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OFFICIAL REPORT

ORDER OF BUSINESS

Deaths of Former Members.....	1693
Retirements of Members.....	1693
Personal Statement.....	1693
Questions	
Brexit: Food Standards Regulations	1693
Elections: Personation	1696
Political Influence: Artificial Intelligence.....	1699
Northern Ireland: Devolved Government	1700
United Nations Relief and Works Agency	
<i>Private Notice Question</i>	1704
Taxation (Cross-border Trade) Bill	
<i>Second Reading (and remaining stages)</i>	1707
Brexit: Negotiations and No-deal Contingency Planning	
<i>Statement</i>	1753
Windrush	
<i>Statement</i>	1765
Afghanistan	
<i>Question for Short Debate</i>	1768

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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

Tuesday 4 September 2018

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Deaths of Former Members

2.36 pm

The Lord Speaker (Lord Fowler): My Lords, I regret to inform the House of the deaths of the noble and learned Lord, Lord Browne-Wilkinson, on 25 July and the noble and learned Lord, Lord Mackay of Drumadoon, on 21 August. On behalf of the House, I extend our condolences to the noble and learned Lords' families and friends.

Retirements of Members

2.36 pm

The Lord Speaker (Lord Fowler): My Lords, I should also like to notify the House of the retirements with effect from today of the noble Lord, Lord Northbourne, and the noble Baroness, Lady Blood, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank them very much for their much-valued service to this House.

Personal Statement

2.37 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, with the leave of the House I will make a short personal statement concerning comments I made on 24 July when, in response to an Oral Question, I spoke about the position of Refuge on split payments in universal credit. I said:

“Refuge has made it clear that it is not convinced that split payments help”.—[*Official Report*, 24/7/18; col. 1597.]

Refuge has clarified its position to me, saying that split payments should happen by default for all couples. I apologise for my inadvertent error. I recognise that I did not accurately represent Refuge's views, and I am grateful to Refuge and the noble Baroness, Lady Lister, for drawing this error to my attention. Further, I am grateful to the House for allowing me to correct the record at the earliest opportunity. Lastly, I thank Refuge for its continued service to victims of domestic abuse, which, as noble Lords know, the Government take incredibly seriously.

Brexit: Food Standards Regulations

Question

2.38 pm

Asked by Lord Bassam of Brighton

To ask Her Majesty's Government whether they will commit to putting before both Houses any proposals to amend the United Kingdom's food standards regulations in the event of a “no deal” scenario when the United Kingdom leaves the European Union.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, before leaving the European Union the Government will, under the European Union (Withdrawal) Act 2018, bring before Parliament regulations that will make technical amendments to EU-derived and retained food safety and standards law to ensure that the regime operates effectively after Brexit. In making any such amendments, the Government will ensure that the UK's food standards and safety regime maintains the same high standards of protection.

Lord Bassam of Brighton (Lab): My Lords, I ought to be reassured by the Minister's reply but I am not. In light of his refusal to rule out suspending the UK's food standards regulations if there is no deal, is this measure being considered seriously? Will the Government publish an impact analysis of such a measure and further commit to working with organisations such as the Chartered Institute of Environmental Health to ensure that all necessary food safety steps are taken before proceeding? Finally, do the Government plan to issue a ministerial direction to the Food Standards Agency regarding its statutory duty to put consumers first in relation to safe food?

Lord O'Shaughnessy: I can tell the noble Lord that we will be maintaining the same standards of safety and protection. We will be seeking not just continuity but equivalence. We may want to go further in other areas. Of course, this will be for discussion with the House. The ongoing role of the Food Standards Agency will be as it is now, to make sure that public health and consumers' interests continue in relation to food. There is no need to issue a ministerial direction or anything else to ensure this because it is its legally given role and one it will continue to fulfil.

Lord Deben (Con): Is the Department for International Trade aware of these facts? It appears to be thinking of agreements—were we to leave the European Community—in which we would have to accept the much lower food standards of countries like the United States.

Lord O'Shaughnessy: There are no suggestions that there should be lower food standards. Obviously, after we leave the European Union, the Food Standards Agency will carry out any risk assessments. There are no proposals to change these rules; we will continue with them. Of course, there would be a proper scientific and evidence-based assessment if there were such suggestions.

Lord Rooker (Lab): Will the Minister give an assurance that, after we leave, Ministers will play no role in food safety risk assessment? Will a mechanism be found to transfer what takes place in the European field to some independent body, maybe with the Chinese walls of the existing Food Standards Agency? It should not go back to Ministers because they are there to promote the food industry—a role that is in conflict with securing safety for consumers.

Lord O'Shaughnessy: The noble Lord raises an important point. This is a good opportunity to clarify what we are proposing. At the moment risk assessment takes place through the European Food Standards Agency. Risk management decisions are made by the Commission and the Council. Following Brexit, we would look to replicate that split with risk assessment taking place in the independent agency and risk management decisions being made by Ministers.

Baroness Bakewell of Hardington Mandeville (LD): I am grateful for the Minister's response. Given that food related ill health is a major source of premature death in the UK and that the FSA was set up specifically to prevent harm occurring from safety weaknesses in food preparation, what specific measures have the Government put in place to ensure that the FSA can cope in keeping the population safe if no deal is the only deal?

Lord O'Shaughnessy: I should like to clarify that, in the case of food safety, Ministers in the Department of Health would make risk management decisions on the basis of a risk assessment. This is one way in which any concerns about conflict of interest would be overcome. Clearly, we will be making technical changes to the role of the FSA to make sure that the regime is operable following our exit from the European Union. These will reaffirm the FSA's independence and its role in providing that consumer protection.

The Countess of Mar (CB): Will the noble Lord assure the House that there will be sufficient funding for the Food Standards Agency and for local authority environmental health officers—who act as its agents—to check that the law is being observed and, where it is not, to enforce it?

Lord O'Shaughnessy: I can tell the noble Baroness that we will do everything necessary to make sure we maintain the same high standards of protection that we have now.

Baroness Jones of Whitchurch (Lab): My Lords, if there is a no-deal outcome, the UK will no longer have access to EU safety assessment data for food products on which we currently rely. Given that 10,000 containers of food come from the EU daily, are the Government intending to inspect each of them at the ports or are they going to let them through with minimal checks, in which case, surely we are risking a public health scandal as a result?

Lord O'Shaughnessy: We hope for and expect to have arrangements meaning that we can continue to access systems such as the Rapid Alert System for food and feed. This is one of the ways we gain such information. Sharing such information in the trade of food is obviously mutually beneficial. We are, of course, planning for non-participation. This means looking for other kinds of agreements with both EU and international bodies to make sure that food alerts can be shared and that we can provide that level of safety.

Baroness McIntosh of Pickering (Con): My Lords, the noble Lord said that regulations will be required. It will be of interest to the House to know what the timetable for those regulations will be.

Lord O'Shaughnessy: My understanding is that they will be laid, subject to clearance, before the end of the year.

Baroness Ludford (LD): My Lords, the Government are refusing to agree with Brussels on maintenance of the system of geographical indications which protects the name and quality of local and regional products. Are the Government throwing Cornish pasties and West Country cheddar to the wolves in proposing to accept fake American versions of these products?

Lord O'Shaughnessy: I do not know whether wolves like cheddar, but that is more a question for my colleagues in Defra which I would not seek to answer. What I can say is that we want to provide protection for everything that the UK produces that is internationally recognised and special.

Elections: Personation *Question*

2.45 pm

Asked by Lord Rennard

To ask Her Majesty's Government what is their assessment of the level of personation at elections in Great Britain.

Lord Young of Cookham (Con): My Lords, the Electoral Commission publishes information on allegations of electoral fraud at elections, including those of personation. In due course the Electoral Commission will publish a report covering polls held in 2018. On 3 May this year, pilots requiring voters to present ID before voting in person were held in five local authorities. In July, the Electoral Commission and Cabinet Office published their respective evaluations of the pilots.

Lord Rennard (LD): My Lords, the Minister declined my invitation to the Government to assess the level of personation by contacting returning officers to see how many tendered ballot papers had been issued. So I asked the Electoral Reform Society to do the job. Using freedom of information requests, it received responses from 239 returning officers, showing that in the general election last year the total number of alternative ballot papers across those 239 council areas that had to be issued when someone turned up at a polling station and found that their name had been used to claim a vote, or perhaps that their vote had been given in error and the wrong name crossed off, was a mere 49. So what justification could there be for rolling out compulsory voter ID at all polling stations?

Lord Young of Cookham: My Lords, compulsory voter ID was recommended four years ago by the independent Electoral Commission. It has repeated that recommendation several times since. On the Electoral Commission sit representatives of all three parties,

including the noble Lord's own. I remind him that the chair of the Electoral Commission said on this subject last year:

"We have been pressing for this change"—

that is, voter ID—

"not because we believe that voting for someone else ... is ... a ... problem now. But the opportunity for fraud of this kind is clearly there. We want to address this before it becomes a problem, and part of a wider reduction of trust in the system".

He went on to say that to collect a parcel you have to produce ID, so it is reasonable that you should have to do so when you vote. He went on:

"Unfortunately this proposal risks becoming a political football"—a sport unknown in your Lordships' House.

Lord Pickles (Con): My Lords, does my noble friend agree that there is more to this than just voter impersonation? It is about the very probity of local government. In the inquiry that I carried out for the Prime Minister, I saw many forms of personation and fraud, but it was not the other place that was the target; it was local government. It was to take three or four wards and control a council, which releases hundreds of millions of pounds in contracts and grants. People who do not care about the probity of elections do care about the probity of contracts.

Lord Young of Cookham: My Lords, the House is grateful for my noble friend's report, *Securing the Ballot*, which included some 50 recommendations, nearly all of which are being pursued by the Government, including some that go directly to the issue that he raises: namely, the probity of local government. My noble friend will know better than anyone else that, if the level of corruption in a local authority reaches an unsustainable, unacceptable level, the Government can put in commissioners—which is exactly what my noble friend did with Tower Hamlets.

Lord Kennedy of Southwark (Lab Co-op): My Lords, why does the Minister think that so few cases have been investigated and so few prosecutions brought? Is there some failure on the part of the authorities, or is it the case that, while we must always remain vigilant and a greater police presence at polling stations is one way to do that, this crime is committed on very few occasions?

Lord Young of Cookham: The noble Lord is quite correct to say that there are relatively few convictions. According to the Electoral Commission report for the past year there were 200 allegations of personation in the past four years. He asks the good question: why is it difficult to prosecute? If you think about it, if you go to a polling station and try to vote and you find that somebody else has already voted in your name and you are disfranchised, it is quite difficult to find out who voted in your place. That may be one reason why there are relatively few prosecutions in the case of personation. The introduction of voter ID would of course reduce the risk to a minimum.

Lord Naseby (Con): Is my noble friend aware that there is still one weakness on the register, namely that of students who are on the register both at their

university and at home? Should this not be looked at? I talk as a former honourable Member for a university town who at the time had a majority of 142.

Lord Young of Cookham: I remember that election well: my majority was 808. My noble friend raises the important issue of students. There were many allegations that some students at the last election voted twice. This issue was raised by Ministers with the appropriate body within the National Police Council, which is pursuing it. There is, I think, a small number of issues outstanding. In many cases, where a student voted twice, on one occasion it would have been as a proxy for another student.

Lord Reid of Cardowan (Lab): My Lords, is this not one of the many challenges, with associated costs, that would be very simply addressed by ID cards? That is the solution. Why did the coalition Government allow themselves to be led by the nose by the Liberal Democrats and abolish the ID cards that had already been introduced?

Lord Young of Cookham: I think that the commitment to abolish ID cards was in my party's manifesto in 2010, as well as in that of the Liberal Democrats. The House will know that the Government are not minded to introduce ID cards. We are making good progress in reducing electoral ballot fraud through voter ID and I think that that is a more proportionate solution than the one proposed by the noble Lord.

Lord Cormack (Con): Would my noble friend not agree that there is enormous support in the country for the proposition advanced by the noble Lord, Lord Reid of Cardowan? Manifestos are not infallible and have occasionally been proved to be wrong. Will my noble friend please think again?

Lord Young of Cookham: My noble friend invites me to make comments way above my pay grade. I am a humble Lord in waiting and spokesman for the Cabinet Office and the Government have made it absolutely clear that they have no plans to introduce ID cards. I will, however, make sure that my seniors in government are aware of my noble friend's question.

Lord Tyler (LD): My Lords, my majority when I was first elected was just nine. Is the Minister aware that in the London Borough of Bromley this May, at least 154 could not vote as they did not have the appropriate ID when they tried to do so? Mortgage documents were acceptable as ID but rent books were not. Freedom passes were okay but student travel ID was insufficient. Does this not add up to discrimination on a gerrymandering scale?

Lord Young of Cookham: No. If the noble Lord looks at the evaluation carried out by the Electoral Commission, he will see that it says:

"The number of people who did not vote because they couldn't show identification was very small".

The vast majority who came without the right identification returned later with the correct identification. If he looks at the percentage of all voters who never

[LORD YOUNG OF COOKHAM] returned, he will see that the percentage varied between 0.06% and 0.4%. In no way does that constitute what the noble Lord calls “gerrymandering”. Finally, the evaluation concluded that there was, “no evidence to suggest particular demographics were more affected than others”.

So I wholly reject his assertion that gerrymandering is involved in introducing this recommendation from the Electoral Commission.

Political Influence: Artificial Intelligence Question

2.54 pm

Asked by *Lord Haskel*

To ask Her Majesty’s Government what assessment they have made of the challenges posed by imitation speech and images generated by artificial intelligence to advance political agendas.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, the Government recognise the problems that artificial intelligence and digitally manipulated content may pose. We are considering those issues carefully as part of cross-Whitehall efforts to tackle online manipulation and disinformation. We have seen no evidence that these or other techniques have been used to interfere successfully in the UK’s democratic processes, but we are actively engaging with international partners, industry and civil society to tackle the threat of disinformation and propaganda.

Lord Haskel (Lab): The Minister’s brief will have told him that this technology of breaking up speeches into tiny fragments and then refabricating them to say something completely different is now very well developed. Would he not agree that this technology could be of benefit to our creative industries but a threat to our public discourse? Bearing in mind that in recent years the Government have been behind the curve in the management of new technology, what steps are they taking now to ensure that this technology is used for public good and not for public abuse and misinformation?

Lord Ashton of Hyde: I agree with the noble Lord that this has possibilities for ill as well as for good. He is absolutely right that artificial intelligence can be used to create these fake images. It creates not just the fake films and images; it also creates the problem that, when true films and images are made, the person concerned can deny them as fakes. It is a truism to say that we are always behind the curve—I do not accept that—but whether it is to do with crime, defence or political ideas and things like that, there is always a balance between new technology and the ways to tackle it. We are taking this very seriously and looking across Whitehall at what we can do to educate people and to do more research on this. There has been no evidence that it has interfered with UK democratic processes, but we are keeping a close eye on that and doing many things across government to look at it.

Lord Kennedy of Southwark (Lab Co-op): My Lords, when does the Minister think that the Government are going to move on from being concerned about this and looking across Whitehall to actually taking some action to deal with this urgent matter?

Lord Ashton of Hyde: The online harms White Paper will be published in the winter of 2018-19.

Lord Foulkes of Cumnock (Lab): My Lords, how can we believe that the Government will take urgent action in relation to this potential manipulation of our electoral process when they are doing absolutely nothing about the Russian intervention supporting the leave campaign in the EU referendum?

Lord Ashton of Hyde: We are waiting for the ICO’s report. I think the noble Lord would agree that it is wrong to take action before the independent organisation that is looking into it has reported.

Lord Tyler (LD): My Lords, should we not at least be prepared to do something about this? Does the Minister not recognise that these challenges to which reference has been made are particularly relevant to a referendum campaign, as we have learned to our cost? Given that there is obviously now no potential majority in the House of Commons for any Brexit outcome of any sort, there is an increasing likelihood of the necessity of going back to the people and having a people’s vote. What steps should or can now be taken at least to look at the recommendations of the Independent Commission on Referendums, which goes into some detail on these issues, and the recommendations of the Electoral Commission so that we can have some legislation in place if and when we have another vote?

Lord Ashton of Hyde: I agree with the noble Lord that we should be prepared to deal with these issues. That is why we are looking at better research to better understand the problem. We are engaging with the tech sector and the social media platforms to do something about these issues and developing policies on education, tech and regulation. We are also working on strategic communications to deal with this disinformation and setting up, as noble Lords will know, the Centre for Data Ethics and Innovation to look at some of these very difficult ethical problems surrounding information. We have to remember that disinformation per se is not illegal and we still want a society where we can have freedom of expression as much as possible.

Northern Ireland: Devolved Government Question

2.59 pm

Asked by *Lord Lexden*

To ask Her Majesty’s Government what progress has been made towards the restoration of devolved government in Northern Ireland.

Viscount Younger of Leckie (Con): My Lords, the UK Government's top priority is to secure a basis for political talks and to re-establish a locally elected, democratically accountable devolved Government at the earliest opportunity. In the absence of an Executive, the Secretary of State has made it clear that the Government will continue to take the necessary decisions to protect the interests of Northern Ireland and to ensure stable public finances, as demonstrated by the recent budget Act.

Lord Lexden (Con): On 18 July, my noble friend Lord Duncan told the House that there were three options for Northern Ireland: the status quo, with unaccountable civil servants remaining in charge of all local matters; direct rule; or fresh Assembly elections. A fourth alternative—the return of local parties to Stormont—was mentioned as a miracle option. Have the Government decided which of those options they plan to adopt, following the rallies in Northern Ireland last week which proclaimed “We deserve better”? Is it not the case that our fellow citizens in Ulster indeed deserve very much better?

Viscount Younger of Leckie: My Lords, I am aware of the rallies and I recognise the strength of feeling and frustration expressed by my noble friend at the ongoing lack of devolution. That is why the Secretary of State has committed to redoubling efforts to restore the Executive and get devolution back up and running again. Talking about miracles is somewhat dangerous, but the return of the parties to Stormont remains a credible and achievable option. The parties have all publicly committed to devolution and previous talks have made progress. The issues that divide the parties are not insurmountable and the Government are determined to work towards a solution.

Lord Murphy of Torfaen (Lab): My Lords, Northern Ireland has been without a Government longer than Belgium was. Is it not now time for fresh thinking on how we can deal with the situation? Despite the fact that she has a lot on her plate, should the Prime Minister—and the Taoiseach—spend more time there? Should we not have proper, intensive, all-party talks involving everybody in Northern Ireland? Should we not be looking for an independent chair who might have an important role to play? If we do not do any of these things, we will inevitably drift to direct rule, which would be a total and utter disaster.

Viscount Younger of Leckie: The noble Lord has much experience in this area. I think it is fair to say that it is rather a dubious honour to be the country with the longest period without a functioning Government, and action must be taken. On the point the noble Lord made about the Prime Minister, I reassure the House and the noble Lord that the Prime Minister remains fully committed to bringing about the restoration of the Executive. Prior to the Summer Recess she was in Northern Ireland, where she gave a major speech on the union and met all five main political parties. Of course she keeps in very close touch with what is going on.

Baroness Suttie (LD): My Lords, in the absence of an Executive, and with this critical phase ahead in the Brexit negotiations, can the Minister confirm that the Government will consult all political parties in Northern Ireland and take their views into consideration, not just those of the DUP?

Viscount Younger of Leckie: I can certainly confirm that that has been the case for some time. The Secretary of State for Northern Ireland and, as necessary, the Irish Government, with the five parties in Northern Ireland, are consulted very frequently. We very much hope that talks will continue as soon as possible. That is what we fervently want.

Lord Empey (UUP): Is the Minister aware that a humanitarian crisis is developing in the health service, with 280,000 people waiting for a consultant-led first appointment and 88,000 people waiting for more than one year for a consultant-led first appointment? I repeat my request to the Government on humanitarian grounds to bring the powers of the health service back here temporarily to offset what could potentially be a humanitarian crisis in the winter as the health service is totally unable to cope. Decisions need to be taken and this Government have an overarching responsibility, despite whatever they say. They cannot keep hiding behind the fact that there is no movement between the parties.

Viscount Younger of Leckie: My Lords, no option is off the table, and the Government are prepared to step in to protect the interests of Northern Ireland to ensure that the country is stable economically and they have done so—I mentioned earlier the recent budget Act. Further, it remains our single most important priority to restore an Executive. The people of Northern Ireland deserve this. Health, education and farming, to name a few, are very important for jobs, growth and prosperity.

Lord Dubs (Lab): My Lords, the Minister did not respond to a key part of my noble friend's question—namely, the possibility of an independent chair to bring the parties together. Does the Minister remember the enormous part played by Senator George Mitchell in getting the peace talks going? Surely the time has come to have a similar initiative and to find another George Mitchell to take over.

Viscount Younger of Leckie: I noted the question asked by the noble Lord. To answer that, as I said, no option is off the table. Of course the Secretary of State for Northern Ireland and the Prime Minister are very aware of the tremendous work that Senator George Mitchell did. That remains on the table and may or may not happen; I cannot give any reassurance at this time on that front.

Lord Hunt of Kings Heath (Lab): My Lords, will the noble Lord return to the point raised by the noble Lord, Lord Empey, about the real pressure and crisis in the health service in Northern Ireland? Who will take responsibility for sorting this out?

Viscount Younger of Leckie: As I said, the Government are prepared to step in where they think it essential in the interests of Northern Ireland. I also make the point that tribute should be paid to the civil servants, who are carrying a considerable burden at the moment in ensuring that departments, including the health department, are managed in Northern Ireland without political oversight.

Lord Cormack (Con): My Lords, an Assembly has been elected. The Members of that Assembly are still being paid. Why cannot that Assembly meet? After all, the other place sometimes meets before things have been finally resolved: there are precedents for that. Why cannot the Assembly meet? If it does not reach some sort of agreement, at least the people of Northern Ireland will see how their representatives perform.

Viscount Younger of Leckie: If only it were so easy to answer that question. As I said, we and all parties are working very hard to ensure that the Assembly is up and running as soon as possible. That is what we are looking for—there is nothing new and nothing that has changed since before the summer—and that should resolve the problems that my noble friend has raised.

The Countess of Mar (CB): My Lords, the Minister has still not responded to the request of the noble Lord, Lord Empey, that something be done urgently about the health service in Northern Ireland. What is being done specifically about the health service in Northern Ireland?

Viscount Younger of Leckie: I can answer only by saying that the civil servants are in charge. We want the political parties to come together to find a solution. That is the answer that I am giving.

Lord Elton (Con): My Lords, where is the logic of continuing to pay Members of an Assembly which never meets?

Viscount Younger of Leckie: My noble friend will know that legislation has been brought forward to reduce their pay. It is now in the gift of the Secretary of State for Northern Ireland to take matters forward, should she wish.

Lord Foulkes of Cumnock (Lab): My Lords, the Minister said that the Government would step in where necessary. Why is it not necessary in the case of the NHS, as the noble Lord, Lord Empey, asked?

Viscount Younger of Leckie: There could be many areas where we might all agree that it was necessary to step in. I reassure the noble Lord that the Government are prepared to step in when they think that it is necessary to protect the interests of Northern Ireland, but just point out that there is no Assembly at the moment.

Baroness Randerson (LD): My Lords, I echo the advice that the Government should appoint an independent chair. Whatever the Government's position, there is bound to be a lack of confidence because of the arrangement between the Conservative Party and the DUP. As long as that lasts, that lack of confidence will be felt among other groups throughout Northern Ireland. An independent chair would enable that breakthrough to be made that we so sorely need.

Viscount Younger of Leckie: Again, I say that I take note of the point that the noble Baroness raised about an independent chair; I feel that I answered it earlier.

United Nations Relief and Works Agency *Private Notice Question*

3.08 pm

Asked by Baroness Northover

To ask Her Majesty's Government what representations they have made to the government of the United States concerning the funding of United Nations Relief and Works Agency, the UN's Palestinian refugee agency.

Baroness Northover (LD): My Lords, I beg leave to ask a Question of which I have given private notice.

The Minister of State, Department for International Development (Lord Bates) (Con): The United States has consistently been UNRWA's single largest donor. When the US announced its intention to withhold a planned disbursement to UNRWA in January, we were sympathetic to the need for a broader donor base for UNRWA, but made clear our concerns about the impact on UNRWA's activities that any unexpected reductions or delays in predicted donor disbursements might have. That remains our position.

Baroness Northover: My Lords, UNRWA supports Palestinians, as the Minister will know, in Syria, Lebanon and Jordan, as well as the Occupied Palestinian Territories and Gaza. Does he worry about the effect of this decision on these fragile states which already have a huge burden of refugees? Will the Government reassert the importance of UNRWA's role, emphasising that refugee rights must be recognised and cannot simply be set aside by outside powers?

Lord Bates: I am very happy to do that, and I am very happy to give this Government's strong and unequivocal support to the work of UNRWA, which provides vital education, healthcare and other services to the refugees in that area. What is more, we have underscored that by the fact that when this crisis first arose, an emergency meeting took place, which the Minister, Alistair Burt, attended, and we brought forward £28.5 million in support planned for this year. Then in June, we announced a further £10 million for that cause. There is our government commitment, and at

the same time, we have encouraged other countries to step up to the plate to ensure that this vital work continues.

Lord Collins of Highbury (Lab): Of course, the noble Lord is absolutely right. The United Kingdom's response cannot be the only solution because the gap would be so huge. This is a brutal attack on the Palestinian people—brutal in terms of the basic services that are provided. Can the Minister give more detail on what we are doing with our EU partners to ensure that there is no diminution of the basic services, and that they are able to continue with the sort of action Germany has taken?

Lord Bates: There are a number of things we can do. Certainly there has been ministerial contact with the US. There have been official-level contacts with our EU partners. The European Commission's ECHO fund is the second largest donor, and of course we contribute significantly through that. There is a meeting next week in Brussels, and I am sure this will be on the agenda. It is a constant area of engagement and concern that other people should do more.

Lord Hannay of Chiswick (CB): Perhaps the Minister noticed that during the Recess, the Foreign Secretary made a speech in Washington in which he was reported to say that we agree with the United States on 95% of foreign policy issues. Will he say on which side of 95 or five this particular decision falls?

Lord Bates: Perhaps I can answer that with another illustration from the Recess, when Alistair Burt visited the Middle East, which he does frequently. He does an incredible job, and in the process of visiting Gaza, he announced that we would double the funding for economic development in Gaza and the West Bank. That underscores where our beliefs and principles lie.

Lord Campbell of Pittenweem (LD): My Lords, does not the Minister understand that this decision is both mean-spirited and tactically inept? It is mean-spirited because of the nature of the work done by UNRWA, and tactically inept because nothing is more likely to stiffen the resolve of the Palestinian people than such decisions.

Lord Bates: It is worth putting it on the record that the US has distributed \$60 million so far this year, which makes it the fifth largest donor this year and shows that the US currently pays 30% of the budget. Clearly, to be sustainable, there needs to be a much broader base. The USA contributes \$364 million; the EU, through ECHO, \$142 million; Germany \$76 million; the UK \$67 million; and Sweden \$61 million, but there is a long tail of very small donors who I hope will be reflecting on their contributions to see what more can be done to ensure that this vital work continues.

Lord Pickles (Con): My Lords, does this not emphasise the need to look at a final agreement between Palestinians and Israel? Would not the best thing be to use this as a way to get unconditional talks to occur between Israel and the Palestinian authorities?

Lord Bates: My noble friend is absolutely right: that dialogue is critical and at the heart of this. One of the elements within the economic development package announced by Alistair Burt was a strong emphasis that progress on economic development and trade is in both their interests and has to be part of a wider peace agreement. We encourage and support those calls.

Lord Judd (Lab): Does the Minister not agree that, while it may be essential that we try to keep the dialogue going, this ill-advised action by the United States makes that very much more difficult because it plays directly into the hands of the extremists? Is it not therefore essential to ensure, for political and security reasons, that the services of UNRWA—particularly the education of the young—continue without interruption? Should this House take the opportunity to put on record our admiration for the work of UNRWA in the most difficult circumstances?

Lord Bates: I am happy to do as the noble Lord requests. UNRWA currently has a deficit of \$270 million, which is unsustainable and needs to be sorted out. It relies too heavily on the United States and has too narrow a base of donors; the finances are not there. We understand that it has sufficient funding to keep the 711 schools open this month, but thereafter we are not sure. These are very serious times; as a result the Government are looking urgently at what more we can do in this area. Because of the vagaries of parliamentary timing between the House of Commons and here, I am not sure whether Minister Burt has yet made his announcement about what we might do, so I am slightly restricted in what I can say. However, we will today be announcing yet another increase in funding to meet the shortfall and ensure that people get the support and help that they need.

Lord Leigh of Hurley (Con): My Lords, it is estimated that the number of Palestinian refugees who are alive today who were displaced in 1948 is around 30,000. However, unique to any refugee situation in the world, the United Nations now defines their descendants as refugees, so the total is over 5 million. Does the Minister agree that a solution to this issue is made almost impossible when refugee status can be inherited in perpetuity? We should bring pressure on UNRWA to rehabilitate, rather than perpetuate.

Lord Bates: That comes back to the point, raised by my noble friend Lord Pickles, about the importance of peace dialogue and reconciliation. The plight of Palestinian refugees has been experienced at first hand by many noble Lords, including me, and cannot be denied. In Syria they are doubly blighted by the situation there. This is a group of people in urgent need; this country has never walked by on the other side and will not do so in this case.

Baroness Symons of Vernham Dean (Lab): My Lords, the Minister said that Minister Burt—who I agree is an excellent Minister for the Middle East—is going to make a Statement on this issue later today. Will the Minister undertake to come back to this House, tomorrow

[BARONESS SYMONS OF VERNHAM DEAN]
or the day after, and repeat that Statement so that we can hear exactly what Minister Burt has said and have the opportunity to comment on it?

Lord Bates: The noble Baroness draws me a little further. I will try to short-circuit that in terms of the procedures of the House. In Foreign Office Oral Questions, which are taking place at this moment in the other place, an announcement will be made of a sum of money additional to the £10 million announced in June and the £28.5 million which was brought forward. I have been asked to restrain myself from announcing the precise amount of this additional money until Minister Burt has done so. I am happy to find another mechanism for ensuring that this House is correctly informed of it.

Arrangement of Business *Announcement of Recess Dates*

3.19 pm

Lord Taylor of Holbeach (Con): My Lords, now might be a convenient time for me to say a word about the sitting pattern between now and the new year. The dates for the Conference Recess and the November long weekend were advertised earlier in the year. Tomorrow's *Forthcoming Business* will include the Christmas Recess dates and the dates for sitting Fridays between now and then. We intend to rise at the conclusion of business on Thursday 20 December and return on Monday 7 January. The House is expected to sit on Friday 23 November and Friday 14 December. As ever, these dates are subject to the progress of business. Further dates will be announced in due course.

Taxation (Cross-border Trade) Bill *Second Reading (and remaining stages)*

3.20 pm

Moved by Lord Bates

That the Bill be now read a second time.

Relevant Documents: 11th and 32nd Reports from the Delegated Powers Committee

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, the Government have been clear that, following the UK's exit from the European Union and its customs union, we intend to secure a deep and special partnership with our nearest trading partner. As we seek to pursue a bold, new and independent international trade policy, the need to avoid friction in trade with the EU will continue to be of the utmost importance. This is one of the underlying principles behind the Government's proposals set out in the White Paper published on 12 July—to create a UK-EU free trade area that establishes a common rulebook for industrial goods and agricultural products. This will maintain high standards in those areas, but the Government will also ensure that no new changes in the future take place without the approval of Parliament.

As part of our future economic partnership with the EU, the UK will also propose a new customs model with the freedom to strike new trade deals around the world—a facilitated customs arrangement. Under that model, the UK would apply its own tariffs and trade policy for goods intended for the UK, but apply the EU's tariffs and trade policy for goods intended for the EU. As a result, the need for customs checks and controls between the UK and the EU would be avoided, removing a friction which would otherwise cost UK businesses billions of pounds a year, and avoiding a hard border on the island of Ireland.

The details of the future economic partnership—and, within that, our future customs arrangements—are of course a matter for negotiations with the EU. I turn to those negotiations. We have already published, in the lead-up to the June European Council, a joint statement with the European Commission. It sets out the progress we have made thus far in finalising the text of the withdrawal agreement on the majority of remaining separation issues. We are having constructive discussions and our negotiating teams continue to work at pace to ensure that those are finalised by the autumn.

Of course, it is vital that the UK is prepared for a range of outcomes from the negotiations, and the Government have already taken a great many steps to ensure that this is the case. Indeed, the Bill represents a significant part of those preparations. As set out in the customs Bill White Paper, which noble Lords had the opportunity to debate on 5 December 2017, it allows the UK to establish a new, stand-alone customs regime, and will ensure that VAT and excise legislation operates as required on EU exit. Since the referendum—both before and after the publication of the future partnership paper on 15 August 2017—the Government have met over 300 businesses and other organisations involved in international trade throughout the UK to discuss customs, VAT and excise, and a further 1,700 to discuss wider EU exit issues. This engagement has been taken into careful consideration when drafting the Bill.

The Bill contains a number of provisions that are absolutely essential for any future customs regime to function effectively, regardless of the outcome of the negotiations. These include: enabling the UK to charge import duty on goods, including those imported from the EU, in Clause 1; enabling HMRC to set out how, and in what form, customs declarations should be made, in Schedule 1; giving the UK the freedom to vary the rates of import duty as necessary, and setting out the factors that the Government must have regard to when doing so, in Clause 8; allowing the UK to continue to offer zero or low-tariff access to its markets for less developed countries following EU exit, under its own unilateral preferences scheme, as set out in Schedule 3; together with the Trade Bill, establishing an independent trade remedies regime, set out in Schedules 4 and 5; and providing the power for the UK to maintain existing customs union arrangements with the Channel Islands and the Isle of Man—which we will most certainly seek to do—which is set out in Clause 31.

Moreover, the Bill contains a number of provisions enabling subsequent changes to the VAT and excise regimes, which may later be required but cannot be

predicted as this stage, which are set out in Parts 3 and 4. Finally, in Parts 5 and 6 there are a series of necessary and appropriate powers to support the transition from the current customs, VAT and excise regimes and to ensure that the UK is able to respond effectively to the outcome of the negotiations.

Throughout the passage of the Bill through the other place, the Government heard representations from a range of stakeholders, from both within and outside Parliament. In light of these representations, we made a number of amendments to the Bill as it went through the other place. For example, amendments were made following feedback from parliamentarians, including the work of the Delegated Powers and Regulatory Reform Committee, which wanted to ensure that the scrutiny and scope of the Bill's powers are appropriately balanced, including by "sunsetting" and by applying the affirmative procedure in certain cases. There is also explicit confirmation that the Treasury will have regard to the interests of UK producers when setting any future import duty rates, and changes were made to provide more clarity in the Bill on the operation of the UK's future trade remedies regime.

The Taxation (Cross-border Trade) Bill is of course not the only piece of EU exit legislation that the House will consider. The European Union (Withdrawal) Act, which completed its passage through Parliament in June, will perform a critical role in ensuring a functioning statute book on the day we leave the European Union. Furthermore, it confirms that it is for this Parliament—and in some cases the devolved legislatures—to make any future changes. The Act will maximise certainty for individuals and businesses as we leave the EU. It is in no one's interests for there to be a cliff edge, so the laws and rules that we have now will, so far as possible, continue to apply.

Looking forward, the Trade Bill, which will receive its Second Reading before your Lordships' House next Tuesday, will provide important continuity for UK businesses, workers and consumers, and for our international trading partners. This key legislation serves the purpose of enabling the preservation of the UK's current trade and investment relationships, while creating necessary legal powers to ensure we are ready to operate independently when we leave the European Union.

Finally—although not exhaustively—the EU withdrawal agreement Bill will be brought forward once the negotiations have been concluded and Parliament has approved a final deal agreed with the EU. The Bill will be an essential part of the UK's preparations for a smooth and orderly exit from the EU. The Government have already, on 24 July, published a White Paper in advance—Command Paper 9674—entitled *Legislating for the Withdrawal Agreement between the United Kingdom and the European Union*. It sets out a number of provisions, covering citizens' rights, the implementation period, the negotiated financial settlement, procedures for the approval and implementation of the withdrawal agreement and a framework for our future relationship. The White Paper gives Parliament time to begin considering the content of the Bill ahead of its introduction, including by providing detail on the substantial areas of agreement that have already been

reached with the EU, in particular our deal on citizens' rights, the financial settlement and the time-limited implementation period.

The Bill before us today takes significant steps to make certain that the UK is ready for EU withdrawal, by allowing the UK to establish a stand-alone customs regime and by ensuring that our VAT and excise legislation operates as required on exit day. As we begin our discussions with the EU on the end state, of which the customs union is a key part, the Government will continue to be guided by the drivers underpinning the proposed model, as set out in the White Paper of 12 July. For this reason, we confidently anticipate a future in which the UK will be able to pursue trade deals with partners across the world and, at the same time, one in which our trade with the EU will remain as frictionless as possible and in which we avoid a hard land border between Northern Ireland and Ireland.

These are also the principles informing the Government's approach to the Bill, which I commend to the House today. I beg to move.

3.31 pm

Amendment to the Motion

Moved by Lord Tunncliffe

As an amendment to the motion that the bill be now read a second time, at end to insert "but expresses grave concern that the Government agreed to accept, without detailed Parliamentary scrutiny, substantial measures that contradict both the United Kingdom's stated negotiating position and commitments already entered into with the European Union; and that the bill introduces additional barriers to securing a United Kingdom–European Union customs union."

Lord Tunncliffe (Lab): My Lords, I turn first to the Bill, which will be needed in any sensible Brexit scenario. As a supply Bill, it is not the role of this House to hinder its passage. Nevertheless, it is appropriate to set out the criticisms that we have of this legislation and the context in which we are having this Second Reading debate today.

Once again, as the Government have done in all previous Brexit Bills, powers from Europe are being repatriated, not to Parliament, but to the Executive. Labour opposes those clauses that give the Treasury huge amounts of delegated power to set regulations and future customs duty tariff rates through the back door. Parliament, not the Executive, should have the final say.

Labour supports the creation of a truly independent Trade Remedies Authority to help protect UK industry and advise the Government on how best to tackle the dumping of state-subsidised goods on the UK market. However, the Bill also provides the Secretary of State with a veto to prevent adoption, against the advice of the TRA, if he determines that it is not in either the economic interest or the public interest, both of which remain undefined. Overall, Labour is concerned about the lack of detail in the Bill to protect UK manufacturing

[LORD TUNNICLIFFE]

and business. The proposals are pitiful, to say the least. They are weaker than those currently in the EU and those in most developed trading nations, and they will put manufacturing jobs at risk.

However, it is to be welcomed that the Government have made a number of concessions to Labour amendments. Of particular note are concessions that strengthen the role of the TRA, introduce sunset clauses for delegated powers and give Parliament a vote on the raising or lowering of import duty and excise duty and on the raising of VAT.

The Government must resource and staff HMRC to guarantee the successful implementation of the new customs and tariff regime. Its staffing levels have been cut by 17% since 2010 and are set to be cut further this year.

I turn now to the White Paper, *The Future Relationship between the United Kingdom and the European Union*, Command Paper 9593, which is now more popularly known as “Chequers”. Although it represents a move away from the type of proposal advocated by many Tory Brexiteers, the proposals stop well short of the comprehensive customs union that Labour has called for. We believe that, instead of floating a complex and bureaucratic customs fudge, the Government should focus on negotiating a comprehensive customs union for all goods and on securing a proper position for services.

I now turn to my amendment, which in summary is addressed to the amendments tabled by the European Research Group, but let us once again look briefly at the White Paper. Labour cannot endorse it but one has to admit that it is better than nothing. It could conceivably move the process along and it is the first document to acknowledge that compromise is necessary. However, it was two years in the making and it was blown out of the water within a few days of publication. I am referring not to the resignation of two Cabinet members—individuals whose promotion few of us could understand in the first place and whose absence from the Cabinet can only but improve its overall capability—but to the fact that it was torpedoed in this Bill by amendments tabled by members of the ERG.

Let us look first at the two amendments that relate to a customs union. Labour believes that we should seek to negotiate a new, comprehensive UK-EU customs union. For that reason, we were pleased to see Clause 31 in the Bill. Before amendment by the ERG, it provided a potential vehicle to negotiate a customs union. Now, encumbered by Clause 31(5), it will be difficult to use in the frighteningly few weeks left. Add to that the deletion of paragraph 14 of Schedule 8—a power that is essential for a customs union—and the amendments all but cut off this essential area of compromise.

However, the biggest torpedo of them all is new Clause 54. Turning back to the White Paper, its biggest idea is set out in paragraphs 13 to 21 of point 1.2.1 under Chapter 1, starting on page 16. Of particular note is paragraph 17a. In effect, it says to the EU: “We want to be part of your free trade area but set our own overseas tariffs. If our tariffs are less than yours, we will collect your tariffs for goods destined for the EU.

We will not, however, expect you to collect our tariffs at your border if they are greater than yours. A simple compromise: we will protect your external tariff regime; we are not asking you to set up a complex system to protect ours”. This compromise, as I said earlier, has been blown out of the water by new Clause 54—an amendment proposed by Priti Patel, Jacob Rees-Mogg et cetera.

The new clause specifies reciprocity. The Government would be allowed to collect EU tariffs at our borders only if the EU were required to collect UK tariffs at its borders. There was only a limited possibility that the EU would accept the White Paper compromise but, burdened with reciprocity, as it now is, I put it to the House that the probability is now negligible.

How did these damaging amendments get into the Bill? Were they introduced in Committee in the other place and carefully debated and scrutinised? No, they were introduced at the last possible moment on Report. Why did they get through? They got through because the Prime Minister gave in to the ERG. A Back-Bench group of Tory Brexiteers now effectively has control of the Brexit negotiations.

That brings me to the sorry performance of Theresa May. I, like many, breathed a sigh of relief when she became Prime Minister—a sigh of relief because the alternatives were Boris Johnson, David Davis or Michael Gove—but her performance has been lamentable. We should not be surprised. She was, after all, the Home Secretary whose actions brought us the present crime wave, the hostile environment and the Windrush scandal. She clearly has no understanding of negotiation. Negotiation is a process whereby two sides explore each other’s positions and motivations to seek common ground as a basis for agreement. It is not, in general, aided by going behind the back of the other side’s nominated representative. Negotiation is a remarkably personal affair where respect and empathy are crucial. Her colleague, Dr Fox, has opined that a no-deal exit is a 60:40 probability. A no-deal exit would be a disaster for all our citizens. If it happens, she will have been responsible for the worst political event of the last 45 years.

I do not intend to divide the House on my amendment. Success would have no effect and would be represented in the Brexit press as this House exceeding its authority. However, I hope the debate will cause the Government to pause and think again; to listen to the proposals from across the House, and particularly from the Labour Party; to wrest control from the ERG, and to deliver a Brexit deal for all our citizens. I beg to move.

3.40 pm

Baroness Kramer (LD): My Lords, I start by saying to the Government that it is a travesty that this Bill comes to the House as a supply Bill. The Government attempted to get it classified as a money Bill in the other place, and they failed. But it was completely unnecessary for the Government to put in the four-word phrase that turned this into a supply Bill. That was done simply to prevent any amendment by this House. No Government would do that if they had confidence in the content in the Bill and the very use of the manoeuvre, frankly, underscores the Bill’s inadequacies.

The Government have claimed on numerous occasions that the Bill is merely technical, designed to enable Customs to function post Brexit. If that were so, the content of the Bill would not presuppose any particular outcome from the ongoing negotiations of our future relationship with the EU. Instead, it sets up barriers to negotiating an arrangement that would allow the UK to remain in the customs union and the single market. Those barriers were reinforced when the Government chose to support the four amendments from the European Research Group—the militant hard-Brexit wing of the Conservative Party. But then, we are beginning to recognise that so much of this process has been about power struggles within the Conservative Party, and the national interest, jobs, the economy and our young people are all relegated to an incidental role in what really matters to the Government—which of them will be Prime Minister. That is why today I am moving the Motion in my name and on behalf of my colleagues, and I will be pressing it to a vote because I disagree with the noble Lord, Lord Tunnicliffe: the attention of the Brexiteers has to be drawn by action and comment, and the kind of action we can take in this House is to vote when we are able.

Some will ask why I am bothering to do that when the Chequers proposal, much of which is expressed in the Bill's clauses, is already dead. They have a point. The facilitated customs agreement is unacceptable to Barnier and the EU leaders; the Tory Brexiteers absolutely hate it—David Davis and others have said that they will vote against it; and, frankly, most Tory Remainers cannot stomach it. But that is exactly my point: a proper process through this House would have allowed workable structures to be proposed, debated and offered to the Commons.

The facilitated customs arrangement is unworkable; it does not provide for a frictionless commercial border between the UK and the 27 for goods, never mind that it utterly neglects services, which, as we often point out in this House, are 80% of the UK economy and often wrapped into, not separate from, manufacturing. The FCA's complexity in dealing with imports and tariff differentials is an invitation to fraud on an industrial scale, especially when it comes to parts and bulk imports. There is no hope of policing a system of this extraordinary complexity with so many loopholes and difficulties inherent in it. It deals only in very limited part with the Irish border issue, which is surely critical to all of our negotiations, and it is completely confused over the handling of country of origin requirements. Indeed, as best I can work out, it expects the EU to renegotiate every trade deal, of which there are 40, so that for exports UK parts are treated as local EU content. Yet it also insists that for imports the EU and the UK will operate separate country of origin regimes—in other words, a completely non-reciprocal arrangement. That is just the beginning of some of the many complexities around country of origin. It also loads on to businesses layer after layer of form-filling and activity tracking along with, as I say, country of origin being only one of those intensely complex burdens.

I talked to someone running a small business manufacturing party goods for sale across most of Europe who is very much up on these issues. He has

calculated that the cost of the new paperwork alone would lose him every single one of his European customers. Frankly, it is death to his business. The FCA requires us to leave the EU VAT area so that VAT would have to be paid at the time goods cross the border in both directions. The cash-flow hit would wreck many companies, especially small ones. Our biggest manufacturers are writing to us with desperate pleas for resolutions, guarantees of no delays at our borders and no trade or non-trade barriers. The FCA and its reliance on authorised economic operator status for the big players is costly and cumbersome, even for those that have a whole legal and technical department to begin to grapple with its requirements.

I would love to hear from the Government what the real cost is to businesses of their Chequers proposal. Which businesses will be unable to survive? Which will have to lose customers or leave the UK? Which jobs are under threat, and where? Moreover, what about the costs to the Government? Our major ports have struggled to manage existing international trade, which is why the European Commission is taking us to court for a number of failures. Many of our smaller ports have no customs staff to speak of and our key trade arteries, our roll-on roll-off ports, cannot cope with even a two-minute delay.

Therefore, I say to the Government: show us the numbers and tell us the cost of leaving the customs union. Or is this simply a political decision with the implications for our economy merely being sketched in effect on the back of a fag packet? The Government counter any questions with a complacent discussion of “no deal” and are advising warehouse building, stockpiling and planning to move activity to the 27. Frankly, that will be an economic disaster. I will not spend more time talking about “no deal” because I am sure that others will pick up the issue in the course of the debate, but I do not believe it is something any Government should contemplate, and I am shocked by constantly hearing that we will be able to enjoy a prosperous future, deal or no deal.

I have not even touched on the constitutional issues. The Delegated Powers and Regulatory Reform Committee has done its usual outstanding job, and I am sure other speakers will talk more extensively about them. But once again we are seeing Henry VIII provisions, and especially in this case a significant expansion in the use of public notices. All of this underscores once again why the Bill should go through this House being subject to detailed scrutiny, which would tackle exactly that kind of issue.

From pretty much every perspective, this customs Bill is inadequate and wrong-headed. It should at the very least allow our continued membership of the customs union and the single market; it should require a proper economic assessment of leaving the customs union, and it should respect Parliament and the balance of power. Given that it does none of these, frankly, I would argue that the people should be able to have a say again, on both this shambles of a negotiation and any final deal. For those reasons, I have tabled the Motion to amend that stands in my name.

3.48 pm

Lord Kerr of Kinlochard (CB): My Lords, it is a pleasure to see the noble Baroness, Lady Kramer, back in such sparkling form after the holiday, and I very much share her view that it is regrettable that we in this House are not allowed to do our normal job on this Bill. There is a lot of technical stuff in it and our job of scrutinising, of considering possible omissions and anomalies, and of suggesting through the contribution of judicious amendments improvements to enable the other place to think again would seem to make a classic case for a Bill of this size, complexity and detail. The House of Lords would have handled it very well, but it seems that by procedural stratagem we are being denied a substantive opportunity, and that for me is wrong. I very much regret it.

I want to ask two questions about the Bill and draw attention to two omissions. My first question is about the Trade Remedies Authority, which turns up in Clause 13 and has its duties relating to imports thought to be affected by unfair subsidies or anti-dumping cases spelt out in two of the schedules. It surprises me that I do not find the Bill establishing the authority. It does not tell me about the authority's composition. It tells me about some of its duties but where is the power that establishes it? Can we be told how independent of government it will be? How will consumer and producer interests be balanced in its composition? How will the differing interests of parts of the Kingdom be balanced? The October White Paper spoke about the need for UK-specific thresholds but in the smaller Celtic economies, a producer concern that would not be seen as substantive in relation to the UK economy might loom large in particular sectors. Will the devolved Administrations or Assemblies be able to nominate representatives to the Trade Remedies Authority?

I may have missed something: perhaps these questions have been answered already elsewhere but they are not answered in the Bill and I do not understand why. How will the authority be staffed? The section of the Commission that handles anti-dumping is ferociously efficient and equipped with powerful economic analysis, which you need because producer interests tend to get front-page attention and may not advance national—or EU, in this case—interests. Have we recruited these people? What kind of people are we trying to recruit? Are they capable of carrying out this important task?

Secondly, when will the Government give the country some idea of how they intend to use the power conferred on them by the Bill? In mid-August, we were told that Dr Fox's department decided to terminate 72 of the 114 EU tariffs currently imposed as anti-dumping measures or because of unfair subsidies. Which 72 will they be? Business might like to know that; it would be helpful for planning. How does this relate to the role of the Trade Remedies Authority? Does it exist in shadow form? Has it been consulted? Will it be consulted or is it just being pre-empted by a fiat by the department, in which case my question about its powers and composition may be irrelevant?

This relates to a wider concern about uncertainty. The Minister spoke about the need for certainty; he is absolutely right. Current uncertainties are holding up

investment and precluding sensible business planning. Dr Fox is keeping very quiet. Presumably, he sticks to his Heritage Foundation/Adam Smith Institute/Henry Jackson Society principles. Presumably, it is with a light heart that he decides to axe 72 import tariffs because he is a devoted free marketeer, but he is not saying that now. He is keeping quiet about which sections of the economy he would prefer to open up to greater competition. He is not stopping Mr Gove assuring the farmers or the environmental interests that they are going to be protected. Yet, if Dr Fox starts negotiating—as I suppose he will one day—with Canadians, Americans, Australians or New Zealanders, he will find that what they want most of all is access to UK markets for their farm products. This conflicts slightly with the assurances Mr Gove has given, although it might be absolutely in line with what Dr Fox, the free marketeer, and the Adam Smith Institute would like.

I do not know whom to believe. I think the Government are trying to speak out of both sides of their mouth. They are trying to please everybody at present by keeping us all in doubt as to what their import policy would be. Of course, Dr Pangloss of the *Sunday Telegraph* assures us that the consumers are going to win and prices are going to fall. Meanwhile, the agricultural producers are being assured by Mr Gove that they are going to be all right. Everybody is a winner. This is certainly the view of Pangloss in the *Telegraph*. It would be good if the Government took a view and told us—perhaps next week, when we will be talking about the Trade Bill—what their import policy is. Is the current balance of producer and consumer interest to change, as Dr Fox would presumably like? On agriculture, is it the farmers and food processors who are going to succeed, or is it the foreigners and consumers? Are any tariffs that matter to farmers and food producers among those which Dr Fox has decided should be axed—the 72 that are condemned? At present, everybody is being assured that all will be okay. It is Pangloss time, but to govern is to choose. In the context of this Bill and of the Trade Bill, the Minister should tell us where on the spectrum—from liberal, open markets to protectionism—the Government are going to stand.

What is missing in this Bill is any provision for the two options spelled out in the White Paper: the highly streamlined customs arrangements or the new customs partnership. Under this partnership, our customs authorities would segregate goods designed for consumption in this country from goods heading for onward export to the EU, charging our duties on the former and EU duties on the latter. I do not mourn either omission. As the former Foreign Secretary's article in last weekend's press eloquently expressed, the invisible, highly streamlined frontier is a pipe dream which is easily translated by the press into sound and fury signifying nothing. There is nothing underneath it. It is not possible. The EU will not change the rules for its frontier regime which it, with our active participation, has developed down the years. When we leave the EU customs union, we will be outside its frontier, which will be run according to its rules. The touch has got lighter over the years. The turnaround

has got faster over time, but we cannot expect a sudden step change, an entirely new regime or a loophole for the British alone. It is not going to happen.

As for the partnership, I thought it was dead on arrival. I knew it was dead when, as the noble Lord, Lord Tunncliffe, reminded us, the Government immediately changed the Chequers plan in response to ERG pressure. They demanded that the 27 similarly clog up their ports by segregating their imports too and that they should run a two-tier tariff system, charging our duties on goods in their ports where the final destination was our country and tracking them until they got here. Why should they do that? Why should they impose this massive new friction on themselves? It was never going to happen. It was cloud-cuckoo-land. As M Barnier said at the weekend, it would be a bureaucratic nightmare. He is right.

I have a slightly different take on this from that of the noble Lord, Lord Tunncliffe. I want to ask the Minister whether he can confirm that the absence from the Bill of any provision for the partnership, the absence of any government amendment which would permit them to introduce the partnership and the acceptance by the Government of Clause 54 mean that they have dropped the partnership and that we can waste no more of our time on it? I hope that that is true, because it would very unwise to waste any more of the negotiators' time in Brussels in talking about it. It will not fly.

That brings me back to the only practical way I see of avoiding the frictions of a customs frontier with our biggest trading partners and our closest neighbours and friends. When in April this House voted by a large majority to amend the withdrawal Bill to ask the Government to explore the possibility of a customs union with the European Union, it was responding to the concerns of British business, manufacturers, the transport industry, importers, exporters, the CBI, the TUC, Keidanren, the BDI and, of course, anyone awake to the potential problems in Northern Ireland.

As far as I know, nothing has happened since 18 April to change the situation that the House considered then, when it thought it justified to explore the possibility of a customs union, except that it has become clearer that solving the frontier issue will determine whether there will be a withdrawal agreement or we face a cliff edge. It has also become clearer that of the Government's two options for avoiding the choice, neither work.

I hope that the Government will even at this late stage explore the possibility of a customs union between the UK—if it has left the European Union—and the European Union. I think that this House will have to come back to this question next week when we consider the Trade Bill.

4.02 pm

Viscount Trenchard (Con): My Lords, I am grateful to my noble friend Lord Bates for introducing this Second Reading debate. I realise that this Bill has been designated a money Bill and therefore, perhaps fortunately, your Lordships' House cannot amend it. The House will have opportunities to review and improve the associated Trade Bill at length following its Second Reading next week. It is most unhelpful, and detrimental

to the country's interests, that the noble Lord, Lord Tunncliffe, and the noble Baroness, Lady Kramer, have introduced the amendments to which they have spoken, because whatever agreement may or may not be reached with the European Union on our future trading relationship, we need a new customs regime to be in place before we leave the EU on 29 March 2019. This is necessary whether we ultimately agree a form of the proposals adopted by the Cabinet at Chequers, whether we enter a Canada or Canada plus-type free trade agreement with the EU or whether we leave the EU with no deal agreed and initially trade with our European partners under WTO rules.

The noble Lord, Lord Tunncliffe, argues that the Government accepted amendments to this Bill without adequate parliamentary scrutiny, but these matters have been debated at length both in your Lordships' House and in another place and the Government have committed to giving the House of Commons a vote on the final agreement that they reach with the EU. The passage of either amendment would have no effect on the legislation and this Bill, as a money Bill, can be passed without your Lordships' consent. Nevertheless, adoption of an amendment expressing regret will strengthen the perception, held widely across the country, that your Lordships' House does not respect the democratically expressed will of the people that we should leave the EU. That does further harm to the standing and reputation of the House. In addition, it gives further solace to the EU negotiators, who want us to agree to a deal where we remain closely tied to their regulatory regime, and encourages them to believe that we will blink first and ultimately agree to an arrangement whereby we are unable to take advantage of new opportunities to expand our trade with the wider world and whereby we will continue to pay vast sums towards the ever-growing budget of the Union but without any say over how those funds are to be applied.

How can the noble Lord object to the amendment ensuring that we should agree to collect tariffs on behalf of the EU only if the EU agrees to do the same on our behalf? Is my noble friend the Minister confident that the facilitated customs arrangement could be made to work efficiently and that it would not be a deterrent to third countries that might otherwise be keener to enter a free trade agreement with the UK? The FCA clearly would work better if it were reciprocal than if it were just one way. If goods from a third country are imported into an EU member state for onward delivery to the UK in a sector where the UK would have applied a lower tariff rate than that applied by the EU, unless the FCA is made reciprocal the EU state initially importing the goods destined for the UK would have to apply the higher EU tariff and the importer would later have to seek a refund from the UK Exchequer, which would seek reimbursement of the difference from the EU. This would be very cumbersome and would have a negative effect on trade between the third country and the UK via the EU. The FCA is cumbersome enough anyway.

Of course, as noble Lords are aware, Monsieur Barnier has indicated that the EU will have difficulty in accepting the FCA in its proposed form. Surely the noble Lord, Lord Tunncliffe, agrees that if we were to

[VISCOUNT TRENCHARD]

agree to collect duties on behalf of another state, we should certainly expect that other state to collect the same on our behalf. Is he also objecting to the amendment that binds the Government by law not to accept a difference between the tax regimes operating in Northern Ireland and in the rest of the UK? It would again be most unhelpful if the amendment were to be passed, giving the impression to the EU negotiators that your Lordships' House would be willing to see Northern Ireland develop into a semi-detached province, still effectively a member of the EU in fact, if not in name.

Both the Conservative Party and the Labour Party clearly stated in their manifestos at the general election last year that the UK would leave the customs union, yet the noble Lord's amendment laments the fact that the Bill introduces barriers to securing a UK-EU customs union. Has the Labour Party's policy changed since the general election? Has this been made clear? The policy adopted by the Conservative Party and maintained by the Government consistently is that we should leave the customs union and the single market. Those who now seek either to remain in the customs union or to create a new customs union do so in the belief that it is more important to continue to trade with the EU in exactly the same manner as we do today, submitting to EU regulatory standards over which we have enjoyed steadily decreasing influence. Those standards are, in many cases, unnecessarily cumbersome and unduly inhibit innovation—for example, in the medical and scientific fields. In recent years when the UK has objected to the adoption of new EU regulations in both goods and services we have invariably been overruled.

Why do we not hear about the costs in terms of jobs that would have been created here, and tax revenues lost to the nation, as a result of companies establishing businesses outside the EU in order to avoid the EU's suffocating regulatory tentacles? I can understand that the establishment of borders across which supply chains operate will require change and increased reporting, but technology can mitigate that in the same way that it does across the United States-Canada border. I am absolutely not advocating a race to the bottom. I wholly agree with the Government's policy of maintaining the highest standards across the board, especially in areas such as the environment and food safety. However, high standards do not require in all fields adherence to the unnecessarily bureaucratic standards set by the EU, which offer no real additional protection to the consumer over standards applied by the United States, Japan or other non-EU countries.

In the medical field, for example, too much weight is given to the precautionary principle, which makes it more difficult to gain approval for new life-saving drugs and makes the EU an unfriendly jurisdiction in which to conduct research and development. The chief executive of a major Japanese pharmaceutical company told me during my visit to Japan in July that it is true that Brexit will increase the cost of its European operations, but it has already invested a considerable sum in adapting its corporate structure to what may be necessary post Brexit. On the other hand, he believes that the UK will remain the best place in the world to conduct research and development and introduce new

drugs, and that the regulatory environment in the UK post Brexit should encourage such innovation with a more constructive and less bureaucratic approach.

I believe that those who want to avoid changing anything are misguided because they want to keep a relationship with the EU which does not really work well for us and never has. They are prepared to forgo the considerable upside which will accrue if we are truly free from EU shackles and can again apply our influence at the global level, where our enhanced voice in the development of sensible, global-level regulation will offer appropriate and necessary consumer protection without unduly restricting the freedoms to innovate and develop new processes which are necessary for a brighter, more prosperous future for our citizens.

The amendment of the noble Lord, Lord Tunnicliffe, seeks to tie us into the customs union. The amendment of the noble Baroness, Lady Kramer, further seeks a second divisive vote, in the misguided hope that the Liberal Democrats can persuade the people to vote to remain in the customs union and single market. But 80% of the UK's economy comprises services, of which 75% do not form part of the single market. Only 15% of our output is exported to the single market and in recent years the EU has taken a declining share of our exports.

Noble Lords should read the excellent paper on CPTPP, *Trading Tigers*, published by Policy Exchange, which illustrates the opportunities available to the UK from acceding to that partnership. The authors do not claim that increased trade with the TPP 11 would immediately replace our EU trade but I believe that the UK's increasing trade with them and other non-EU trading partners would soon outstrip any damage to UK-EU trade, even under the undesirable scenario where we fail to agree a deal with the EU and trade under WTO rules. The noble Baroness forgets that when Jacques Delors was driving through his plan to create the single market, its negative aspects were widely seen as a move to create a "Fortress Europe". At that time, the chief concern was the threat posed to European manufacturers by Japanese exporters; Edith Cresson attributed Japanese economic success to her view that they lived like ants.

The Government's policy—reflecting the manifestos put forward at last year's general election, which were supported by 85% of voters—is to leave the customs union and the single market. It is therefore absolutely necessary and strongly in this country's interest to support this Bill, which is necessary to enable the UK to establish its own customs regime and implement its own trade remedy measures. Although the noble Lord, Lord Tunnicliffe, has said that he will not seek to divide the House, the noble Baroness, Lady Kramer, has indicated that she will press her amendment. This is also unhelpful and, I believe, contrary to the country's interests and I urge the House to reject it.

4.15 pm

Lord Hain (Lab): My Lords, it will come as no surprise to the noble Viscount, Lord Trenchard, that I disagree with virtually everything he said. As the Bill confirms, the Brexit charabanc is lurching giddily along, dragging our country towards a completely unknown

destination. Even at this not-quite 11th hour, no Brexiteer, and certainly not the Prime Minister, has the faintest clue how we will be trading with our biggest partner—Europe—or any other country for that matter. No wonder the pound has plummeted and businesses engaged in any way with the outside world are at their wits' end. It is therefore hardly a surprise that, although the Bill allows for the creation of a stand-alone customs regime for the UK, there is as yet no idea what shape it will take.

Everybody knows the mantra is “Brexit, dammit”, but nobody knows yet what it means, and maybe we never will until after we crash out into the nirvana of Trumpian free trade. That does not matter a jot because we will be free of Brussels—free, free at last—but God knows what new chains will now restrict our jobs, our prosperity, our businesses and our workers. I am no historian but I cannot think of any equivalent situation our country has ever faced as a result of a conscious act of government policy which says, “We’ve no idea where we’re going but we’re going there anyway”. Has the British political class ever done anything more utterly, profoundly irresponsible? Yet this Parliament, to our utter shame, has so far simply indulged in rubber-stamping it.

It should therefore be no surprise to anyone that the Bill illustrates how neither No. 10 Downing Street nor the arch-Brexiteers in the Conservative Party are now in control of their Brexit fantasies. Neither has a plan as the clock ticks down. What unites them is that it must click down regardless of the consequences. The people have spoken—full stop. We are going we know not where, but we are going anyway. This is rapidly becoming an act of collective national madness.

With the Chequers deal based on her flawed White Paper, the Prime Minister was supposed to be keeping the UK close to the single market after Brexit, with some magical thinking about customs arrangements. Never mind that the services sector, forming a mere 80% of our economy, was abandoned. The importance of the Bill and the parallel Trade Bill should not be underestimated. Borders matter. Those who fantasise that the UK can enjoy frictionless trade under WTO rules need to understand that those rules mean hard borders, including within the island of Ireland. Even under the WTO’s most-favoured-nation rules, if we did not enforce the border in Ireland, we would be in breach of our agreements with other parts of the world, as would be, in parallel, the Republic and the EU. That would be a disaster for the economies of Northern Ireland and the Republic and would gravely threaten the peace and prosperity which have flourished since the Good Friday agreement of 1998, which is a binding treaty recognised under international law to which this Government pay lip service, but which is being steadily undermined by their whole approach to Brexit. No developed country trades purely on WTO rules, and it is fantasy to suggest that Britain should be the first to give it a go. Moreover, less than two weeks ago the director-general of the WTO pooh-pooed the idea that the UK could fall out of the EU straight into compliance with WTO arrangements, pointing out that it would take quite a time to negotiate the transition.

The debates on the Bill in the Commons demonstrated that the Government are a hostage to a minority of their own Back-Benchers, who chose to table four changes as wrecking amendments. The Chequers compromise can be seen as the Prime Minister’s attempt to steer her dysfunctional Cabinet towards a softer Brexit strategy that would mitigate, to some extent, the most damaging economic consequences of a hard or, worse still, a no-deal Brexit, but it started to fall apart at the first hurdle. Rather than risk defeat and a possible government collapse, these European Research Group amendments to the Bill were accepted by No. 10 and now potentially constitute new red lines, which may hinder the conclusion of a successful Article 50 withdrawal agreement.

The amendments in question were, first, to introduce the need for primary legislation if the Government want to keep Britain in a customs union. As my noble friend Lord Tunnicliffe and the noble Lord, Lord Kerr, have convincingly argued, and as Labour has compellingly argued, the case for a customs union with the EU is overwhelming—in order, among many other things, to avoid rules of origin requirements and check whether goods qualify for preferential tariff arrangements. According to the Government’s own analysis, these rules can burden businesses with additional administrative costs amounting to between 4% and 15%.

Furthermore, once the UK ceases to be regarded as EU territory, UK component parts and products will no longer benefit from zero tariffs as EU products under EU free trade agreements. That means that if the Government’s facilitated customs arrangement does not work, the fallback position will be no customs deal at all, which would be deeply damaging for our manufacturers. This could have a huge impact on UK trade and is the reason why a customs union is absolutely necessary for the sake of British manufacturing, international trade and Northern Ireland’s peace.

A second ERG amendment accepted by the Government ruled out a customs border in the Irish Sea between Northern Ireland and the rest of the UK. This was accepted as in line with the Prime Minister’s previous position, despite her commitment in the UK-EU joint report of 8 December 2017:

“In the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the”.

Belfast/Good Friday agreement.

The purpose of the second ERG amendment seems to be to destroy the negotiating room within which discussions on such backstop arrangements could take place. However, the most substantial and visible impact of the Bill will be at the UK’s borders—seaports and airports—and on our land border with the Republic of Ireland. It allows for the Irish border to return to being a customs border between the UK and Ireland. That means that goods leaving Northern Ireland will have to be cleared for exit from the UK and for entry to the EU.

First, goods crossing the border must be covered by a pre-departure declaration, partly to offer evidence of their status for VAT-free export. Secondly, goods will be able to enter the customs territory only through a

[LORD HAIN] designated place of clearance—which, for a land border crossing such as on the island, usually contains facilities for customs examination and clearance, including access to the relevant customs software systems to ensure that detailed information on the goods is submitted for recording and risk analysis purposes, and that correct duties are paid.

Thirdly, goods will be subject to customs duties from both sides. Fourthly, traders are more likely to be subject to requirements for import and export licensing. As the UK leaves the EU, all businesses in Ireland and Northern Ireland that trade across the Irish border will have to be properly registered to do so. Proper rollout of any trusted trader scheme requires time and agreement with trading partners.

Fifthly, the Bill will change common experience for VAT and excise. Import VAT will be charged on all imports from outside the UK. Sixthly, if goods have to be inspected, there has to be the facility and capacity to do so. For the movement of agri-food produce, for example, including livestock, a rigorous veterinary and plant health inspections clearance regime must be in place. All of this illustrates the importance of getting a deal with the EU that avoids the need for customs controls between the EU and the UK.

How ironic it is, then, that this Bill also now contains a provision that risks making such a deal far less likely. The addition of this proposed new clause as a result of ERG dogma has ramifications not just for the Irish border; it also has implications for the current Brexit negotiations at a macro level. This was the Government's intention in accepting it.

The so-called backstop in the draft withdrawal agreement is intended to prevent the scenario I have outlined previously coming into effect around the Irish border. However, what the ERG amendments, and therefore the subsequent new clause, do—in a fairly crude way—is to prevent that backstop being workable. It forces a scenario in which the Irish border is a customs border in the Bill. More to the point, by making it more difficult for the UK and EU to finalise the withdrawal agreement, it makes such a scenario all the more likely. This is no imaginary problem; there are no harmless consequences.

In July, the Prime Minister made her first substantial visit to Northern Ireland. When there, she visited the village of Belleek, on the Fermanagh-Donagall border. Belleek is in many ways a typical Irish border village. It has a population of Catholics and Protestants, British and Irish citizens, cross-border families and cross-border workers. A good number of such workers are employed by one business that straddles the border, with its front door in the Republic and its back door in the UK. As Theresa May's entourage descended on the village, that business owner described the impact of the uncertainty around Brexit in a powerful way. "Out here", he said, "We're cannon fodder".

The third ERG amendment Theresa May accepted makes it illegal for Britain to collect EU tariffs at its ports unless Brussels agrees to act on a reciprocal basis. The Government insisted that the amendment was consistent with the customs policy as outlined in the White Paper because they envisaged using a formula

to govern the flows of money based on trade patterns between the EU 27 and the UK. However, the White Paper does not explain exactly how this would work, and it seems highly unlikely that the EU will accept such a plan. There are further technical problems with the proposed facilitated customs arrangement, as it would appear to breach elements of the General Agreement on Tariffs and Trade—GATT—which is part of the World Trade Organization rules.

It is, in any case, a complete and utter delusion that the UK, with a market of 60 million, can improve on the negotiating strength we already have as a member of the EU with a market of 500 million, as far as free trade agreements with third countries are concerned. The point is that trade will become more costly and burdensome outside the EU single market and the customs union, and our businesses and manufacturers will be at a disadvantage compared with their European neighbours and competitors.

The ERG's fourth amendment concerned VAT. Because the authorities need to know whether goods have crossed the border to properly apply the tax, the EU VAT area is absolutely crucial to avoiding a hard border. We currently have around 25 million customs declarations requiring payment of VAT at the border. That will potentially rise to 255 million after Brexit. Either goods are checked as they cross, requiring hard infrastructure and border friction, as happens in Switzerland and Norway, or we seek to stay in the EU's system, which operates on the basis of a paper trail to track the movement of goods and requires European Court of Justice rules to apply. If the Government adopt neither option, it opens the UK up to massive fraud where goods enter the country VAT-free and people evade tax, depriving the Treasury—and therefore our already cut, battered and overstretched public services—of crucial revenue.

In conclusion, the debates on the Bill have illustrated that, as the reality of Brexit becomes clearer, the case for it disintegrates. Instead, the case for delaying Brexit and for giving not only Parliament but the people a meaningful vote, or a people's vote, on any draft withdrawal agreement becomes ever more compelling. I am delighted that my own trade union, the GMB, has today supported the principle of a people's vote.

4.30 pm

Lord Fox (LD): My Lords, as we have heard, this Bill sets out an alternative customs regime—an alternative to a customs union that has served us well. The Bill is so clearly inadequate that the Government have had to hide behind the designation of a supply Bill, which is obviously designed to thwart sensible democratic scrutiny. We are lucky to have a Minister who has outside experience and sees things from beyond the hall of mirrors here. A lot of his experience is based in the north-east of England, so I am sure that he knows that the Bill sets out a significant downgrade for the United Kingdom—a degradation of our future, not an enhancement.

We currently have a customs and trade relationship with our biggest trading partners that works. Goods move seamlessly, paperwork has been minimised and duty gets paid. Even if everything in the Bill works as

the Government expect—which of course it will not—the Minister knows that the nation’s customs regime will be substantially worse than what we have today. Goods will be held up at the border; paperwork will be increased; duty will be dodged; and supply chains will slow, and ultimately bypass the United Kingdom altogether. In the Government’s parlance, we will not have a frictionless system; we will have a great deal of friction. But there is still time for the Minister to renounce the briefs in front of him and submit to what he and others on his Benches know to be true: the customs union and the single market offer so much more to the people of Britain than what is before us today.

Elsewhere, the Government have trumpeted their industrial strategy, highlighting the need to tackle disappointing productivity numbers, which is a Treasury priority. Yet everything that this Bill stands for will reduce productivity. Efficient activity such as just-in-time manufacturing will be totally disrupted. For example, suppliers are already being asked to increase their inventories, massively reducing cash flow in small businesses and adding to costs and to complication. The Government have claimed to be planning for the future, so what does their analysis say that the Bill will deliver in practice? How much will it cost? How many extra people will be needed in both the public sector and in business to administer the red tape? Big business can probably afford it, but small businesses most certainly cannot, as my noble friend Lady Kramer said.

What is the lost opportunity—something that cannot be accounted for—of using our talented people on this activity rather than on something that is actually productive? Does the Minister not agree that we should be using the energy and intellectual resource of our people to address the real challenges facing the country? There are huge global changes going on, never mind the ones we are trying to effect. The march of the digital revolution is going to change everything, and the demographic time bomb stands already as a significant change. Would the Government not rather that the talents of our people were employed on those things rather than on this useless, non-productive activity?

Meanwhile, in the ports and the Channel Tunnel, roll-on roll-off will be replaced by “hang around a minute while we have a look”. What is the contingency plan here? What is the estimated holding capacity that will be required at our ports? What advice will the Government be giving regarding the checking and segregation of loads? People and businesses need to know how to restructure their supply chains to meet these challenges.

We know that the Bill makes us worse off compared to the customs union and the single market. By how much will the customs regime reduce productivity in the United Kingdom? How much further behind France will it take us? How much GDP growth are the Government prepared to surrender in order to push the policy through—1% per year, 2% per year? The compounded effect of that reduction in growth in GDP will be disastrous—but of course this Government will be long gone before the real effects are felt.

There is more, not least—as we heard so eloquently just now from the noble Lord, Lord Hain—to do with Ireland and the border. Brexiteers have huffed and puffed and say that the issue is exaggerated. Then they posit some solution that has not been invented yet and clearly is not practical. The Bill creates two discrete customs systems on the island of Ireland. Nothing in the Bill facilitates a border solution that maintains the Good Friday agreement. That is because the two conditions of having two customs regimes and the Good Friday agreement are mutually exclusive. This Bill is anathema to the Good Friday agreement.

Much else needs the proper scrutiny of this House—scrutiny that is being denied. For example, we have heard a lot already about the facilitated customs agreement. We should thank the noble Viscount, Lord Trenchard, for explaining just how simple it will be to operate. In fact, it is impractical. How do the Government expect it to work? What plumbing will go together to make it work? How will the Bill enable the maintenance of non-tariff trade in both directions? As we heard from previous speakers, it seems clear that this will be extremely difficult. Who will maintain and track the rules of origin, and how? What are the details behind the rules for outward processing and repair? Is that a loophole? If not, how will we make sure that it works properly? How will the provisions to offer preferential access to developing countries change from what we have, and who will benefit? That is just a short list of all the missing details that we need—as set out by the noble Lord, Lord Kerr—to understand the plumbing of the customs agreement. These details will be left hanging as the Tory party continues to squabble among itself.

The Bill represents a proposal to make things worse for the citizens of the United Kingdom—not just slightly worse but very seriously so. The Government know that; the Minister knows that. I echo the mention of history: perhaps the Minister could cast his mind back, or get his officials to, and give us an example of where any Government have made changes that they know will downgrade the living conditions of their citizens. What other Government in history have knowingly made such a self-harming decision?

The Liberal Democrats oppose the Bill. Leaving the customs union and the single market will cost the people of the United Kingdom dearly. That individual cost should be explained, and voted on in a people’s vote. The Bill establishes a separate customs regime from that of the European 27, so there can never be a friction-free border between the Republic and Northern Ireland. That means that the Good Friday agreement cannot be honoured. The hiding of the Bill behind the false status of a supply Bill shows the Government at their weakest, and the grabbing of so many Henry VIII powers for the Executive is tantamount to unconstitutional. That is why I will support my noble friend’s amendment to the Motion.

4.39 pm

Lord Browne of Ladyton (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Fox. I hope that his speech has engaged the Minister’s business experience and encourages him to take back to his

[LORD BROWNE OF LADYTON]
colleagues in government the significantly persuasive detail of the argument he presented. I also hope that the Minister will refer particularly to that in his response to the debate.

I do not suppose that this will be much of a surprise to anybody but I support the UK's continued membership of a customs union with the European Union. However, like my noble friend Lord Tunnicliffe, I recognise the necessity of this legislation for an alternative customs regime should we find ourselves out of the European Union without a deal—which, frankly, looks increasingly likely—or with a deal that requires us to leave the customs union.

This is a complex piece of legislation. It consists of 58 clauses and nine schedules and includes provisions covering some of the most complex areas of legislation: import duty, export duty, VAT and excise duty. It is astonishing that it comes before your Lordships' House in the state it is presently in. I agree with the noble Baroness, Lady Kramer, and the noble Lord, Lord Kerr, about the designation and the motivation for the designation of the Bill as a supply Bill. It is difficult to avoid the conclusion that the sort of scrutiny that this Bill demands is being avoided. Candidly, in the time that I have been in your Lordships' House I have never before contributed to a debate on a Bill that was designated as a supply Bill. When I was preparing for this debate I wondered what the point of it was, but having listened to the speeches thus far, I can now see that this is a significant opportunity for people to make good arguments, even if they do not affect the legislation before the House.

These restrictions were not before the House of Commons. The other place had the opportunity to scrutinise the Bill fully but it can hardly be said—and I read the report of all the debate there—that it has done so. I draw attention in particular to the proceedings in the other place on Monday 16 July, when both Report and Third Reading were conducted over four seriously timetabled hours, with reducing times offered to speakers as the debate progressed. A minuscule number of Members of the other place managed to contribute to the debate. The consequence was that, as the *Official Report* shows—these statistics do not particularly prove anything but are indicative of the position—Report and Third Reading are contained within 127 columns of the report, covering the less than four timetabled hours of debate. Sixty-five of the columns are necessary just to record the amendments that were considered and the votes thereon, and only 59 columns record the debate. It is not possible for the Government to come to this House and say that the Bill has been scrutinised or—as the noble Viscount, Lord Trenchard, told us—that it has been considered in the other place and voted on. It has not been considered at all. I spent more time reading the amendments and looking over the votes in the *Official Report* than I spent reading the debate. It is a disgrace. What is the position of the Government and the Brexiteers on how this squares with taking back control to our Parliament?

While I am on the subject, perhaps the Minister, in his summation, will explain to your Lordships how telling the people who run businesses in Northern

Ireland that, in the event of a no-deal exit from the European Union, if they want to know how to conduct cross-border business, they should ask a foreign government how to do it, is consistent with taking back control of our own destiny. That appears to be the compelling argument for us leaving the European Union in the first place. Who thought that that was the right response to give to the people of Northern Ireland?

Among the amendments considered on Report, which my noble friend Lord Hain went through in some detail, were four put forward by the ERG—the European Research Group—which were designed to kill off the possibility of the Prime Minister agreeing a Brexit deal on the basis of the Chequers agreement. It appears that they have worked. I understand that they have been aided by the position that the remainers in the Conservative Party have also taken on the Chequers agreement, and that it is now dead in the water, but they certainly would have worked on their own. Recent evidence suggests that the Prime Minister is now hemmed in by both sides of her party. In the current environment, the space for a deal that all sides of the Conservative Party and the EU 27 can agree is virtually non-existent.

It is incomprehensible why the Government accepted these amendments. All of them were designed to undermine their preferred Brexit policy. It is also instructive that the Minister, in his opening remarks, completely ignored all these amendments. He referred to amendments in a generic sense but made no particular reference. We talk about ignoring the elephant in the room, but there is a massive elephant in this Bill. It significantly changes both the Bill and the Government's policy, yet in the Minister's introduction of the Bill to your Lordships' House, it was as though it did not exist. As the Minister knows, I admire him greatly. I suspect that the reason why he did that was that he could not bring himself to put forward the argument that was asserted by Mel Stride, the Financial Secretary to the Treasury, in some very short sentences in summing up the debate on Report, when he said that these amendments not only are not as damaging as they may seem but are consistent with the Government's position. There is no persuasive argument for that.

An analysis of the amendments, which my noble friend Lord Hain has done, shows that they damage the Government's position significantly and undermine it completely. I challenge the Minister, if he is able, to give us not bland assertions over a couple of sentences, as his colleague in the other place did, but a serious analysis of these amendments and their effect on the Government's position. If he wants to explain to us that they do not change the Government's position, can he please share them with us in summarising the debate? I had intended to go through each amendment to explain why they have that effect, but my noble friend did that for me. I could not do it any better so I will rest with the arguments he put forward.

Over the next couple of minutes—recognising the constraints that are upon me in this speech and upon this House, and recognising that I see little point in referring to any specific provisions of the Bill, but out of respect for those beyond this House who have taken the time and trouble to consider the provisions of the Bill and to provide us with briefings for today's

proceedings—I would like to make reference to one or two points, and to two particular briefings. I invite the Minister, at least in the fullness of time, and perhaps in written form, to respond to the points made by both the Law Society of Scotland and the Fairtrade Foundation, whose briefings I received and both of which impressed me.

The Law Society of Scotland makes a compelling case about the scope of the delegated powers contained in the Bill—echoing concerns over the use of Henry VIII powers, as discussed significantly in the context of the then European Union (Withdrawal) Bill—and about the importance of ensuring that the Government are obliged to consult stakeholders in the process of setting regulations to establish a customs regime. As is its wont, the society proposes in its briefing paper a number of very specific and well-argued amendments to the Bill. I ask the Minister to consider these amendments and, perhaps, to respond to the House in some fashion about the Government's position in relation to them.

The Fairtrade Foundation provided an interesting briefing which covers both the trade and customs Bills. It points out that this Bill, as drafted, makes no reference to sustainable development and would allow tariff changes to take place without regard to their impact on developing countries. It hopes that the Bill will be amended to include sustainable development criteria to which the Secretary of State must have regard in Clauses 8(5) and 39(4). I am completely confident that it would not be the Minister's intention for tariff changes to take place without regard to their impact on developing countries. I trust that in due course the Minister will take this into consideration and respond to the point being made in this briefing. Perhaps a suitable amendment to the Trade Bill could address this deficiency if it is not possible to do so in this Bill. I assume that the Government have copies of these briefings; if not, they can be provided.

Finally, I want to make a specific point about customs and excise. I am in possession of a briefing from the Scotch Whisky Association. This is a significant industry not just for Scotland but for the United Kingdom, with £4.3 billion or more of exports. It is a very active co-operator and partner with the Government in the customs and excise environment. Tomorrow, I will attend a meeting of the All-Party Parliamentary Group on Scotch Whisky and I know that representatives of the industry will ask me—because they do so every time I meet them—what the timetable is for the implementation of these new customs arrangements.

This is an organisation which has contributed to the development and introduction of the present European customs arrangements that allow spirits to be traded across the European Union, the excise duty being paid only when the goods arrive at their destination. It is called the EMCS. The industry helped the Government to build this system, so it knows the problems, for the industry and for the Government, associated with building new customs systems. Frankly—I summarise bluntly what they say—its members tell me that it is now too late for us to get new customs or excise duty arrangements not only for the EU but for their industry in time for any of the expected dates on which we will leave the European Union. It will take years.

Therefore, perhaps the Minister can give some indication of how long—once this Bill is passed and becomes law, as inevitably it will—this industry should expect to wait before customs arrangements are worked through and bedded down so that it can continue to make the sort of contribution that it does to the economy of this country.

4.52 pm

Baroness Altmann (Con): It is a pleasure to follow so many excellent speeches. This Bill is meant to help us deal with any outcomes that arise from our negotiations for leaving the EU. Its aim of establishing an independent UK customs regime based on the EU regime, adjusting VAT and giving powers over customs duties, makes sense if we are leaving the EU single market and customs union, although of course ostensibly—I will return to this in a moment—the Bill also gives the Government the power to establish a new customs union.

I welcome the hard work carried out in the other place by honourable and right honourable colleagues and many others to maximise the use of affirmative procedures to ensure that important taxes and tariffs are properly scrutinised by Parliament, and I welcome the Government's acceptance of the sunset clauses—all changes called for by the excellent House of Lords Delegated Powers Committee.

Following last-minute amendments narrowly passed, by just three votes, in the other place, unfortunately the Bill before us today is poorly drafted with some worrying potential flaws. The UK, for example, is now able to enter into a customs union with the EU only if this is passed by a separate Act of Parliament. From a scrutiny and consistency point of view, this seems problematic. Why should an Act of Parliament lock be just for one territory? The scrutiny that comes with joining or establishing a customs union should surely apply equally to all territories. This amendment also means that the Bill cannot now be the conduit for the UK to be in a customs union with the EU, even if that becomes government policy. The Government would still need primary legislation, which is contradictory given that this Bill is the very primary legislation that should give the Government the power to do that, having repatriated those powers from Brussels. It is of concern that we would allow bad legislation to reach the statute. Of course, I respect the House of Lords' constitutional role to resist amending a supply Bill, but the Government must be careful not to abuse their constitutional role.

This important piece of technical and complex legislation has been rendered incoherent and inconsistent to appease the European Research Group, while actually killing the main government proposal for customs in the process. If we wanted the EU to take the Chequers proposal seriously, it was not terrible helpful for the Government to accept the ERG's wrecking amendments to the Bill almost immediately. The Government have said that they do not view these as wrecking amendments, but they were clearly intended as such: the EU thinks they are such and many on these Benches can see that too—indeed, many noble Lords have stated so this evening. Arguing that black is white does not change the colour.

[BARONESS ALTMANN]

Clause 54 is not consistent with the Government's supposedly agreed position. Section 1.2.1 of the Chequers White Paper refers to the facilitated customs arrangement that the Government hope to enter into with the EU, and I have welcomed that as a starting point to get us to the negotiating table. It states that,

"the UK is not proposing that the EU applies the UK's tariffs and trade policy at its border for goods intended for the UK".

So the Government now find themselves in direct conflict with their own White Paper. As the noble Lord, Lord Kerr, and so many others have already stated, the EU cannot be expected to do this. Worryingly, therefore, the ERG amendments are forcing us closer to no deal.

I note with disquiet the increasing voices that seemingly are willing to support no deal. Moving to a regime based on WTO rules would not be in our national interest. Let us be absolutely clear: no deal is unquestionably a bad deal. It would be disastrous for our country and, indeed, for the EU—it would be like launching an economic war on the EU. The declaration that this is "not the end of the world" is scant comfort for our country. Yes, no deal would not be as bad as nuclear Armageddon, but the British people were promised that Brexit would mean a better future. By demanding the impossible of the EU and then blaming it for not giving it to us, we cannot help our country's future.

The Conservatives are the party of free trade. How then could we seriously be countenancing a no-deal outcome which would mean losing the great free trade deals that we currently have, not just with the EU but with so many other countries outside the EU, which our membership has delivered? Operating under WTO rules would mean that we must follow the internationally agreed norms. We would undermine our integrated supply chains and put British manufacturing at risk. This is not what people voted for.

As the noble Lord, Lord Hain, and many others have so rightly said, no deal would be disastrous for Northern Ireland and Ireland. There are no technological solutions that would allow for a frictionless and free border without a proper customs partnership—or whatever one calls it; some kind of customs union—and regulatory alignment. The lack of serious concern for this issue, and the careless statements dismissing concerns about honouring the Good Friday agreement, should, I would have hoped, be anathema to the Conservative and Unionist Party. However, the obsession with "Brexit at all costs" seems to trump all else.

The Bill is about tariffs, but what about the vitally important non-tariff barriers and rules of origin, which would hamper our trade with or without this Bill? Unless we can retain customs union and regulatory alignment, or something that delivers the same but may not be called that, it is difficult to see our national economic success continuing.

I had other points to make, specifically on various amendments, but as so many other noble Lords have expressed the same sentiments so well, I finally ask my noble friend to please relay concerns from these Benches and respectfully request that more care be taken before

sending a Bill to this House in this state. It is particularly important to legislate responsibly if the Bill in question is a supply Bill or a money Bill.

5 pm

Lord Whitty (Lab): My Lords, the Minister gave a very succinct introduction to the Bill but, looking at it, it is pretty hefty. It would normally be dismissed as technocratic and complex, but it is nevertheless more substantial than perhaps the Government or the Minister suggest. Moreover, it is on a subject that neither this House nor the whole of Parliament has considered as part of a legislative programme for more than 40 years. All the issues, such as tariffs and some of the other things that are either dealt with or partially dealt with in the Bill, have been matters for the EU. Moreover, the denial of this House's detailed scrutiny by designating this a supply Bill is an affront to this House and its committees' constructive role in dealing with this very difficult Brexit issue.

Broadly, I make three points. First, it is a nonsense for us to consider the Bill separately from the Trade Bill that will reach us next week and from wider issues. There are a number of reasons for that, many of which have already been spelled out. Among other things, the Trade Bill sets up the Trade Remedies Authority. It contains the outline of the powers of that authority and the situations in which they would arise. But the actual fiscal remedies and some of the reasons for engaging with those fiscal remedies are in this Bill but without the overall framework, which is in the Trade Bill. The two need to be considered together and we need to address what kind of new, independent trade remedies body we need in those circumstances.

One problem with the Bill is that it is inevitably a contingency Bill, like much of the other legislation that has passed through this House in the Brexit context. But a contingency Bill should be able to deal with all the potential contingencies. As far as I can see, it deals with very few of them. It gives the powers, and some of those powers are subject to Henry VIII procedures, but it does not specify in which contexts those powers will operate.

We all know that there is still a range of possibilities for the final outcome of negotiations, which will probably not be known in November and will involve a long drawn-out process of coming up with a full-blown trade agreement with the EU. It is looking on the optimistic side that we will eventually reach such a deal, but it will be complex. If it is a free trade agreement, certain consequences follow. There will be consequences for our tariff levels, which will presumably be dealt with in the EU, but countries that are not in a free-trade agreement with us would have to abide by WTO rules. In other words, there would have to be an equivalent for all non-free trade agreement countries. That is a constraint on the powers that appear to be in this Bill.

We are of course in a situation where the Government are proposing the Chequers proceedings, which have in part been cut off at the knees by some of the amendments, referred to by others, that were passed in the Commons the other month. However, some are not appropriate for the different potential outcomes.

If we are in a Chequers-facilitated customs arrangement, which the EU is at present rejecting, certain requirements need to be laid down in the Bill itself, including procedures, for example, on rules of origin. I think it was my noble friend Lord Tunncliffe who said that at the moment there is a contradiction on how rules of origin are likely to be proceeded with. They will be proceeded with in one context for imports and another for exports from the UK to the EU.

A lot of questions have not been answered and they can be answered only by a full debate on all the aspects of trade policy and trade legislation before us, and how they would apply in different situations. To take another example, we know that currently both this Bill and the Trade Bill reflect the Government's intention to roll over the existing EU-third country arrangements and simply apply them to the UK. However, you first have to ask the third country whether it will agree to that, and indeed in some circumstances whether the EU would agree to it because it is not as simple as all that, particularly when dealing with agreements involving a high degree of agricultural trade. You then have issues such as import quotas, which have to be split between the UK and the EU in the event of our leaving. Those quota issues are not addressed in the Bill.

There are other internal contradictions in the legislation, most of which have already been referred to because they arise from the amendments made at the behest of the ERG in another place. I happened to be in Brussels with your Lordships' Select Committee on the day those amendments were passed. I am the only member of the committee present because the others are meeting upstairs. There was bemusement on the part of EU officials, including Monsieur Barnier himself, about what seemed to have happened; namely, the Prime Minister's shiny golden Chequers agreement had been undermined within days by accepting the amendments produced by the ERG. Some of the amendments are ambiguous and I hope the Government's lawyers are addressing the particulars. I will take just two examples, one of which is now Clause 54. It arose because of the need for reciprocity as far as the movers of those amendments were concerned, but no one is proposing reciprocity. We said in the Chequers proposals that we would be prepared to collect EU taxes at our borders. We have made no proposition that the EU should collect our taxes. Since we know that the EU is sniffy about the notion that we should collect its taxes, its representatives are hardly likely to fall over themselves with glee at the proposal that they should be subcontracted to collect our taxes. Reciprocity in itself does not make sense in the context of the Chequers agreement.

It is also true—potentially disastrously so—that the following clause, Clause 55, which deals with Northern Ireland, could scupper any agreement on Northern Ireland, which is difficult enough in any case. Let me make it clear that I am not in favour of a border down the Irish Sea, but it is true that already, before we have left the EU, Northern Ireland is dealt with separately in some respects on trade issues. It has a regulatory structure for food and farming that is effectively the same as that of the Republic of Ireland. It is a single epidemiological area in relation to animal disease. There are other provisions in terms of the ability to acquire Irish citizenship and therefore EU citizenship,

which mean that Northern Ireland is being dealt with differently from the rest of the United Kingdom. As my noble friend has said, the common electricity market will also have to be dealt with differently from the energy market in the rest of the United Kingdom. To lay down in that amendment that no such separate provision, which implies no regulatory provision, should apply to Northern Ireland that does not apply to the rest of the United Kingdom, seems yet another barrier to a proper agreement on the Northern Irish border.

My last point is probably the most important. I cannot find anywhere in the Bill provision for parliamentary scrutiny of future trade negotiations and outcomes—and therefore tariffs and tariff regulation—which is the subject matter of the Bill. Before we were EU members, all treaties were regarded as deliverable through the royal prerogative; they were therefore a matter for the Government, not Parliament. That was modified slightly in 2010 as far as treaties in general are concerned, but trade treaties over the past 40 years have very much been subject to scrutiny in great detail in the European Parliament. Our negotiating stance and tactics and the final outcome have been subject to scrutiny by European Parliament representatives. We propose moving to a situation where such trade agreements will not be dealt with like that, at least not explicitly, in default of any government commitment. We are reverting to the time when medieval monarchs made these deals between themselves and we were sheltered under the royal prerogative.

It is not only Europe that is subject to detailed parliamentary scrutiny; so are potential partners with Europe. Congress had a major role when the US was trying to negotiate the TTIP with the EU, as did the Canadian Parliament. We need a determination by this House and another place for a strong, authoritative international trade committee, either jointly or in both Houses, to oversee our future arrangements, in the context of which the detailed propositions in the Bill will operate. Without that, we will take back control not for the people's representatives but for the benefit of the Executive alone.

5.11 pm

Lord Adonis (Lab): My Lords, I agree entirely with what my noble friend Lord Whitty said about the need for proper parliamentary oversight. I also support the amendments in the names of my noble friend Lord Tunncliffe and the noble Baroness, Lady Kramer, which I will vote for if they press them.

Almost everyone except the Minister accepts that the Chequers policy on tariffs and customs is now defunct. The Minister knows it to be true; he just cannot say so. The Bill is essentially a trade destruction Bill in that it helps to dismantle our current membership of the European customs union and single market without any policy, let alone a credible strategy, to put in its place. I would say that this is the height of Executive irresponsibility, but coming from a Government who have turned irresponsibility into an art form and created in Brexit a giant political Ponzi pyramid scheme waiting to collapse, it is sadly par for the course.

However, I want to concentrate my remarks on one issue. The position of Northern Ireland was precarious before the Bill and impossible after it because of

[LORD ADONIS]

the Rees-Mogg new clause—Clause 55—which the Government accepted in the Commons at the last minute to stave off certain defeat. It reads as follows:

“It shall be unlawful for Her Majesty’s Government to enter into arrangements under which Northern Ireland forms part of a separate customs territory to Great Britain”.

We all know the clause’s genesis: in the European negotiations leading to the EU and UK’s joint report last December, Mrs May accepted the necessity of a backstop in respect of Northern Ireland whereby if new hard border or customs controls of any kind were necessitated by treaty provisions—or their absence—affecting Great Britain after Brexit, Northern Ireland would remain subject to European law and customs and trade provisions to ensure “full regulatory alignment”. Mrs May struggled hard to avoid a commitment to such alignment and the backstop but she had no choice, for two reasons: the Government’s pledge and treaty obligations to observe the Good Friday agreement, and the reality that the Republic of Ireland would simply have vetoed any EU negotiating provision that did not guarantee that there would be no border infrastructure or mobile border controls between the Republic of Ireland and Northern Ireland.

As I said, Mrs May struggled hard against those provisions, so much so that when she was in Belfast last month—in a visit orchestrated and supervised by Arlene Foster, the DUP leader who has Mrs May at her beck and call—the Prime Minister disowned the backstop, saying that it should not be a legal mechanism in European law and should be time limited. In other words, it should be a backstop that is not a backstop, like an insurance policy that does not provide any insurance. That analogy is a bit close to the bone because British insurance policies will lose a lot of their insurance cover if we leave the European Union next March without a deal.

In saying this, Mrs May is parroting the critique of the Northern Ireland backstop which, disgracefully, is now par for the course among Brexiters. When I challenged Mr Nigel Farage about this in a debate last week, he said that the concerns about Northern Ireland were,

“entirely got up by Barnier”,

and that, anyway, Ireland was a “tiddly” country. This echoes Mr Boris Johnson who attacks Mrs May every day for letting Ireland become the “tail wagging the dog” of Brexit. Not to be outdone, Mr Rees-Mogg has suggested that the answer to the Irish problem is for the Republic of Ireland to follow us in leaving the European Union. If it does not, we might need searches at or near the border,

“like there were in the Troubles”.

In other words, this is a choice between neo-colonialism and a return to the politics of the 1980s which, I am afraid, sums up Mr Rees-Mogg’s approach to Brexit as a whole. Whatever else Mrs Thatcher did in the 1980s, she did not seek to leave the European Union.

These attempts to undermine the Good Friday agreement and the Irish backstop are utterly reprehensible—indeed, chilling to anyone with any experience of Ireland. The speech by my noble friend Lord Hain was

very much to the point. Despite this, the Irish backstop is still the formal negotiating position of both the United Kingdom and the European Union. Thanks to your Lordships, the European Union (Withdrawal) Act enshrines in statute that any withdrawal agreement must conform to the Good Friday agreement.

To return to last December’s EU/UK joint report, your Lordships will recall that it was nearly derailed at the last minute because Arlene Foster and Mr Rees-Mogg worked out that, if there had to be “full regulatory alignment” within Ireland, but Great Britain was leaving the customs union and the single market, then there would have to be a tariff and customs barrier down the Irish Sea. To forestall this—in yet another layer of the Brexit Ponzi pyramid—Mrs May gave a commitment that there would be no hard border down the Irish Sea, nor within Ireland. As your Lordships appreciate only too clearly, after our 150 hours of debate on the then European Union (Withdrawal) Bill, this means that any Brexit which involves Great Britain leaving the customs union and the single market is not possible unless something fundamental gives.

This brings us to Chequers. As the House knows, the Cabinet imploded after Chequers, with the resignations of the Foreign Secretary, the DExEU Secretary and a string of junior Ministers. The Prime Minister was forced to appoint Mr Raab as her Brexit negotiator and thereby disown her own Chequers policy of “a facilitated customs arrangement”. This language was an attempt to disguise a customs union. It was, unsurprisingly, rumbled by Arlene Foster and Mr Rees-Mogg within minutes, which is why the Prime Minister was forced to concede new Clause 55, prohibiting any customs regime for Great Britain which is different from that in Northern Ireland. So we now face a policy which is completely impossible unless Brexit involves no change of any substance in the customs union or the single market in their application to the entire United Kingdom.

There is no point in my pressing the Minister on these fundamental issues of government Brexit strategy because he will simply read out his brief, but can I ask him two specific questions? First, do the Government continue to support a backstop which has legal force and is not time limited? Secondly, does the Minister accept that no deal, in the form in which the Government presented it as an option last week, is incompatible with the Good Friday agreement? It is possible for the Minister to give a one-word answer to both questions. I look forward to hearing whether the Minister—whom I greatly respect—gives me a straight “yes” to both or whether he is forced to dissemble. If he dissembles, people in Ireland will be even more alarmed than they are today.

5.19 pm

Lord Hannay of Chiswick (CB): My Lords, the powers of this House in respect of this Bill are, as many speakers have said, limited by convention as it is brought forward, rightly or wrongly, as a supply Bill, so there is no power to amend it. For practical purposes, our scrutiny is limited to this Second Reading debate, so it is important that the Minister, who is well known for giving serious and clear answers to questions, does

precisely that to the important points that have been raised from all quarters of the House, particularly given the chaotic circumstances that marked the passage of the Bill in the Commons and that have led to many of the questions posed today. There is no lack of them.

I will first raise a point that has not been raised much in the debate hitherto—perhaps not at all. If I have understood the matter correctly, and the Minister will certainly correct me if I am wrong, under the Government's preferred option for the outcome of the Brexit negotiations—namely, a deal struck this autumn which would include a withdrawal treaty containing a 21-month effectively standstill period—there will be no question of raising any supply under this Bill before January 2021 at the earliest. We should not forget that the 21-month period is likely to prove grossly inadequate—most people now think that it is—and will need to be extended in one way or another by some means or another.

During the transitional period of however long, be it 21 months or longer, the UK, as I understand it—the Government are in agreement with this—will remain within the EU's customs union and be subject to the EU's budgetary rules and procedures. So the scope for using the powers in this Bill will be nil. The only circumstances in which the Bill would be used earlier would be if there was no deal, which would give rise to the need for the powers in it. But the Government say that it is not their preferred option to have no deal and that they fervently wish to get a deal—and they had better get one, because the consequences of going over the cliff in March 2019 are dire indeed. So why not bring forward this Bill in the early months of 2019, and only if by then it is clear that the transitional period will not be available—a period during which we are debarred from using the powers in the Bill, if I have understood it correctly? Could the cause for this haste be explained largely by the Government's doubts as to whether, in circumstances where there was no deal, there would be a majority in Parliament to pass the Bill at all? In any case, legislating now for a no-deal outcome sends the worst possible message to our EU partners about whether we really are negotiating in good faith.

That is made all the more problematic by the next set of questions that I will put, relating to the amendments to the Bill that the Government accepted in extremis in the Commons. The amendments were put forward by the rather oddly named European Research Group—odd because I cannot remember it ever having done a bit of research. They were put forward quite explicitly as amendments designed to wreck the Cabinet's Chequers negotiating position. That was stated quite clearly in the full light of day. The Government clearly shared the view that they were wrecking amendments—otherwise, why on earth did they put on a three-line Whip to vote against the amendments? Then, suddenly, the clouds cleared, the sun shone and the Government decided that they were not wrecking amendments after all and were acceptable. As Dr Johnson said, impending execution concentrates the mind remarkably. Will the Minister give some account of the thought processes behind that volte-face?

Two of the amendments in particular require further detailed explanation. Several noble Lords have gone over them and I shall do so briefly again. The first relates to the collection of customs duties on imports, both on imported goods coming to the EU via the UK and on goods coming to the UK via an EU member state. Under the Government's Chequers plan for a facilitated customs arrangement, we would hand over to the EU duties on goods merely transiting the UK, but we would not expect the EU to do likewise for goods arriving to us, for example, via Rotterdam. That latter requirement has now been spatchcocked into the Bill by the European Research Group amendments, and will therefore be on the statute book: that is what we are being asked to agree this afternoon. Has that amended proposal—the one that requires reciprocity—been put to the EU 27? That is a quite simple question: yes or no? If it has been put to them, have they rejected it, accepted it or just cleared their throat? Or are the British Government's post horses still labouring between Aix and Ghent? Perhaps the noble Lord can say where we are on that.

I will ask him again: was it not, and is it not, a wrecking amendment with respect to Chequers? I think that it is. Or are the Government perhaps hoping to get agreement in Brussels on their original proposition, without reciprocity, and then return to Parliament to repeal the amendment that they were forced to accept in July? That would be a pretty gruesome situation.

Then there is the amendment relating to the systems for charging value added tax. This amendment, if I understand it correctly—again, the Minister will correct me if I am wrong—forbids the UK remaining in any EU system for charging VAT. But that will surely inevitably introduce a new element of friction, a new element of bureaucracy, into UK-EU trade. If so, it will cut right across the main objectives of the facilitated customs arrangement. Another wrecking amendment, perhaps? Perhaps the Minister can explain how that is to be managed.

Finally, how satisfied are the Government that the provisions of the proposed facilitated customs arrangement are, in reality, compatible with WTO rules? Have they consulted the WTO on the matter? Normally, exporters expect to know which rate of duty they will pay when dispatching their goods. That will not necessarily be the case under the proposed arrangement.

I apologise for raising some rather detailed questions, but these are important matters that need clarification before the Bill passes, as it necessarily will, on to the statute book. In any case, I fear that, in the absence of fully satisfying explanations, I shall be supporting either or both of the amendments that have been put before the House.

5.28 pm

Lord Stevenson of Balmacara (Lab): My Lords, I shall speak very briefly to reinforce the point made by a number of the speakers on all sides of the House, particularly by my noble friends Lord Browne and Lord Whitty: that we share the view of many people that this Bill is inexplicably linked to the Trade Bill. As I will be leading for the Opposition on that Bill, I

[LORD STEVENSON OF BALMACARA]

thought I would dwell on a couple of the points that link the two Bills, in a way that I hope will be helpful to the future debate.

Having said that, it is important to recognise that the Bill as drafted is, in the narrow sense, a supply Bill—it undeniably deals with taxation issues and tariff arrangements—but it lacks a wider context in which these things can be properly assessed. Scrutiny would have been one way forward on that, but I think there will be room within the Trade Bill to pick up on some of the points made today. I give notice to the Government that, given that the Trade Remedies Authority is dealt with in the Trade Bill, it would seem possible to amend that Bill and thereby change what is currently going through in the customs Bill before us.

This has been a good debate, which has exposed many issues that will need to be returned to during the Trade Bill debate or elsewhere. Like many others, I do not think there is much point in repeating those issues here. For me, what still needs to be addressed, perhaps during that Bill's Second Reading next week, is: what exactly constitutes a trade Bill appropriate for an independent United Kingdom? I say this not in any political sense but because there has been an absence of debate and discussion on this throughout the country since we lost direct responsibility for it in 1972. During that period, two big things have happened.

First, people have become more interested in trade as a social policy issue—something that needs to be looked at and interrogated more directly than it currently is. Within that, there needs to be further consideration of how to get away from understanding trade in terms of a physical movement of goods. Clearly, services are heavily involved and need their own consideration, but opportunities are now rare to purchase goods without having to consider the services that relate to them. However, it is not restricted to that. As the noble Baroness, Lady Altmann, said, we have to think carefully now about other barriers to trade. Whether they are regulatory or done to restrict access or use, all these things have an impact on trade which will not be dealt with if we focus only on the tariffs to be charged, now or on behalf of others, then collected and passed on.

Secondly, we have to look at trade policy as decisions on it are taken which affect other aspects such as employment, development impacts in third countries, impacts on the environment and human rights. These issues are much more widely discussed and debated in civic society today; many Members of the House will have been lobbied in anticipation of the Trade Bill, which will raise these issues. I am not saying that we will necessarily want to espouse all of them, as some involve rather narrow interests. Nevertheless, they raise a rather wider context in which we have to debate our trade policy and we must not ignore them.

On the narrow point of the role and function of the Trade Remedies Authority, there will be a series of debates on amendments which will be brought forward. They will look at its independence and explore what these two new concepts of public interest and economic interest will be in practice because without understanding those, it is not possible to understand how decisions will be taken by that body and what impact they will have on our trade activities.

We have touched in a number of ways on the role of the devolved Administrations in trade policy. If that is to be brought back from Brussels and given to the devolved Administrations, it must follow that structural changes will be needed in how we organise matters relating to trade policy to accommodate their views and aspirations, and the changes that they would like to see. At the moment, the Board of Trade is a possible way in which to do that but there are other issues, which I know the Government are thinking about. We will need to have more detail about committee structures in Parliament and on whether there will be something jointly between the two Houses, or perhaps a role for the House of Lords to develop its expertise, pursuant to the loss of work that will come through for the European Union committees. It could have a role in sectoral issues and of course in geographical issues, which will need to be brought forward. In any case, if we are to at least emulate what is happening in Europe on trade policy at the moment, we will need to find ways of bringing into the process the civic society elements which are currently excluded from discussions on trade policy in the UK. A role must be found for them: whether that is through some form of joint committee, or a process which will allow those who have views to take them forward in some form of debate or discussion, has yet to be decided.

Looking back on the history of this Bill, we are perhaps omitting from our debate today the fact that it had to be stopped earlier in the process because it was felt that it would not be able to deal with the issues that had been raised. It is a mystery to me why the Government decided that they were in a position to get the Bill through and that there would be some value in that result. Perhaps they might still consider whether there would be some benefit if this whole Bill were subsumed into the Trade Bill, and consideration given in the round as we go forward. It may be too late to stop the machine in its tracks—I do not look hopefully at the Minister for that—but it would be wrong to make a decision about a Bill dealing with a narrow issue when there is the prospect of a wider debate and discussion on the Trade Bill, which is coming down the track.

5.35 pm

Lord Purvis of Tweed (LD): My Lords, it is a pleasure to follow the noble Lord. I look forward to, if not a double act, many similar fellow contributions on the Trade Bill. I very strongly agree with him that, regrettably, many issues that we would have raised on the Bill will have to be raised during the passage of the Trade Bill. That is certainly not ideal, but this House's voice must be heard. When we ask questions, the Government must listen.

We are engaged in the first negotiations in our country's history to make a trading relationship harder. The Bill is the first key set of barriers to be created in this new relationship of erecting barriers rather than removing them. It is creating unnecessary uncertainty and cost and will make our trading nation's story one of new barriers and burdens. The relationship can be as frictionless as possible, but there will be new sources of friction. On the basis of the negotiations so far, and from what we are able to discern from the Government's

position and the disagreement within the Government, there will be friction upon friction for the foreseeable future. There were epochal debates in this House on the Corn Laws and on free trade a century ago, referred to by the noble Baroness, Lady Altmann. We now have this Bill, which, owing to the cynical connivance, if not cowardice, of Ministers, we will not be able to scrutinise fully or seek to amend.

Why is it important? It should be important to all sides, whether they supported Brexit or remain in the referendum. Many on the leave side said before the referendum, and many noble Lords have consistently said since—making a compelling argument—that staying in a single market for goods, with all the regulations that that would necessarily bring and the European Court of Justice’s ultimate interpretation power of the common rulebook, is not consistent with Brexit. Now we have the Government saying that that is wholly consistent with Brexit. These are fundamental questions raised by the Bill and we have merely a couple of hours to discuss them. The House has considerable time for the Minister—I agree with other noble Lords in that regard—but this is no time for a tactic to reduce Parliament’s and this House’s proper role of reflection on and scrutiny of the Bill.

Many issues have been raised. My noble friend Lady Kramer raised fundamental questions about how the Bill will interact with rules of origin, which are a core element for many of our key trading businesses, which need certainty on this. Why is it important? It is important because it is critical to any operation of an FCA, but the Government have said that the rules of origin aspect will require no great burden of checks and investigations on whether a product being imported into or exported from the UK will comply with such regulations. Paragraph 17c of the Government’s White Paper referred to,

“for example ... the point at which the good is substantially transformed into a UK product”,

and said that 96% of all such goods would not be liable for check. However, more than 40% of all goods that receive an EU tariff are of an intermediate nature. A good of an intermediate nature by definition must satisfy rules of origin regulations. The Government have given no indication of how such checks will be done or whether our goods or those we import into the UK will be able to comply with rules of origin obligations. Clearly, under the Bill there is an intention to have a differential tariff rate on the basis of those regulations. If that is based on no checks, it is incumbent on the Government to be clear about how that can work. That is only one of the questions raised by Peers in this Chamber today. My noble friend Lord Fox asked 17 sensible and substantial questions—I counted them. They were unanswered in the Commons, as the noble Lord, Lord Browne, said. There is a duty on the Government to reply to questions that this House asks them.

Those questions are over and above those asked now by those who were then involved in putting many of these proposals together, including David Davis and many others in the House of Commons who have been referred to. He said that he would not support the White Paper—and, by definition, any of the mechanisms of the FCA enabled by the Bill—because

the underpinning operational foundation of it, a common rulebook of regulations, is worse than the situation that we have at the moment, within the European Union.

Will the Minister be clear about the point made by the noble Lord, Lord Hannay? It is not just a case of telling our European partners the position we seek for our future trade relationship; it is also about those 40 other countries and networks where we are engaged in discussion on rolling over existing trade agreements to a new post-Brexit scenario.

The Minister described the Bill, but he did not make a case for it. As the noble Lord, Lord Browne, said, he did nothing to describe the changes made in the Commons to the Bill as introduced to this House. How will new Clause 54, which destroys the FCA, operate? It is telling that the Government clearly do not think that this afternoon’s debate is very important. I think that the noble Viscount, Lord Trenchard, was the only speaker in support of the Government’s position. The Minister is nodding. If he can take that as a ringing endorsement of the Government’s position, he needs to worry later this evening.

As the noble Lord, Lord Hannay, asked, are we pursuing new Clause 54 in the negotiations? Is advice being published on how checks on the estimates on which the formula will be calculated, and are we in discussion with our European colleagues about how that will operate? What are the methodologies for the UK to operate under this system? Have we discussed with our European colleagues the methodology that we would expect them to apply for reciprocity?

When will the necessary changes be made for reciprocity? What is the legal basis from a European point of view? Clearly, if we are asking that of them, we need to understand the legal basis ourselves. As has been said, how can this possibly be squared with the situation in Ireland, where there will be a border where those checks will be necessary if we are asking that of the Irish Government?

How can we expect the European Union to place on other third countries the necessary requirements for them to define their goods when they export to the EU as we will expect them to do when they export to us? What arrangements will the EU be putting in place to ensure that there will be proper dispute resolution of this reciprocity? Those are just some questions that we would have hoped and expected to raise at a further stage of the Bill.

However, the uncertainty continues. At least the Government have now provided advice on the basis of there being no agreement. Their advice to businesses of 23 August on the new customs relationship ended with very clear advice: seek advice from your business advisers. If that is what our Government are saying to our businesses when the clock is clearly ticking, we are in considerable difficulty.

I asked a Question of the Minister for Health regarding medicines just before the Recess. Forty-five million packs of patient’s medicines are exported from the UK every month and 37 million are imported into the UK. Merck, GSK and AstraZeneca all forecast that if we leave the customs union, it could take five to 10 years for any technological solution—which would

[LORD PURVIS OF TWEED]

be under the FCA—to replace the system we have at the moment. They are now stockpiling, given the level of extra documentation. That is not project fear, nor is it a statement from the Treasury which the Department for International Trade can criticise; this is a fact from our business community.

The noble Viscount, Lord Trenchard, made a very powerful case, I think in support of the Government's position, that we should rid ourselves of the European Medicines Agency regulation, and that we can thank God that we are leaving it. I suspect that there will have to be amendments to get rid of Clause 6 of the Trade Bill, of which the House of Commons asked that we should continue to be a part, and I am glad that that is the case.

We are often asked by people to offer scrutiny in this House, but there were clear voices from many on the other side of the argument, when we amended and asked the Commons to think again on the withdrawal Bill, saying that we were abusing our parliamentary processes. The Minister at the Dispatch Box said that we were going beyond our constitutional powers. However, contriving to classify this Bill in such a way to avoid proper scrutiny undermines that argument considerably. We shall have to come back on many specific issues, which regrettably we are unable to discuss today, whether on the regulations on anti-dumping referred to by the noble Lord, Lord Kerr, on the relationship with the FCA and our trading partners, or on the Treasury's position and the advice it is giving about the state of the British economy if we leave without any agreement. We will need to come back to this, and from these Benches, we will do so consistently and strongly as a point of principle. That is why I endorse my noble friend's comments: this House should express in the Division Lobby our position that we are not satisfied with how the Government are handling the Bill.

5.46 pm

Lord Davies of Oldham (Lab): My Lords, summing up a debate of this quality and range is the stuff of nightmares for me at the Dispatch Box because every single point that I put together prior to the debate has been more than adequately covered by the speakers, to whom, of course, the Government need to respond. Therefore, I have one consolation: however challenging the position in which I find myself, the Minister, after this debate, will find himself in an extremely challenging position. A series of questions have been asked to which it is entirely right that the Government should address themselves.

This is all the product of the collapse, effectively, of the Chequers agreement. The discussion in the Commons on this Bill, leading to the Government's collapse in the face of the European Research Group's onslaught, put the Government in the impossible position to which so many noble Lords have referred. The noble Lord, Lord Kerr, regretted the fact that this Bill has no Committee stage, so we are unable to bring a degree of detailed consideration subsequently, which we are used to doing. Given the fundamental problems with this Bill, I am not so sure that this general debate is not in itself sufficient for the Government to be obliged to think very hard and to think again. They need to deal

with the obvious absurdity, to which the noble Baroness, Lady Altmann, referred: the trade remedies aspect of the Government's proposals is in the next Bill, but this Bill has all the detail. We cannot discuss that detail because this is a supply Bill. The Government really do need to take these issues seriously and I think the debate next week on the Trade Bill will be a fundamental challenge to the Government's position, which is woeful.

I, too, admire the noble Viscount, Lord Trenchard, in his support of the Government. He may not have anticipated being in such solitary isolation, but nevertheless, a look at the speakers' list would show that not too many would be buttressing his argument. We are nevertheless grateful to him for presenting the argument to which the Government seem, at present, to have largely succumbed.

However, this means trouble for our negotiating position in Europe. In general terms, the questions raised on every aspect of the Bill present fundamental difficulties for the Minister in replying. In particular, we can sense—and have sensed for a year—that the problem of Northern Ireland will loom large for the Government as trade negotiations take place. My noble friend Lord Whitty, buttressed by my noble friend Lord Adonis, identified with great accuracy the implications of how critical that position is. I do not think the Government can finesse their way past that. I remember that, prior to Christmas, the Government were pleased that Monsieur Barnier and the negotiators on the other side announced that progress could be made because there had been some understanding of our position on Northern Ireland. It was never very convincing just what that understanding was. As soon as we get near legislation and look at the detail of what the Government's policy on trade might be, we find that there is still an overwhelmingly difficult problem with Northern Ireland.

The Government cannot carry on with optimistic fudging. They have got to reach something definitive. They may not have announced, prior to the discussions on this Bill, that they would concede to the challenges put down by the European Research Group, but they have done. In consequence, there are crucial problems with our negotiating position, as identified by so many noble Lords including the noble Lord, Lord Hannay, who spent a considerable amount of time on this point. None of us can pretend that there have been many positive responses to the position the Government have adopted from Monsieur Barnier and those who represent the 27 other nations. Time moves on. We have very few months in which to avoid the position which some may regard as the proper outcome of these negotiations but which the Government have never said they contemplated and which the British people certainly never expected: that the only outcome is a hard Brexit and a fall back on the World Trade Organization. Noble Lords in this debate have identified the potential difficulties for the nation if we fall into that position.

I will keep my contribution short because I want to give the Minister the maximum amount of time to respond. He will recognise that there have been really substantial questions from every quarter of the House about the Government's policies, particularly with

regard to trade. The Commons largely called them out on this. We regret that we are not able to deal with it in significant detail, but we can all take some sustenance from the fact that, although today's debate may not have dealt with all the issues in detail, it has identified the critical facts that the Government face as they develop their negotiating position. The Minister has got a pretty tough case to answer.

5.54 pm

Lord Bates: My Lords, this has been a good debate. I now have the challenge of trying to respond to, by my calculation, 33 specific questions in the time allotted; if I am to abide by the *Companion* I should not exceed 20 minutes for winding up.

Before I address the key themes raised, I will say that a lot of the debate centred on the constitutional nature of what we seek to achieve through the procedure by which we are considering the Bill. I want to set out the context. The proposition made was, effectively, that this piece of legislation was being railroaded through both Houses and on to the statute book without sufficient scrutiny. To that challenge, I point out that it was on 9 October last year that the customs Bill White Paper and the trade White Paper were published; that it was on 20 November last year that the Taxation (Cross-border Trade) Bill was introduced to the House of Commons in a Ways and Means debate; that it was on 5 December last year that both the trade and the customs elements were the subject of take-note debates in your Lordships' House; that it was on 8 January this year that the Second Reading of the Bill was debated in the other place; that, during debate on the EU withdrawal Act in your Lordships' House, customs and trade implementation issues were readily and frequently the subject of amendments and of debate; that on 12 July the Government published their White Paper on the future economic partnership, which set out in detail the proposal for a facilitated customs arrangement; and that on 16 July the Bill completed its Commons Report stage and therefore now comes to your Lordships' House.

Lord Purvis of Tweed: The Minister is making the point that the Bill started so long ago that we have had sufficient time to consider it—but some fundamental changes were made a week before the House of Commons rose for its recess. There has been no other parliamentary time to scrutinise the amendments made by the ERG, which could fundamentally change the Government's whole proposal for a facilitated customs arrangement. There has been zero opportunity to have that consideration, and there will now be zero opportunity for it in this House as well.

Lord Bates: The noble Lord says that, but I am not suggesting what he has just accused me of suggesting for one minute. I am placing this in context. There has been substantial scrutiny and time for debate on the issues. The Trade Bill will follow; it has its Second Reading on 11 September, as referred to by the noble Lord, Lord Stevenson. We hope that an agreement with our European friends will take place this autumn, and there will then be a meaningful vote. Following

that, there will be an agreement and implementation Bill. Following that, a piece of legislation on the future economic framework will have to come before your Lordships' House. Placed in that context, this Bill represents the fact that at the moment our customs, trade and tariff policies are hardwired into the European Union, so there is a legislative necessity for us to have a standalone trade and customs arrangement, legislatively underpinned, so that we can prepare for any eventualities that the negotiations throw up. We have been clear throughout that it is in the best interests of this country and of the European Union that we conclude in an orderly way, with an agreement, and that we move to frictionless trade as far as possible.

The debate has focused essentially on the following issues; I will summarise them as a way of trying to work through and answer as many questions as I can in the time available.

Lord Hannay of Chiswick: Since the noble Lord is moving on from the point about timing, could he answer the question as to whether the powers in the Bill have any practical applicability in the context of an agreement with the European Union which provides for a 20-month transition period, during which we will not be able to exercise any of these powers because we will still be following the decisions of the customs union and the single market? I accept that, if there is no deal, these powers will have applicability. Am I correct in thinking that the only circumstance in which they will have applicability before 1 January 2021 is if there is no deal?

Lord Bates: That is correct. Obviously I defer to the noble Lord, who has immense experience in this area—I believe that he was one of the team of negotiators who negotiated our entry into the European Economic Community—and knows it substantially. In his question, he gave the reason why the Bill is necessary: because we are not guaranteed a deal. However, we are guaranteed that business will need to trade, because we are a trading nation. Therefore, we need to be prepared for every possible outcome or eventuality.

The headings under which this debate has taken place are: the economic impact of Brexit, raised by the noble Baroness, Lady Kramer, and the noble Lord, Lord Fox; trade remedies, which the noble Lords, Lord Kerr, Lord Stevenson and Lord Davies, referred to; the Northern Ireland border and the Bill's relation to ports more generally, raised by the noble Lords, Lord Hain and Lord Adonis; the progress of the negotiations, mentioned by the noble Lord, Lord Tunnicliffe—and following this debate, my noble friend Lord Callanan will repeat a Statement to update the House on that; the impact on supply chains, mentioned by my noble friend Lady Altmann; and the impact on free trade, mentioned by my noble friend—I underscore the friend element—Lord Trenchard, although the noble Lord, Lord Stevenson, also placed his remarks in the context of the Trade Bill. I have tried to address the constitutional concerns raised by the noble Baroness, Lady Kramer, and the noble Lords, Lord Kerr and Lord Browne. There were also points on rules of origin, which the noble Lord, Lord Whitty, raised, as he did in the

[LORD BATES]

take-note debate last December. The noble Lords, Lord Purvis, Lord Whitty and Lord Hannay, referred to the application of duties and the methodology of the tariffs; the noble Baroness, Lady Kramer, raised the important issue of VAT and the way it will continue; and the noble Lord, Lord Hannay, referred to WTO status. I put that on the record just to give those who read these concluding remarks some sort of structure in terms of how I will try to work my way through the debate.

First, on the amendments to Clause 31 and the charge that they have restricted the Government's options, we have been clear that as we leave the EU, we will also leave the EU customs union. Therefore, the Government have no objection to an enhanced level of scrutiny related to the use of Clause 31. The Chequers agreement does not envisage a customs union with the EU as part of a future economic partnership. Therefore, the amendment is consistent with the White Paper.

The noble Lord, Lord Tunncliffe, asked whether HMRC has the necessary resources. There was a full response from the chief executive of HMRC, Jon Thompson, to Meg Hillier, chair of the Public Accounts Committee, which did a very detailed report on this subject earlier in the year. He responded as to where they were, including in terms of independent reports by the National Audit Office on the infrastructure project assessments that had taken place.

We have committed an extra £260 million to ensure the UK's new tax and customs arrangements with the EU, including compliance and customer services staff to resolve the design of the new IT requirement. Also on that note, it was pointed out—a number of noble Lords referenced the fact—that there will potentially be a requirement for the number of customs declarations generated electronically to rise to some 250 million. There are currently 55 million. The capacity of the system that has been designed is for up to 300 million.

The noble Baroness, Lady Kramer, asked about the business impacts of the facilitated customs arrangement. There will be no new routine checks or controls for UK businesses trading with the EU under the FCA model. There will be a range of facilitations to help UK businesses which export to the rest of the world. For UK businesses importing from the rest of the world, they will benefit from the UK's own tariffs. We estimate that up to 96% of UK goods trade will pay the right or no tariff on the UK border. I note the point made by the noble Lord, Lord Purvis of Tweed, and I will come to it later. The remaining 4% of UK goods trade is most likely to pay the UK's tariff through the repayment mechanism, which we will make as simple as possible by introducing a range of facilitations.

The noble Lord, Lord Kerr, asked about the Trade Remedies Authority, on which there are provisions in the Bill, but which gets its structure and overarching powers from the Trade Bill to come. The Trade Bill establishes the TRA as a non-departmental public body. It will have an independent chairman. There will be recruitment processes for people to form a shadow Trade Remedies Authority ahead of its being ready for

our exit from the European Union. The upcoming Trade Bill provides an opportunity to explore those issues further.

The noble Baroness, Lady Kramer, asked about the impact on supply. The Bill establishes a stand-alone customs regime in relation to taxation. For this reason, it was introduced in the other place on a ways and means resolution. Bills introduced through such resolutions are Bills of aids and supply which, in accordance with established practice, are not amended by this House. There is nothing in this Bill that could not have been in a Finance Bill.

A number of noble Lords, including the noble Lords, Lord Browne and Lord Kerr, referred to Clause 54, saying that, as amended, it prevents the Government implementing the facilitated customs arrangement. The Government have been clear in their White Paper that, under the FCA, the UK would seek to agree a mechanism for the remittance of relevant tariff revenue. The UK has proposed a tariff revenue formula taking account of goods destined for the UK entering via the EU and goods destined for the EU entering via the UK. Clause 54 is therefore consistent with the White Paper.

The noble Lord, Lord Hain, claimed that this contradicts the UK's commitment to the backstop, and therefore a hard border would be inevitable. This point was also made by the noble Lord, Lord Adonis, who invited me to give a one-word response. I am still working on that, but, if I may, I will give him the lengthy answer first. Clause 55 seeks to avoid a fiscal customs border between Northern Ireland and Great Britain by preventing Northern Ireland forming part of a customs territory separate from GB. That was the backstop arrangement negotiated in December. Since then, both the European Commission and the UK have made their positions clear. The concept of a hard border between the Republic of Ireland and Northern Ireland is simply not acceptable to the Government.

This clause is therefore a straightforward statement of government policy. The Government have always been clear that there will be no hard border between Northern Ireland and the Republic of Ireland and have committed to protect the constitutional integrity of the UK in the joint report in December.

The noble Lord, Lord Hain, among others, asked what that means for the Northern Ireland protocol. Our proposal delivers all our commitments to Northern Ireland and Ireland. It means that goods and agri-food would flow freely across the border, with no need for any physical border, infrastructure or related checks or controls, so the backstop would not need to be used. We have said clearly that we are committed to agreeing a legally operative backstop in the withdrawal agreement, and we will continue to negotiate on this as we intensify negotiations over the coming weeks.

There has been some criticism in terms of how the White Paper has been received, but there have been a number of positive remarks. Chancellor Merkel has said that we have made progress and that it is a good thing that we have proposals on the table. The Taoiseach said:

“The Chequers statement is welcome. I believe it can input into the talks on the future relationship”.

Kristian Jensen, the Danish Finance Minister, said just a couple of weeks ago that Chequers is a, “realistic proposal for good negotiations”.

He said that we need to go into a lot of detail but that it is a very “positive step forward”.

The Government understand that the impact and cash-flow implications of the different rates of VAT, whether it is import VAT or acquisition VAT, are a very important concern for VAT-registered businesses. It was announced in the Autumn Budget that the Government will look at options to mitigate any cash-flow impacts for businesses. The White Paper on the future economic partnership, published on 17 July, makes it clear that the Government’s aim is to,

“ensure that new declarations and border checks between the UK and the EU do not need to be introduced for VAT and Excise purposes”.

They therefore propose,

“the application of common cross-border processes and procedures”.

I was asked what happens in the event of a no-deal scenario. The Government are confident that the UK can agree a deep and special partnership with the EU. However, a responsible Government should prepare for all potential outcomes, including the unlikely scenario in which no mutually satisfactory agreement can be reached. The *VAT for Businesses if there’s No Brexit Deal* technical notice confirms that, if the UK leaves the EU without an agreement, the Government will,

“introduce postponed accounting for import VAT on goods brought into the UK”.

I believe that that will be welcomed by businesses and it was as a result of listening to business that we brought that proposal forward. The noble Lord, Lord Browne, asked about delivery timescales. The UK and the EU will work together on the phased introduction of a new facilitated customs arrangement. The precise timeline will be agreed through negotiations with the EU.

The noble Lord, Lord Fox, kindly referred to my north-east antecedents and interest in that wonderful part of the country, which I share with my noble friend Lord Callanan. He talked about the impact on the economy of the north-east of England. We are currently enjoying the fact that unemployment in the north-east is at record low levels—down to 4.3%. That is the lowest level for 40 years and it compares to 8.3% in the eurozone. Therefore, I think that the north-east has the ingenuity, talent, ability and propensity for hard work to be able to look after itself whatever the outcome, and that goes for the rest of the UK.

I turn to the important matter of Scotch whisky. The Scotch whisky industry is a truly great British success story, and the EU accounted for around a third of the valuable Scotch whisky exports in 2016. The Bill provides the ability to adopt the EMCS after our withdrawal from the EU in order to manage suspended UK internal excise duties. The Government want to minimise burdens on firms while still having the tools to tackle the illicit trade which undermines all legitimate producers and retailers.

I think that I have covered the point about unreasonable powers in the Bill, but I particularly want to cover the issue of the no-deal version that the Government

presented last week as being “incompatible” with the Good Friday agreement, to quote the noble Lord, Lord Adonis. That is a very serious charge, and we obviously recognise that successive Governments have placed that at the heart of their policies. The UK Government remain steadfast in their commitment to the Good Friday agreement, in both letter and spirit, alongside maintaining the common travel area and associated rights and avoiding a customs border in the Irish Sea. This will meet all the commitments which have been made to the people of Northern Ireland.

There is still a lot of negotiating to be done, but there are some things that we cannot compromise on because they are at the heart of what people voted for—for example, an end to the vast annual contributions to the EU, an end to the jurisdiction of the ECJ and an end to free movement. Inevitably, there are some who are unhappy with our proposals—people who want to reverse the referendum decision—and some who, rather than compromise, would prefer the most distant relationship possible with the EU. However, the country did not vote for either of those things. It is time that we came together and agreed a pragmatic Brexit that most people can support and get on with, and which is good for us, good for business and good for our European friends. I believe that this Bill represents an important part of the preparations for that aspiration. I commend it to the House.

6.15 pm

Lord Tunnicliffe: My Lords, we put down our amendment to create a framework for the debate. We wanted to assure ourselves that it would not be a simple, formal, dry debate on the supply Motion. We have been successful in that, in the sense that this afternoon’s debate has been excellent and thoughtful and has created many, many questions. I am afraid that in my judgment, and I suspect in that of many others in the House, the Government have failed to produce credible answers that are internally consistent and capable of execution. In particular, they have failed to answer the question: have the ERG amendments to the Bill effectively destroyed the Chequers solution?

The Labour Front Bench will not be able to support the amendment from the noble Baroness, Lady Kramer, because it is not presently the policy of the Labour Party to support a second referendum. With that, and in accordance with my introduction, I beg leave to withdraw the amendment.

Lord Tuncliff’s amendment to the Motion withdrawn.

6.17 pm

Amendment to the Motion

Moved by **Baroness Kramer**

At end insert “but expresses profound concern that the proposals in the bill are based on the Government’s flawed commitment to leave the single market and Customs Union, that the Government have failed to produce a comprehensive economic assessment of the consequences for the United Kingdom’s economy of being outside the Customs

[BARONESS KRAMER]

Union, that they have sought to limit the role of Parliament, and in particular the role of this House, in the revision and scrutinising of the bill, and that they have failed to provide an opportunity for the people of the United Kingdom to have a vote, prior to the United Kingdom's departure from the European Union, on the terms of the new relationship between the United Kingdom and the European Union".

Baroness Kramer: My Lords, in the light of the need for scrutiny, so illustrated by this debate, I beg to move the amendment standing in my name on the Order Paper.

6.17 pm

Division on Baroness Kramer's amendment to the Motion.

Contents 98; Not-Contents 178.

Baroness Kramer's amendment disagreed.

Division No. 1

CONTENTS

Addington, L.	Kennedy of Cradley, B.
Adonis, L.	Kidron, B.
Alderdice, L.	Kirkwood of Kirkhope, L.
Allan of Hallam, L.	Kramer, B.
Anderson of Ipswich, L.	Lee of Trafford, L.
Ashdown of Norton-sub-Hamdon, L.	Lipsey, L.
Bakewell of Hardington Mandeville, B.	Livermore, L.
Barker, B.	Loomba, L.
Beith, L.	Low of Dalston, L.
Benjamin, B.	Ludford, B.
Berkeley of Knighton, L.	Maddock, B.
Berkeley, L.	Marks of Henley-on-Thames, L.
Bonham-Carter of Yarnbury, B.	McNally, L.
Bowles of Berkhamsted, B.	Miller of Chilthorne Domer, B.
Bradshaw, L.	Newby, L.
Bull, B.	Northover, B.
Burt of Solihull, B.	Oakeshott of Seagrove Bay, L.
Campbell of Pittenweem, L.	Oates, L.
Chidgey, L.	Paddick, L.
Clement-Jones, L.	Pannick, L.
Cotter, L.	Parminster, B.
Dholakia, L.	Pinnock, B.
Falkland, V.	Purvis of Tweed, L.
Finlay of Llandaff, B.	Randerson, B.
Foster of Bath, L.	Razzall, L.
Fox, L.	Redesdale, L.
Garden of Frogmal, B.	Rennard, L.
German, L.	Roberts of Llandudno, L.
Glasgow, E.	Sandwich, E.
Goddard of Stockport, L.	Scott of Needham Market, B.
Golding, B.	Scriven, L.
Grender, B.	Sharkey, L.
Hailsham, V.	Sheehan, B.
Hamwee, B.	Shipley, L.
Hannay of Chiswick, L.	Smith of Newnham, B.
Harris of Richmond, B.	Stephen, L.
Humphreys, B. [Teller]	Stoneham of Droxford, L.
Hussain, L.	[Teller]
Hussein-Ece, B.	Stunell, L.
Hylton, L.	Suttie, B.
Janke, B.	Taverne, L.
Jolly, B.	Taylor of Goss Moor, L.
Jones of Cheltenham, L.	Teverson, L.
	Thomas of Gresford, L.

Thomas of Winchester, B.	Wallace of Tankerness, L.
Thornhill, B.	Walmsley, B.
Tope, L.	Whitty, L.
Tyler of Enfield, B.	Wigley, L.
Tyler, L.	Willis of Knaresborough, L.
Vallance of Tummel, L.	Wrigglesworth, L.

NOT CONTENTS

Aberdare, L.	Gadhia, L.
Altmann, B.	Gardiner of Kimble, L.
Anelay of St Johns, B.	Gardner of Parkes, B.
Armstrong of Ilminster, L.	Garnier, L.
Ashton of Hyde, L.	Geddes, L.
Astor, V.	Geidt, L.
Attlee, E.	Gold, L.
Barker of Battle, L.	Goldie, B.
Barran, B.	Goodlad, L.
Bates, L.	Green of Deddington, L.
Berridge, B.	Greenway, L.
Bethell, L.	Griffiths of Fforestfach, L.
Bew, L.	Hamilton of Epsom, L.
Blencathra, L.	Harding of Winscombe, B.
Bloomfield of Hinton Waldrist, B.	Haselhurst, L.
Borwick, L.	Hayward, L.
Bourne of Aberystwyth, L.	Helic, B.
Brabazon of Tara, L.	Henley, L.
Bridgeman, V.	Hill of Oareford, L.
Broers, L.	Hodgson of Abinger, B.
Brougham and Vaux, L.	Hodgson of Astley Abbots, L.
Browne of Belmont, L.	Hogan-Howe, L.
Browning, B.	Holmes of Richmond, L.
Butler of Brockwell, L.	Hooper, B.
Byford, B.	Hope of Craighead, L.
Caine, L.	Horam, L.
Caithness, E.	Howard of Rising, L.
Callanan, L.	Howell of Guildford, L.
Carrington of Fulham, L.	Hunt of Wirral, L.
Cathcart, E.	Jenkin of Kennington, B.
Cavendish of Furness, L.	Judge, L.
Chisholm of Owlpen, B.	Kilclooney, L.
Colgrain, L.	King of Bridgewater, L.
Cope of Berkeley, L.	Kinnoull, E.
Cork and Orrery, E.	Kirkhope of Harrogate, L.
Cormack, L.	Laming, L.
Courtown, E. [Teller]	Lansley, L.
Craig of Radley, L.	Leigh of Hurley, L.
Craigavon, V.	Lindsay, E.
Crathorne, L.	Lingfield, L.
Cromwell, L.	Lucas, L.
Curry of Kirkharle, L.	Lupton, L.
De Mauley, L.	Lytton, E.
Dixon-Smith, L.	MacGregor of Pulham Market, L.
D'Souza, B.	Mackay of Clashfern, L.
Dundee, E.	Magan of Castletown, L.
Dunlop, L.	Mancroft, L.
Eaton, B.	Manzoor, B.
Eccles of Moulton, B.	Marlesford, L.
Eccles, V.	Maude of Horsham, L.
Elton, L.	McIntosh of Pickering, B.
Empey, L.	Montrose, D.
Erroll, E.	Morris of Bolton, B.
Evans of Bowes Park, B.	Morrow, L.
Fairfax of Cameron, L.	Moynihan, L.
Fairhead, B.	Naseby, L.
Fall, B.	Nash, L.
Faulks, L.	Neville-Jones, B.
Fellowes of West Stafford, L.	Neville-Rolfe, B.
Fellowes, L.	Newlove, B.
Fink, L.	Nicholson of Winterbourne, B.
Finkelstein, L.	Noakes, B.
Finn, B.	Norton of Louth, L.
Flight, L.	O'Loan, B.
Fookes, B.	O'Shaughnessy, L.
Forsyth of Drumlean, L.	Palumbo, L.
Framlingham, L.	
Fraser of Corriearth, L.	

Pickles, L.
 Pidding, B.
 Popat, L.
 Porter of Spalding, L.
 Price, L.
 Prior of Brampton, L.
 Rawlings, B.
 Redfern, B.
 Ribeiro, L.
 Ridley, V.
 Robathan, L.
 Rock, B.
 Rogan, L.
 Rowe-Beddoe, L.
 Sater, B.
 Scott of Bybrook, B.
 Seccombe, B.
 Selborne, E.
 Selkirk of Douglas, L.
 Shackleton of Belgravia, B.
 Sherbourne of Didsbury, L.
 Shinkwin, L.
 Smith of Hindhead, L.

Stedman-Scott, B.
 Stowell of Beeston, B.
 Stroud, B.
 Suri, L.
 Taylor of Holbeach, L.
 [Teller]
 Taylor of Warwick, L.
 Trenchard, V.
 Trimble, L.
 True, L.
 Tugendhat, L.
 Vaux of Harrowden, L.
 Vere of Norbiton, B.
 Verma, B.
 Vinson, L.
 Wakeham, L.
 Wasserman, L.
 Williams of Trafford, B.
 Wilson of Tillyorn, L.
 Wyld, B.
 Young of Cookham, L.
 Younger of Leckie, V.

6.29 pm

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time, and passed.

Brexit: Negotiations and No-deal Contingency Planning Statement

6.30 pm

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, with the permission of the House I shall now repeat a Statement made in the other place. The Statement is as follows:

“With permission, Mr Speaker, I would like to provide the House with an update on the progress of Brexit negotiations and the Government’s no-deal contingency planning. On Friday, I was in Brussels for the fourth time since I became Secretary of State for a further round of talks with Michel Barnier. We had an extended discussion covering outstanding withdrawal agreement issues, internal and external security, and our future economic partnership. We have injected some additional pace and intensity into the negotiations as we reach the final phases.

The vast majority of the withdrawal agreement has been agreed. When signed, the agreement will: safeguard the rights of EU citizens in the UK and UK nationals in the EU so that they can continue to live their lives broadly as they do now; provide for a time-limited implementation period, giving businesses and citizens the certainty they deserve until we reach a new partnership; and allow for the UK to make an orderly and smooth exit as we move towards a future deep and special partnership with the EU. In August, we made further progress across the outstanding separation issues, including protection of data and information, the treatment of ongoing police and judicial co-operation in criminal matters and ongoing Union judicial and administrative procedures after exit. The scope and contours of the withdrawal agreement are now clear, subject to some further technical details we will continue to work on.

At the same time, we continue to work to complete a backstop to deal with the position of Northern Ireland and Ireland, as we committed to in the December joint report with the EU. As the Government have made clear, the EU proposals are unacceptable because they would create a customs border down the Irish Sea. We are determined to reach a solution that protects the Belfast agreement and avoids a hard border on the island of Ireland. We will not permit a customs border down the Irish Sea, which would put at risk the constitutional and economic integrity of the UK. Of course, this can be done without compromising the EU’s core principles. Importantly, we look to meet our commitments to the people of Northern Ireland through our future partnership so that no backstop would ever need to come into effect.

The White Paper we published in July has served as the basis for constructive discussions on our future relationship with the EU. I, my right honourable friend the Prime Minister and other Cabinet colleagues have made visits across Europe, explaining our proposals and making the case for what we have put forward for our future relationship. Since the publication of the White Paper, Ministers have had more than 60 engagements with their counterparts across Europe. I met the French Europe Minister in Paris and recently saw the Swedish and Irish Foreign Ministers in London. I also met Guy Verhofstadt, the European Parliament’s Brexit co-ordinator, last week.

We have received a wide range of positive and constructive feedback. Equally, just as we have presented our proposals in a spirit of compromise, so they have proved challenging in some respects for some in the EU. But our friends across Europe are engaging seriously with our proposals on the substance. As my right honourable friend the Prime Minister set out, we are committed to delivering on the vision in the White Paper and delivering a future relationship that will see the UK leave the single market and the customs union, an end to freedom of movement so the UK will control its own borders, the end of the jurisdiction of the European Court, and the UK and the EU meeting their shared commitments to Northern Ireland and Ireland, as I have already described.

At the same time, we want to build up the foundations of a bright, strong and enduring new relationship for the future with: frictionless trade across our borders; continued close co-operation on law enforcement and security; the UK free to develop its own independent trade policy; and broader UK-EU co-operation from research to student exchanges in many of the areas that we prize on both sides. We approach these talks with ambition, pragmatism and energy. If our EU friends match us, we will strike a deal that is in the clear and overwhelming interests of both sides.

I should also like to update the House on steps the Government have taken over the summer to prepare for the unlikely event that we do not reach a deal with the EU. While we expect to reach a deal with the EU—while it remains the most likely outcome, and while it remains our top and overriding priority—as a responsible Government, we have a duty to prepare for any eventuality. So on 23 August, we published 25 technical

[LORD CALLANAN]

notices, intended to inform people, businesses and stakeholders about steps they may need to take in the event of a no-deal scenario. They build on the steady and patient work that has taken place over the last two years to prepare this country for life outside the EU—irrespective of the outcome of the negotiations. That work has included passing vital legislation to ensure a smooth Brexit, including the EU withdrawal Act. It includes recruiting the staff in Whitehall and our operational agencies so we have the teams in place, and preparing our institutional capacity—from the Competition and Markets Authority to the Information Commissioner’s Office.

The technical notices continue this same, responsible, practical approach to preparing our country for Brexit. Among the technical notices, there is advice for businesses on some of the new processes they would be expected to follow when moving goods between the EU and UK in a no-deal scenario. Our technical notice on workplace rights sets out how workers in the UK will continue to be entitled to the rights they have under UK law. We have set out how, in the event of no deal, the UK will recognise the testing and safety approvals of existing medicines, if they have been carried out by an EU member-state regulator, to minimise any disruption to the supplies of medicines or medical devices from the EU.

The notices are proportionate, they are measured and they prioritise stability for our citizens, businesses, public bodies and NGOs. The 25 notices published in August were the first in a series of updates which we will be publishing over the coming weeks to keep stakeholders informed about what, if any, action they need to take.

Our approach acknowledges that there are some risks in a no-deal scenario and demonstrates that we are taking action to avoid, minimise and mitigate these potential risks, so that we are equipped to manage any short-term disruption. While it is not what we want, a no-deal scenario would bring some countervailing opportunities. We would be able to lower tariffs and negotiate and bring into effect new free trade deals straight away. There would be the immediate recovery of full legislative and regulatory control, including over immigration policy and, while mindful of our legal obligations, a swifter end to our financial contributions to the EU.

So, I will continue to meet regularly with Michel Barnier, confident that a deal is within our grasp, if the ambition and pragmatism that we have shown is matched by our EU friends. This House and the British people can rest assured that the United Kingdom will be ready for Brexit deal or no deal—prepared, whatever the outcome, so that this country will go from strength to strength. I commend the Statement to the House”.

6.38 pm

Baroness Hayter of Kentish Town (Lab): My Lords, I thank the noble Lord for repeating the Statement. I welcome him back, though I regret that, while we were all at the seaside, his Government—as is clear from the

Statement—have failed to provide a workable path through the morass of negotiating objectives. To quote Bloomberg:

“As politicians dither, Britain’s economy is taking a hit”,

with Brexit costing 2% of economic output, even before we have left.

During a summer of government squabbles, I spent time watching how fast lorries could load on to European ferries at the moment. I then went on to feel the effect of the falling pound, while hearing about the likely lack of Danish sperm—I kid you not—portaloos along the M20 and the ending of the EMA pharmaceutical approvals for our Medicines and Healthcare products Regulatory Agency. Meanwhile, I was reading Charlie Clutterbuck’s *Bittersweet Brexit*, though I have yet to find the sweet bit.

Meanwhile, back here, we have a plethora of groupings, mostly within the governing party. There is Better Brexit, Stand Up 4 Brexit, the ERG’s “Hell, any sort of Brexit”, David Davis’s “I won’t vote for Chequers” Brexit, Boris Johnson’s “diddly squat” Brexit, the Leave.EU members in the Conservative Party’s Brexit, an alternative Best For Britain Brexit, Macron’s “blind Brexit” or perhaps a Europe of concentric circles, a “half DEXEU staff leaving” Brexit or even a “jump off the cliff” Brexit. These sound funny, but this is serious stuff. What is clear is that, 44 days before the October summit, Chequers will not fly. We said so at the time; we said that it ignored services, failed Northern Ireland and was logistically unworkable. We now know that the EU will not accept it, but neither will the House of Commons, where there is simply no majority for it.

So, please, no more nonsense of just “some risks” to no deal. And, please, let there be less money wasted on preparatory work which is somewhat otiose. We need a deal that can work. It is time that the Government got honest and ruled out no deal once and for all. It is time that the Prime Minister ended the uncertainty for UK citizens in the EU and for EU citizens here and made firm commitments not just “when” the agreement is “signed”, as in the Statement that the Minister has just read out, but now.

I agree strongly with the No. 10 spokesperson who said:

“What we need at this time is serious leadership with a serious plan”.

But that is not what this Statement provides. Indeed, a survey in the Conservatives’ most marginal seats showed that three-quarters are dissatisfied with the Government’s handling of Brexit—they clearly have judgment.

It is time for the Prime Minister to ditch her red lines and get real. If we want trade to thrive with our nearest neighbours, if we want to continue inward investment as a path into European markets, if we want to continue free flow of our food and agricultural products and if we want a border-free Ireland, we have to be in a customs union with the EU and we need a deal on services. We also have to recognise that while the withdrawal agreement has only—“only”—to win the approval of the Commons, the European Parliament and the European Council, the subsequent trade deal will need the consent of every member state, their various parliaments and assemblies. That will mean us

negotiating a deal to win their support. Closing off doors now, with unrealistic demands, will mean only U-turns down the line.

It must be evident to this House that the Government must change course and propose a credible plan that can command the support of Parliament, protect jobs, the economy and the environment, avoid a hard border in Northern Ireland and be acceptable to our partners. The Statement that the Minister has read out gives us no confidence that that is the way that we are going. The Government have six weeks to get this right. More of the same will not do. So will the Minister pledge not just to listen to his hard-Brexit friends but to seek to navigate a way forward that can win parliamentary and EU endorsement?

Baroness Ludford (LD): My Lords, the DExEU website today displayed a rather apt message:

“We’re experiencing technical difficulties. Please try again later”.

That perhaps sums up the incoherent, divided and irresponsible position—or, rather, positions—of this Government. That the Trade Secretary could on Sunday dismiss the Chancellor’s forecast of the need for extra borrowing of £80 billion by 2033 while staying in post shows the Prime Minister’s utter, weak inability to impose rationality or discipline on her Government. The Chequers plan is a dead parrot, so the important question is: where do the Government go from here? I would like an answer and I think that Parliament deserves an answer, as do the people.

The Statement claims that the no-deal notices, of which we expect another batch, “prioritise stability”. The way they seek to get any continuity at all in the event of no deal is, in fact, by relying on a series of mini-deals to prevent the absolute disaster of grounded planes and the absence of crucial trade. The Government are saying, “Please, Brussels, can you rescue us from our absurd no-deal threat?”

There will be a particular set of 5 million people who will be badly hit by no deal: the 3 million EU citizens in this country and the 2 million Brits in the rest of the EU. The failure to give a unilateral guarantee two years ago—which would have been reciprocated, as the noble Lord, Lord Lawson, said at the time—is creating an agonising limbo of anxiety and depression. Meanwhile, Brexiteers are moving assets or citizenship to other EU countries.

To get a little personal, I do not know whether the Prime Minister gets her glucose patches—on which I can comment, as she is commendably open about them—from abroad, but my type 1 diabetic husband gets his glucose sensors and insulin from elsewhere in the EU. There are many other people with medical conditions who are vitally dependent on such imports. That a Government could calmly contemplate upsetting such a flow and creating distress and potentially worse is breath-taking in its dereliction of a basic duty of care.

The prominence of no-deal planning seems to fulfil a number of purposes, all of them within the Tory party. It is a sop by the Prime Minister to the hard Brexiteers, who positively want this outcome, and a warning to the “chuck Chequers” brigade to accept

Chequers as somewhat less bad. There are two things that it does not do: it does not put pressure on the Brussels negotiators and it does not inspire confidence in the public—on the contrary.

There is this sentence in the Statement:

“While it is not what we want, a no-deal scenario would bring some countervailing opportunities”.

This is obviously a bone thrown to the ERG faction. What exactly are the “countervailing opportunities” for small businesses losing their export markets, or patients losing their essential medical supplies? The no-deal scenario means lots more costs to businesses, higher prices for consumers, an avalanche of new bureaucracy—such as pharmaceutical companies having to register medicines twice, showing that EU red tape ain’t got nothing on Tory red, white and blue tape—and more taxpayers’ money spent on quangos and civil servants, stockpiling and so on.

Panasonic and Muji are but the latest companies to announce that they are moving their HQ across the Channel. We face this dire outcome because the Tory Government have proved totally unable to deliver a workable or tolerable Brexit deal. Indeed, not only do they provide absolutely no reassurance about how to resolve issues between the UK and Ireland in the event of no deal, they actually advise businesses and individuals to contact the Irish Government. We know that the Tory Government love outsourcing, but this surely goes shamefully too far in abdicating responsibility for the border communities.

Can the Minister tell us that the Government will reverse their refusal to guarantee that MPs will see the full impact analysis of a no-deal Brexit before the final vote on any departure from the EU? Both the previous and current Brexit Secretaries have, in the past, supported a second referendum, so presumably they think that it is a demonstration of democracy, exposing the PM’s comments as a sham. We on these Benches insist on a final say on the deal. We are joined, it is announced today, by 70% of Mumsnet subscribers: a very sensible bunch.

Lord Callanan: I thank both noble Baronesses for their comments, which I thought were long on criticism but a bit short on workable alternatives. I am delighted that the noble Baroness, Lady Hayter, enjoyed her holiday so much—discussing sperm and Portaloo seems to have had a positive effect on her vitality. I say to her that we are providing serious leadership and have a serious plan, in stark contrast to the Labour Party, from which I have heard no plan at all, apart from one that says that we should remain in a customs union—but then it cannot even bring itself to vote for the trade deals that are negotiated under that customs union. So we are providing a way forward through serious negotiations in the national interests.

I thank the noble Baroness, Lady Ludford, for her comments and I can tell her that the citizens’ rights part of the withdrawal agreement is agreed. She mentioned medical supplies. The Department of Health and Social Care is working with its partners across government, in the health sector and in industry, to prepare for the possible disruption to the supply chain of medical supplies including medicines, vaccines, medical devices,

[LORD CALLANAN]

clinical consumables and blood products. And, yes, we will provide a full economic analysis of the deal that has been negotiated before the House of Commons and this House have their meaningful vote.

6.51 pm

Lord Maude of Horsham (Con): My Lords, is it not now clear that, despite the best efforts of my noble friend and his Secretary of State, whom I admire greatly, the Chequers proposal could be agreed only at the expense of further, very substantial concessions extracted under duress, which would lock the UK indefinitely into a highly disadvantageous one-sided arrangement? Is it not now clear that there is a growing and powerful case for the UK to exercise its right to join the European Economic Area, very much as a holding arrangement, so that businesses could have a line of sight for the next few years on how they can trade and invest? That would create a period in which, when emotions have settled, a substantive free-trade agreement could be negotiated with the EU. Would he accept that this argument is most powerful not for those who want to reverse the result of the referendum and prevent Brexit happening but for those who, like myself, believe that it must happen?

Lord Callanan: I thank my noble friend for his comments; he brings a lot of informed commentary on the subject. I am afraid that I do not think the option he set out is particularly practical. Were we able to carry on with membership of the European Economic Area, of course freedom of movement would continue, which I think would disappoint a lot of people who voted for Brexit, while the legal options are not straightforward. It would require the agreement of existing EEA countries and the ongoing agreement and co-operation of the EU, which would not necessarily be forthcoming. I know that the option has been put forward in good faith by a number of people, but I am afraid that the legal and practical difficulties would be considerable. That is why we default to our proposals, which we continue to negotiate on in good faith in Brussels and in other member state capitals.

Lord Berkeley (Lab): My Lords, the Minister's Statement today says that there will be no frontier between the island of Ireland and the mainland and no frontier between Northern Ireland and southern Ireland. It is not about time that he told us how this would work practically unless there is customs alignment between the two? I would like to hear the nuts and bolts of how it would work.

Lord Callanan: I can send the noble Lord a copy of our White Paper, where we have set out exactly how that can be provided through the facilitated customs arrangement and the alignment on goods. I am sure that, if he read it in full, he would see exactly how that could be delivered.

Baroness Smith of Newnham (LD): My Lords, with reference to the question from the noble Lord, Lord Maude, is it not the case that the United Kingdom

has to serve notice to leave the European Economic Area and that that is separate from leaving the European Union? Therefore, unless we technically serve notice and give a year's notice of leaving the EEA, we will remain members of that organisation.

Lord Callanan: I do not think that the noble Baroness's analysis is correct. The European Economic Area is an agreement between EFTA countries and EU member states, and our membership of it will lapse when we leave the European Union. In order to join the European Economic Area we would have to become a member of EFTA, we would require the agreement of the EFTA countries and we would then need the agreement of the European Union in order to continue in that membership. That presents a number of legal and practical difficulties—but I would be happy to write to the noble Baroness in more detail about how it might not work.

Lord Howell of Guildford (Con): Does my noble friend feel that the point has been put sufficiently strongly to the Brussels establishment and the Commission that the Chequers plan is already a compromise and is a compromise of compromises? That does not seem to have penetrated, judging by some of the comments from the Brussels Commission. Does my noble friend also feel that the Brussels Commission understands that a great many of the fundamental principles to which it refers have already been modified throughout the European Union, particularly in relation to labour movement, frontier controls, airport entry controls and the movement of services where there is no single market? Have those points got over to the people we are dealing with in Brussels?

Lord Callanan: Of course we are dealing with a lot of different interlocutors as well as the official EU negotiating team, represented by Michel Barnier, and the Article 50 working group. We are also liaising with individual member states. It is fair to say that there is a variety of opinions. We think that we have set out a compromise. It was obtained at some difficult political cost, but it offers a way forward. A number of member states and individuals in the EU have commented that it offers a workable and viable way forward and they look forward to engaging on it. Of course, it is a negotiation. There have been various noises off, but we still await the official Commission response. Senior members of the task force have made it clear that they think it offers a viable discussion and way forward.

Lord Wigley (PC): My Lords, the Minister referred to the Statement mentioning the wish of the Government to cover every eventuality. In those circumstances, can he confirm that a question was raised in Brussels about the position on 29 March if we are within reach of an agreement but are unable to reach it within that deadline, and whether the deadline can be adjusted in order to seek and achieve agreement if that is possible?

Lord Callanan: The noble Lord is correct that Article 50 sets out a mechanism by which the process can be extended, but we are very clear that we are not going

to apply for it to be extended. We leave on 29 March and we believe that an agreement can be negotiated well before then. It will need to be done so that we can pass the appropriate legislation in the House of Commons and in this House.

Viscount Hailsham (Con): My Lords, does my noble friend agree that it is truly extraordinary that the Government are advising the stockpiling of medicines and other necessities not as a result of war or of some natural calamity but rather as a result of a self-imposed policy which may well lead to yet further direful consequences? Should the country not be made urgently aware of the folly of what we are about?

Lord Callanan: The noble Viscount forgets that we had a referendum on the subject and the country as a whole decided that it wished to leave the European Union. We are implementing that decision. The technical notice to which he referred merely makes the point that we need to make sensible, pragmatic preparations in case there is no deal. We do not want or desire that outcome, but a responsible Government—he has been a member of such a Government in the past—have a duty to make clear what preparations may be necessary in the event of that unfortunate eventuality.

Baroness Miller of Chilthorne Domer (LD): My Lords, the Minister says that citizens' rights are agreed, but in the Government's own words, nothing is agreed until everything is agreed. Is he aware of just how worried British citizens throughout the EU are? What instructions have the Government given to British embassies to get out there and give some help to people who need to start planning for all the contingencies? It may be that their pensions cannot be passported through or that their driving licence will not be acceptable. I must declare an interest as my principal home is in France and I spend a lot of time there. This week the British embassy in Paris is running Rentrée receptions. It sounds pretty frivolous. We want to see people from the embassy in all the regions, giving advice—not just sitting in Paris, having receptions.

Lord Callanan: Of course we say that nothing is agreed until everything is agreed, but the noble Baroness will find that the European Commission says exactly the same. Yes, we are engaging with UK citizens in other European countries. Whenever I visit other European capitals, I try to meet expat citizens living in those countries. Of course we are trying to provide the necessary advice. Ultimately, it is for individual member states to make the appropriate preparations, and we urge them to do so through embassies and contact with their Governments.

Lord Green of Deddington (CB): My Lords, does the Minister agree that there is a heavy responsibility on the Commission to ensure that arrangements for British citizens in European countries match those that we have offered to those in this country, which we are much more efficient at implementing?

Lord Callanan: The noble Lord is correct that that is the responsibility of the Commission and other member states. We have been very clear that in the event of no withdrawal agreement, we would want to act as quickly as possible to guarantee the rights of those EU citizens who have chosen to make their home in the UK, and we would hope that other member states will do that for UK citizens abroad.

Lord Browne of Ladyton (Lab): My Lords, why, in the relevant technical notice, did the Government advise those who trade in Northern Ireland, in the event of a no-deal Brexit, to ask a foreign Government for advice as to how they should continue? Secondly, how is that consistent with us taking back control through Brexit to the British Government and the British Parliament? Finally, if the Minister wishes to criticise me for having no alternative, will he give me his resources for a week, and I will come up with better advice for the people of Northern Ireland?

Lord Callanan: Of course, in the event of no deal—which, as I repeat ad nauseam, we do not want to happen—we can be responsible for what happens in this country but it is the responsibility of other member states and the European Union to fulfil their side of the bargain and agree what will happen on their side. The border has two sides to it. We can say what will happen on the British side, but what happens on the Irish side is the responsibility of the Irish Government and the European Commission.

Lord Cormack (Con): My Lords, does my noble friend accept that many people in this country in all political parties are looking for leadership? Will he convey to the Prime Minister, whom I wish to see remain to lead us through these difficult times, not only my very good wishes, but that it would be a very good idea if she were to consult leading figures in other political parties in this country and if she were to use the facilities of Chequers to invite some of our European friends and neighbours over for private discussions? We have to compromise, whichever side we are on, but if we allow ourselves to be led by the European ruination group in the other place, the future will be dire.

Lord Callanan: The noble Lord was doing so well until he got to the second part of his question. Yes, of course we will provide leadership, and we are. We have set out a plan as to how we think this can be delivered. I am not sure it is a practical suggestion that we consult the leader of the Opposition, who I think is providing a dire example at the moment, but we in our department and other Cabinet Ministers are having ongoing, regular discussions with other European leaders and Ministers. I am travelling abroad regularly myself, as are other Ministers, to try to convince other member states of the viability of our plans and the options that we have presented.

Lord Lea of Crondall (Lab): I follow up one more time the question raised by the noble Lord, Lord Maude, and the noble Baroness, Lady Smith of Newnham. It

[LORD LEA OF CRONDALL]

may be technically correct to say that we do not need legislation to leave the EEA, but in practice is that not splitting hairs? I remember rather well, in December 1972 in Vienna, chairing the last meeting of the EFTA consultative committee that we were then a member of. On 1 January 1973, we joined the European Economic Area. Those were back to back for obvious reasons. Whatever the merits of the EEA, is it not obvious how it would work?

Lord Callanan: I refer the noble Lord to the answer I gave earlier. The option of EEA membership is not straightforward. It is not uncomplicated and it does not present a solution to many of the difficulties that were addressed in the referendum campaign.

Lord Hannay of Chiswick (CB): Will the Minister go back to the issue of citizens' rights? If I understand it rightly, he has replied to various questions by saying that the Government will make up their mind on the situation for European citizens here in a no-deal situation when that arose. Are the Government not giving any consideration to whether it might not be both humane and valuable for our negotiating position if they were to make it clear now, unilaterally, that they will apply the provisions in the December agreement, come what may, deal or no deal? Surely that would be better, and it would also be a better way of protecting the interests of our citizens in other member states.

Lord Callanan: The Prime Minister has made it clear on a number of occasions that EU citizens who have chosen to make their homes in the UK are welcome to stay. We have protected their rights, and the rights of British citizens abroad in the draft withdrawal agreement. If there is no withdrawal agreement, we will want to move swiftly to guarantee the rights of those people. We may not want to do it in exactly the same way as set out in the withdrawal agreement at the moment, but we would want to guarantee their rights and emphasise the fact that they have made their home here and are welcome to stay. The Prime Minister has made that very clear.

Lord Beith (LD): My Lords, does the Minister not recognise that we will not know until perhaps a few weeks, or even days, before the exit date whether a deal has been agreed or it is a no-deal exit? In that case, is his advice to organisations and companies to behave as if there is to be a no deal from now on, and prepare themselves accordingly? Conversely, if there is a withdrawal deal, how does the Minister expect both Houses of Parliament to legislate it into effect in the few days that may lie between it being agreed and the exit date of March next year?

Lord Callanan: If it were only a few days, clearly the noble Lord would be correct that it would be impossible. The need for appropriate legislative scrutiny in both Houses is one of the reasons why we are still targeting an agreement in October this year. We are working towards that. It may not be possible, and I cannot absolutely guarantee that, but we are mindful of the

fact that once we have negotiated a withdrawal agreement, there needs to be a meaningful vote, which we have promised, both politically and now legislatively. We will put it to the vote in both Houses, and if the meaningful vote goes through, we will have to legislate, which will take time. That is one of the reasons, and the EU has agreed with us, that we are approaching the end state of negotiations now. We need to have an agreement in the not-too-distant future.

The Earl of Erroll (CB): If we were to stay in the EEA, would it be permitted and allowed under the rules to negotiate trade deals with the other countries which have about 7 or 8 billion people around the world, or would that be blocked?

Lord Callanan: The only way of joining the EEA, if it were possible, and I have set out the difficulties, would be to join EFTA because of the EEA's agreement between the EU and EFTA. In that case, we would not be negotiating our own individual trade deals—EFTA would be negotiating. That fails the independent trade policy test.

Lord Campbell of Pittenweem (LD): The Minister made a brave, if failing effort to try to ascribe responsibility for the border issue to Dublin. We have a responsibility—it is called the Good Friday agreement. We have a responsibility both morally and legally not to do anything that undermines that agreement. Do the Government accept that, both morally and legally?

Lord Callanan: Yes, of course we are fully committed to the Good Friday agreement. I did not say it was solely the responsibility of the Republic of Ireland; I merely made the point that any border has two sides. We can be responsible for the UK side, and we can guarantee no hard border on the UK side. We would hope that the Irish Government and the EU would be able to reciprocate on their side as well, and produce no hard border. These are the issues that we are negotiating to make sure that the Good Friday agreement is respected and that no hard border is reintroduced into the island of Ireland.

Lord Dubs (Lab): My Lords, has the Minister been to Dover and talked to the people who run the harbour? I went with a Select Committee a few weeks ago. If trade does not remain frictionless then, unless there is a long period during which the Dover people can reorganise the port, it will come to a halt and vehicles will back up all the way to the M25. Surely the Minister must accept that places like Dover need more time than they are going to get under the current timetable.

Lord Callanan: I have not been to Dover recently myself, but ministerial colleagues have and officials are, of course, in regular correspondence and discussions with the officials there. One reason we put forward our proposals was to produce a frictionless border which would ensure that there are no queues at Dover or any other port. One reason why we are proposing a facilitated

customs arrangement, and negotiating on it, is to produce frictionless borders both in Ireland and at Dover.

Lord Whitty (Lab): My Lords, given the complications and the failure to get anywhere close to an agreement, does the Minister wish to reconsider his answer to the noble Lord, Lord Wigley, that in no circumstances would we seek an extension of the deadline? If we have only got six weeks and we are still so far away, should we not now be formally seeking an extension of that deadline?

Lord Callanan: No, because we are leaving the European Union on 29 March 2019.

Windrush *Statement*

7.11 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I will repeat in the form of a Statement the Answer given by my right honourable friend the Immigration Minister to an Urgent Question in another place. The Statement is as follows:

“The Home Secretary has been very clear both that the Government deeply regret what has happened over decades to some of the Windrush generation and that we are determined to put it right. The Home Secretary laid a Written Statement in the House on 24 May to establish the Windrush scheme, which ensures that members of the Windrush generation, their children born in the UK and those who arrived in UK as minors, and others who have been in the United Kingdom for a long period of time, will be able to obtain the documents to confirm their status and, in appropriate cases, be able to obtain British citizenship free of charge.

The last update on our historical review of removals and detentions was presented to the Home Affairs Select Committee on 21 August. The Home Secretary has written to apologise in the case of 18 people where we have identified that they are most likely to have suffered detriment as a result of government action. To the end of July, 2,272 people have been helped by the task force to get the documentation they need to prove their existing right to be in the UK under the initial arrangements put in place prior to the establishment of the Windrush scheme; 1,465 people have also been granted citizenship or documentation to prove their status under the formal Windrush scheme. The task force is also working to help eligible individuals to return to the UK and has already supported one individual to do so.

The Home Secretary has announced a compensation scheme for those who have been affected as a result of not being able to demonstrate their status. The public consultation for this scheme was launched on 19 July and will run to 11 October. The Home Office is using a range of channels to engage with those who have been affected and to encourage people to respond to the consultation. We will announce details of the final

scheme and how to apply as soon as possible after the public consultation has ended. Finally, the Home Secretary has commissioned a “lessons learned” review to identify how members of the Windrush generation came to be entangled in measures designed for illegal immigrants, why that was not spotted sooner and whether the right corrective measures are now in place. The Home Secretary has been clear that the “lessons learned” review requires independent oversight and scrutiny, and has appointed Wendy Williams as independent adviser to the review. The independent adviser aims to publish her findings in a report by the end of March 2019.

I know across this House we are united in our determination to deal with the problems that have been faced by people of the Windrush generation. I therefore hope we can take a cross-party approach which recognises that the most important thing we can do is ensure the wrongs that some have faced are put right”.

7.14 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the noble Baroness for repeating the Answer given in the other place by the Immigration Minister earlier today, outlining what the Government are doing to deal with this frankly appalling scandal. I have a number of questions for the noble Baroness. What action is the task force taking to help individuals who have been deported to return to the UK, and does that include paying their travel costs? Why have only 18 apologies been issued so far? Surely everybody wronged by this scandal should receive an apology. Finally, can she assure the House that the Home Office has taken the required action to ensure that no new victims of this scandal are being created today and as we go forward?

Baroness Williams of Trafford: The noble Lord asked about the actions of the task force to help people to return to the UK. The task force will help where it can and in whatever way is appropriate in a particular case. I cannot give the detail as every case will be different. The noble Lord also asked why only 18 people had been apologised to. Of all the people whom the task force is considering, those are the 18 most likely to have suffered detriment. Eleven of those people left voluntarily; clearly, they are being helped to return to this country if they wish to do so, in whatever way might be appropriate.

Baroness Hamwee (LD): My Lords, the Minister referred to the “lessons learned” review. I am not asking a question on this first point, but it must have been a shock—and a lesson—to a number of individuals to have learned that three deportees had died. On the review, can she confirm that the work will apply much more generally than to the Windrush generation? The objectives refer to “operational decisions”. I have heard, from someone who used to work at the Home Office, that the way in which it took decisions in the case of Windrush showed “casual cruelty”. The Joint Committee on Human Rights, of which I am a member, did not use quite such strong language, but in its recent report it referred to the fact that there was no power to detain

[BARONESS HAMWEE]
being “blithely ignored”, and used the word “shocking” of the Home Office’s approach to Windrush cases; the whole committee agreed to that. It would be surprising if those attitudes were confined to decisions regarding simply the Windrush generation, so can the Minister give the House assurances about the broad application of the lessons to be learned?

Baroness Williams of Trafford: We were all shocked at the death of those three people. Without talking about the individual cases, I know that two were removed post 2010 and one previously. None was detained and all left the country voluntarily, but that does not diminish in any way the sadness at the fact that they have died. The whole House will share the noble Baroness’s shock. She gave some descriptions of the approach of the Home Office to the Windrush generation and other immigration cases. As I have said to her and to the House before, it is worth bearing in mind that the new Home Secretary made it very clear when he arrived in post that the new approach would be to treat people as people, not as cases—a more humane approach. I hope that, since he became Home Secretary, he has demonstrated his commitment both to the Windrush generation and to that more humane environment, including by dropping the term “hostile environment”.

Lord Kennedy of Southwark: Before the noble Baroness sits down, she did not answer the last part of my question. I will not pursue it here, but can she confirm that she will write to me on that?

Baroness Williams of Trafford: Was it about why the Home Secretary apologised only to those 18 people? Will the noble Lord remind me?

Lord Kennedy of Southwark: I asked whether we are absolutely clear that we are not creating new cases for the future, because that would be the worst thing that could happen.

Baroness Williams of Trafford: I apologise to the noble Lord; I did not write that bit down. It is the first day back—I am just getting into the flow of it. On whether it will ever happen again, the “lessons learned” review will teach us a lot, and the independent assurance review of the whole process will be very helpful. All these things have taught all political parties why this whole process, which took place over successive generations, should never happen again. It also teaches us something about identity assurance and the importance of getting that right, certainly as we leave the EU and in the future, so that people are not caught out by these unintended consequences of what was originally a welcoming approach to our Windrush community, whose work over the years we value.

Lord Green of Deddington (CB): My Lords, does the noble Baroness agree that the new Home Secretary is to be congratulated on getting a grip on this issue so quickly and effectively? Does she also agree that this episode has very little to do with current immigration policy and that it should not be used to undermine measures that are necessary to protect our borders?

Baroness Williams of Trafford: The noble Lord makes a clear distinction. There is what we have a moral obligation to do, to put right the wrongs which go back decades, but also, we absolutely need to keep control of our borders, and the two issues are entirely separate.

Lord Desai (Lab): My Lords, euphemisms are used about the Windrush generation; basically, we are talking about Afro-Caribbean black people. We are saying that some black people who may have lived here for generations were questioned as to whether they could prove that they belonged here. We have no identity cards in this country. How is one to prove, if one is not a white person, that you belong to this country? I am sorry to say this, but I remember that in the early 1980s, when we had to change the passport, there was the question of people born abroad—expatriate sons and daughters. They were accommodated through a grandfather clause: if their grandfather was all right, they were all right, and they did not have to leave. Obviously, a great injustice has been done, and the apology is just not good enough.

Baroness Williams of Trafford: I cannot disagree with the noble Lord, and that brings me back to the point I made to the noble Lord, Lord Kennedy: that perhaps we did not think about identity assurance as clearly as we should have back in 1973, and it is becoming all the more important. It is up to us as a Government to ensure that people are provided with that and that they are able to prove their right to be here, to live, to work and to rent, and so on. The noble Lord is absolutely right, but that identity assurance will become more and more important.

Afghanistan

Question for Short Debate

7.24 pm

Asked by Baroness D’Souza

To ask Her Majesty’s Government what plans they have to review United Kingdom assistance to Afghanistan; and what assessment they have made of the prospects for peace in that country.

Baroness D’Souza (CB): My Lords, I begin by declaring my interests as set out in the register.

In the last decade or so it has become the sometimes unspoken view that Afghanistan is a lost cause. It is excessively poor, tribal, corrupt, still thick with warlords fighting for territory, and, above all, a haven for both the Taliban and Daesh, with consequent violence, civilian deaths and the continuing degradation of women. Some of this is true but much has changed in the years since the Taliban regime was routed by the US and other forces in late 2001. Today, I should like to cover some of the factors preventing further change and, having looked at what works, to ask the Minister how UK assistance is helping to tackle the root causes of Afghanistan’s instability.

Work on state building clearly demonstrates that sustained development cannot occur in the absence of an effective state—one that derives legitimacy from performing specific functions in the economic, social and political arenas. It follows that international assistance must at all times support the state in its functions. Sadly, much multilateral and bilateral aid is often counterproductive in that it undermines the authority and, thus, the legitimacy of the state. It could be said that it is the duty of the international aid community to do all in its power to establish legitimacy, most particularly when the use of force has reached its limit. Ideally, outside agencies should perform a specific function defined by the recipient Government, for a limited time and with a clear process of handover.

The reality is different. There is too much evidence of reckless spending, poor accountability—or even a critical lack of it—hastily prepared short-term responses, mismanagement, thousands of projects without any systematic agenda, and the assumption of functions that belong rightly to the state. Projects that are externally driven, poorly designed, co-ordinated and managed, with little connection to the national system are sources of waste and corruption and can directly undermine state institutions.

Development can be defined as a reduction in poverty, morbidity and mortality, especially in children, as well as a decrease in corruption, an increase in literacy and the expansion of production and entrepreneurial projects. Following that come democratic institutions and a dependable contract between the state and the individual, resulting in consistent and just treatment.

The necessary and sufficient conditions for this situation to emerge depend on a number of factors but importantly, according to the newest research, investment in infrastructure, including communications, water, electricity and sewerage, is vital. Of these, the key factor is communications, meaning tarred roads, transport and cell phone services. An infrastructure deficit penalises growth and development. Recent research indicates that those on the electric grid show a reduction in hunger of some 30%, and this outcome is largely replicated in figures for access to cell phone services.

Afghanistan is among those countries with the poorest growth in infrastructure. While the Government recognise the need, the difficulties in bringing about sustained infrastructural development are many. To begin with there are three partners involved: the donor, the relevant government ministry and the contractors. Donors tend to favour short-term projects with restricted funding, but too often with ambitious schemes. Government departments do not have either consistent construction standards or the capacity to monitor building safety. Contractors are usually from the West and, most importantly, do not budget either for training of locally employed staff or for maintenance. The result is a huge missed opportunity to train engineers, for example, who could then be involved in the upkeep and replication of major projects.

So, while it is acknowledged that economic growth is the key to counteracting insurgency and itself depends on a functioning infrastructure, Afghanistan remains woefully underdeveloped. An example concerns a widespread agreement between the Afghan Government

and the donor community for the construction of a ring road to connect major cities, with a significant impact on economic development, social integration, political stability and service delivery. However, each section of the road was managed by separate contractors, resulting in endless delays and confusion, and the opportunity for regional co-operation—with Uzbekistan or Iran, for example—was missed since the contractors were predominantly western. Five years after its inception the road remains unfinished.

Of course, there have been welcome developments. It is claimed that Afghanistan has the potential to become economically self-sufficient with infrastructural investment. For example, Khan Steel has reduced the country's steel imports by 33% with a \$35 million investment. Furthermore, just under \$900,000 spent on an air corridor with India increased agricultural exports by \$30 million in 2015-16.

Building infrastructure might tick all the soft-outcome boxes—how many patients a new hospital can service, the number of lives saved and how many local jobs are created—but the safety of the structure in, say, a seismic zone, which Afghanistan is in, and the amount of training it will provide are left out, as is the national picture. Where, for example, it would be most cost-effective to build dams depends on the topography of the country, but regional interests intervene to undermine such rational planning.

The issue it seems is not more, or less, aid but the right kind of strategic aid. Between 2016 and 2020 the Department for International Development will have spent some £0.75 billion pounds on healthcare, education, safe drinking water, the creation of jobs and tackling corruption. The UK lists among the gains some 6 million children now attending school, up from 1 million in 2001; access to healthcare is up from 9% to 50%; maternal mortality has halved; and life expectancy at birth is higher than it has ever been in that country. More broadly, there is a written constitution and a democratically elected Government, and Afghans now have an unprecedented voice in how they are governed, nationally and locally. These statistics are impressive but are the programmes having the intended impact?

The gains are undermined by a number of new demographic factors, the failure of too many programmes in rural areas and the continuing insurgency and corruption. There has been the emergence of a new generation of highly educated young Afghans who now work in the media, the private sector, civil society and government. They are, and will be, the leaders of change but their number is tiny when compared to the youth bulge in Afghanistan today. The massive investment made by international donors in the early 2000s was too often misguided. The major multilateral organisations, for example, believed that secondary and certainly tertiary education was too ambitious for Afghanistan. As a result, there is a dearth of professional, vocationally trained, skilled young people equipped to enter the modern knowledge economy. The skills required for management and leadership do not come about in the absence of a first-rate system of higher education.

Even primary schools have fallen far short of what was promised and claimed. Despite government incentives, teachers are poorly trained and in some cases not

[BARONESS D'SOUZA]

trained beyond basic primary levels; schools in rural communities either do not exist or have fallen into disrepair; and parents remain reluctant to allow daughters to remain in education, which is still not compulsory beyond primary school. Indeed schools are not equipped to cater for adolescent girls.

A 2017 Human Rights Watch report cites worrying statistics. Sixteen years after the US-led military intervention and countless millions of dollars later, only an estimated third of Afghan girls go to school, and even this figure is decreasing. Forty-one per cent of schools do not actually have a building, nor is there transport to bring children—again, especially girls—to schools. Only 37% of adolescent girls are literate, as compared to 66% of adolescent boys. Given that it is now established beyond doubt and the world over that educating girls promotes development, these are very serious gaps.

The President, Ashraf Ghani, himself recently inveighed against some of the major donor programmes and their failure to create fundamental progress. Afghanistan, he laments, lags behind in all the MDG and SDG goals, despite generous international support. He cites NGO reports of women's health which exaggerate achievements. Who, he asks, measures the outputs, how much duplication is there, how sustainable are projects and what are the overhead costs? Ashraf Ghani advocates—even pleads for—an aid system united around a single flow of financing and rules.

Up to 2015 there had been a decade of transformation—political, military and economic—presidential elections, the withdrawal of most international forces and massive amounts of foreign aid. However, humanitarian and development assistance cannot be said to have been highly effective. For example, despite the massive foreign aid and military strength, Afghanistan has in the last decade become the world's largest producer of heroin.

The news has moved on but conflict and insecurity continue and even increase. Afghanistan's insecurity creates a haven for terrorism and a continuing stream of refugees, and is one of the main factors imprisoning the country in a state of poverty. There are many complicating factors to any immediate solution. While we cannot dismiss the killings perpetrated by the Taliban in cities, with appalling death rates, in May 2018 the UK Minister Gavin Williamson openly called for talks with the Taliban to secure peace. Others in the international community now see that dialogue with the Taliban is a way forward. A June 2018 ODI research report notes the remarkable degree of co-operation between the Taliban and the Government through various ministries and at provincial levels.

Once the NATO troops began to draw down in 2015, the Taliban became more organised, reasonable and committed to services at the local level. In the words of one Talib: "With international troops leaving, we could be less warlike and we could focus on government". Before this, many believed that to provide services was to support the infidel West and a puppet Government in Kabul. Today, in many districts, it is the Taliban that enforces teacher attendance at schools, reporting to the Ministry of Education. The Taliban

sets the rules in vast swathes of the country with the full compliance of the Government. In seven provinces and over 20 districts, the Taliban controls and exerts influence over service delivery, collects taxes and provides receipts, provides local courts for local community dispute resolution, encourages vaccination programmes and puts pressure on government to supply better-quality healthcare.

Bad governance is the root cause of conflict and functioning institutions are the key to stability. If we acknowledge these key factors in achieving greater degrees of security and economic growth, it is depressing to see how far major donors depart from these criteria. Let me end with the words of President Ashraf Ghani himself:

"To address the most serious of the world's problems ... poverty and global terrorism ... the aid system must orient itself around the task of building effective, functioning states".

7.36 pm

Baroness Hodgson of Abinger (Con): My Lords, I thank the noble Baroness for having introduced this debate so ably and for bringing such an important topic to the Floor of this House. This is a critical time for Afghanistan. While the UK has been involved with the country for the past 17 years, Afghanistan is no longer in our media headlines—other conflicts have grabbed public attention. However, the contribution of the UK and other international partners is still vital to ensure that Afghanistan transitions to stability.

I have visited Afghanistan twice this year and know without doubt that lack of security is the most pressing issue holding the country back. The UN announced that more than 10,000 civilians were killed or injured in Afghanistan last year for the fourth consecutive year. These are stark statistics and do not reflect the misery that is caused. In spite of all the money given and lives lost, peace continues to be elusive.

While it was recognised that there was no purely military solution to the situation, it was clear that any long-term resolution needed to be Afghan-led. The drawdown of UK and US combat troops in 2014 led to a resurgence in the power of the Taliban, with BBC research in January suggesting that the Taliban is now openly active in 70% of the country. The situation has become further exacerbated with the emergence of Daesh. Even in Kabul, with its strong security, there has been a number of devastating attacks, with many lives lost. All these incidents have further aggravated the ethnic divisions that complicate the politics of Afghanistan. This insecurity strengthens the cause of the Taliban. A recent study showed that, in spite of efforts to address extremism, violent groups are even managing to radicalise students in Herat and Kabul universities.

In recent years, the peace process appears to have stalled. However, in June this year, there seemed to be a breakthrough when the Taliban announced a three-day ceasefire with the Government forces, coinciding with Eid. There were jubilant scenes in some cities, with Taliban fighters being welcomed and posing for selfies with the soldiers. However encouraging that was, sadly the Taliban refused to extend the truce. The public determination to end hostilities was strongly demonstrated

by a convoy of 80 civilians on a 400-mile peace march from the capital of Helmand province, Lashkar Gah, to Kabul, but the situation seems to have reached something of an impasse.

The 40 years of conflict have disproportionately affected women, and Afghanistan is still acknowledged to be one of the worst countries in the world to be a woman. While in the 1970s the women in Kabul wore mini-skirts and looked very similar to women in Europe, today many on the streets wear the iconic blue burqas. In spite of the Elimination of Violence against Women law being passed in 2009, which it was hoped would improve the protection of women, in July this year the Afghanistan Independent Human Rights Commission said that 85% of women and children face some sort of harassment.

I have had the honour of attending the First Lady's symposium for the past two years. Last summer, I was very struck by listening to an Afghan psychologist talking about how difficult it would be to achieve peace in Afghan communities because of the conflict within Afghan families, and the fact that the majority of small children had witnessed domestic violence. We know from research here that children who witness domestic violence often grow up to become perpetrators themselves. However, in spite of all, we should recognise that there has been great progress for women in Afghanistan since 2001. Under the Taliban, almost no girls were in school, but today many more girls receive education. I declare an interest as I am a patron of Afghan Connection, a wonderful NGO that builds schools in Afghanistan, particularly in the north-east. Yet, as the noble Baroness, Lady D'Souza, has already said, for all the millions of pounds that have been spent on girls' education, conditions in many schools remain rudimentary. In addition, I have heard accounts of girls being threatened on their way to school, causing them to stop attending.

However, many women in Afghanistan today, in spite of all the threats, now take part in public life. There are Afghan women in the armed forces and police, women judges and lawyers, doctors, ambassadors, teachers, civil servants and in many other professions, and currently 28% of MPs are women. There can be no doubt that long-term stability and prosperity in Afghanistan will be enormously aided by women and girls being able to make a full contribution to business, political and civic life. I particularly pay tribute to the role played by the First Lady who has bravely spoken out to support women and girls in Afghanistan, and has held five symposiums focusing on issues for women. It was my privilege to host her in this House during her UK visit in June.

To have peace in Afghanistan it needs to be peace for everyone. When I was in Kabul in January, I helped to launch the UK National Action Plan on UN Special Resolution 1325 at the British Embassy. This is the fourth UK national action plan and Afghanistan continues to be one of its focus countries. Afghanistan now has its own national action plan for Resolution 1325. That is a great achievement.

Evidence that gender equality is essential to building peace and security has grown substantially since UN Security Council Resolution 1325 was adopted in

2000. In fact, a greater involvement of women in peacebuilding increases the chances of longer-lasting, more sustainable, peace. Thus, including women's meaningful participation in peace negotiations and reconciliation processes is essential. Peace and security for all will never be achieved if the needs of half the population are ignored.

So how do we ensure that women will be able to play a meaningful role in any forthcoming peace processes? The High Peace Council established in 2010 has not yielded results and in some areas, I gather, has caused a backlash. While women were appointed, I am told that they have often been ignored. No doubt before a formal peace process, deals will be done behind closed doors. How do we ensure that women's voices are heard? The whole peace process seems opaque and some have concern that the High Peace Council is symbolic rather than active. While it is understood that most factions, including the Taliban, want peace, there is no road map, and it would appear that there are divisions in the Taliban—and, of course, the Taliban is not the only militant group, with Daesh now causing many attacks. The picture is confusing. There are reports of the Taliban rejecting the Afghan Government's request for peace talks and, at the same time, there are reports of the US agreeing to negotiate directly with it, or to act as a mediator. Given the present US Administration, I wonder whether this would really be an acceptable solution. Can the UK Government help to persuade the new Administration in Pakistan to assist and ensure that terrorists are not given a safe haven over the border?

I congratulate our Government on continuing to offer vital support to Afghanistan at what is a critical time. Unless this support from the international community continues, there is a very real danger that the country could roll backwards. We now have 1,100 troops there in training and protection roles, and when I was in Kabul last year I visited the Afghan National Army Officer Academy, which was set up by the UK and modelled on Sandhurst. It is helping to train officer cadets, both men and women. More than 100 women have now graduated as officers, which is a fantastic achievement, with a woman cadet last year winning the sword of honour. The UK has been helping in many ways, including with education for girls, political inclusion and accountability, and helping to reform the security sector. It is vital that Afghanistan should build strong institutions and has robust law and order, and the issue of corruption also needs to be addressed.

To conclude, this is a crucial time for Afghanistan, and I was therefore pleased to hear that at the UN Security Council in January, the UK made it clear that our enduring commitment to Afghanistan is unwavering. However, it is very difficult for the country to move forward until the security situation is dealt with effectively and a clear peace process is established. I ask: is there more that we can do to help with this?

7.46 pm

The Earl of Sandwich (CB): My Lords, I warmly congratulate my noble friend—both as a friend and as a fellow member of the All-Party Parliamentary Group

[THE EARL OF SANDWICH]
for Afghanistan—on focusing on this important issue. She also knows a good deal from personal experience of education and human rights through regular visits, as we have heard. She says that there is a great potential for development in the country and I am just sorry that there are not more of us here to listen to her and to the noble Baroness, Lady Hodgson. However, we are a robust group all the same.

If you are someone who looks at the world through a prism of cricket, as I do, this is a time of celebration in Afghanistan. The Afghan team has enjoyed a successful summer, ending with Ireland's defeat by eight wickets and the launch last week in Dubai of the Afghanistan Premier League. The MCC has been helping, and besides international fixtures, if it goes ahead with plans for teams from Kabul and other cities, playing in places like Khost as well as in the UAE, this would be a tremendous encouragement to such a stricken nation.

My noble friend has alighted on a country with one of the UK's most difficult aid programmes and she has asked about the prospects for peace there. We talk about post-conflict countries, but Afghanistan is one of those that is seemingly in perpetual conflict. We all know now that after 2001, NATO gambled heavily on its superior force and we followed the US almost blindly into Helmand, as we did in Basra, with some terrible results. But this debate must also show how much good we have been able to do alongside and since our military intervention. In particular, we must send our good wishes to the 440 Welsh Guards and others who are embarking for Kabul at this time.

The Government's Conflict, Stability and Security Fund came under scrutiny in March when the independent watchdog ICAI published its first report based on six case studies. Afghanistan was not among them, but perhaps it should be next time. One conclusion drawn was that,

"there is little reliable data on whether CSSF projects are achieving their intended results or delivering value for money. The problem is not just one of demonstrating results: unless the CSSF clearly articulates what it is trying to achieve and how, and monitors progress towards its goals, it is unlikely to achieve results commensurate with the level of investment".

The Minister will know that Her Majesty's Government take ICAI reports very seriously. Indeed they have already accepted many of the recommendations in the report, not least because it carried an amber warning. I bring this up now because it is quite possible that if the CSSF generally does not know what it is doing, this may also characterise the Afghan programme, which is, after all, the largest in its portfolio. The conflict fund in its various forms has had a chequered history. We do not want dissipation of aid funds because they lacked management and direction.

I cannot say much about the Ministry of Defence's contribution and NATO's commitment except that they remain in both cases firm but under considerable pressure. As we have heard, the Sandhurst academy has continued to train Afghan officers; I am delighted to hear about the women cadets. Even the smaller and warier NATO members evidently value Afghanistan as a training ground for their forces, including countries such as Georgia at a time when Russia has put eastern Europe on standby.

On the more familiar side of aid, namely education and health, HMG have a higher score of success, as we shall hear from the Minister and have already heard from my noble friend. Of course, conflict remains the main obstacle to development in many areas. I will not rehearse the atrocities of this summer, some of which—notably those in Kabul and Ghazni—are reported here. As mentioned by the noble Baroness, Lady Hodgson, the mid-June ceasefire was observed by the Taliban, then broken by not just the Taliban but another merciless attack by Daesh. It is fair to say that away from main roads, which are mainly government controlled, the country is divided into so many districts within provinces that loyalties vary all the time. Where there is fighting, every community has to accommodate whoever is in charge at any one time. This is how the poor survive: through obedience to authority. Any outside helpers also have to adapt accordingly. We have heard that there is also government compliance with Taliban control.

It is still possible for aid agencies to work in areas of conflict, even where official aid agencies try to avoid them. One way to find out what is happening is to consult the British & Irish Agencies Afghanistan Group, which is in close touch with both Afghan civil society groups and international development NGOs. It is also a valuable secretariat for our all-party group with a counterpart European network called ENNA based in Brussels. There are some outstanding NGOs, such as the Aga Khan Foundation, which has a long record in education and health and is active in seven northern and eastern provinces. Another is the Turquoise Mountain Foundation, based in Kabul, which seeks to restore traditional Afghan skills in the arts and culture. I have visited both of them. We have heard about the Afghan connection, which I did not know about. Many of these NGOs are doing good work.

However, my noble friend asks a critical question about peace, and no doubt the Government will refer to recent peace initiatives. Last month, our ambassador said:

"Now is an exciting moment. A moment of rare hope".

We must pray that he is right. To me, this also highlights the degree of courage and tolerance of aid workers who are close to the front line or otherwise at continual risk of losing their life. Peace on a national scale will always be hard to achieve as long as money is flowing into the country from the Gulf or from lucrative sales of poppies to fund violence.

At a local level, people tend to find narrow ways through conflict and corruption, which can bring temporary prosperity even for a limited period. A report published in March by ATR Consulting, *Aid Effectiveness in Afghanistan*, makes a useful point that has to be repeated in almost every aid environment: development strategies need more Afghan ownership. It is not surprising that it says this, given that the report is sponsored by Oxfam, CAFOD and a Swedish NGO. It is much easier for NGOs than Governments to encourage local ownership, but they must go on saying it. In the last decade, despite falling aid, the Afghan Government have tried to develop a reputation for aid effectiveness, according to the report, yet decisions are made largely by over 30 donors outside the country.

The current strategic plan, called the Afghanistan National Peace and Development Framework, guarantees that at least 50% of development aid passes through the Government's core budget into 11 different national priority programmes. Afghanistan, therefore, remains a client state so long as the international community goes on supporting it. I think it should. Nevertheless, the UK and other NATO allies must continue to build on Afghan talent and initiative, or there can be no end in sight.

The new Prime Minister in Pakistan, Imran Khan, was a supporter of Save the Children. He knows a good deal about the value of NGOs and on-the-ground development. We hope that he will have more understanding of Afghanistan and possibly more influence than his predecessors had on the army's and the ISI's secret role. I put it no higher than that because it would be difficult for the Minister to comment at such an early stage in his administration.

7.55 pm

Baroness Northover (LD): My Lords, I too thank the noble Baroness, Lady D'Souza, for securing this debate on the prospects for peace in Afghanistan and for opening it so effectively. She has a long track record of involvement in Afghanistan, as have the noble Baroness, Lady Hodgson, and the noble Earl, Lord Sandwich.

The action in Afghanistan in 2001 had international support, unlike that in Iraq later on. I recall my noble and much lamented friend Lord Garden—with a depth of experience drawn from his long service in the Armed Forces and his strategic overview from heading Chatham House—saying in 2006 that sustained engagement in Afghanistan would need to last at least 30 years, if not much longer. Yet, as he predicted, it was not long before countries were pulling back, in part distracted by Iraq. NATO allies in Afghanistan never worked properly in concert with each other.

My noble friend Lord Ashdown—again with wide experience, particularly of the Balkans—emphasised that the first aim of the country must be to achieve security. Only then could the country be rebuilt. That security has not been achieved and the country has not been rebuilt.

There have been occasional bouts of optimism. I recall the then Prime Minister, Gordon Brown, confidently predicting the eradication of the poppy harvest by around 2012. Some politicians seem to claim that troops can be brought home, as the job is done. For others it has been a source of pessimism, or an area of the world they do not wish to think about.

I note that the current Defence Secretary is now emphasising the number of homegrown possible terrorists who go to Afghanistan to train and then return to the United Kingdom, posing a threat to us here. He doubtless wishes to convey that Afghanistan matters to the UK and is not some far-away conflict that need not trouble us. However, there is little public appetite for engagement. So much of our current political discourse is taken up with Brexit that little else surfaces.

There have been so many debates about development being essential to peace in Afghanistan. The noble Baroness, Lady D'Souza, pointed to its strengths—but

also to how flawed its delivery often is. Initially, it was argued that it was too difficult to defend the rights of women. Hillary Clinton made it plain that half the population could not be excluded and, eventually, it came to a point where about the only gain in Afghanistan was in the rights of women. As the noble Baroness, Lady Hodgson, indicated, this had its limitations.

Clearly the American engagement in Afghanistan is of vital significance and Trump is, of course, very unpredictable. Anthony Cordesman describes Afghanistan as a war of attrition. He argues that the peace talks are an extension of war by other means. He states:

“If the US has any real strategy in Afghanistan, it seems to be fighting a war of attrition long enough and well enough for the threat to drop to a level that Afghan forces can handle or accept a peace settlement credible enough for the US to leave”.

He goes on to argue that after 17 years of combat,

“no one at any level is claiming that enough military progress has been made in strengthening the ANSF enough for it to win”.

He also maintains:

“No one is making any serious claims about success at the civil level in terms of politics, governance, and economics”.

Noble Lords have indicated that perhaps more progress has been made there than he suggests. Cordesman continues:

“Hope for the civil side seems to rely on the theory that if you attempt enough reform plans, one may eventually work. This is a literal triumph of hope over experience”.

He notes “deeply disturbing parallels” between the current situation in Afghanistan and the Vietnam War, pointing out:

“The North Vietnamese understood that they could keep fighting and win once the U.S. left ... The U.S. underestimated the outside support North Vietnam would continue to receive. It ... overestimated how well the South Vietnamese forces could hold on”.

In addition, in the US at the time, there was,

“a near denial of how badly divided the Vietnamese government was, how corrupt and ineffective the government was at both the civil and military levels, the level of economic strain on the country and government, and how ineffective the shell of a democracy was in actually motivating and uniting the people”.

We can see why he sees parallels.

I pay tribute to the NGOs and other agencies that noble Lords have mentioned which continue to work in Afghanistan, often against the odds. I read with enormous interest the latest issue of the Conciliation Resources publication *Accord*, entitled “Incremental Peace in Afghanistan”. Editors Anna Larson and Alexander Ramsbotham describe,

“the need for a radical change in approach to move beyond peace rhetoric in Afghanistan through a progressive, step-by-step process towards political settlement, which builds stability, confidence and legitimacy over time”.

They argue for two phased objectives. The first, in the short term, is to reduce violence, which they state,

“inevitably involves a central role for the conflict parties, principally the Taliban and the Afghan government”.

Their second, long-term, objective is,

“to achieve a more broadly inclusive social contract representative of all Afghans which is only achievable with involvement and ultimately endorsement across Afghan society”,

to which the noble Earl, Lord Sandwich, referred. This strikes me as depressingly familiar, if clearly right. The authors argue that drivers of conflict include

[BARONESS NORTHOVER]

a well-established war economy. The Taliban and the Afghan Government fight on, having secured sufficient external backing on both sides to do so. Underlying the violence are,

“persistent political disputes over how power is shared and how future reforms are configured”.

Yet, perhaps encouragingly, most parties acknowledge that war can end only through a negotiated settlement. President Ghani’s offer to the Taliban of a political process is of course welcome—other noble Lords have referred to it. The Taliban appears divided on this and some pro-government Afghans do not want to share political power or fear compromise on human rights. Women’s rights might be a casualty.

The *Accord* authors also point to the need to balance the centre and periphery. They note that previous sub-national peace efforts have often been undermined by resistance from central government and from Taliban central leadership. No one wants to cede power.

Despite these failures, the *Accord* authors suggest that local initiatives could be a place to start. What support are the Government giving to President Ghani’s peace initiatives, including his offer of dialogue with the Taliban and subsequent offers of ceasefires? What steps are the UK taking to encourage the Taliban leadership and the movement more broadly to move towards a political dialogue with the Afghan Government? How do the UK Government plan to work with partners to build momentum in these areas? What is the Government’s strategy if the Taliban leadership does not seriously enter negotiations? What other routes to peace are being pursued? How do we ensure that peace processes are inclusive so that women as well as men are involved, as the noble Baroness, Lady Hodgson, emphasised?

The conflict in Afghanistan has proved extremely intractable, but we cannot walk away. Perhaps the main hope should be that this seemed also to be the case in Northern Ireland, in the Balkans and in Vietnam itself. Conflict is not inevitable, even if the interests of some in Afghanistan and elsewhere seem to be in its perpetuation rather than its cessation.

8.04 pm

Lord Collins of Highbury (Lab): My Lords, I too thank the noble Baroness, Lady D’Souza, for initiating this debate and for her excellent introduction. Of course, what we have in Afghanistan is a country that has faced more than 40 years of conflict, which has left the country one of the poorest and most fragile in the world. Two critical concerns at the moment are that, once again, the country could become a haven for extremism, through Daesh, and that huge numbers of Afghans may continue to become displaced and leave to become migrants. The challenges are acute, with approximately 12.5 million Afghans living below the poverty line and 1.5 million returning refugees or internally displaced people in 2017 alone.

There has been a regular cycle of development conferences on Afghanistan. International Governments have reaffirmed \$15.2 billion of assistance through to 2020, in exchange for progress and reforms from the Afghan Government. As we have heard in the debate,

with increasing insecurity and the large numbers of returnees, there will be a need to hold the Afghan Government accountable for how the \$15.2 billion is spent. We need, as the noble Earl, Lord Sandwich, said, to redouble our efforts to strengthen civil society.

DfID says that it works closely with other government departments in Whitehall—the FCO, the MoD, the Home Office, the National Crime Agency and the Cabinet Office—to achieve results. We also co-ordinate with other international donors, working with them on programmes on anti-corruption. Can the Minister tell us what form this cross-Whitehall work takes? Which Minister is taking the co-ordinating responsibility to ensure that what DfID spends is monitored to ensure that there is no corruption?

As my noble friend Lord Tunncliffe said just before the Summer Recess, Afghanistan is a better place as a result of our efforts. We have achieved this through co-operation with our NATO allies. At this point I pay tribute to those who have served in Afghanistan, remembering in particular the 456 service personnel who have died and those who have suffered life-changing injuries. While the Afghan Government control 65% of the country, insurgent groups operate in around 12%, as we have heard, with the remainder being contested. Noble Lords have referred to the fact that in July we had the announcement that the 650 Armed Forces personnel will rise to 1,100 by early 2019. The US has around 15,000 troops in Afghanistan and has increased its use of air strikes. It recently called on the UK and other NATO allies to send reinforcements.

The noble Earl, Lord Howe, in announcing this increase in personnel, told your Lordships’ House that all NATO allies were agreed that we will continue to support the Afghan National Defense and Security Forces until these forces are able to protect the people of Afghanistan without support from international forces, and progress has been made on a peace process. This reflected the earlier comments of the US Deputy Secretary of State, who pointed out that the commitment to Afghanistan must be conditions-based and not driven by timelines. No matter how keen we are to impose timelines, it would be a mistake.

We know what the UK Government are doing in supporting the Afghan people, helping with access to healthcare, education and safe drinking water, as well as creating jobs and economic development, and tackling corruption. The UK pledge to 2020 depends, as I mentioned, on security conditions and the Afghan Government’s performance—but how are we measuring performance? The UK helped the Afghan Government to establish the Anti-Corruption Justice Center to investigate and bring to trial high-level corruption cases. Will the Minister tell us what the current assessment is of the work of that centre and what outcomes there have been?

Despite the bad headlines and the obvious concerns that we have heard, there has been progress in Afghanistan. I pay tribute to the work of the noble Baroness, Lady Hodgson, on this. Women have gained since the fall of the Taliban and, as she said, the 2004 constitution enshrined gender equality in law and, through the quota system, has resulted in 28% of seats in the national Parliament being held by women. But, as she

highlighted so well, this progress is fragile, and the impact of the Taliban regime continues. Because of that, now is the time not to retreat but to redouble our efforts on women's rights. Now that Britain's combat role is over, some may think that our scope for influence has narrowed—but it has not. It is vital that we use our development spend to ensure that that progress is fully maintained.

Mark Field said at the beginning of the year that the solution to long-term peace and stability lies not within the military but in a peace process that is Afghan-led and Afghan-owned, reaching out to the insurgents to try to launch a credible peace process. Credible, inclusive and timely elections are also essential. Of course, Afghanistan will hold parliamentary elections in October, and the Afghan army will be braced for possible violence, especially considering the recent attacks on those attempting to register to vote. However, as part of the UK's announcement of new personnel, only around half of the new troops will arrive before those elections. So what is the Minister's assessment of Afghanistan's capability to protect voters during the upcoming elections? Throughout 2018, a series of Taliban and Islamic State suicide bombings have killed hundreds of civilians. There are concerns that these incidents could escalate in the run-up to October's elections. What assurances can the Minister give us that the Government are taking steps to ensure the safety of UK personnel, especially those without combat experience?

I referred to the Minister, Mark Field, who said at the start of the year that 2018 represented a year of opportunity. We are now nearly three-quarters of the way through that year. What is the assessment of the noble Baroness, Lady Goldie, of the prospects for ending the year with a credible political peace process firmly in place, so that Afghanistan can finally turn the corner to a more peaceful society?

8.13 pm

Baroness Goldie (Con): My Lords, I thank the noble Baroness, Lady D'Souza, for tabling this Question for Short Debate and for her very thoughtful speech, which was delivered with great authority. I also thank all noble Lords for their contributions. Before I respond directly to her questions, I take this opportunity to set the scene by reminding noble Lords of the reasons for the UK commitment to Afghanistan and to confirm what that support has helped to deliver.

Successive UK Governments have committed to help build a peaceful, prosperous and stable Afghanistan, working closely with our NATO partners not only because that is what the people of Afghanistan want, after decades of conflict, but because it is in the UK's national interest. An Afghanistan that is unstable and insecure presents a threat to the UK and to UK interests in the wider region—from terrorist groups such as al-Qaeda and Islamic State, drug trafficking and illegal migration, to other serious organised crime.

The support the UK provides to Afghanistan is crucial to building a stable state and reducing the threat to the UK; I thank my noble friend Lady Hodgson, who helpfully acknowledged that. The UK is working closely with the Afghan Government as

they seek to overcome the legacy of more than 40 years of conflict and become a more prosperous and stable state. I was grateful to the noble Lord, Lord Collins, who rightly reminded us of the duration of that conflict. It underlines what a challenging situation the Afghan Government and global partners are trying to resolve. Afghanistan is determined to work towards a better future and progress has been made since 2001—I think all contributors acknowledged that—but considerable challenges remain, particularly with regard to improving security, governance and sustainable development.

The noble Baroness, Lady D'Souza, asked how UK assistance is helping to tackle the root causes of Afghanistan's instability. I would like to deal with that under four headings: security, governance, development and supporting the path to peace. First, I want to pay tribute to the 456 British Armed Forces personnel and MoD civilians, as well as many others, who have made the ultimate sacrifice in Afghanistan. By continuing to support the Afghans on their path to a secure and stable state, we are ensuring that their sacrifices were not in vain. I thank the noble Lord, Lord Collins, for alluding to that.

Afghanistan continues to face significant security challenges. NATO's combat mission ended in 2014. UK troops now serve in a non-combat role, as part of NATO's Resolute support mission, to train, advise and assist building the capacity of the Afghan national defence and security forces. As the lead nation for the Afghan national army officer academy, the UK has helped to train more than 3,000 cadets, including, interestingly, 150 women, intended to be the next generation of military leaders. That is important support and I know that a number of contributors recognised the security challenges confronting Afghanistan. At the NATO Summit in July, the Prime Minister announced an additional 440 troops, making the UK the third-largest troop contributor.

We also provide £70 million per year to ANDSF sustainment which funds Afghan police salaries and provides mentors to the Afghan security institutions and other key UK programmes. The Prime Minister announced at NATO our commitment to extend financial support through to 2024.

On governance, sustainable progress in Afghanistan will only be as strong as the political institutions underpinning it. The UK is a lead partner in supporting the Afghan Government's reform agenda. Reducing corruption is central to this work. Credible and inclusive elections that allow the Afghan people to exercise their democratic rights are vital for long-term stability. With the UN and international partners, we are also supporting preparations for the parliamentary elections in October and the presidential elections in April 2019. I think it was the noble Lord, Lord Collins, who asked specifically about what the UK is doing to support the elections in Afghanistan. We are working closely with the IEC, the Afghan Government and civil society to support that electoral process.

The development challenges—I think all contributors in some way referred to development—remain significant. Decades of conflict have stunted Afghanistan's economic development and, distressingly, more than half of Afghans live below the poverty line. We have pledged

[BARONESS GOLDIE]

up to £750 million in development assistance between 2017 and 2020, depending on the delivery of reform. Our support is making a real difference.

UK-funded projects created more than 50,000 jobs in the past financial year alone, and our education programmes have helped more than 6.4 million Afghan children to go to school, more than one in three of whom are girls. That was an issue raised by the noble Baroness, Lady D'Souza, and my noble friend Lady Hodgson pointed out the welcome number of women now emerging in important roles in Afghanistan—a point also made by the noble Baroness, Lady Northover.

This financial year, our humanitarian assistance is expected to support more than 1 million people. This includes emergency food for over 400,000 people at risk from drought. We support people forced to leave their homes by conflict or natural disaster, and we have also cleared landmines from 85 million square metres of land, thereby freeing it up for homes and farming.

The noble Baroness, Lady D'Souza, raised an important point about infrastructure. I reassure her that the UK acknowledges the importance of infrastructure. I understand that about half of the UK bilateral programme, which is directed through the Afghanistan reconstruction trust fund, is indeed intended to support infrastructure work.

The noble Earl, Lord Sandwich, brought to our attention the role of sport in Afghanistan—particularly cricket, on which I completely defer to him as an expert and about which I know a negligible amount. That was an interesting reflection on another aspect of life in the country. He also raised the important point of the Independent Commission for Aid Impact's report. We are pleased that the commission recognises that the conflict stability and security fund has become a flexible and responsive tool to support the UK's national security priorities. The commission also recognised that the fund has developed conflict analysis and technical expertise able to influence and co-ordinate international donor efforts. I reassure the noble Earl that, following the national security capability review, the fund has moved to a new joint funds unit, which will allow for greater strategic and ministerial oversight. Although it may seem a bit of an anorak statistic, we have trained more than 400 HMG staff in programme management to ensure that the fund has the right capability to deliver and design programmes. I hope that that reassures him.

On prospects for peace, ultimately, a political solution to the conflict is the only way to achieve lasting stability in Afghanistan and the wider region. I think that the noble Baroness, Lady Northover, specifically recognised that. Let me reassure her that the UK strongly

supports the efforts made towards this goal by the Afghan Government. The noble Earl, Lord Sandwich, spoke for us all in wishing that peace process well.

Recently, there have been unprecedented steps on the path to peace. At the Kabul process meeting in February, President Ghani made what most people regarded as a bold offer to the Taliban of peace talks without preconditions. This offer was endorsed by the international community. Then, in June, there was the first national ceasefire between the Taliban and the Government since 2001. The UK, alongside international partners, is working closely with the Afghan Government to support that process.

My noble friend Lady Hodgson realistically recognised the challenges. I have to say that an end to violence is still a long way off, and a lasting peace settlement will require courage, patience and compromise from all sides.

In all of this, a process of review is vital. In co-ordination with our international partners, the UK regularly reviews our development assistance to ensure it is as effective as possible. The *Self-Reliance through Mutual Accountability Framework* sets out the agreement between donors and the Afghan Government for necessary reforms.

The Geneva conference on Afghanistan, to be convened in November this year, will be an opportunity for donor countries and the Afghan Government to take stock of progress and ensure that plans remain on track.

I think the noble Lord, Lord Collins, raised the issue of anti-corruption and the question of the ACJC, which was launched in 2016 to investigate, prosecute and adjudicate in serious corruption cases. I understand that as of 29 May this year, 35 trials have been heard and 142 defendants found guilty, and to date, 553 cases have been referred to the ACJC by various institutions. Corrupt networks facilitate much of the narcotics trade and can facilitate irregular migration. That is why the UK is wholly committed to supporting the redoubled efforts of President Ghani and the Government to build an institution that can deliver justice for the Afghan people.

To conclude, we remain committed to supporting Afghanistan because we know that our assistance is crucial to achieving its transformation to a stable and peaceful state, as well as to reducing the threat to the UK. We remain committed to providing this support, with regular reviews. We are encouraged by recent positive developments towards a potential peace process, but there is still a long way to go. We are committed to a future Afghanistan which is peaceful, prosperous and secure.

I thank all noble Lords who have contributed to this debate. It may have been short, with a relatively small list of speakers, but I think the quality of the debate has spoken for itself.

House adjourned at 8.26 pm.

Volume 792
No. 178

Tuesday
4 September 2018

CONTENTS

Tuesday 4 September 2018
