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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

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

House of Lords

Monday 21 January 2019

2.30 pm

Prayers—read by the Lord Bishop of Worcester.

Television Licences: Over 75s

Question

2.36 pm

Asked by ***Lord Naseby***

To ask Her Majesty's Government what discussions they have held with the BBC about ending free television licences for those over 75 years old.

Lord Naseby (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare that I am over 75.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, the Government meet the BBC regularly to discuss a range of issues, including the over-75s concession. We know that people across the country value television as a way to stay connected with the world, and that is why the Government have guaranteed the concession until 2020. We have agreed with the BBC that responsibility for the concession will transfer to the BBC in 2020, and we have been clear that we want the concession to continue.

Lord Naseby: Is my noble friend aware that that is an encouraging Answer? Nevertheless, is it not time that the BBC faced up to the fact that it is a public service broadcaster, with a social responsibility to its listeners? Is it not a little surprising to have a consultation document of 50 pages-plus on the subject which seems to give the message that it is trying to wriggle out of that social responsibility? When it faced a not dissimilar problem for BBC overseas, when the Foreign Office removed the grant, the BBC took the decision to take advertising. We now have a situation where every hour of BBC broadcasting has three minutes of promos. Would that gap not be better used by taking advertising?

Lord Ashton of Hyde: My noble friend is completely right that the BBC should pay attention to its social responsibilities, and it does. However, in the consultation surrounding the renewal of the royal charter, only 1.5% of people said that the BBC should have advertising. One of the reasons why allowing it would not be an easy solution is that all the other public service broadcasters, which do not start the year with £3.8 billion in subsidy, would find it even more difficult to do their excellent job.

Lord Stevenson of Balmacara (Lab): My Lords, going back to the main point, this is a completely classic cock-up by the Conservative Party. It promised, in its manifesto, that this issue would continue until the end of the next Parliament—which I still think is 2022—but the new arrangements are supposed to take place from 2020. To compound the issue, the money runs out in 2020. If, as the Minister wishes, the BBC does continue to offer this arrangement, who is going to pay for it?

Lord Ashton of Hyde: When the funding settlement was put down in 2015, the BBC agreed to pay for it in 2020, in return for a five-year, index-linked settlement—the first time that had ever happened. The BBC has had four years to prepare for this; it knew it was coming. That is why we expect it to live up to what was agreed.

Baroness Bonham-Carter of Yarnbury (LD): If the Government persist in requiring the BBC, and hence the licence fee payer, to pay for the over-75s—a welfare benefit introduced by Gordon Brown and paid for by the Government—there will either have to be yet more cuts to its budget, and consequently to UK content at a time when PSBs are really under the cosh, or a rise in the licence fee which will have particular implications for lower-income households. Does the Minister agree?

Lord Ashton of Hyde: The BBC is consulting on a number of options, it has made those known and the consultation finishes next month—I am sure that noble Lords will want to contribute to it. The fact is that the BBC agreed a deal in 2015. We are not asking anything sudden; it has had four years to prepare for this and that is what they agreed to do. So I do not see why it is extraordinary to expect the BBC, a £5 billion corporation, to live up to the agreement it made in 2015.

Baroness Deech (CB): Does the Minister agree that the BBC would have plenty of scope to meet this cost if it slashed the exorbitant salaries paid to some performers and producers, not to mention their bonuses?

Lord Ashton of Hyde: Would that that were so. I agree with the thrust of the noble Baroness's question—the BBC has a duty to take seriously how much it pays senior managers and stars—but the cost of the over-75s' concession is about £750 million, and I am afraid that even reducing all salaries to zero would not achieve that.

Lord Dubs (Lab): My Lords, is it not true that the BBC was pretty well bounced into this? It was a decision made by the Treasury and not even DCMS knew about it until the BBC was forced to comply.

Lord Ashton of Hyde: If that was the case, why did the director-general say:

"The government's decision here to put the cost of the over-75s on us has been more than matched by the deal coming back for the BBC"?

Lord Wallace of Saltaire (LD): My Lords, following the principle of the noble Lord, Lord Naseby, that public service functions could be subsidised by advertising, are there thoughts within the Conservative Government that this principle could be extended further? Our police service has been quite sharply cut in recent years, for example. Does the Minister think that police cars could be encouraged to take advertising as well?

Lord Ashton of Hyde: I do not know whether the noble Lord was listening to the Answer I gave to my noble friend. I said that the BBC should not take advertising.

Baroness McIntosh of Hudnall (Lab): My Lords, following on from the question asked by my noble friend Lord Dubs, does the Minister agree, on reflection, that the way the agreement—which we all have to concede was an agreement—was arrived at was, to say the least, not very transparent and did not take very long to be sorted out? It appeared to come upon everybody very suddenly and without much discussion, which suggests a bit of a shotgun arrangement.

Lord Ashton of Hyde: The BBC is not a small organisation; it is a very sophisticated organisation. Up until the 2015 settlement, there was an almost permanent state of crisis because the licence fee was funded on an annual basis, so as soon as it was agreed one year, negotiations started for the next year. Partly for the benefit of transparency, the Government agreed a five-year index-linked deal to give the BBC time to organise itself so that it knew what was coming and was able to deal with the concession that it knew would come in in 2020. As a result, the Government agreed to phase in the support from DWP, which comes to an end in 2020. I think it was a reasonable deal that was agreed by both sides.

Health: Chief Medical Officer's Recommendations

Question

2.44 pm

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what steps they intend to take to implement the recommendations in the Annual Report of the Chief Medical Officer 2018, published on 21 December 2018.

Baroness Manzoor (Con): My Lords, in her most recent annual report, the CMO set out a compelling vision for the future of healthcare by 2040. The Government are carefully considering all the recommendations made in this annual report and, as noble Lords will know, have taken substantive and sustained action on the contents of all previous reports. Indeed, the *NHS Long Term Plan* is addressing many of the issues that are at the heart of the CMO's report, such as data, research and prevention.

Lord Hunt of Kings Heath (Lab): My Lords, I am grateful to the Minister for that Answer. She will know that the CMO's report was a devastating critique of the state of public health at the moment, showing wide inequalities in health, which have been widening under the current Government. She recommends strong fiscal action to increase taxes on tobacco and alcohol, as well as on foodstuffs with high contents of sugar and salt. The NHS England 10-year plan makes no mention of that. Will the Government accept the CMO's recommendations?

Baroness Manzoor: My Lords, as I said, the Government take very seriously the CMO's recommendations and in previous years have taken them on board. The Government are striving to address the inequalities, and, as we said in the Statement on the NHS plan, £4.5 billion is going into the preventive agenda through increased investment in primary medical and community care. We are addressing inequalities in obesity and are looking to reduce by 2030 the gap in obesity between children from the most and least deprived areas.

Lord O'Shaughnessy (Con): My Lords, one of the best ways to reduce health inequalities is to make sure that we have truly personalised medicine—which the CMO references in her report. She talks about health being transformed by 2040 by integrating biomedicine, technology and behavioural sciences. Can my noble friend say what the NHS is doing to embrace the innovations that will lead to this kind of healthcare?

Baroness Manzoor: My noble friend is absolutely right: emerging technologies will transform healthcare and are doing so already. Variables can transform the prevention, diagnosis and management of long-term conditions such as diabetes. Indeed, information from monitors worn by patients with atrial fibrillation can be downloaded by their clinicians. We are also looking at more creative solutions regarding artificial intelligence, which will go a long way to improving the healthcare of patients.

Baroness Finlay of Llandaff (CB): My Lords, given the target to halve childhood obesity in the areas of inequality, will the Government give urgent consideration to the recommendation that the soft drinks levy should be extended to sweetened milk-based drinks, and eliminate added sugar from commercial infant and baby foods?

Baroness Manzoor: My Lords, the Government have committed to review the soft drinks industry levy exemption for milk with added sugar in 2020, when we will have further information on the effectiveness of Public Health England's voluntary reformulation programme. On baby food, product ranges that target babies and young children are now part of the Government's reduction and reformulation programme.

Baroness Jolly (LD): My Lords, I think we all recognise the importance of the CMO's report and her recommendation that local government is supported to encourage healthier living through preventive health programmes. When funding given to councils for such preventive strategies is being cut by 4% under the long-term plan, how do the Government propose to honour the suggestions outlined in her report?

Baroness Manzoor: My Lords, the Government take prevention very seriously. As the noble Baroness will be aware, the 2015 spending review made £16 billion of funding available for local authorities in England over a five-year period. That is in addition to what the NHS spends on prevention, including more than

£1 billion in 2016-17 on our world-leading immunisation, vaccination and screening programmes. Of course, we also need to tackle wider detriments, which is why public health has been handed over to local authorities to look at wider determinates of ill health, including pollution, poor housing and the environment.

Lord Turnberg (Lab): My Lords, how can it be acceptable that today the poor end of our society is deprived of eight years of life compared with the most affluent end of society? Is it not time that the Government took a firm grip on local authority budgets for public health? I know that the Minister has talked about this issue but at the moment, people are still being deprived.

Baroness Manzoor: My Lords, of course it is not right that there are health inequalities between people who are poor and those who are not. The Government are endeavouring to do everything they can to reduce those inequalities. I have talked about the obesity plan; we are also looking at diet, information and working with local authorities to improve the wider detriments of ill health. We have a world-leading strategy on obesity and salt intake. In this House we have discussed issues such as fluoride and folic acid, on which the Government continue to work.

Baroness Chalker of Wallasey (Con): My Lords, will my noble friend agree to investigate thoroughly the care of elderly people in their own homes as opposed to admitting them to casualty departments? There is a difference not only in cost but in care when those people are helped in their own homes.

Baroness Manzoor: My Lords, my noble friend is absolutely right. We need to ensure that we get even better at looking at integrated healthcare so that elderly people are looked after in their homes with the services they need. That is why we are looking at putting £4.5 billion into the NHS every year to find creative solutions to keep older people in their homes.

Baroness Wheeler (Lab): My Lords, following on from my noble friend's question, some 85% of councils plan to reduce their public health budgets in the next year. Spending on obesity and sexual health programmes will be cut. How can the Government deliver their preventive health agenda or address the key issues raised in the CMO report in the light of all that?

Baroness Manzoor: My Lords, in answering the noble Baroness, Lady Jolly, I stated that we are working closely with local authorities to look at the wider detriments of ill health. We have put in place significant sums of money, including committing £20.5 billion to the NHS every year over the next five years. We are working closely with local authorities to see what works so that we can improve health in the local population. The lessons learned will be shared across the country.

Education: English Baccalaureate

Question

2.52 pm

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

To ask Her Majesty's Government what assessment they have made of the performance of pupils taking the subjects that make up the English Baccalaureate.

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

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, the Department for Education publishes school performance tables each year. Since the EBacc performance measure was first introduced in 2010, the proportion of pupils entering the EBacc has increased from 22% in that year to 38%. Research has shown that following an EBacc curriculum can increase the probability of pupils staying in full-time education and allows them to take facilitating subjects at A-level.

Lord Black of Brentwood: My Lords, I thank my noble friend for that Answer, but is not the truth that the EBacc is fundamentally flawed? The Government set a target of 75% of state-school pupils to sit it by 2022 but last year, as he said, only 38% did so. That figure has been completely static for five years and shows no sign of increasing to anywhere near the target. At the same time, the EBacc is destroying arts and creative subjects in state schools, with take-up of GCSEs in art, design and technology, drama, performing arts and, perhaps most worryingly, music—in other words, all the subjects needed to start a career in the creative economy—significantly down. That is a lose-lose scenario: all pain, no gain. Does my noble friend agree with Margot James, the Minister of State at the DCMS, that the impact on music and creative subjects is "very concerning" and that the EBacc bears some responsibility for that? If so, what will the Government do about it?

Lord Agnew of Oulton: I am afraid that I disagree with my noble friend. The EBacc has been transformational, particularly in helping disadvantaged pupils. In 2011, only 8.6% of disadvantaged pupils sat the EBacc, while in 2017 the figure had risen to 25.4%. As I said in my Answer, we know that this is of direct benefit to the number of disadvantaged pupils able to get into good universities. I reassure him that the hours spent teaching music have barely changed over the past seven years. Indeed, in 2010, 3.1% of teachers taught music while last year it was 3%. There were 2.4% of teaching hours given over to teaching music in 2010 and it was 2.3% last year. We have put great emphasis on the arts and do not feel that they are disadvantaged by the EBacc.

The Lord Bishop of Worcester: My Lords, one does not need to be an avid follower of the news to realise the huge impact that religion has for good and for ill geopolitically in our world. That is happening at the

[The Lord Bishop of Worcester]
same time as we see a level of unprecedented and increasing religious illiteracy in our own society. Does the Minister regret the exclusion of RE from the baccalaureate, given the drop in numbers studying the subject at GCSE? Would its inclusion not assist in community cohesion as well as in an understanding of our world?

Lord Agnew of Oulton: I do not agree with the right reverend Prelate that we should include religious education in the EBacc. There is tremendous demand from various quarters to include a number of different subjects, but we are adamant that all schools should teach a broad and balanced curriculum. That is further emphasised by the changes to the Ofsted inspection framework that will come into force in September. It will put particular emphasis on academies, which have not had the same level of requirement placed on them previously. However, they will now be judged in inspections on the teaching of a broad and balanced curriculum, which will of course include religious studies.

Lord Watson of Invergowrie (Lab): My Lords, following in the vein of the comments of the noble Lord, Lord Black, I offer the Minister a quote:

"Design and technology is an inspiring, rigorous and practical subject, Using creativity and imagination, pupils … draw on disciplines such as mathematics, science, engineering, computing and art … High-quality design and technology education makes an essential contribution to the creativity, culture, wealth and well-being of the nation".

I found that earlier today on the Department for Education website yet, since the introduction of the EBacc, GCSE entries for design and technology have fallen off a cliff by more than 50%. That is largely the result of government ideology, which now dictates that studying geography is somehow of greater relevance. I wonder if the Minister can explain the logic of that and, more broadly, how adopting the curriculum of a 1950s grammar school is likely to serve the needs of a post-EU economy and of our ever-changing working life?

Lord Agnew of Oulton: My Lords, there has indeed been a decline in the proportion of pupils studying design and technology, but great changes have been made to the subject. As I mentioned in response to a Question last week, we have created a different and additional subject called food preparation and nutrition, which has attracted 46,000 entries. It was part of the old design and technology course. We have worked with the James Dyson Foundation, the Design and Technology Association and the Royal Academy of Engineering on the content of the design and technology curriculum. However, in the spirit of collaboration with the noble Lord, I shall quote an eminent left-wing academic on the sociology of education, Professor Michael Young of UCL, who says that social justice demands that children from low-income backgrounds have as much access to knowledge as their advantaged peers.

Baroness Garden of Frognal (LD): My Lords, I will follow on from the question put by the noble Lord, Lord Black. Schools are currently rated and funded largely on academic criteria; that is, EBacc, GCSE, A-level and university entrance. However, the country is facing an acute shortage of people with creative and technical skills. What are the Government doing to incentivise schools to encourage not just their EBacc pupils but those who are technically and creatively skilled, to ensure that they fulfil their potential?

Lord Agnew of Oulton: My Lords, we have put great emphasis on the technical aspects of education through apprenticeships and T-levels. We have also carried out substantial reforms to technical education and the qualifications that go with it. In the past two years we have introduced technical award entries, which are designed to be more practical in their teaching, while in 2017-18 some 194,000 pupils entered for these vocational subjects. They include practical studies such as business, which had 29,000 applicants, while information communication technology had 51,000.

Brexit: Cross-Channel Transport

Question

2.59 pm

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government what assessment they have made of post-Brexit cross-channel transport planning exercises.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, the Department for Transport is undertaking a comprehensive and wide-ranging programme of work to ensure that we are prepared for the UK leaving the European Union. We will continue to work closely with other departments across government and with stakeholders to ensure appropriate contingency plans are in place for post-Brexit cross-channel transport. Until an agreement is reached, the Government will continue to plan for all eventualities.

Baroness Smith of Basildon (Lab): My Lords, 90% of UK trade is handled by our ports, so the Minister is right that Brexit planning is essential. But we had the farcical Manston exercise in which 89 lorry drivers pretended to be a Brexit convoy to Dover, where they take about 10,000 lorries a day; the Government have given a multimillion-pound ferry contract to a company with no ships, no staff, no premises and no port agreements; and the Road Haulage Association estimates that new documentation could take eight hours per truck. Do the Government have any further exercises like Manston planned, and how confident can the Minister be that those exercises help prepare for Brexit day? How confident is she that all these issues will be resolved by 29 March? Finally, is it not now essential that the Government rule out a no-deal Brexit?

Baroness Sugg: My Lords, the noble Baroness is quite right to point out the focus we need to put on the short straits, and that is what we are doing. As she pointed out, we carried out a live test at Manston on

7 January. Despite what noble Lords may have read in the papers, we can confirm that there were enough vehicles there to ensure the trial was successful, and it achieved its objectives. It was a useful exercise in helping us to understand the effect of potential traffic on that route and to ensure that both local traffic and freight can continue to flow. Of course, we will continue in our preparedness. Just last week, with 180 local attendees we carried out a tabletop exercise designed to explore some worst-case scenarios. If they are needed, all our arrangements for traffic management in Kent are fully functional.

Earl Attlee (Con): My Lords, does the Minister agree that it would be foolish indeed not to test and exercise a novel logistics system? Were sufficient vehicles available to test the flow rate through choke points in the new system?

Baroness Sugg: I agree with my noble friend. It is essential that we continue this contingency planning. The key local stakeholders in that case, in particular Kent Police and Kent County Council—we are also working closely with the Kent Resilience Forum on this—obtained the test results they wanted and were satisfied with the outcome, with Kent County Council describing it as a really helpful exercise.

Baroness Randerson (LD): My Lords, Eurotunnel alleges that the Department for Transport's agreements with the ferry companies compromise its contract with the Government. In reply to my Written Question, the Minister denied that but did not give any reason for that denial. What assessment have the Government undertaken of the impact on the Channel Tunnel of additional ferry services which, unlike existing ferry services, will be subsidised by the Government?

Baroness Sugg: My Lords, as you would understand, we have received numerous representations about the contract—not surprisingly, given the urgency of the procurement. We consider the contracts to be entirely consistent with the Government's agreement with Eurotunnel. The contract was awarded under the procedure provided for in Regulation 32 of the Public Contracts Regulations 2015, which implement the EU requirements. As the noble Baroness would expect, we are also working closely with Eurotunnel on plans for when we leave the European Union.

Lord Campbell-Savours (Lab): My Lords, will the Government subsidise the dredging of Ramsgate harbour? Also, to what extent are they relying on pre-lodged customs declarations to avoid delays at ro-ro ports?

Baroness Sugg: My Lords, the department is in discussions with Thanet District Council and Seaborne Freight to agree funding on the arrangements for the infrastructure works at the port of Ramsgate. On the customs modelling, as the noble Lord would expect, we have modelled the customs arrangements extensively. Of course, in the event of no deal it is up to the European Union what will be imposed by EU member states on the EU side of the border, and we are working closely with the French authorities to ensure that any disruption is kept to a minimum.

Lord Cormack (Con): My Lords, where will the tabletop exercise take place? Will the table be square or round? Are we accompanying it with a bathtub exercise to double up on Ramsgate?

Baroness Sugg: My Lords, the tabletop exercise has already taken place; it took place on 10 January and had 180 local attendees, so I am not sure how large the table was. The important thing is that we are ensuring that we work with all stakeholders who will be affected by this. We have been clear that in the event of no deal there will be some disruption and that is why we are working closely with all stakeholders and, indeed, France to ensure that we minimise that disruption.

Lord Berkeley (Lab): My Lords, has the Minister consulted the port of Ostend over this new ferry-less service from Ramsgate? Is she aware that the mayor of Ostend said last week that he would not accept a ferry under any circumstances due to the cost of security?

Baroness Sugg: My Lords, the port of Ostend is an operational ro-ro port, but nevertheless improvements are naturally required in order to bring all the necessary facilities up to date for the reinstatement of the Ramsgate route. The Government have no plans to provide any funding to the port of Ostend: that is a commercial matter for the port and for Seaborne.

Lord Naseby (Con): Is it not a fact that for our major hauliers in the west and east Midlands, who can either go south or north with their goods, not a single lorry leaves the depot until it is cleared by computer software? Once it is cleared they set off, so the scale of the problem is not as others would believe it might be.

Baroness Sugg: My Lords, we have focused on the areas where we expect there could be the most disruption and our priority is to minimise disruption at Dover and on Eurotunnel. That is because those are unique: they have the largest volume of traffic on the short straits and have juxtaposed border controls. The turn-up-and-go system that my noble friend refers to at all other ports means that all vehicles must have pre-bought tickets, so we expect much less disruption there.

Zimbabwe

Private Notice Question

3.07 pm

Asked by ***Lord Hayward***

To ask Her Majesty's Government what is their response to the reports of serious violence and intimidation in Zimbabwe.

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

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, we condemn totally the violent behaviour of some protesters and we are deeply concerned that Zimbabwe's security forces acted completely disproportionately in their response to the protests. There are also disturbing reports of security forces using live ammunition and partaking in indiscriminate arrests.

On 17 January, my honourable friend the Minister of State for Africa summoned the Zimbabwean ambassador. She urged the Zimbabwean Government to stop the disproportionate use of force, reinstate access to the internet and investigate any alleged human rights abuses.

Lord Hayward: I thank my noble friend for that Answer. I particularly welcome the fact that the Foreign Office and the Minister of State for Africa took prompt action in summoning the Zimbabwean ambassador for discussions on the subject. Will my noble friend clarify whether there have been any discussions with SADC, the African Union or similar organisations to put pressure on the Zimbabwean Government to end all these actions? Is it not clear that a Government who are willing to shoot their own subjects, in most cases apparently for no reason whatever, should not be a member of the Commonwealth?

Lord Ahmad of Wimbledon: My Lords, I assure my noble friend that we are working very closely with international partners—he mentioned SADC and the African Union—and in particular with South Africa, to urge the Government in Zimbabwe to stop their disproportionate use of force and reinstate the internet, which I understand has been reinstated in part today.

In terms of further work in this respect, my honourable friend the Minister for Africa will also attend the EU-AU ministerial in Brussels today and tomorrow afternoon, which will discuss Zimbabwe in particular. On the issue of the Commonwealth, as Minister for the Commonwealth, I say that we all subscribe to the values of the Commonwealth—of ensuring pluralist democracy and the upholding of human rights. Many saw during the Commonwealth summit the Government's commitment to encourage among other partners the new Zimbabwe to come forward for membership. Clearly, the events that have unfolded recently put that into question—but of course, it is a matter not for the UK but for the Commonwealth as a whole.

Lord Collins of Highbury (Lab): My Lords, 12 months ago in this Chamber the noble Baroness, Lady Goldie, reported on behalf of the Government about the EU-AU summit to which the Minister referred and outlined a programme of reform as a consequence of the change of Government. We have had 12 months of those discussions. What have the Government been doing with our partners in Europe and with the African Union to ensure that the programme of reform outlined 12 months ago is maintained? It clearly has not been maintained in the past few weeks.

Lord Ahmad of Wimbledon: My Lords, I assure your Lordships' House that, as I have already indicated, we are working with international partners to see that from the desperate situation in Zimbabwe over many years we see the emergence of sustainable democracy, investment in state institutions, particularly the justice system, and the opening up and the lifting of all sanctions. However, the conditions on the ground, as we have seen in the most recent events, do not allow that to happen. We will continue to work with international partners and bilaterally. Our ambassador is working very hard on the ground. She has recently met the leaders of the opposition as well, to ensure that we remain a constructive friend to Zimbabwe—but the human rights violations cannot be ignored.

Lord Howell of Guildford (Con): As British Minister for the Commonwealth, will my noble friend use his considerable influence with the Commonwealth authorities and the secretariat to urge them in turn to point out to the authorities in Zimbabwe that, if ever they wish to rejoin the Commonwealth, as some aspire to do, and to gain the investment and trade benefits of doing so, they are not going about it in at all the right way?

Lord Ahmad of Wimbledon: Let me reassure my noble friend, who makes an important point. We will work very closely with the Commonwealth and the Secretary-General of the Commonwealth to ensure that that is made absolutely clear to the Government of Zimbabwe. They have to respect human rights and uphold the rule of law. At the moment, the situation on the ground is clear: they are doing neither of those things.

Baroness Northover (LD): My Lords, what we are hearing is very shocking and deeply depressing, when people had been optimistic about where Zimbabwe was heading. The EU has condemned this violence and sought an inquiry. It has tended to look to the United Kingdom for a lead on Zimbabwe. Will the Minister say how we are going to co-ordinate an approach with our EU partners in future should we leave the EU? Additionally, does he agree that the UK has sufficient information to cut off illicit financial flows to the current leadership and to the Zimbabwean military? Are the Government going to take action in this area?

Lord Ahmad of Wimbledon: My Lords, I shall take the noble Baroness's second question first. She will be aware that there are quite specific targeted sanctions, first and foremost on the previous president, President Mugabe, his wife and others connected with that Administration, including members of the military. On our partnership with the European Union, as I have already said, my honourable friend the Minister for Africa will be meeting European colleagues today and tomorrow. On the wider question of what happens post Brexit, I assure the noble Baroness that as we see other countries, including, most notably, Germany and Belgium, joining the Security Council, I will be heading to New York later this week to, I hope, extend discussions about how we can work together, Brexit aside, on the importance of having a European view on issues of international importance.

Lord Palmer (CB): My Lords, has the Minister ever considered the idea of recolonising Zimbabwe? It is tragic to see what is going on.

Lord Ahmad of Wimbledon: My Lords, I have to be very honest, as I always am at the Dispatch Box: that is not an option I have considered.

Baroness Jay of Paddington (Lab): My Lords, like the noble Lord, Lord Hayward, I had the privilege of being a member of the delegation on behalf of the Commonwealth that was one of the observers at the elections in Zimbabwe in the summer. In our report, we acknowledged many of the concerns that have been raised around the House this afternoon, and in particular the one about the potential for Zimbabwe to be readmitted to the Commonwealth. I think I am right in saying that we were slightly concerned at what I would describe positively as the "relaxed" and, negatively, as the "complacent" attitude of some members of the British Government's delegation there about the post-election violence, in which there was an attempt to suggest that it was all simulated by the opposition Movement for Democratic Change. Will the Minister assure the House that no attention will be paid to those who are now trying to identify the MDC as the exclusive source of violence in this episode?

Lord Ahmad of Wimbledon: My Lords, I pay tribute to the noble Baroness and other noble Lords for their work on and interest in helping Zimbabwe to secure a sustainable democracy and the prevailing rule of law—important points that we have raised in your Lordships' House and beyond. On her specific question on the MDC, as I indicated in an earlier answer, the British ambassador, along with international partners, met the acting Foreign Minister, the Home Affairs Minister and also the opposition MDC leader on 16 January to ensure a joint approach with international partners and the opposition to ensure, first and foremost, that the conflict and violence that we have seen on the roads are stopped and that the rule of law can prevail.

Lord Elton (Con): My Lords, as one who went on the inspection of independence elections in Rhodesia in 1979, I can say that there is a sickening familiarity in what is happening. There was a glorious burst of democratic enthusiasm, of friendliness, of brotherhood and of peace. I stood next to the district commissioner, who, four days before that election, said, "I cannot believe what I am seeing. Those guys there"—20 people dancing in a circle carrying placards—"have swapped to placards when six weeks ago they were throwing petrol bombs through each other's windows". Here we are again. It is getting more and more violent, and we must have got to the stage where occasionally those who negotiate on our behalf say, "Or else"—and it would be very nice to know what follows those words.

Lord Ahmad of Wimbledon: My Lords, I assure my noble friend that, as I have already indicated, constructive discussions are taking place with international partners and there is direct engagement with all parties on the ground. We are making it very clear that the current violence, the violations and abuses of human rights and the actions initiated by the security forces that we have seen are unacceptable. We will continue to work to ensure that that is communicated and will take all appropriate steps to ensure that the rule of law can prevail and that human rights are respected.

Lord St John of Bletso (CB): My Lords, does the Minister not agree that the austerity measures taken by the Zimbabwe Government, doubling the price of fuel without consultation with the people, were deeply irresponsible?

Lord Ahmad of Wimbledon: That was the basis on which the recent riots took place. Fuel prices are a challenge but the current restrictions that have been imposed and the lack of reforms to open up the economy, as mentioned by other noble Lords, have prevented the emergence of the kind of economy that we wish to see. Until the Zimbabwe Government take responsibility in that respect, we will not see change, and that is regrettable and challenging. However, these acts of violence cannot continue and we will make that case very strongly.

Trade Bill

Committee (1st Day)

3.17 pm

Relevant documents: 33rd Report from the Delegated Powers Committee, 13th Report from the Constitution Committee

Motion

Moved by ***Lord Taylor of Holbeach***

That the House do now resolve itself into Committee.

Amendment to the Motion

Moved by ***Baroness Smith of Basildon***

At the end insert "and resolves that the committee's report be not received until Her Majesty's Government has presented to both Houses proposals for a process for making international trade agreements once the United Kingdom is in a position to do so independently of the European Union, including roles for Parliament and the devolved legislatures and administrations in relation to both a negotiating mandate and a final agreement."

Baroness Smith of Basildon (Lab): My Lords, as we start this Committee stage of the Trade Bill, my amendment seeks to be helpful to your Lordships' House in finding a constructive framework for further scrutiny of the Bill following Committee. It is now well over a year since the Bill was introduced in the House of Commons, and I think that the 132 days since the Second Reading in your Lordships' House set a record.

[Baroness Smith of Basildon]

Following consideration in the other place, the Bill was passed to us to undertake our responsibility of scrutiny in the normal way, and we will fulfil that obligation. My amendment recognises that, in 2017, it was perhaps understandable that the Government introduced a skeleton Bill. However, as time moves on, it is essential that we conclude our deliberations within a clearer policy framework before the Bill returns to MPs for further consideration. There are three key reasons for asking the Minister and the Government to accept my amendment today.

First, at its core, this is a no-deal Brexit Bill to deal with a situation which only very few want to see happen, and the other place has already indicated its clear intent that it must not happen. MPs from all parties are urging the Prime Minister to take action to rule out such a catastrophic outcome, as indeed your Lordships' House did in a Motion passed last Monday by an incredible majority of 169. That alone makes it hard to justify the Bill in its current form.

Secondly, when it was first introduced, the Government presented it as a short and uncomplicated Bill dealing with issues related to a possible no-deal scenario; indeed, the Minister described it as pragmatic and technical. We were informed that the substantive issues about how the Government would deal with new international trade agreements once the UK is in a position to do so independently of the EU would be in a second Bill. I am aware that the Government are consulting the Constitution Committee, and that the Prime Minister is consulting the Liaison Committee in the other place, but no further legislation has been introduced. There is not a White Paper or even a Green Paper, and time is running out. It is not unreasonable that before we complete—not continue, but complete—our consideration of this Bill we should have more information about, and proposals on, such an important policy issue.

I have carefully read the report of our Constitution Committee, which refers to this Bill as a "framework measure" which provides the Government with,

"extensive … delegated … powers, to effect new trade policy".

That committee raised several issues of concern. At the time, the Government justified the loose drafting by claiming a need for flexibility given the uncertainty over the withdrawal agreement. With no second Bill, the time for flexibility is disappearing fast. Decisions have to be made and mechanisms and processes have to be in place.

Thirdly, we should welcome the fact that, in recent months, we have seen a growing public interest in how and on what basis we should negotiate and operate our trade policy in the future. This is partly due to recognition of the misplaced and misleading optimism—to be polite—of Ministers and others, who told us all how easy trade agreements would be. This is not an issue that Ministers can make up as they go along; it needs serious, forensic, evidence-based policy-making. We know that the terms of future trade with the EU remain unclear, and now the true picture of the lack of progress in securing rollover deals to replace those we currently have with non-EU countries through our membership of the EU has been exposed by the *Financial Times*.

The International Trade Secretary, Liam Fox, is on record telling us how easy it would all be. Back in July 2017 he said:

"The free trade agreement we will have to do with the European Union should be one of the easiest in … history".

He then said that all agreements would be ready and in place "one second" after Brexit, with "no disruption of trade". Not only were those statements irresponsible, they were gravely wrong. Now, the International Trade Secretary says only that he "hopes" they will be in place, and that this depends upon whether other countries are,

"prepared to put the work in".

Apparently, he has signed a mutual recognition agreement with the Australian High Commission in London to maintain all current relevant aspects of the agreement it has with the EU. But the EU does not have a free trade agreement with Australia.

When this legislation was going through the Commons, we argued that a legally distinct new trade agreement was required. The Government claimed they could simply roll over the existing agreements, but that is clearly not the case. Our country needs a sensible and appropriate scheme for trade, rooted in reality not in fantasy. Trade negotiations are complex and difficult. They require a proper and effective system involving Parliament and the devolved Administrations, in relation both to the negotiated mandate and the final agreements. We should also engage civil society, feeding in the views of consumers, trade unions and companies.

In conclusion, we will be unable to fulfil our obligation of scrutinising the Bill effectively without further information on how the Government intend to provide proper accountability and scrutiny of current and future trade agreements. We need to know how the devolved Administrations will be involved; we need to be assured of the mechanisms for ensuring that our trade policy is compliant with our international obligations; and we need legal commitments that in any future independent trading policy there will be no reduction in, for example, the rights of employees or consumer and environmental standards.

One way in which the Government could do this is by tabling amendments to the Trade Bill in Committee or on Report, but there may be other mechanisms. My amendment does not dictate what they should be but merely states that this House should not receive the Committee's report on the Bill until both Houses of Parliament receive proposals on the process for making international trade agreements once the UK is in a position to do so independently of the EU. As the Report stage is expected at the end of February and the leave date is 29 March, it is not unreasonable to expect the policy framework by then, with just one month to go.

My amendment is designed to help your Lordships' House in its deliberations. The Chief Whip is smiling at me, so I hope that is an indication that the Government are inclined to accept it. However, if that smile is misleading and the Government are unable to support us today then, given the seriousness of the issue and

my concern for the role of this House in dealing with the legislation, I will seek the opinion of the House. I beg to move.

Lord Newby (LD): My Lords, it is now over four months since we had Second Reading on this Bill. That is an unusually long gap, and one that I suspect the whole House thinks has been caused by the unwillingness of the Government to expose themselves to defeats on it. It certainly has not been because your Lordships' House has been otherwise too busy.

Whatever the reason for the delay, during that time people might reasonably have expected two things to happen. The first is that, in line with the commitments made by the Secretary of State for International Trade in 2017, the Government would have negotiated the rollover of the 40 trade deals that the UK has with the EU. Instead, only one has been signed—as we have heard, of a slightly dubious nature—and very few are due to be signed in the near future. Why is that? According to Dr Fox, it is a combination of factors: some countries are unwilling to do so because they simply do not believe that a no-deal Brexit is going to occur; some are having elections; and some have, in his phrase, "no effective government".

Noble Lords: Ha!

Lord Newby: He must have a lot of sympathy with them. The truth is that it was always unrealistic to expect these deals to be in place by 29 March because most of the EU's free trade partners will want big UK concessions, particularly on issues such as food imports, requiring long and difficult negotiations that are likely to last several years. The Government sought to deny this but the truth is now there for everyone to see.

The other thing that might reasonably have happened is that the Government might have been clearer about their expected trade policy, how it might work and how they might bring it to Parliament. What would their red lines be? What processes would they follow to get future deals discussed and approved by this Parliament and the devolved assemblies? We still have no clue. In the circumstances, it is completely reasonable for this House to decline to proceed beyond Committee with the Bill. Indeed, it could be argued that we should not even proceed to Committee at all, but the Motion before us allows us to make some progress on the Bill while giving notice to the Government that they really must clarify their intentions if the Bill is to complete its passage through the House.

It will no doubt be argued that this amendment is unprecedented. Perhaps it is but, as we are seeing in the Commons, at a time when the Government have all but collapsed, it is inevitable that Parliament should assert its control over proceedings. That is what the amendment seeks to do, and it has the support of these Benches.

Viscount Hailsham (Con): My Lords, I will briefly explain why I support the amendment to the Motion. Any outcome of the present Brexit stalemate other than crashing out without a deal will require more time. I do not believe that there is any national or parliamentary majority for crashing out without a deal. That means we either have to extend the 29 March deadline or revoke Article 50. At the moment, the first option is probably the most acceptable course, but I could live with either. Supporting the amendment to the Motion is a method of encouraging the Government to obtain more time. It also enables the Government to respond to the perfectly sensible points and demands for information made by the noble Baroness and the noble Lord.

I will make two final points, if I may. First, we have arrived at the time when the national interest must be put first, before any narrow party interest. That is the duty of all parliamentarians. In fact, it also happens to coincide with the pragmatic interest. Secondly, speaking directly to my Front Bench: if we crash out without a deal, this Government and their Ministers will not be forgiven lightly, either by the electorate or by the millions of those—myself included—who have historically voted Conservative.

3.30 pm

Lord Hannay of Chiswick (CB): My Lords, I support the amendment and point out, as have others, that this Bill is being brought forward in a totally different context from when it was debated and passed in the Commons last summer, and at Second Reading here in September. At that time, it was envisaged and presented by the Government as a minor technical measure which would complement an EU withdrawal deal and political declaration, and provide a 21-month transition to fill the gaps that are currently there and which prevent it being fully equipped to provide for an independent trade policy for a UK outside the EU. Those gaps remain and they are highly relevant given the Government's unwillingness to rule out a no-deal exit on 29 March and the consequent need to operate an independent trade policy from that date.

For example, we do not even know—and more importantly, our businesses do not know—what tariff rates we would apply to imports from the EU and preferential trade partners of the EU on 30 March in the event of no deal. No satisfactory indication has been given of how parliamentary oversight of trade policy will operate in these circumstances. Currently, the situation is clear: the EU Commission can conduct exploratory talks with third countries but it can negotiate with them only when it has received a mandate from the Council; that is, the member states. That gives a measure of democratic control. What will we do to replace that? There is a complete absence of indication. It would be really poor if we went into a period like that without any parliamentary oversight at all; that is hardly a policy that could be called "taking back control" for this Parliament. Surely this gap needs to be filled before the Bill becomes law.

I believe it is being argued that this is unprecedented, as the noble Lord, Lord Newby, said. Perhaps it is, but we are dealing with an unprecedented situation, and unprecedented situations call for unprecedented solutions. Is the amendment unreasonable? I do not think so. It does not place any impediment at all on the completion of Committee, which should proceed precisely as planned. It gives the Government about a month to fill in those

[Lord Hannay of Chiswick]
gaps in the Bill before Report begins. What is unreasonable about that? I hope the Government will accept the amendment, which I do not think stands in the way of this measure arriving on the statute book in time.

Baroness Taylor of Bolton (Lab): My Lords, I do not want to follow the two previous speakers by talking about what happens, deal or no deal, but I will say a word about the difficulties facing the House on this Bill and on other legislation before us. My noble friend mentioned the Constitution Committee, which issued a report on the Trade Bill in October last year. We did so because we wanted to get ahead of the game by advising the House on our approach to that Bill, as we had done on the EU withdrawal Bill in a way that I think was constructive for the whole House and, ultimately, helpful to the Government because our constructive criticisms meant that the Bill was more fit for purpose when it left this House.

We did that early because we knew of the weight of legislation that would come before us. We have tried to get the Government to give us more information on what legislation we will face and asked to see some things in draft, which we would have been willing to see in confidence. The House will have to face other legislation. We are already seeing arguments about the number of SIs and the difficulty of giving them proper scrutiny in the time available. Time is running out. The Constitution Committee—and, I think, the House as a whole—wants to be helpful in making sure that any necessary legislation is actually fit for purpose and will do what is expected of it, but also so that we as parliamentarians can fulfil our role and responsibility to give proper scrutiny.

I ask the Chief Whip and the Leader of the House to reconsider their approach to giving information to the House about what our future work programme will be. It will be extremely difficult to consider as we should all the legislation that will be before us, whatever the outcome of discussions in another place. I have been a member of the usual channels, albeit in the other House. I know that there are indicative timetables on all occasions—maybe more than one in this instance. If the House is to function properly and fulfil all its obligations, it needs greater information to come through the usual channels about what our programme will be and what responsibilities we will face to get the necessary legislation fit for purpose, and to allow us to fulfil our responsibilities.

Lord Purvis of Tweed (LD): My Lords, the House will have seen that there are a number of amendments in my name, as well as those of other colleagues, on the Marshalled List for this Bill. We are taking our role very seriously by approaching this Bill in a constructive manner and, where there are opportunities to try to strengthen its measures, to reflect, as the noble Baroness, Lady Smith, said, the complex, deep and comprehensive trading relationships we have with countries and to take into consideration new standards of quality in provision, and ethics and values in trading. The amendment to the Motion should also be seen in that light.

The United Kingdom has trading arrangements with 104 countries by virtue of our membership of the EU. Thirty-five countries have arrangements in place, 47 partly in place and there are 22 agreements pending. A further five are being updated and there are ongoing negotiations with a further 21. All told, this represents 66% of all United Kingdom trade. That has brought down the average tariff for anyone who trades with United Kingdom to 2%. If there is no deal and no agreements are in place to secure the continuity of the trading relationship, under most favoured nation status under WTO rules trading with the United Kingdom would immediately become 5.7% more expensive. Tariffs would go up almost threefold. That would be a direct consequence of this Parliament not having the ability to scrutinise these arrangements.

As the noble Baroness, Lady Smith, and others have said, the Bill will also set the parameters of future trading relationships, in particular our relationships with the least-developed nations around the world. The countries that trade with us that have most at stake are not necessarily those such as Japan or Korea, which have deep and comprehensive trading agreements —although we have heard nothing from the Government about whether they are even in a position to roll those over legally—but the least-developed nations, which rely almost entirely in some sectors on their trading with the United Kingdom and are now being left in limbo.

It was deeply insulting for Dr Fox to make his statement about countries not lifting the heavy burden to trade with us when we have asked them to do so. For us as a House to give due consideration to such an important measure, which has been slipped at the Government insistence time and again, it is necessary for us to say that the Government now need to bring clarity on how many agreements are ready to be brought forward. On the Government's calendar, there are fewer than 30 sitting days. How on earth will we be able to afford proper, full scrutiny of nearly 100 international agreements, on which our economy is dependent?

Lord Campbell of Pittenweem (LD): My Lords, I can be very brief. The circumstances we are discussing are entirely of the Government's making. They may now reflect on the fact that they opposed the amendment proposed by the noble Duke, the Duke of Wellington, which would have given them more flexibility in this matter. It is a great pity that they did not anticipate the difficulties they now face, which are entirely against the interests of the British people.

Lord Strathclyde (Con): My Lords, am I alone in finding this a most extraordinary debate? It is deeply disappointing given the eminence from which it comes. The noble Baroness, as Leader of the Opposition, is a leading light of the usual channels. She could have raised any of these issues—perhaps she did—during the course of discussion through the usual channels.

The great principle which underlies the work we do on legislation in this House is that we believe and understand that the Queen's business should be carried.

That means we scrutinise and revise legislation. The amendment—the Motion—says that there should be a full stop. We will do all the work in Committee, we have agreed the business on Second Reading but after Committee, a full stop. There is a theme here: a couple of weeks ago, we had the noble Lord, Lord Foulkes, saying that we should all go on holiday. Now, the noble Baroness is asking us to stop work after Committee.

There is another practical aspect to this. For many years, I was a member of the usual channels. We did not always get it right, but we worked in the interests of the whole House—every aspect of us—to try to find the right time and the right stages to do various bits of business. This Motion drives a coach and horses through all that. For the noble Lord, who was formerly my noble friend, to pray in aid the kind of behaviour that we have seen in the House of Commons and say that what they are doing there, we should do here, is completely ridiculous and absurd. The noble Lord said that we should take over the running of all this. In this House, the Government have no majority. It proceeds only because we have the agreement of the whole House. We trust and ask the usual channels to do this.

Perhaps the second most disappointing thing which the noble Baroness said is that she will ask the opinion of the House and have a Division. If the business of the House will always be decided by a Division, then God help us. I really hope that she will consider, however important the great issues are, that they can be dealt with in the Bill by amendment in the usual way; they should not be decided like this.

Lord Kerr of Kinlochard (CB): My Lords, it was good to hear from the noble Lord, Lord Strathclyde, and to be reminded of the days when everything worked swimmingly. I do not know if he was here on Second Reading, when the Government were perfectly honest and straightforward in admitting that there was a big lacuna in the Bill. They accepted that there was and said it would be filled in at a later stage. We were talking of a two-Bill scenario at that stage; we were also thinking of an implementation period.

I agree with the noble Lord, Lord Hannay: we are now in a completely different scenario. The modesty of the Leader of the Opposition's proposal is admirable. She is not saying that we should not proceed with the Committee stage, and she is right. We should not down tools. We should go on doing our job trying to improve this Bill. However, the lacuna is still there. We do not know what the machinery will be for legislative scrutiny of future trade negotiations.

3.45 pm

I would add to the point made by the noble Lord, Lord Hannay, about the Council. Yes, this country and interests in it will be less informed about trade policy if this Bill with the lacuna in it goes through and we leave the European Union, so losing our voice and vote in the Council. The Council is pretty transparent. However, even more transparent is the European Parliament, where the relevant committee follows trade negotiations extremely closely and a vote in plenary in the Parliament is required before the conclusion of an agreement. We will not have a voice; we will not have a vote; we will not know in this country anything about what the Government are planning to do.

Trade negotiation is no longer just a matter of the import and export of widgets. It is about social rights, environmental rights, the provision of healthcare and investment protection. There are trade-offs between dossiers. The public are entitled to know what the Government are doing. We here are duty bound to have a role in scrutinising what the Government intend to do. On Dr Fox's current negotiations on the 36 or 39 successor agreements or whatever it is that are going to be ready one minute after midnight if the foreigners get their act together and start doing some work, even our closest friends in places such as Australia and New Zealand sense our vulnerability. They are not happy just with the pro rata division of quotas. They see a chance of gaining a concession. That concession will affect interests in this country; for example, the hill farmers or the dairy trade. What do they know about what Dr Fox is planning to do to them? They know nothing. What is our job? It is to pin down the Government on what they are going to do. That seems a reasonable request by Report stage. We should not down tools, but we should vote with the Leader of the Opposition in her amendment.

Lord Lansley (Con): My Lords, the point made by the noble Lord, Lord Kerr, would be valid only if this Bill were designed to give the Government a power to make a free trade agreement with a country such as Australia or New Zealand, but it is not. I participated at Second Reading, as did the noble Lord. Therefore, he will know that the Bill is designed as a continuity Bill. It is not a Bill to provide a power for establishing new free trade agreements, but to give the Government a power to ensure that the existing free trade agreements which the European Union has with third-party countries are able to be continued in law in this country after exit day. Much of that is already able to be incorporated into our law by virtue of the EU withdrawal Act, but some aspects would not. On that basis, this Bill is not, as most people in this debate seem to be saying, a mechanism by which to establish new free trade agreements with lots of new countries and we need therefore to know what the scrutiny process is; it is a continuity Bill and we should see it solely in that context.

Lord Reid of Cardowan (Lab): My Lords, I have only one brief point to make in response to our noble colleague the noble Lord, Lord Strathclyde. He said that this is an extraordinary procedure. That is because we live in extraordinary times. No one in this country would have imagined even two or three years ago that we would be standing on the eve of the biggest act of self-immolation in economic terms in some 80 years and yet have no plans for the future. I was going to say that the continuity of which has been spoken is a vacuum, but that is too substantial a word for it. It is the most extraordinary set of circumstances that we have seen in my memory, having been involved in politics for over 40 or 50 years, and every day it gets more extraordinary.

[Lord Reid of Cardowan]

Quite apart from the Bill, this morning Downing Street was apparently briefing that the solution would be for Downing Street to amend the Good Friday agreement—forgetting that even if that course of action might commend itself to this House, the Good Friday agreement is the product of two sovereign nations in a bilateral agreement, along with an American President and eight parties in Northern Ireland itself. Yet they speak as though they are ordering a pizza—as if they can just phone up and suddenly the order will be changed. If the noble Lord worries about extraordinary measures taken by this House, he should seek to remove the Government from the extraordinary position of incompetence and blindfold Brexit in which they find themselves.

Baroness Deech (CB): My Lords, I would not pretend to know a great deal about trade, but this I do know: we live in extraordinary times, and it is all the more important that one sticks with constitutional procedures and the rule of law. Imagine if we had a different Government; it is extremely dangerous to play fast and loose with our established procedures. At this moment, we should be clinging to them; it is really important.

We cannot take back control until we leave on 29 March. Taking back control has always meant that we do so in relation to other countries, not that we fight internal warfare in this House and in the other House. We would not be in this position if the leadership of the party of the noble Baroness, Lady Smith, who moved the amendment, had been more co-operative and constructive. We would not be in this position if the EU itself had been more constructive and co-operative. Its failure to do so is a sign of a lack of confidence in its own future.

It is absolutely essential that we stick with our constitutional procedures and do not play fast and loose with them, because imagine what would happen in a future circumstance with a future Government. That could be far worse, and we must proceed as our procedures require us to do.

Lord Naseby (Con): My Lords—

Lord Davies of Stamford (Lab): My Lords, I think it is the turn of this side of the House—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it is the turn of the Conservatives.

Lord Naseby: My Lords, it was my privilege for five years of my life to be Deputy Speaker in the other place. In that time, I took through the Maastricht Bill with 28 days and five all-night sittings for five clauses. I submit to your Lordships that we should not be trying to filibuster in this area. As far as I can see, if I were sitting in the other place this has all the signs of a filibuster if I ever saw one. With due deference to those who have spoken already and to the Leader of the Opposition, I say: let us proceed with today's business, and for the next three days or whatever it may be. None of us in this Chamber knows what is to happen in the next two weeks or whether there will be a normal pause between Committee and Report. Why do we not just wait and see what happens, and then act accordingly? It is not for this House to try to take the initiative away from the Government of the day.

Lord Davies of Stamford: My Lords, it is quite unjustifiable that anybody should accuse people in this House of filibustering on this matter. One can see that we have taken only 35 minutes on a very important matter and I do not think that a single intervention has lasted for more than three minutes. By no stretch of the imagination can that be regarded as a filibuster; it is quite possible that, given the gravity of the situation in our country, the public may well feel that we have spent too little time so far on this Bill.

It has already been said that we live in exceptional circumstances. Is it not exceptional that, over two and a half years, we have had a negotiation with the EU about our future relationship with it and have just decided by an enormous majority that the whole of that negotiation has to be terminated? It was the right decision, but it is the most extraordinary situation. Equally, on the matter of trade agreements, Dr Fox has been happily running around the world for the last two and a half years, no doubt at the taxpayer's expense, and achieving precisely nothing.

This country's handling of the whole Brexit issue has been marked by the most extraordinary incompetence; the whole world knows that. That incompetence has often consisted of a quite extraordinarily naive tendency to overestimate our own bargaining power and underestimate the intelligence and bargaining power of other people. That is the very basis of incompetence in a negotiation, but that is the way this has been handled.

If you go to any country and say, "I am afraid we have just walked out of the trade arrangements that we have had for many years. We are in a bit of a mess and would like to negotiate a trade agreement with you. We would like to roll over the existing agreement you have with the EU and have the same benefits as we had when trading with you under it", they will naturally say, "We will be interested to talk to you about that, but we have a number of points ourselves that we would like to settle on this occasion". You have somebody else with an agenda, seeking advantages, and it takes a long time for the negotiation to come to any conclusion. That is the rule of business throughout the world. I do not think that Dr Fox has much experience of international business, so he might be surprised to find that is the case, but it would not be a surprise to anybody with the slightest experience of the field.

This is a serious matter. Is it really true, as the noble Lord, Lord Strathclyde, said, that if the Government are completely paralysed and completely fail in achieving their purpose after two and a half years, Parliament should do nothing about it? Of course it should: we exist to make sure that there is a proper balance in the constitution. If one part of the constitution is obviously not performing as it should, the other parts should do something about it. There is no question of filibustering on the Bill. It is an extremely urgent matter. All noble Lords should be paying attention to it and deciding

what the country needs to do about it. Under no circumstances should this House abdicate its responsibility for doing that in this crisis.

Lord Taylor of Holbeach: My Lords, I rise to respond to the amendment in the name of the noble Baroness the Leader of the Opposition and to subsequent speakers. I note what the noble Baroness, Lady Taylor, said about the roles of the usual channels and the Government, and the relationship between the two. I also note the comments of my noble friend Lord Strathclyde. However, I cannot allow the speech of the noble Lord, Lord Reid, about the Good Friday agreement, to go without comment. I have no hesitation in saying that what he reported to the House was completely untrue.

Lord Reid of Cardowan: My Lords, I am not sure that it was parliamentary to accuse another noble Lord of putting an untruth before the House. I said that we read reports this morning. The noble Lord might check the *Daily Mail* or the *Daily Telegraph*, for instance. I may be mistaken, but I would be grateful if the noble Lord would withdraw his comment that what I said was an untruth.

Lord Taylor of Holbeach: All I said was that what the noble Lord reported was an untruth; he himself was not, perhaps, being untruthful. Those newspapers are not in my reading.

The House has heard the arguments made by the noble Baroness and subsequent speakers, and it will have to take the amendment she proposed at face value. However, it is difficult to understand why the House should agree to it. After all, we are shortly going to go into Committee, when all the arguments which have been expressed this afternoon will, no doubt, appear again in the form of amendments and in the debates that surround them. I can only agree with the comments about the Bill by my noble friend Lord Lansley.

The effect of the amendment is to prevent Report stage proceeding until a subjective condition has been fulfilled. I note that in recent weeks many noble Lords opposite have expressed their desire to continue with the Bill, apparently frustrated that the Committee was not scheduled to start earlier. Yet here is an amendment to delay the passage of the Bill. The oddest thing of all is that the noble Lord, Lord Stevenson, who is leading for the Opposition on the Bill, has tabled amendments covering the issues listed in the noble Baroness's Motion. It seems pre-emptive of her to ask the House to reach such a conclusion now, before the noble Lord, Lord Stevenson, has even started to make his case.

4 pm

The noble Baroness has exercised considerable restraint and judgment as Leader of the Opposition in the House of Lords in not using the arithmetic of this House to obstruct government business. By doing so, she has ensured that the House has made life difficult for the Government but not broken the conventions between the Houses, despite temptations to do so, I have no doubt. I think that the whole House has been fortunate in the part that she has played. I continue to hold the noble Baroness in the highest regard, so I gently ask her, when she replies, to explain why she is not prepared to allow the House to continue to scrutinise this important legislation, sent to us by the House of Commons, in the normal way. Working in that way, the House will be listening to arguments and considering and deciding on amendments. This is what is meant by holding the Government to account.

It will not be an easy ride for the Government. The Government cannot expect the passage of the Bill to be an easy one. I expect the House's scrutiny to be challenging. Knowing the noble Baroness as I do, I know that normally she believes in scrutiny and not obstruction, but at face value the only conclusion I have been able to come to is that this is a tactic of obstruction. That is why I hope she will reflect very carefully on whether it is in the interests of the Official Opposition, or indeed the House as a whole, to endorse such an approach. I hope she decides not to test the opinion of the House. If she does, I ask noble Lords on all sides to reflect equally carefully on the precedent, as the noble Baroness, Lady Deech, pointed out, that we could be setting for future government Bills.

Baroness Smith of Basildon: My Lords, I listened carefully to the Government Chief Whip. Perhaps the most encouraging comment he made was that he does not read the *Daily Telegraph* or the *Daily Mail*. However, I challenge him on some of the things he said. It is not our intention to delay the Bill. If that were my intention, I would have proposed not to proceed with Committee, but I think it would be wrong for this House to take that move. The noble Lord could have resolved this. It would not, as the noble Lord, Lord Strathclyde said, bring a full stop to the Bill. I find it extraordinary that the Government did not come forward today and say, "Of course you should have that information before Report". It would have been the easiest thing in the world for the Government to say that it would ensure that this House, in order to fulfil its responsibilities and duties—the issue of process that my noble friend Lady Taylor raised, about being able to function properly and fulfil our obligations—will have the information we need to do so.

As for the comments of the noble Lord, Lord Strathclyde, I have said before that I think that there are two Lord Strathclydes. There is the Lord Strathclyde who was Leader of the Opposition—but that Lord Strathclyde seems to have disappeared into a puff of smoke. I was alerted to the fact that when he was Leader of the Opposition his party backed a Motion that referred the Constitutional Reform Bill to a Select Committee and defeated the then Labour Government. That was approved by your Lordships' House and it was the first time in 30 years that the Lords had backed a delaying move, and it practically delayed the Bill until the next Session.

I have no intention of taking such an extreme measure as that. All I am asking your Lordships to do is to ensure—I take the point made by the noble Baroness, Lady Deech—that we can fulfil our constitutional procedures and objectives. We want to have Committee and Report, but in an informed way. It would be ridiculous for this House to consider the

[Baroness Smith of Basildon]

Bill in its entirety, given the comments made by the Constitution Committee about the gaps, the comments made by the noble Baroness at Second Reading and the commitments made that further legislation would come forward. For us to continue with Report after Committee without that information would be irresponsible.

The noble Lord the Chief Whip, the noble Lord, Lord Strathclyde, and others, said, "We don't want to delay the Bill". They are absolutely right. We have not wanted to delay the Bill; we have not delayed it for 132 days since Second Reading. All we are saying is—it is so reasonable that I am stunned that the noble Lord does not agree with me—"Please let us have information: the framework of government policy and the context in which we should proceed to Report". I cannot see why the Government do not accept that. We want to proceed with the Bill in a responsible, measured and informed way. Our only condition before Report is, "Please give us more information".

I listened to what the noble Lord the Chief Whip had to say and to the comments from around the House. We will be moving to debate some of those comments in detail in Committee, but as regards Report, we need a lot more. I beg to test the opinion of the House.

4.06 pm

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4.21 pm

Clause 1: Implementation of the Agreement on Government Procurement

Amendment 1

Moved by ***Lord Stevenson of Balmacara***

1: Clause 1, page 2, line 11, at end insert—

"( ) Before making regulations under subsection (1)(e) or (f) an appropriate authority must consult such bodies as represent the interests of persons likely to be affected by the regulations including, where appropriate—

(a) the Scottish Ministers;

(b) the Welsh Ministers;

(c) a Northern Ireland devolved authority;

(d) a local authority or local authorities; and

(e) representatives of appropriate consumer groups, businesses, trade unions and non-governmental organisations."

Lord Stevenson of Balmacara (Lab): My Lords, we intend to exercise a considerable amount of scrutiny on the issues in Committee, but—as hinted at by the

[Lord Stevenson of Balmacara]
Chief Whip in his elegant speech, in which he kindly named me—we will also raise other points not specifically relating to the original narrow focus of the Bill but fitting more closely into the debate we have just had. I make no apology for that, because it is important that we probe the Government on their longer-term intentions and receive some assurances about where the particularities of this Bill fit in relation to that.

In moving Amendment 1, I shall speak also to Amendments 2, 3 and 100. This first group relates to the provisions in Clause 1(1) to set out the arrangements under which the Government can sign up to, and through regulations make changes to, the Agreement on Government Procurement. The GPA is an agreement between the EU and currently 18 countries to open up their public procurement markets, operating under a WTO framework. The Government intend that the UK should remain part of this system, becoming an independent member, and the Bill provides delegated powers to facilitate this, should it be required.

We have a number of concerns at that, some of which, in Amendment 1, are largely connected with the question of consultation about this process. The GPA itself is not a particularly interesting or informative document, but it does attempt to do something that I think all Members of the House would regard as a very good process and something we should support. It attempts to level the playing field for those who bid for and get government procurement contracts. It therefore makes it fairer, as all those involved in the GPA are able to bid for and secure work for their workforces, to earn money and to make profits out of that. In a sense it is an economic growth scheme founded on work that has been going on for some time trying to identify why relatively small numbers of companies bid for contracts offered by government under this system. I am sure the Minister, when she comes to respond, will say the UK is at the forefront of trying to open up its procedures; I know previous Ministers have also been concerned that we should have an open playing field and an open market here, so anything that can do that must be good and we would support that.

However, it is important that it is done in a process that reflects the wishes of the people more generally. It is therefore a little unfortunate that the Bill does not spell out the need for consultation not just among those directly involved, particularly local authorities and those groups, but also the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly, when it is resumed, which have a considerable amount of contract work going forward. So this is a widely spread requirement that the GPA will open up for broader discussion and debate and, I hope, greater access to it; it is reciprocal in the sense that it should also make it available to UK companies. Before we make regulations, we should encourage much more consultation to make sure that the regulations are appropriate and that the benefits and interests of those concerned are taken into account.

Amendments 2 and 3 are largely taken from comments made in the report referred to in earlier debate on the Select Committee on the Constitution in its report in October on the Trade Bill, which raised a few issues on how the regulations will be framed and brought forward. The starting point is that these regulations will be enacted with powers under the provisions modifying retained direct EU legislation, but the committee pointed out that there was some variation in the wording. I do not wish to quote the committee directly, but the conclusion is that the Government were recommended to include in the Trade Bill the definitions of retained direct principal EU legislation and retained direct minor EU legislation as used in the European Union (Withdrawal) Act 2018, and these make the substance of our Amendment 2.

Amendment 3 follows the comment made in the next part of the report that the Bill's Explanatory Note states:

> "Parliamentary approval for ratifying the UK's membership of the GPA will be sought separately from the powers in the Bill itself and will be done in accordance with the procedures set out in the Constitutional Reform and Governance Act 2010".

However, there is some doubt about exactly what the sequencing of that should be and which particular regulations and powers would relate to which. The suggestion therefore made in our Amendment 3 is to restrict the timing and quantum of regulation to a point in the system where previous approval has been received from Parliament under the CRaG Act.

The final amendment relates to what type of regulation should be required. The comment in the Constitution Committee's report is that the regulations should be subject to the affirmative procedure and our Amendment 100 would put that in clear prose on the face of the Bill. The Bill itself may have been due to be amended by the Government when they came to respond to the Constitution Committee report, but so far I have not seen those amendments so we have aided them by tabling them and I commend them to the Committee. I beg to move.

Lord Purvis of Tweed: My Lords, I support these amendments and will speak to Amendment 100, which is in my name and that of the noble Lord, Lord McNicol. The Committee will be grateful to the noble Lord, Lord Stevenson, for tabling these amendments and allowing us the opportunity of looking in a little more detail at some of the consequences of the Government's intention to, in effect, join an institution by virtue of leaving it. It is not automatically as straightforward as the Government may suggest. My understanding is that the approval in principle that has been made for the UK to join the GPA in its own right, separate from being a member of the European Union, has a number of riders attached to it that we will discuss when we come to Amendment 4A in my name. But on the strength of the amendments tabled by the noble Lord, one core element of consultation will now be important.

I took the opportunity to look at the schedules to the Canadian annexes relating to its membership of the GPA. It was interesting. One annexe specifies the 82 federal bodies; there are further annexes for each of the federal provinces with the organisations, bodies or elements of government that are included at a provincial level and the exceptions that they all bring to the GPA agreement. There is no automatic consistency across Canada because it is a federal system. In many respects,

it is a model of what the United Kingdom's could be when it comes to procurement policy and procurement agencies.

4.30 pm

Interestingly, in Canada the legislative bodies are excluded from the provincial instructions, and at federal level shipbuilding and repair is excluded as well as, of course, defence. There is no automatic inclusion of certain bodies and, necessarily, there is automatic exclusion of certain bodies. The Government have an opportunity to explain in a little more detail how they expect those bodies to be included in the GPA schedules and annexes. As they have indicated reviewing and perhaps updating them, when it comes to expectations about what we will see with links to devolved Administrations and organisations—for example, any bodies or agencies in Scotland, where I live and where I was a representative in the Scottish Parliament—are they automatically to be included within the rollover or have there been discussions about whether they continue to be relevant?

I have no comment on the other amendments, other than to say that I consider Amendment 3 to be appropriate. Looking back at 2013 when Parliament approved the accession and considered the European Council's decision and the role of the Parliament, it is interesting that the European Scrutiny Committee of the other place highlighted that the Government had got the procedure for application wrong. I am certain that that will not be a precedent with regard to how the Government consider any international agreements and how they will be ratified by Parliament. It is interesting that it is necessary for such an amendment to be put forward to ensure that there is the correct procedure and that there is transparency and scrutiny.

Amendment 100 is in my name and that of my noble friend Lord McNicol to ensure that transparency. It is important as it means we will see a draft and be able to consider its implications. If we have asymmetrical devolution—it may be an ugly term—when it comes to an agreement such as the GPA, if the United Kingdom is in that in its own right, we need a debate, and we need it now, on how the devolved Administrations will be included. When we consider the proportion of public procurement expenditure, which has been estimated by the International Trade Centre as between 10% and 15% of GDP, when we are working with international partners on our development side and when it comes to countries which will potentially have access to the UK market, it is vital that the devolved Administrations and, increasingly, mayors and the regions of England are included. I therefore support these amendments.

Lord Wigley (PC): My Lords, I am grateful to the noble Lord for introducing this amendment. As far as it goes, I support it, but I shall take up a point that was made a moment ago by the noble Lord, Lord Purvis, from the Liberal Front Bench that trade agreements will certainly need not just consultation with, but the agreement of, the devolved authorities. Let us think of, for example, the trade in lamb in Wales and how basic it is to the rural Welsh economy. Pressure is coming from New Zealand, which is threatening to block movement in the international trade discussions on these matters. If New Zealand were pressing for certain agreements that would undermine our Welsh lamb sector, that would be devastating. The devolved authority has responsibility for economic development, agriculture and rural affairs in Wales. That is an example from Wales. I can well imagine examples from Scotland, such as in the whisky sector. There should be more than just consultation. As I said at Second Reading, there should be a requirement for statutory agreement, a statutory endorsement by the devolved authorities in these areas. It may not be necessary in all areas, but there are certainly some where it is needed.

Therefore, between now and Report I hope there will be an opportunity to explore this area more in conjunction with the devolved Administrations to make sure that at this stage, before a specific difficulty arises, these matters are thought through because when a difficulty does arise, the tension builds up and it becomes a battle of attrition. We need a system that avoids that, and now is the time to get the system right.

Lord Hain (Lab): My Lords, I apologise to the Committee for coming into the Chamber just a couple of minutes into my noble friend Lord Stevenson's speech. I hope that it is in order to continue to make a brief contribution.

I follow the speeches of my noble friend Lord Wigley and the noble Lord, Lord Purvis, as well as that of my noble friend Lord Stevenson, in saying that it is vital that, particularly in respect of the devolved Administrations—I speak as a former Secretary of State for Wales and Secretary of State for Northern Ireland—we do not see an action replay of what we saw earlier in this whole fiasco. I am talking about a power grab by the Government that repatriated to Westminster powers that had already been devolved but were under the European Union's aegis. That showed a cast of mind in the Whitehall machine of the Government that I encountered as a Secretary of State, whereby the natural instinct of other departments—particularly Defra and the Home Office, although it went more widely—is to centralise, grasp and keep power, not to devolve it. It is essential that, as the amendment seeks, there is a recognition by Ministers that the natural instinct will be to consult the devolved Governments—and in the case of Northern Ireland, whatever is there; maybe senior civil servants, as now. That should be the immediate instinct of every Minister and every senior official in every government department as they process all this.

My second point relates to paragraph (e) in the amendment, which refers to "appropriate consumer groups" and so on. Will the Government consult the CBI, the FSB, the IoD, the TUC and consumer groups, let alone all the other NGOs that might have an interest? Will that be a natural reflex, as in consulting the devolved Administrations, or will they have to come back in right at the end? I hope that the Minister will be able to give us some reassurance on the record about all that.

Lord Lansley: My Lords, perhaps I may start with Amendment 3 in this group. I am not sure that I understand why it is necessary to do this, as Parliament

[Lord Lansley]
is approving our membership of the government procurement agreement by virtue of this legislation. It seems to me that we are going through that process now, and the amendment is therefore unnecessary.

Again, I am not sure that I understand why Amendment 2 is needed. Section 7 of the European Union (Withdrawal) Act makes provision for how legislation can be modified by subordinate legislation. I do not see anything in the Bill that disapplies Section 7 of the withdrawal Act, and therefore it applies. We do not need to say it in order for it to apply.

I think that there is a point in Amendment 1, although the drafting is not quite right. In so far as the regulations would relate to changes to government entities for the purpose of the rules on public procurement or the annexes to the GPA, surely it should particularly draw attention to consultation with those government entities or specifically focus on the business organisations or others that would be affected by that public procurement issue. There is a drafting issue about who is likely to be affected. I know that the amendment states that they should be consulted but we need to focus on the entities concerned and how they are changed by virtue of these regulations.

Lord Monks (Lab): My Lords, perhaps I may interject, having been general secretary of the European Trade Union Confederation for eight years and, during those eight years, having been consulted on the trade arrangements and negotiations being made by the European Union, particularly with Canada, South Korea and, to some extent, Japan. It was a very structured and ordered process, and the logic of it was that free trade generates tremendous wealth and a lot of economic activity but can result in wiping out areas of activity where our industries are less well placed than those in some other countries. So, having a social dimension or some social protection was always our aim in the discussions in the European Union—with mixed success, I might say. The South Korean agreement I am rather pleased with; less so, probably, the Canadian one, surprising as that may seem.

I want to see in the agreements balance between free trade and some protection for the sectors that will be particularly affected. I do not necessarily mean protectionist protections. Welfare state protections, adjustment protections, retraining and redeployment programmes were the kind of things that were encouraged in the trade agreement process. That was because trade unions, employers and others were encouraged to take an active part in the formulation of these agreements. I am looking for assurances from the Government in support of these amendments that, as they approach this new responsibility for a British Government for the first time in many years, they will have that sort of philosophy and approach, and will not simply—desperate as no doubt Dr Fox is to make some agreements pretty quickly—let these be agreements that give up on the need for proper protection for the people who will be adversely affected, as they will be by these agreements.

The Minister of State, Department for International Trade (Baroness Fairhead) (Con): My Lords, we begin this first day in Committee with a discussion about some really important matters. I recognise the vast experience of your Lordships on many of these matters and am clear that this experience will be invaluable to the process. Even before we began this debate today, I held a number of meetings with noble Lords from all sides as—I want to underline this from the very beginning—I am very keen to hear all views and to ensure we have a full and proper discussion on these issues. I want that to continue. My door is open to any of your Lordships who wish to speak to me. I look forward to working closely with noble Lords as we scrutinise the Bill's provisions.

The Trade Bill will put in place the necessary legal powers and structures to enable us to operate a fully functioning trade policy. This will ensure that the UK is ready for exit. It provides continuity for individuals, businesses and our international trading partners; it also ensures that we can protect them. With the leave of the House, I will say that some of the comments made relate to future trade policy and others are about continuity, which is really the purpose of most of the clauses of the Bill. Therefore, I will try in these early amendments to focus on the continuity aspects of what we are discussing. Later in Committee we will look at future trade agreements and will have some time to discuss those.

In the previous debate in the name of the noble Baroness, Lady Smith of Basildon, my noble friend Lord Lansley made the point that this is about continuity. I want to stress that point: we need continuity for our businesses and for our people. The Agreement on Government Procurement, or the GPA, is an element of that continuity. As noble Lords will know, it is a plurilateral agreement within the framework of the WTO. Not all WTO members are party to the agreement. However, the UK has been a participant since its inception through its EU membership.

I turn now to Amendment 1, tabled by the noble Lord, Lord Stevenson of Balmacara, and underline the purpose of subsections (1)(e) and (1)(f) to which it refers. These give a power that is intended to be used to make regulations that reflect technical changes to a list in the UK's GPA annexe 1, made to ensure that it provides an accurate picture of central government entities. These changes would be made only after machinery-of-government changes and the transfer of functions from one to another. They would therefore be strictly technical changes—such as, for example, BIS becoming BEIS.

4.45 pm

We recognise the importance of appropriate transparency. Officials have been liaising and will continue to liaise with the devolved Administrations in preparation for notifying GPA parties of updates to the list. We have already shared the UK's draft GPA schedule with the International Trade Committee and the devolved Administrations. Officials will continue to work in conjunction with the devolved Administrations as we operate as an independent member of the GPA, and will ensure that the devolved Administrations are engaged in creating modified lists. I want to record on the Floor

of the House my gratitude for the work of officials in the devolved Administrations on the UK's accession to the GPA.

Speed is of the essence. Therefore, as the powers in subsections (1)(e) and (f) will be used only to update the list of central government entities, it would be disproportionate to consult local authorities, trade unions, consumer groups, businesses and NGOs on this clause as these would be small technical changes made to the UK's annexe to reflect machinery-of-government changes. The noble Lord, Lord Monks, raised the issue of trade unions being involved in future policy. They have already been included in the consultation on the future, but this is about the continuity of subsections (1)(e) and (f) of the GPA. As noble Lords will know, the GPA mutually opens up global procurement markets among its parties. It opens up procurement activities for our businesses worth an approximate £1.3 trillion annually. We are seeking to maintain continuity for business by remaining a participant of the GPA. Clause 1 allows for the UK's independent membership of the GPA rather than its membership through the EU, and that needs to be implemented in domestic regulations.

Lord Lansley: I am sorry to interrupt my noble friend. She will know that part of this process is, as she rightly said, the sharing with the WTO of the prospective schedules for our accession to the GPA. Those schedules are about not just which government entities are on the list but also the coverage. Is it the Government's intention, presumably already shared, that the coverage schedules—for example, and this is something to be particularly aware of, the extent to which health service procurement is covered by the GPA rules—are the same as the EU's? Could my noble friend share with us by what mechanism a consultation would take place if the Government proposed to change the coverage schedules?

Baroness Fairhead: I thank my noble friend for that important question. I think this issue comes later in the amendments, but I can confirm that we intend essentially to take exactly the schedules that currently exist for the UK, as they exist through membership of the EU, and put them into our new independent membership, so that those do not change.

Lord Stevenson of Balmacara: With respect, I think that the noble Lord had a second and more important part to his question. What happens if we want to change them?

Baroness Fairhead: My understanding is that any regulations would go through the normal procedures of scrutiny. No changes in law would be allowable without scrutiny.

Lord Stevenson of Balmacara: The Minister must put me right if I am wrong. She just said that these were such small changes that they would not warrant anything other than simply negative scrutiny. However, as the noble Lord pointed out, they could affect the materiality of how we administer and run our National Health Service, which would be a major change. Surely the whole argument that she is making needs to be resolved: if the Government are going to say that these changes are so small and trivial that they do not warrant the full scrutiny of consultation, the corollary of that is that they would need to be done by the affirmative system, not the negative.

Baroness Fairhead: I can confirm that we are copying the existing schedules directly across. There are no changes, so there is no need for scrutiny of changes, because no changes will be brought across.

Lord Lansley: I want to come back to that, because I think there is a point we need to establish. There is no question about the continuity of the existing schedules; the Minister has made that clear. However, if the Government wished to change the coverage at any point in the future, where is the power to do that? It is not clear to me that Clause 1 provides that power. It takes specific power in relation to the list of government entities, but not the coverage schedule. Of course, if there were such a power, we could look at the scrutiny process applied to that power.

Baroness Fairhead: I reassert that there is no power in the Bill to make any changes to those GPA schedules. We can come on to future policy, but this Bill is about continuity and making sure they are put in for the UK as an independent member. As the noble Lord will be aware, there are very explicit protections for our National Health Service. They exist as an exemption in our existing GPA; with the schedules being carried over, they will continue to exist as an exemption. We are very clear it is for the UK to look after the NHS and we intend to continue to do that.

Lord Purvis of Tweed: I am grateful for the Minister's explanations. The WTO at the end of November—I think this relates to what the Minister is saying—stated:

> "The UK reiterated that it intends to update its proposed GPA schedule of commitments within three months of their coming into effect".

So in effect that is a continuity commitment—it has given a future commitment for activity. We are trying to find out when this will come into effect—assuming there is a withdrawal agreement, this will be after the implementation period—and by what mechanism the Government will consult on the changes that they are likely to bring in in the future. As the noble Lord, Lord Lansley, said, some of the most important aspects will be the extent of what is covered and what can be procured, rather than necessarily the names of the bodies. That is of critical importance to agencies in Wales and Scotland when it comes to what can be opened up as a market for some of them.

Baroness Fairhead: I reiterate to your Lordships that this Bill, and the powers we are requesting, do not allow changes in our schedules to the GPA. Any future changes will need to be brought forward, and that is the subject of a different discussion. Going back to exactly what this clause is about, this discussion is about the addition of any changes to make an accurate description of the central government entities—and that alone. It is only Annexe 1; it is none of the other elements of the annexe in terms of the lists.

Lord Purvis of Tweed: Have the Government therefore discussed and agreed under what parliamentary procedures they are likely to bring these forward?

Baroness Fairhead: Again, we are talking not about the future but about continuity. When we discuss these clauses, I would ideally like to focus on what we need for continuity. We have time allocated to discuss future changes in Committee; I think that that will be the right time to discuss them.

Lord Wigley: On that point, might there be a disagreement between Westminster and Cardiff, or Westminster and Edinburgh, on what continuity is —in other words, on the interpretation of where these definitions apply? For example, it is not just medical matters that arise in the health sector: purchases for hospitals and all the rest cover foodstuffs, et cetera. In Wales, we have succeeded in raising the level of local procurement from 35% to 50%, which has had a significant positive economic knock-on. One does not want any of that to be lost in any of these changes. If the Minister could give an assurance that there is no possibility of that happening it would help us.

Baroness Fairhead: I will confirm this, but my understanding is that the schedules will be exactly as they are now. The procurement agencies in Wales will be able to put in their own procurement rules in that context, provided that they meet the GPA rules and are done on a level playing field. That will continue. The whole purpose of this is to make those changes and to have continuity—but if there is any change in what I said to the noble Lord I will revert.

Amendment 2 would require the regulations under Clause 1 to make provision to amend retained direct EU legislation only in accordance with the provisions of the European Union (Withdrawal) Act 2018. As I understand it, the amendment seeks to ensure that the powers in Clause 1 cannot be used to amend retained direct EU legislation in a way that is contrary to the provisions of the EU withdrawal Act. This is a concern that I have sympathy with and which the Government have considered carefully. I am therefore happy to assure the noble Lord that the powers cannot be used in this way. I hope that noble Lords will take reassurance from this and will agree that the amendment is unnecessary. Paragraphs 10 to 12 of Schedule 8 to the EU withdrawal Act cover powers to make subordinate legislation on or after the day the Act was passed, so they will bind legislation made under Clause 1 of the Trade Bill without further provisions being made. In addition, I inform the Committee that the Government intend to bring forward an amendment on Report to include the same definition of retained direct principal EU legislation used in the EU withdrawal Act in this Bill to clarify the position even further.

I again thank the noble Lord, Lord Stevenson of Balmacara, for bringing forward Amendment 3. Parliament's ability to scrutinise the UK's independent accession to the WTO Agreement on Government Procurement prior to ratification is incredibly important and one that the Government have considered. I can assure noble Lords that it is entirely the Government's intention to comply with their legal obligations under CRaG to offer Parliament the opportunity to scrutinise the UK's accession to the GPA. In the light of this assurance, the Government believe that it would be unnecessary to have an amendment that compels this. However, to provide further reassurance to the Committee I will state clearly that the UK's accession to the GPA is to be on the same terms and with the same rights and obligations that we currently enjoy as a participant through the EU. As with all the Bill, this is about continuity. The UK's GPA schedules, which have been accepted in principle by the GPA parties, can be viewed publicly on the WTO's GPA website under the UK portion of the EU schedules.

The noble Lord, Lord Purvis of Tweed, raised some issues about Canada and how we might think about our policy in future. Again, that is for the future and not related to this clause and the Bill.

Amendment 100 was tabled by the noble Lords, Lord McNicol of West Kilbride and Lord Purvis of Tweed. It seeks to change the regulation-making powers in Clause 1 from being subject to the negative procedure to being subject to the affirmative. As drafted, this power would apply only when the powers are exercised by a Minister of the Crown. They would remain negative when exercised by one of the devolved Administrations.

I understand entirely and share the House's desire to ensure that due parliamentary scrutiny is given to the use of any statutory instruments. However, the report of the Delegated Powers and Regulatory Reform Committee did not raise any issues with the power, which I hope provides further reassurance that the Government are using appropriate procedures under the power in Clause 1.

5 pm

A similar amendment was laid in the other place. That was defeated in Committee with two votes for and nine votes against. We and they believe that the negative procedure is appropriate for Clause 1, because Parliament will have the opportunity to scrutinise the GPA before the powers in Clause 1 are exercised. The power in Clause 1 allows for changes to domestic procurement regulations in order to reflect the UK's independent GPA membership, rather than membership through the EU.

The Government are committed to their legal obligation under CRaG before the UK can accede to the GPA as an independent member. The negative procedure would then allow Parliament to scrutinise the resulting amendments to domestic regulations to ensure that UK regulations are compliant with our obligations under the GPA.

Time, as noble Lords will be aware, is short. We must be able to make these regulatory changes quickly and avoid the UK being in breach of its international obligations. The other limbs of the power ensure that the UK's independent GPA membership is operable, allowing changes to domestic regulation to reflect new accessions to the GPA and withdrawal from it—and, as we have discussed, to update the UK's list of central government entities.

Prior to the accession of a new party being agreed by the GPA committee, all parties, including the UK, would need to agree to the prospective party's offer.

The GPA committee would reach a decision inviting the new party to accede, after which it would deposit its instrument of accession. Thirty days later, the GPA comes into force for the new party. The UK therefore needs to be able to act swiftly to implement any new accessions and the negative resolution procedure is the only way to ensure that that takes place in time. Without it, the UK could be in breach of its commitments under the GPA and at risk of a dispute. Parliament will have the opportunity to scrutinise the SI when it is laid under the negative procedure. As I said, Clause 1 also allows updates to be made on the list of the UK's central government entities, included in Annexe 1.

These, as I hope I have shown, are mere technical amendments to reflect machinery of government changes. The negative procedure will ensure that any such updates to our lists are reflected in domestic legislation in a timely fashion. As before, Parliament retains the opportunity to scrutinise the resulting SI when it is laid before both Houses. I am also happy to confirm that the Government have carefully considered the Constitution Committee report referred to in the previous debate. The Government will respond to the committee tomorrow—and, therefore, before the House next meets in Committee to discuss the Bill.

I genuinely appreciate noble Lords' concerns but hope that this House has found the Government's response to each of the amendments reassuring. Clause 1 is about ensuring continuity, and ensuring that UK businesses enjoy the same opportunities in future as they do now. That is something that I believe the whole House supports, and I ask the noble Lord to withdraw the amendment.

Baroness Neville-Rolfe (Con): My noble friend helpfully explained how the implementation of the Agreement on Government Procurement would work and referred us to a website with useful detail. She said that where there was accession by another party, there would not be anything major. The whole idea of the provision was continuity, so you would be implementing things that had already happened. I have a simple question—I apologise that I am not expert in this area. The Government say that they are negotiating with a whole list of countries, including Albania and Australia, for example. If they were suddenly to accede to the GPA, which sounds quite positive—because it would mean more trade between countries in public services and in other sorts of procurement—would that then simply be added in, or would it be done in some other legislation? That is not quite continuity. It is very sensible to use an existing system, but I am keen to understand whether we are agreeing to that today or whether it would be done somewhere else. I apologise if my noble friend has already clarified that.

Baroness Fairhead: I thank my noble friend for the question. My understanding is that it puts us in the same position as we are today. When parties want to withdraw from or join the GPA, a process is gone through with the EU in which they demonstrate their intention and present their schedules to the WTO. Each member then decides whether they are prepared to accept that new addition or withdrawal. That is the process that we would go through. If that should happen, the Bill gives a power to implement under SIs. Parliament would be able to decide whether new members could join or leave.

Lord Stevenson of Balmacara: I thank all speakers in this short debate. The early contributions were to do largely with devolved issues. I think that we will come back to them, but they raise exactly the thorny difficulties that can emerge from making this work in practice. My noble friend Lord Hain spoke of not wanting to see an action replay of the "power grab"—his words, not mine, but I understand where he is coming from—by the Government in relation to the withdrawal Bill. We do not want to see that repeated, so I hope that the Government are able to reassure us that progress has been made on this and that some sensible and effective negotiations will be in place to allow it to be done effectively and with support all round.

It has not taken us very long to stumble into areas which were exactly the point of the amendment to the committal Motion made by noble friend Lady Smith. We are talking about "what happens if" rather than just about continuity. The noble Lord, Lord Lansley, has stumbled across quite an interesting point—I am in no sense making a point about him; the noble Baroness the former Minister also picked up something about "what happens if" and how it is resolved. I am not saying that we are doing anything wrong here, but it illustrates the difficulty of trying to narrow down to a continuity mode without thinking about the wider context.

I draw from this several things. First, on whose powers we are talking about when the regulations are in place, the Bill uses curious phraseology:

> "An appropriate authority may by regulations make such provision as the authority considers appropriate".

That could be extended to the power being exercised by Ministers in the Scottish Parliament, the Welsh Assembly or the Northern Ireland Assembly when it is reformed. There is nothing wrong with that—if they have the powers and the right to use them, they should do so—but it is a very different scenario from that pointed to by the Minister, about us always having the security of the negative resolution procedure when looking at how the regulations operate. The noble Baroness, Lady Neville-Rolfe, made exactly that point: these things are live and moving. They will change quite rapidly and we will have to exercise some of these arrangements. I am not sure that the negative resolution procedure is right for that.

However, the Minister's reliance on the procedures under the Constitutional Reform and Governance Act 2010 is surely misplaced. Much of our debate on this Bill will be about the inadequacies of the CRaG procedures at present. To rely on them taking us forward because they are already in statute is to deny a whole series of debates and questions raised by them. I will not go into this at this stage; it will come up later. But it surely cannot be right for this Parliament to accept that a simple Motion to approve a complicated trade agreement, a complicated set of arrangements around procurement, or anything else that falls into that category can be done without amendment, debate or the ability to go through them in the form of primary legislation. We will come back to that.

[Lord Stevenson of Balmacara]

We have had a good debate on these issues; I shall read *Hansard* carefully, and I am sure that there will be things that we pick up later in correspondence. For the moment, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendments 2 and 3 not moved.

Amendment 4

Moved by ***Lord Stevenson of Balmacara***

4: Clause 1, page 2, line 13, at end insert—

"( ) Regulations under subsection (1) may make provision for all contracts for services tendered by Her Majesty's Government under the 1994 GPA or the Revised GPA to include conditions, so far as these are consistent with the 1994 GPA or the Revised GPA, with regard to—

(a) the transparency of laws, regulations, procedures and practices regarding government procurement;

(b) minimum employment standards, rates of pay and similar employment rights;

(c) maximum periods for the payment of invoices;

(d) environmental standards;

(e) human rights obligations;

(f) equalities legislation;

(g) any other such measures as may be required to protect national security interests, the public interest, human, animal or plant life or health, and intellectual property."

Lord Stevenson of Balmacara: My Lords, the previous debate was about process and how approval mechanisms were in play. This amendment has been grouped with Amendment 5, in the name of the noble Lord, Lord Lansley, which I support.

Amendment 4 shows the sorts of arrangements and concerns that we might have in trying to ensure that procurement works more generally in favour of social objectives—a point made earlier by my noble friend Lord Monks about the work he did in Europe in relation to trade Bills and discussions on these areas. We do not need to spend much time on Amendment 4. The list that appears in it is a familiar one to anyone involved in policy on business during the last three or four years. There has been a sense of the Government beginning to emerge from a period of non-engagement with many of these issues into having similar concerns to those on this side of the House about the way in which it is occasionally necessary for government to raise standards, by making it clear that certain behaviour within business is not acceptable. For example, many Members of the House present today will be aware of the long-running saga over the maximum periods for payment of invoices. Over the years, we have tried to get some movement; yes, there has been some, but it would be nice to see the Government pick up and run with this issue for a change.

The list in the amendment is variable in what it does. There are some high-level issues, for example, to do with,

"the transparency of laws, regulations, procedures and practices regarding government procurement".

I hope that that provision would be unexceptional. The amendment refers to,

"minimum employment standards, rates of pay and similar employment rights",

which I think feature in the Statement that we are shortly to receive which was made in the other place earlier this afternoon. I have mentioned the payment of invoices and the scandal of late payment; the drag on the economy from that is now worth something like £40 billion. The list also refers to,

"environmental standards … human rights obligations … equalities legislation",

and all those arrangements have been well worked through in terms of discussion. Would it be so difficult to require that anything done under the GPA in relation to Her Majesty's Government's work, or by those devolved authorities which are also involved, tries to ensure that we raise standards in the workplace? These proposals are worthy of consideration and I beg to move.

Lord Lansley: My Lords, Amendment 5 is in my name. At the risk of being chided gently by the noble Lord, Lord Stevenson, to an extent I guess it must be regarded as moving from continuity. We will inevitably enter a series of such debates, but this Committee will be none the less useful for at least exposing some of the issues that policymakers will need to consider as they look at using the powers that we propose to give the Government.

Amendment 5 is intended to reflect that under the government procurement agreement, a number of other countries—not the European Union—take the opportunity to put in exceptions to their procurement arrangements that are consistent with pursuing objectives for promoting small and medium-sized enterprises in their own economies. I suppose that the most prominent such example is the Small Business Act in America. Those countries have done this because, in certain circumstances, it can lead to some discriminatory behaviour on the part of government entities undertaking procurement. I freely acknowledge that the European Union does not do this; essentially, because it takes the view that it has created EU public procurement rules that are intended to be wholly non-discriminatory. Those are non-discriminatory between all 28 member states and, by extension, the view the EU took was that it would be unreasonable for it to attempt to discriminate between EU and non-EU countries in taking advantage of the general procurement agreement.

5.15 pm

However, if we are to pursue the strategy of promoting small and medium-sized enterprises in the way that the Government have committed to doing, there is, by extension, the possibility of some discrimination on the part of government entities in order to achieve that. Strictly speaking, this is not necessarily discrimination between UK SMEs and those from other countries, although, in practice, exceptions have been put down because that is more likely than not to be the case when pursuing this kind of proactive strategy to increase SME procurement in certain sectors. As I said, the Government have an objective, which, if I recall correctly,

changed in the 2015 manifesto from 25% to one-third. The last figures I saw showed that in 2017 central government procurement had reached 22.5%. I am sure I shall rapidly be told that it is much higher in Scotland; that was certainly made clear in the debates in another place. In a sense, that is not the point. The Government have a strategy and a target of one-third, which they have not yet reached.

Before someone astutely points this out, the amendment must, of necessity, relate to procurement that is affected by the government procurement agreement, which is a subset of total public procurement. For example, the Ministry of Defence will largely be outside the GPA and, on the last figures I saw, its SME procurement was 13%. There is certainly an issue about how the Government are going to achieve their overall strategic objective, not least in working with the Ministry of Defence to ensure that, although many of its lead contractors are large companies, those companies engage small and medium-sized businesses as part of their procurement process. The figure of 22.5% that I referred to is both direct and indirect spending and so will include subcontractors.

The purpose of the amendment is to say that we should revisit the question once this provision is in force and we are in the GPA on our own account. It does not actually require the Government to enter an exception to the GPA for the purposes of this target, but it does ask them to go away and think about whether we need to. It asks them to look at the strategy and how we are proposing to meet it and to take account of the devolved Administrations—not telling them what to do but taking account of how they propose to act. On the basis of that, they should decide whether an exception to the GPA's schedule is required in order for us to meet that strategy. I have not included it, but it would clearly be appropriate for the Government both to consult on that and, in the fullness of time, to come back to Parliament and ask its view on whether the strategy needs to be pursued by such an exception.

I will be straightforward with my noble friend. I am not looking for a change to the Bill. I am using the amendment to extract from the Government a commitment that this is something that needs to be looked at. When one is participating in the GPA as one member state, the provisions of our own SME strategy might be distinct and different from the way that the European Union has related to SMEs. I declare an interest as a director of Low Associates Ltd, a small business which contracts to the European Commission.

Lord Fox (LD): My Lords, I shall speak to Amendment 5 and before going any further I want to associate ourselves positively with its spirit. We are probably going to hear the word "continuity" many times over the next four days, but I feel that the noble Lord, Lord Lansley, has forfeited the right to use it. The clue is in the word "revisit", which, by its nature, is not continuity but is proposing what he and we believe to be a beneficial discontinuity. It is quite clear that in this country and in other countries—as the noble Lord set out, this covers not just UK SMEs but SMEs in general, and certainly that is the wording in his amendment—economies and employment flourish where SMEs flourish. That is a good thing and we would ask the Minister whether this amendment is necessary for the future, to make sure that we do not fall foul of our own rules in terms of discriminating in favour of small and medium-sized companies.

I reiterate the fact that, as well as trade policy, commercial policy is central to this. The noble Lord, Lord Lansley, mentioned the government strategy: it is about how the Government choose to drive these policies home, through their commercial strategy and through the size of the packages they put out to bid, for example. We saw a recent example around the broadband structural bidding, in which it was quite clear that the overall size of the package militated against small and medium-sized companies bidding. That is nothing to do with trade policy, it is to do with the commercial policy of the Government at the time. So we support this with the proviso that the Minister comes back and says whether it actually achieves what the noble Lord, Lord Lansley, is hoping to achieve. I also enjoin all members of the Government to deliver the commercial part of the spirit of this amendment.

Baroness Hooper (Con): My Lords, both these amendments provide us with a useful opportunity for discussion on important areas of trade, but both are without a doubt, to my mind, without the Bill. If we approach them in this spirit I think we can accept them as a useful addition for the future. I support my noble friend Lord Lansley's Amendment 5 and will concentrate upon it because there is always a lot of rhetoric about SMEs and the need to encourage and support them, particularly in this context of increasing and developing international trade and their trading opportunities, and especially in this brave new world that awaits us after Brexit. Therefore, to have a specific quota for procurement is a very good way of drawing attention to the needs of small businesses and to encourage them to come forward when the time comes. Because it is not just a question of legislation: with all trade, it is a question of getting people out and about in the countries where we hope that they will find trading opportunities.

When we talk about international trade, of course there is much more to it than that. There is the whole issue of language skills and specialised negotiating skills which, by their very nature, small and medium-sized businesses may not be able to cope with. They are not likely to have the specialised staff or even the budgets to deal with this. I think that for the future we can certainly build on this amendment and the intention behind it, but as I said at the outset, not in this Bill. I trust that my noble friend the Minister will be able to reassure us that these interventions are not wasted but will be of great use when we come to deal with individual trade Bills in the future.

Baroness Young of Old Scone (Lab): My Lords, I support Amendment 4 in the name of my noble friend. I declare an interest as president of the Woodland Trust and as president or vice-president of a range of environmental organisations.

[Baroness Young of Old Scone]

The noble Lord, Lord Fox, was absolutely right when he said that these would be the "continuity" four days. I will make that point shortly with regard to what we are trying to do with this amendment. It is important that we ensure that our joining of the GPA as an independent entity maintains all sorts of standards: employment and human rights equalities, SME targets, other government national priorities and, in particular, on the environment. I therefore support Amendment 4 to enable conditions to be applied to tenders for services.

I will say more about the importance of maintaining environmental standards when we come to the group starting with Amendment 8. However, on Amendment 4 I will simply say that it is a very different thing to operate as one of the EU 28. It was pretty easy to have high environmental ambition when we were sailing as a pack, as it were. It will be very different when we are negotiating as an isolated country, either with the World Trade Organization or in bilateral agreements. I therefore do not believe that the Bill can be just about continuity, because continuity is not an option; in the future we will be operating in a very different environment in all our trade arrangements. It is important to ensure that standards—in my case, particularly environmental standards—are reinforced in all the trade mechanisms we are putting in place as part of a Brexit mechanism.

I therefore very much support Amendment 4 with regard to our changed membership of the GPA and subsequent tenders and contracts, which are an important part of that wider trade system that we are now entering into—which is not an issue of continuity.

Lord Livingston of Parkhead (Con): I echo the comments from my noble friends Lord Lansley and Lady Hooper, that of course the Bill, and in particular this part of it, is not about changing policy or procedure but about continuity. I think they are raising points to consider in future trade negotiations. On Amendment 5, it is important to recognise the more important part about SMEs rather than just SME procurement policy. I know that the Minister has done a lot of work in promoting SME trade around the world; the UK's policy has been moving towards supporting SMEs, not just in UK procurement but around the world, taking them to see other Governments and incorporating them within the supply chains. The UK has already taken a lot of steps over a number of years. Indeed, in one of the negotiations the EU and the UK had on trade, we tried to incorporate an SME chapter to have more focus on understanding, across any business, that SMEs are important. It is important here, and it keeps on appearing as an issue.

It is fine for us to talk, as noble Lords have, about things we would like to see in future trade agreements with future countries in future ways. However—I know that the Minister will make the point again—we are replicating where we already are. It is right and appropriate to set up signposts for the future, and on SMEs, I am sure that the Minister will say how as a Government we have done a lot, and how we expect to do a lot more and be incorporated, not just within trade agreements but in trade support, and what we do in areas such as trade fairs and in leading many trade delegations. Indeed, a number of noble Lords do a great deal around the world to support UK SME trade, along with the trade department.

Lord Purvis of Tweed: My Lords, the noble Lord, Lord Livingston, has great experience in this regard, and I take note. I am grateful to the noble Lord, Lord Lansley, who has opened the floodgates to talking about the future. Part of the discussion about continuity is that none of these discussions which have been taking place over the last 18 months—I am sure that the Minister will correct me if I am wrong—will have been taken in a vacuum of considering what the UK's position going forward may well be. Those countries that we have the agreements with have not been approached like that. The noble Lord and other Members of this House will have met many Members of Parliament, government officials and Ministers who do not simply look at continuity but look at what may well be the ethos in which their relationship will begin. Therefore, the line to draw is not an easy one, although I respect the noble Lord and I have great respect for the remarks of the noble Baroness, Lady Hooper.

5.30 pm

I support the amendment and the amendment in the name of the noble Lord, Lord Lansley. One of my happiest moments as a Member of the Scottish Parliament was being credited with saving the kilt of the Royal Regiment of Scotland. Since Victorian times, Robert Noble—a tweed manufacturer in Peebles, as it then was—had had the contract to weave the cloth for the regiments of Scotland. However, this was under threat because a quirk of government procurement policy did not specify that the tartan had to be woven on the traditional Dobcross loom; instead, it could be printed cloth, which could be made anywhere in the world. The then Defence Secretary, the noble Lord, Lord Browne of Ladyton, was very supportive but I suspect, as was relayed to me, that the government U-turn on procurement policy was as a result of a word from the Palace that Her Majesty might not appreciate it if the colour ran from the tartan at the parade of the colour.

Essentially, government procurement—or local government procurement—is the lifeblood for the future of many small businesses, whether in weaving, which can be very high-tech, or in the dynamic industry that has been mentioned. Therefore, it is helpful to put on the record what the Government's likely intentions are. As I have said before, and as we will no doubt talk about in the discussion on the next group of amendments, the Government have committed not only to carry over the GPA schedules but to revise them going forward; they have already said that in discussions with the WTO. It is appropriate that the noble Lord, Lord Lansley, is asking for that positive statement today.

Lord Risby (Con): My Lords, as one of the Prime Minister's trade envoys and as a long-standing deputy chairman of the Small Business Bureau, I support the amendment put forward by my noble friend Lord Lansley. I salute my noble friend Lord Livingston's efforts, who helped to transform our external commercial activities.

Highlighting the importance of the small business sector is key to what the department is now doing. That is a huge cultural change because, although our small and medium-sized businesses sector is vibrant, it has not been brought into the loop of trade promotion. Huge effort is being undertaken there. I mention that because, earlier in the debate, there was an implication of inaction in the department. I have seen for myself how utterly untrue that is. For example, you can see on the website how small and medium-sized businesses are being offered communication skills and efforts are being made to encourage them; a sophisticated system is being put into effect.

My noble friend talked about strategy. Simply, there has been something of an oversight as far as the sector is concerned, particularly in terms of trade promotion. What is happening now is definitely a considerable change. The amendment highlights the importance of the sector for the future of this country and its future dynamic economic activity, which I hope will happen post Brexit, and offers a framework for participation in procurement. I hope that the Minister will give some sort of encouragement or indication of whether this is at the forefront of her thinking and that of the department when she replies to the debate because I believe that an important message was relayed by my noble friend in his remarks.

Baroness Neville-Rolfe: My Lords, I am a huge supporter of the small business sector and its growth. Indeed, some of the issues raised in Amendment 4, moved by the noble Lord, Lord Stevenson, are also important. However, like other noble Lords, I am not sure that they should be written into the Bill. I want to take this opportunity to ask the Minister a question, which she may prefer to answer in writing. Essentially, I want to pick up on the points about the importance of small businesses made by my noble friend Lord Livingston —who, as has been said, did so much as Trade Minister— and my noble friend Lord Risby.

My noble friend Lord Lansley is right that some countries try to discriminate in the procurement process in various ways. He rightly quoted the US Small Business Act. What can we do about that in policy terms? In particular, can we improve the process facing SMEs trying to win contracts either internationally or here in the UK? From my own experience, including a period serving on the Efficiency Board in the Cabinet Office, bidding rules are complex and vastly expensive—as a result, it is said, of European Union laws and requirements. Is work in hand to simplify our rules as we leave the EU to help SMEs win a bigger share of procurement, as I think we would all like?

Lord Davies of Stamford: My Lords, I have been listening to the debate with great interest, but I am worried that the House may be making a technical mistake that could have wider implications. With the best intentions in mind, many noble Lords have spoken in favour of the suggestion to place quotas on companies to do with the beneficiaries of public procurement for the portion of the contract supplied by small businesses. It has been said that the small business share in defence procurement is much lower than it ought to be. The House should be very careful about that. It is probably not possible to increase that greatly; I speak as a former Defence Procurement Minister, as the House will know. If we send our young men and women into battle, we must give them the very best equipment money can buy. There can be no compromise on that. In my view, we cannot under any circumstances accept something second-best when the best is available.

Defence equipment generally involves a great deal of research and development; the products are often high-tech, modern and unique, designed to our specifications and not for anybody else, so there are not the economies of scale that are generated with substantial sales. That is a problem because most of the big defence contractors have an overwhelmingly large share in this country's defence business. When I was the Defence Procurement Minister, the five big defence procurement suppliers included BAE Systems, Thales, Lockheed Martin—which is American, of course—and Boeing. They are large companies, some of which are supplied with components and parts by small businesses, to a considerable degree. However, some of them are not and, in practice, it is impossible to force them to do that.

We must buy the best, which is often very expensive. We cannot place such conditions on its procurement. Let me give an example. Of course, we spent billions of pounds buying the F-35, which is a wonderful aircraft. We buy it from Lockheed Martin; it is built and assembled in Fort Worth in northern Texas, close to Dallas. I have been there many times. The British share in its procurement project is considerable: about 15% is produced by BAE Systems, but that is not a very large company. One would have to look at the extent to which BAE Systems procures from small businesses. In the United States, to some extent—but, again, to a limited degree—Lockheed Martin buys goods, equipment, services or software from small companies, but they are American small companies, so they do not help us to reach that particular kind of quota.

In some cases, like the Boeing contract for the Chinook helicopter—I once placed an order for 24 of them, so that was a very substantial contract—again the suppliers are largely American. It is not possible to insert British suppliers into the chain because they do not produce what is required for that particular aircraft. It was designed in America according to specifications set down by the American Department of Defense. I do not want to go into too much detail on this; rather, I want to give the Committee an indication that it might be worth thinking carefully about these matters before defence procurement is automatically considered as being part of the desirable targets for increasing the share of the market for small businesses. I fear that almost certainly the only sensible solution would be to leave defence out of this altogether. I started off by mentioning the fact that life and death issues are involved, and we should not be imposing any additional constraints on our defence procurement.

Baroness Fairhead: My Lords, we have discussed a number of elements of the GPA, but at its heart it opens up mutually a government procurement market

[Baroness Fairhead]
among its parties. That has come about as the result of a number of rounds of negotiations. As I stated earlier, the parties to the GPA have now opened up procurement activities worth an estimated £1.3 trillion annually. This benefits UK businesses and the public sector, as well as our consumers.

Amendment 4, tabled by the noble Lord, Lord Stevenson of Balmacara, seeks to make provision for regulations to be made when implementing the UK's accession to the GPA that would compel procurement entities which are part of Her Majesty's Government to include various standards and obligations in their GPA-covered contracts. I understand the reasoning behind the amendment, but the Clause 1 power in the Bill is to implement our current accession to the GPA on the basis of our current commitments, rights and obligations. This is to ensure—I beg the leave of the noble Lord, Lord Fox, once again—continuity for UK businesses, public entities and our partners. We are not seeking to change any of the rights and obligations that procuring entities currently have, nor are we seeking to implement new or future changes to the procurement rules, which is what this amendment seems intended to do.

The Government have been clear that they will maintain the current levels of protection. Indeed, my right honourable friends the Prime Minister and the Secretaries of State at Defra and the DIT have made public commitments to this end. Section 8 of the withdrawal Act will bring all existing regulations into UK law, and our commitment to international standards remains unchanged. These standards include those on the environment through multilateral environmental agreements; labour rights through the International Labour Organization fundamental conventions; and human rights and equalities legislation. The noble Baroness, Lady Young of Old Scone, discussed some of these standards and I believe that we will consider them in more detail in the fifth group of amendments. I will say only that standards are important and that we are aiming to maintain them.

Procuring entities are able to apply their own additional measures of environmental, social and labour standards to contracts, and in fact they do so regularly. Membership of the GPA does not prevent standards being applied to contracts. The Public Contracts Regulations 2015 allow such standards to be applied where they are relevant, proportionate and consistent with the GPA; for example, a recent contract for the refurbishment of Quarry House, the home of the Department of Health and Social Care, included a requirement for sustainably sourced furniture.

There are other means available to the Government to achieve the effect that the noble Lord is seeking. The Chancellor of the Duchy of Lancaster announced in June that the Public Services (Social Value) Act 2012 will be extended in central government to ensure that all major procurement projects explicitly evaluate social value. We will require all departments to report on the social impact of major new procurements. We will train 4,000 commercial buyers on how to take account of social value. The Government are already able to issue public procurement notices which set out our policy on certain aspects of procurement, and these are binding on all government departments. I hope that the noble Lord will be reassured to hear that.

5.45 pm

The UK has been a participant in the GPA since its inception in 1994. In the nearly 25 years since then, throughout Governments led by various parties, the UK's procurement rules and regulations have allowed procuring entities to maintain choice in their contracts. I hope that the Committee will agree that public procurement notices provide the right balance between ensuring that government departments follow appropriate standards and enabling them some flexibility to exercise choice.

Finally, the restriction of this amendment to making provision relating only to GPA contracts risks having the effect that GPA contracts might be subject to different rules from other procurement contracts. That would not be the aim of this Government for two reasons. First, divergent procurement regimes would impose a considerable compliance burden on public bodies, with the attendant risk of legal challenge. Secondly, it may even be unlawful in so far as it could result in the differential treatment of suppliers from GPA countries versus suppliers from countries with which we have other international obligations and agreements.

Amendment 5, tabled by my noble friend Lord Lansley, seeks to add an additional clause to the Clause 1 powers which dictates that the Government must include a report making clear a strategy to ensure that one-third of public procurement contracts are won by small to medium-sized enterprises—SMEs. An appropriate authority would then be required to attempt to introduce exemptions to the UK's market access offer in order to achieve the targets set out in that report. I have spent most of my career in business and I utterly appreciate the importance of SMEs to our country; they are without doubt the lifeblood of our economy. I also understand that the amendment seeks to ensure that public sector contracts are won by SMEs whenever possible and that we continue to support these enterprises to grow. However, as my noble friend Lady Neville-Rolfe said, we believe that this Bill and the GPA are not the way to achieve that.

I reassure the Committee that the GPA does not prevent SMEs winning UK public sector contracts, nor does it prevent public procurers from choosing to introduce measures to increase SME wins. Over the past seven years, the Government have implemented a wide range of measures to open up the way they do business to make sure that small companies, SMEs, charities and voluntary organisations are in the best possible position to compete for contracts. We know that there is still further work to do, which is why the Government have set a target of 33% of spend with SMEs by the end of this Parliament. The noble Lord, Lord Davies of Stamford, correctly highlighted the complexities in setting targets but, as I said earlier, I think that this debate will be helpful in producing valuable input and suggestions for how we should think about the future, if not in this Bill.

My noble friend Lord Lansley talked about his ideas and how we could implement them. My noble friend Lady Hooper talked about the skills that we will need in languages and so on, while my noble friend Lady Neville-Rolfe talked about enhancing the process. My noble friend Lord Livingston talked about recognising and engaging with SMEs. I take my hat off to him for all the work that he did when he was Trade Minister. I hope he knows that we are trying to put in place policies that will help SMEs. My noble friend Lord Risby does outstanding work as a trade envoy. He talked about other ways of looking at trying to enhance the attractiveness of opportunities for SMEs. Why is this continuity so important? I will reflect on those suggestions, and my door remains open for other suggestions but, going back to the comment by the noble Lord, Lord Fox, this is about continuity.

The GPA is a great benefit to SMEs in ensuring access to public procurement contracts. Since 1994 it has opened up legally guaranteed access to procurement contracts. The GPA operates in a spirit of co-operation and transparency, and the UK must maintain its current open offer in order for SMEs in the UK to continue to benefit from open markets abroad. Indeed, the Federation of Small Businesses has said it is essential that the UK is able to become an independent member of the GPA to allow small businesses continued access to government contracts and procurement opportunities. UK SMEs are competitive abroad and their goods and services, as I know at first hand—it is a real privilege to be able to represent and meet some of them—are in enormous demand globally. We wish to ensure that through the GPA they continue to enjoy legally guaranteed access to foreign procurement markets and that we can continue to help them grow. We continue to be committed to our one-third of spend on public procurement for SMEs by the end of this Parliament. I hope that this provides some reassurance to the Committee and the noble Lords who tabled the amendments, and I ask the noble Lord, Lord Stevenson, to withdraw his amendment.

Lord Stevenson of Balmacara: I am grateful to the Minister for her comments. I think she summed up very accurately the sense in the debate that we have issues here that are worthy of further consideration and should be brought forward and considered, but in another place—and that they can inform and improve the quality of what we do more generally in terms of the Government adhering to high standards in the work they commission, but also that there is a role for SMEs in that which is embraced by the Government. She gave some evidence of work moving towards that.

I think all noble Lords who have contributed to this debate will get something from it—even my noble friend Lord Davies of Stamford, who counselled us not to get too carried away with the drift of trying to get everything included, particularly for SMEs in relation to the safety of our Armed Forces, whom we count on to defend us and for whom only the best can do. The SME world would not necessarily accept that it is not performing at its best. It will have a role. I think the key was in something that the noble Lord, Lord Lansley, said: we need to be quite clear what we are talking about here. It is not main contracts.

Lord Davies of Stamford: I want to be absolutely clear about something. I did not suggest for a moment that SMEs do not have a valuable part to play in defence procurement. I said simply that it may be impossible or expensive in terms of the risks for our soldiers and other servicemen and servicewomen if we insist on a particular quota of procurement from small businesses. We should first of all decide what is necessary to procure for our Armed Forces, then we should procure it. We should hope that as a result SMEs have as large a part as possible, and we should encourage the major contractors to have as large a number of small suppliers as possible, but we should not take any risks to meet some arbitrary quota.

Lord Stevenson of Balmacara: I fully accept what my noble friend has said, and I am sorry if I misrepresented him. I think he has the right point there. It picks up what I was going to say about the point made by the noble Lord, Lord Lansley, that contracting is often seen in terms of large contracts issued by central government to very large manufacturers, and of course it is not like that. The work of the BEIS department in setting up not only the industrial strategy itself but the way it will roll out to the smaller end of the market is a very important element of that. I am sure we all accept that there is a future there for a much broader engagement with big and small projects, but also for a wider range of activity where innovation, skills, flexibility of movement and the ability to adapt to new environments—such a hallmark of SMEs—are used and capitalised on for the benefit of our public good.

In a sense, it is good to hear from the Minister the progress in setting and achieving high standards in our procurement arrangements. The points that need to be brought forward are not just the range and need for these issues to be picked up in all our consideration of contracting; we must not be left behind if other countries are using the GPA, or indeed other measures, to achieve change in their environment and economies, and benefiting from it. We must not miss out on that; we need to have a strategy for it.

The points made about the SME end of the market, particularly in relation to making sure—

Lord Lansley: I am sorry for interrupting. It might be helpful to say that one thing it would be useful for the Government to look at is that, other things being equal, we want other countries not to put down exceptions or engage in any discriminatory behaviour and to be as open as we can possibly make them. We should therefore at least look at what a number of other countries seek to do by putting down their own exemptions—such as the US, in relation to the Small Business Act—and from that arrive at an understanding of what position we will be in relative to them. The GPA should be very much about reciprocal openness of markets, rather than discriminatory behaviour.

Lord Stevenson of Balmacara: I absolutely agree with that.

My final point is to pick up on the SMEs and the need to consider them not so much as one amorphous group but to try to find ways of reaching out to them

[Lord Stevenson of Balmacara]
in terms of how they operate. I think there is a feeling abroad—it may not be correct—that the Government have a one-size-fits-all approach. That will not work when you are trying to look for innovation, change and the other points I mentioned. So, picking up the points made by the noble Lord, Lord Livingston, we should be very careful about how they can contribute and what will make them engage more than they currently do. The noble Baroness, Lady Neville-Rolfe, said we should make sure we have material help that is actually useful to them, rather than them having to fill in thousands of forms and go through impenetrable websites—I think we are all quite aware that that happens; indeed, we have had examples in this House. I think the point made by the noble Lord, Lord Risby— that there is so much there that can be done—was also well taken. It is an effort we all have to be engaged in if we are going to do it. With that, I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

Amendment 4A

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

4A: Clause 1, page 2, line 13, at end insert—

"( ) This section may not come into force until a Minister of the Crown has laid before each House of Parliament a statement on the ways in which the UK's membership of the 1994 GPA would be affected if the House of Commons does not pass a resolution approving a withdrawal agreement and a framework for the future relationship for the purposes of section 13(1)(b) of the European Union (Withdrawal) Act 2018."

Lord Purvis of Tweed: My Lords, first, I apologise to the Committee that this amendment was tabled on Friday, so colleagues did not have much notice. In many respects it was as a result of the Minister being open and meeting opposition parties and the discussion we had. No doubt we will find out in due course how persuasive I was on my amendment in that private meeting.

The purpose of the amendment is to probe and to seek information. As I mentioned earlier in Committee, the statement by the WTO on 27 November was very clear that there was agreement in principle for the UK's final market access offer to take part in the GPA after exiting the European Union. The noble Baroness, Lady Neville-Rolfe, mentioned that Australia has announced that ratification of its GPA accession is under way. I think this is the last group of amendments on the GPA, so before we leave it I hope the Minister might be able to expand a little on the point that she made in response earlier, which, if I took it right—she or *Hansard* can correct me—was that Parliament could decide whether countries could join. What procedure do the Government think Parliament will have to bind the Government in a position on other countries acceding to the WTO GPA once we become a full member? If I got that wrong, no doubt she will correct me; those in the Box can try to assist also.

The agreement was made on the basis of the UK and the EU agreeing a withdrawal agreement and would come into effect after the end of the implementation period. As I mentioned earlier, the UK committed to update its proposed GPA schedule of commitments within three months of it coming into effect. The GPA regular meeting to clarify all those points is scheduled for the end of February this year. My desire is to seek from the Government the latest position. The very significant defeat of the withdrawal agreement in the other place suggests that there has been dialogue with the WTO on the impact on the 27 November decision. I cannot see any situation where there would not have been dialogue between our office in Geneva and our colleagues. It would be inconceivable if there had not been any follow-up discussions since the defeat in the House of Commons, so what are the implications for the UK of not entering into a withdrawal agreement? If there has been more recent discussion since 27 November or the position at the WTO has changed, I would be happy to receive that clarification and reassurance from the Minister, but if there is no deal, what are the implications for our membership? Also, what are the timings of the updated proposals for any schedules? Do they continue to be at all relevant?

The amendment is meant to be helpful, to allow the Government to give the Committee an update on the current position and clarify what our relationship with the GPA would be on the basis of there being no deal. On that basis, I hope that the Minister will be able to clarify and I beg to move.

6 pm

Baroness Fairhead: My Lords, Clause 1 allows for the implementation of the UK's independent accession to the GPA in domestic procurement legislation. The power is simple and is limited in its scope. I thank the noble Lord, Lord Purvis of Tweed, for the amendment and I understand that he seeks, through Amendment 4A, to receive a statement from a Minister on the impact of a no-deal exit from the EU on the GPA. I hope that I can offer some reassurances to the Committee on the progress made towards the UK's accession to the GPA as an independent member

On 27 November, the UK's independent market access offer to the GPA was approved in principle by the WTO GPA committee. We are glad that our international partners supported the UK's continued participation in the GPA as we leave the EU and we look forward to finalising the UK's continued participation shortly. This was the culmination of a great deal of work from officials and my ministerial colleagues both in my department and across Whitehall. The UK is now nearing the end of its process of accession to the GPA, which will ensure our independent membership and continuity of participation.

Every effort is being made across all parties to find a solution for a withdrawal agreement, and agreed implementation will mean that the GPA will take a similar approach to other international agreements and continue our participation during this time under the EU schedules. We are committed to working to provide continuity across all our existing trade agreements. In the unlikely event that no withdrawal agreement can be agreed, the UK's accession to the GPA will continue to progress as we leave the EU.

I hope that I have reassured the noble Lord, Lord Purvis of Tweed, that continuity of market access for UK businesses is very much the Government's priority, and that he will feel able to withdraw his amendment.

Lord Purvis of Tweed: The Minister said that if there is no withdrawal agreement our accession will "continue to progress". That means that we would not be a member. Is that correct?

Baroness Fairhead: Perhaps it would be helpful if I gave the process for GPA accession. Schedules are laid down and there is an agreement in principle, which has been achieved. Then an invitation is issued to join as an independent member. That is what we are waiting for. The CRaG process will then begin. Then the Foreign Secretary, subject to CRaG going through, will sign an instrument of accession and 30 days after that our accession will be effective.

Lord Purvis of Tweed: I am grateful to the Minister. For my simple understanding, if there is no agreement, what is our status with the GPA on 30 March?

Baroness Fairhead: We will have to progress and become as quickly as possible an independent member of the GPA. That process will need to progress.

Lord Purvis of Tweed: So it is clear that we would not be a party to it. We would just be in the process of trying to progress our application. I am grateful for that clarification—or do I have the wrong end of the stick?

Baroness Fairhead: The process will continue and it will be our aim to be an independent member by the time we leave. That is our aim.

Lord Purvis of Tweed: Well, no doubt that is the aim. I was not asking what the aim was, but what the reality would be on 30 March. If we are currently a member because we are in the European Union and we leave the European Union without any agreement, we are mid-process. Even if we have received the invitation to join, we would not be a member.

Baroness Fairhead: Once we are given an invitation to join, our Foreign Secretary puts down an offer of accession, which has to go through the CRaG process in the normal way to make sure that that can take effect.

Lord Purvis of Tweed: I will not detain the Committee much longer but, from my understanding, it is clear that we will not be party to that agreement on the day after we leave if there is no deal. We would be in the process of seeking to join, and Parliament would have to approve that—and it may well happen. But, given the fact that the agreement is based on the principle that within three months of taking effect schedules would be updated, I am not entirely sure that that would be done immediately. That is of concern. If there is no deal, we would not be party to this very considerable agreement.

It is very important, if not today, for the Minister to give more information to the Committee about the implications of that for the many businesses who currently operate under the legal protection of that procurement agreement. In particular, what would that mean for agencies that are currently in mid-procurement or have signed procurement agreements with businesses? What is their status if we leave and we are not a party to the agreement? There are those with much greater legal knowledge than I have, but it is not reassuring in contract law to be outwith an international agreement despite the Government's intention or aim to join it. That is simply not appropriate. If the Minister wishes to come back on that, I would be happy.

Baroness Fairhead: Plan A is to have a withdrawal agreement. There is then an implementation period and after that there is obviously more time to be able to effect this. In the very unlikely event of there being no deal—and the noble Lord will be aware of what is happening in the other place and the activity there—the Government are still confident that this will be in place and that we can become an independent member of the GPA by the time we leave. That is our intention and there is confidence that that can be achieved.

Lord Purvis of Tweed: We have to put that into the category of all of the other aims that Dr Liam Fox has had with regard to the other agreements we will come to later in Committee. I am grateful to the Minister, but she did not refer to what procedures Parliament would have to veto the accession of other countries once we were out—but perhaps she would wish to write to me and other members of the Committee on that.

Baroness Fairhead: I apologise. I should have addressed that question. The Government have to approve the accession of new members to the GPA. The accession member will be reviewed by the ITC, and Parliament has the right to scrutinise the implementing legislation.

Lord Purvis of Tweed: I am grateful for that clarification. I need to refer to *Hansard*, however, because I thought the Minister said that Parliament could decide. But this is a probing amendment and we now have more information. It has perhaps raised more questions in my mind than answered them, but on the basis of that, I beg leave to withdraw the amendment.

Amendment 4A withdrawn.

Clause 1 agreed.

Amendment 5 not moved.

Clause 2: Implementation of international trade agreements

Amendment 6

Moved by ***Lord Stevenson of Balmacara***

6: Clause 2, page 2, line 15, after "may" insert "following consultation with relevant stakeholders"

Lord Stevenson of Balmacara: My Lords, this group of amendments plays back themes that we have already discussed in the first and second groups, so I will not spend much time on them.

[Lord Stevenson of Balmacara]

Amendment 6 suggests that additional consultation with relevant stakeholders would make it easier to understand what the process is in the clause. Amendment 7 tries to pick up the point which was made in a number of committees of your Lordships' House and was raised in the other place when this issue was discussed. It replaces "appropriate" in line 16 on page 2 with "necessary", because it implies that it is not a judgment on a passive basis of what may be considered appropriate, which may be a variable, and it has a particular purpose. I hope the Minister will respond to that.

Amendment 11 again came from the Constitution Committee's comment, although it has not been picked up elsewhere, that it would be helpful to insert a refining phrase into the documentation related to whether legislation that is retained EU law might be better defined. We touched on this already. There was a concession that, although it was not thought to be strictly necessary in an earlier phase, it was appropriate that that phrasing could be adopted. I wonder whether that will also be the case here. I look forward to hearing the debate. I beg to move.

Lord Purvis of Tweed: My Lords, I support these amendments. They make eminent sense. I shall speak also to Amendment 101 in this group which, in essence, suggests that in moving forward on these agreements the CRaG process is not the most appropriate; and that there is a better way forward by ensuring a more appropriate role for Parliament, and for Parliament to have greater knowledge of why an agreement should be approved. In many respects, this is now becoming fairly standard procedure in other countries, where the Government give much greater information to Parliament about why agreements should be ratified and where each House of Parliament has a greater role on the basis of scrutiny by committees. I am convinced that when it comes to complex, deep and comprehensive agreements, the CRaG process will be shown not to be the appropriate route, and we will need to decide another. This Bill is a very good basis from which to start on a more transparent and open process.

As I mentioned earlier in the debate on whether the House resolve itself into Committee, our agreements amount to 60% of UK trade and are therefore highly significant. The complexity of trade agreements now—they go far beyond simply a discussion of tariffs and the financial element, and have wider impacts on domestic policy, as the noble Lord, Lord Kerr, mentioned—means they require a different form of engagement with Parliament. It starts with information and with greater understanding of the consequences of these agreements. It will no longer be acceptable that agreements such as these can be made under traditional prerogative power for Parliament simply to approve without there being a more meaningful process. That is the intent behind the amendment. It is meant in a positive manner. I believe it is framed in a better way than CRaG, and I hope it will gain support.

6.15 pm

Baroness Fairhead: My Lords, as I repeated, the Government's priority is to bring certainty to businesses and the public so that we will have continuity in our current trade and investment arrangements with non-EU markets after we have left the EU. Certainty is something for which we have heard widespread support in both Houses of Parliament, and not having the ability to implement our continuity agreements fully could jeopardise our ability to deliver it. Both the International Trade Select Committee and the Trade Bill Committee have heard from external witnesses that continuity is what businesses want. The report published by the International Trade Select Committee on 28 February 2018 clearly stated:

> "Almost no one who contributed to our inquiry suggested that the Government's policy objective of seeking continuity was the wrong one".

Amendment 6, tabled by the noble Lord, Lord Stevenson of Balmacara, seeks to ensure that before we use the Clause 2 power to implement obligations of a continuity agreement, we have consulted appropriate stakeholders. While I believe I understand where the noble Lord is coming from, this amendment would have the practical impact of delaying our ability to use the Clause 2 power to implement obligations of any continuity agreement until we had satisfied this condition. This would be problematic to the delivery of our programme, as we are working at pace to ensure continuity in existing trade relationships. Once we have signed continuity agreements with our existing partners, we need to ensure that we have implemented all obligations of these agreements to guard against a cliff edge as we leave the EU. This needs to happen before we can bring these agreements into force, which is what will deliver continuity on the ground to businesses which are already benefitting from the terms of EU trade agreements.

We are seeking to balance the need to maintain pace with providing appropriate scrutiny and oversight. That is why, in the other place, we upgraded the operation of the Clause 2 power by requiring a report on each agreement to be laid before both Houses and an affirmative resolution to provide the additional scrutiny that colleagues in the other place were seeking. This means that Members of both Houses will already have the opportunity to consider each use of the power fully through the established affirmative resolution procedure. As I have already mentioned, the power is subject to constraint and will not be used to implement changes other than those necessary to secure continuity in our existing trade relationships.

Amendment 7, tabled by the noble Lord, Lord Stevenson of Balmacara, would mean that instead of using the Clause 2 power to implement "appropriate" changes to domestic regulation, it would be used to implement only "necessary" changes to domestic regulations. Again, I have sympathy with the noble Lord on this point. We are clear that we are going to use this power only to implement changes which are essential to deliver continuity. I understand where he is coming from with his suggested change to the Bill, but we have chosen to use the term "appropriate" following serious consideration of how best to reflect our policy in legislation. We have previously sought advice on this point, and the conclusion of that advice was that "appropriate" is the term which best fits the policy intention. This is because to use the term "necessary" would restrict the use of this power too much. As noble Lords know, our policy aim is to

deliver continuity of effect of our agreements. To deliver this, we may need to have some tolerance for changes which may arguably not be strictly necessary but will nevertheless help us to deliver on our commitment of continuity and ensure legal certainty for UK businesses.

Limiting the power to only changes which were strictly necessary would set a very high bar and greatly increase the risk of legal challenge to the use of the power. It is one thing to justify a change as appropriate in all circumstances; it is quite another to demonstrate that that change was absolutely necessary. I am advised that this could provide a field day for lawyers and result in delays to continuity.

An example of a change that we will need to make through this power is ensuring continuity in our procurement arrangements in our free trade agreements. We will need to change the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 to refer to our UK agreements instead of the EU agreements that they are based on. If we were to amend the wording of this power to say that changes needed to be necessary, we could be drawn into court challenges on whether a change was strictly necessary, thus leading to delays in implementation, which would leave a gap in continuity.

Lord Stevenson of Balmacara: I thank the noble Baroness for giving way. We are in the territory of "may" and "must", trying to decide whether we are drafting as we speak. I just want to ask her to calm down a bit, although that sounds a terrible thing to say. She has used the term "absolutely necessary". I never said "absolutely"; the amendment just says "necessary". Adding "absolutely necessary" would make things difficult. Therefore, it is not a case of changes being absolutely necessary—it is not essential that we do these things. I accept the point but will she accept that she is slightly overegging the case?

Baroness Fairhead: It was necessary for the noble Lord to ask about the word "absolutely", but I object to being asked to calm down. I was trying to give your Lordships the clear advice that we have had because I thought that that was the advice and information they were seeking.

Given that any use of this Clause 2 power will already be subject to the affirmative resolution procedure, and given that we will lay the reports and our continuity free trade agreements will again be ratified by Parliament, Parliament will be fully appraised of the Government's actions. I hope your Lordships will accept that that means that it will in fact already be fairly difficult for the Government to use the Clause 2 power without Parliament's consent in one way or another.

I turn to Amendment 11. Clause 2 helps to facilitate a smooth transition by helping to implement the non-tariff obligations of continuity trade agreements. We realise that there are concerns about this power, so we have sought to constrain it as much as possible, and this has a number of parts. First, the power can be used to amend only UK primary legislation that is retained EU law and not any other UK legislation. Secondly, it is valid for only three years, and its lifetime can be extended only with agreement from both Houses of Parliament. We would seek to extend the powers only if it were considered necessary to ensure that our continuity agreements remained operable over time. Thirdly, the use of the power is subject to the affirmative resolution. Fourthly, the power will be used only in relation to continuity trade agreements, as we have made clear in the Explanatory Notes. Fifthly, to provide additional transparency for our programme as a whole, Clause 3 commits, in statute, the Government to providing reports on all continuity trade agreements, explaining our approach to delivering continuity in each case. In addition, I should make it clear to the Committee that regulations made under the Trade Bill will already comply with Section 7 of the European Union (Withdrawal) Act, so this part of the amendment is unnecessary.

On Amendment 101, tabled by the noble Lord, Lord Purvis of Tweed, I assure the Committee that our existing trade agreements have already been examined by Parliament as part of its regular scrutiny of EU business. Ratified free trade agreements have already been through the normal parliamentary scrutiny process for treaty ratification. Our continuity agreements will also go through the CRaG process. The noble Lord raised some concerns about that but it gives parliamentarians an opportunity to challenge them in the established manner. Any regulations made under the Clause 2 power will be introduced under the affirmative resolution, which will provide an opportunity for lengthy examination if we need to make a change to the law.

Lord Purvis of Tweed: No doubt this will be a point that we hear about again. That is obviously the case in relation to the existing agreements but those agreements have been through a democratic process in the European Parliament with British representation. British parliamentarians in the European Parliament were involved in setting the mandate and involved in the committees that scrutinised them in detail in advance of, and during, the negotiation process. The Government are proposing that, even starting with these continuity agreements, there will be no role at all and they are signalling that that is a satisfactory way forward. I do not think that it is satisfactory to have a process in the future involving less scrutiny of trade agreements than British MEPs have been involved in and for which this Parliament has subsequently been part of the ratification process.

Baroness Fairhead: It is important to separate the two. Essentially we are trying to replicate the existing trade agreements, which have already been subject to all the elements of scrutiny to which the noble Lord refers. However, the Bill does not cover future trade agreements, and we will have an opportunity to discuss the appropriate parliamentary scrutiny procedure for those. I have already said on the Floor of the House that I am happy to take all views. The ITC has made its suggestions and the Constitution Committee is looking at treaties. As the noble Baroness, Lady Young of Old Scone, mentioned earlier, their recommendations will be taken into account and we will come back with proposals. This is about replicating the effects of the existing continuity agreements from which our businesses already benefit.

Lord Purvis of Tweed: I am grateful for the Minister's indulgence. I was also referring to existing agreements. For example, the only one so far that the Government have announced, with Switzerland, has accompanying it a free movement of people agreement, with Chapter 4 and Article 23 guaranteeing the right of movement of Swiss nationals for three months a year without any visa checks and so on. We would have no such ability. The proposal is at odds with the immigration White Paper—it is at odds with what the Government are saying. It raises questions about whether this simply is a straightforward replication. Under the free movement of people agreement, other elements have been discontinued in the existing arrangements and some elements are being continued. It is simply not good enough for the Government to state that these continuity agreements are a like-for-like cut and paste job, which is what the Government used to say. We now know that they are complex. We now know, for example—this was the case even with the Swiss agreement before December—that there are potential issues affecting other domestic law on immigration and migration which we would have no ability to scrutinise properly and separately if we used the CRaG process.

Baroness Fairhead: I simply say to the noble Lord that we are trying to ensure as much continuity as we possibly can. I hope that I did not say that these agreements would be easy; I said that some technical issues would need to be resolved. That is why the Government have committed to lay before the House detailed reports that talk about the changes and the impact of those changes. Both Houses of Parliament will have the ability to review them and they will be subject to the affirmative procedure. I do not stand before the Committee saying that this is all easy. It is complicated, but the Government have committed to laying these reports, with all the detail, before both Houses so that they have a chance to review the agreements.

Lord Kerr of Kinlochard: I have a degree of sympathy with the amendment proposed by the noble Lord, Lord Purvis of Tweed. I am grateful to the Minister for the meeting she had with me last week. I was encouraged by what she said then and by what she has said here today about an answer being given to the Constitution Committee—I think she said tomorrow. That seems to be good news.

The point made by the noble Lord, Lord Purvis of Tweed, relates to an aspect of a wider question; it is an important aspect, but the wider question will have to be addressed before we reach Report. It is an important element in the amendment to the Motion which was carried by the House. I look forward to hearing what has been said to the Constitution Committee; I imagine that it is fairly general and that, on points like the one we are discussing now, we would be looking for something more particular from the Government before Report.

6.30 pm

I would like to make a personal point: I hope the Government will not approach the question of to what extent parliamentary scrutiny should be allowed and what sort of procedures would be right—super-affirmative procedures, says the noble Lord, Lord Purvis of Tweed, and I agree with him—too restrictively. I spent my youth in Whitehall. I do not think this is a zero-sum game, where giving the legislature more of a say is damaging to the Executive; it is not like that. I spent quite a lot of time negotiating with Americans. The favourite American argument, when one has defeated them on the substance, is to say, "I hear you, I understand you, but Congress would never buy it". Having, and being known to have, a thorough legislative scrutiny procedure is an extra card in the Government's hand and quite a useful one. I suggest that, as the Government make up their mind on these matters before Report, Ministers should encourage officials not to be too cautious and restrictive.

Lord Lansley: I would like to say a brief word on this group of amendments. On the latter point made by the noble Lord, Lord Kerr, I entirely agree. He is quite right about the use of, as it were, the scrutiny reserve in negotiations. It is important to have it available. But in these negotiations, of course, one is negotiating to bring in what are effectively new provisions in new agreements. The question is: what is required in relation to existing agreements?

On Amendment 101, I am a bit confused because it refers specifically to free trade agreements and to those which come under Clause 2(3). It seems that we are talking not only about free trade agreements, but about international trade agreements arising under Clauses 2(2) and 2(3). The noble Lord, Lord Purvis of Tweed, might be looking for something slightly wider than what he has put down in his amendment. We will leave that to one side for a moment. The point is this: in the Explanatory Notes, Ministers are quite clear that the intention is to bring existing agreements into effect through the Bill; we are working on that basis. However, there are circumstances in which the substance of an existing agreement, when it is converted into UK law, has to be amended to make it compliant with, or to enter it into, UK law. Paragraph 56 of the Explanatory Notes, for example, says:

> "Although the Government's policy intention is to ensure continuity as far as possible in the effects of the UK's current trading arrangements, the new UK-partner country agreements that are implemented using"—

if the small typo "of" is deleted—

> "this power will be legally distinct from the original EU-partner country agreements on which they are based. It may also be necessary to substantively amend the text of the previous EU agreements … so that the new agreements can work in a UK legal context".

The point of this paragraph is that trying to achieve the same effect does not necessarily mean that we will not have to amend the agreement; we may have to do that. We are getting ahead of ourselves. Surely the point is that what happens in those circumstances should be covered by Clause 3(3). A specific report must be laid before Parliament for that purpose.

I do not subscribe to the way in which the noble Lord, Lord Purvis, is proposing to go about this but, particularly when we come to talk about Clause 3, we might make sure that parliamentary scrutiny is applied to the differences between the provisions of the existing agreements and the agreement as it will be incorporated

into UK law. That is the point we have to look at. Everything else, frankly, has been scrutinised in the way that the Minister made clear.

Baroness Fairhead: My Lords, my noble friend Lord Lansley has made a suggestion which I will definitely reflect on, as it is important that these reports give appropriate information. With respect to making the Clause 2 powers super-affirmative, I am concerned that the amendment would damage our ability to deliver the promise of continuity, particularly when time is of the essence. That increases the risk of a cliff-edge. We are trying to offer reassurance by providing these reports; as I said, I will reflect on my noble friend's comments.

My response to the noble Lord, Lord Kerr of Kinlochard, is that I too am thankful for the conversation we have had. It is exactly the kind of conversation that helps because, given his experience, it aids an informed debate. I want to clarify my response about what we will report back to the Constitution Committee: this will be specifically on the Trade Bill, not on the future. However, I have said on the Floor of the House that we are open to views and we will be coming back with detailed proposals. The noble Lord commented on different ways that one can get negotiating leverage. We are always looking for negotiating leverage; sometimes it is really effective and sometimes not so much. But I take his point that we should be thinking about all the things we can do to add to that.

We have already shared some views with regard to future trade agreements. I am open to hearing views from all Members around the House about what our approach should be. Given all the elements of oversight and scrutiny that we have put in place for these trade continuity agreements, I hope that I can reassure the House and would therefore ask the noble Lord to withdraw the amendment.

Lord Stevenson of Balmacara: My Lords, it has been a very good debate. Most of the interchange has been on the latter part, on Amendment 101, but we have made some interesting discoveries, there is food for thought, and the main points are very clear. With that, I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7 not moved.

House resumed.

6.39 pm

Sitting suspended.

Leaving the European Union

Statement

6.45 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, with the leave of the House, I will now repeat a Statement made by my right honourable friend the Prime Minister in another place. The Statement is as follows.

"Mr Speaker, I am sure the whole House will join me in condemning Saturday's car bomb attack in Londonderry and paying tribute to the bravery of the Northern Ireland police and the local community, who helped to ensure that everyone got to safety. This House stands together with the people of Northern Ireland in ensuring that we never go back to the violence and terror of the past.

Turning to Brexit, following last week's vote, it is clear that the Government's approach had to change, and it has. Having established the confidence of Parliament in this Government, I have listened to colleagues across Parliament from different parties and with different views. Last week, I met the leader of the Liberal Democrats, the Westminster leaders of the DUP, the SNP, Plaid Cymru and the Green Party and Back-Bench Members from both sides of this House. My right honourable friend the Chancellor of the Duchy of Lancaster also had a number of such meetings.

The Government have approached these meetings in a constructive spirit, without preconditions, and I am pleased that everyone we met took the same approach. I regret that the right honourable gentleman the Leader of the Opposition has not chosen to take part so far, and I hope he will reflect on that decision. Given the importance of this issue, we should all be prepared to work together to find a way forward, and my ministerial colleagues and I will continue with further meetings this week.

Let me set out the six key issues that have been at the centre of the talks to date. The first two relate to the process for moving forward. First, there is widespread concern about the possibility of the UK leaving without a deal. There are those on both sides of the House who want the Government to rule this out, but we need to be honest with the British people about what that means. The right way to rule out no deal is for this House to approve a deal with the European Union, and that is what this Government are seeking to achieve. The only other guaranteed way to avoid a no-deal Brexit is to revoke Article 50, which would mean staying in the EU.

There are others who think that what we need is more time, so they say we should extend Article 50 to give longer for Parliament to debate how we should leave and what a deal should look like. That is not ruling out no deal but simply deferring the point of decision, and the EU is very unlikely simply to agree to extend Article 50 without a plan for how we are going approve a deal. So when people say, "Rule out no deal", the consequences of what they are actually saying are that, if we in Parliament cannot approve a deal, we should revoke Article 50. I believe this would go against the referendum result, and I do not believe that is a course of action that we should take or one that this House should support.

Secondly, all the opposition parties that have engaged so far, and some Back-Benchers, have expressed their support for a second referendum. I have set out many times my deep concerns about returning to the British people for a second referendum. Our duty is to implement the decision of the first one. I fear that a second referendum would set a difficult precedent that could have significant implications for how we handle

[Baroness Evans of Bowes Park]
referendums in this country—not least, strengthening the hand of those campaigning to break up our United Kingdom. It would require an extension of Article 50, and we would very likely have to return a new set of MEPs to the European Parliament in May. I also believe that there has not yet been enough recognition of the way that a second referendum could damage social cohesion by undermining faith in our democracy. We do not know what the right honourable gentleman the Leader of the Opposition thinks about that because he has not engaged, but I know there are Members who have already indicated that they wish to test the support of the House for that path. I do not believe there is a majority for a second referendum and, if I am right then, just as the Government are having to think again about our approach going forwards, so too do those Members who believe that is the answer.

The remaining issues raised in the discussions relate to the substance of the deal, and on those points I believe we can make progress. Members of this House, predominantly but not only on the Government Benches and the DUP, continue to express their concern on the issue of the Northern Ireland backstop. All of us agree that as we leave the European Union we must fully respect the Belfast agreement and not allow the creation of a hard border between Northern Ireland and Ireland, or indeed a border down the Irish Sea. And I want to be absolutely clear, in light of media stories this morning: this Government will not reopen the Belfast agreement. I have never even considered doing so, and nor would I.

With regard to the backstop, despite the changes we have previously agreed, there remain two core issues: the fear that we could be trapped in it permanently; and concerns over its potential impact on our union if Northern Ireland is treated differently from the rest of the UK. So I will be talking further this week to colleagues, including in the DUP, to consider how we might meet our obligations to the people of Northern Ireland and Ireland in a way that can command the greatest possible support in the House. I will then take the conclusions of these discussions back to the EU.

From other parts of this House, concerns have also been raised over the political declaration. In particular, these have focused on a wish for further precision around the future relationship. The political declaration will provide the basis for developing our detailed negotiating mandate for the future, and this new phase of negotiations will be different in a number of ways. It will cover a far broader range of issues in greater depth, and so will require us to build a negotiating team that draws on the widest expertise available, from trade negotiators to security experts and specialists in data and financial services. And as we develop our mandate across each of these areas, I want to provide reassurance to the House. Given the breadth of the negotiations, we will seek input from a wide range of voices from outside government. That must include ensuring Parliament has a proper say, and fuller involvement, in these decisions.

It is the Government's responsibility to negotiate, but it is also my responsibility to listen to the legitimate concerns of colleagues, both those who voted leave and who voted remain, in shaping our negotiating mandate for our future partnership with the EU. So the Government will consult this House on their negotiating mandate, to ensure that Members have the chance to make their views known and that we harness the knowledge of all Select Committees across the full range of expertise needed for this next phase of negotiations, from security to trade. This will also strengthen the Government's hand in the negotiations, giving the EU confidence about our position and avoiding leaving the bulk of parliamentary debate to a point when we are under huge time pressure to ratify.

I know that to date Parliament has not felt it has enough visibility on the Government's position as it has been developed and negotiated. It has sought documents through humble Addresses, but that mechanism cannot take into account the fact that some information when made public could weaken the UK's negotiating hand. So as the negotiations progress, we will look to deliver confidential committee sessions that can ensure Parliament has the most up-to-date information, while not undermining the negotiations. And we will regularly update the House, in particular before the six-monthly review points with the EU foreseen in the agreement.

While it will always be for Her Majesty's Government to negotiate for the whole of the UK, we are also committed to giving the devolved Administrations an enhanced role in the next phase, respecting their competence and vital interests in these negotiations. I hope to meet both First Ministers in the course of this week and will use the opportunity to discuss this further with them, and we will also look for further ways to engage elected representatives from Northern Ireland and regional representatives in England. Finally, we will reach out beyond this House and engage more deeply with businesses, civil society and trade unions.

Fifthly, honourable Members from across the House have raised strong views that our exit from the EU should not lead to a reduction in our social and environmental standards, and in particular workers' rights. So I will ensure that we provide Parliament with a guarantee that not only will we not erode protections for workers' rights and the environment but we will ensure this country leads the way. To that end, my right honourable friend the Business Secretary indicated the Government's support for the proposed amendment to the meaningful vote put down by the honourable Member for Bassetlaw, including that Parliament should be able to consider any changes made by the EU in these areas in future. My right honourable friend and others will work with Members across the House, businesses and trade unions to develop proposals that give effect to this amendment, including looking at legislation where necessary.

Sixthly, and crucially, a number of Members have made powerful representations about the anxieties facing EU citizens in the UK and UK citizens in the EU who are waiting to have their status confirmed. We have already committed to ensuring that EU citizens in the UK will be able to stay and continue to access in-country benefits and services on broadly the same terms as now, in both a deal and a no-deal scenario. Indeed, the next phase of testing of the scheme for EU nationals to confirm their status was launched today.

Having listened to concerns from Members, and organisations such as the3million group, I can confirm today that, when we roll out the scheme in full on 30 March, the Government will waive the application fee so that there is no financial barrier for any EU nationals who wish to stay. Anyone who has applied, or will apply, during the pilot phase will have their fee reimbursed. More details about how this will work will be made available in due course. Some EU member states have similarly guaranteed the rights of British nationals in a no-deal scenario, and we will step up our efforts to ensure that they all do so.

Let me briefly set out the process for the days ahead. In addition to this Statement, today I will lay a Written Ministerial Statement, as required under Section 13(4) and (5) of the European Union (Withdrawal) Act 2018 and table a Motion in neutral terms on this Statement, as required by Section 13(6). This Motion will be amendable and will be debated and voted on in this House on 29 January, and I will provide a further update to the House during that debate. To be clear, this is not a rerun of the vote to ratify the agreement we have reached with the European Union but the fulfilment of the process following the House's decision to reject that Motion.

The process of engagement is ongoing. In the next few days, my ministerial colleagues and I will continue to meet with Members on all sides of the House and with representatives of the trade unions, business groups, civil society and others, as we try to find the broadest possible consensus on a way forward. While I will disappoint those colleagues who hope to secure a second referendum, I do not believe that there is a majority in this House for such a path, and while I want to deliver a deal with the EU, I cannot support the only other way in which to take no deal off the table, which is to revoke Article 50. So my focus continues to be on what is needed to secure the support of this House in favour of a Brexit deal with the EU.

My sense so far is that three key changes are needed. First, we will be more flexible, open and inclusive in the future in how we engage Parliament in our approach to negotiating our future partnership with the EU. Secondly, we will embed the strongest possible protections on workers' rights and the environment. Thirdly, we will work to identify how we can ensure that our commitment to no hard border in Northern Ireland and Ireland can be delivered in a way that commands the support of this House and the European Union. In doing so, we will honour the mandate of the British people and leave the European Union in a way which benefits every part of our United Kingdom and every citizen of our country. I commend this Statement to the House".

6.58 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the noble Baroness for repeating the Statement. I concur at the outset with the Prime Minister's comments about Northern Ireland. It is an ongoing situation. As a former Minister in Northern Ireland, I know the impact that this will have on local communities. With all the work that has gone in over the years to bring peace to Northern Ireland, this will be devastating to so many. It proves how right it was that, across both Houses and across all parties, people worked together to get the Good Friday agreement and bring peace and stability to local communities.

We requested that this Statement be taken earlier in the day and that the time for Back-Bench contributions be extended. I am sorry that the Government were unable to accept that and rejected that request. However, after reading the Statement, I think I understand why. There is not much that is new or of any real substance. The Prime Minister made her Statement today as a direct result of Dominic Grieve's amendment, which accelerated the timescales previously laid down in legislation, giving her three days to respond to the decision of the House of Commons.

This Statement is another reminder for your Lordships' House of the value of the meaningful vote provisions in the withdrawal Act, which originated from an amendment passed in your Lordships' House that required the Prime Minister to return to Parliament if her proposed deal—her "plan A"—was defeated. It was—overwhelmingly. But while Brexit remains Brexit, plan B does not mean plan B. It does not even look like an A+, perhaps more like an A-.

Following a historic and unprecedented defeat for the Prime Minister's agreement, Mrs May offered to talk to MPs from all parties, with the Government approaching those meetings in what she called "a constructive spirit". Yet it appears that the constructive spirit lasts only as long as it takes to agree with the Prime Minister. Despite having been challenged by the parliamentary leaders of all opposition parties—excluding the DUP, of course—to take a no-deal exit off the table, Mrs May has held firm and refused to do so.

We know that, under Article 50 and the withdrawal Act, no deal is the legal default, but the Government can change that. The Prime Minister should certainly acknowledge that it would be a calamitous outcome for the UK and therefore that it is of no value at all as a bargaining position. If the threat of a no-deal exit was being used by Mrs May to shore up support for the plan A deal, it was a spectacular misjudgment and failure. She rightly promised a change of approach, including a greater role for Parliament in setting the mandate for future trade negotiations. But, once again, within days we find out that nothing has changed. The Prime Minister said in her Statement that she had,

"listened to colleagues across Parliament from different parties and … different views".

She might have listened, but she is clearly not truly hearing what people are saying.

A constructive spirit means willingness to compromise from all parties. In any negotiation that must be the starting point or there is simply nothing to be gained. It is no good the Prime Minister meeting the hardliners in the European Research Group and the DUP while sending her de facto deputy and her chief of staff to meet others on the other side of the argument. It is no good ruling out an option—an EU-UK customs union—that the Opposition support and the EU appears to be willing to negotiate while continuing to risk a chaotic no-deal exit that would leave citizens, businesses and communities with no certainty whatever.

[Baroness Smith of Basildon]

Yet, rather predictably, the Prime Minister has today presented a so-called plan B that, as I have said, looks extraordinarily similar to her plan A: go back to Brussels for further talks, even as the clock ticks down; ask again for concessions on the backstop, even though the EU has been clear that it is not up for renegotiation; and then blame others for holding up Brexit, even though it is the Government who have negotiated an agreement that has been comprehensively rejected by all parties. In this House, we passed a Motion by an overwhelming majority, believing that the agreement would weaken our prosperity, security and global standing.

I do not know whether the noble Baroness can confirm this, but according to media reports on Friday Mrs May held a series of crisis phone calls with EU leaders, including Chancellor Merkel, in the wake of her historic defeat. Despite her offer to hold talks with opposition parties and build a cross-party consensus behind a new deal, EU diplomatic sources said that the Prime Minister's demands were in fact completely unchanged—something that was "greeted with incredulity". She has clearly made a conscious decision to reject common-sense solutions that could bring politicians and voters of all colours together in order to have another attempt at securing concessions and assurances that she has already failed to win back in December. It appears that this is simply an effort to keep her premiership alive—or, if not alive, at least on life support.

The Prime Minister ignores at every step of this process the fact that her hardliners have shown that they will not be swayed. They have undermined her authority at every turn and taken her right to the brink. Their opposition to the deal is as strong as Mrs May's stubborn determination not to cede any ground to others, even if this could gain wider support and prevent a no-deal or a blind Brexit. This was highlighted at the weekend when a former Downing Street adviser was asked by Andrew Marr whether he had ever seen Theresa May compromise. His response? "I can't think of one off the top of my head". In other words, everyone—the Opposition, the EU 27, Cabinet members and Back-Benchers alike—has to shift position: everyone except Theresa May. That is no way to run a Government or a country and it is no way to conduct one of the most important and complex negotiations that a UK Government have ever participated in. If the Prime Minister's objective is to deliver a Brexit that can bring the country back together, I have to say to the noble Baroness that that approach is doomed to failure.

While I disagree with much of the Prime Minister's approach on Brexit, I welcome the clarity offered on the Good Friday agreement. I am sure I am not the only noble Lord who was concerned—we heard earlier that many noble Lords were—by the comments reported over the weekend. It surely must always be inconceivable that the Government would seek to reopen that agreement as a way of trying to break the impasse on the EU issue. Doing so would be completely unacceptable. It will be good if the noble Baroness could reinforce that in her comments.

I also welcome Mrs May's announcement relating to the waiving of fees for EU citizens applying for settled status. That is another issue on which your Lordships' House spoke early in the Brexit process and the Government should have acted months ago. We also welcome the commitment that we have asked for before that Ministers will brief Select Committees in confidence, rather than the only option being for MPs to force an issue by action on the Floor of the House of Commons. Could the Leader of the House confirm that this briefing will extend to our own EU committees and that they will also be briefed in confidence? I welcome the belated recognition that the Prime Minister needs a negotiating mandate from Parliament.

With each Statement and each vote, we continue edging towards 29 March and the disaster that would be no deal. I have a couple of questions for the Leader of the House. First, if, when the House of Commons has its debate next Tuesday, it instructs the Government to take a no-deal outcome off the table, how will the Prime Minister respond?

Secondly, however Mrs May responds to next week's Commons votes, can the Leader of the House confirm that there will be the opportunity to consider the outcome in your Lordships' House? I know that a formal Statement will be repeated, but she will recall that last week the Prime Minister made a point of order at the end of business. However the Statement is made, it would be helpful if this House could consider the outcome and Mrs May's comments.

Finally, with so few legislative days available between now and 29 March, will the Government build on their commitment to engage with Select Committees and release the relevant clauses of the draft EU withdrawal agreement Bill to the Constitution Committee to enable some form of pre-legislative scrutiny? When the noble Baroness comes to answer those questions, I urge her to bear in mind her oft-repeated assurance that the Government are planning for all eventualities. As always, the House remains ready to be helpful to the Government, but we have stressed time and again that that can happen only if we have the relevant information at our disposal.

Lord Newby (LD): My Lords, I thank the Leader of the House for repeating the Statement and echo the comments in it about Northern Ireland. This is a truly remarkable Statement, following the largest ever defeat of a Government on a major policy issue. If one loses a vote by 230, common sense dictates that there is something very flawed with the proposal that suffered the defeat, and that to get support for a replacement proposition some considerable changes will be needed. What magnitude of change does the Prime Minister think is required to turn things round?

The Prime Minister was very clear. "My sense", she said, is that three changes are needed—just three. Here they are: first, being more flexible in involving Parliament in negotiating the future relationship with the EU; secondly, embedding the strongest possible protections on workers' rights and the environment; and, thirdly, finding an alternative way to deliver no hard border in Northern Ireland. That is it; problem solved. But involving Parliament to a greater extent has been forced on the Prime Minister and will happen whatever she says or does. Workers' rights and the environment are very important, but so are myriad other issues. The

Government have never said that they would dilute protections in those areas anyway, so why is that a change? If there is a more universally acceptable alternative to the backstop for Northern Ireland, it would surely have been found ages ago. The Government's proposal for a bilateral treaty with Ireland—today's latest wheeze—was killed off the moment it saw the light of day.

Of the more substantive changes that the Prime Minister could have advocated but has ruled out, three stand out. First, there is ruling out no deal. The Prime Minister summarily rules this out, despite knowing that a large majority in the Commons, and probably in her Cabinet and Government, is strongly opposed to it. This just seems foolhardy.

Secondly, there is suspending Article 50. I suspect that if there is any proposition that would gain overwhelming support in Parliament, it is that Article 50 has to be extended, come what may. Even in the unlikely event of the Government gaining support for the deal, the idea that they could pass all the legislation required before 29 March without invoking emergency powers is completely fanciful.

Thirdly, there is a referendum. The Prime Minister has at least stopped repeating the nonsense that it would take a year to organise such a poll, but has said that it would be difficult to do so before the European Parliament elections. As my colleague and noble friend Lord Tyler has shown with his draft Bills, it would not be difficult in the slightest to have a people's vote in May. As for the Prime Minister's assertion that such a vote would threaten social cohesion, it is surely much less of a threat than trying to force through a deal which has neither the support of the Commons nor, more importantly, of the people as a whole.

It must be clear to everyone except the Prime Minister herself that her sense of what will secure a Commons majority is simply wrong. It is unsurprising therefore that Back-Benchers are seeking methods to take the initiative. There has been much criticism of plans by Nick Boles, Dominic Grieve, Yvette Cooper and others to allow the Commons to decide its own business, as this would require a change to Standing Orders. It is obviously up to the Commons to decide how it runs its affairs, but it is worth recalling that the Standing Order which gives government business priority was introduced by Gladstone in the 1880s to stop filibustering by Irish MPs and allow decisions to be taken. It was a straightforward political fix. It has, however, like many things in Parliament—such as the Barnett formula, possibly—metamorphosed over time from a fix to a sacred constitutional principle. It is no such thing. As a political heir to Gladstone, I am pretty sure that the grand old man would now be arguing for the rules to be changed, and I hope that they are.

As for your Lordships' House, we will have a debate next Monday—presumably on a take-note Motion. As was the case last week, however, this hardly seems adequate, and I suspect that we will need to reconsider a Motion which again firmly opposes no deal and possibly covers other issues.

I know that Jean-Claude Juncker is not everyone's favourite, but he surely got it right today when he said: "Don't look for answers to Brussels. This is the moment for London to speak, not for us". Today's Statement shows that, if he awaits the Prime Minister for a viable way forward, he will be waiting for a very long time. We simply do not have that time.

Baroness Evans of Bowes Park: I thank the noble Baroness and the noble Lord for their comments. I particularly thank the noble Baroness for her comments about recent events in Northern Ireland. I understand that tomorrow we will be repeating a Statement made in the other place earlier today, when perhaps we can discuss the matter in more detail.

Both the noble Baroness and the noble Lord talked about ruling out no deal but, as the Statement made clear, it is not within the Government's power to rule out no deal. Under Article 50, we will leave the EU without a deal on 29 March unless either Parliament agrees to a deal or the UK revokes Article 50, which the Prime Minister has said that we do not intend to do. They both talked about extending Article 50, but they will know that this requires the unanimous agreement of all 27 member states, so there is nothing that the UK Government or Parliament can do unilaterally to secure it. It raises practical issues—not least, for instance, in relation to the timing of the European parliamentary elections at the end of May. Also, the EU is simply unlikely to agree to extend Article 50 without a plan for how we will approve the deal, which is why we are working so hard to get a deal which Parliament can accept.

The noble Lord mentioned a second referendum. The Statement clearly sets out our concerns about that, but he will also know that even if a second referendum were an option, it would require primary legislation, and this would take time.

The noble Baroness asked about conversations with EU colleagues since last Tuesday's vote. The Prime Minister has spoken to Chancellor Merkel, to Dutch Prime Minister Rutte and to Prime Minister Löfven of Sweden, and conversations will obviously continue over the coming days.

I am happy to affirm to both the noble Baroness and the noble Lord that this Government will never reopen the Belfast agreement. The Prime Minister has been clear that she has never considered it and never would.

The noble Lord mentioned the take-note Motion. He is absolutely right: we have tabled it this evening and we will discuss it next Monday. The noble Baroness asked me to speculate about what may or may not happen in the House of Commons next week. I do not think that my joining the speculation would be helpful. I can certainly say to her that, as always, this House will respond to any decisions made in the other place, and we are happy to work with the usual channels to ensure that we are given timely opportunities to do so. I am sure that those discussions will begin as soon as we see what happens in the House of Commons.

Finally, I reassure the noble Baroness that, as has been the case so far, offers which have been made to Commons committees on access to documents, et cetera, will be extended to their Lords counterparts. Obviously, we will need discussions about how that takes place. I say once again, as I have on numerous occasions, that the committees of this House have

[Baroness Evans of Bowes Park]
played an important and influential role in the process, and I will do all I can to ensure that they continue to do so.

7.16 pm

Lord Maude of Horsham (Con): My Lords, does my noble friend agree that those who seek to exclude a no-deal result without also excluding a second referendum are simply illustrating that what they want is not to exclude a no-deal Brexit but not to have Brexit at all? Although I regret that the Prime Minister's deal was rejected by the other place, particularly by such a catastrophic margin, can she throw any light on how some serious common ground will be found across that huge divide while the Prime Minister remains completely wedded to the red lines which have shackled and constrained this negotiation from the outset? Can my noble friend help the House with how this Prime Minister can possibly make this work?

Baroness Evans of Bowes Park: What I can say to my noble friend is that the Government and all Members involved in these meetings are approaching them in a constructive spirit without preconditions, and everyone who has been met has taken the same approach. As the Statement made clear, following discussions with senior parliamentarians, the Prime Minister will be considering how we might meet our obligations to the people of Northern Ireland in a way that can command the greatest possible support. She will then take those conclusions back to the EU.

Lord Howarth of Newport (Lab): My Lords, does the Leader of the House agree that parliamentary government requires that the Government lead? Does she accept that there is a widespread view, shared by the ghost of Mr Gladstone, that procedural initiatives by Back-Benchers in another place, to wrest from the Government control of the agenda and the timetable for parliamentary business, are subversive of parliamentary government and set a dangerous precedent?

Baroness Evans of Bowes Park: I do not think that my directly commenting on Commons procedures is helpful. I can certainly say that attempts to remove the Government's power to negotiate our orderly exit from the EU at this crucial time are undoubtedly concerning and risk further paralysis in Parliament.

Lord Hannay of Chiswick (CB): My Lords, will the Leader of the House answer two questions arising from the Statement? First, will she recognise that the Prime Minister's description of her inability to rule out no deal is short of veracity? Of course she is right that we need the help of the EU 27 to do so, but she could perfectly well say that, as far as it was in the power of the Government, she intended to do everything possible to avoid no deal, instead of touting out that ridiculous "no deal's better than a bad deal".

Secondly, I was interested to hear what the Statement said about the consequences of a prolongation. How are the Prime Minister and the Government quite so sure that we would be compelled to have a European election in May? Has she perhaps been talking to the 27 about this possibility already? That is the only way to be sure. There are actually quite different options, one of which would be to leave the existing Members of the European Parliament there until we had made our decision.

Baroness Evans of Bowes Park: On the noble Lord's first point, the Prime Minister is committed to getting a deal, which is the best way to avoid no deal. That is what she has been pursuing. The talks continuing over the next few days will aim to ensure that a deal is put forward that can command support across the House of Commons. That is the best way to avoid no deal. As the noble Lord will know, and as I said in answer to earlier questions, Article 50 cannot be extended by the UK alone. It has to be in consultation and agreement with the EU. It is unlikely simply to agree to extend Article 50 without a plan for how we are going to approve a deal.

Lord Wigley (PC): My Lords, in the event of the House of Commons ruling out a no-deal Brexit in a meaningful vote, would the Government honour and respect that decision?

Baroness Evans of Bowes Park: As I have said to noble Lords, I am not going to speculate on the decisions of the House of Commons. A Motion is down to which it is very clear MPs will table amendments. There will be votes on that. I am not going to stand here and speculate on what the outcome of that may be.

Lord Davies of Stamford (Lab): My Lords, if the Prime Minister had ever had any intention of probing the scope for consensual solutions to the problems of Brexit, she surely would have done that ages ago, preferably at the beginning of the process. She would not have waited two and a half years—two and a half years of confusion and crisis—before she did so. What she did last week was simply a political gimmick to try to get out of a difficult situation. What she has come up with today are more political gimmicks. The Prime Minister is really interested only in survival, is she not? She wants to play for time and to take the British people unwillingly over the cliff edge of a deal-free, hard Brexit and thereby to gain, or regain, the support of the European Research Group and stay in power a little longer.

Baroness Evans of Bowes Park: I am afraid that I entirely disagree with the noble Lord. As I have said, the Prime Minister is focused on finding solutions that are negotiable and can command sufficient support in the House. I gently suggest to him that all other parties and leaderships have agreed to talk to the Prime Minister, but the leader of his party has not. It would be very good if he would change that position and get involved in these conversations, because they are so important.

Lord Howell of Guildford (Con): My Lords, given that this excellent and welcome Statement makes it perfectly clear that the only honest ways to avoid no deal are either to support the withdrawal agreement or to revoke Article 50, which means the end of Brexit,

would it not be worth considering making the Motion on 29 January a matter of confidence in Her Majesty's Government?

Baroness Evans of Bowes Park: Obviously, there was a vote last week which the Government won, so the House of Commons has shown that it has confidence in the Government.

Lord Tyler (LD): My Lords, my noble friend has already referred to the Government last weekend publishing, apparently on the back of an envelope, some proposals which seemed to suggest that it would take 12 months to obtain a referendum. Since then, we have submitted a full analysis which shows that a referendum could be held in May. Does the fact that there is no reference to the timescale in the Statement which the Leader has repeated to your Lordships today mean that we can now take it that the logic of our submission is accepted and the ludicrously alarmist analysis by the Government has been withdrawn?

Baroness Evans of Bowes Park: The noble Lord will be well aware that primary legislation would be needed to have a second referendum. He may remember that the previous Bill took seven months.

Lord Butler of Brockwell (CB): My Lords, is it not the case that if the Prime Minister is to get Parliament's approval for this agreement she will have to show the same degree of flexibility as she expects of others? Is it not also the case that her own party in another place, while rejecting her deal, is denying her that flexibility? While that remains the case, are we not just wasting crucial time?

Baroness Evans of Bowes Park: Obviously, it was a large defeat last week and the Prime Minister has recognised that, which is why she has begun these conversations, along with other senior members of the Government and Cabinet. We want to find solutions that can command support across the House of Commons, so that we can leave the European Union with a deal that is good for both of us.

Viscount Hailsham (Con): My Lords, I commend to my noble friend the excellent biography of Disraeli by Lord Hurd of Westwell. She would note in there the chapter on the Corn Laws, when Peel decided to put the national interest before party interest. She would then go on to read the judgment by Disraeli on Peel, which is contained in his biography of Lord George Bentinck. Disraeli said of Peel that he was the greatest Member of Parliament that ever lived. Is there not a lesson for the Prime Minister here?

Baroness Evans of Bowes Park: The Prime Minister is being flexible and is looking forward, because she is opening dialogue with MPs and parties across the House of Commons. The purpose of those meetings is to find areas of consensus on a way forward so that we can move on.

Lord Pearson of Rannoch (UKIP): My Lords, have the Government read the paper published on 7 January by the noble Lord, Lord Lilley, and Councillor Brendan Chilton entitled *30 Truths about Leaving on WTO Terms*; that is, about leaving without a deal? If they have read it, will they say whether they disagree with any of it? If they agree with it, will they support it publicly and at least try to enlighten those who still believe, or pretend to believe, that leaving without a deal would be some sort of disaster, whereas it would be much preferable to the non-deal which is on the table?

Baroness Evans of Bowes Park: I am afraid that I disagree with the noble Lord. The Government believe that we can do better than trading under WTO rules, which is why we are taking forward the deal. WTO rules would mean tariffs and quotas on British goods going to the EU; for instance, trading on WTO rules would mean a 10% tariff on cars that we sold to the EU and average tariffs of over 35% on dairy products. We believe that leaving with a deal is the best option.

Lord Hay of Ballyore (DUP): My Lords, I add my voice to those who have condemned the car bomb attack in my own city of Londonderry at the weekend. The people responsible are cowards and have no place in any society. If it was not for the quick action of the police and the emergency services, we would be looking at fatalities today.

The Statement says:

"With regard to the backstop, despite the changes we have previously agreed"—

are these the letters that the Prime Minister has received from the EU clarifying the backstop which have no legal standing? I say to the Leader of the House that the real changes need to be made in the international agreement on the backstop that was legally signed up to by the Prime Minister. That is the only way in which this issue can be resolved. Up to now, the EU has said no to making those changes. I welcome the fact that the Prime Minister will have further discussions with Back-Benchers and her own party and then take those discussions to Europe, but the real changes need to be made within the agreement signed by the Prime Minister.

Baroness Evans of Bowes Park: Clearly, the exchange of letters between the Government and the EU last week did not provide the assurances that we hoped for but I reinforce the point that those letters have legal force, as a matter of international law. The letters must be considered when interpreting the agreement, including during arbitration. We are determined to deliver on our commitment to the people of Northern Ireland that there will be no hard border, but there needs to be a mechanism in place to deliver that. It was clear from last week's debate and vote that concerns remain about what assurances the Prime Minister has managed to achieve so far. That is why a key part of the conversations that will be had over the coming week will be to focus on what reassurance Members across the House need to support a deal that can ensure a strong relationship with the EU.

Lord Mackay of Clashfern (Con): Is there any suggestion of some other solution to the Irish border than what has already been achieved? Unless there is some pretty fundamental proposal to deal with this matter, it is quite hard to see how that opposition in the House of Commons can be overcome. I understood

[Lord Mackay of Clashfern]
that it was that matter which really produced the result that it did there. It therefore seems that that particular question, which has been there from the beginning, requires a solution. I would like to know whether any of the people who have been invited to Downing Street—I saw quite a number going in, one way or another—have produced a solution different from that which the Prime Minister has already proposed.

Baroness Evans of Bowes Park: As my noble and learned friend will know, neither the EU nor the UK wishes to use the backstop. We have already set out a number of other mechanisms that could be used if a deal is not completed by December 2020, as we believe it will be; for instance, extending the implementation period or looking at facilities for technology. There are other options but, in relation to the backstop itself, the assurances that the Prime Minister brought back from her conversations with the EU did not satisfy Members across the House so we are continuing to work on that. The Prime Minister is focused on solutions and she is interested in the ideas of others but, of course, we have to make sure that whatever we take to the EU is something that it will ultimately be able to agree with.

Baroness Smith of Newnham (LD): My Lords, last week it appeared that the Prime Minister was saying that she was listening yet had not heard anything at all. This seems to have been going on for about the last two and a half years. This week, there seems to have been a slight change but she has referred to three key changes. One, it would appear, is about a change to her own style; another is about the backstop, where there is no sign of any change whatever; the third is the question of the strongest possible protections on workers' rights and the environment. Will the Leader tell us, first, how the Prime Minister expects us to believe that that has anything to do with the European Union and the deal rather than being about domestic politics which we can determine at home, regardless of what the EU 27 say? Secondly, how is she going to square those points, which presumably Her Majesty's Official Opposition want, with what the European Research Group wants?

Baroness Evans of Bowes Park: I am surprised that the noble Baroness is not welcoming the guarantee that we will not only not erode protection for workers' rights and the environment but ensure that the country leads the way. We have been saying that and it is absolutely true. In fact, noble Lords have raised that in numerous ways and we will work with Members, Peers, businesses and trade unions to develop proposals to do this, including looking at legislation where necessary. I would have thought the noble Baroness would strongly welcome that.

Baroness Crawley (Lab): My Lords, my noble friend Lady Smith of Basildon is right to say that this Statement really takes us no further forward. In fact, it could be summed up as the dog that did not bark at the elephant in the room. I welcome the fact that the Prime Minister has made it clear that she has no intention of reopening the Belfast agreement, especially in the light of the very serious news from Londonderry over the weekend. However, I doubt that the Government have any idea what a no-deal Brexit would mean, not only for our country but for our nearest and most important trading neighbour: Ireland. Will the Leader think again about the situation of not taking no deal off the table?

Baroness Evans of Bowes Park: I can certainly reassure the noble Baroness that the issue of the border has been absolutely paramount in our minds, which is why the Prime Minister has worked so hard to make sure that we and the EU can come up with a solution that works to ensure that we keep our commitments to the people of Northern Ireland. That is what we are absolutely determined to do.

Lord Hope of Craighead (CB): My Lords, perhaps I could return to the point that was made that the language used by the EU in describing the effect of the backstop has no legal standing. There may be reason to think that the words it used have a greater force as understood in Europe than we give credit for. It might well be worth asking the Attorney-General to look more closely at the meaning of the words because it would be most unfortunate if the whole thing were to fall apart because of a gulf between what we and the EU think the words mean, and how it regards them as affecting its future conduct. They may well be much stronger than we so far give them credit for. There may be a way through if we really understood what they meant.

Baroness Evans of Bowes Park: That is an extremely interesting and constructive point from the noble and learned Lord. I will make sure that it is fed back through, so that we can ensure that a real understanding of the force of those words is understood by everyone.

Lord Hamilton of Epsom (Con): Does my noble friend accept that it would be most irresponsible for the Government to drop the preparation and option of no deal, for two very good reasons? The first is that it might happen and the second is that it massively strengthens our negotiating position in getting a better deal.

Noble Lords: Oh!

Lord Hamilton of Epsom: Noble Lords laugh, but it is the Germans who have come up with a figure of three-quarters of a million people who would be unemployed as a result of no deal. That is not my figure and I would not agree with it but it has come from Germany.

Baroness Evans of Bowes Park: I thank my noble friend and he is absolutely right: although we are working towards a deal, which is what we want to achieve, all responsible Governments have to prepare for a range of contingencies. It is therefore absolutely right that we continue to prepare for no deal.

Lord Kerr of Kinlochard (CB): I am concerned by the suggestion from the noble Lord, Lord Hamilton, about a negotiating advantage. It is a myth. I do not think you strengthen your negotiating hand by

saying, "If you don't give me what I want, I will shoot myself". This is the "Blazing Saddles" argument, which worked very well for the sheriff in that film but does not work in Brussels. Perhaps I may say to the Leader that there is a third way of avoiding the disaster of no deal: to recognise the inevitable. The noble Lord, Lord Newby, said that we are going to need an extension under Article 50. I believe that that has become absolutely clear, for all sorts of reasons. I also believe that so shocked are our friends on the continent by the chaos and incompetence of our political system here, they would be perfectly willing to concede now that there should be a short extension, in order that we can get our act together.

Baroness Evans of Bowes Park: As I have said—the noble Lord alluded to this—an extension requires the unanimous agreement of all 27 member states, so there is nothing that the UK Government or Parliament can do unilaterally to secure it. They are unlikely simply to agree to extend Article 50 without a plan for how we are to get a deal approved. That is what we are working on.

Arrangement of Business

Announcement

7.38 pm

Baroness Stedman-Scott (Con): My Lords, we come now to the important dinner-break business. I again remind noble Lords of the short speaking time for Back-Benchers; their co-operation in adhering to those times would be much appreciated.

Poverty: Metrics

Question for Short Debate

7.38 pm

Asked by ***Baroness Stroud***

To ask Her Majesty's Government what assessment they have made of metrics to measure United Kingdom poverty, in the light of the report from the Social Metrics Commission.

Baroness Stroud (Con): My Lords, the Social Metrics Commission was formed three years ago with the sole and express aim of delivering new poverty metrics for the UK. The need for an independent commission to do this was clear. When I was in government, there were two failed attempts to develop new measures in the lead-up to the Welfare Reform and Work Act 2016. It was obvious to me that whoever was going to be held accountable—the Government—could not in reality develop the measure by which they were going to be held to account. So we brought together top thinkers from left and right to create new measures. That is one reason why I am so grateful to noble Lords from the Labour, Liberal Democrat, Bishops' and Cross Benches. Their participation, alongside Conservative Peers, reflects the make-up of the commission and the broad support for the proposed new measures.

Why was it so important to create new, agreed measures of poverty? The lack of an agreed measure has meant that Governments of any party have been left unaccountable for their policy actions to reduce poverty. One of the most concerning findings in the report is that, since 2001, and under successive Governments—Labour, coalition of Conservative and Liberal Democrat, and Conservative—although the composition of who is poor may have changed, the number of people in poverty has remained consistent. We cannot allow this to be the reality of our generation and we need an agreed measure to drive accountability, because what gets measured gets done.

The lack of an agreed measure also affects government behaviour. It was my observation of how Governments behave in Budgets and spending reviews that led me to create the Social Metrics Commission in the first place. When it came to the big economic decisions, it was quite obvious that the OBR and the IFS played a significant role in driving the accountability of Treasury decisions. However, there was no such equivalent for social policy decision-making. The events of the past 20 years have also shown that it is not enough just to have a measure of poverty. It is also crucial that it is an agreed measure and that it rewards decision-making that improves people's lives. We need to move from a debate about measurement to one that drives better outcomes for people. It is too easy for those in this Chamber and in the other place to debate the 200,000 people who moved from one side of the poverty line to the other rather than develop a strategy to deliver improved outcomes for the 7.7 million who are in persistent poverty.

If it is important that we have this new measure, how does it actually improve on what we have had historically? There are many aspects of the commission's approach to measuring poverty which are a significant improvement on what was previously used—too many to go into in detail in this short debate. However, the changes lead to two key positive impacts: they better identify who is living in poverty, and they provide a greater insight into the nature of that poverty and wider life experiences. The old measure was purely of income. Commissioners felt that this did not adequately capture the nature of poverty. They wanted to identify both the wider resources that families have available to them and the range of different needs that those resources must meet. It is, in effect, a balance-sheet model of available resources versus inescapable needs and costs.

For example, we include in the measure the available assets and the obligated debt of a household. Historically, you could be on an income just above the poverty line but in significant debt, and you would not have been considered poor, even if your debt repayments meant that you could not meet your needs. Alternatively, you could have been on a low income below the poverty line and have significant liquid assets, but you would have been considered poor. This seems potentially counterintuitive. Noble Lords may have known that assets and debts were not included in previous measures of poverty, but I can remember being seriously surprised a few years ago when I first came across this fact.

[Baroness Stroud]

We also wanted to offset those resources against inescapable family-specific costs that had not previously been taken into account, such as the costs of disability and childcare. It is clear that disability benefits are given to people who are disabled to cover the extra costs of disability, but in the old measure they are credited purely as income and not offset against the corresponding extra costs of disability. This gives a distorted view of the available resources for a family coping with disability. The costs of childcare are typically unavoidable and related to working, but we all know that in any household they are offset against income. Having income as our sole measure of poverty does not acknowledge the inescapable and very real costs of working. Does my noble friend agree that understanding the inescapable costs of childcare and disability contributes to our understanding of the measurement of poverty?

The proposed measures also provide a greater insight into the nature of poverty and the wider life experiences of those who are in it. Poverty measures are created from the data housed in the big government datasets. We wanted to understand the depth, persistence and lived experience of those in poverty. Much of the debate in this House is about the number of those who show up in a snapshot of data captured at a single point in the year. While this is important, as it clearly shows vulnerability, we in the commission were even more concerned about those who show up in these surveys year after year, and about how far below the poverty line families actually are. So we created a measure that will assess the depth of poverty, to understand how far below the poverty line a particular family is; and a measure that captures the persistence of poverty, to show how long people have been in poverty.

We also wanted to capture the lived experience of those in poverty: the resilience gap between those who are in poverty and those who are not. So we developed a set of lived experience indicators that look at a range of issues, from mental and physical health, to work, community engagement and family structure, which may impact on the likelihood of people being in poverty, their experience of it and their chances of moving out of it in future. As well as improving our understanding, each of these measures provides clear levers for policymakers to target policy on reducing the number of people living in poverty, and improving the outcomes of those families who do experience hardship. This is one reason why this new measure has developed real consensus. Any genuine and sustained effort by Governments of any persuasion will be rewarded in the metric.

I was delighted on the day of the launch to stand with commissioners from the Joseph Rowntree Foundation, Making Every Adult Matter and the Institute for Fiscal Studies; to have endorsements from the Child Poverty Action Group, the most reverend Primate the Archbishop of Canterbury, and the Centre for Social Justice; and to have academics such as Paul Gregg and Naomi Eisenstadt supporting us.

What does the measure tell us? The good news is that there are fewer pensioners living in poverty than previously thought. This is a tribute to the hard work done to improve the lives of pensioners over the past two decades and shows that concerted policy action can really make a difference. However, there are many other findings that challenge us to sharpen our focus. Some 14.2 million people are in poverty at any one time, but as concerning for me are the 7.7 million people who are in persistent poverty. These people have spent all or most of the past four years in poverty. Perhaps the most concerning finding to come out of the new measure is the link between disability and poverty. In nearly half of all households in poverty there is a disabled adult or child. Disability has been seriously underestimated in historic poverty measurement, and therefore most likely in our strategies.

What happens next? I have been delighted by support from all parties. A few weeks ago we received a letter from the Prime Minister asking us to work with her officials. Last week the chairman of the Work and Pensions Select Committee asked us to work up a draft Bill that could put the measures into legislation. We believe that there is consensus around these new measures, and we and other organisations will start to use them as we make the code public. We urge the Government to seriously consider adopting them as their own, too. I ask my noble friend to commit her department to exploring how the UK's measurement of poverty could be improved by using the Social Metrics Commission measure and to outline what steps her department is taking to assess whether or not to adopt the measures as official government metrics.

7.49 pm

Baroness Lister of Burtersett (Lab): My Lords, I pay tribute to the noble Baroness, Lady Stroud, for her key role in achieving a remarkable consensus on the vexed question of poverty measurement and for her willingness to shift her own previous position. I have three points. First, one of the report's key principles is a restatement of a relative understanding of poverty,

"related to the extent to which people have the resources to engage adequately in a life regarded as the 'norm' in society".

This stands in contrast to Ministers' repeated reference to so-called absolute poverty statistics, in denial of the increase in relative poverty as their policies have begun to bite, and despite David Cameron's promise that,

"the Conservative Party recognises, will measure and will act on relative poverty".

Secondly, Ministers also tend to use the "before housing costs" stats, even though housing costs contribute to poverty. Where the report is truly innovative is in its measurement of total resources available, including also, as the noble Baroness said, a proxy measure of disability costs. As she said, this indicates that poverty among disabled people is seriously underestimated by conventional measures that take account of disability costs benefits but not of the disability costs these are supposed to meet. Will the Minister tell us the Government's position on this very important point and also her response to the report's evidence of even more extensive poverty among working-age families with children than shown in the Government's own comparable stats?

Thirdly, the report rightly includes a measure of poverty depth—in other words, distance below the poverty line, sometimes called the poverty gap, and

clearance above the line. This is really important. The experience of poverty is very different for the more than 4 million people the report estimates as living 50% or more below the poverty line and for the 1.3 million living within 5% of it. Professor Jonathan Bradshaw's analysis of poverty gaps shows that children, on average, are living further below the poverty line than they did seven years ago. Will the Government undertake to publish regular poverty depth statistics?

In conclusion, I welcome this report and, while we may well continue to need the existing poverty measures for comparative purposes, I hope that the Government will respond positively to its recommendations.

7.51 pm

Baroness Tyler of Enfield (LD): My Lords, I congratulate the noble Baroness, Lady Stroud, on securing this debate and I pay tribute to her for the way she has led the work of the Social Metrics Commission. I declare an interest as chair of the Making Every Adult Matter coalition of charities, whose director served as a commissioner.

In the very short time available, I am tempted simply to say, "What gets measured, gets done" and sit down again, but throughout my professional career and as a member of your Lordships' House I have been struck by how central the experience of poverty is to so many of the big social issues we debate. The direct impact of poverty is felt by one in five of the population and the indirect impacts ripple further still. Furthermore, the link between poverty and multiple disadvantage is deeply entrenched. This is brought home to me regularly through my work with the Making Every Adult Matter coalition, which focuses on the multiple and complex needs of 60,000 adults experiencing a combination of homelessness, substance misuse, mental health problems and contact with the criminal justice system. For these reasons I have followed the work of the Social Metrics Commission with keen interest.

The goal of the commission was to provide a new consensus around poverty measurement that enables government to take action and improve the lives of people in poverty. In my opinion, the absence of robust and clear measures, particularly the abandonment in 2016 of the child poverty targets, has contributed to the rising tide of poverty. Indeed, the IFS predicts a continuing rise in child poverty up to 2022. The measurement of poverty has for too long been a hot potato, with too much time being given to arguing about how and whether to measure poverty and not enough time devoted to taking action to reduce it. It was therefore vital that the commission was an independent and rigorously non-partisan entity, bringing together people of all political persuasions and none. The fact that the commission has produced a measure that is backed in its entirety by all its commissioners is testament indeed to the consensual way in which it has been led by the noble Baroness, Lady Stroud.

As we have heard, the commission has produced a new measure of poverty, which for the first time takes account of the total resources available to an individual, not just income. I am very pleased also to see links made between poverty and multiple disadvantage. I conclude by saying how strongly I hope that this measure is adopted by political parties and campaigners, but above all by the Government as their official measure of poverty, so that they can put in place meaningful policies to reduce poverty and address the plight of those who suffer from it. I look forward to hearing the Minister's response.

7.54 pm

Lord Freud (Con): My Lords, I add my congratulations to my noble friend for securing this debate and, more significantly, for the achievement of setting up the Social Metrics Commission and for delivering this important report. Not the least of her achievements is to have assembled such an impressive group to come together to make these recommendations. The report tackles some of the problems inherent in the traditional HBAI targets, which were too one-dimensional in their approach. I was impressed by the way it looked at total net income, inescapable costs and housing, particularly overcrowding. While the total number in poverty may be similar to the overall HBAI outcome, there are some very significant differences in the people who are captured in the measure. This is important, because it should help Governments draw up better measures to tackle poverty.

One of the elements in the commission's approach is to look at the pathways into and out of poverty. Here, I commend the approach of universal support, which was initiated in this House, to provide more coherent help for people who have particular barriers to work. Full-time work is confirmed in this report to be one of the most reliable ways out of poverty and as the employment rate has hit record levels, the people left behind need more than cajoling to find a job. They need help, often with multiple issues, before they can take and hold down a job. A person might need help with literacy, mental health issues and housing, for example, before they can work.

How best to handle these needs? The universal support structure can be expanded to tackle them. It is made up of three key elements. The first is a hub of services in main localities. I am pleased to understand that DWP is now based in about 100 local authority hubs. Secondly, there needs to be a gatekeeper or caseworker to help people navigate to the right elements of support. This is missing currently. Thirdly, there needs to be a way of sharing data, so that people do not get lost in the system. DWP already has the secondary legislation in place to do this, although it needs to consult on exactly how to run the system. My own preference would be to use electronic wallets, which would give individuals power over their own data.

Finally, I welcome the emphasis in the report on relationships. Social isolation is a debilitating shortfall for people, almost the worst type of poverty. To tackle it we need to mobilise the whole of society to provide support for the most vulnerable. I am particularly encouraged by the outcome from "grand mentoring", a project I have talked about previously in this House, in which older people mentor children leaving care. This is an approach we could expand for many lonely, vulnerable groups. I close by thanking my noble friend Lady Stroud once again for this opportunity.

7.57 pm

The Lord Bishop of Portsmouth: My Lords, Stalin, not often quoted on this Bench, is said to be the author of the maxim:

"A single death is a tragedy; a million deaths is a statistic".

On that, and indeed on everything else, I disagree with the Marshal. A single person living in poverty is a tragedy; that millions do so is an affront to our values, our common decency and how we think of ourselves as a nation.

If we are to tackle poverty, we must agree on how to measure it. We therefore owe the noble Baroness, Lady Stroud, and her team a huge debt of gratitude—not just for taking into account the inescapable costs many families face, such as childcare and disability, nor just for the welcome focus on the lived experience of poverty, including such things as mental health, literacy and family stability, nor even for the suggestion of measuring poverty against a threshold smoothed over three years, but for bringing together a diverse, authoritative group of experts, for their careful dialogue and analysis, and for arriving at a measure of poverty on which we can all agree, wherever we sit in this House. That is no mean feat and it is one on which we can all, I trust, coalesce. It provides the foundations on which we can—indeed, must—build given the shocking rising figures, particularly on persistent and child poverty, on which there is no time to elaborate tonight.

We on this Bench were heartened by the Secretary of State's speech not many days ago. We applaud the desire to build a fair and compassionate welfare system and the commitment to taking a more considered approach to rolling out universal credit, and we were encouraged by the decision not to extend the two-child limit. But we know that this marks only the start on welfare reform and tackling poverty. I therefore look forward to the Minister's response, to the Government's commitment to use the measures set out by the commission, and to them publishing a coherent, comprehensive strategy to tackle poverty and child poverty in particular, backing it with resources and sufficient political will to make a substantive, sustained difference.

It is no exaggeration to say that events of the past week show us to be in a state of some national crisis, caused by very different understandings of who we are and how we relate to the wider world. On that, no consensus is yet forthcoming. But, thanks to the work the commission, we now have consensus on how we measure poverty. Now we must seize that opportunity and act with urgency, tackling the national crisis of poverty.

8.01 pm

Lord Farmer (Con): My Lords, I too thank my noble friend Lady Stroud for obtaining this important debate.

Parliamentarians have an opportunity to transform lives, society and our economy by tackling the root causes of poverty and taking an approach to social justice which changes the lives of the poorest and benefits everybody. When families on the margins find stability in work and escape the social breakdown that holds them back, more adults and children can thrive and become net contributors within society. Demands on the public purse are reduced, and we all gain. However, given the shortness of time this evening, I will be brief and to the point.

By asking about social factors around poverty, the Social Metrics Commission has helpfully highlighted that, as my noble friend Lady Stroud mentioned, many people with disabilities are living harder lives than some ever realised, and that households earning up to £200,000 can receive childcare support, yet lack of quality affordable childcare continues to keep the poorest families out of work.

But it is with regret that I have to challenge the claim that the commission has united left and right, and point out that it has instead missed the elephant in the room. Why do I say that? First, although there is a greater focus on the social conditions of poverty, it remains a relative financial measure and will drive a financial rather than a social response. This runs counter to the Government's emphasis on improving life chances in the Welfare Reform and Work Act 2016, which enabled policymakers to paint from a much richer palette. My noble friend Lord Freud, from whom it is a pleasure to hear again on this subject, committed the Government to,

"look at all the root causes … They include addiction, problem debt and family instability. The approach will enable anyone to hold us to account for the actions we have taken and the progress we have made".—[*Official Report*, 9/12/15; col. 1599.]

I therefore urge the Government again to reintroduce the family stability indicator. Previously the Minister, my noble friend Lord Agnew, told this House that evidence,

"tells us that the quality of relationships within a family had a greater impact on child outcomes than the structure of the family".—[*Official Report*, 2/11/17; col. 1539.]

While the family stability indicator did not provide a complete picture, it is essential to have in the mix—hence my second and perhaps even greater criticism of the commission's work. It once again misses the biggest driver of poverty in the UK today: family breakdown. We will never adequately address poverty by ignoring this national crisis or failing to include indicators to measure it.

This is where left and right should concur. The Joseph Rowntree Foundation recently found that persistent poverty hovers at around one in 10 of most household types; for lone-parent households, it is one in four and rising. The commission's own measure shows that most family types hover around a 22% poverty rate, while the rate for lone-parent families more than doubles, at 54%. Without adequate regard to the fact that we are a world leader in family breakdown, any commission, however well meaning, will fail not only to unite politics but get to grips with this ultimate root cause of poverty.

8.05 pm

Lord Howarth of Newport (Lab): My Lords, I add my congratulations to the noble Baroness, Lady Stroud, and the Legatum Institute on establishing the Social Metrics Commission and on her leadership. Whatever our political differences, if we agree that it is a primary responsibility of government to reduce poverty, we

must welcome the establishment of a better database and an extensively agreed definition and description of poverty. I hope that all the parties will be able to accept that the account of poverty so far provided by the SMC is an improved basis for understanding, for debate and for the development of policy.

Confronted by the statistics in the SMC report—some of them highlighted just now by the noble Baroness—we should be dismayed. It is a collective failure that 4.5 million children are living in poverty, that 6.9 million people who are in poverty live in families with a disabled person, and that 7.7 million people are living in persistent poverty. The challenge, presented anew by the SMC, is to put the reduction of poverty front and centre in our politics.

The SMC has admirably sought not only to understand material poverty but to take account of the lived experience of poverty: for instance, social isolation and mental and physical ill health. As it develops its methodology, I hope that the SMC will consider adding an indicator of cultural poverty, which has a profound effect on well-being, thence health, thence material poverty.

The massive and cumbrous social security system cannot move fast and takes time to get things right, as we see with universal credit. But policy must take account of social change, rapid as it is, the fragmentation of class, immigration, changing economic geography, the impact of technology: the actual experience of people's lives. The UK Government, which at the moment—extraordinarily—has no official measure of poverty, should surely adopt the model offered by the SMC.

The SMC's data and method can help us understand and address with new seriousness and effectiveness the problem, so glaringly exposed by the Brexit referendum, of the "left behind" and their alienation. Informed by the SMC, we shall be better able, if we will, to redress burning injustices, rekindle hope, heal divisions and, I would add, rehabilitate politics.

8.07 pm

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, I join other noble Lords in congratulating my noble friend Lady Stroud, both on her work within the Social Metrics Commission and on securing this debate on a subject which is clearly of deep personal interest to noble Lords on all sides of the House.

Like many, I was shocked by the UN's November report. However, I am critical both of the way Professor Alston explored just one side of the evidence and the extraordinary political nature of his language: for example, his conclusions that,

"poverty is a political choice",

and that this Government were guilty of outsourcing the British tradition of compassion of poverty and mutual concern. The Government have done many things to restore dignity through work, to raise the poorest out of the tax system and to introduce a living wage. Where the intent was honourable but the implementation flawed, such as with universal credit, these remain work in progress. The Government have not been not too proud to admit when they get things wrong. Of course, the report also contained valid observations, and indeed it encouraged the Government to introduce a single measure of poverty and of food security. Therefore I, too, wholeheartedly welcome the Social Metrics Commission's attempt to bring a whole new approach to measuring poverty.

Poverty has been defined as,

"not having the resources to participate to some acceptable degree in society, to avoid shame as well as destitution".

However, measuring the extent of poverty is much harder, and the old benchmark of those living on less than 60% of contemporary median income, ignoring as it did, assets, skills and liabilities, meant that it was never fit for purpose. We can address the issues that lie behind the statistics only if we can measure whatever it is about the household budget, on both sides of the balance sheet, which puts families into poverty. These can be myriad: childcare costs; inability to budget; household debt; costs relating to any form of addiction; and, most worryingly, disability, as we have heard.

The most heartening finding is that, through this new measure, around 2.7 million people are living at less than 10% below the poverty line, meaning that relatively small changes in their circumstances could make them able to rise above it. Sadly, the converse is also true of the 2.5 million who are less than 10% above the poverty line.

This research to find a relevant contemporary measurement of poverty, supported by the work that the Legatum Institute undertakes in identifying pathways from poverty to prosperity, provides crucial support for the development of policy by a Government committed to creating a country in which no one and no community is left behind. At least this new measurement will enable us to hold them to account.

8.10 pm

Lord Lipsey (Non-Afl): My Lords, it would take more than three minutes to thank the noble Baroness, Lady Stroud, adequately, but I will use my introduction to give a commercial for the seminar that she and I, as chair of the All-Party Parliamentary Group on Statistics, will be holding in Room G on 12 February at 11 o'clock to go into these matters in more depth than is possible tonight.

Poverty statistics matter, not just as a proxy for misery almost inconceivable to Members of this House but because they underline other policy. When asked about the BBC licence fee in Oral Questions this afternoon, could the Minister have stood up and said that the Government want free licence fees for over-75s to go on, having read the report of the noble Baroness, Lady Stroud, and seen that only 12% of over-75s are in poverty? This policy is misdirected and does not survive contact with the facts.

Poverty is a Janus-faced statistic in the sense that, on the one hand, it is breakfast, lunch and tea for geeks like me and, on the other, it is controversial, even ideological. We have heard that there is a gap between the right, which tends to prefer what it considers objective measures of poverty based on absolute levels, and the left, which tends to prefer relative measures. Very wisely, the noble Baroness, Lady Stroud, has gone for a relative measure—55% of the median income—but her statistics are vastly more sophisticated

[LORD LIPSEY]
than anything we have had in the past. They take account of families' liquid assets and deal properly with the housing situation, which is important in poverty. This is a huge leap forward.

Personally, not being a great ideologist, I would be quite happy if we gave up disputing for evermore whether absolute or relative measures are right and settled for Stroud. As the noble Baroness would be the first to admit, there is more work to be done on her report. For example, I am concerned about the way it treats disability, important though that is. It would be much better to concentrate on those concerns than to allow this to be sucked once again into the endless maelstrom of political toings and froings and ideologically motivated views. Instead, let us settle for Stroud—or Stroud-plus, as it might be in today's jargon—and use it from now on to see if we are really making progress against poverty.

8.13 pm

Lord Bethell (Con): My Lords, the debate has been incredibly rich. I do not know how to chip in with some fresh material. Let me try with some key points. First, the noble Baroness, Lady Stroud, should be thanked for leading the debate, but she has a huge team behind her: both the commissioners and the secretariat have spent two and a half years putting the report together. A gentleman called Matt Oakley deserves special praise for his sterling work over that period.

I am proud to declare an interest as an adviser to the Legatum Institute—I was involved, tangentially, in the launch—but I am also very sad because the report taught me that, over the past 25 years, the proportion of the country living in some form of poverty has remained almost static, at around 22%. That is a deep failure in government policy. It rocks one's hope that anything can change, but I have hope: I think that the 14 million people living in poverty and the 7 million living in persistent poverty referred to by the noble Baroness, Lady Stroud, can be lifted out of that state if we have better mechanisms to support them.

I believe that the Government are not necessarily a cumbersome, inert agent in all this; when prodded, they can have better policy. As the noble Lord, Lord Lipsey, put it so well, these statistics can be the intellectual engine to improve policy. Disability is an example of that, as was mentioned by a number of speakers, including the noble Baronesses, Lady Tyler and Lady Lister. The disabled are overlooked; the SMC figures are clear about that. I suspect that we will look back at these years with a sense of national shame over not calculating properly the cost to families and individuals of being disabled, in terms of lost possibilities, the capital costs of equipment and the cost of support. These things have not been measured properly. When they are, we will be deeply ashamed.

Thirdly, I want to convey a sense of the great opportunity here for the Minister if she can bring these statistics into the centre of government policy-making. Stakeholders are on the side of change. I encourage the Minister to look at the fantastic YouGov report on what voters think of the statistics. The press coverage on launch was incredibly powerful. The winds of change are blowing in the Minister's direction; I encourage her to set up her sails and make these changes as soon as possible.

8.16 pm

Lord Shipley (LD): My Lords, I too thank the noble Baroness, Lady Stroud, for her work and for this debate. As she has said and as my noble friend Lady Tyler agreed, what gets measured gets done—but the noble Baroness also reminded us that it needs to be an agreed measure. If we do not have an agreed measure, it will be difficult to solve the problems of poverty.

I should also say that the independence of the Social Metrics Commission has been crucial in identifying the new measurements. In particular, they include assets rather than just income and they add in unavoidable additional costs such as childcare or a disability. They allow for high housing costs to be reflected and for the adequacy of housing to be measured, which is vital to so many people on low incomes who have to live in unfit conditions, who are perhaps rough sleeping or who are in temporary accommodation.

As we have heard, the Social Metrics Commission has concluded that 14.2 million people are in poverty in the UK, of whom more than half are in persistent poverty: that is, they are in poverty now and have been for two out of three previous years. Those figures are worrying, but it is particularly worrying that so many of those living in poverty are actually in work. I read a recent report from the Joseph Rowntree Foundation which concluded that over the past 30 years the UK has effectively swapped mass unemployment for mass low-paid work. I concur with that conclusion—but it demonstrates that we have a very big problem to solve.

Philip Alston, the United Nations special rapporteur on extreme poverty and human rights, said in a report published in November last year that the welfare state is disappearing,

"behind a web page and an algorithm".

I am very concerned about the Government's policy of digital by default. It is a feature of universal credit, but the truth is that one in five of the UK population does not have the required skills or the necessary resources to engage with a digitally based benefits system. Indeed, the House has repeatedly warned Governments of this.

I conclude by saying that too many UK citizens are living in a cycle of low-paid jobs and poor prospects. No one should have to depend on food banks. The report of the Social Metrics Commission helps us to identify the real extent of poverty and the ways of addressing it, because the damage created by social exclusion and financial inequalities simply cannot be allowed to continue unaddressed.

8.19 pm

Lord McKenzie of Luton (Lab): My Lords, this worthy debate has been far too short. The noble Baroness, Lady Stroud, deserves our congratulations on all that she has done, together with her team, which was mentioned a moment ago. She is right to encourage the putting of poverty at the heart of government policy, although we recognise that this will entail a major change of approach. The SMC report which

she has presented reminds us that there are no official measures of poverty in England or across the UK as a whole. As others have said, can the Minister say why this is? How is it possible to target poverty, particularly child poverty? We have heard from a number of Peers that what gets measured gets done—the noble Baroness, Lady Tyler, and the right reverend Prelate made that same point.

Noble Lords may recall the debates we had at the time over the use of income measures in the Child Poverty Act, which was renamed by the coalition Government as the life chances Act. My noble friend Lady Lister will certainly recall that, as indeed will the noble Lord, Lord Freud, who led the charge in those days. The income measures were replaced by reporting obligations on workless households and educational attainment, particularly at key stage 4. Can the Minister please remind us of progress on those reports, which are required to be made to Parliament? I think that two are due by now under those arrangements.

It would seem that the Social Metrics Commission accepts that an income component to measuring poverty is appropriate. This would base its data on the FRS. As we have heard from a number of noble Lords, its metric of total resources available is proposed to include all sources of post-tax earnings and income, including benefit and tax credit income, liquid assets available for immediate use—I can see that there may be some difficulties with those at the margins—deductions for family-specific recurring costs such as housing and childcare, along with the inescapable costs of disability. I think that the report floats the possibility of social care being included at some stage. We are thoroughly supportive of the proposals to include rough sleepers as living in poverty. Indeed, it should be impossible to describe them otherwise.

We know that despite the substantial effort on the part of the commission there are still gaps where the policy is not oven-ready. The approach of the commission is caveated by reference to, "within existing data and research". The report indicates that the commission decided that it was not possible to move immediately to a new method of equivalisation and that more work would be needed. Can the Minister say how any future work on this is to be undertaken? I think that we were given a hint that there may be a Bill in the offing at some stage. Will this be the responsibility of the DWP or the Social Metrics Commission? Who has responsibility for and ownership of the project? At the end of the day, this should be about sending a message to Government about changing the dire state of our communities blighted by poverty. We have some 14.3 million people living in poverty, including 8.2 million working-age adults despite the success of universal support, as well as 4.6 million in persistent poverty. I could go on. We must build a picture of those in poverty so that we can better understand their challenges and what they need to make progress in their lives.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I thank my noble friend Lady Stroud for securing this debate and all those who have contributed to today's debate of this important question. I really commend the work of the Social Metrics Commission.

Measuring poverty is complex. There are many factors affecting a person's standard of living, and reaching consensus on whether a person's circumstances indicate poverty is difficult to assess objectively. Of course, assessing poverty accurately across the whole population requires robust data. This is why academics here and abroad have developed so many measures, including low income, material deprivation, social exclusion, consumption, expenditure and multidimensional poverty. I was struck by the reference by the noble Lord, Lord Howarth, to the lack of indicators for cultural poverty—our collective experiences. That is a very good point, because it emphasises the reality that the possibilities for how we approach the way we measure poverty are, if not quite endless, enormous.

As noble Lords know, this Government already publish official data that sets out the number and characteristics of households that fall below various income thresholds, as well as a measure of material deprivation. These are well-established measures, often used for international comparison purposes. We will continue to publish data on them in line with the statutory commitment that we have made. However, the Government accept that the current suite of measures is not without limitations. For example, the relative poverty line moves with average income, which is useful when looking at whether groups are keeping up with the middle of the income distribution over time but does not show whether the average incomes of those on the lowest incomes is improving in real terms. If everyone's incomes were to double tomorrow, the number of people in relative poverty would be unchanged. On the other hand, the absolute poverty line moves with inflation, providing a better measure of how the income of those on low incomes compares with the cost of living.

Our persistent poverty measures assess the numbers in relative poverty for three of the last four years, and are helpful in identifying groups struggling to escape low income. Our material deprivation measure looks at the goods and services that people report they can access, taking account of the costs that parents and pensioners face as well as the resources they have. At 11%, the number of children in material deprivation has never been lower. That means, for example, more families able to afford fresh fruit and vegetables every day and more children who have a winter coat.

We therefore welcome the Social Metrics Commission's work. Its new measures aim to better reflect what it has identified as the unavoidable costs that are combined with a person's income. This goes further than our current low-income data, as while it takes account of housing costs, it does not take account of the costs of childcare and disability, as referenced by a number of noble Lords. The commission has also identified further costs—for example, care costs—that it thinks should be taken into consideration if appropriate data was available.

The recommendations in the report are too numerous to cover here, but I offer a couple of examples of the elements we need to assess. First, we need to look at the quality of the data used to estimate some of the costs included in the commission's measure. Indeed, its report accepts that there are data-quality issues.

[Baroness Buscombe]
There is also the possibility that including some additional costs but not others could skew the measure towards certain groups. The commission's report indicates that there may be more children and disabled people and fewer pensioners compared with the official statistics. What would be the impact on the measure if social care costs were also included? Children and disabled people were particularly referenced by my noble friend Lady Stroud.

In disregarding disability benefits from the calculation of relative poverty, we cannot lose sight of the fact that these provide a valuable financial contribution towards the extra costs that disabled people can face. I want to encourage my noble friend Lord Bethell. We spend over £50 billion a year on benefits to support disabled people and people with health conditions. That is £8 billion more in real terms than in 2010. PIP, the personal independence payment, is better at targeting support to those who need it most, as we see with 31% of people on PIP receiving the top rate of benefit compared with 15% under DLA. Alongside this, the proportion of people with mental health conditions getting the highest level of support under our system is over five times higher than under the old system. We believe that disabled people should have every opportunity to thrive in the workplace, and we provide financial support to ensure that someone's disability or health condition does not hold them back at work. My noble friend Lord Bethell referenced how difficult it is for people to go to work, but it is really encouraging that 973,000 more disabled people have entered work in the last five years.

Over the coming months, we look forward to the release of further information, including the programmes used by the commission to produce its estimates and the papers supporting its decisions around what its measures should include. To answer my noble friend Lady Stroud, while we are unable to make any commitments to the Social Metrics Commission at this stage, we will want carefully to consider the detail that underpins the methodology that the commission has employed when this is made available to us. The department is also keen to be involved in the stakeholder discussions on some of the critical and more complex issues associated with the commission's measure.

To answer the noble Lord, Lord McKenzie, about who will be empowered through where we go next, I want to make it clear that we welcome the opportunity that we as a department have been given to work with the Social Metrics Commission. As a number of noble Lords suggested, as with so many things in life, this is more important than politics.

In tackling poverty, ensuring that we have robust measures for assessing the nature and extent of poverty is vital. The department is thinking strategically about the issues behind poverty, including housing, debt, low pay and worklessness. We will raise housing supply to 300,000 new homes per year on average by the mid-2020s and are investing £9 billion into our affordable homes programme, so that we can deliver more homes where they are needed most. Our economy has grown for the 23rd consecutive quarter in a row and we are backing businesses to deliver better jobs, better incomes and better lives for people across the country. Since 2010, there have been 1,000 more people in work every day and 80% of the rise in employment has been in full-time work. That suggests that it is important that we look more closely at low pay across all employment sectors, not just the private sector.

I thank my noble friend Lord Freud for his reference to the introduction of universal support. It is doing an enormous amount to help, but I also take on board his suggestion with regard to the importance of sharing data. That is incredibly important. There is also the possibility going forward for claimants to be able to work with electronic wallets.

I now move to our approach as a Government. We are firm in our belief that work is the pillar of a strong economy and strong society, and we have clear evidence about what works. We know that, for those who can, work offers the best opportunity to get out of poverty and become self-reliant. Adults in workless families are four times more likely to be in poverty than those in working families, and children in workless households are around five times more likely to be in poverty after housing costs than those where all adults work. Indeed, the Social Metrics Commission recognises that, under its new measure, the majority—68%—of people living in workless families are in relative poverty, compared with just 9% of people living in families where all adults work full time. Our policies therefore strongly reflect that work is the best way out of poverty. One example is the Access to Work scheme, which now allows people to claim up to £57,200 annually to help pay for the additional support they need in the workplace. That is particularly targeted at the most vulnerable and the disabled.

Children need role models and parents need dignity and self-worth to believe that they can achieve their potential of supporting their children. The principles of UC entirely support this truth. I particularly take on board what my noble friend Lord Farmer said regarding the elephant in the room and the importance of including the family. I commend all the work that he does on the reducing parental conflict programme. It is important to note that the Social Metrics Commission does look at the family—the reference is to family, relationships and community—but we need to look further at this and see how it all comes together. It is for those reasons that we are pushing ahead with the most ambitious reform to the welfare system in decades, delivering real and lasting change to the lives of many of the most disadvantaged people in society—and yes, as my noble friend Lady Stroud said, focusing on better outcomes for people.

Universal credit is, of course, at the heart of these reforms and will tackle poverty by helping an extra 200,000 people into work. It is a modern benefit with one monthly payment that adjusts to earnings, avoiding the cliff edge associated with the legacy benefits it replaces. Those in work under universal credit earn an average £600 extra a year, and because it is a simpler system than Labour's complex mix of tax credits and benefits, 700,000 families will get money they are entitled to which they are currently missing out on.

I take issue with what the noble Lord, Lord Shipley, said about the UC system being digital by default. That is simply not the case. Universal credit focuses on

strong personalised support, with work coaches and case workers, and we will offer home visits where needed. We want to focus on individuals and we do so.

As my noble friend Lady Bloomfield of Hinton Waldrist said, we are listening to concerns. We note when we get it wrong, and it is a work in progress. I thank the right reverend Prelate for his welcome for the Secretary of State's comments in her recent speech in this regard.

Our policies are making a difference. Under this Government income inequality is down year on year and remains lower than 2010, both before and after housing costs. Since 2009-10, annual incomes of the poorest fifth have increased by £400 above inflation before housing costs, whereas the incomes of the richest fifth have fallen by £800, showing that people are able to progress. Our official statistics show that there are 1 million fewer people in absolute poverty compared with 2010, including 300,000 children, and that the number of children in material deprivation has never been lower. There is so much more that I would like to say. We believe that building stronger partnerships with local services and organisations is key to identifying barriers and providing cohesive support for those who need extra help.

My noble friend Lady Stroud has asked what I believe is a question of great importance for all of us in this House, and I stress that the Department for Work and Pensions takes this very seriously. I thank my noble friend for the work the commission is undertaking and look forward to its further work in the future. Ultimately, however, this Government will be held to account for their progress in tackling poverty, and I have no hesitation in recommending our reforms as the right approach if we are to make a long-term difference to people's lives and build a society where everyone can realise their potential.

Trade Bill

Committee (1st Day) (Continued)

8.38 pm

Amendment 8

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

8: Clause 2, page 2, line 37, at end insert—

"( ) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement only if—

(a) the provisions of that international trade agreement do not conflict with, and are consistent with—

(i) the provisions of the Sustainable Development Goals adopted by the United Nations General Assembly on 25 September 2015,

(ii) international human rights law and international humanitarian law,

(iii) the United Kingdom's obligations on workers' rights and labour standards as established by, but not limited to, the commitments under the International Labour Organisation's Declaration on Fundamental Rights at Work and its Follow-up Conventions,

(iv) the United Kingdom's environmental obligations in international law and as established by, but not limited to, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Convention on Biological Diversity, including the Cartagena Protocol on Biosafety,

(v) existing standards for food safety and quality as set and administered by the Department of Health, the Food Standards Agency and any other public authority specified in regulations made by the Secretary of State,

(vi) the United Kingdom's obligations as established by the Convention on the Elimination of All Forms of Discrimination Against Women and by the Convention on the Rights of the Child, and

(vii) the sovereignty of Parliament, the legal authority of UK courts, the rule of law and the principle of equality before the law,

(b) the provisions of that international trade agreement do not in any way restrict the ability to determine whether public services at a national or local level are delivered by public sector employees, and

(c) the Secretary of State has laid before Parliament an assessment of the potential economic, social, human rights and environmental impacts of the international trade agreement on the contracting parties."

Lord Purvis of Tweed (LD): My Lords, I shall speak to Amendment 8 and the other amendments in this group. Amendment 8 relates to the continuity agreement, and Amendment 53, which is also tabled in my name, relates to future agreements. We return somewhat to an earlier debate where there is perhaps more complexity than the Government have alluded to until now about some of these agreements. I shall explain why this is important before I refer to the components of the amendments.

I shall use three examples of agreements which the Government so far have not said whether they wish to replicate in the continuity agreement: Singapore, Japan and Mexico. This is more complex than the Government have alluded to so far because a European Court of Justice judgment two years ago indicated that free trade agreements should not now include investment protection components. In relation to the Japan agreement, which this Parliament has approved and which will come into force on 1 February this year, as a result of that judgment separate negotiations are now being carried out on an investment protection agreement which Japan has not yet agreed. What is the UK's intention in rolling forward the trade and investment components, or is it just the trade component? The Singapore agreement, which has been agreed and which would be one of the agreements that we wish to take forward, has, again, been separated out. The Mexico agreement has been agreed and is going through legal scrubbing.

Those three examples, which are significant to UK trade, highlight important aspects. They represent some of the best components of what modern deep and comprehensive trade agreements can include, but they also signify the difficulties that our Government have in wanting to make them continuity agreements, simply

[Lord Purvis of Tweed]
and straightforwardly rolling them on. That is why Amendment 8 on continuity agreements is important. It is important because it now sets the principles for agreements which have been signed in principle but which, through the process of seeking continuity, might include practical changes. We do not know yet, but they might. Although we know that it is the Government's intention that they will not, we have yet to see them or any of the details. Therefore, it is appropriate that we would want to set some criteria for how they can be rolled forward, especially if we are to take forward what the European Union is now doing, which is separating out investor protection agreements from trading agreements. Of course, these amendments relate to trade agreements, but I want to stress the complexity to highlight the fact that the principles should be set down in statute.

In recent years, UK trade, through these agreements, has been transformed to take into consideration much wider aspects than just tariffs, and that is part of the reason that consideration of investment protection is a domestic requirement, whereas other trade is an exclusive competence of the EU. It is why the Japan agreement with the EU, for the first time, includes a specific commitment to the Paris accord. The Japan agreement sets the highest standards—which we are now told by the Prime Minister are to be guaranteed—for labour, safety, environmental and consumer protection, as well as data protection, and it fully safeguards public services and has a dedicated chapter on sustainable development. Curiously, that does not seem to be a concession from the Government today, whereas it would be included in one of the continuity agreements that the EU has already agreed. However, that is not surprising because, with the growth in the wider aspects of trade in our relationships, with many more non-tariff measures in international trade agreements, the impact on domestic legislation and on wider public services is much greater.

If you go on to the EU website, you will find that there have been significant discussions with Australia on trade and sustainable development, taking into consideration provisions on trade and labour, multilateral environmental agreements, climate change, biodiversity and forests, and civil society groups. These are now core elements of how the European Union negotiates trade agreements. How did I know that these were part of the discussions with Australia? I knew because this information is made public. Transparency at the European Union level is such that I was able to find all the elements of the last round of discussions with Australia that took place in November. However, I looked in vain to find any similar background material that led to the mutual recognition agreement that the UK has signed with Australia.

It may well be that mutual recognition over wine will be very necessary, come Brexit; we will probably be enjoying Australian wine a lot more. But the point of making sure that trade agreements meet ethical standards and have a clear set of benchmarks, with a requirement on Ministers to report that they are carrying out these discussions, is now of fundamental importance. It is important because the continuity agreements may not all ensure continuity. I would not be surprised; as we have heard, the Government are seeking "as much continuity as possible", which could mean there are likely to be some changes.

8.45 pm

While this is relevant for the UK in agreements with Japan, Mexico, Singapore and those highly developed rich countries where we will have good trading relationships, it is also vitally important that we retain these ethics when trading with the least developed nations, or with the large number of nations that have partnership arrangements with the European Union on preferential trading agreements, or with the whole series of nations where we have zero tariffs on everything but arms.

It is absolutely necessary to have a clear element of transparency in this Parliament on how we trade with these countries, both when rolling over the agreements that we currently have in place and as we start to negotiate in the future. We must have reporting but also much higher standards and ethics checklists for how we engage in this. These amendments are, I hope, not partisan, but are supported by a very wide range of NGOs representing many hundreds of thousands of people around the country who are looking for a lead in Parliament from this House. Amendment 53 especially, as we start to engage in discussions about how our trade goes forward, reflects the highest ethical standards which are set down now for the future.

It is interesting to reflect on how, at the end of a two-year process of negotiations, the Prime Minister now seeks to make concessions out of labour market and environmental standards. These should not be issues where the Government seek to gain some kind of political advantage by making concessions; they should be core components of our trading relationships around the world. That is why I hope that the Government will be sympathetic to this amendment.

Baroness Jones of Moulsecoomb (GP): My Lords, I rise to speak to Amendments 9, 15, 25 and 26 which are in my name. I also want to support the many other excellent amendments which are contained in this group. As the noble Lord, Lord Purvis, has already said, this seems to be an area that is causing widespread concern. I hope the Government can see sense and perhaps rewrite the Bill to accommodate our concerns. In fact, I have quite a lot of concerns about the way the Bill is written; I wonder whether it needs a fairly substantial rewrite in some places. We will come on to that later.

The starting point for me in approaching this Bill is to recognise that trade deals and free trade agreements are entirely different beasts from those of times gone by when it was simply a question of reducing tariff barriers between nations or ensuring physical access to each other's ports.

Modern trade deals are deeply political, needing decisions and agreements about interacting with one another's laws and even overriding national laws. Trade deals are of great concern to many environmental and social justice campaigners because they can be used as a bulldozer for corporate interests to override the rights and interests of communities. As we transition from our established position in the European Union to an uncertain and undecided future, those concerns

are front of mind for many of us. I first tabled some of these amendments in October last year. When I did that, even though there were then six months to go to Brexit, it felt as if time was running out. Now, only two months away from Brexit, we are no closer to averting disaster than we were back then.

I was grateful for the meeting with the noble Baroness, Lady Fairhead, the noble Lord, Lord Gardiner, and their officials. Although it was an interesting meeting, they were unable to resolve my fundamental concern about the Bill. The Minister told me that amendments such as mine are not necessary because the Bill is only about rolling over existing trade deals and it is not the Government's intention to renegotiate any of them, and we have heard that again today. The Government's intention is all well and good, but good intentions are quickly broken down by the harsh realities of international negotiations. It seems obvious, as we have already heard, that other countries will take this opportunity to renegotiate terms that are more favourable to their interests, perhaps slipping things in that the EU would not allow but that the UK might be more inclined to accept, particularly if we were feeling desperate.

I ask the Minister again now: can she guarantee that none of these trade deals will be renegotiated? It is possible that things were unclear during our meeting but we must know now. We are only weeks away from the Government needing to sign on the dotted line, so this should now be a much simpler question to answer. If it is guaranteed that none of our existing trade deals is being renegotiated, and all of them are simply being rolled over with the exact same terms, then most of my amendments become obsolete. That would be a great situation, and I would be perfectly happy. However, without a clear and unequivocal statement to this Committee that there will be no renegotiation and no change in terms, we must make clear and unequivocal amendments to the Bill.

Baroness Henig (Lab): My Lords, I shall speak to Amendment 13. The purpose of my amendment is extremely clear: to seek to maintain our present high standards of UK agricultural products. At the same time, however, I support other amendments in this group regarding animal health, hygiene and welfare standards and wider environmental concerns. I regard this issue as extremely important not just for the present round of trade treaty rollover negotiations, which of course it is, but as a signal for the future. I felt that the remarks by the noble Lord, Lord Kerr of Kinlochard, were very pertinent to this point. I want to make it very clear to both present and future trade negotiating partners that we in the UK intend to maintain our present high standards in a number of areas such as agricultural products and food standards.

I too am grateful to the Minister for meeting me last week. She made it clear that her priority was to get these current trade deals finalised with as much speed as possible—yes, the word "continuity" was mentioned—and said there was a necessity for flexibility in the negotiations. I understand all that. The problem, as we have heard today, is that not all the parties to these negotiations may just agree to roll these deals over; they may want to look at some things again. I want to signal to the Government as strongly as possible how important we feel our present high standards to be.

Ministers apparently agree with me, because on a number of occasions they have been asked about our present high food standards and they all say that they have no intention of departing from them and intend to stick to them. If that is the case, then surely we have no problem in writing that in the Bill. What is the problem? If we all agree that these high standards are essential, then I do not understand why they cannot be in the Bill. I understand that my inadequate attempts to formulate the appropriate proposal may be the problem. I would then say to the Government, "Fine. You can see what I and other people are after. Take that sentiment away and put it in whatever form meets your requirements". I cannot understand how they can just ignore this important issue. If Ministers share my views on high standards, there must be a way of encapsulating this in the Bill in some form. I am very flexible; I do not mind how it appears in the Bill, but I really feel that it should be there.

Food standards and the negotiations about them are going to be a major issue not just for these rollover trade deals but for the future. We keep hearing talk about the possibility of us joining the Pacific trade group. I think there was a meeting with people from New Zealand or Australia only today and we hear again about this possibility. But that would inevitably mean moving away from EU standards and our current high standards for food and agricultural products. Therefore, every time we hear these sorts of discussions about joining this group, we are alarmed; we want to know, if that is the case, will we then lower our standards? We cannot have it all ways. We also know how American agribusinesses are hungrily eyeing British markets. We know perfectly well that they want to flood our country with cheap chlorinated chickens and other food that does not meet our present high standards. Therefore, I believe we have to make it clear from the outset that we will not agree to this.

The Government should be left in no doubt whatever about the strength of feeling across the country on this issue. I ask them to make it clear in negotiations taking place now and in the future that food standards will not be lowered in any way. I strongly believe that everybody in this country will want this to be acknowledged. That is why I have tabled this amendment.

Baroness McIntosh of Pickering (Con): My Lords, I rise to speak to Amendment 14 and I join in supporting Amendment 13 and much of the sentiment behind Amendments 9, 25 and 26. I thank my noble friend the Minister for the meeting I had with her. I entirely support the comments of the noble Baroness, Lady Henig, as to why it is important to have these points in the Bill. If you look at the gross value added of agriculture, it contributes over 10% to the economy of the Yorkshire and Humber region alone. Exports of food and drink from the UK are worth £16.4 billion per annum.

I would like to say a word about marketing. The noble Baroness, Lady Henig, raised a very important point here, which I discussed in the private meeting I had with the Minister. Our exports to China, for

[Baroness McIntosh of Pickering]
example, have grown by over 60% because the agricultural attaché in Beijing is paid 90% by the industry levy and 10% by the Government. If we are doing so well there, surely we should heed the requests from the NFU, farm organisations and the food and drinks industry to have similar specialists in other key markets. The sooner we do that, the better. I am half-Danish and it is a source of some surprise to me that Denmark exports a higher share of its food to countries such as China than we do. It is a country of 6.5 million; we are a country of 60 million. We have a lot of catching up to do, but we are clearly on the right track with the agricultural attaché.

In supporting the theme of the amendments tabled by the noble Baroness, Lady Jones, I would like to put two questions to the Minister before we return to this on Report. First, if the Government are not prepared to put this in the Bill, what commitment can my noble friend the Minister give the Committee this evening that in any free trade agreement the Government conclude with overseas trading partners, all food imported to the UK will be produced to food safety, animal welfare and environmental protection standards which are at least the equivalent of those currently required by producers in the UK? Secondly, can my noble friend explain how the Government intend to set out, in clear and unambiguous terms, how they propose to ensure that food imports into the UK will adhere to our environmental and welfare standards, in the context of WTO obligations? I will not repeat the examples that have been given, but over 20 or 30 years and under different Governments—many noble Lords have served as Ministers for Agriculture—we have increased the cost of food produced in this country, at the consumer's will, to have the highest environmental, welfare, food safety and hygiene standards. Those cannot now be swept aside in this bid to have cheap food. We have to pay the cost of producing that food.

9 pm

I notice that we will discuss amendments to Clause 6 relating to other bodies, such as the European food standards agency, but I hope the Minister will agree to our continuing participation in the European food safety alert system. The horsemeat scandal could have led to casualties. People could have died if it had been a food safety issue. Fortunately, it was passing off—it was a form of fraud—but we need to commit on a continuing basis to the food alert system that we have in place. To date the Government have been silent on that. I hope my noble friend will take this opportunity to commit to it.

I hope that when the Minister sums up the debate she will give a formal commitment and agree to write into the Bill those verbal agreements that have been made by the Secretaries of State for Defra and International Trade. Amendments 9, 13 and 14, grouped with Amendments 25 and 26, go to the heart of ensuring that the food safety, food hygiene, environmental standards and welfare we currently enjoy will continue once we have left the European Union.

Baroness Neville-Rolfe (Con): My Lords, I will speak to Amendment 10. I am grateful to the noble Lord, Lord Purvis of Tweed, for his explanation. I say to the noble Baroness, Lady Jones of Moulsecoomb, that we know from history that trade is good for Britain and for other countries, including developing countries. I am nervous about writing too much into the Bill, as I will explain.

Noble Lords will recall from Second Reading that I very much support the Bill. Whether we have a satisfactory agreement or, less welcome, a no-deal Brexit, we need to write existing trade agreements into UK law. My noble friend the Minister has explained that all the necessary measures have not been included in previous Brexit legislation. This House rightly tries to support the orderly conduct of government and we have a duty to do so, whatever our views on Brexit. That must include preparing our statute book, either for 29 March or a later date, following a delay to Article 50 or a transition period. It would be irresponsible not to make preparations. Indeed, a lot of these measures should already be agreed, with commencement dates to be slotted in later.

I tabled this probing amendment, which is in effect an alternative to Amendment 8, tabled by the noble Lord, Lord Purvis of Tweed, for two reasons. We should avoid lumbering the Bill with detailed requirements that could put in question some existing trade agreements, might encourage costly legal challenge to agreements drawing on the criteria, and might fetter our ability to negotiate sensibly with third countries, either as we move from being a member of the European Union to being a third country or during future trade negotiations.

I recognise from discussion today that new FTAs will be the subject of future legislation, so I oppose Amendment 8 overall, although my amendment derives from it. However, there is one aspect of it with which I have some sympathy: the provision that specifies that agreements should not restrict the Government's ability to determine whether public services are carried out by the private or the public sector. The reason is that, as a Business Minister, I was peripherally involved in the EU negotiations on TTIP and we—both the UK and the EU Commission—made a mistake by not making it clear right at the beginning that the draft did not require us to limit the NHS's ability to keep health administration and procurement in the public sector; nor, indeed, did we have it in mind to use the agreement for that purpose. The understandable emotion around the NHS and confusion on that point led to widespread opposition to TTIP and made it impossible to conclude anything ahead of the 2016 US election. I support outsourcing—I draw attention again to my entry in the register of interests—but some operations are better kept within the public sector. At any rate, the Government of the day should have choice in that matter.

I hope that the Minister will be able to reassure me that we will not fall into the TTIP trap again, and will support my amendment or, if it is not appropriate, explain that she understands the thrust of the point I am trying to make.

Baroness Young of Old Scone (Lab): My Lords, I support the sentiments behind most of the amendments in the group, although perhaps not the exact wording. My focus is on environmental standards, their vital nature and why they are at risk under the current government proposals.

When we discussed Amendment 4, I made the point that it is much easier to be ambitious about standards if you are part of a pack, part of a group—which we were, we were one of the 28. When we are working on our own in a more isolated position negotiating bilateral agreements, even if they are allegedly rollover bilateral agreements, it is less easy to be robust and ambitious.

Environmental standards are vital in transitioning continuity agreements, but the other point, which has already been made, is that whatever we do in the continuity agreements is a harbinger, a signal, of how we want to handle negotiations on new deals, including deals with countries such as the USA and Brazil, where we know that big environmental issues will arise, particularly in agricultural trade deals. Agricultural standards impact not only on food standards and safety and animal welfare but on the environment. We do not want the chlorinated chicken debate replicated in individual trade deals for the future.

We need the Government to use the Bill to guarantee that all free trade agreements ensure, for example, that food imports meet the UK's environmental, food safety and animal welfare regulatory standards. That should be the case in all negotiating mandates as well as in the subsequent agreements that flow from them. Import into the UK outside a free trade agreement is much trickier, but it is still vital that the Government set out very soon that they propose to use current World Trade Organization rules to maintain standards.

I will speak briefly to Amendment 15, the non-regression proposal from the noble Baroness, Lady Jones. International trade agreements have the potential to undermine or weaken essential standards, as we know from the TTIP negotiations, which have already been mentioned. Non-regression commitments are common in existing trade agreements, and a meaningful commitment to non-regression provides a useful safety net. All international trade agreements implemented pursuant to the Trade Bill should incorporate that principle. Indeed, we need to go further. We need to widen their scope and strengthen their enforceability if they are to help deliver the Government's promises to improve the state of the environment.

The Minister will say that we should be reassured that the Bill is only about continuity—I am rapidly coming to hate the word "continuity"—and that we are carrying across, not renegotiating conditions, but nothing in the Bill assures that. The Government have said tonight that only changes essential to ensuring continuity will be considered, but we know that when this was debated in the other place, the question was raised as to whether other Governments will want to agree deals with us without substantive changes. Indeed, Michel Barnier said a year ago that,

"partners around the world may have their own views".

The message to the Government there is that it takes two to tango and although we do not want to renegotiate any conditions, there may be strong pressures to do so in the rollover process. Government needs to give a signal that we are absolutely clear about not negotiating any weakened standards.

The test of the Government's mettle in all this will be how quickly we can get as many agreements as possible under our belt, both rollover and new, to demonstrate that they understand what Brexit is all about and are making real progress in trade. Although I hesitate to ascribe to the Government any dirty tactics, the reality is that, when push comes to shove, environmental standards will get the boot. We have had umpteen assurances from the Government that they are highly committed to maintaining all sorts of standards, including on the environment. The Command Paper, *Preparing for our Future UK Trade Policy*, said:

"The Government is fully committed to ensuring the maintenance of high standards of consumer, worker and environmental protection in trade agreements".

Michael Gove, the Secretary of State, said:

"Let me try and state in letters that are as big or as bold or as clear as possible: we won't be signing trade deals that mean British producers are undercut on animal welfare or environmental standards".

The Prime Minister has made that point; indeed, today's Statement reinforced how important environmental standards are and that they would not be compromised by the Brexit process. If we have all these assurances from government, I invite the Minister to say, "Since that's what we really want to happen, we are going to enshrine it in this Bill".

Lord Kerr of Kinlochard (CB): Like the noble Baroness, Lady Young, I welcome the sentiment behind the amendments—in fact, I welcome their substance, but with one exception. I am uneasy about Amendment 25. I may have misunderstood it, but it seems to fall into a slightly different category—Amendment 15 is perhaps partly in that category, too.

I apologise for picking up one of the amendments in the name of the noble Baroness, Lady Jones, because she shames us all with her enthusiasm and hard work, but Amendment 25 seems slightly different because it would lay down a requirement on the Government to require something from the other participating Government in the agreement. Paragraph (b) requires that goods should,

"have been produced to standards that are comparable in effectiveness to those of the United Kingdom in protecting food safety, the environment and animal welfare".

On the environment, India will be burning more coal next year than this year, and more the year after than next year. In China, coal will remain a very large part of the power mix. Would the amendment debar the Government from doing trade agreements with India or China in respect of goods produced using power? It would seem quite a wide provision to require the Government to require something from the other Government. I may have misunderstood it. I also recognise that it would only enable the Government to do these things; it would not require them to do them, yet I am not sure that the distinction indicates a real difference. If it was on the statute book, the Government might feel obliged.

Amendment 15 raises the question of non-regression. As I read it, and I may be wrong about this, too, it would place an obligation on the Government to require that the agreement incorporated the principle and that the principle applied to both sides—not just to us but to the other side. I may have misread that, but, if so, my point about China and India perhaps applies to it, too.

Baroness Jones of Moulsecoomb: I thank the noble Lord for his comments. I wish I could say that I had thought that far ahead. If I had, I would still have tabled the amendment because I meant the methods of production and that sort of thing, rather than all the ramifications of a nationwide carbon burden. It is a very good idea and I will bring it back, so I thank the noble Lord for giving me the benefit of his advice.

9.15 pm

Lord Judd (Lab): My Lords, I congratulate the noble Lord, Lord Purvis, and thank him for having introduced this debate and moving his amendment. I also congratulate those who tabled the other amendments in this group. I will make only a couple of observations.

After a long life in politics I get very disturbed about self-deluding sentimentalism and effective legislation. We have all sorts of aspirations about food safety and hygiene. We also have aspirations about our commitments to the third world and the rest. But the test of effectiveness is whether the muscle is there in the legislation to turn these aspirations into reality. This is where we have to face the truth: a market will of itself not look to all these interests. The one firm principle operating in the market is of course price and profit; after a long life, let alone in politics, I am totally convinced that you have to have some other absolutes within that. The absolutes concern turning these aspirations into reality.

I am so glad that my noble friend Lady Henig spoke to her amendment with so much feeling and conviction. If we are serious about food hygiene, why can Ministers not put it into the Bill? What is behind their real, underlying position? Is it going to interfere in some way with the liberty of people in future to undercut these aspirations—indeed, these principles and policies which we have established in the past?

I have been deeply involved for much of my life in the third world, which is tired of sentimentalism. The third world wants to see policies that are really going to be effective. It is when we come to trade that this is tested. Are we going to enable third-world countries to build up their economies and look to the interests and well-being of their people, or are we going to turn them into playgrounds for people who are trying to make money? It involves having some discipline in the process and saying that the aspirations which we have held high are actually effective in our trade policy.

I really do not want, in the context of the Bill, to go down as just another sentimentalist who is a completely hapless victim of the open-market, liberal economics principles which are not accountable in effective legislation to the interests of real people in real situations—not least, the well-being of us all in what we eat and our ability to enjoy good health. The people who have moved and spoken to these amendments have done a very good job on our behalf and I hope that they will pursue the issues on Report.

Baroness Byford (Con): My Lords, I have not put my name to any of these amendments, but I am very sympathetic to them and, had they not been tabled, I think I would have tabled some. My difficulty, having sat and listened to our earlier debates, is that this is just a Bill to allow us to transpose existing laws into our UK law; it is not really looking forward to trading after that has happened. So I ask my noble friend, before I go into the particular detail I wish to raise: if it is not appropriate at this stage, when is it appropriate during the passage of the Bill? Because somewhere, it must be, and I am not quite sure as to where.

I shall take the amendments as they are and follow the comment of the noble Lord, Lord Judd. Perhaps I should declare, as others may, that we are in the farming industry, and while livestock is not our particular area, we produce grain that obviously feeds livestock, and therefore we do have a family interest.

On the question of the rollover and how long this will last, which the noble Baroness, Lady Jones, raised very clearly, I ask my noble friend how long she sees this period carrying on for before we look to new deals.

The standards we set in this country are very high, and I believe it is quite right that they are so, but it is not surprising that many of my producer colleagues, particularly those who produce livestock meat and all that side, are very concerned about the long-term interests of their industry. They are quite fearful about imports perhaps coming in at a lower standard. One has to appreciate that, if that did happen in a big way, there would be many farmers who are producing food for us in this country who would not be there in the future. I think that the House has to get that under its belt. It is very easy to think that we can get food anywhere: we go into the supermarket and the shelves are filled. Yes, that is true, but we are dependent on so much of that coming in from abroad, so we need not to protect our industry but to understand the challenges it faces. I do not think producers are looking for special treatment, but they are looking to have that equal trading that many of us wish to see.

When I look at the CLA briefing—I declare that I am a member of the CLA and I was with the NFU earlier today—it says it wants to see exports of UK food outside the EU grow, and we would all support that. It thinks that free and fair trade between the UK and other markets outside the EU is a positive government ambition, and it supports any new free trade deals which meet that ambition. However, in seeking these trade deals it is imperative that equivalence of standards is met—that is what this debate is about—in order to prevent the undercutting of UK markets by the introduction of products that meet lower environmental or animal welfare standards. It believes that that would be very detrimental. Today I met NFU colleagues from East Anglia who were highlighting that.

Amendment 9, in the name of the noble Baroness, Lady Jones, concerns environmental protections. This question is for her rather than for the Minister. Are we looking to protect the environmental standards that we have in this country, as opposed to the standards that they do not have in their countries at the moment? For example, is it acceptable to pull down rainforests to grow soya or other products, or should that be something which we have in mind ourselves as a detrimental step? So many aspects of the debate we are having tonight are hugely important, but I am not quite sure whether the noble Baroness's amendment is seeking to protect UK standards as they are at the moment or whether she is thinking about international trading standards as well. There is a great difference between the two.

Baroness Jones of Moulsecoomb: I thank the noble Baroness for her question; I seem to be answering more questions than the Government Front Bench at the moment. Obviously, there is the issue of bringing up other countries' environmental protections; the noble Baroness is absolutely right that it is not desirable to start knocking down primeval forest to start growing soya for our cattle, and so on. Some of my amendments would partly help to raise other countries' protections, although my specific aim was that we do not lower our own.

Baroness Byford: I thank the noble Baroness; I assumed that she would mean exactly that. However, it poses some questions to me on her amendment, which I slightly struggle with. On food safety and food health, we have clearly set out standards in this country as to what is and is not applicable, and I cannot see that changing.

I agree with my noble friend Lady McIntosh entirely. The Bill as it currently is deals with the trade as we know it today, and refers to trade being able to carry on tomorrow, after Brexit. It does not—unless I have not read it through carefully enough—look further into the future. It would be a great shame if at some stage we do not have a discussion about that. There needs to be something in the Bill, somewhere—I cannot decide whether this is the right moment and the right time, or whether we should come back to it. The very nature of agriculture and farming is that it is a very long-term project; you do not come in and out of it quickly. You invest a lot of money in the future, we now have much more technology and things have changed enormously. There needs to be a certain degree of certainty, which I have not read in the Bill as it is.

Is there any chance that the Minister in her response could reflect the strong commitment that Michael Gove has certainly given to our sector and to the country in general to maintaining those standards? We look forward to having the Agriculture Bill, which, as we know, is still stuck in the Commons. It has achieved its Second Reading and Committee, and is parked there—it has gone no further forward. We look forward to seeing that. We do not have a chance to debate that, but trade is hugely important in this Bill. We need something in the Bill which gives a certain degree of confidence to people involved in the food industry; I do not think that I need to tell any noble Lords that the food industry is worth over £112 billion and employs over 3 million people. You are not talking about peanuts. This is a huge industry, and many people in it—I refer to my noble friend Lady Neville-Rolfe—are in small and medium-sized businesses. You are not talking about big businesses, although there are some, but about a lot of people who have a small interest in trying to produce food and supply the needs of our country and, more importantly—

Lord Judd: The noble Baroness is putting forward a powerful argument about the interests and well-being of the people in the industries, and of course that matters. But would she agree that what really matters is the health of the British people?

Baroness Byford: I hope that I relayed that in what I said earlier. It is hugely important. We are very lucky in this country to have food of an extremely high quality. I say "Best of British" over and over again; as a producer I would, but I believe in it.

However, I also look to the future, when we can export more of our high-quality food as well. Clearly, I am looking to the Minister to give some sort of directional steer to us, because at the moment we are slightly in unknown circumstances. We know what the Bill is trying to do, but we do not know what will happen in the future, nor do we know when we will be able to look at the Agriculture Bill, in which the two overlap. However, I am grateful for all the amendments that have been put down, because they have given us a chance to look at where we are, to look ahead and to raise quite a few important international questions on the whole question of welfare, the way we produce and the environment.

9.30 pm

Baroness Kramer (LD): My Lords, I want to raise what probably feels like a niche issue from a slightly different angle; it seems relevant when we are talking about amendments dealing with the regulation of performance and the environment. If I may, I will do so through an example, although I think that the example probably applies in many other areas.

When I was a Minister at the Department for Transport, I dealt briefly with a niche industry in the UK: specialist car manufacturers, sometimes known as small and ultra-small volume manufacturers. Noble Lords will know their names: Lotus, Williams, Aston Martin and so on. The industry is almost uniquely British; a few Italians may play in the same arena, but globally the industry is essentially British. It has managed to thrive because the EU has recognised the significance of the industry through its turnover of around £3.5 billion per year. That is not insignificant, although it is not on the same scale as agriculture.

The EU has been willing to carve out special provisions for this group of manufacturers, which often cannot meet performance and environmental standards in the way that mass automobile manufacturers can and should. It has managed to open up global markets for those cars by incorporating those niche provisions in its trade agreements: 65% of these cars are exported. The largest market is the United States, where environmental and performance standards are never really an issue; it starts from a very low base. The manufacturers get permission to sell these cars in the EU, which is the next-biggest market, followed by South Korea and Japan. It is only because of the EU's size that it has been able to create those niche opportunities for this industry. I am interested to know whether the UK believes that it can continue, in its rollover arrangements, to provide that ongoing protection to what one might describe as a somewhat resented industry, even though it is rather successful.

The other achievement of the EU because of its power, breadth and size is its vigorous and strict standards for mass-market cars, despite its significant exception to deal with this essentially British industry. The EU will have no interest in continuing that arrangement post Brexit; as I said, some cars are made in Italy, but no Government anywhere else in the EU will be concerned about this issue. The industry is

[Baroness Kramer]
already very concerned that, following no deal, it may find the EU quick to eliminate the carve-out. That is possible and it is a serious question, but another question concerns whether the carve-out can be preserved in these rollovers and continued in future arrangements when the UK will be negotiating from a much weaker position.

Can the Minister help us work our way through this? I suspect that this industry is not the only niche one. As the Minister will know, the EU has been very good about providing opportunities for highly specialist and select industries that are specific to one of its member countries. I suspect that my experience with the automotive sector is repeated elsewhere. The EU uses its large heft to protect the relatively small. Can the Minister give us some clarity, since these deals are being negotiated as we speak?

Baroness Hooper (Con): My Lords, I fully accept the Government's assurances in relation to this group of amendments that there is absolutely no intention to lower standards and that the existing protections for consumers will be preserved. However, as has been shown in the discussions so far, there is a cause for concern. While the British Government intend to roll over the agreements without making any change, there is some uncertainty about whether the other parties with which we will be negotiating have the same point of view. The issues have been discussed sufficiently for me not to repeat what has been said, but I suggest that there are a couple of safeguards which have not been mentioned.

The global demand for British goods is based on our high standards. People buy British goods not because they are cheap but because of their high quality. Therefore, to disregard food standards would undermine any possibilities in that area. I understand that the EU withdrawal Act ensures that all existing EU environmental law will continue to operate in UK law. That again provides businesses and stakeholders with certainty.

Baroness Young of Old Scone: I am grateful to the noble Baroness for giving way. We have stressed throughout the debates about Brexit how important European law has been in driving UK environmental law. However, there are still whole swathes of environmental law in the UK which were actually invented by us. They are not yet safeguarded and could be undermined by trade deals.

Baroness Hooper: I bow to the superior knowledge of the noble Baroness in this area and I hope that my noble friend the Minister will be able to reply.

Lord Fox (LD): My Lords, I agree with much of what has been said in the debate and your Lordships will be pleased to know that I will not repeat the arguments. I shall also try not to be one of the dreamers referred to by the noble Lord, Lord Judd. In speaking to Amendment 10, the noble Baroness, Lady Neville-Rolfe, talked about services and I agree with much of what she said. She stressed the need to ensure that the Government retain the right to decide where services are delivered from. Unfortunately it turned into a double-edged sword when she then conflated that with the removal of much of the substance of the amendments proposed by my noble friend. Having heard the debate, I hope she feels that perhaps it would be as well to leave it in.

The Prime Minister has today singled out two elements of what we find in the general thrust of the amendments before us. She has said,

"we will embed the strongest possible protections on workers' rights and the environment".

That concedes a weakness in that area where there was a perception that the Government were perhaps seeking to water down those standards and presumably that is what the Prime Minister is seeking to avoid. But only those two areas have been chosen although there are many other important elements which have been considered in this debate. That puts the areas which are not on the Prime Minister's list at a disadvantage. That is why it is important to ignore the advice of the noble Baroness, Lady Neville-Rolfe, and seek to put the elements set out in these amendments into the Bill. They would add food quality, animal health, hygiene and welfare, ethical standards and so on.

The noble Baronesses, Lady McIntosh of Pickering and Lady Hooper, were quite right to point out that our food is sold on the back of our high-quality agriculture. It is special, but you cannot be special if you are producing food to a lower standard. I think that we should be a little worried and suspicious if these standards are not included in the Bill.

We have heard some warm words from Defra which have been quoted by other noble Lords, but we have also heard some disquieting words coming from other departments, particularly that of the Minister herself, the Department for International Trade. However, I exonerate her from being one of the people saying these things.

When it comes to negotiating other standards—I know we are on a continuity kick here—what we say on continuity counts for what comes later. That is absolutely central and is why this debate has been really important. There have been noises off around deals with the United States and other things, and standards will be a key part of that negotiation. Unless we draw firm lines here in this Bill and beyond, those standards will be in play. I do not think we want them to be in play.

Finally, I come back to Amendments 8 and 53 in the name of my noble friend Lord Purvis. Proposed paragraph (c) of Amendment 53 states that,

"the Secretary of State has laid before Parliament an assessment of the potential economic, social, human rights and environmental impacts of the international trade agreement on the contracting parties".

This, and nothing else, is the single most important part of this debate. We need to ensure that the DIT has the competence and people who can do that work, and we need to support these amendments.

Lord Grantchester (Lab): My Lords, the amendments in this group relate to the standards in regulations in rolling over EU trade deals and future trade policies and agreements. As has been said, especially by my noble friend Lady Young, rolling over trade deals

needs the agreement of counterparties—this is inherent in procuring a government trade deal. This is not guaranteed in a no-deal scenario. As the UK leaves the European Union, we must ensure that the UK seeks to maintain the highest standards and to comply with international aims and agreements. I declare my interest as a farmer in receipt of EU funds.

I will refer first to Amendments 8 and 53 in the name of the noble Lord, Lord Purvis. He has spoken on the very pertinent conditions the UK should seek to emulate. I am pleased that the Committee has the opportunity to debate the necessity for the UK trade policy to comply with international law, obligations and shared aims—all part of a modern trade deal.

Later in our proceedings in Committee, my noble friend and colleague Lord Stevenson will seek in amendments to enshrine the Government's international responsibilities on trade. Amendments 8 and 53 will ensure that trade agreements are consistent with international norms. I am pleased in particular by the inclusion of the provisions of the United Nations sustainable development goals. It is paramount that the UK's trade endeavours seek to do more than merely advance our own self-interest, as so eloquently argued by my noble friend Lord Judd. This includes the abolition of poverty, the eradication of diseases and efforts to rid the world of the harshest of inequalities. Each of these aims, as part of the UN's SDGs, requires a cross-departmental approach from the UK, and that includes the Department for International Trade. As we look further down these amendments, we also see that aside from the UN SDGs, such agreements must comply with other such norms as those tackling discrimination, climate change and the erosion of human rights, as well as other issues that we will discuss—all righteous efforts that the Department for International Trade would do well to encompass into future agreements.

As debated earlier, this legislation, in seeking to roll over existing trade agreements previously in the competence of the EU, must also include opportunities for the Government to set out their future policies and demonstrate the parameters within which their future policy will be guided—indeed, what future trade policy should achieve. These amendments would ensure that the future trade policy achieves the advancement more than just of the UK but of the wider world.

9.45 pm

Amendments 10, 13, 14, 25 and 26 make provision to ensure that Governments are compliant with particular standards pertaining throughout the UK. I welcome the amendments and thank the noble Baronesses for tabling them, even if the precise wording may need redrafting. It is vital that agreements do not compromise the quality of UK food and agriproduce, which has a proud international reputation that consumers insist on and which farmers are proud to maintain. It should be the responsibility of Parliament to insist to the Government that they uphold these standards so that the public's trust in the procurement of their food is not undermined. These amendments propose that that be underpinned by statute.

For those who argue that such an amendment is unnecessary to protect food standards, I will briefly mention the United States' *Defect Levels Handbook*, which allows standards that would include 30 insect fragments in a 100 gram jar of peanut butter and 3 milligrams of rat droppings per pound of ginger. Those are significantly below EU-wide standards. In search of trade agreements for the import and export of goods, the UK cannot compromise on food standards and allow a dispensation for access to UK markets of these levels of contamination while UK producers maintain their higher standards.

In relation to the UK's agricultural regime, the Committee must be aware that, as the UK leaves the CAP, there will be enormous changes and volatility for the farming industry to adapt to, which the noble Baroness, Lady Byford, drew attention to. In this moment, it must be must be assured that there will not be lower standards of competition in the food chain.

Linked to agriculture is the matter of animal welfare, and the Committee must be assured that high protocols of care are maintained in the UK's future trading policy. When it comes to our environmental standards, which Amendment 15 also deals with, we must be equally vigilant to ensure that agreements cause no erosion of standards. Sustainability must be at the heart of the UK's approach, taking heed of previous examples where agreements have caused environmental harm—and could do again, as the noble Baroness, Lady Jones, said. Negotiations should not lead to the derogation of the natural environment either in the UK or in the nations of the trading partners. The time to tackle the effects of climate change is also reducing and I hope that the Government will not seek to put fundamental environmental principles to one side.

Amendment 10 concerns public services. As we seek to renegotiate trade agreements, there will be tremendous pressure for DIT officials to succumb to the demands of all other Governments, yet the management of public services—an issue that carries great public interest—should not be bargained away. The noble Baroness, Lady Neville-Rolfe, is correct to be anxious with regard to the NHS, at the very least. I hope that the Minister will offer particular clarity on the Government's position on this, in addition to other matters.

While these amendments deal with the standards and conditions that UK trade agreements must comply with, my noble friend Lady Young and the noble Baroness, Lady McIntosh, also raised the question of the process whereby these deals will be assessed and measured—the framework around compliance, which has so far not been clarified by the Government. Parliament needs a strong voice in this process. International trade offers opportunities for prosperity and benefit to the economy, but that cannot be at the expense of domestic standards in food, animal welfare and the environment or of international best ethics and practice.

The Minister of State, Department for International Trade (Baroness Fairhead) (Con): My Lords, the richness and intensity of this debate demonstrates the expertise in this Committee and the importance of getting this right. I assure the Committee that the Government are committed to upholding and strengthening our high standards in food safety, the environment and animal

[Baroness Fairhead]
welfare as we leave the EU. In her Florence speech, my right honourable friend the Prime Minister reconfirmed this, saying we are,

"committed not only to protecting high standards but strengthening them … we will always be a country whose pitch to the world is high standards at home".

The European Union (Withdrawal) Act 2018 will not only provide a functioning statute book on the day we leave the EU but will ensure that all existing EU laws on standards continue to apply in the UK. Leaving the EU means we now have a unique opportunity to design a set of policies to drive environmental improvement with a powerful and permanent impact tailored to the needs of our country.

Amendment 8 was tabled by the noble Lord, Lord Purvis of Tweed, and was spoken to by the noble Lord, Lord Grantchester. I reassure noble Lords that this amendment is not necessary. The process of exiting the EU will not alter the UK's commitment to upholding international laws and our international commitments. This includes commitments on climate change and the sustainable development goals. The UK is a world leader in our strong commitment to human rights, labour and environmental standards around the world. We will continue proudly to comply with our international obligations, a point I am happy to reiterate.

Additionally, my right honourable friend the Secretary of State stated during the passage of the Trade Bill in the other place that our aim in undertaking this transition programme is to seek continuity of effect of existing trade agreements. This is not an opportunity to renegotiate terms. We are clear that, given the time pressure to have these agreements in place before we exit, there is neither the intention nor the opportunity for the UK Government or our trading partners to change the effects of the existing agreements. This is a technical exercise to ensure continuity in trading relationships. It is not an opportunity to renegotiate the current agreements. As my noble friend Lady Neville-Rolfe said, we have to make sure that we do not make it overly cumbersome. Third parties to whom we have talked on all the continuity agreements have stressed their interest in continuity; it is in our mutual interest. That is where the hypothetical hits reality: this is in their interest and the interest of their consumers and businesses.

The noble Lord, Lord Purvis, referred to investor protection dispute settlements. There is a later group of amendments in this Trade Bill debate relevant to that and, in the interests of time, I wonder whether we can move discussion of that to then. I see that the noble Lord is happy with that suggestion.

Turning to Amendment 9, let me reassure the House that the scope of the Trade Bill is to ensure the continuity of effect of existing EU trade deals. The noble Lord, Lord Kerr, asked about standards in deals with India and China. I reiterate that the power in Clause 2 could not be used to implement a trade agreement with those countries because the EU does not have trade agreements with them and the Clause 2 power is limited to countries with which we have a trade agreement.

As the Clause 2 power is intended only as a vehicle for changing UK law as a result of our entry into continuity trade agreements, it is clear that it will not be used to make changes to UK standards. This is in line with public commitments that the Prime Minister and Ministers from across Government, including from Defra and DIT, have made on the maintenance of the current standards. It would not be logical for the UK to lower our rigorous levels of protection in order to secure a trade deal, as demand for UK exports is based on our reputation for quality. As the Secretary of State for International Trade said:

"Let me tell the House that Britain will not put itself at the low-cost, low-quality end of the spectrum, as it would make no sense for this country economically to do so, nor morally would it give us the leadership we seek. I believe there is no place for bargain-basement Britain. High standards and high quality are what our global customers demand, and that is what we should provide".—[*Official Report*, 6/7/17; col. 1365.]

My noble friend Lady Hooper stressed that powerfully.

My noble friend Lady Byford talked about future free trade agreements but they are not part of the Bill. This is all about continuity of the existing ones. We will bring forward proposals for future free trade agreements in the coming weeks, and I am happy to reiterate the commitment made in the other place by the Secretary of State for International Trade that Parliament will have the ability to inform and scrutinise those agreements in a timely and appropriate manner.

We want to achieve the same outcome of maintaining our standards, but if we were to amend the Bill in this way, we would be likely to delay ratification of agreements—something that neither we nor our partner countries want. We appreciate the concern about scrutiny of agreements. On earlier amendments we covered the scrutiny procedures at length and the need to make sure that the House has the ability to look at these continuity trade agreements. The amendment would duplicate some of that process. I would argue that, particularly given the time pressure, there will be good opportunities for Parliament to scrutinise the trade agreements that are being transitioned.

Amendment 10, tabled by my noble friend Lady Neville-Rolfe, would ensure that the Clause 2 power would not be able to make provisions in international agreements that restricted the ability of public sector employees to deliver public services. I hope that I have already been clear that the Clause 2 power will not be used to do such things, as it will be used only to deliver continuity. These changes would require reopening negotiations with third countries and that would constitute a change in policy, which would not be continuity. I reassure my noble friend that the UK Government, not our trade partners, will continue to make decisions about public services. Public sector jobs are under no threat whatever from this agreement or any other.

Baroness Kramer: The Minister has just said that our public services are not at threat from this agreement or any other, but the United States has been very clear that its two primary objectives in a free trade deal with the UK are access to the full range of public services and for there to be a private option. It has been very clear about that—one can talk to any of the healthcare companies. That surely falls into the category of other agreements that she has just described.

Baroness Fairhead: I would refer to the Comprehensive Economic and Trade Agreement with Canada, for example. Nothing in CETA prevents the UK regulating in the pursuit of legitimate public policy objectives, such as in relation to the NHS, whose protection is of the utmost importance for this Government. We will continue to ensure that decisions about public services are made by UK Governments, not our trade partners. Moreover, rather than negatively impacting the public sector, our trade continuity programme will safeguard jobs and support our public services.

Baroness Neville-Rolfe: I completely understand what my noble friend the Minister says about the United States. That is for the future, not for today. Before we get to Report, it would be helpful to be clear about whether there are provisions in the other agreements that we are rolling over that might have a deleterious effect on this choice that we want British Governments to be able to make on whether to put a procurement project into the public sector or the private sector. I suspect that the answer is that there is not a problem at all, but it would be good to have that clarified.

Baroness Fairhead: I can clarify that the UK's public health sector is protected by specific exceptions and reservations in all EU trade agreements. As we leave the EU, the UK will continue to ensure that those rigorous protections are included. My noble friend Lady Neville-Rolfe alluded to this when referring to the mistakes that were made in TTIP. The noble Lords, Lord Fox and Lord Grantchester, also talked about the importance of making sure that those specific exemptions and reservations continue, which they will.

Baroness Jones of Moulsecoomb: I apologise for interrupting the Minister when she has gone past what I was particularly concerned about, which is the protections on health, animal welfare and that sort of thing. The Minister talked again about intentions—"The Government intend"—but I did not hear her say, "The Government will do this", that they will allow these protections to continue to exist. It is all about intentions, not reality.

10 pm

Baroness Fairhead: I am seeking to reassure the House because what we are agreeing in the withdrawal agreement is that all those obligations that we are party to come over as a result of the EU withdrawal Act. We remain parties to exactly the same international commitments made before, during and after we leave the EU. Nothing in that changes. I am trying to convey that this is about continuity of the existing obligations. We are not changing them; they are therefore being brought across as they stand.

I turn now to Amendment 13, tabled by the noble Baroness, Lady Henig, and Amendment 14, tabled by my noble friend Lady McIntosh, which focus again on standards. Amendment 13 restricts the use of the Clause 2 power if it has the effect of lowering market standards for agricultural products below EU standards. Amendment 14 extends this to animal health, hygiene or welfare standards for agricultural products. I hope noble Lords will let me try to address any concerns over trade agreements leading to a change in standards for those agricultural products.

Our trade agreements must work not only for UK consumers, businesses and farmers but also for the environment. The global demand for British products is based on our high standards; people buy British not because it is cheaper but because of its high quality. To disregard standards would be to undermine the future of our farmers and of the British exporters. The Government have already announced a new environment (principles and governance) Bill to ensure environmental protections will not be weakened as we leave the EU. We have finished a consultation on a new body, which promises to hold the Government to account on the environment, and have published our 25-year environment plan which sets out our goals.

Baroness Young of Old Scone: There is one small flaw in the short term, which is that we will not have that Bill completed or the new agency established if we leave the EU at the end of March. How will the Government ensure that the duties and responsibilities which that organisation and that Bill would have delivered are not lost sight of during the period—which we do not know the length of—before they come in to being?

Baroness Fairhead: The noble Baroness raises an important point. That is why we are seeking an agreement and implementation period which will allow that timing. I can say that the Government will establish our own world-leading green governance body, the "Office for Environmental Protection", or OEP, to champion and uphold environmental standards in England.

Baroness Kramer: I am sorry, but I have a question for the Minister—this may be my mistake in not having followed other legislation closely enough. My understanding is that this will have far fewer teeth than its existing European counterpart, so that it can say things, but it cannot in any way enforce. I understand that the British Government demanded that it should not have enforcement powers.

Baroness Fairhead: My understanding is that the OEP will be an independent statutory environmental body that will hold the Government to account on environmental standards once we leave the EU.

Baroness Kramer: I think the Minister understands that there is a difference. It is often said that this body can hold the Government to account, for example through an affirmative statutory instrument. It cannot actually stop the Government doing anything, because there is no mechanism that enables it to enforce against the Government. My understanding is that this is a different example; this new body will not be able to enforce. That is completely different from its current equivalent in the European Union. I would hope that the Minister at least recognises this, even if she defends it and says that the difference does not matter. I would be interested to know why she might think it does not matter, but I hope that at least she recognises it.

Baroness Byford: Before the Minister responds, I would like to say that we do not have that Bill in front of us. What is being proposed is quite rightly reflected by the noble Baroness, Lady Kramer, but it is up to us to ensure that when that legislation comes those safeguards are built in. I will be one who strongly fights that corner, because it is no use having a body established if it cannot actually hold anyone to account at the right time. Forgive me for intervening on my noble friend the Minister, but I think we need to await the detail, which we do not have at the moment.

Baroness Young of Old Scone: That well illustrates the fact that the Minister and the Government should not pray in aid a body not yet agreed by Parliament or approved in terms of its powers and responsibilities, and which is not going to be in existence for some time. It is probably not very safe for the Government to assume that that body will necessarily go in the direction that they want it to.

Baroness Fairhead: I thank my noble friend Lady Byford for saying those words. This is a Bill, and the whole purpose of it going through will be that it gets scrutinised. These concerns and changes will be raised, and it will go through in the usual way. I am happy to write to the noble Baroness, Lady Kramer, about where we are on the Bill but, like all legislation, when it is going through that is the right time to challenge it, and that Bill will be challenged in the same way as I would expect others to be.

The Secretary of State for Environment, Food and Rural Affairs said last year:

"I have been very clear that Brexit will not lead to a lowering of our high food, animal welfare and environmental standards. This will remain at the heart of our approach as we negotiate both with the EU and with new trading partners around the world".

Baroness McIntosh of Pickering: The whole point of this group of amendments is to have that commitment written into the Bill. Does the Minister agree to do that? Otherwise I think we might revisit this issue on Report.

Baroness Fairhead: The view of the Government is that it is very clear under the withdrawal Act, as well as under our existing international commitments, that we do not need to add them in because it will happen as a result of the withdrawal Act and would therefore be an unnecessary addition. We have made it clear on animal sentience, for example, that we will continue to maintain and enhance our reputation and ensure that any necessary change required to UK law is made in a rigorous, comprehensive way to ensure that animal sentience is recognised after we leave the UK.

Clause 2, as I keep stressing, is to enable the continuity of the existing relationships. It is to ensure that we can continue the effect of the existing EU third-country agreements that the UK already participates in as an EU member.

Baroness Jones of Moulsecoomb: If the Government agree with everything that we are saying, why not put it in the Bill? Why not make it specific so there is absolutely no confusion?

Baroness Fairhead: My guidance is that it is because it will already happen as a result of the withdrawal Act so it is unnecessary. There is also the risk of including some but maybe leaving one out. That is my understanding, but clearly this may be a matter that we take up on Report.

The vast majority of these EU agreements are already in operation and have not resulted in a lowering of standards on animal welfare, the environment or food safety. The powers in the Trade Bill will be used not to lower standards but only to implement obligations. As I said before, it is not the intention—nor do we have the opportunity or time—to make changes; it really is about rolling over. I can hear from the mood of the House that this may not satisfy or reassure, but it is certainly the guidance that we have had. I am sure that this will get brought up again on Report.

I will move on to Amendment 15, tabled by the noble Baroness, Lady Jones, and supported by the noble Baroness, Lady Young. The EU has pushed to include trade and sustainable development chapters, including provisions on environmental protections, in its free trade agreements since the free trade agreement completed with South Korea. In general, these point to commonly held international standards on environmental protection, agreed through multilateral environmental agreements, and commit each party not to reduce these protections in a manner affecting trade. Again, these commitments will be retained as we transition these agreements. However, these commitments do not prevent us improving our protections as we see fit. The UK will be bound by international multilateral environmental agreements to which it is party and we are committed to upholding those obligations. We will continue to collaborate with our European and global partners to protect our environment.

The withdrawal agreement contains non-regression clauses on environmental and labour standards. The UK already has some of the highest standards in the world in place and noble Lords should be confident that we will maintain high regulatory environmental standards once we leave the EU. A reciprocal non-regression commitment would mean that neither party could lower its regulatory standards below current levels. The UK will maintain its high regulatory standards for the environment and we are committed, as I said, to upholding our obligations.

With reference to Amendment 15, I reassure the noble Baroness, Lady Jones, that the Government will ensure that our high environmental protections are maintained. We will also transition all EU FTAs, including the provisions on environmental protections provided within these and the commitments not to reduce our commitment to international standards. I hope that this reassures the noble Baroness and the noble Baroness, Lady Young of Old Scone, who sought an answer on this.

Turning to the concerns raised on standards in Amendment 25, this amendment would ensure the UK could ratify trade agreements with third countries only if those agreements ensured that imports complied with food safety, environmental and animal welfare standards set in primary and subordinate UK legislation. I have already pointed to the requirements of the

CRaG, which ensures that Parliament can block trade agreements. As a result, we are absolutely clear that all existing commitments relating to standards and regulations will remain in place. Far from reducing standards, this Bill is about preserving the beneficial arrangements that consumers and businesses enjoy. This includes the high regulatory standards embedded in our existing agreements. I say again that the Bill is not about making provision for future free trade agreements; this amendment goes beyond the purpose of this Bill.

Lord Fox: I am sorry, I know it is late. To use CRaG as the safety net for this seems to be rather the wrong way around. We should be getting any future agreement right, rather than relying on the CRaG process to fix it. I think perhaps the Minister should look at this the other way around and get it right the first time.

Baroness Fairhead: Earlier in the debate, we went through the process for agreeing these continuity agreements. We have not talked about the scrutiny for future trade agreements, but maybe there was some confusion in how I articulated this.

The noble Lord, Lord Kerr, and my noble friend Lady Byford raised a number of important points about future free trade agreements but I think we agreed to defer those to later in Committee. We have already been clear that we will introduce bespoke legislation as necessary to implement those future free trade agreements. The Secretary of State for International Trade has already launched four consultations on prospective future trade agreements and announced that the Government will introduce bespoke primary legislation as necessary to implement these.

Turning to Amendment 26, tabled by the noble Baroness, Lady Jones, the Government have listened to representations from stakeholders both within and outside Parliament on this point. In response, the Government have already amended the legislation in the other place so that the interests of producers are explicitly stated as one of the factors for consideration, just as the new clause before us seeks to do. This completed the list of core considerations when setting the tariff, while not making it unmanageably long.

10.15 pm

The Government acknowledge the wide-ranging impacts that changes to import duty can have on the economy. The Secretary of State and Her Majesty's Treasury will have regard to many factors when recommending and setting the rate of import duty applied to goods in the standard case. It would, however, be inappropriate and unrealistic to specify an exhaustive list in the Bill.

I hope that noble Lords will see that the Government take extremely seriously interests relating to animal welfare, food safety and environmental protection, and that we have taken active steps to ensure that this is reflected in our trade policy. In particular, I want to be clear that the Government are committed to upholding and strengthening our high standards in food safety, environmental protection and animal welfare as we leave the EU.

We have made it clear that as we leave the EU we will maintain and enhance our reputation as a global leader on animal welfare. The Government will ensure that any necessary changes required are made rigorously and comprehensively to ensure that animal sentience is recognised after we leave the EU.

On food standards, the Food Standards Agency has stated:

> "From day one we are committed to having in place a robust and effective regulatory regime which will mean business can continue as normal".

However, the Taxation (Cross-Border Trade) Act relates to matters of national taxation. It had the status of a Bill of aids and supplies, similar to a finance Bill. This status as a Bill of aids and supplies is usual for Bills dealing with taxation and, in accordance with established practice, such Bills are not amended by this House. I ask noble Lords to consider that the other place has a well-established privilege over financial matters, which the Act that this new clause seeks to change falls under.

I turn to the point the noble Baroness, Lady Kramer, made about specialised automobiles. That concerns the debate about the power of being in the EU as a negotiating body and that of the UK on its own. I have only a small addendum on specialised automobiles. I went to a country in Asia recently where there was a particular issue with exactly that sector. Representing HMG, I was able to point to the issues that would create on this very specialised and highly prized sector in this country. Changes were made. The noble Baroness talked about whether the EU would be as protective. She will know that the EU cannot act in a discriminatory way. The power of consumers is also very strong. We could have a much longer discussion about the power, but I did not want to leave that lying.

I turn to Amendment 53, tabled by my noble friend Lady McIntosh of Pickering. I have already spoken at length about most of the standards that the amendment seeks to protect. We are absolutely clear that public health and public safety will be paramount. Under all international agreements, any country is allowed to regulate on human and animal health. On my noble friend's particular request about the food safety alert agency, I know that, as with a number of agencies, it is the Government's intent to participate as fully as possible. I do not know specifically about the food safety alert agency, but I am happy to write to her on that.

I will briefly touch again on public services. We have been clear that protecting the NHS is of the utmost importance. Public services are under no threat from this Bill. We will continue to ensure that decisions are made about public services and outcomes are delivered for UK citizens that are made by UK Governments, not our partners. The NHS has robust protection under existing EU FTAs and this Government fully intend that to continue.

At the heart of a stipulation of an impact assessment against such a long list of criteria appears to lie concern that the Government will lower our standards through our trade policy, whether that be on the environment, labour rights or our adhering to international obligations. We have asserted before, and I am pleased to do so again before the Committee, that we want to

[Baroness Fairhead]
uphold our standards. The UK has long supported the promotion of our values globally, and this will continue as we leave the EU.

We want to ensure that economic growth, development and environmental protection go hand in hand. I hope that that reassures the House and I therefore ask the noble Lord to withdraw his amendment.

Lord Purvis of Tweed: I am grateful to the Minister. She may have got the author of Amendment 53 slightly mixed up in her thorough summing up, but at this time in the evening, and speaking as one who is looking forward to sampling a wee dram of one of our country's best exports at the highest standards, the Minister may be forgiven.

There is a paradox at the heart of this issue. I mentioned the complexity of some of the trade deals that the Government seek to take forward with Mexico, Singapore and Japan. They are either in force or agreed but components of them require further discussion. That means that it is relevant, as the noble Baroness, Lady Hooper, and others have said, to bear in mind that they will be considering the future when we have asked for them to be rolled over.

To prove the point, we need to look at the only example that the Government have so far published: Switzerland. The Swiss themselves, although the Government have not said so, said explicitly that this agreement could serve as the basis for future economic trade relations. Interestingly—perhaps unhelpfully for the Government—they frame it as part of their "mind the gap" strategy on the basis of what they term the disorderly manner in which the UK may leave the European Union. We can rely on the Swiss to be frank and honest.

The paradox also exists that the rolled-over agreements will be on the basis of the existing EU regulations that the Government have committed to putting into law, which we could follow in three-year tranches under the Bill, again and again, but the Government have said that the justification for leaving the European Union is to change the way that we operate our trade policy. There is no surprise that when we are asking countries to roll over the trade agreement, but telling them at the same time that we are likely to want this agreement in place for us to have the flexibility to negotiate trade agreements based on separate regulations, they have been slightly resistant.

My amendment, and others in the group—I appreciate all the contributions from all the Members who have spoken—is an attempt to establish some basic principles and ethics. This is exactly the right moment to do that. Since 2010, the European Union has insisted on having sustainable development chapters in trade agreements. That has been positive for the world. It has been consistent in the contributions of colleagues who have tabled amendments that our argument is not just about concern that the UK would reduce its standards. One reason why we want to operate to the best standards is that if we are opening our markets to other countries, we do so to countries who are increasing their standards across the piece in environmental and labour law, and so on. It is an overt ambition of the Vietnam agreement that we use that clout as an economic market. That addresses the point of the noble Lord, Lord Kerr, that we should move standards up.

Finally, I am still scratching my head about all the Minister's comments about how unnecessary it is to have something in the Bill because the Government have given their assurances. When it comes to workers' rights and the environment, the Government have said time and again that we need not worry, so why did the Prime Minister say just today that she would provide Parliament with a guarantee that we would not erode protections for workers' rights and the environment? That is our concern: that the Government can give an assurance but when it comes to putting something in legislation they pull back until they have to.

Lord Judd: There is one other argument: whatever the good will, whatever the intention and whatever the commitment of current Ministers, unless it is in the Bill, it does not bind their successors.

Lord Purvis of Tweed: I am most grateful to the noble Lord. He has been a leader in this regard. He will remember when I had the privilege of supporting other Members in taking through the 0.7% development Act. It is only when commitments given at a political level are enshrined in law that we can be reassured. That is our ambition with these amendments. However, I accept what the Minister has said at this stage. I shall not press the amendments. We will come later in the Bill to disputes and the other aspects of trade referred to by the Minister. For the moment, and on the basis of what the Minister has said, I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendments 9 to 15 not moved.

Clause 2 agreed.

House resumed.

House adjourned at 10.27 pm.

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