel rules only to its international banks'".

It is often said, with truth, that one of the benefits of membership of the EU is that we can influence it from within. But in paragraph 46 we say:

"There have, though, been a few failures of UK influence at the EU level. One of the most notorious concerned remuneration rules in CRD IV, which impose a bonus cap for bankers. Deloitte noted that the UK had opposed this measure, on the grounds that it 'fails to link risk-taking with variable remuneration, increases fixed pay at banks and consequently makes those banks less able to reduce their salary costs in times of stress, potentially contributing to financial stability risks'".

In paragraph 186, we also say:

"However, proposals to demand the relocation of systemic CCPs within the eurozone will not achieve the Commission's objectives of bolstering financial stability".

While no one should be under any illusions that this is going to be easy, it could in the long term also present opportunities for us. I hope my noble friend the Minister will tell us that the Government intend to grasp these opportunities, to the benefit of businesses in the financial services sector and, in particular, to the benefit of their customers.

5.50 pm

Lord Liddle (Lab): My Lords, this is another excellent report from one of our EU sub-committees. It owes a lot to the quality of the clerks, and the quality of the chair and other members of the committee. However, I want to make one central point about the report which greatly worries me. I think it takes for granted the Government's present commitment to withdraw from the single market and not to seek membership of the European Economic Area. For the City, that will have pretty awful consequences. I do not really agree with the noble Lord, Lord De Mauley, on that.

Let me make three broad points. First, services are our economic future. This is where we have a trade surplus and are very strong. The City has benefited enormously from being the financial centre of the European single market. I am very worried about the

[LORD LIDDLE]
way that the debate is going on Brexit. As evidenced by the piece by the noble Lord, Lord Wolfson, in the *Financial Times* on Monday, the argument is, "Let's have regulatory alignment in goods but let's go our own way in services". This could do grave damage to the service sector in Britain, which I regard as a key part of our economic future. When we had the report on non-financial services, virtually all the people from all the different parts of the service sector—from broadcasting, the law, accounting and architecture—said that the three fundamentals of the single market were fundamental to their business model. They are: the freedom of establishment, which we lose when we leave; the mutual recognition of qualifications, which we may just about manage to hold on to; and, most important of all, free movement of labour, which is absolutely fundamental to service businesses including the City.

My second main point is about the hope that we can negotiate a mutual recognition arrangement through a free trade agreement, which is basically what we will be doing if we are not in the single market. The idea that this is possible is very misplaced. I can tell your Lordships about it in EU terms. I worked in the Commission for three years and the EU will see us as a third country. You cannot have mutual recognition with a third country but that is the position we are putting ourselves in. That is not the EU being dogmatic and difficult but a question of where we have chosen to put ourselves. Think about mutual recognition and the contribution it made to the start of the deepening of the single market—for example, in the Cassis de Dijon decision. That was because people were in a common regulatory area governed by a single court, the European Court of Justice. How can you have a system of mutual recognition when you have a separate system of adjudication, apart from the European system? That is the fundamental logical flaw in this position.

My third point is that I have grave doubts about the position that the Bank of England is taking: that there are no circumstances in which, in financial services, Britain could be a rule taker. This could be very damaging to our national interest in the long run because it implies that if we are not to be part of the EEA, we will go our own way and there will be gradual divergence between the City and the EU. The very fragmentation of the financial services market that we are trying to avoid will actually start to take place. That is based on a misjudgment about how much influence Britain could have as a member of the EEA in various areas. True, we would not have a vote but I believe that we would have influence. We would certainly have influence on questions of free movement and I think that we would also have influence over the future of the City which, if we remained in the EEA, would be seen by our continental partners as a vital asset to them. Once we leave, that mutuality of interest disappears. I have very serious concerns about the way that this whole debate is going.

5.56 pm

Lord Bruce of Bennachie (LD): My Lords, as a member of the committee, I too thank my noble friend Lady Falkner for the way that she chaired it and for her succinct opening speech, summarising both the report and its recommendations. I think we all acknowledge the staff who contributed to it in really quite difficult circumstances. I should say to the noble Lord, Lord Liddle, that I very much take many of his points but the committee took the view that we were taking evidence from the City on the proposition that we are leaving. How were we to explore how we leave and what we do? However, I also agree with the noble Baroness, Lady Liddell, that in the evidence we got month after month of no clarity, no sense of purpose or destination. We still do not have that and it is a matter of great concern.

In this House and the other place, but certainly across the wider community, there may not be much sympathy for a sector which many people thought brought the house down, took reckless risks with other people's money and rewarded itself handsomely. It is therefore easy to say, "Who cares about the financial services sector?" But the answer is that we all have to care, and also to hope with some justification that lessons have been learned—although probably not all of them. To put it in a positive framework, we first need to recognise that financial services are a crucial part of our economy. At 7.2% of the economy, it has over 1 million jobs and a £60 billion trade surplus in a country that has the biggest balance of payments deficit in recorded history. It is the biggest contributor to minimising that and we are about to undermine it. It also delivers £24.4 billion in tax revenue each year. I do not suggest for a minute that, because of Brexit, all that will disappear but there is a lot of confusion and uncertainty. Much of the sector will migrate. The question is: how much?

The second important thing is that even if people are sceptical about the value of the industry in its own right, it is important. I echo the point about the dispersal of the jobs as I think there are 160,000 people employed in Scotland in financial services, which is more by a significant margin than are employed in the oil and gas industry. Much more importantly, it is also the lubricant of the entire economy and, when it works well, partly the lubricant of an international economy. Many people complain that the City or the financial services tend to think big, so it is much easier to raise £100 million than £100,000. The reality is that a lot of this business is for small businesses and individuals managing their savings and pensions, and creating the liquidity for investment at home and abroad. We know that domestic investment and inward investment have collapsed. The money has got to go somewhere, so it is going to leave the country. That is a matter of grave concern if we do not get it right.

We also heard consistent concerns about the future of contracts—insurance contracts and others—if there is no continuity agreement. The Bank of England Financial Policy Committee report stated that insurance contracts representing £55 billion of liabilities, involving 38 million policyholders across the EEA and with bilateral derivatives of £26 trillion and cleared derivatives of £70 trillion could all be affected. These are phenomenal numbers, even beyond telephone numbers, for which there is no clear contractual future as of the end of next March. I find it mindboggling that people calmly contemplate this and say, "It'll be all right. It'll be

fine", when we have absolutely no sense of progress. When people say we could be heading for a cliff edge we are told, as I have been told in a few cases, that we are fine. Nothing has happened. The economy is still functioning. We have to keep saying to people that we have not left and that we are still a member of the European Union until the end of March. That is when the cliff edge is approaching, not now. It is amazing how many people think we left the day after the referendum because they do not engage in the detail. Why would they? They have got lives to live, unlike us here who have to engage in the detail.

If we get to that situation, rule taker or rule maker becomes purely academic because we are either completely shut out of the European Union or we have to take its rules. There is nothing in between if we do not have an agreement, and there is no history of a financial services agreement. We know that mutual recognition is not going to be acceptable, and we know that all the alternatives fall far short of what is needed. The irony is that the financial regulatory arrangements of the EU have substantially been driven by the United Kingdom over the past 25 years to the benefit of both the European Union and the United Kingdom, yet in nine months' time it will lose our expertise and we will lose its protection and access to its services if we do not get an agreement. That is the "if", but many people will be forgiven for assuming that we may not get an agreement, given that two years down the road we have no inkling in any kind of detail of what kind of transitional arrangement we will get and when it will finish. Witness after witness said that they had no alternative but to do what the Bank of England has asked them to do, which is to assume that at the end of March next year we will be outside the European Union with no agreement, and that they were planning on that basis.

We know that jobs are going, investment is going, offices are being rented and people are being served notice. All this is happening. Companies will not put out press releases about this; they will just do it because they have businesses to run. They will get on and do it, as they are doing. That makes me concerned that it is worse than the maxim that people talk about—nothing is agreed until everything is agreed—because it is "nothing is agreed because nothing is agreed and nothing is going to be agreed". I wonder when people will realise when we have fallen off the cliff. Will it be two-thirds of the way down—so far, so good—or will it be when we hit the rocks at the bottom?

The Government have not delivered the White Paper, but they have seen this report based on extensive evidence from all the senior players in this sector who have calmly and clearly told us of their concerns and their needs but who have heard nothing significant back from the Government in terms of outcomes. On a positive note, they all say that they believe that civil servants and everybody engaged in the sector know what can be done and that it could be done, but they do not know whether the Government will do it or are capable of doing it. One very senior player in the sector said to us, "We believe there is a basis from which we can manage the future of our financial services sector and maintain a connection with the EU and our international pre-eminence. We could negotiate this. We think we know how we could do it. Our only problem is that we do not know whether the Government think we are more or less important than the fishing industry". That is a pretty savage indictment of the relationship in practical terms between the Government and this crucial sector.

I found how the financial services sector is regulated through Parliament interesting. Our sub-committee is part of the process for the UK. Obviously the Treasury Committee and the European Affairs Committee in the House of Commons are part of the process. The role of the European Parliament is also interesting. It has far more resources, in terms of people, money and powers, to shape the regulations and the legislation, as it has done over many years. It is way beyond anything that the UK Parliament provides, needed to provide or needs to provide as long as we are a member of the European Union. We are, after all, participants in the European Parliament, although I am told that British MEPs are now relegated to the back row along with supplicants and are no longer treated as if they are Members of the European Parliament. Be that as it may, the UK is still a member of the European Parliament. Once we are not, we will not have the benefits of scrutiny by a European Parliament which has an obligation to us, as well as the other 27 members.

The Government should understand that the industry has given us quite detailed evidence, without being too prescriptive, that there are decisions that will need to be made by the regulators, there will be some decisions that might need to be made, particularly in the short term, directly by Ministers, but there are many other decisions, particularly in terms of legislative or regulatory changes, which will need to be made by a proper parliamentary process that will require resources far beyond anything that has been provided to our Parliament in the past. That is something the Government should take on board, not least because it is in the Minister's interests, I would have thought, to have a parliamentary dimension to a sector which is so complicated and so wide reaching in its impact.

I plead with the Government to recognise that if we leave the EU—I notice that Gordon Brown said yesterday that he thought we probably will not and that if we did we would be applying to rejoin immediately afterwards—we not only need to negotiate a working agreement and to have a clear idea of how we manage regulation but we need to demonstrate and understand that Parliament has to have a much more substantial role in protecting our interests.

6.08 pm

Baroness Neville-Rolfe (Con): My Lords, the noble Baroness, Lady Falkner of Margravine, has summarised our report with her usual dynamism and clarity. She has been a skilled and dedicated chairman and I echo the warm words from fellow members of the committee. I also warmly thank our clerk Matthew Manning, his assistant Claire Coast-Smith and our former policy analyst Holly Snaith, whom I wish very well in her career at the Bank of England. I take this opportunity to express particular regret that the noble Lord, Lord Woolmer of Leeds, is now leaving the committee. He is

[Baroness Neville-Rolfe]

a wise owl. He helped me a lot in my first year on the committee, and we have benefited greatly from his contributions.

Much of the ground in the report has been covered. I think I am more in the school of my noble friend Lord De Mauley than the school of the noble Lord, Lord Liddle. I am very concerned by the risk-taker/vassal state implications of the EEA option. It is one of the key reasons why the Swiss voted against being in the EEA all those years ago, despite them having a strong financial services industry, as we do.

I am going to focus on two issues: the impact of the changes that the fintech revolution is ushering in and the future of international co-operation on standards and stability. I believe that fintech—that is, business providing financial services by making use of software and other modern technologies such as AI and blockchain—is becoming ever more important. It was pioneered by a number of small and rapidly growing firms, but is now changing the way that traditional financial institutions operate. In my view, this revolution could be more important than Brexit to the future of the sector, so we need to continue the positive climate that the UK has provided for such innovation. There is also a competitive threat: a growing fintech dynamism in the United States and indeed in Asia, especially in Singapore. We need to ensure that the UK companies retain their edge and remain at the heart of this important revolution.

So what do we need to achieve that? First, we need the right regulatory regime, as witness Andrew Bailey, chief executive of the Financial Conduct Authority, told the committee, in paragraph 42 of our report:

> "FinTech, interestingly, is very little subject to regulation at the moment, and that is a good thing".

His own contribution on fintech has been important and the FCA's regulatory sandbox has been widely praised, as my noble friend Lord De Mauley emphasised. However, as he also said, there is a risk that EU plans to take more control in this area could change things for the worse. In particular, if we were to become a rule-taker of new controls on fintech under any Brexit deal with the EU, that would bring risks to our vibrant industry here. Perversely, the rich tech entrepreneurs would probably move outside the EU and European competitiveness would be eroded.

Secondly, fintech also needs access to talent. The biggest concern of tech entrepreneurs is to continue to attract top people. It is now clear that existing employees can stay, but a smooth and efficient Home Office system for future talent will be vital. The sector may also need to improve apprenticeships and training for locals. That is something that it should already do.

Thirdly, it needs access to capital. The majority of capital for businesses of this kind is raised privately or by venture capitalists in London. They themselves are a source of innovative finance, such as peer-to-peer lending. However, there will no longer be access to ECB funds and the British Business Bank will have to fill the gap. This was recognised in a very good session with the then City Minister, Stephen Barclay MP, who was immediately promoted. I am glad to say that the move to the British Business Bank is now the subject of forthcoming work by our committee.

Lastly, fintech needs to be able to export and to grow outside the UK. Many UK companies in the sector have set up or are setting up in Dublin, Amsterdam, Paris or Berlin. They may need a bit more government support in a post-Brexit world. More importantly, the Government's post-Brexit focus on global Britain and on international investment is good news for fintech. Their leaders now form a significant part of overseas delegations, as I saw for myself on a visit to India last year when I was Commercial Secretary. However, the UK also has fintech agreements with Singapore, South Korea and China.

The second area that I want to highlight is the future of international co-operation on standards, stability and supervision. As our report says:

> "UK regulators have been highly influential at both technical and political levels within the international standards-setting bodies".

Indeed, I would say that this has continued throughout the history of financial services. However, the future will be different. The UK will at best have some sort of observer status in the various EU financial bodies and, given the economic importance and interconnectivity of financial services, we must hope that any free trade agreement includes arrangements for deep ongoing co-operation between the UK and the EU 27. This must include parliamentary relations, which, as I know from my own experience, have the long-term benefit of involving politicians of all parties.

The Chancellor will not be present at ECOFIN, and Mark Carney's chairmanship of the Financial Stability Board is coming to an end. Unless his successor as chairman is also the successful candidate to succeed him as governor next year, which is unlikely, we will see a serious decline in influence. What can we do about this? I shall build on my noble friend Lord Lindsay's comments by posing some questions. Do the Government have a plan for influencing internationally in these much less favourable circumstances? Should we second more key people to the international financial institutions that we list in the committee's report—not only the FSB but the Basel Committee on Banking Supervision, the International Organization of Securities Commissions, the International Association of Insurance Supervisors and the International Accounting Standards Board? All are important, but perhaps most important of all is the question of whether we can use the opportunities of the G7, the G20 and the OECD to better effect in the financial standards and supervision area. We will be in a different world where new forms of influence will be important. Several of us have expressed concern on this vital issue, and I hope the Minister will be able to give us some reassurance about what is planned and indeed about resourcing, which was raised by the noble Lord, Lord Bruce.

This is an important month for the Government, and I wish the Prime Minister great success at the European Council. Britain has great strengths, including some that I have touched on in financial services. We have a stronger hand than we sometimes realise, and we should be ready to use it.

6.16 pm

Lord Davies of Stamford (Lab): My Lords, I served on this committee in the last Parliament and I was delighted to do so. I was not at all surprised that the

noble Baroness who chairs the committee has received all these compliments from the current members because she really was a formidable chairman in my time and I am sure she has remained so. I do not think I have ever seen a chairman of a committee in either House who does his or her homework quite so thoroughly, and that starts the committee off on exactly the right foot because everyone else feels they have to live up to that kind of example, which probably none of us did. Her direction and leadership were always stimulating and sometimes very demanding. As the noble Baroness, Lady Falkner, also knows, I am very blunt, and I am going to be quite blunt about this report. I hope I shall be forgiven by colleagues but I think it is important to have a frank debate on these occasions so that we expose different perspectives to any members of the public who might be interested in our proceedings or our views on these subjects, rather than just the perspective that is enshrined in the report.

The report contains a lot of very good work. I found most interesting the examination of the costs to us of Brexit in the financial services area, which I think is in appendix 4 of the report and is something that should be widely read. However, I have three problems with it. First, on the whole it tends to be too kind to people. I was very amused to see that Prudential apparently got away with arguing that it left the annuity market because of Solvency II. It is nothing to do with that; it is because the fall in interest rates means that annuities are an even worse deal than they ever were in the past. People are better advised now anyway, thank God, so a much lower number of people have been inclined to put their savings into that particular form, and very happily so. Solvency II has actually been a considerable success; the general insurance field is not complaining about it. Both the companies and the Lloyd's market are generally overcapitalised in terms of Solvency II. It would not make any sense at all to revise the Solvency II criteria as the committee has suggested.

Secondly, and more significantly, I thought the report was far too kind, dangerously so, to the financial regulators in this country. It said what a wonderful reputation we have and that our financial regulators are respected worldwide and so on—I paraphrase because I do not have the exact words in front of me, but they occur several times in different contexts in the report. Historically, that was probably true, but sadly that reputation was eroded about 20 years ago by a series of banking scandals such as Barings and BCCI, and there is very little left of it at all after what happened during the Lehman Brothers collapse, when we had the notable collapses of banks that obviously had not been properly supervised either on the liabilities side of their balance sheet, like Northern Rock, or on the assets side of their balance sheet, like RBS and Lloyds.

What happened in the RBS case was an appalling failure of elementary supervision. Mr Hector Sants at the FSA had all the power required to stop the AMRO transaction. He never used it: he was out to lunch. How he has managed to make a continuing career for himself in the field of financial supervision and regulation, I do not know. That itself worries me, and is not a commendation of the British financial supervisory and regulatory system. One needs sometimes to be quite harsh in examining our treasured institutions in the hope that they will, over the long term, improve their performance. They certainly need to in this respect in this country.

What a contrast between us and France. The British love to run the French down, but BNP Paribas, Société Générale and other big continental banks—German banks and Spanish banks such as Santander—sailed through the crisis. We literally had the worst record of anyone. That is my first problem with the report.

My second problem with the report is that a fundamental contradiction runs through it. At times, it says that it is in the self-interest of the continentals to accommodate us, to have mutual recognition, and so forth; at other moments, that it is in their selfish interest—but I suppose that that is the same thing as self-interest—not to accommodate us but to keep us out. We must make up our mind what is in the mind of the people who we are dealing with.

I will give my answer to that question. I think there are two fundamental motivating views on the part of our counterparties in these negotiations. One is the sense that if you have a club and someone wants to leave it, that is fine: they leave it. If they want to leave it, remain fully engaged but somehow juridically leave, that is problematic but something that you can talk about. If they want to leave it but actually want to keep all the benefits but not have any of the disciplines or costs and have special new rules crafted for them, that is insufferable. That is ridiculous. I think that we would react that way if the boot was on the other foot.

The second thing which has not come out in the report, which I think is the major motivating factor on the other side of the table, so it is important to consider it, is the issue of financial stability. If, as a banking regulator or supervisor, you are concerned about financial stability, as you must be, you want to be in control. You want to decide who is a fit and proper person to be dealing in your markets. If you have a crisis, you need to give orders to people and tell them to change their behaviour rapidly. You cannot have people who operate in your market, creating assets, lending money or whatever—perhaps contributing to the crisis, who knows?—who suddenly put their hands up and say, "We're British. We have special rules. We have a different adjudication procedure. We do not have to obey your demands". That is a hopeless situation. If you were Mario Draghi, I think that you would reasonably not want to accept it.

I come to my third difficulty with the report, which is most fundamental. It is far too optimistic and sanguine. It starts off by saying, "We need to continue to do our financial services business". Quite right: of course we do. "Equivalence is certainly not sufficient for our needs". Quite right: I totally agree. "Therefore we need mutual recognition". But it never says that mutual recognition is fairyland, cloud cuckoo land—what other cliché can I use? It is absurd. It will not happen. I am happy to put money on that if any Member of the House on either side wants to take me up on it. We are not going to get passports unless we stay in the single market, when of course the whole range of activities will be open to us.

[Lord Davies of Stamford]

Of course it is true that during the transition period, we continue to have full access, as we do today. That is not that much of a help, you know. What does it mean? It means that until the end of 2020, we can carry on with the false—self-deceiving—situation in which we think everything is all right and nothing will change. It means that we postpone the so-called cliff edge for 12 or 18 months, or whatever. Perhaps we can negotiate a longer period. It now looks as though we will go into this transition period not knowing what its terminal date will be.

Europhiles such as me would be happy for it to go on indefinitely, if we cannot go back fully and juridically into the European Union, which I would like to do and which is far and away the best solution. Of course the Eurosceptics in the Tory party will fight like cats about that and threaten to overthrow Mrs May if she does that, so what she will do if she is running into the deadline of next March and does not have an agreement on the terms of transition nor the period of the transition, heaven only knows. When the period of the transition is known, we are heading for another cliff edge, and the uncertainty which businesses in the City are complaining about now, which is well recorded in the report, will simply be carried forward for a little longer. That is unhelpful. We will have had a major structural uncertainty in this country for three, four or five years. That is not a very clever thing to do. I think that that is my understatement of the evening.

I am worried, because I fear that anyone reading the report will get a false impression of the situation into which we are headed. Barnier is quoted as saying that we cannot get financial passports unless we stay in the single market—and if people do not listen to Barnier, they are unlikely to listen to Quentin Davies; I quite understand that. It is no consolation when you think that we are walking into potential disaster that we have a blindfold over our eyes for the time being.

6.25 pm

Lord Desai (Lab): My Lords, if I may I will speak in the gap. I am a member of the committee but, by some muddle, my name does not appear on the list. I join everyone else in thanking our chairman for her excellent work—and our staff. I shall concentrate on one thing, because the report has been summarised very well by my fellow committee members. We all agree that the City is not only a great contributor to our economy but one of the best financial centres in the world. There is no doubt about that. We also know that access to the City is of great benefit to EU countries. But I say to my noble friend Lord Liddle that we could not write a report on any assumption other than that Brexit will happen. We had to work that out. If it does not happen, who knows what will happen—but we had to do that.

My doubt is this: yes, it is a fact that we are a very good financial centre, we make a great contribution to European prosperity and Europe needs us. In a world of rational, self-interest pursuing agents, it would be recognised by both sides that it is in our mutual interest to arrive at a good agreement—be it equivalence, mutual recognition or whatever. My fear is that we do not live in that world in this context. Given the way that the Brexit negotiations have gone, I increasingly suspect that neither side really wants to pursue rational self-interest. Indeed, had we wanted to pursue rational self-interest, we would not have got into this in the first place.

Given that we are champions in the financial industry, it of course makes sense for the other side to use what in the old days we used to call import substitution to keep us out as far as possible—because their industry can develop only if ours is stopped from competing in their market. This is the history of all developing countries and, if you are a financial centre such as Frankfurt or Paris, you look forward to the time when you can make it difficult, if not impossible, for the City of London to compete.

My conclusion from this is rather pessimistic, but I think it agrees with a lot of what our witnesses said. Assume the worst. That is the only ground on which you can plan the future. It is most likely, unless we are very lucky, that we will not get a good agreement in finite time and that we will have to adjust to a situation after Brexit when we will have to use our ingenuity and innovation to do better elsewhere.

6.29 pm

Baroness Kramer (LD): My Lords, I start by congratulating the committee and my noble friend Lady Falkner on what is a very meaty report—I fully accept that. But I am afraid that I find myself in the camp of the noble Lords, Lord Davies, Lord Liddle and Lord Desai, and my noble friend Lord Bruce in this debate.

I start by trying to find at least a little bit of common ground. We can all agree that the financial services industry is absolutely crucial to this country. My noble friend Lord Bruce quoted the number of employees and the tax that it generates, and 30% of that is generated from an EU client base—the client base within the 27. A very significant part of the financial services industry that we have here and which underpins so much of our economy is essentially generated out of the 27. We access that, as others have described, through a very diverse set of regulations and directives, from direct passporting for the banking industry and much of the insurance industry, and rights of delegation for asset management. The reason why we can have the London Stock Exchange acting as the global foremost CCP which clears virtually all euro-denominated derivatives as well as many in other currencies is because of liquidity provided by the European Central Bank and underpinned by a location policy. Many of the fintechs that the noble Baroness, Lady Neville-Rolfe, talked about survive because they were pan-European from the day when they were born and function across borders through the e-commerce directive. Many of them have based their future plans and what they expect and hope for on the single digital market. So we are deeply embedded in this process.

There are two other big issues for our financial services industry. I am not going to address them here, but let me mention them by title. There is freedom of movement. So many of the staff—one-third of all those in our fintech operations, for example—come from continental Europe. They are not going to come here under visa terms, because why should they live

with those restrictions when they can live without them elsewhere. Then there is the whole issue of data exchange.

I want to go back and pick up the point that the noble Lord, Lord Desai, made. The British-to-British conversation that takes place all the time, about how we manage to keep financial services thriving at the current level and growing in a post-Brexit world, comes without any recognition of where the European Union is coming from—and positions that we ourselves would take if we were in its position. I hear so often, "They need us more than we need them". You hear that almost on a continuous basis. But there is a lack of capacity in the rest of Europe. Over the last 10 or 20 years, nearly all financial services capacity has been sucked into London. It has thrived in London and has come to this financial centre, particularly with regard to the wholesale markets. That is where things are today. If you are sitting in the EU, you recognise that as a reality, but it is a reality for now. Five years or 10 years from now, why should that continue to be so? Surely, you look for an arrangement, when the UK decides that it is going to step out of the club, leave the EU and become a third country, and you look for an opportunity to bring that business back into the EU, perhaps salami slice by salami slice, and build capacity gradually.

We often hear from the British the threat that, "If the business doesn't thrive in London, it will move to New York". That is just from one third country to another third country—perhaps a less attractive third country, and perhaps one where the time difference is more of a problem. But it is frankly not a major issue, if you are sitting within the EU and what you are looking to do is to over time build that capacity. To think that the EU 27, which by purchasing power is the second largest economic bloc on the globe, would allow its crucial financial centre to be outside its supervision and control, is fairly extraordinary. We would have to make an exceptional case to argue that that should happen. I do not think that any of that is recognised in the discussions that we constantly have about the solution that we would like.

That leads me to the issue of what is often called bespoke dynamic mutual recognition. We will have mechanisms where we recognise them as acceptable players and they recognise us as acceptable players, but when we dig beneath that we find that it requires fundamental change in the EU to achieve it. This is an organisation that lives in a rules-based society and has a legal framework structured through the ECJ, and all that would have to be reconfigured to meet the requirements of mutual recognition. New institutions would have to be created, staffed and funded, and the EU would fundamentally have to change how it operates. Why would it do that?

I am afraid that the very unsatisfactory third-country equivalence that is on offer—and I agree that it is very unsatisfactory—works perfectly well for the EU. Nobody in the UK is going to stop them coming to use London markets and say, "No, you can't come here and have access, we're going to take it away from you". We need their business. It is perfectly acceptable for them to work on a basis whereby, essentially, on 29 days' notice the European authorities can simply remove the business or set in place new requirements or new rules—and it works very well with that strategy of moving attractive pieces of business salami slice by salami slice back to continental Europe as the capacity develops and as it is capable. We delude ourselves in thinking that the EU is going to go through extraordinary contortions and change its fundamental way of working to accommodate a mutual recognition framework, even though we think that for us that would be ideal.

The same thing could be said of a free trade agreement. I would love to see a free trade agreement that contained services. I was at an event today at the City of London where the speaker said, "If the EU wishes to prove itself to be the leading free trader in the world, it would be an excellent opportunity to create the template to include financial services in a free trade agreement". I just do not see that that is where the EU is at this moment in time. It is not on its priority list to identify itself as the leading free trader and start to create a framework that redefines global trade and WTO rules. If it does have that ambition, it is certainly not going to be doing it in the next 12 months or two years. That is the kind of thing that you might develop over five or 10 years. It would be long and tough and, obviously, it would have to be framed as an arrangement that has served not just an arrangement with the UK but with all the other various financial centres around the globe. So it is not something that is going to be immediately available, which drives us back to this very unsatisfactory arrangement of—I am now losing the terminology. What is the word that I want? It begins with "e".

Lord Bruce of Bennachie: Equivalence.

Baroness Kramer: Equivalence. I do have this problem.

The other issue that I have heard discussed here and which bothers me hugely is the discussion about how, after we leave, we can reframe our rules to allow more risk-taking. To pick up exactly the point that the noble Lord, Lord Davies, picked up, if you were sitting in the European Union and looking at the UK in 2008, you saw a financial crisis to some significant degree attributable to light-touch regulation—and how we touted light-touch regulation and told everyone that it was the way to go. It is exactly a return to that language of light-touch regulation. We have mistrust within our own country—people mistrust the industry and the regulators, so it is wrong to suggest that in the European Union they are going to say, "No, no, no—these people have changed completely. When they talk about reducing regulation it will be in the context of being absolutely safe". It is not—it is in order to create competitive advantage.

As noble Lords know, Barney Reynolds is a great promoter of that particular approach. I took some quotes from the report that he submitted, where he talks about a "market-friendly" financial services framework. That sounds very good, if you believe that market forces are the answer, but not if you believe that market forces ran rampant and out of control in 2008. International competitiveness should be a "statutory objective" for all our UK financial service regulators—that is the kind of language. That is a race to the bottom. This is precisely the accusation that is being levied: international competitiveness means that you always have the least-regulated structure. We are seeing in the

[Baroness Kramer]
United States, again, that a lot of the regulation that was put in place following the 2008 crisis is now being pulled back. That creates an added level of discomfort with this kind of Anglo-Saxon approach and framework. I do not think that we should underestimate how much we are caught in that particular view.

I also have to say that, when I ask those at any financial services entity, "Where are you looking for a change in regulation?"—the noble Lord, Lord De Mauley, hit on it exactly—they say that it is on remuneration: lifting the cap on bankers' bonuses. If ever there were an example that inspires mistrust and a sense that we are returning to the bad old days, it is that. It is always represented as the key and most important regulation that the financial service industry would like to see lifted.

I am desperate to keep the financial services industry here to the extent that we can, but I think we have to be realistic. A lot of it has already left. As my noble friend Lord Bruce said, this is not done with press releases and open discussion; no company wants to create concern among its customers, suppliers or regulators by saying, "We are at risk if we stay within the UK", but these companies are very quietly moving and we are beginning to see a series of announcements. It was also an iconic moment when Lloyd's of London dropped "London" from its title. It is now established in Brussels. It has 600 staff in London; 100 of them are moving to the Brussels office—it is just the beginning. Insurance companies, because of the reasons of contractual continuance that have been raised here, have all been moving over the last 24 months. I just say to the noble Baroness, Lady Neville-Rolfe, that the fintechs are moving as well. I have talked to so many of them that are applying or have applied for a licence in Dublin—but the real risk is Paris. She spoke about the innovative approach that we have to regulation of the fintech industry, and I agree, but it has spread rapidly and she perhaps does not know that the Paris equivalent has an MoU with the FCA to make sure that it takes an equivalent approach to regulation and sandbox to Paris. It is to Paris that a lot of the fintechs are moving; it is an attractive lifestyle and many of them are fans of Macron. They see a future there and there is real competition for that particular industry.

What do we do under these circumstances? I, like others, think that the only route we can take that leaves us with something other than this unsatisfactory third-country equivalence is, frankly, to stay within the single market one way or another. Without that, it seems to me that we will be on the outside. If we are going to be on the outside and trapped within just equivalence, our whole negotiation has to be focused on trying to make sure we have a voice at the table. I do not see the Government doing that; I see them going down the mutual recognition route, basically with pages of demands that require the European Union to restructure the way that it works, to change everything that it does, to shift its principles and to have 27 countries operate under a rules-based system and the 28th without that. If we can get the Government to pull back from that and to pursue an opportunity—I would prefer it to be in the single market but it has to be an equivalent to try to get us a voice at the table through some mechanism or other—we might have some possibility and some hope. The complexity around this industry more than illustrates the fact that there are only downsides to Brexit. One can find a few upsides but, my goodness, weigh them on the scale and they are very small.

6.44 pm

Lord Davies of Oldham (Lab): My Lords, I, too, congratulate the committee on its report, under the obviously effective chairmanship of the noble Baroness, Lady Falkner. I congratulate her on her speech, too, because she spent a great deal of time accurately depicting what the report contained but also added some reservations of her own, which might just have passed us all by, had not some of those themes been developed later in the debate. For instance, she emphasised the problems with the insurance industry and the limited progress that has been made. She also mentioned the concept of equivalence, which, as we all recognise, is an easy term to use but a very difficult one to realise when making decisions.

No one doubts the significance of securing the right framework for the crucial sector of financial services. The opening paragraph of the report emphasises the level of interdependence that must not be lost as the UK leaves the EU. The problem, of course, as identified in the report, is the range of issues where it is so easy to lose that concept of interdependence. My noble friend Lord Liddle indicated that, when we are talking about technical issues, we also have to work out who is in fact taking the decisions. It is a great weakness for the UK if, instead of being the rule-maker—which we have been used to in so many areas of financial services—we become a rule-taker. Yet, as the report indicates, the UK has so much to offer, as well as to benefit from, the European Union, particularly in the field of financial services, where we have considerable expertise. My admiration for the report lies in the clarity with which it identifies areas of real difficulty that the Government need to address—the difficult negotiations, and the difficult decisions to be taken. We cannot be too optimistic about progress so far.

Of course, my party made some progress in this debate only yesterday in tabling a fresh amendment to the withdrawal Bill, seeking for us to continue in the single market. That will not please many Members on the other side of the House. They should not worry: it will not please my noble friend Lord Liddle either, because he wants full membership of the EEA, and what was offered yesterday is much more marginal than that. But such developments as this are bound to put this report into a developing context; that is the problem. The committee had to report as it saw things at that time. We are all too well aware of the march of time and of crucial periods ending. The report certainly succeeds in identifying the key issues that require resolution, and we should greatly appreciate the work of the committee for that clarity. But how often does the report refer to difficult issues? How often does it present the challenge of what is to be done, rather than the solution?

I am not critical of the report for that; we live in an age of great uncertainty. It is clear that the Government contribute to that uncertainty by not contributing

much at all in the way of substantial advance. Quite a long time ago, we thought that certain crucial, fundamental blocks had been agreed by the Government. Can one recall how many months ago it was that the Irish border issue was "under control" and had been resolved? And what have we had subsequently? Almost continuous anxiety about the Irish border issue—it colours a great deal of the whole debate. The Government's record is therefore somewhat less than encouraging when it comes to negotiations.

The report warns of the fragmentation that would result from ending passporting, which would clearly increase costs for companies and firms and reduce financial stability. The relocation of clearing activities to the EU would increase those risks. The report sees no reason why they should diverge from EU standards; the answer should be regulatory alignment. How far have we got with any fulfilment of that objective? I do not blame the report for analysing a problem and saying what the solution should be; it is in the hands of others to make progress towards a solution, but progress seems to be very limited indeed. There is clearly a need for international standards to be enhanced, and the UK can make a substantial contribution to that. However, that means that the UK has to stay in a significant position with regard to these issues.

The report emphasises the significance of the financial services industry, which makes up 7.2% of our economy, the jobs involved and its contribution to the Exchequer, which is not likely to be ignored by the government Front Bench. But the great danger is the prolonged uncertainty. Almost every speech this evening indicated less than certainty about where we are going—not defining what is going to happen, but expressing what needs to happen against a background where nothing is certain. The great danger is that this prolonged uncertainty will cause firms to take the only action they can. They will take decisions to relocate within the European Union—not with bombast, advertising the fact, but quietly going about the process of safeguarding their interests as they see power drift away from London towards other parts of the present European Union.

No one has mentioned this in the debate, but we should all have responded to the fact that the report spends quite a bit of time talking about the burdens Parliament will carry and the challenges it will face. The report does not pull any punches on this. It describes the legislative load upon Parliament to transpose the European Union body of law—the acquis communautaire—into British law. Clearly, that is an absolutely massive task that will fall upon this Parliament. In addition, the powers of British institutions are bound to increase, because they will no longer be part of the more general regulatory framework but will be the sole regulatory framework in crucial areas. That means that Parliament will have to take a much keener interest in the key regulatory bodies in this country. I will come on to the reason why that is necessary in just a moment.

I am glad that the noble Baroness, Lady Neville-Rolfe, referred to fintech. After all, that is a crucial success story for the UK financial services. The report pays particular attention to the fintech industry, in which the UK has played such a leading role. The report says that those concerned with the development of fintech must be in crucial positions to ensure that international standards are of the highest as it develops. But how? In which capacity will they be able to fulfil that role? The report is optimistic about certain opportunities, although it goes on to identify the difficulties facing the Government.

There have been several contributions in this debate with undertones of anxieties and reservations about our position, and concern about the limited progress we have made so far—from my noble friends Lord Davies and Lord Desai but also from other speakers, and certainly from the noble Baroness who spoke just before me. Are British regulatory systems fit for the situation we face, with its fresh challenges? I have heard today, and in this report too, many congratulations on certain aspects of our regulatory control. However, can we just recognise that we have 29 overlapping regulatory authorities at present? There are doubts about all of the four big accountancy firms because of the role they played in the colossal financial crash of 2008, or in more recent debacles; one thinks only of Carillion, for example, and the role the accountants played in that. How good will our institutions be at fulfilling this role, when they are going to take on so much more? It is clear that public institutions such as the Bank of England and the PRA will need extra resources to carry out the significant roles that will be imposed on them.

We have one success from the Government—I may be able to think of two if I try hard, but one will do for the moment. They have succeeded in negotiating a transition period, which gives a little more breathing space—but not much. We have no time to waste. The successful negotiation to create a transition period takes us only to December 2020 to resolve many of these issues. What is more, the reason why we need to resolve them as quickly as possible is that those outside, whose interests are affected, are bound to act from their perspective. If the Government do not achieve solutions to these problems, they will have to make the judgment that they will not succeed and will have such a limited relationship with the European Union that everything will fall upon the commercial and economic interests involved.

There is still time for the Government perhaps even to produce a White Paper, but we may be beyond the White Paper stage. We need a pretty clear indication—I am sure that the Minister is bound to give it—of just how much progress has been made in meeting the issues that have been raised in this report and by almost everyone who has spoken in the debate this evening, and we need him to reassure us that great progress has been made.

6.58 pm

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, I join other noble Lords in paying tribute to the noble Baroness, Lady Falkner, for this report. I came in, having read the report, thinking that it was an outstanding piece of research and teamwork, that the level of support that had been secured was outstanding and that its conclusions were clear, as were its questions. As the Economic Secretary, John Glen, made clear in

[LORD BATES]
his 18-page response to the report on 19 April, it has been extremely helpful. However, when I heard what I will call the varying views of the committee that have been articulated during the course of this debate, I grew in admiration for the noble Baroness and the way in which she had managed to corral these views into such a concise and clear report.

I am also conscious that this is the second report that the sub-committee has produced on this issue. I was delighted that my noble friend Lady Neville-Rolfe was able to take part in this debate, because she responded to the debate on the previous report in February last year. I am not sure whether the analogy should be poacher cum gamekeeper or gamekeeper cum poacher—

Lord Hunt of Wirral (Con): Don't go there.

Lord Bates: I will not go there, as my noble friend Lord Hunt urges—I always follow his advice.

It has been an extraordinarily good debate. The noble Baroness, Lady Falkner, led us off by looking at the regulatory and supervisory architecture. My noble friend Lord Lindsay then looked at market mutual access and spelled out how it was in the UK's and EU's interests that that should continue. The noble Baroness, Lady Liddell, reminded us that the financial services industry extends way beyond the City of London and that Edinburgh is a major centre, as is Leeds. The Chancellor of the Exchequer recently visited both those cities and met people involved in financial services. It also extends into places such as Bristol, Norfolk and Bournemouth. The industry really is a focus of strength for the whole UK.

My noble friend Lord De Mauley pointed out that regulatory challenges can also be opportunities, and he cited developments such as the adoption of the FCA regulatory sandbox. I felt that at points the noble Lord, Lord Liddle, dragged us back to a Second Reading of the European Union (Withdrawal) Bill and I got deeply—no, perhaps I will not say what I felt about that. However, I want to focus on a point on which we do agree, which is the vital importance of the industry, with the £60 billion trade surplus in financial services and the mutual benefit that it brings. The noble Lord, Lord Bruce, raised a very important point about the continuation of existing contracts which many consumers rely on, and I will come back to that later.

My noble friend Lady Neville-Rolfe talked about international co-operation and reminded us that the global architecture extends well beyond the EU. Of course, we can play a major role in the G7, the G20 and the OECD. The noble Lord, Lord Davies, talked about issues such as Solvency II and passporting, which, in his view, had been working particularly well, but his challenges to the report's conclusions were heard. The noble Lord, Lord Desai, pondered whether rational self-interest would have a determining effect and questioned whether EU negotiators would recognise the importance to the EU of the City of London as a venture. The noble Baroness, Lady Kramer, talked about the potential challenges for the continuation of financial services and regulatory supervision. The noble Lord, Lord Davies of Oldham, concluded by reminding us of the burdens which taking back these regulatory powers will have on Parliament and how that regulation will be undertaken. I will come back to some of the questions that were raised, but it has been an extremely helpful debate.

The UK is home to the world's pre-eminent global financial and professional services centre, in part because of smart regulation and supervision that have tread a careful line between allowing businesses to flourish, and protecting consumers and financial stability. In the latest iteration of the Z/Yen Global Financial Centres Index, produced in March 2018, London again ranked first. That was not pre but post the referendum and post the triggering of Article 50. No other European city was in the top five. We want to preserve the world-leading position of our regulatory architecture and of our regulators. We are committed to high regulatory standards, and Brexit will never mean ripping up the rule book or a race to the bottom.

To sustain the level of cross-border activity between our firms and Europe's businesses and consumers, we need a relationship that is robust enough to give confidence to those on both sides. We cannot rely on the EU's existing equivalence framework, as has been mentioned. It is unilateral, piecemeal and unlikely to preserve and deliver much regulatory comparability over time. We need to agree a more comprehensive and stable bilateral deal that recognises the unique nature of the UK-EU future relationship. Paris and Frankfurt will not be the winners of market fragmentation; the winners will be centres such as New York and Singapore. We are aiming to shape a regime to manage future regulatory change that ensures that, although our rule systems might evolve separately, we deliver fully equivalent regulatory outcomes, maintaining commitments to support open markets and fair competition.

The Chancellor has set out a clear vision for our future relationship with the EU on financial services. This has been well received by the industry, and we are beginning to hear voices within the EU recognise the value of our proposition. Our vision is grounded in mutual recognition of equivalent regulation, with a dialogue on setting regulatory requirements and having supervisory co-operation arrangements that are reciprocal and reliable, and an independent arbitration mechanism to provide durable dispute resolution. Reaching agreement on this does not need to be a challenging objective—our rule books are already aligned and our markets are already deeply interconnected. We continue to ensure that our exit from the EU will be smooth and orderly. We made a big step forward in agreeing the legal text on the implementation period, which will keep market access on existing terms for firms and consumers.

Looking to the future, as the report notes, there are opportunities for the financial services sector to become more outward facing. The UK already has world-leading positions in the markets of the future, including fintech, for which we have developed what we call fintech bridges to other jurisdictions—most recently Australia. A recent report cited the prime centres for fintech around the world as Silicon Valley, Shanghai and the City of London, again underscoring the strength of our position.

We are world leaders in green and sustainable finance, or rupee and renminbi products, and we are committed to strengthening that position further. That also means expanding our bilateral relationships with key partners around the globe, including our economic and financial dialogues with China, India, Brazil, Korea, Hong Kong, Singapore and Japan. There are enormous growth opportunities for the future.

I shall now turn to some of the questions raised during the debate. The noble Baroness, Lady Liddell, and my noble friend Lady Neville-Rolfe referred to international bodies and standards. The Government remain committed to the full, timely and consistent implementation of agreed international standards. The UK is an active member of several international standard-setters, including the International Monetary Fund and the Financial Stability Board. The Government believe that continued participation in these organisations is essential to ensure the consistent adoption of international regulatory standards.

My noble friend Lord Lindsay and the noble Baroness, Lady Liddell, made a point about rule-taking or rule-making. Because of the size of the UK's financial services market, the complexity of the products traded on it and the consequent risks to our taxpayers, we cannot sign up to accept automatically as yet unknown future rule changes. We must have the ability, if necessary, to deliver an equivalent outcome by different means while protecting UK taxpayers from potentially unacceptable risks. The noble Baroness, Lady Liddell, and my noble friend Lady Neville-Rolfe talked about continued access for skilled workers. We have repeatedly made it clear that we do not regard the referendum result as a vote for the UK to pull up the drawbridge. On the contrary, the UK will remain an open and tolerant country—one that recognises the valuable contribution that migrants have made to our society, especially in the realm of financial services.

The noble Baroness, Lady Falkner, asked about the transition period. We have now reached an agreement on the implementation period. This agreement and the statements made by the Bank of England and the FCA give business confidence about the future arrangements that will apply immediately after the UK's exit.

Furthermore, our regulators have announced that they are prepared to act to enable firms accessing the UK from the EU to continue to operate in the UK without having to apply for UK authorisations for the duration of the implementation period. But we cannot provide full reassurance to firms on our own; we need a bilateral solution with the EU to resolve hugely important issues such as continuity of contracts.

The noble Lord, Lord Bruce, raised particular points on contracts. The Financial Policy Committee estimates that 10 million UK policyholders and 38 million EEA policyholders could be affected by these changes. There is a shared interest for both the UK and the EU in ensuring that we avoid outcomes that impose unnecessary costs and disruption on individuals and businesses. That is why we are focused on agreeing a deep and special future partnership with the EU. But of course, as a responsible Government, we continue to plan for all scenarios. It is vital that we work with our EU partners to put technical arrangements in place to avoid market disruption. Furthermore, the Treasury announced on 20 December 2017 that it would legislate if necessary to ensure that contractual obligations of EU firms with UK-based customers, such as those in insurance contracts, can continue to be met.

The noble Baroness, Lady Kramer, questioned whether it was unrealistic to include financial services in a free trade agreement. All the EU's recent free trade agreements make provision for financial services, from CETA to Japan, and the need for a close relationship is even more important for two markets as intertwined as ours. In the TTIP negotiations, the EU even pitched a relationship based on mutual recognition of regulations and a dialogue on aligning future regulation.

Financial services firms across the UK have confidence that the Government are committed to leaving the EU in a way that underpins prosperity and avoids unnecessary disruption and dangerous cliff edges for businesses across the UK. We are making significant progress, and this has been well received by the industry. Since December we have reached agreement with the EU on the implementation period. We have agreed a technical dialogue on cliff-edge risks, to be led by the Bank of England and the European Central Bank, and the Chancellor has set out a clear vision for our future relationship with the EU on financial services. These measures have been well received by the industry in the UK. We continue to work closely with businesses located throughout the United Kingdom to ensure that they are prepared for a smooth and orderly withdrawal from the EU. We will continue to do that and remain grateful for the quality and contribution of this report to that effort.

7.12 pm

Baroness Falkner of Margravine: My Lords, I thank all noble Lords who spoke in this debate. Naturally, noble Lords would expect me to be extremely grateful to members of the sub-committee who spoke, but I am also particularly grateful to noble Lords who are no longer members of the sub-committee and to those who have never been members. Their remarks are truly the important ones. I also know that there is another debate and many noble Lords have been sitting here patiently waiting for that to commence, so I will restrict my closing remarks to non-members of the sub-committee —and I will keep them brief.

The noble Lord, Lord Liddle, was extremely critical. I think he is no longer in his place but I will continue.

Lord Bates: The noble Lord apologised that unavoidably he had to leave the Chamber.

Baroness Falkner of Margravine: For the record, the noble Lord was critical that we took for granted single market withdrawal. All I would say is that he should read our 2016 report, *Brexit: Financial Services,* chapter 2, where we cover all the alternative arrangements. So in that case he was shooting the messenger unnecessarily.

The noble Lords, Lord Liddle and Lord Davies of Stamford, and my noble friend Lady Kramer did not at all like our identification of mutual recognition as a solution that had been raised by our witnesses, not

[Baroness Falkner of Margravine]
least by the IRSG and several others. They, too, are shooting the messenger. If they had glanced at paragraphs 60 to 63, they would have seen that we have our own reservations about achieving that. We say, in terms, that we need more detail and decisions from the Government on how they intend to proceed—if in fact that is the Government's position. With his usual objectivity and fairness, the noble Lord, Lord Davies of Oldham, acknowledged that.

The noble Lord, Lord Davies of Stamford, warned us that he was extremely blunt. He knows me well enough to know that I will reciprocate, although rather more softly. I will pick up two points that he made. He said that we were too kind to our regulators as they were tainted by scandals. In the examples that he gave, he omitted to mention that they took place under mainly the watch of a Government whom I believe he was a part of until 2010. They persistently seemed to believe in light-touch regulation. Our belief is that the old tripartite system that has now been replaced by the twin peaks of dual regulation by the FCA and the PRA is rather more robust and resilient. But that is not to say that I believe that banks will never fail. All I am confident of is that the new system will prevent wholesale contagion and a risk to the UK economy overall in terms of the risk to financial stability. In that respect, we should be much more confident of our new system.

Indeed, I know that Members of this House who served on the Parliamentary Commission on Banking Standards helped to create the new system. I believe that my noble friend Lady Kramer was a member of that. So let us have a little more confidence in the new architecture that we have put in place. It has been going for some years and we took our evidence in light of the current framework, not the framework that existed before 2010.

Both the noble Lord, Lord Davies, and my noble friend Lady Kramer commented on how UK institutions were somehow worse than others in terms of the UK institutions' lack of probity and prudence. I did a quick Google check and I will not detain the House with my findings—we can have a bilateral meeting outside the Chamber. But I can say to the noble Lord rather confidently that Société Générale and BNP Paribas, to mention just two—I am leaving aside Deutsche and all the others—have had whopping fines imposed on them in the period since. So let us not just call out our own institutions. Let us accept that a financial system under a capitalist model will always carry some risk. Let us try to see where regulation can be improved and where it needs to be more resilient and sustained. That is what we were trying to do in this report, in looking forward to how supervision and regulation will take place after we leave the European Union.

It has been a pleasure to take part in this debate. But, above all, it was an incredibly stimulating experience to have conducted this inquiry as chair of the committee. I would just remind the House of the words of the noble Baroness, Lady Liddell, who said that, in deliberating what we found in this report, we were unanimous as a committee in coming to the conclusions. That is the way it should be. It is a very grown-up committee, where the members recognise that and behave accordingly. It has been my pleasure to chair the committee. I beg to move.

Motion agreed.

Brexit: Energy Security (European Union Committee Report)

Motion to Take Note

7.18 pm

Moved by ***Lord Teverson***

That this House takes note of the Report from the European Union Committee *Brexit: Energy Security* (10th Report, HL Paper 63).

Lord Teverson (LD): My Lords, while noble Lords from the previous debate leave, I will declare my interests. I am a trustee of the Green Purposes Company and a trustee of Regen Southwest, both of which are non-financial interests. I am also a board member of the Marine Management Organisation, which has responsibility for licensing offshore renewable projects in English waters.

If one thing is clear, is it is that a robust, reliable and affordable energy system and network in a country are absolutely vital for its economic—let alone its social—stability. It is in that context that we wrote the report and I am bringing it to the Floor of the House today.

A key point to remember is that while imports of energy from electricity make up only 5% from the EU and 7% for gas—although when we include imports from Norway it is much higher at close to 46%—they are growing because of interconnectors in place and the need to be able share loads in terms of energy systems. For that reason, and because we will be connected to the rest of the European Union's energy systems after Brexit, this is an area where we believe that government action will be important.

One of the ironies of Brexit is that the United Kingdom has been one of the leaders on energy policy development within the 28 and, indeed, at the time of the 15. The internal energy market was created at the behest of, and is in the image of, a market that the UK would want to see and has helped to evolve. How that evolution takes place after we have left is of course another matter, but we have been fundamental to securing the position we are in at the moment.

I believe that the report is measured. While it sets out the challenges it also looks at the opportunities, and I shall go through some of those because it is important to stress them as well as looking at the challenges. There have been a number of developments since the report was originally published and there are areas in which I am sure that the committee would welcome the changes that have taken place. The Prime Minister spoke in her Mansion House speech of wanting a close association with Euratom, which is key to the energy area. She also said that she wanted to ensure that there would continue to be a single electricity

market in Ireland, a market that is absolutely unified, indeed more so than the wider internal energy market itself. She has also stated that she wants to see our continued participation in the internal energy market. As a committee we strongly endorse that wish, although how to do so might be rather more difficult. I shall come on to that.

Claire Perry, the Minister responsible for energy from renewables, in response to a question put by the noble Lord, Lord Krebs, who will speak later in the debate, told the committee that Britain would remain operational within the EU emissions trading scheme up until the end of the transition period. We welcomed that statement. As we discussed earlier today, we welcome the progress that has been made on the Nuclear Safeguards Bill and the various discussions not only with the International Atomic Energy Agency but with our partners worldwide as well. Lastly, we welcomed in their response to the report the Government's continued commitment to the Paris agreement, which is fundamental not only to us and the European Union but to the global position in terms of climate change.

I will go through some of the opportunities that we set out in the report. Post Brexit, we can operate our systems and networks in a way that suits our own energy grids within Great Britain. We can set our own decarbonisation and renewables targets, something that has been a source of friction in the clean energy package legislation that has come recently from the European Union. We may have more flexibility on state aid for chosen projects and how the Government might want to take forward their own energy strategy. At the moment, the charging structures for interconnectors are highly regulated by the European Union and we could opt out of those. Moreover, we must have a 5% tax floor for VAT and we could remove that for consumers. That was our list, but I am sure that the Government will set out many other opportunities that we look forward to hearing about from the Minister.

However, our report clearly needed to concentrate on the challenges, whether on costs for consumers both industrial and retail, security of supply, influence and continuing participation in a system that we will still be closely connected to, investment levels whether in interconnectors or energy systems, and the whole question of labour supply, an issue which has been a theme in all my committee's Brexit reports. Moreover, as we heard from speakers in the previous debate, it is a theme in other areas as well. The island of Ireland is particularly key in the energy area, but not on that list is the issue of tariffs. There is no substantial risk of tariffs. They are potentially possible on electricity, but at a minimal level and are very unlikely. They are not applied to gas, although there is a potential issue as regards tariffs on spare parts and machinery imported for replacement of energy systems, particularly in the nuclear area.

On costs, our key concern was that outside the internal energy market we will not have the ability to participate in what is known as market coupling or the network codes that drive European energy systems, particularly in electricity. Does that really matter? It matters in terms of efficiency of trading, and it particularly matters the more that we are connected to the continent, as we will be increasingly, and the fact that those interconnectors give us a good opportunity to share loads and to import and export according to the different peaks in various countries, as well as the ability to share loads to prevent and reduce the amount of capital investment that will be needed for our energy systems, which of course saves on costs. As a part of that, our current membership of the European Agency for the Cooperation of Energy Regulators, known as ACER and one of the many acronyms used in this area, and its so-called subsidiaries, ENTSO-E and ENTSO-G for electricity and gas respectively, will come to an end. We will not be members unless we are inside the internal energy market.

Something that came over very strongly from our witnesses was that those inefficiencies in terms of trading will mean that upward price pressures in wholesale markets for gas and particularly for electricity will be inevitable. The answer to that is to stay within the internal energy market if that is possible, and indeed our witnesses almost universally wanted to achieve that. There is a real upward pressure on prices at a time when all of us are aware through the price cap Bill that energy prices are of considerable concern on all sides of the House and of course to the public and consumers.

I turn to security of supply. An area of the internal energy market that has grown in solidarity is in gas through the security of gas supply regulation. Where there are shortages in supply, there are requirements for individual nations within a region to help each other out. We will no longer be a part of that. However, the key area in security of supply is in the nuclear sector, which provides around a fifth of our energy. On Euratom, it comes back to our being able to trade in nuclear supplies, people, and in all the other areas where we enjoy flexibility at the moment. I will not go into detail on Euratom because we discussed those issues earlier. If we solve the Euratom issue and settle our nuclear co-operation agreements, we will be okay, but that is one area where we have an issue around security.

A stark point came from the energy ambassador for Switzerland—it has an ambassador just for energy issues. We wanted to explore as a third country, even though it is one that is very close to the European Union in all sorts of ways, what sort of influence it had. It was quite a shock to learn that, although Switzerland is literally at the centre of the European electricity and gas networks, its ambassador said that it has very little influence on European policy; sometimes it had some influence on regional policy for member states around it, but that was as far as it got. That again reinforced the need for us to find a way to stay close to the internal energy market; outside it, one has very little influence on European policy in this area, even when one is connected to those networks. Norway has a little more influence, perhaps, because it is a major gas supplier, but not a great deal more.

One of the other themes apart from labour was investment. As in many other areas, the European Investment Bank, which has invested some €37 billion in energy in the UK since 2000, is a major source of finance. This is about not just finance but expertise in terms of large deals and getting lower cost capital, hence evaluation expertise and being able to crowd in

[LORD TEVERSON]
private investment. The Green Investment Bank is no longer a public sector body in this country. There is the challenge of where that investment, which is often the foundation of other investment—particularly offshore—will come from in the future. That is true in terms of both interconnectors and investor certainty once we leave the EU. In fact, programmes such as the Connecting Europe Facility, which has €5 billion available to it, and projects of common interest, where the UK has had €40 million for interconnectors, are also key areas that will no longer exist.

It was interesting that skilled labour was mentioned in the previous debate. One of the areas of concern for my committee is not just skilled, but less skilled labour or labour that would not be defined as skilled by the Home Office. In this instance, particularly in the nuclear field but also in the broader energy industry, there is a shortage of engineers and we rely very much on foreign labour. That is certainly the case in the nuclear industry: we have mentioned in this House the problem of feel-stixers—oh! steel-fixers—for EDF and Hinkley C, where such skills would not be included in a skills shortage list at the moment.

Lastly, I want to come on to the question of Ireland. We already have a single market there, which has become even more meshed and inseparable this year. It is vital that we maintain that single market in the island of Ireland. It is so impossible to pull it apart that a practical solution will have to be found. That will be key in the Irish negotiations.

How do we stay closer to the internal energy market if we keep our red lines? How do we keep our influence if we are not in that market? How do we remain an associate of organisations such as ACER that are critical in terms of energy and market efficiency throughout Europe? How do we keep investment? How do we find investment when the EIB and other European schemes have disappeared? How do we ensure our labour mobility for not just skilled but unskilled labour? How do we ensure that Ireland remains as one? How do we take advantage of the opportunities of Brexit as well? I am sure that my committee would be very pleased to hear the Minister's reaction. I beg to move.

7.34 pm

Lord Davies of Stamford (Lab): My Lords, the report is excellent. With the leave of the House, I will quote a number of sentences from it. Paragraph 24 states:

"Whatever the final detail of the EU exit terms the UK is likely to be more peripheral to EU energy markets which will mean higher prices and more unreliable supply".

Paragraph 29 states:

"Post-Brexit, the UK may be more vulnerable to supply shortages in the event of extreme weather or unplanned generation outages".

Paragraph 30 states:

"Energy UK claimed that operating in a less efficient market 'will have an impact on consumer bills'".

Paragraph 32 states:

"It is likely that the UK's withdrawal from the EU will lead to less efficient energy trade, which could in turn increase the price paid by consumers for energy security".

Paragraph 55 states:

"Market coupling is currently estimated to be worth £100m/year to the UK … Energy UK argued that GB operators could be excluded from market coupling post-Brexit".

Paragraph 56 states:

"In the absence of the REMIT Regulation, we would need to seek alternative arrangements to access this data and to facilitate information sharing".

I will stop here but similar quotes are available right the way through the other 200 paragraphs of the document. Paragraph 62, which I think says it all, states:

"None of our witnesses expressed a desire to leave the IEM".

In other words, the argument is completely one-sided. All sorts of people are pointing to the dangers and risks of Brexit to energy, such as leaving Euratom and, potentially, the IEM. No one is suggesting that it is a good thing. The House would be in dereliction of its duty if we simply ignored that fact. The British people are having serious energy costs imposed on them, which will affect every family in the country and impact on future economic growth, propensity to invest, output, employment and so forth, as sure as night follows day.

Who caused all this? Did some external enemy impose this on us? Are we the victims of an international conspiracy? Did the gods send a plague on us? Are we suffering from a curse of Zeus? No, this is a case of a Government deliberately imposing costs and risks on its people to a considerable degree. I cannot think of an analogy in history for what is going on at the moment with Brexit. This is true right across the piece, not just in the energy market but in pharmaceuticals, the automotive industry and civil aviation. As we saw in the previous debate, it is also true in financial services.

So it goes on. Every day, every week, the Government come up with proposals that they will ram through with their majority in the House of Commons—concocted from their relationship with the DUP—apparently irrespective of the cost to the British people. More and more of this comes along and we do not get any estimate of the cost to the British economy. When estimates are prepared by Whitehall, they are kept secret by the Government and we hear about them only through leaks. It is an absolutely extraordinary and disgraceful situation. We know the considerable potential cost of our leaving Euratom and that if we do so in a situation with no agreement to replace it, all sorts of disastrous things will occur: we will not be able to import radioactive isotopes, which will bring radiotherapy to an end in this country, costing lives, and so forth. That is quite horrific. We will have lorry-loads of vegetables rotting in the Port of Dover. All these things have been described by Whitehall and the departments that have been doing contingency studies into what might happen, but the Government have done their best to disguise them from the British public.

What can we do about it? It is extraordinary that leaving Euratom is an entirely gratuitous decision. There is absolutely no need whatever, simply because we leave the European Union, to leave Euratom. I know that if you ask the Government, "Why are you doing this?", they will say, "Oh, because the British people voted for it". The British people never voted for us to leave Euratom. I challenge the Government to give me one reference in the referendum campaign

to Euratom or the energy market generally. There was not one. The British people were never told about the cost of this. The Government decided retrospectively, after the end of the referendum, that this was included in the vote. It was not at all. Why have they done such a thing? I think we all know the reason: because the Eurosceptics in the Tory party are holding the Prime Minister to ransom. She is afraid of 48 letters going to the chairman, Sir Graham Brady, if she does not satisfy their demands, so we are pushing through these policies, which are quite gratuitous, unnecessary and extremely costly. It is an extraordinary situation.

I do not think that the British public have fully understood what is going on. Of course, they will when the higher energy prices come through in a few years' time if we go ahead with this programme. I have some simple questions for the Government. What is the cost to the British economy of leaving the EU? What is the cost to the British economy of leaving the internal energy market? What is the cost to the British economy of leaving Euratom? What is the maximum cost, if there is one, that the Government are prepared to pay to achieve these very dubious objectives?

7.41 pm

Lord Selkirk of Douglas (Con): My Lords, I am glad to follow the noble Lord who just spoke, but I have a different interpretation of the evidence the Minister gave the committee. I quote paragraph 64:

"The Minister informed us that 'our top priority is to be as near as possible to the current arrangements … Where there is such mutuality of interest I do not believe it is beyond the wit of those involved to work this out very quickly'".

On the whole subject of research, his emphasis was that there should be collaboration. I quote paragraph 113:

"The EU provides not only energy research and development funding, but also collaboration opportunities that are of value to both the UK and the EU. We therefore support the ambition of both Government and industry to continue to collaborate with the EU on research initiatives post-Brexit".

Like the chairman of our committee, I should mention an interest that I have in a small family company that has pockets of land and the possibility of one or two turbines. I congratulate the noble Lord, Lord Teverson, on the excellence of his chairmanship and his objectivity, and the clerks, who have shown very great ability and considerable skills in drafting.

When the British Foreign Secretary Sir Edward Grey famously declared that the lamps were going out all over Europe, he was of course speaking metaphorically. He was contemplating the terrible conflict which was about to erupt across the channel in 1914. Most fortunately, we are not facing disaster and open warfare as was Sir Edward. Our concerns are very much more mundane. They are economic, functional and structural. But the committee report that we are debating contains some serious warnings for the Government on the matter of our post-Brexit energy security and supply, concluding as it does that the UK's current frictionless trade in energy with Europe could be at risk.

Indeed, there is concern due to bad weather, which is not always foreseen, and interruptions caused by outages. Last week, a series of predictions were made and entered the public domain that can be described only as alarming about how a no-deal Brexit might impact on various spheres of our lives here in the United Kingdom. They were refuted strongly by members of the Government, so can the Minister assure us that no such drastic consequences or deprivations would affect the vital energy sector if we were to leave the European Union without a properly regulated free trade agreement?

When the Parliamentary Under-Secretary for Business, Energy and Industrial Strategy, Richard Harrington, gave evidence to our sub-committee he said that the Government's determination with regard to the maintenance of energy security was as far as possible to try to maintain the status quo, which I mentioned to your Lordships in different language. His actual words were:

"So, our top priority is to be as near as possible to the current arrangements".

He stressed that and we are entitled to ask the Minister how far that aspiration has been fulfilled. Can an update be given about the extent of the progress and success achieved in pursuit of this objective, despite the Government's determination to leave the single market and the customs union—a policy which makes it more likely that we will no longer remain inside Europe's internal energy market? Responding to the report's conclusions that the UK should seek to stay within the IEM, the Government have said that they are "exploring options" for our continued participation, but it would appear that is unlikely to be possible if we continue to insist that the UK will no longer acknowledge the jurisdiction of the European Court of Justice.

An important related question in Mr Harrington's evidence was on future funding for energy research initiatives. We are currently working alongside our European neighbours and in particular we need to know about nuclear research, in which Britain plays a pre-eminent role. I was told when I put that particular question to the Minister that it was the Government's objective to achieve a far-reaching science and innovation agreement with the EU. He said, as I mentioned:

"We want the framework for future collaboration that we have now".

The report also stresses the importance of the recruitment of highly skilled workers from Europe to the energy industry, which is particularly important in the nuclear energy sector, and the need to take account of this as new immigration policy is developed.

I refer to the committee's concerns about the Government's decision to leave the Euratom treaty, which regulates the nuclear industry throughout the EU. This determination to depart, about which Ministers claim that they have no choice, has caused considerable concern and warnings have been issued about its impact, which range from the difficulties that could be caused for the import of medical supplies to treat cancer to a possible threat to the building of the new nuclear power station at Hinkley Point. The report suggests various steps that the Government could take to mitigate the adverse effects of leaving Euratom, including negotiating some form of associate membership. Once again, however, the need to accept some form of jurisdiction of the European Court of Justice could be a stumbling block, although I hope that will not happen.

[Lord Selkirk of Douglas]

This House recently backed an amendment to the EU withdrawal Bill to try to prevent the Government leaving Euratom unless and until alternative arrangements on nuclear co-operation were in place. I hope that the Minister will be able to reassure us that the UK will be ready to put in place its own safeguards and inspections regime when the implementation period ends in 2020.

According to my recollection, the Minister expressed the hope that we would visit the National Grid. We were in a position to inform him that we had. It was quite moving to witness the decision-making taking place with consummate professionalism. The great expertise of those concerned and their dedication caused me to believe that those who are giving such tremendous service to our countrymen and women deserve the strongest possible support. I hope the Minister will be able to give some reassurance tonight.

7.49 pm

Lord Rooker (Lab): My Lords, I draw attention to my interest, declared at the end of the report, as a director of the Ludlow Hydro Co-operative, which operates an Archimedes screw—a community-owned hydro-electricity project—on the River Teme at Ludlow. We are in our second year, and it is going quite well.

I want to deal with three issues, each of which was touched on briefly by the chairman, the noble Lord, Lord Teverson, in a bit more detail. The first is Ireland. A new interconnector between north and south is planned for 2021. Currently, 88% of the electricity on the island of Ireland is imported from Great Britain, and 40% of the gas on the island of Ireland is imported from Great Britain. In Northern Ireland, 100% of the gas is imported from Great Britain, and that gas is crucial to the generation of electricity in Northern Ireland. There has been an integrated market, in some ways as a result of the Good Friday agreement, in operation for several years now. I can remember visiting one power station in Northern Ireland, when I had the privilege of being there for a year as a direct rule Minister, which has closed down. The fact of the matter is that the system is planned to work, but there is still more work to be done. However, my view is that I do not think that Dublin or Belfast should trust London. The situation is so fragile that I know there are long-term plans for an interconnector from the island of Ireland—from the Republic—directly to Europe, to the northern coast of France. That would be a very expensive operation, but it would be a lot cheaper than the lights going out and your industry closing down. So there is some serious planning required, I think, as to what should be done.

We have raised these issues in the report about the security of supply and the sensitivity regarding what is, in effect, a border down the Irish Sea as far as electricity is concerned. DUP politicians just lie through their teeth every day, because there are borders down the Irish Sea on a whole host of issues, which are already there, and electricity is just one of them—and they do not represent the people of Northern Ireland anyway, because the people of Northern Ireland voted to remain. The fact of the matter is that these issues were raised in our report, but the government response to the report, on the three issues that I want to raise, is pathetic. We are sleep-walking into major problems. In response to our recommendations 25 to 28, the Government just quoted the Prime Minister's speech of 2 March:

"This includes protecting the single electricity market across Ireland".

However, she is in no position to promise that at all. Therefore, there are some serious issues of planning to be done.

What is really a bit concerning—and I know that we will be told, "Oh, there is no confirmation; it is only a rumour"—is the story in the *Times* this morning:

"After economic collapse, food shortages and even Armageddon one might have thought that Brexit was running out of dire consequence. But under one contingency, Britain's exit from the EU results in blackouts. Plans to use tens of thousands of electricity generators to keep Northern Ireland's lights on are included in proposals for the most disruptive form of Brexit, according to a Whitehall source".

The story goes on to refer to the single energy market, but it also identifies,

"the possibility that power providers in the Republic could withhold energy in the absence of a legal document",

and legal structures. I know that we will be told, as we have heard from the Government today in relation to other things, that Governments have to prepare for all kinds of contingencies, and quite clearly that is true. Where the generators will come from, I do not know, but it is quite clear that they will be needed as a contingency if things go wrong.

Now, I do not expect the Minister to confirm that story or otherwise, but it would be nice if he could show—I do not say this to him personally—a modicum of interest in the fact that people in Northern Ireland, and in the Republic for that matter, are in a completely vulnerable situation regarding the rest of Europe, being reliant, as they are, on Great Britain for massive amounts of energy supplies. And let us leave to one side where we will get it from, given the interconnectors across to Europe. My view is: "Don't trust London. Make plans for the future".

The second issue raised by the noble Lord, Lord Teverson, which I want to consider in a bit more detail—it was raised also by the noble Lord, Lord Selkirk—is labour in the energy sector. The report states in paragraph 41:

"The highest concentration of non-British nationals as a percentage of the total employed workforce is within Nuclear New Build"—

which is pretty important for us anyway. It continues:

"Angela Hepworth, Corporate Policy and Regulation Director at EDF, provided some concrete detail: 'At the peak of the construction of Hinkley Point, we are going to need 1,400 steel fixers. At the moment, the total population of certified steel fixers in the UK is 2,700 so we would need more than half of the total steel-fixing population in the UK in order to meet the peak requirement for Hinkley Point'".

A lot of these people are not UK citizens. As the report mentions in paragraph 45, Angela Hepworth,

"was concerned that steel fixing, a key skill for the construction of Hinkley Point, 'does not meet the criteria for skilled employment under the UK's points-based system'".

We are heading for deep trouble, and the Government's response—on page 5 of their letter—is to say:

"The Government continues to support new nuclear. We recognize it is essential that access to workforce for projects, such as Hinkley Point C, are not adversely affected by the UK's

withdrawal … The Government has commissioned the Migration Advisory Committee … to gather evidence on patterns of EU migration and the role of migration in the wider economy".

Forget the wider economy; what are you going to do about the steel fixers? We cannot just drum up steel fixers. It is a very professional occupation. It does not fit the Home Office criteria for being super-super-qualified in the technical sense, but one plant—on which we are due to rely for 6% of our future energy requirements—will take more than half of the qualified steel fixers in this country, and we get a pathetic response in the Government's letter responding to the report that shows not the slightest inclination that they have taken on board the seriousness of the situation.

The third point that I want to raise relates to Switzerland, which was also touched on by the chairman. I will not go over Norway—we have dealt with Norway—but in Switzerland the issue is slightly different. Switzerland has 40 electricity interconnectors with Europe; given its geographical situation, it would be surprising if there were not. However, when the Swiss energy ambassador spoke to us, as the report states in paragraph 198, he,

"explained that although the Swiss tried to amend the drafting of the CACM"—

that is, the capacity allocation and congestion management regulation, which is pretty serious as far as central Europe is concerned—

"'all that was simply unsuccessful. The EU wants to have an internal electricity market as one coherent thing, and either you are in it and abide by the rules or you are not in it.' For an exception to be made, 'you have to have a very strong case that you as a country bring something to the internal electricity market that is indispensable to the functioning of the energy market'".

I would argue that Britain, having helped create the internal energy market in Europe, is not bringing something indispensable to the current EU arrangement. That is history—the market is set up and functioning—and we have nothing to offer. Indeed, as we said in paragraph 205, the ambassador,

"struck a note of caution: 'I am not aware of the UK having anything that I would call a unique selling point; that is, something that you would bring to the Internal Energy Market, both electricity and gas, which in the countervailing scenario of you not bringing it to the market would put the Internal Energy Market in some sort of jeopardy'".

In other words, they do not need us. In Switzerland's case, as was hinted at by the chairman, the Swiss are members of various committees and structures—they have to be, because they have all these interconnectors—but sometimes they are not allowed in the room when the committee meets. That is the way that the Swiss are treated. Because they are not actually a member of the internal electricity market, they are kept out of the room, and yet they have this massive arrangement, geographically, of interconnection of electricity with Europe.

And what did we get from the Government in their response? In terms of words used, we got less of a response, on page 23 of the Government's letter, than the actual recommendations in our report to which it was responding. It is contemptible that lazy Ministers—and it is Ministers, not civil servants—should give us a response that is shorter than the recommendation. They simply refer to,

"the value provided by UK expertise in the development of the IEM, and the starting position of alignment with EU rules".

That is our selling point. The Swiss ambassador has already ruled that out; it is in the report. So why do we get this rubbish in the government response? It is completely and utterly inadequate, and it is all on the record. The chickens will come home to roost one day. True, they will not be roasted if we have no power, but this Government show not an iota of recognition of the seriousness of the situation as far as energy is concerned.

We visited the National Grid; we also visited the fusion plant at Oxford. It is quite right: there was no debate in the referendum about Euratom—I doubt that the Prime Minister had ever heard of the term before it turned up in one of her briefing papers, showing not the slightest interest, given the shallow arrangements that she has for running the Government. I do not expect the Minister to respond to any of my points. I wanted to put them on the record just for audit purposes later on, when the blame game will really start.

8.01 pm

Baroness Sheehan (LD): My Lords, as a member of the sub-committee, I add my congratulations to those offered by other noble Lords to my noble friend Lord Teverson on his skilful chairmanship on this complex topic and to the clerks on excelling themselves in drawing together all the threads that make up this informative report.

Brexit is a far more traumatic experience than the joy-filled journey to sunlit uplands that was sold to the public. Your Lordships' House has been instrumental in adding some realism to preparing for the journey, through the painstaking work of the EU Select Committee, which has produced reports of depth and quality on the opportunities and challenges that Brexit presents.

I have been a member of this committee while it has conducted several Brexit inquiries, including on the impact of Brexit on agriculture, fisheries, farm animal welfare and environment and climate change. It is clear to me that, of the sectors that the committee has inquired into to date, the arrangements that we currently enjoy within the EU with respect to energy security are those from which the UK reaps the largest benefit.

The energy market is ferociously complex. The finely-tuned balance that our membership of the internal energy market brings, to our advantage, was recognised by all expert witnesses to this inquiry, including by the Minister, Mr Harrington, who more than once in his evidence session stated that,

"our top priority is to be as near as possible to the current arrangements".

That was also brought up by my colleague on the committee, the noble Lord, Lord Selkirk. We are hearing more and more that the Government are seeking "business as usual", which is a real giveaway, because it gives us a clue that light is dawning that the deal we have forged over the decades within the EU is as good as it gets, allowing us to have our cake and eat it. Given that the Minister agrees that close association with the IEN is where we would like to end up, why are we setting red lines that could jeopardise our retaining the benefits of the IEM? In what alternative universe does this make any sense?

[Baroness Sheehan]

My contribution to this debate will focus on the cost of electricity, because energy security is as much about cost to those who do not have much money as about availability for the rest of us. Electricity markets in the UK, Ireland and continental Europe are physically linked by interconnector cables. Interconnectors are critical in ensuring a stable and secure energy system. They help integrate renewable electricity by smoothing out peaks and troughs across the EU, which is a key requirement if we are to meet our climate change commitments. The more we move towards renewables, the more important interconnectors become.

Crucially, interconnectors also offer lower costs to both system operators and consumers. While there was general agreement among witnesses that even in a no deal scenario we are unlikely to see tariffs on electricity, it is also clear that no longer being a part of the IEM would likely make electricity trading less efficient and more costly, as GB interconnectors could be excluded from current and future market coupling mechanisms—my noble friend Lord Teverson has already touched on this.

Market coupling is a mechanism by which IEM participants use a shared algorithm to arrange cross-border electricity trades by matching supply and demand efficiently. Research commissioned by the National Grid suggested that being excluded from market coupling and other balancing mechanisms could cost the GB system £260 million per annum. Energy UK expressed concern that GB operators could be excluded from market coupling if we were to leave the IEM without replacement arrangements,

"as there are no provisions in the texts for 'third countries'".

This was reinforced by His Excellency Jean-Christophe Füeg, head of international energy affairs at the Swiss Federal Office of Energy, who has already been quoted extensively today. He told us that Switzerland is excluded from market coupling despite a large, mutually beneficial energy trading relationship with the EU. I mention the testimony given by His Excellency because it underscores the importance of political considerations, which often supersede pure market considerations when it comes to dealing with the EU.

The cost of electricity is something I wish to focus on, so I will say a few words about interconnectors. At the moment, interconnectors supply 7% of the UK's electricity. Another 14 gigawatts of capacity is either in preconstruction or at various planning stages, expected to become operational between 2019 and 2022. We are told that each 1 gigawatt of new supply through interconnectors could reduce Britain's wholesale price of electricity by 1% to 2%. Clearly, the impact of this in terms of cheaper costs for consumers, ranging from 14 to 28%, is not lightly to be put in jeopardy; it would be negligent of any Government to do so. Yet this is what we are playing with when we toy with leaving the EEA: we are risking higher energy costs for those least likely to be able to afford them. NEA has warned that,

"the UK leaving the EU could … badly impact the people who struggle to keep their homes adequately warm".

In response to the report's recommendation 4, asking government to conduct and publish an assessment of the impact of leaving the IEM on the price paid by consumers for their energy and to take steps to mitigate this impact, particularly for financially vulnerable customers, the Government outlined a number of measures to help consumers manage their bills. Can the Minister give an assurance that no one, but especially those on minimum wage or on benefits, will have to pay more for energy as a consequence of us leaving the EU? Like the noble Lord, Lord Rooker, I live in no expectation of receiving any such confirmation from the Minister, but it may be a matter that we can come back to once the consequences of Brexit, whatever shape it may take, unfold.

I hope that the Minister will recognise, nevertheless, the value to the poorest in society of the UK being a meaningful member, with a meaningful seat at the table, of an energy market that is designed to achieve lower costs for its members—designed, in large part, through substantial UK input.

8.10 pm

Lord Hunt of Chesterton (Lab): My Lords, the effect of Brexit on nuclear energy will be critical for the United Kingdom. I declare my interests as an energy scientist and a consultant for a company, Tokamak Energy, which is progressing a private sector approach to fusion. I was formerly chief executive at the Met Office and learned something there about the unpredictability of weather, which is an important part of energy, as has already been mentioned.

As agreed this afternoon, and as endorsed by this report, it is essential for the UK to remain as a working state within Euratom, both for standard and regulatory activities but also in dealing with long-term nuclear issues. The UK is still a very significant nuclear country, both nationally and internationally, through its membership of the International Atomic Energy Agency. It also has bilateral arrangements, which we will discuss this evening. For example, the IAEA is a vital forum, with other north-western countries of Europe, for dealing with radioactive material that leaks into the sea and, to a smaller extent, the atmosphere. The UK must have high-level scientists who are well respected in order to ensure that these international negotiations are well conducted. It is very important that the UK should have enough nuclear scientists and engineers at the highest international level. It was encouraging to hear today from the Minister, the noble Lord, Lord Henley, that the Government will be maintaining and contributing to this programme with some money. I suspect it might need more than the £10 million he mentioned, but that will certainly be necessary for us to maintain this at a high level.

One issue we have already discussed today is the need for the Government to allow migration to the UK to enable the UK nuclear industry to expand as the Government intend. The House of Lords Science and Technology Committee has recently been discussing improved, more efficient methods of construction. Of course, one of the biggest construction projects in the UK at the moment is the Hinkley Point nuclear power station. Interestingly, in order to speed up productivity, which my noble friend Lord Rooker described vividly, new techniques are being developed by a company we investigated. Some new methods are emerging from this, but it is extremely important to relate technology to the people in order to effect it.

The Government and the nuclear industry also need to have a big leadership role in defining the UK's long-range strategy, working with Euratom and the IAEA. One of most long-term, most profound problems is dealing with radioactive waste. Maintaining its existing waste is a major expenditure for the UK, which has very advanced technology to deal with this. The question is what will happen as we continue to expand our nuclear energy, as other countries do, and what to do with this waste. This is an area where Euratom has had some innovative R&D in the past. The current idea, of course, is to put it in geological repositories, but in such a way that it could be extracted if some new technology emerges. This has been a Euratom programme for some years and it is very important that the UK is part of it.

In the long term, there may be a possibility of combining the extraction of nuclear waste and turning it into material that has a very much shorter reaction time, and to use the technology of fusion power. Developing fusion power is the main scientific and technology programme in Europe. It started in 1980, but in collaboration with major countries such as the USA, Japan, China, Russia and others. However, progress has been much slower than was envisaged when it started; the original prospect of electrical power is now not likely before 2040, as has been stated by Euratom and other organisations. This was discussed at a Royal Society meeting in March.

The UK's contribution to this international programme comes through the Culham laboratory. What is interesting now is that the Government are putting their money into this international, very long-range programme. A whole new approach has in fact begun to emerge. This really came about through new ideas of plasma physics, from the Culham laboratory, and new computations. Most importantly, it came about because we can now have superconducting magnets at a considerably higher temperature—about 30k as opposed to 1k. This has led to the concept of a much smaller, modular fusion reactor that will deliver practical power by 2025: in other words, seven years from now.

This Tokamak project, amazingly, is funded by the private sector, including insurance companies, charities and private funding organisations, including a big company owned by a prominent member of the Conservatives. There was a press statement today, which I can refer noble Lords to, about the latest progress and how temperatures now, in this contained fusion, exceed the temperatures at the centre of the sun—15 million degrees. The International Atomic Energy Agency described this as the leading innovative idea in fusion worldwide. I very much hope that the UK's influence in Euratom will continue and will ensure that innovative private sector contributions work at the same time and in collaboration with state-funded contributions.

We hope that fusion reactors will be providing this power but while the source of power is one thing, one of the most extraordinary possibilities that motivates much of the research is that, with the neutron flux in these smaller devices it will be possible to bombard and transform radioactive waste, which of course is developing all over the world. That could then decay in 100 years as opposed to lasting, in current plans, perhaps 10,000 years, which is hardly a sustainable policy. I hope that Euratom and the UK Government will encourage this and other private sector advanced fusion systems. We need great leadership across Europe.

8.17 pm

Lord Krebs (CB): My Lords, I start by declaring my interest as recorded at the back of the report: I am a former member of the Climate Change Committee and chair of its adaptation sub-committee, and a current member of the advisory board of the Energy and Climate Intelligence Unit. I also join other noble Lords who are members of the sub-committee in thanking the noble Lord, Lord Teverson, for his outstanding chairmanship of this report—and indeed the other reports we have produced—and thanking the committee clerk and policy analyst.

Before we started on this inquiry I had read a report from Chatham House, published in 2016, before the referendum. It said:

"In the field of energy and climate policy, remaining in the European Union offers the best balance of policy options for Britain's national interests".

I had expected—perhaps even hoped—that in the many hundreds of pages of written evidence and many hours of oral evidence, including the evidence from the Minister that has been referred to, we would find out why Chatham House was wrong. Unfortunately, we did not find out why it was wrong, so I want the Minister to explain at the start exactly why leaving the European Union will be better for the national interests of Great Britain in terms of energy and climate policy.

As we know, and as the Government state in their response, the challenge for energy policy is to reconcile three imperatives that are essential for the future: security of our energy supply, affordability of our energy supply, and decarbonisation of our energy supply. As things stand, and as we have already heard from other noble Lords, the Government's delivery of these objectives is supported not only by national legislation but by our membership of the European Union and its various component parts that deal with energy.

I will be brief, bearing in mind the late hour, but I want to spend a few minutes talking about the third leg of energy policy: decarbonisation. The Government's response to our report makes several references to our legally binding national decarbonisation targets, the Paris Agreement and the *Clean Growth Strategy*. Commenting on the last of these, the government response states:

"The Clean Growth Strategy sets out how the country can benefit from the creation of new technologies and new businesses, while meeting our climate change targets".

This may well be true but what the government response does not say is that the Committee on Climate Change has pointed out that the measures set out in the *Clean Growth Strategy* do not take the Government anywhere near meeting their own legally binding commitments. The committee has said:

"Although ambitious, the Strategy does not go far enough. Urgent action is needed to flesh out current plans and proposals, and supplement them with additional measures, to meet the UK's legally-binding carbon targets in the 2020s and 2030s … Even if

[LORD KREBS]

delivered in full, existing and new policies, including those set out in the Clean Growth Strategy, miss the fourth and fifth carbon budgets by around 10-65 MtCO2e—a significant margin".

Without going into detail, the CCC also points to areas in which more action is needed, including transport, domestic buildings, low-carbon electricity, energy efficiency, landfill and agriculture.

The Committee on Climate Change has also pointed out that by the 2020s, about half of the required emissions reductions will be dependent on policies that come from the European Union. I ask the Minister to explain to us how, post Brexit, the Government intend to combine the objectives of maintaining a secure and affordable energy supply while meeting their legally binding commitments on decarbonisation.

Finally, I want to say just a few words about the internal energy market, although much has been said already and I do not want to repeat it. As we have already heard, the Minister, Richard Harrington, told us that the Government's,

"top priority is to be as near as possible to the current arrangements",

but he did not explain, given that, why he thought it was such a good idea to leave the current arrangements. If you want them to remain, why not just stay with them? More recently, on 27 April, the European Commission published its *Notice to Stakeholders* on Brexit and the internal energy market, which contains some stark messages for this country. For instance, as a third country, the UK will have to pay for transmission costs inside the internal energy market, which could seriously alter the economics of interconnection. What is the Government's assessment of the Commission's *Notice to Stakeholders*, particularly in the context that, as we have heard from other noble Lords, virtually all projections of UK power supply indicate that we will have to import more, rather than less, over the next decade or longer?

8.23 pm

Viscount Hanworth (Lab): My Lords, I will deal with only one or two aspects of energy security. The present state of the electricity supply industry in the UK has been determined by two major and virtually contemporaneous events: the discovery and exploitation of North Sea gas, and the privatisation of the industry. These events have determined both the predominant technology of the electricity supply industry and the means by which it markets its output.

Prior to privatisation, generating capacity was provided predominantly by large coal-fired power stations. The last of these to be constructed was the massive Drax power station, which was commissioned in 1987. This was shortly before the passage of the Electricity Act 1989, which prepared for the privatisation of the electricity industry in Great Britain. The privatised industry was no longer capable of large capital investments on the scale of the Drax power station, nor was there any possibility of the industry pursuing nuclear power generation; instead, the new generating capacity was provided, almost exclusively, by combined-cycle gas turbine plants fuelled by North Sea gas.

The fact that private enterprise was able to provide the new infrastructure of our electricity generating industry seemed to confirm the opinion of Conservative Governments that the private sector could be relied upon to provide much of the social and industrial infrastructure that had hitherto been the responsibility of central government. Latterly, that opinion seems to have been confirmed by the manner in which private industry has financed and constructed most of the renewable generating capacity in this country. However, by relying on private enterprise to provide the infrastructure, we have allowed both a dearth and an imbalance to affect our generating capacity.

Soon we shall be facing a severe shortfall in our capacity for baseload generation, which is a necessary adjunct to our increasing reliance on intermittent renewable generation. To provide for our electricity in the future while pursuing a policy of decarbonisation, we need to build new nuclear power plants. So far, the only nuclear power station under construction in the UK is at Hinkley Point in Somerset. The Government have been unwilling to provide the necessary funding. It has therefore incurred the exorbitant costs of private finance, at a time when the interest rates associated with government borrowing have been at an all-time low.

In consequence of the privatisation of the industry, the UK has led the way in devising flexible and innovative ways of marketing electricity via a system of futures markets. This is relied upon to equate the supply with a demand that varies in annual, weekly and daily cycles. Our system of energy markets has been adopted by the European Union. It is ironic that, in pursuing the Brexit agenda, we will be divorcing ourselves from a European internal energy market—IEM—that has been largely a product of our own endeavours. Our committee's report makes it clear that there will be significant disadvantages if we cannot remain part of the IEM. It instances the circumstances of Norway and Switzerland, which are constrained to abide by the rules of the IEM without having any influence over its policies.

I turn to some issues that have arisen out of what has been described as one of the most outstanding of the self-inflicted injuries of Brexit: the decision to withdraw from the European Atomic Energy Community —Euratom, as it is commonly called. The decision to withdraw has given rise to the Nuclear Safeguards Bill. Euratom has provided much more for us than an inspection regime for ensuring that radioactive material does not fall into the wrong hands. It governs the supply of fuel and all the nuclear engineering materials and equipment that come to us from abroad. It facilitates international exchanges of personnel trained in nuclear technology. It governs the acquisition and supply of medical radioactive isotopes. It funds an extensive nuclear research and development programme, including the programme for nuclear fusion.

Euratom, which predates the Common Market, was established in 1957, and exists largely independently of the European Union. However, in a speech of 17 January 2017, Theresa May declared that she would not countenance,

"anything that leaves us half-in, half-out",

of the European Union. Since the European Court of Justice plays a marginal role in its affairs, Euratom was judged to be half-in, half-out of the European

Union and, therefore, an organisation that the UK was bound to leave.

On leaving Euratom, the functions of nuclear safeguarding will have to be assumed by the Office for Nuclear Regulation—ONR—which is the UK's nuclear regulatory agency. To have all the necessary facilities in place by March 2019 will be impossible, and it is doubtful whether other nuclear nations would be convinced of the adequacy of our provisions, as they must be if we are to continue to co-operate with them. There have been fears on the part of the nuclear industry that unless the status of the ONR as a viable safeguarding authority can be ratified by the date of our formal departure from the EU, and unless all the necessary nuclear co-operation agreements with overseas suppliers of nuclear fuel and materials are in place, we shall have to close down our nuclear power plants. However, today we have passed an amendment to the Nuclear Safeguards Bill that will enable the Government to approach the European Council with a plea to be allowed to remain under the auspices of Euratom if the necessary arrangements are not in place in good time. The Government have simply reworded a Lords amendment that was passed on Report on that Bill in the face of their opposition.

I turn to the matter of our access to the skilled labour that will be required for the various nuclear infrastructure projects that are either mooted or already under way. It is vital that these projects should proceed in a timely manner if we are to have an electricity supply industry that meets our needs while fulfilling the objectives of decarbonisation. I am told that the Government are carefully considering a range of options for the future immigration system and will set out initial plans in the coming months. This is where the difficulty lies. We have no idea as yet of the sorts of allowances that will be offered to the industry in respect of the EU and non-EU nationals whom they might wish to recruit.

I am aware that the Government have received strong representations from some of the companies involved in projects for new nuclear power stations. The most prominent of these is EDF, which has repeatedly reminded the Government of the skills shortages that it will face in connection with the construction of the Hinkley Point C nuclear power station. The limitation in the supply of civil engineering workers, including welders, steel fixers and concrete pourers, is a particular concern of EDF. These are the kinds of workers who are liable to be excluded by an immigration policy that gives priority to so-called tier 1 immigrants of "exceptional talent" who possess high-level professional or academic qualifications.

I should also mention the concerns of Rolls-Royce, which is engaged in a project for the construction of small modular nuclear reactors. It continues to await a long-delayed decision from the Government regarding the outcome of a competition to identify the reactor of best value for the UK. There may come a point soon when the company can no longer sustain its project in the face of the continuing uncertainties. Rolls-Royce is committed to training a native nuclear workforce but should it walk away from this project, which is quite likely, Britain will lose much of its nuclear engineering competence.

8.32 pm

Baroness Featherstone (LD): My Lords, we have had an excellent debate and I congratulate my noble friend Lord Teverson and the EU sub-committee on this excellent report on the energy security ramifications of leaving the EU. Our status as a full member of the EU has, up to now, ensured our energy security, efficient trading and a focus on energy efficiency while, as mentioned by the noble Lord, Lord Krebs, also ensuring a continued advance on decarbonisation. A number of your Lordships across the House—I think it was the noble Lords, Lord Selkirk of Douglas and Lord Krebs, and my noble friend Lady Sheehan—referred to the Commons Minister himself admitting to the committee that we will have to remain as near as possible to current arrangements. He is probably sorry that he said this. That particular sentence, I guess, highlights the complete folly of this. We seem to be cutting off our nose to spite our face in this fool's rush to be free of the EU.

This excellent report demonstrates in every sphere the necessity of replicating or continuing each and every area of our energy relationship with the EU. Almost all of your Lordships who have spoken raised the necessity of remaining in or having an exact replica of our membership of the internal energy market, whose creation we led on. If we are to keep energy costs down, we will need to remain in it if and when we are outside. The Government are incredibly fond of referring to energy prices, so perhaps they should take notice of themselves. Perhaps the Minister can tell us in his response how we are to avoid the imposition of broader EU energy policy if we no longer have any voice in its creations but are mere supplicants to the table. Switzerland was highlighted as an example of how bad it gets.

A number of your Lordships raised the challenges and dangers of leaving Euratom, which was debated at length during the passage of the Nuclear Safeguards Bill, and where across the House we fought tooth and nail for the amendment that eventually came forward from the Government during ping-pong. It gives us an insurance policy so that if everything that should be in place by March 2019 is not, there is that fallback position.

A number of your Lordships also raised the issue around interconnectors. What do the Government believe will happen when these circumstances arise? At the moment my understanding is that, as a country, you get priority according to your need in the direction of energy flow. We have benefited from that to date but it will no longer be the case if we are not in the club. Club members will be served first.

We cannot presently meet our own heat and power requirements. I would obviously argue with the Government that we could if they really supported renewables, actually did something about energy efficiency, invested in renewable heat and supported innovation to scale. The noble Lord, Lord Rooker, certainly made clear his view of the Government's response and, having read it, I was pretty much in agreement with his view. It is apparent from that response that the Government are relying to an extent on shale gas to answer their prayers. I can see the attraction of having

[Baroness Featherstone]
the problem of the energy gap filled by private money coming in. It leaves the Government only to break all their promises and remove planning protections for local people, as if shale is some sort of economic miracle that will rescue us from the gas gap.

The Government look to the American experience to be replicated. Outside the recent report showing the new scientific evidence on the danger of fracking in ex-mining areas, I point out to the Government that our geology and geography is very different from America's. Even if it were feasible to produce shale gas at scale, the economic miracle is fading. Asset life is critical, and the outlook is poor. In the USA, shareholders are now experiencing the reality rather than the promise of shale. A company such as Cuadrilla, which is looking for shale in Lancashire right now, has seen its shares fall to a quarter of what they were worth in 2009. That bubble is bursting. Shale is proving difficult in this country. The Government's answer to the challenge of giving local people their right to protest is to change these applications to permitted development, and that from a Government who promised local people the final say. The shale bandwagon has passed. This is not the time to climb on it. This is the time to say yes to tidal lagoons, to invest in renewables and to take innovation to scale.

As the noble Lord, Lord Krebs, neatly highlighted, the Government's answer to many things is the clean growth strategy and the industrial strategy. They form the stock answer to all questions on the future of energy security, but I find no security in them. They are full of ambition, but they are also full of words rather than actions. Actions speak louder than words, and we have seen many a time that the Government's actions are going in the wrong direction. The Minister will be relieved that I shall not rehearse all the measures this Government have removed or have taken that have damaged our green credentials, which include removing the zero-carbon homes standard and the precipitate removal of subsidy that devastated many in the solar industry. The even more serious part of that is that the consequent undermining of investor confidence—if we Brexit, we will need investor confidence—is real and tangible in the investment community. Thank goodness we have pioneers pushing the boundaries.

This brings me to the last issue I want to address, which is the loss of EU investment in so many projects and areas in this field: the European energy programme for recovery, the connecting Europe facility, Horizon 2020 and the European Investment Bank, which many noble Lords raised. Perhaps when he replies the Minister will say how EU funding worth billions, which we will lose on our exit from the EU, will be replaced.

I will finish on the island of Ireland. I heard no solutions for it, and I look forward to the Minister giving us such a solution.

8.39 pm

Lord Grantchester (Lab): My Lords, I thank the noble Lord, Lord Teverson, for his excellent introduction of the committee's report, which is the subject of the debate today, and I thank noble Lords who have spoken. I congratulate the noble Lord, Lord Teverson, on his chairmanship and on the work of his committee. As evidenced here, he is very adept at identifying and choosing important issues for investigation, often at an early stage of debate. This report was prescient in raising many of the issues that have arisen concerning Euratom and the Nuclear Safeguards Bill. His opening speech was mirrored by the interesting closing remarks of his colleague the noble Baroness, Lady Featherstone.

The report brings forward 43 well-thought-through recommendations and by and large the Government have given comprehensive answers in their response, with detailed replies outlining the latest up-to-date position on the Government's Brexit energy programme at the end of March, following the conclusion of the EU-UK discussions on the implementation period. However, it can be argued that the Government continue to reveal complacency about the seriousness of the issues in this report. What comes across on nearly every page is the industry's anxiety should the UK be required to leave the internal energy market, with the implications and possible consequences following that, not the least of which may be increased costs to consumers.

The public debate that has raged between the Brexiteers and the Government over the single market, regulatory alignment and hard borders could be replicated across the energy market. To the Government's credit, they are getting on with dialogue over the energy sector, which may reflect that there is much less contention that the UK's national interest lies in continued participation in the EU's internal energy market, as the Government state at paragraph 33 of their response. When the UK's energy security, a fundamental aspect of everyday life, is at stake, it is in everyone's interest to ensure the least disruption and that the lights stay on at the least cost and at maximum efficiency. The wider the participation and the exchange of energy across the continent, the more effective and secure energy supplies will be.

However, the Government still have a long way to go to achieve a successful Brexit. The report brings up interconnectors and the future expansion of their use as a case in point. They formed a crucial part of the remarks of my noble friend Lord Rooker on Ireland and of the challenges from the noble Baroness, Lady Sheehan. The report quotes National Grid's estimate that the levels of electricity interconnection planned by 2020 could meet 35% of the UK's peak electricity demand, making interconnectors an indispensable asset base for providing energy security. While it is understood that the UK will become a third party in EU internal arrangements, the report stresses, and the Government endorse, that there should be no new trade barriers; that the UK will look to remain in certain EU agencies, as the Prime Minister expressed in her Mansion House speech on 2 March; and that it remains a key ambition for the UK to form a new deep and special relationship with the EU, as the Government's response at paragraphs 54 and 57 reveals, including the fulfilment of a single energy market on the island of Ireland, as set out in paragraphs 84 and 87 of the report.

Given that emphasis and that there are no interconnectors, planned or not, other than to the EU or member states in the EEA, how strong a weighting are the Government putting on continuing membership of the internal energy market as a negotiating priority

with Europe? Have the Government undertaken any activity or proposals as an alternative for the UK to continuing participation in the IEM, and what does that look like? Some time ago, National Grid quantified the risk of exclusion from the IEM at £500 million per annum by the early 2020s.

Less efficient trading is likely to increase UK consumers' bills, and my noble friend Lord Davies expanded on that considerably throughout his remarks. In their response to the report, the Government outline measures that they are already taking to reduce costs to consumers. Paragraph 21 mentions the Domestic Gas and Electricity (Tariff Cap) Bill, which is due to have its Committee stage next week, as evidence. However, the Government have not addressed concerns around potentially higher energy prices resulting from any changed relationship with the EU. Have they given this any thought in the legislation that is still progressing through your Lordships' House? How are they going to ensure that Brexit does not result in undue increases in consumer energy bills? This could well be the subject of an amendment next week.

The importance of the nuclear industry to energy security was underlined tonight by the noble Lord, Lord Teverson, my noble friends Lord Hunt and Lord Hanworth, and others, especially in relation to the arguments expressed—or not—at the time around the Brexit vote. As was to be expected from the timing of this report, the committee examines the UK's position in respect of Euratom and makes 11 recommendations. To a large extent, the discussions undertaken during the passage of the Nuclear Safeguards Bill have taken this up. From the outcome of that Bill earlier today and the Government's response to the report, the position has been addressed—notwithstanding that there is still a lot of activity to be successfully pursued to secure a robust and effective conclusion. The House will appreciate that the Minister will be making Statements as the situation develops and that the UK will continue in its relationship with Euratom as we develop UK safeguards.

While the report has been comprehensive in addressing the current position of the UK's energy security, by its own admission it largely excludes an examination of the EU's emissions trading scheme as this was the subject of another report, *Brexit: Environment and Climate Change*. The noble Lord, Lord Krebs, spoke eloquently on climate policy and decarbonisation. As well as the serious questions that he posed, there are some pertinent questions to ask the Minister on the EU ETS. Could he outline what contingency plan is in place to manage the UK's exit from the EU ETS in the case of no deal, and how the interests of UK companies with obligations under the ETS will be protected? Has the Minister's department undertaken any plans for a stand-alone UK ETS that could be linked to the EU ETS to provide continuity in carbon trading arrangements and certainty for companies?

Lastly, I shall mention two aspects of energy security that the report does not examine: demand-side response and energy efficiency. Both are critically important. It should be pointed out that the market development of goods continues to improve through innovation. When most household equipment gets replaced, be it a washing machine or a boiler, it is usually with a new, more modern and more efficient piece of equipment. There is a passing reference at paragraph 74 of the Government's response to demand-side response, DSR, regarding battery storage as evidence of achievements secured through the capacity market—but it is not expanded on.

There is much mention of energy efficiency in the IEM and other developments, but no analysis of energy efficiency measures as part of national infrastructure. Your Lordships' House only recently concluded its assessment of what is now the Smart Meters Act, which has huge potential to rationalise household energy use. Both subjects could fill an entirely new debate. Perhaps I could pose questions to the Minister regarding the Government's commitment for the UK to mirror EU standards, which could at least ensure that the UK will maintain similar levels of response to innovation to those that would occur through EU regulation. However, the challenge remains that the UK is yet to develop a comprehensive policy over demand-side energy reduction and energy efficiency measures. In his reply to the debate, will the Minister respond to the challenge and outline the Government's ambitions in these two regards? In conclusion, this is an excellent report that has triggered excellent responses from noble Lords all around the House.

8.49 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): The noble Lord has set me a rather large challenge in terms of how much he wants me to respond to in my comments—particularly as he strayed into the Smart Meters Bill, now the Smart Meters Act. I do not think we want to rehearse that. I may have to refer to the Nuclear Safeguards Bill, shortly to become an Act, because I think it will be important for this issue, but I am grateful for his mention that he will be tabling amendments to the price cap Bill—or whatever its proper name is. I look forward to seeing them as soon as possible to make it easier for us to respond to them in good time when we meet in Committee on Monday and Wednesday.

I join other noble Lords in offering my congratulations to the noble Lord, Lord Teverson, on chairing the EU Energy and Environment Sub-Committee and my thanks for producing the report. I am grateful that my right honourable friend was able to respond in good time—although I am not sure that I recognised her response in the remarks made by the noble Baroness, Lady Featherstone, and the noble Lord, Lord Rooker. I thought that she responded in a proper and timely manner.

I should also say that I hope that the noble Lord, Lord Teverson, has received a letter from my right honourable friend sent only today—if he has not, I have a copy—in response to the European Commission's notices to stakeholders, referred to by the noble Lord, Lord Krebs. The noble Lord, Lord Teverson, nods, so I take it that he has received it. The noble Lord, Lord Krebs, referred to the various questions raised in that capacity. I shall ensure that a copy of the letter is placed in the Library so that the noble Lord can see the more detailed response. I apologise for the fact that it came out only today, but I think it was probably of use to him in his response.

[Lord Henley]

Many points and questions have been put to me, some of which I will be able to respond to. As always, I give an assurance that I will write in due course to noble Lords to deal with other, more detailed points if I feel that I cannot answer them in the time allowed. The noble Lord, Lord Rooker, complained about the brevity of some of my right honourable friend's responses. He will be the first to understand that it is not always possible in a short debate happening late at night to respond in the detail that he would like to some of the points that he has made.

We believe that the UK has a well-functioning, competitive and resilient energy system and that our energy market is one of the most liquid and developed markets in the world. As we have made clear, we also believe as regards costs that it is right to intervene where necessary. That is why we have brought forward the price cap Bill as a temporary measure.

As noble Lords will be aware, we have also commissioned the independent review of the cost of energy by Professor Dieter Helm. We are currently considering his findings and will be sorting out the next steps after further consultation with stakeholders. I hope that the noble Lord, Lord Davies, will accept that as a response to some of his points about costs and will be prepared to wait for it in due course.

At the heart of our plans for a reliable electricity system in Great Britain is the capacity market. It secures the capacity required to meet peak demand in a range of scenarios, and it will continue to do so after EU exit. To ensure long-term security, we are broadening GB's power generation base, including through new nuclear generation and offshore wind. Several noble Lords referred to the building of Hinkley, including the noble Viscount, Lord Hanworth. He will also be aware of the announcement that my right honourable friend the Secretary of State made about Wylfa in Anglesey. For some reason, his noble friends did not want me to repeat that Statement in this House, but it is there in *Hansard* for him to see. I can further add that the latest contracts for difference round secured record renewable energy capacity—I say this to the noble Baroness, Lady Featherstone—at a record low price.

The GB gas market is highly diversified, with a variety of different sources of supply that do not depend on a relationship with the EU. We have domestic production, short-range and flexible gas storage facilities, gas pipelines from Norway, and three liquefied natural gas terminals, as well as gas interconnectors, about which I shall say something a little later, because they were raised by the noble Lord, Lord Grantchester and the noble Baronesses, Lady Featherstone and Lady Sheehan.

Whatever our future relationship with the EU, we remain committed to delivering dependable, secure and low-carbon energy. Our *Clean Growth Strategy*, published in October—again, the noble Baroness was faintly dismissive of it—set out plans to build further on our successful decarbonisation of the power sector, while looking across the whole of the economy and country, through the 2020s and beyond. The clean growth grand challenge in our industrial strategy sets out to maximise the advantages from the global shift to clean growth for UK industry. The grand challenge will require us to embed clean growth across government's activities. We remain strongly committed to the Paris climate change agreement, and will satisfy our international obligations and seek to maintain the shared approach enshrined in the agreement. Leaving the EU will not change any of our domestic statutory commitments to reduce our emissions, as laid out in the Climate Change Act 2008; indeed, those targets are more ambitious and challenging than those set by EU regulation.

As set out in the Prime Minister's Mansion House speech, we are seeking the broadest and deepest possible agreement, covering more sectors and co-operating more fully than any free trade agreement anywhere in the world today, for its future economic partnership with the EU. We have made significant progress on negotiations so far; we have agreed the terms of a time-limited implementation period, and on the wider withdrawal agreement have locked down entire chapters on the financial settlement and citizens' rights. More recently, as was made clear at Question Time today by my noble friend Lord Callanan, we will produce a White Paper that will set out in detail the UK's position on a future relationship.

With respect to energy, as was made clear in the evidence given by my honourable friend Richard Harrington, we seek broad co-operation with the EU, ensuring that energy trading continues as efficiently as possible with the EU to underpin our future economic relationship. This includes exploring options for the UK's continued participation in the EU's internal energy market, as was mentioned by many noble Lords but particularly by the noble Lords, Lord Teverson, Lord Davies of Stamford and Lord Grantchester. It also includes protecting the single electricity market across the island of Ireland, which was a concern to many noble Lords. The Irish Government and the rest of the EU share the UK Government's intention to support the stability of energy supply on the whole of the island of Ireland.

The Government are also clear about the importance of continued efficient electricity and gas interconnection between the island of Ireland and Great Britain, which the committee's report rightly highlights. In the ongoing negotiations with the EU, we are making good progress on agreeing a basis on which the single electricity market can continue, as part of the draft withdrawal agreement. We are confident that we will secure a UK-EU future partnership that will achieve that shared objective.

Can I say a little about electricity interconnection? The UK and the EU have a common ambition to make energy trading easier and more efficient by opening up national markets and by increasing the level of interconnection between them. Facilitating cross-border energy trade so that it is as efficient as possible will remain in the interests of not only ourselves in the United Kingdom but of the EU, following our exit. The UK is continuing to develop more electricity interconnection and to open up trade with neighbouring markets. In addition to the 4 gigawatts of existing interconnection capacity, a further 4.4 gigawatts is now under construction and, beyond this, 9.4 gigawatts of potential additional interconnection projects already have regulatory approval from Ofgem.

Positive investment decisions on new interconnectors have taken place since the referendum. There have been final investment decisions on two interconnector projects, with approximately €1 billion of construction contracts being awarded. The ElecLink interconnector awarded contracts worth approximately €400 million in November 2016, and the IFA2 interconnector awarded contracts worth approximately €600 million in April 2017. So progress is being made and we are working to ensure that we can continue trading as efficiently as possible over those assets. We also want to continue with the gas interconnectors—mentioned by other noble Lords—with Belgium, the Netherlands and Ireland, which support the gas markets in those regions.

Moving on to Euratom, I dealt with quite a lot of that earlier today and throughout the passage of the Nuclear Safeguards Bill. I do not want to repeat all the points that I made earlier today and at other times, but I assure the noble Lord, Lord Davies, that there is no threat to medical radioisotopes. We will still be able to import them from Europe and the rest of the world. Those assurances have been given by myself and by other Ministers on other occasions. The simple fact is that it has been agreed that we will leave Euratom when we leave the European Union; the two are interconnected. As stated in the Prime Minister's Mansion House speech, the UK will continue to seek a close association with Euratom, which shows our commitment to maintaining close and effective arrangements relating to civil nuclear co-operation, safeguards and safety with Euratom and the rest of the world. Maintaining continuity for the nuclear sector is a key priority.

I say to the noble Lord, Lord Rooker, that we also recognise the importance of being able to attract the right workers and we recognise the challenges that he mentioned in relation to Hinkley Point. The noble Lord, Lord Teverson, mentioned those with a wonderful spoonerism when he talked about steel-fixers—I will not try to repeat it. We recognise the importance for the nuclear sector and we must remember that "skilled" is not always the same as "highly qualified". We know that we need construction workers in that industry and we are working closely with the Home Office—a department that the noble Lord, Lord Rooker, knows well—to ensure that the needs of the nuclear sector are understood and will be addressed.

I repeat what I made clear earlier today—although I think the noble Viscount, Lord Hanworth, was not here at the time—that as part of developing our policies for coming out of Euratom, in Vienna today we received an agreement from the International Atomic Energy Agency which provides for the voluntary application of international civil nuclear safeguards. That was formally approved by its board of governors today. In addition, looking across the Atlantic, I am delighted that we have now signed a new nuclear co-operation agreement with the United States of America, which will go through the ratification process both there and here. Although the noble Lord, Lord Teverson, seems to think that it will take rather a long time, I am confident that that will come into play in due course.

In Brussels, our negotiations with the European Commission on separation issues have gone well. We have reached agreement with the EU on the majority of Euratom issues under discussion, including on the legal text to be included in the withdrawal agreement.

The noble Lords, Lord Krebs and Lord Hunt of Chesterton, and others expressed considerable concern about continuing collaboration on science and innovation. We have a strong history of collaborating with our European partners through the EU, pan-European, and other multilateral and bilateral initiatives on science and innovation, and we are committed to establishing a far-reaching science and innovation pact with the EU, facilitating the exchange of ideas and researchers. In her recent speech at Jodrell Bank the Prime Minister stated that she would like the option to fully associate with the excellence-based European science and innovation programmes, including the successor to Horizon 2020 and the Euratom Research and Training Programme.

Finally, on investment, we are very mindful of the need to give certainty to investors. The UK is a global leader in attracting investment, and there is still significant appetite to invest in UK renewables, including offshore wind, from developers and financial investors. The UK will remain a great place to do business after we leave the EU, and we expect the strong investment climate in the energy sector to persist, attracting inward investment from all over the world.

I do not think that the noble Baroness, Lady Featherstone, would expect me to end without saying just a little about shale gas and the opportunities it gives us. As stated in the government response, the UK Government are committed to ensuring we have secure energy supplies that are reliable, affordable and clean. As part of this, shale gas has the potential to be a home-grown energy source which can lead to jobs and economic growth, contribute to our security of supply, and help us to achieve our climate change objectives. The Government are clear that shale development in the UK must be safe and environmentally sound, and we have a strong regulatory system in place. I hope that the noble Baroness and her party will come round to my way of thinking in due course. She looks as though that is unlikely, but I live in hope.

I hope that I have dealt with most of the problems but, as I said, I will reply by letter in due course. I am grateful to the noble Lord, Lord Teverson, for taking the opportunity to bring this report before the House and for the hard work that he and his committee put into it.

9.08 pm

Lord Teverson: My Lords, I thank the Minister for his response. First, I reflect the thanks expressed by a number of members of the committee to our clerk, Alexandra McMillan, and our policy analyst Jennifer Mills, who looked after this report so well. They are not here this evening, and one of the reasons for that may be that they are not in their offices this week because the energy security of Millbank House has totally failed. So, although Britain might not be in energy security mode at the moment, this House is. I have not been in my office this week for the same reason, but I hope that that will be put right next week.

I shall not thank all noble Lords individually but I thank everyone collectively for their contributions. I particularly thank the noble Lord, Lord Davies of

[Lord Teverson]
Stamford, who participated in the previous debate, although I was not here for that. I suspect that it had a very similar theme but I will not be checking it to such a great extent in *Hansard*. I am also very pleased to see the noble Lord, Lord Grantchester, on the Front Bench. He has obviously recovered well from his malady.

I thank my noble friend Lady Sheehan for mentioning prices. During his witness session, the Minister, Richard Harrington, was fairly relaxed about the whole subject. It is worth taking up the point about the importance of energy prices, in that we still have some 34,000 premature deaths over the winter and in England alone some 2.5 million households are still in fuel poverty. This is a real issue. I know that the Government understand that as well and they have introduced their price cap Bill, but this is an important area.

I shall say just one thing about the internal energy market, which many of us discussed. I do not see how we will remain a member of that market given the red lines that we and the European Union have in the negotiations, unless the conversation changes fundamentally. That inevitably means that we will not be at any table in any significant way with any influence whatever over EU energy policies post Brexit. The Government probably understand that but it is something we need to work on and we need to find a different basis for the discussions.

I challenged the Minister to go through the positives of Brexit regarding energy but I did not notice any in his speech. I listed the ones that the committee found but, in going through them, we found that they were minor and pretty pathetic. That internal energy market is the goal and I do not see how we can leave it at the moment.

We have come to the end of the evening. The very last thing that I want to say is that, as the negotiations go on and on, Europe is losing interest in Brexit. It has problems with Italy, eastern Europe and the rule of law, as well as migration and, potentially, the eurozone. Brexit will become more and more minor. Whether on energy or more broadly, if we do not get ourselves into gear pretty quickly, our negotiating position will degrade because there is a lack of interest in us as a subject. Regrettably, I think that that is true with regard to energy as well. However, I wish the Government well in the negotiations and I too look forward to their negotiating position, which I hope will have energy as a core part, as reflected in the Prime Minister's Mansion House speech. I thank everyone for their contributions.

Motion agreed.

House adjourned at 9.13 pm.

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