Vol. 800
No. 3

Wednesday
16 October 2019

PARLIAMENTARY DEBATES
(HANSARD)

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

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House of Lords

Wednesday 16 October 2019

3 pm

Prayers—read by the Lord Bishop of Coventry.

Metropolitan Police: Use of Section 14 of the Public Order Act 1986

Private Notice Question

3.07 pm

Asked by ***Baroness Miller of Chilthorne Domer***

To ask Her Majesty's Government whether they have had discussions with the Metropolitan Police regarding their use of Section 14 of the Public Order Act 1986 to ban protests by Extinction Rebellion and whether they have been informed how long the ban will remain in force.

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

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the right to protest peacefully is a long-standing tradition in this country. However, it does not extend to unlawful behaviour, and the police have powers to deal with such acts. The use of these powers and the management of demonstrations are operational matters for the police. The Government have been clear that they expect a firm stance to be taken against protestors who significantly disrupt the lives of others.

Baroness Miller of Chilthorne Domer: Does the Minister think that a citizen's right to have a voice is a question of democracy? Given that, does she think that a blanket ban across the whole of London for an indefinite period is a proportionate response, as required by the Act? The Minister will know that judicial review proceedings have been started today. Can she give an undertaking that, whatever the outcome of that review, the Government will give further guidance on what "proportionate" means?

Baroness Williams of Trafford: My Lords, the word "proportionate" is long established in law. The noble Baroness asks whether it is democratic to have a citizen's voice. Of course it is, but public disorder disrupts the lives of others; we have seen that over the past couple of weeks, when it has been impossible to get around the centre of London. I outlined some of the issues last week but, ultimately, the High Court will test this judicial review.

Lord Rosser (Lab): My Lords, the police have powers to ban a protest under the Public Order Act 1986 if there is a belief that it may cause,

"serious disruption to the life of the community",

but, of course, the decision has to be proportionate. Clearly, the view as to what constitutes "serious disruption" is somewhat subjective. In the light of that subjectivity, it is surprising that the Mayor of London was apparently not made aware that the police were going to impose this ban, in view of the responsibility that the mayor has for the Metropolitan Police and the fact that many would regard this as a ban on freedom of speech and the right to peaceful protest, and a potential thin end of the wedge.

When did the Metropolitan Police last impose such a ban under Section 14 of the Public Order Act 1986 and in respect of which protests? Do the police have any guidelines, laid down or approved by any elected representatives, on what constitutes serious disruption to the life of the community? How long does the ban apply for? Is it for a limited period, in perpetuity or for as long as the Metropolitan Police wishes it to apply? Do the Mayor of London or the Home Secretary have any statutory powers to overrule this ban? I understand that legal action in the form of an application for judicial review has been launched over the police decision. Does the Metropolitan Police accept that it will not arrest or charge anybody for breaching the ban, pending the outcome of the judicial review?

Baroness Williams of Trafford: The noble Lord is absolutely right: responses to public order breaches have to be proportionate. He asks what constitutes serious disruption. It might be subjective, but nobody who has gone around London in the past two weeks could argue that this did not cause serious disruption to the city. The proportionality will, of course, be tested through the courts. The noble Lord asked me how long the ban will be in force. We know when it started but I do not know when it will finish.

Lord Forsyth of Drumlean (Con): My Lords, does my noble friend not think that the whole country should recognise that, when it comes down to it, both the Liberal and Labour parties are not prepared to stand up for hard-working people in this country going about their business—indeed, that they are prepared to support tactics that have nothing to do with free speech and have resulted in resulted in huge congestion and pollution, which are the very things that some of the protesters say that they are concerned about? Is it not a disgrace that the Mayor of London is not prepared to support the police in carrying out their duties?

Baroness Williams of Trafford: I agree with my noble friend on all counts. Coming back to his point about hard-working people, I saw the protesters described last week as "Glastonbury meets Waitrose". Some of those people do not know what it is like to have to use the Tube because you simply cannot use the bus. It affects people's pockets, particularly those of the hard-working people of London.

Lord Hogan-Howe (CB): My Lords, I was glad to see the Home Secretary's publicised support for the Metropolitan Police. These are difficult judgments. On the last occasion that Extinction Rebellion carried out its protests, the police were criticised for failing to take action. Here, we see them criticised for perhaps taking too much. It is a difficult position to land fairly on. When we have the threat of airports being closed and the Tube system being shut down, this is a serious a matter for London, as it is for the country generally. Perhaps the use of this power is a reasonable response on this occasion.

Baroness Williams of Trafford: The noble Lord is absolutely right. It is a judgment call for the Metropolitan Police. As he says, the protests have affected airports and the Tube. As my noble friend Lord McColl mentioned last week, they caused difficulty for people accessing medical treatment at St Thomas', but that did not seem to bother the protesters.

Baroness Jones of Moulsecoomb (GP): My Lords, I declare an interest as the major litigant in the case that has come to court today, challenging the Met's application of Section 14 powers over the whole of London. Does the Minister agree that it would surely be cheaper for the Government to start to deal with climate change than try to suppress protest?

Baroness Williams of Trafford: I think that we are talking about two entirely different things. Nobody disputes the right to protest. Everyone is well educated on some of the climatic changes that are taking place. This is about bringing a capital city to a standstill.

Lord Paddick (LD): My Lords, while recognising that many citizens support Extradition Rebellion's aims, it risks losing that support by disrupting London's road transport, particularly the bus network that the poor and disabled rely on most. Would a ban on obstructing roads rather than a blanket ban on all protests by Extinction Rebellion be a more proportionate response? Will the Minister answer my noble friend's Question about what discussions the Government have had with the Metropolitan Police on this issue?

Baroness Williams of Trafford: On the final point, the noble Lord will know that it is an operational matter for the police to make that judgment call; that is what they have done. He said, "Extradition Rebellion" —I think he meant Extinction Rebellion. On whether the police could impose conditions not allowing these people on the roads, the condition was actually on assembling in Trafalgar Square. It has been very difficult to engage with these people. The MPS—the Metropolitan Police Service—still stands ready to engage but, to date, that engagement has been very difficult.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords—

Lord Harris of Haringey (Lab): My Lords—

Earl Howe (Con): My Lords, as I am sure we all agree, it is up to noble Lords to give way to each other. I would not wish to rule between the noble Lords, Lord Harris and Lord Mackenzie.

Lord Harris of Haringey: My Lords, as the second Labour contributor to this, may I ask my question? First, will the Minister praise the Metropolitan Police for the fact that, for the first few days of the protest, it was very happy to facilitate legitimate protest even if some of us found it highly inconvenient? Will she also clarify something? She has said throughout that this is an operational matter. I have been in the room when these kinds of things have been discussed. Of course it is an operational decision, but can she tell us whether Her Majesty's Government expressed a view to the Metropolitan Police on what should happen?

Baroness Williams of Trafford: I repeat that point: it is an operational matter. I join the noble Lord absolutely in praising the Metropolitan Police for how it handled the situation. It was terribly frustrating at first, as expressed by your Lordships, because it seemed that nothing was being done. The Metropolitan Police gave the protesters a chance to protest peacefully but they quickly ran amok. There have, of course, been discussions between the House authorities and the Metropolitan Police throughout.

Historical Institutional Abuse (Northern Ireland) Bill [HL]

First Reading

3.18 pm

A Bill to establish the Historical Institutional Abuse Redress Board and to confer an entitlement to compensation in connection with children who were resident in certain institutions in Northern Ireland; and to establish the Commissioner for Survivors of Institutional Childhood Abuse.

The Bill was introduced by Lord Duncan of Springbank, read a first time and ordered to be printed.

Business of the House

Motion on Standing Orders

3.19 pm

Moved by ***Earl Howe***

That the Sentencing (Pre-consolidation Amendments) Bill [HL] and the Birmingham Commonwealth Games Bill [HL] having been read a first time in the same form as they stood at the end of the last Session of Parliament, Standing Order 46 (*No two stages of a Bill to be taken on one day*) be dispensed with to enable the bills to be taken *pro forma* through the remaining stages which they had completed in the last Session of Parliament.

Motion agreed.

Committee of Selection

Membership Motion

3.19 pm

Moved by ***The Senior Deputy Speaker***

That in accordance with Standing Order 63 a Committee of Selection be appointed to select and propose to the House the names of the members to form each select committee of the House (except the Committee of Selection itself and any committee otherwise provided for by statute or by order of the House) or any other body not being a select committee referred to it by the Senior Deputy Speaker, and the panel of Deputy Chairmen of Committees; and that the following members together with the Senior Deputy Speaker be appointed to the Committee:

Ashton of Hyde, L; Craig of Radley, L; Evans of Bowes Park, B.; Judge, L; McAvoy, L; Newby, L; Plant of Highfield, L; Smith of Basildon, B; Stoneham of Droxford, L; Ullswater, V.

Motion agreed.

Birmingham Commonwealth Games Bill [HL]

Motion to Agree

3.19 pm

Moved by ***Baroness Barran***

That the Bill be now read a second time, that the Bill be committed and reported from a Committee of the Whole House and that the Report be received pro forma.

Motion agreed.

Sentencing (Pre-consolidation Amendments) Bill [HL] (Law Commission Bill)

Motion to Agree

3.20 pm

Moved by ***Lord Keen of Elie***

That the Bill be now read a second time, that the Bill be committed and reported from a Special Public Bill Committee and that the Report be received pro forma.

Motion agreed.

Queen's Speech

Debate (3rd Day)

3.21 pm

Moved on Monday 14 October by ***Baroness Anelay of St Johns***

That an humble Address be presented to Her Majesty as follows:

"Most Gracious Sovereign—We, Your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal in Parliament assembled, beg leave to thank Your Majesty for the most gracious Speech which Your Majesty has addressed to both Houses of Parliament".

Lord Campbell of Pittenweem (LD): My Lords, I must begin with the convention of saying what a pleasure it is to follow the noble Lord, Lord Ricketts, albeit some 20 hours after he sat down. Like him and the noble Lord, Lord Kerr of Kinlochard, I propose to address the main part of my remarks to issues of foreign affairs and defence.

In the course of his speech, the noble Lord, Lord Ricketts, said that he often felt that his thunder had been stolen by the noble Lord, Lord Kerr of Kinlochard. The truth is that by the time Kerr and Ricketts—the old firm of the Foreign Office—have finished, there is not much thunder left for the rest of us. In the course of yesterday's debate, we had two quite remarkable speeches from the two noble Lords. They concentrated and drew on their extensive and much-valued experience from the Foreign Office and provided a quite remarkable tour de raison.

My views on Brexit are well known. I do not believe that there is any deal or subsequent political agreement which will offer the United Kingdom better advantages than those we enjoy today as a member of the European Union. We have the opt-out from Schengen and the single currency, plus the rebate; no other member enjoys those privileges. I have to say that the difficulties of the last three years corroborate my view that the best interests of this country are to be served by remaining a member of the European Union.

I think it was the noble Lord, Lord Grocott, who I do not believe is in his place, who laid down something of a challenge to those of us who support remain. I will make the point this way, if I may: it is a privilege to be sent here, but with that privilege comes an obligation to exercise our best judgment. I venture to say that my best judgment is that remaining is the best solution to the constitutional, economic and political crisis in which we now find ourselves. I cannot for the life of me understand the logic of a position which says that we must observe the referendum result, irrespective of the consequences, in all circumstances. That is hardly sensible, nor indeed logical.

With that by way of a preliminary, may I say that I fear my contribution today may be more episodic than thematic? In the gracious Speech, we learned that the Government wish to continue playing a leading role in global affairs. The future of NATO is a global affair, and it is to that that I wish to address the main part of my speech.

Over the weekend, at the plenary meeting of the NATO parliamentary assembly, serious differences emerged among the delegates from Turkey and those from other members of the NATO assembly. These differences reflect the equally serious differences within the members of the alliance itself. Who could possibly think, and justify the notion, that the action authorised by Mr Erdoğan is an anti-terrorist operation? Who could possibly think that with air strikes and heavy armour, there will not be civilian casualties and—as we have seen to the extent of perhaps as many as 150,000 people—the mass displacement of thousands of civilians? This operation is an intransigent and opportunistic operation, made possible only by the ineptitude of President Trump; no doubt with an eye to re-election and having learned nothing from the adverse consequences which have flowed from his unilateral renunciation of the Iranian nuclear agreement. Neither the newly imposed sanctions by President Trump nor the dispatch of the Vice-President and the Secretary of State to Turkey can now rescue the position.

The truth is that, within NATO, Trump and Turkey have form. The United States' failure to sell Turkey the Patriot missile defence system prompted Turkey to respond by buying from Russia the S-400 missile system, in the teeth of almost unanimous opposition from the other members of the alliance. Trump's response to that has been to kick Turkey out of the F-35 aircraft programme. Who benefits from this? It is, of course, Mr Putin. I have said many times in this House that Mr Putin's primary objective when it comes to NATO is to undermine it and to seek to cause circumstances in which there is established a European security architecture, in which he would expect Russia to play the most prominent part, all the while using energy as an inducement to members of the alliance or a threat. Now we see Mr Putin received with acclaim in the capitals of Middle East countries, where American influence is not even second best and where, it has to

[Lord Campbell of Pittenweem]
be said, the influence of the United Kingdom is at a very low ebb. It seems a long time since the expertise in Arab affairs of the Foreign Office was rather humorously described as the camel corps—the camel corps has been in substantial retreat for some time.

Mr Obama left a vacuum when he set down red lines and then chose not to take action when those lines were breached. In that, he was assisted by the indecision of the House of Commons which, when recalled in 2013, failed in the end to pass either the Government's Motion or the Opposition's amendment. One could almost say that, like nature, Russia abhors a vacuum.

In Europe, Trump's capriciousness has caused European members of NATO to consider alternative structures for defence. That is understandable but it should be unwelcome. Assurances are made that this will not be at the expense of support for NATO but complementary. I fear I have doubts that that will be the case. The problem is this: the United Kingdom outside the European Union will have little or no influence over any such alternative structures. Within the European Union, the United Kingdom would have both influence and a veto. The truth of the matter is this: Brexit or no Brexit, deal or no deal, NATO now needs our Government's attention.

There was a powerful section in the remarkable speech by the noble Lord, Lord Kerr of Kinlochard, when he detailed the foreign policy inadequacies of the Government's present engagement on a variety of issues. From that list, I pluck NATO, and the overwhelming need to ensure its integrity.

3.30 pm

The Earl of Kinnoull (Non-Afl): My Lords, it is a pleasure to follow a fellow Scot, the noble Lord, Lord Campbell of Pittenweem, who spoke with his usual authority on these matters. I apologise for the fact that you are hearing from me today; yesterday there was a direct clash with the European Union Committee—an important meeting with our sister committee from the Swiss Parliament. I am grateful to the Whips' Office for enabling me to swap the time.

It was a great comfort to hear, in the second sentence of the gracious Speech, that the Government intend to work towards a new partnership with the European Union, and referred to "friendly co-operation". That was important, because it was the theme that underpinned the *Beyond Brexit* report of the European Union Committee in March. I will return to that.

Other good news came in the speech by the noble Lord, Lord Ahmad, when he referred to the fact that 1,000 new diplomats were being "minted", of which 500 would work in Europe. As he said that, I was thinking of the empty-chair policy: the policy, starting on 20 August, of non-attendance at EU meetings. The system is that the Government look at the agenda for a forthcoming meeting and decide whether it is in the national interest to attend. If they decide not to attend, they give any vote that comes up to Finland, as the rotating president. The net effect is that we now attend about a third of EU meetings.

I and the committee feel that this is badly wrong, for three reasons. First, it is not liked by our partners in the European Union. It is disrespectful to their institutions and is not in accord with the idea of moving towards a partnership with the European Union, or with friendly co-operation.

As I pointed out before, to create a deep and meaningful relationship one does not start with an empty chair.

Moving on to my second complaint, it is not clear that this test creates predictability about the UK's appearances, either for us as parliamentarians, or for our EU partners. An agenda, after all, does not necessarily —in my long experience of meetings—reflect the eventual content of that meeting: meetings tend to wander around. Matters of national interest may well be discussed that were not on the agenda.

Given this lack of clarity, the whole thing is difficult to scrutinise. That brings me to my third point, which in many ways is the most important: the interaction of this policy with the scrutiny reserve resolutions made by both Houses in 2010. Not turning up to meetings to do with the 200 or so files that are held under scrutiny reserve by the EU Select Committee would be in neither the spirit nor the letter of the resolution. Certainly, handing our vote to Finland is not within the spirit or words of those resolutions. We are, in any case, undertaking a terrier-like correspondence, and the Minister has agreed to see me next week—I think—on this point.

There is one bit of good news: yesterday we heard from the noble Lord, Lord Ahmad, that we had turned up to the General Affairs Council this month. Last month we did not, and 16 Foreign Ministers from other countries looked at an empty chair—Britain's—alongside those deputy Ministers who had turned up. It would help the House if the Minister gave a quick update on the empty-chair policy, given the huge number of extra diplomats and that we are now turning up to the General Affairs Council.

I turn to our *Beyond Brexit* report, which was published on 25 March and is about how Britain conducts itself with the EU after the Brexit process has taken place. Since 25 March, we have had no response from the Government; indeed, the only thing that looked even vaguely like a response was read out in this Room by Her Majesty on Monday. When might we expect a response to *Beyond Brexit*, as it is a most important report? It may not have the answers, but it raises a lot of the issues that this House will be very interested to grapple with. It contains 60 pages of meat. The logic that it lays out applies equally in any Brexit deal and it also applies in a no-deal Brexit. I do not want to go through the whole report, but there were three general areas in it, and I thought that I might reflect briefly on each of them.

First, the formal structures perceived within the withdrawal agreement have on top a joint committee, which has hanging off it various specialised committees, or sub-committees, which deal with certain subject areas, including citizens' rights, Northern Ireland, the sovereign base in Cyprus, and Gibraltar. At the Swiss meeting—it was a private meeting, so I am constricted in what I can say about it—it was interesting to hear that they run their affairs with the European Union via a joint committee. They have no deal, as it were, for it. The joint committee has stood the test of time and

has been pretty active. We had an interesting exchange of views and were given quite a few useful tips about how one might run a structure like that—we intend to carry on our discussions with the Swiss as well.

We concluded that the joint committee conceived under the draft withdrawal agreement was a bit too powerful. It has the power, for instance—albeit slightly limited—to change the withdrawal agreement. We felt that it was not very transparent and would be hard to scrutinise. Unfortunately, in the absence of a government response, we have no answer to any of those questions and we are not able to make progress on these issues and raise the concerns here in the House.

The middle section of the report concerned the less formal structures; for instance, the EU agencies and the EU programmes. These are referred to in the political declaration, but with vastly different levels of detail. We name a few EU agencies that we are interested in joining; where the programmes are concerned, none of them is named and there is a just a sentence or two of warm words. Equally, the security partnership is laid out in considerable detail within the political declaration. On all those things we need a lot more detail; they are all matters we raise in the *Beyond Brexit* report and ask for comment on. We are still waiting, seven months later, for that comment to arrive.

I want to raise two other little questions relating to the less formal structures. On one, it appears there is an answer, but we have not been given it. We said that UKRep—now to be called, I gather, "UKMiss"—needed a lot a more resource. We heard from the noble Lord, Lord Ahmad, yesterday that a lot more resource is being pumped into Europe. I recently visited UKRep in Brussels and I think that the extra number of posts there was around 40, so that resource is being given. It is an easy answer to give to us formally: that UKRep is getting more resource to be able to cope with the increased work it will be asked to do.

The other thing—as a Scot, I feel strongly about this—is the recommendation that the devolved Administrations be heavily involved in matters of importance to them. Again, we need to hear back on that. At this very difficult time, certainly in Scotland at the moment, a clear statement about that would be most valuable, particularly in my area, Perthshire.

The final section of the report deals with inter-parliamentary relations and the scrutiny role of Parliament. There are two things to be scrutinised: the new governance structure for the relationship between the EU and the UK and the mechanisms for that, on which we made a whole set of recommendations; and the dialogue regarding the negotiations that will take place—over what I suspect will be many years—on the future relationship, on which we also made recommendations, but we have no answers. Parliament itself will need to do a lot more work. The European Union Committee is very lucky, in that we are invited to many inter-parliamentary meetings at the moment. That will no longer automatically happen, so we will have to work harder to maintain the relationships with the various parliaments. In addition, the European Parliament itself will undoubtedly set up one of its formal structures. It has under its rules of procedure a formal way of dealing with third countries. Forty-four third countries have a formal committee facing them, and we will be the 45th.

In closing, I return to the words of the gracious Speech:

"to work towards a new partnership with the European Union",

and the "friendly co-operation" that it envisages. I urge the Government to engage with the *Beyond Brexit* report, as these are issues that the Government and Parliament need to work together on. Although today the press and media are occupied exclusively with the period up to Brexit, planning for beyond has never been more vital.

3.41 pm

Baroness Finlay of Llandaff (CB): My Lords, it is humbling to be here, and the speeches in this debate so far have set a high bar. First, I want to address our ethical duty on the world stage in trade deals that we may enter into, and also ask how the Government will fulfil their obligations at home with the devolved nations over trade.

Yesterday was World Bioethics Day—I declare an interest as an instigator of this UNESCO day—which has taken off around the Commonwealth precisely in large part through the influence that we have globally in health sciences. But will future trade agreements live up to the standards that we have set, or will we fudge dropping standards in making trade deals, as my noble friends Lady Cox and Lord Hylton, and the noble Baroness, Lady Tonge, raised yesterday? One area is organ donation—no, we do not trade in human tissue. At home, Wales has led on opt-out organ donation, or soft presumed consent, and England and Scotland are following. We have set an international standard and we export our expertise and our training of transplant teams.

The Commonwealth Games will be an important launch pad for working with other countries in the Commonwealth on ethical practice. With India, a memorandum of understanding is in place between the MOHAN Foundation and NHS Blood and Transplant, but it needs to be expanded to those countries with poor or non-existent transplant practices. But it is not always easy to know what is going on further afield. There is alarming circumstantial evidence that some places with whom we have massive trading arrangements still have very worrying approaches to transplantation, including using taken—so-called "harvested"—organs from prisoners, including prisoners of conscience.

We trade with countries that still have the death penalty, and with countries whose respect for human life is deeply questionable, but we must not sink to their level. Why do we do so little when our loyal Kurdish allies and their babies and children are deliberately injured and killed? We must maintain and drive up ethical standards because, if we do not, we compromise our own civilisation standards. Others have already referred to our need, as the gracious Speech stated, to play a role in global affairs, defending our interests and promoting our values. When those values slip, we lose all moral authority.

[Baroness Finlay of Llandaff]

We expect our Armed Forces to act based on that moral authority. We claim to maintain respect for human rights and values, and to do that we send our forces into terrible situations. They are young, and trained to be physically strong and react quickly, and many are deeply traumatised. When they return, they may have been injured physically, mentally or both. Thrown back into civvy street, some do not survive the stresses and end up with broken relationships, self-medicating with alcohol or other substances or escaping with gambling and so on.

For anyone in the country convicted of an alcohol-fuelled crime, the announced rollout of the sobriety scheme is very important and to be welcomed. It will be a fundamental plank in supportive rehabilitation, rather than compounding trauma with a prison sentence that is devoid of services that help the person tackle the underlying issues driving their behaviour. Amendment to legislation in 2011 to pilot the sobriety scheme has shown great success, with 92% fully compliant with the sentence and remaining in the community to address their underlying problems, free of the mind-clouding damage of alcohol.

The British Crime Survey shows that, year on year, alcohol-fuelled crime accounts for 40% to 60% of all violent crime. Overall, the economic cost of alcohol-related harm was £20.5 billion last year. Our hospital emergency departments are overflowing, and half are in crisis, yet our Brexit obsession has resulted in around one-third of our European doctors leaving or planning to leave, further exacerbating the workforce crisis. Yes, Brexit is breaking the NHS. More money and hospital beds are greatly needed—but the NHS also needs staffing. I caution against thinking simply that a revision of the Mental Health Act or other legislation will result in better care. The Treasury has to realise the damage to clinical care that has already happened in the last two years because of the pension cap change.

There are several major issues over trade that affect the devolved nations, particularly Wales. First, can the Minister explain how the business support project Kingfisher will provide support and funding specifically for Wales, and in particular how business sectors specific to Wales will be taken into account and not neglected? Secondly, how will the needs of vulnerable people be considered in a discretionary system that can provide benefits at a secondary level, particularly for those least able to withstand the predicted rise in food prices and those who are most vulnerable during the winter pressures on the NHS? Thirdly, what additional post-Brexit funding will be available to boost infrastructure investments and support public services, particularly to cover inflationary costs on public sector budgets, in the devolved nations?

Fourthly, what is the action plan to proactively involve the devolved Governments in negotiations over overseas deals, particularly in areas such as agriculture and fisheries, where the devolved nations will be required to implement the agreement on the ground and deal with all the practical issues that may arise when environmental standards differ or when the deal may threaten the environment? One example may be the use of glyphosate, the herbicide widely used in the US, the UK and across Europe and known commercially as Roundup, among other names. There is mounting evidence of serious adverse impacts on human health, and that it is contaminating food and also damaging pollinators. Will our coming environmental standards be so flexible in trade deals that they become meaningless, or will we drive food production standards higher than ever and lead the rest of the world? I hope the latter.

Our trade relies in large part on services of all types, particularly education and training, and the sales and profits from scientific and other inventions or creations. The original concept of copyright legislation was British—from the Statute of Anne 1710. It set the world standard, and now more than 160 states are parties to the Berne convention. However, a body of EU law deals with substantive and procedural rights over intellectual copyright. When negotiating future trade arrangements involving intellectual property rights, the Government must respect the United Kingdom's existing domestic and non-EU international laws and obligations, including the Patents Act 1977, which gives effect to the non-EU European Patent Convention. Otherwise, any commercial benefits from our discoveries or creations may be jeopardised. Can the Minister assure the House that such consideration will be embedded in negotiations?

Whatever happens next, we are at the beginning of a journey that must be paved by high ethical standards. It must be respectful of the world and of the rich diversity of nature and people, and not be isolationist and selfish. The journey starts at home and we must live well.

3.50 pm

Lord Pendry (Lab): My Lords, I intend to raise an issue that was not specifically referred to in the gracious Speech but should have been. I refer to the recent troubles in our former colony of Hong Kong, which must be taken much more seriously by the Government and need some urgent action. Hong Kong's Chief Executive, Carrie Lam, when delivering her first policy address in October two years ago, said she wished to enhance people's livelihoods and foster a more inclusive and harmonious society under "one country, two systems". However, her actions over the past few weeks hardly square up to that pledge. She went on to say that her Government would take concrete actions to resolve problems for the people. These words must have a hollow ring in the ears of those who are demonstrating for a freer and democratic Hong Kong on its streets today. We must recall the pledges of the Sino-British joint declaration, including that Hong Kong would have its own legal system, multiple political parties, and human rights including freedom of assembly. These pledges and the need to have them implemented are precisely what the demonstrations wish to see enacted.

I have a deep affection for Hong Kong and its people. I lived there during my national service days in the Royal Air Force, and I also had the distinction—some unkind colleagues may argue that it is perhaps my only one—of winning the colonial middleweight boxing championship of Hong Kong in the late 1950s. More seriously, however, in those days I was able to see a great determination by the then Administration to solve a massive housing problem not of its own making,

which was little short of miraculous. This involved resettling some 300,000 refugees who had, as a result of both the civil war in China and the Japanese occupation, felt the need to flee to Hong Kong for sanctuary. The Hong Kong Government could have refused entry. They could have placed a duty on the citizens of the outside world, or they could have sent the refugees to their homelands, but they did not. They embarked on a resettlement programme of gigantic proportions, which would shame a number of countries faced with immigration problems, including our own, in the present world.

I raise this historical example to illustrate the ingenuity of that Administration at that time. Going back to Hong Kong some years later as a young MP with my colleague and now noble friend Lord Cunningham of Felling—he was in his place, but he is not there now—on a parliamentary fact-finding mission, one could see good progress in many areas, but it was painfully slow in others, such as law and order, human rights and industrial relations. However, we did meet some promising people who were doing their bit: a doughty, elderly Geordie and human rights campaigner called Elsie Elliott, whose work has been carried on since then by others—in particular, Emily Lau, the vice-chairperson of the Democratic Party; Henry Litton QC, who works on legal reform; and a Jesuit priest and member of LegCo who was the founder of the industrial relations institute. All these and others were forging ahead for progressive policies until of course the recent events brought the likelihood of positive advancements in jeopardy.

That is a very sketchy background to where we are today. What should the Government do? I have twice asked the noble Lord, Lord Ahmad of Wimbledon, in Parliamentary Questions what steps the Government are taking in relation to the United Nations, being a co-signatory to the declaration, requesting that they engage in directing the Hong Kong Government to honour the Sino-British joint declaration. Perhaps the Minister replying to this debate will do rather more than his colleague and answer that.

The Government should also follow the US Government's legislation by introducing the equivalent of the Magnitsky Act, which would ban officials from Hong Kong and mainland China who are guilty of violating human rights and the rule of law from entering the United Kingdom and freeze their assets, sending a powerful signal to the regime and to the demonstrators. Furthermore, the Government should endeavour to bring forward legislation to ensure that all holders of British national (overseas) passports have the right to enter the United Kingdom to work, which would give an uplift to the young people of Hong Kong.

Finally, the Government must address a very up-to-date worry: supporters from mainland China are bullying and intimidating fellow students from Hong Kong in British universities who are merely carrying out legitimate activities in support of those demonstrating in Hong Kong in favour of the Sino-British declaration. What are the Government doing to stamp out this practice? I await the Minister's reply.

The future for Hong Kong cannot be easily forecast. The words of Napoleon Bonaparte conjured up a feeling of uncertainty in many when he wrote: "Let China sleep, for when she wakes the world will be sorry". Napoleon's words ring true today, but the question is how we will move forward. Perhaps as a nation we should also bear in mind the words of a previous Conservative Prime Minister: "Hong Kong will never walk alone". Let us hope not.

3.58 pm

Lord Lilley (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Pendry, and to be able to agree wholeheartedly with so much of what he said, with the importance of the issue he raised and with his final sentiments.

I hope that the British Government and the EU will, over the next 24 or 48 hours, reach an agreement that the United Kingdom can leave the EU on 31 October, with a free trade agreement with the EU, and allowing the UK to negotiate its own trade deals with the rest of the world. However, before discussing those issues, I must make a confession. As a Minister, I misled the British people in two respects pertinent to our discussion of those issues, and I want to set the record straight.

As Secretary of State for Trade and Industry under Margaret Thatcher and then John Major, I was responsible for negotiating the Uruguay round, which halved tariffs, began to pare back non-tariff barriers and, eventually, set up the World Trade Organization. I was also responsible for implementing the single market programme that made us part of the single market. When doing so, I made enthusiastic speeches about how both these agreements would boost Britain's exports to the world and the EU. As a scientist by training, when I make a prediction, I subsequently try to check whether it has come true. If it has, I claim credit for it. If it has not, I usually keep quiet, though I try to learn from my previous failures, so that I can do better next time.

Looking back on both the Uruguay round or World Trade Organization and the single market, what effect have they had on our exports? In the quarter of a century since the WTO was established, our goods exports to those countries with which we trade just on WTO terms have risen by 87%. That is a fair amount, but anyone looking at it fairly must recognise that, on previous trends, a large amount of that growth would have occurred anyway. A small part of it only can be attributed to the near halving of tariffs between industrial countries and the removal of some non-tariff barriers. Growth of our exports to the EU single market over the last quarter of a century has been even more disappointing—20% barely, over 25 years, which is less than 1% a year, less than the trend before the single market was growing and less than most people would have expected had there been no single market to encourage and promote our exports. It is true that, over that period, our imports from the single market and the rest of the Common Market grew substantially and, as a result, our deficit in goods with Europe rose. All the figures I have referred to are for trade in goods. Our deficit in goods has reached nearly €100 billion, which wipes out the surplus that we earn with the rest of the world on all our trade.

My conclusion is not that trade deals are useless but that they are far less important than both sides of the debate about Brexit realise. Be they free trade agreements or the less conventional, but supposedly

[Lord Lilley]
much more thorough, single market, they have much less effect on our trade than most of the discussion in this place would lead us to believe. They can be useful. I certainly prefer low or no tariffs to high or rising tariffs. I prefer the removal or reduction of non-tariff barriers, but what drives trade is not trade agreements; it is producing goods and services other people want to buy and getting out and selling them. And what drives that is much more than trade agreements; it is what Keynes called "animal spirits", which are more likely to be stimulated by creating a competitive domestic environment, by reducing the regulatory burden—without reducing standards, by the way—and by better skills and more investment. It is that rather than trade deals, useful though they can be.

Be that as it may, the core argument of those who have been trying to persuade the people of this country to reverse the decision they took in June 2016 and remain in the EU is that our prosperity depends on us giving up our democratic national control of our trade, regulatory and economic policy. They assume there is a trade-off between prosperity and democracy. I do not think that is true. Prosperity and democracy normally go hand in hand because, in a democracy, if the Government do not deliver prosperity, you chuck them out and replace them with a Government that can do better. Unfortunately, that is not what the EU is like. Its effective Government, the Commission, is not elected and cannot be removed. Its main economic policy is the euro, which has been a disaster, particularly for southern Europe. Some 40% of young people in Spain are unemployed, 45% in Italy and 53% in Greece. Millions of people of all ages have lost their jobs, but no Commissioner has lost his or her job because they are not accountable in the way we expect.

Baroness Quin (Lab): My Lords, I think I heard the noble Lord say that the Commission cannot be removed. That is not true. The Commission has to be appointed by the European Parliament and sometimes it does not accept the nominee of the particular country, and also each country is itself ultimately responsible for appointing its own Commissioner. Moreover, it is possible for the European Parliament to sack the Commission as a whole. I do not know why the noble Lord has made this claim.

Lord Lilley: Theoretically it can, but de facto it cannot. The European Parliament did once sack the whole of the European Commission because of corruption when Madame Cresson appointed her dentist, but then the Commissioners were virtually all reappointed. If that is the noble Baroness's idea of democratic accountability, I have to tell her that it is one of the reasons I am in favour of getting out.

It is indeed that lack of accountability which makes me—

Lord Kerr of Kinlochard (CB): As regards the time the noble Lord is referring to, the European Parliament did sack the Commission.

Lord Lilley: I just mentioned that, so I wonder if the noble Lord was listening to me. The European Parliament did sack the Commissioners, but they were all reappointed—virtually all of them except for Madame Cresson.

I shall give way again so that the noble Lord can tell me what really happened.

Lord Kerr of Kinlochard: The Commission exercised its power, just as it is exercising its power now, in the case of some nominees for the next Commission, not to appoint them. When there is a complete slate, it will vote on that slate collectively. The European Parliament has a good deal more say over the appointment of the Executive than we in this House have over the appointment of, say, the Civil Service. While it is a good thing that we do not have a say over appointments to the Civil Service, the structure in Strasbourg and Brussels is more democratic than what we have here.

Lord Lilley: I believe that what the noble Lord has just told me is that it reappointed the slate, and that is broadly my recollection. But in practice it does not. However, what I said about the experience of southern Europe not leading to anyone being removed is a simple fact.

Baroness Crawley (Lab): I am grateful to the noble Lord. We were both around at the time, but I do not believe that Madame Cresson was reappointed.

Lord Lilley: That is exactly what I said. The desire to suggest that I did not say things that I did say is interesting.

I believe that it would be better if our laws are made in this country, that our borders are controlled from this country and that our money is spent in this country. That is because, over time, Ministers who are accountable to the people will adjust their policies, laws and regulations better to address the interests of the people. Of course, those with experience of Europe will say that that can be done at the European level, but it is more likely that the policies will reflect the interests of the people of this country if they are made by those who are accountable to the electorate. That, if you like, is the main reason that I and 17.4 million people voted to take back control of our laws, our borders and our money.

However, there is another respect in which it would be profoundly beneficial to our country if we did so, and it is one that may find rather more support among those who have just disagreed with me than they would expect. Once we are responsible for our own policies, Eurosceptics will no longer be able to blame Europe for all our problems. Europe enthusiasts will no longer be able to look to Europe for the solution to all our problems. We will know that our mistakes are our own and that we will have to make them and mend them, that our successes will be our own and that our responsibilities will be our own. That is something we should look forward to, and the sooner the better.

4.09 pm

Lord Hannay of Chiswick (CB): My Lords, in following the noble Lord, Lord Lilley, I suggest that he was far too modest when he recanted on his good work in agreeing the ending of the Uruguay Round and setting up both the World Trade Organization and the single market. I congratulate him. His success in that respect is not taken away by a selective quotation of trade figures

that gave a very big number for our increase in trade with third countries—a rather small quantum when compared with the smaller figure for the increase in the much larger quantum of our trade with the European Union. I conclude my point by saying, "Well done".

Lord Lilley: May I express my gratitude? Our trade with all countries outside the European Union is greater than our trade with the European Union and has grown faster than our trade with the European Union. That is why the share of our trade with the European Union has fallen from 60% to 45% and, on present trends, is set to fall to 30% by 2030.

Lord Hannay of Chiswick: I do not want to continue the battle of figures for too long but, of course, a large part of our trade with countries outside the European Union benefits enormously from the relationships which we, as a member of the European Union, have with those countries.

I was tempted to devote the whole of my contribution to the all-consuming topic of Brexit but I resisted that temptation. What is going on in north-east Syria and with the US's green light to the Turkish military action there? However often it denies that it gave the green light, I am afraid that President Trump's conversation with President Erdoğan and his subsequent tweet about the withdrawal of US troops was as green as green lights go. It was taken as such and quite a lot of people have now died as a consequence. It is not only a tragedy and a moral outrage; it also has serious negative consequences for our security and that of our European neighbours and partners. To play fast and loose with the handling of IS detainees and to destroy the one force that stood up for and shed its blood for our shared policies is not only morally reprehensible; it is, in policy terms, unconscionable.

I welcome the Government's initiative at the UN to bring the matter before the Security Council and to state clearly there that we oppose Turkey's actions. To its shame, the Security Council was struck by its usual paralysis when dealing with Syria and was unable to take any action. Now that the international opposition to what Turkey is doing has grown, is there not some scope for reverting to the UN Security Council and seeking agreement on action to stop this conflict and to bring about a ceasefire? Now that the US has adopted some—admittedly pretty inadequate—sanctions measures against Turkey, I would like the Minister, in replying to the debate, to let us know whether we too will go down that road, as surely we should. What is the scope of the decision taken by the EU earlier this week that its members would cease arms sales? I had a rather unsatisfactory exchange with the Minister yesterday because the words he used in his Statement were, as I described them, a little on the weaselly side. I hope we will hear that we will stop the sale of arms to Turkey and that the Minister will deal with these urgent questions, which need clear policy statements.

Turning to Brexit, I support and strongly endorse what the noble Earl, Lord Kinnoull, said about our policy of not attending European meetings. If I remember rightly, it was introduced in September—one of the greatest acts of bureaucratic vandalism that I have seen for a long time. Would the Minister be so good as to tell us one benefit that has accrued to this country as a result of that decision, apart from giving a lot of civil servants some more free time? I imagine that he and his colleagues would not consider that a benefit on the whole. Perhaps he could address that point.

In the current state of the negotiations, it would be pretty unwise to probe too deeply into the detail. I will not do so but here are one or two simple questions that I hope the Minister will be able to deal with when he replies to the debate. Do the Government now accept that, even if some sort of deal is struck by Friday this week with the European Council, there will necessarily have to be an extension of the Article 50 period to enable the processes of parliamentary approval on both sides to be completed and for the legislative processes necessary to bring our domestic law into line with any provisions in the deal to take place before we can ratify? Does he seriously believe that that can all happen before 31 October? If he says yes, I shall see whether his fingers are crossed behind his back.

Secondly, do the Government now recognise that any deal will require substantial changes in the deeply flawed proposals that they put on the table a little over a week ago, in particular with respect to the issue of consent by Stormont and the customs arrangements for trade within Ireland and between Northern Ireland and the rest of the UK? It would be nice to be told that the negotiations are no longer in that place.

Thirdly, do the Government also recognise that their wish to junk the commitments to a level playing field that were in the political declaration will have serious consequences for our subsequent relationship with the European Union? By saying that we no longer wish to stay in step with it on regulatory issues and to continue to accept the work of Europe-wide rules-setting bodies, such as those for aviation safety, the environment, labour and other issues, we are raising issues of deep concern that go far beyond the current obsession with issues relating to Northern Ireland. The Government's suggestion that a move in this direction, away from a level playing field, is designed to enable us to have higher standards has zero credibility. It is quite clear that it is designed to enable us to have lower standards.

The likelihood of any deal or agreement at this week's European Council and what it might contain are, necessarily, a mystery. I fear that they will have to remain so at least until this Saturday's emergency Session, if indeed that takes place. But what is no longer in doubt is that, in every area of policy, post-Brexit arrangements are either highly problematic—that certainly goes for the content of a UK-US trade agreement—or clearly less advantageous to us than the terms of our EU membership. That is the basis of the case for calling and holding a confirmatory referendum on any deal that may be struck or on leaving without a deal. The result of such a referendum would have to be accepted by all as binding on this occasion as it was not on the last one. It is the one way of cutting through to a real end game, not just bringing up the curtain on years of further negotiation in which the UK will hold very few cards. To those who assert that such a course of action would thwart the will of the people, I say this: well, you let this genie out of the bottle to settle an internal

[Lord Hannay of Chiswick]
dispute within one party, which it evidently did not do. Why not join us now in putting that genie back into the bottle?

Lord Lilley: Although I was not here, I was under the impression that the Act required to hold a referendum was voted through by 498 MPs in that House but not opposed by this House. To attribute it to one party is, therefore, incorrect.

Lord Hannay of Chiswick: My Lords, I am afraid that that is very far from the truth. The reason it was not opposed here was because of the Salisbury convention, which says that, if a party wins an overall majority in an election with such an issue in its manifesto, this House will not oppose legislation on that issue. That was the sole reason it was not opposed in this House—none other.

4.20 pm

Lord Flight (Con): My Lords, I want to talk about the constitution of Brexit, but I first make the point that my noble friend Lord Lilley is one of the few Members of this House who has been involved with all the technical issues, going back to our early days of membership, and, I think, knows more than most people and is well worth listening to. I agree very much with everything that he had to say.

Forty-five years ago, the Wilson Government introduced an important change to the unwritten British constitution. The first major referendum helped to address politically the then divisions on Europe, at the time within the Labour Party. More importantly, it established the precedent of putting an issue of major national importance above party politics for the people to decide upon directly by a referendum. Since then, Scotland's position vis-à-vis potential independence and changing the voting system to a PR basis have also been decided by referenda. It seems, therefore, unfortunate that the elitist remainer cabal has chosen to ignore the constitutional position of referenda and the role of the referendum of three years ago, in which the British people decided by a clear majority that they wished to leave the EU.

Membership of the EU has already undermined our historic, unwritten constitution, such that we will need to codify how we are governed to protect individual rights and liberties and to ensure that democracy can no longer be routinely subverted or disregarded by an arrogant, know-it-all elite. This will be a key component of a rebooted, post-Brexit, newly again independent UK. We should never again accept the dysfunctionality that has overshadowed the past three years, with many MPs trying to cancel the most important referendum decision in modern English history and the Speaker creating a rival, useless Executive. We do not want a US-style Supreme Court, its members being encouraged to turn themselves into yet another set of legislators. Our catastrophic membership of the EU, the leftward shift of the UK governing classes, the Blairite legal reforms—including the 1998 Human Rights Act—the emasculation of other forms of local government and the creation of a separate Supreme Court have all conspired to undermine our unwritten constitution. This also requires leaders of political parties to allow unwritten laws to guide their behaviour; a principle which remainers have trashed.

The first and most important reform should be the repeal of the Fixed-term Parliaments Act 2011; and, secondly, the power to conduct international treaty negotiations needs to be left solely to the Executive. The Speaker needs to be bound by clear rules. An MP who wants to change party should be obliged to call a by-election. Too many decisions have been taken by the courts rather than resolved by democratically elected politicians; the courts should not be unelected legislators. We need to allow direct and indirect democracy to co-exist, with voters able to force referenda as in Switzerland and the US, and with outcomes being legally binding.

During this period, we have also had the description of David Cameron's period as Prime Minister in his recently published book, which, ironically, sets out a powerful case for Brexit. Cameron started out as a Eurosceptic who thought that the irritations of the EU were a price worth paying for the free trade advantages. In power, he soon found out the EU horrors to which we had become exposed—the directives, the stitch-ups and the knives out for the City. He voted against a eurozone bailout package, which threatened to cost Britain dear, only to see the rules changed so that the UK veto would not count. This is in contrast to Germany's unfailing ability to get what it wants. Britain's ability, by contrast, has been non-existent. We have opposed only 70 pieces of EU legislation during our membership, none of which has been accepted. The process under which Juncker became the EC President shocked Cameron. He also appreciated that the EU process of powers being transferred to Brussels is a formula to trap democracy, using complex laws and regulation to suck in powers which are never given back.

In short, Cameron learned how the EU grasped and exercised its powers and became the strongest candidate for reform. He never explains how, after so many failures, he thought he could possibly achieve the necessary EU reforms. It is even more difficult to understand how Cameron thought he could win the fight for reform by backing remain. Nothing in his book explains why he thinks that EU membership is a good thing; nor is there a single example of anything emanating from Brussels that benefits Britain.

The best possible outcome of Brexit would, I believe, be a Canada-style free trade deal applying to the bulk of mutually traded goods, together with a clean exit, restoring full British sovereignty. As Cameron's book exposes, the latter is perhaps the most important. Britain's great democracy has been squeezed inside an unaccountable EU bureaucracy, where no one else in Europe has been willing to challenge this or give their voters the chance to escape. The risk is thus that, to achieve a deal, full British sovereignty is not restored. Here, I believe that it would be better to leave without a deal. While the remain cabal continues to plot and abuse the constitution to seek to frustrate Brexit, it is extraordinary that it does not seem to realise that an even bigger and growing majority of citizens who voted leave in the referendum would not accept remaining in the EU.

4.27 pm

Lord Alderdice (LD): My Lords, I do not intend to focus all that I wish to say solely on the question of Brexit, but there is one question that I would like to put to Her Majesty's Government on that subject.

Before the referendum, I spoke on a number of occasions in your Lordships' House and in other places about my fear, as a supporter of and as someone committed to the European project, that people's minds and hearts were turning away from that project, and that if there were not serious efforts by those of us who are supporters of the European Union and those who are functionaries of the European Union, that disenchantment would continue and become more serious. Sadly, it has been so. There was not the kind of reform that might have changed the course of history in the last few years.

We are now in a position where in this country there are now really only two realistic positions as far as most people are concerned. One is the position of my party: although we accept that people voted by a small majority to leave, we remain committed to the European Union and wish to persuade people to change their minds on that, and, if we were in government, we would revoke Article 50. That is an honourable and intellectually credible position. The alternative position, held by those committed to Brexit, is also honourable and credible, although it is not one with which I agree and the arguments against it are substantial.

Given the background that I come from, I have become increasingly concerned about polarisation in the community.

Lord Dykes (CB): I am grateful to the noble Lord for giving way. I apologise for interrupting when he has just begun his speech. A lot of people refer to the need for reform in the EU but never say what they mean or suggest individual details of that reform. Would the noble Lord care to enlighten us?

Lord Alderdice: I have given a number of speeches setting out exactly what I would suggest, and have suggested, over the years. I suggest that I continue with what I have to say, rather than focusing entirely on the question of Brexit and matters that have been gone over repeatedly.

My concern is that our country has become increasingly polarised by focusing on this question. It is not just in this country with Brexit. It is the zeitgeist all around the world: countries and communities are becoming deeply divided and polarised. This is a very serious situation. Therefore, my question to Her Majesty's Government—which I have discussed with some of my own colleagues—is this: whatever the outcome, remain or leave, what are we going to do subsequently to bring our people together? Whatever the outcome, a large percentage of the population will feel deeply unhappy. That is not a satisfactory situation. There is now no widely accepted public narrative in our country. We must work hard to recreate it. It will not happen automatically. I look forward to hearing what Her Majesty's Government believe they need to do and can do if they have their way on Brexit.

That leads me to the wider questions laid out in a remarkable speech by the noble Lord, Lord Kerr of Kinlochard, early in the debate yesterday. He mentioned a whole series of issues including the Kurds, Ukraine and Hong Kong. He described how we as a country cannot look with any great satisfaction or pride on our own role—or, in some cases, lack thereof—in those areas where we ought to have been able to take responsibility and have effect.

It is important not just to regret things but to try to understand why they have happened. One of the reasons is that, in today's world—as is right—it is no longer acceptable to use overwhelming force against those with whom you disagree. It is also not effective. The United States has involved itself in a whole series of wars in Afghanistan, in Iraq, in assistance to us in Libya and in Syria. None of them has been successful. All have made the situation worse.

We must therefore really begin to reflect in a serious way on how the rules have changed. The rules of politics and intervention have changed. How we govern our world is changing in ways that we do not understand. In the Prayers at the start of the day, the right reverend Prelate the Bishop of Coventry laid out from the scriptures how those who behave with integrity and virtue will be blessed. Yes, at times that has been the case. However, I think that the words of the psalmist in Psalm 37, verse 35, are more appropriate:

> "I have seen the wicked in great power, and spreading himself like a green bay tree".

It looks as though wickedness, arrogance and abuse are getting further than virtue at the moment.

We need to think about what is going on and why this is happening. The character of war has changed. We now have hybrid warfare, in which the old, accepted rules of international engagement have disappeared. New technology is being used in unprecedented ways. People are not in a position where they think rationally about decisions because they are so moved by how they feel, affected by social media and fake news. There are other changes in warfare coming down the track that are not even being discussed.

There was a time when this House would have preoccupied itself with the prospect of nuclear war, and rightly so. It is back on the real agenda, if not on the debate agenda. I was talking recently with a friend from Mumbai who said he was shocked and dismayed to hear many thoughtful middle and upper-middle-class people saying that a nuclear war with Pakistan would solve their problems; they had no concept of how global the problems would become. And it is not just India and Pakistan; it is Saudi Arabia and Iran, the situation with North Korea—and, of course, all China's neighbours are becoming increasingly anxious about how that is developing.

Neither we nor the public have been debating these issues, so preoccupied have we been with the problem of Brexit. That is not good leadership because, frankly, if we find ourselves in a war of that kind—we are already in a global cyber war—so many of the issues that we debate will ultimately become secondary.

So how do we address these kinds of problems? We do not address them by simply trying to reinforce the old ways. My noble friend Lord Campbell pointed out how NATO, upon which we depend, is falling to pieces.

[Lord Alderdice]

The Minister referred to "our ally Turkey"; well, "our ally Turkey" is doing things that we absolutely disavow and do not agree with at all. "Our ally Saudi Arabia", as Her Majesty's Government have referred to it, is consistently doing things that we do not identify with or support at all.

The situation is changing, and we must think carefully about that. What are Her Majesty's Government going to do, inside this building and beyond, to enable us to think and reflect on the changing character of war and the importance of engaging with that? It is not about how many ships we have, how many people we have in GCHQ or how many people we are devoting to fighting the old wars, but about how we can get a debate.

Before the referendum, I was asked by my colleagues if I would conduct a pro-remain campaign in Northern Ireland. I said, "No". They said, "Do you not believe in it?" I said, "I do". They said, "Well then, why do you not want to do this?" I said, "Because I know what will happen. If I, as a former Alliance leader conducted a pro-remain campaign, the Alliance Party, Sinn Féin and the SDLP would all vote 'Yes', the Ulster Unionists and the DUP would vote 'No', and I would have contributed to deepening a division that I have spent much of my life trying to heal". They said, "So what are you going to do?" I said, "I am going to get together with colleagues to conduct a public conversation where we will let all sides have their say, and encourage people to think and engage with the problems".

We did that. We gave a platform to Mr Farage, and the more times he came to Northern Ireland, the more the remain camp increased. Yet he and his colleagues felt that they were being given a platform and given respect. We need a public conversation, and not just about Brexit; we have come to a point where I do not think there is much enlightenment to be had on that. We need a public conversation on issues of war and peace—issues which could bring not only our economy to a shuddering halt but our civilisation to a disastrous end.

4.37 pm

Lord Alton of Liverpool (CB): My Lords, since we first met in the 1980s, it has always been a great pleasure to be able to speak with—and, in this case, after—the noble Lord, Lord Alderdice. I entirely agree with the points he made.

I have three relevant interests to declare: I co-chair the All-Party Parliamentary Group on North Korea, am vice-chairman of the All-Party Parliamentary Group on Uighurs and am a patron of Hong Kong Watch. I want to speak about north-east Syria and China.

How bitterly ironic it is that next week, we will mark the 70th anniversary of the universally applicable Geneva conventions. Along with the genocide convention, they represent two of the emasculated pillars of a rules-based international order, both of which are being compromised by Turkey's invasion of Syria. Both conventions attempt to protect the most vulnerable: civilians, wounded combatants, humanitarian workers, prisoners of war and journalists. The Geneva conventions insist that even wars have limits and that where those limits are violated, it can constitute a war crime.

Consider, then, what has happened in north-east Syria, where 450,000 people live within three miles of the border with Turkey. Following President Erdoğan's tweet announcing the invasion, and heavy bombardment of the Kurdish-held areas using NATO-standard army hardware, an estimated 150,000 civilians have been displaced and many killed, including children. Scores of Kurdish members of the Syrian Democratic Forces, the West's foremost ally in the fight against Daesh's genocide, have been killed, along with members of religious minorities whom they had been protecting.

Some American servicemen have rightly described the betrayal of the Kurds as a,

"stain on the national conscience".

Little wonder that betrayed Kurds have been repeating their belief that their only true friends are the mountains. How will history judge our dismal response to the long-standing Kurdish desire for a homeland? Consider that a female Kurdish politician, Hevrin Khalaf, secretary -general of the Future Syria Party, has been executed with others. Does the Minister regard these acts as war crimes? Who will be held to account and how?

Consider also our failure to stop the escape of hundreds of ISIS prisoners, prepare for the defeat of ISIS, establish arrangements to bring to justice those responsible for genocide or deal with thousands of foreign fighters and their children. Has the Minister been able to verify the evidence I sent to the noble Lord, Lord Ahmad of Wimbledon, and the noble Earl, Lord Howe, last weekend and which I referred to during the Urgent Question repeat yesterday, providing names of ISIS sympathisers now fighting alongside Turkish combatants and details of the camps from which ISIS genocidaires have escaped? How does the Minister respond to a report in today's *Daily Telegraph* that a source at the United Nations says that there is now,

"no chance for a regional court, it was minimal before this, and is impossible now"?

Holding people to account in this region does not have a good track record. Turkey should be particularly mindful of its own history in this region, not least in the mass killings of minorities, including Kurds, Assyrians, Greeks and Armenians. The Ottoman Empire used the Syrian desert of Deir ez-Zor as the main killing fields for the Armenians. Our generation has a duty to contest any offensive which targets people because of their nationality, ethnicity, religion, race or orientation. I am pleased that my genocide determination Bill came sixth in the ballot yesterday. I hope the Government will consider supporting it and remedy our utter failure to prosecute those responsible for mass murder.

It gives me no pleasure to predict that what Turkey has done will result in ethnic cleansing and, potentially, genocide and war crimes. Inevitably, it will add to the unprecedented 70.8 million people currently displaced worldwide—a staggering 37,000 people forced to flee their homes every single day. Erdoğan has already threatened to push a further 3.7 million Syrian refugees into Europe if we dare to criticise him. He says that Turkish-controlled territory will be a "safe zone". Recall that Srebrenica was in a United Nations "safe zone" in 1995. Would you want to stay in an Erdoğan safe zone? Would the Yazidis or Christians, who have

experienced one genocide, want to stay there? Pre-ISIS Christians numbered 130,000 people; now they number around 40,000. Will this be the final blow to Christianity in its cradle?

In the context of the wider regional challenges, we need to question everything from our sale of arms to the implication for countries that look to us or the United States to guarantee their safety and security. Today's *Times* is right to remind us of Theodore Roosevelt's dictum to,

"speak softly and carry a big stick".

In a polar opposite approach, the White House has done neither and left a dangerous power vacuum. As America lies diminished, Russia, Iran and ISIS are the beneficiaries. To at least partly correct this terrible blunder, we should get behind the bipartisan proposals of US Senators to sanction Turkey and target President Erdoğan's overseas assets.

I will also say something about China. We have just observed another 70th anniversary, of the Chinese Communists ending a long-running civil war with the Kuomintang and beginning 70 years of one-party rule. I have secured a full debate on Hong Kong for next Thursday but, for now, let me reflect that 30 years ago, after the horrors of the Cultural Revolution, the Chinese military murdered 10,000 people, mainly students wanting democratic reform.

Deng Xiaoping's welcome decision to place China on the road to reform has now been superseded by President Xi Jinping's decision to return to the omnipotent days of leaders for life. He may not have a Little Red Book, but in religious buildings he has replaced the Ten Commandments with his own list of Communist principles, and in China, a war has been declared on religious, faith and dissenting groups.

Noble Lords may have read this week's reports that at least 45 burial grounds of Uighurs have been destroyed. A million Uighurs are in detention centres in Xinjiang, and with tombs now being opened and human remains scattered, it is part of a campaign to destroy their identity. There is no escape from persecution, even in death. How can we be indifferent to the immolation of Tibetan Buddhist monks, the bulldozing of Protestant churches and allegations of the forced organ harvesting of Falun Gong practitioners and others, referred to earlier by my noble friend Lady Finlay?

In China, a social credit system has been established that buys favours in return for blind allegiance, with reports of the Supreme People's Court having a blacklist of 13 million people who can be punished if they fail to comply. The state intrudes into every aspect of life, including the taking of DNA, face recognition technology and vast surveillance. Simultaneously, aggressive propaganda campaigns are promoted overseas, and poor countries are forced into compliance as the price for economic aid through the belt and road initiative. This has been accompanied by the takeover of United Nations departments and agencies, and the rights of non-compliant Chinese citizens are trampled underfoot.

I have tabled parliamentary questions this week and written to the Foreign Secretary about the cases of two people—Lam Wing-kee and Lee Ming-che—that I recently heard about first-hand in Taiwan. I met one of them, and the wife of the other. I hope that when the Minister responds, he will give me an assurance that his noble friends at the Foreign and Commonwealth Office will take these cases seriously and give us a full explanation of what we can say and do to help them. Cases like theirs help to explain why Hong Kong has seen up to 2 million of its people on its streets demanding that the international treaty lodged at the United Nations guaranteeing "two systems, one country" is honoured. In reality, few people believe it will be honoured, which is why over 170 parliamentarians—including 119 from your Lordships' House—have signed a letter urging the Foreign Secretary to lead an international campaign, especially through the Commonwealth, to provide second citizenship and a second place of abode to all Hong Kong people who wish it, if the Communist Party of China disrespects the promises and commitments it has made. I pay great tribute to Luke de Pulford of the Conservative Party Human Rights Commission and Ben Rogers of Hong Kong Watch for the role they have played in leading that initiative.

I am, however, disappointed by the Foreign Office response, from anonymous officials, which barely referred to the proposals in the original letter. Although the Foreign Secretary has said that this was "an administrative error", I hope that his department will now seriously engage with an idea which might offer hope to the people of Hong Kong, quell the ferocity of the protests and challenge China's increasing hostility to the rule of law, democracy and human rights. Like the noble Lord, Lord Pendry, I hope that we will use Magnitsky powers, including sanctions against officials in China and Hong Kong who undermine the city's autonomy. I hope the Minister will tell us that we will be doing so.

I have mentioned the anniversaries of great international declarations and the anniversary of one-party rule and Tiananmen Square. Let me end on a more hopeful note, with the anniversary, on 9 November, of the fall of the Berlin Wall. For 28 years, families were torn apart and a city cruelly divided, with young people shot dead when they attempted to scale the wall or to escape to freedom. Is it too much to hope, as we commemorate the breaking of that wall, that human rights, democracy and the rule of law will come to the beleaguered people of the Middle East and the Far East?

4.48 pm

Lord Judd (Lab): My Lords, the thoughts of the noble Lord, Lord Alton, are always challenging.

Never has a country been in greater need of leadership which demonstrates vision with muscle and soul. The Government's programme, as set forward in the gracious Speech, fails lamentably on both scores. I find it incredible that with all the anxiety, stress and homelessness in our society, the gracious Speech had not even a sentence to say about housing.

We have, however, to look at our role in the world. The Government say that they want us to go on being a leading nation. They tell us that they will strengthen the Diplomatic Service. That needs our support: it needs strengthening—urgently. It will be a huge task for all those in the Diplomatic Service to rebuild Britain's reputation and rehabilitate the constructive role we used to play in world affairs. A speech whose very first sentence says that the Government's primary aim has been to leave the European Union by 31 October

[LORD JUDD]
reveals exactly what I have been talking about: it is not a vision with which people can identify and move forward. It is what the Government intend to do, and are doing, that matters.

Next year—2020—will be the 75th anniversary of the United Nations. I was a young boy at the time, and I think back to all the vision and excitement that went into its creation in 1945: the meetings here in London, the celebrations and the commitment of the Government—a bi-partisan commitment, across the country, that it was an adventure that must not fail. We are a permanent member of the Security Council. Can any noble Lord suggest that if the Security Council were being created today there would be universal support for one of the seats going to the United Kingdom? We are not seen as a constructive, dynamic player on the world scene. We are not seen as a responsible player on the world scene. We are not seen as central to many of the problems that Governments are discussing.

I will focus for a moment or two on some specifics. First, I am glad that the Government have recognised the tremendous significance of artificial intelligence. I would like to hear a bit more from the Government—and to have seen more in the gracious Speech—about the UK's role in the UK-based conference on this. It is not just a matter of recognising the issue: what do the Government want to achieve at the conference? Next month we also have the conference entitled "Time for Justice: Putting Survivors First". What will the Government's objective—their role and contribution—be in that conference? Similarly, what will our argument be at the UN climate change conference in Glasgow in 2020? We have done some very good things on climate change. We all know that there is further to go, but how are we proposing to gird the world up for the action necessary on an international scale?

The Prime Minister has indicated—and I am glad of that, even though at times it is implicit rather than explicit—his commitment to human rights and the Universal Declaration of Human Rights. As a young boy—I was 13 at the time—I was taken to Geneva by my father and had the privilege of meeting Eleanor Roosevelt. How that woman inspired me, as she did so many others. However, anyone who thinks that Eleanor Roosevelt, together with all the others involved, was making her contribution on human rights just as a nice way of organising society is misled. Certainly, it was going to be a better way of organising society to have the declaration as a basis of civilised behaviour, but she had a burning conviction, as did the others, with the experience of the Second World War, that human rights were fundamental to a secure and stable world community. If we are serious about the stable and secure world community to which we keep saying we are committed, what are we doing to strengthen the application of human rights within the world? As we have heard in this debate, there are the hugely important issues of Syria and Hong Kong. There are the ongoing, immense challenges for Palestine. There are also the thematic and wider issues of anti-Semitism and Islamophobia, and racial and religious prejudice in all its forms.

When we talk about the future of human rights, I wonder sometimes whether the time has not come to start examining the place of human social rights. For millions of people across the world, employment, health and education are every bit as important as the political rights. It is just possible that a cynic might ask, "What does this declaration of human rights add up to if it is not actually grappling with the immediate problems of humanity?"

I think that some of us recognise that we are a post-imperial nation and are not living in some sort of dream about being Churchill all over again. Incidentally, as a complete admirer of Churchill, I think that the misunderstanding of what he was all about is grotesque. Churchill was committed to the strengthening of Europe and the institutions that would be necessary for that. I was five at the time, but I can remember the excitement in my family when, at the beginning of the war, Churchill proposed that France and the United Kingdom should unite. Where has all that gone? Where has that dream gone? Where has that vision gone? Where is that sense of purpose in the world gone?

If we are to tackle these issues, multilateralism will be tremendously important. The international financial institutions have a great part to play in that. It is worrying that certain big issues are arising in the context of international financial institutions. We have a world which questions whether it should be dominated by the traditional powers, with the World Bank seen as a body whose chairmanship should always go to an American and the IMF seen as one whose chairmanship should always go to a European. Does this reflect the real the nature of the world community today?

I just want to finish on one other issue that has always concerned me and on which my thoughts about what is involved were very much strengthened as a Minister both in the Ministry of Defence and the Foreign Office, and indeed as Minister for Overseas Development. Arms control is an essential part of achieving stability in the world and of security. Can we hear a bit more about the Government's priorities on arms control and biological and chemical warfare? My goodness, we have experience now in Britain of the dangers and hazards in the chemical sphere.

An essential element of negotiating the non-proliferation treaty was the undertaking by the existing nuclear powers that they would contribute seriously and committedly to the reduction of nuclear weapons. Work has been done in that direction but it is not being done very much at the moment, if at all, with President Trump in the driving seat. What are the Government doing about this? I put one last question to the Government in this context. The international community as a whole within the UN system has been doing a lot of work on a treaty for the prohibition of nuclear weapons. Our record on this is one of obstructionism and disdain, seeing it as a threat to the NPT. The reality of the world's commitment is not going to go away, and surely the challenge to us in policy and diplomacy is to relate to the people who are so significant in this new treaty and to build positive relationships with them. There is no hope for the effective continuation of the operation of the NPT unless we have the good will and co-operation of the world as a whole.

If I have a dream, as an older man, it is that one day soon we will rejoin the world and spell out to the British people the excitement of belonging to and contributing to the world, and of effective governance in meeting all these challenges to which I have referred.

5.02 pm

Lord Butler of Brockwell (CB): My Lords, it is a privilege to follow the noble Lord, Lord Judd, whose championing of so many causes over the years I have greatly admired. As I have listened to this excellent debate, I have reflected on how refreshing it is to be debating the UK's role in the full range of foreign policy and defence issues, not just Brexit. We had an inspiring prospectus of the UK's opportunities from the Minister, who opened the debate, but more sobering assessments from others, notably the noble Lords, Lord Kerr of Kinlochard and Lord Ricketts. I feel, therefore, that I should apologise to the House for taking my eyes off that horizon and returning to the tripwire of Brexit before our feet.

As I have said previously, I hope that the Government can get a deal with the EU, although I agree with the noble Lord, Lord Hannay, that, for purely practical purposes, an extension to the deadline of 31 October looks inevitable. In that respect, I return to the point made by the noble and learned Lord, Lord Mackay of Clashfern, in yesterday's debate. He pointed out that Article 50 requires that a withdrawal agreement should be negotiated taking account of a framework for a future relationship but not determining the details of that relationship. It would be presumptuous on my part to endorse the noble and learned Lord's interpretation of the legal meaning of Article 50 but it seems to me, as it does to him, that the arrangements on the Irish border are part of the future relationship with the European Union. They turn crucially, for example, on the customs arrangement with the EU, which is surely part of the future relationship.

EU officials are quoted in this morning's newspaper as saying that, if an agreement is reached in the next day or two, the technical details may take until 1 January to finalise. If this is right, it is in the interests of both sides to leave the arrangements for the Irish border and the backstop out of the withdrawal agreement—the very thing the Government have been asking for. The withdrawal agreement could then be signed, perhaps by 31 October, and the technical details of the border settled in accordance with the agreed framework in the implementation period.

Yesterday, the noble Lord, Lord Kerr, was asked by the noble and learned Lord, Lord Mackay, and myself whether this was a correct interpretation of Article 50. The noble Lord did not agree with us. He said that it would not be wise to finalise the withdrawal agreement with technical details of this sort remaining to be settled, and that it would not be likely that either side would want to do so. I am glad to see the noble Lord in his place; he will correct me if I have misquoted him. However, he, the draftsman of Article 50, did not say that the suggestion of the noble and learned Lord and myself was based on an incorrect interpretation of that article. If a deal is reached with the EU in the next day or two and only the drafting of the technical details threatens to hold up the settling of the withdrawal agreement and our departure from the EU, it seems that it would be worth considering going ahead with the withdrawal agreement without the backdrop and leaving the technical details to be turned into legal form in the implementation period. This is meant to be a helpful suggestion to the Government and it would be helpful if the Minister would give his reaction to it in his winding-up speech.

Now I will say something that I think will disappoint my old boss, the noble Lord, Lord Heseltine. Over the past three and a half years, my position on Brexit has evolved. I continue to think that membership of the EU is overwhelmingly in the UK's and the EU's interest. Immediately after the referendum, I argued that, when the terms of our departure were known, it was the Government's duty to give the people a further vote on them. Depending on the result of a future election, or even of the legislation to implement an agreement, a further referendum has again become a possibility.

However, I regret to say that it is now too late for that. That train has left the station. Even if a further referendum resulted in a majority for remaining, it would not reunite our country. Those who believe in Brexit would not give up. We would be an internally divided and truculent partner in the EU, and that would not be in the EU's interests or ours. I have felt for some time that our, and the EU's, best interests lie in our leaving the EU with an agreement and turning our efforts to the new relationship. I supported Mrs May's deal.

Like the majority of this House, I voted for an amendment to the EU Trade Bill seeking a customs union with the EU. Of course, that would remove the difficulty over the Irish border at a stroke. From the outset of these negotiations, it has been clear that we could not go our own way in making trade deals with third countries without having border controls with the EU. That means border controls between Northern Ireland and the Irish Republic, which would be contrary to our obligations under the Belfast agreement. That might be inconvenient but it is true. Our Government have repeatedly refused to face up to that point; they have not dared to take the Trade Bill back to the Commons for fear that the Commons would endorse the amendment passed in this House. If we are to get Brexit done while honouring the Belfast agreement, we have to make some compromises. That is what the Government are having to face up to at this very moment. If they compromise too far, they risk losing the support of their Members in the House of Commons. If they do not compromise enough, they will not get the agreement of the Irish Government or the EU. There is indeed a narrow path to tread.

To those who argue that remaining in the single market and a customs union with the EU is Brexit in name only, I say that it is much more than that. We would free ourselves from the federal ambitions of the EU. We would revert to the sort of trading relationship we entered into in 1972 but with the advantage of the many collaborative agreements that we have reached with our European partners since that time. We have enough economic power and other strengths to have an influential and mutually beneficial future relationship with the EU.

[Lord Butler of Brockwell]

Over the past three and a half years, I have compromised in my views. If an agreement comes before the House of Commons on Saturday, I hope that others will do the same. It is overwhelmingly in our national interest and the interests of our children and grandchildren that we should do so.

5.12 pm

Baroness Helic (Con): My Lords, it is a privilege to speak in this House and a particular privilege to follow the noble Lord, Lord Judd. I often feel like a student when I speak here and fear that I will not deliver when I speak in front of him. I am very impressed to hear that there is someone in this Chamber who has met Eleanor Roosevelt and heard Prime Minister Churchill in years past—someone whom I hugely admire.

I was always under the impression—and I believe it was justified—that the United Kingdom and, at its best, the United States were the engines of progress, democracy and the rule of law internationally; and that the standards that we and our allies set, however imperfectly applied, were the best route to a more stable, secure and equal world. I am thinking in particular of the role of NATO and the building of international treaties and institutions, from the nuclear non-proliferation treaty to the International Criminal Court and the Arms Trade Treaty. However, Brexit has consumed our foreign policy for the last four years and profoundly affected the way we think and the manner in which we engage with other countries—which I hope will be only temporary.

Having left the Foreign Office four years ago, I am not privy to the instructions sent out to our diplomats. We can assume, however, that they spend the majority of their time explaining events in London to those in foreign capitals and urgently seeking trade deals to bridge the gap after our departure from the European Union. If we exclude Brexit and trade, it is hard to discern UK strategy in foreign affairs, or to avoid the impression that we are absent or distracted in areas where we have previously played a leading role.

I believe that this trend has been exacerbated by the constant change in leadership in the Foreign Office. Since mid-2014, we have had four Foreign Secretaries; on average, there has been a change every single year—with some consequences. The United Kingdom spent almost 20 years in Afghanistan, fighting the Taliban alongside our NATO allies; yet today, the United States is negotiating its withdrawal with the Taliban directly, without our direct participation, and excluding the elected Afghan Government, who we so painstakingly helped come into existence. In Syria, our closest ally, the United States, has upended years of our collective efforts to defeat ISIS and maintain some leverage in the conflict, pulling out of north-eastern Syria without any apparent consultation with any Government other than Turkey's, abandoning the very people we have supported and allowing the region to fall into Russia's lap.

Here, the dangerous uncertainty surrounding the custody of ISIS terrorists and their families confirms the misguided decision not to address this question decisively with our allies last year, bringing those responsible for crimes to justice in their countries of origin, or in an international or regional court. I believe that anyone who leaves this country to join an organisation bent on inflicting harm and destruction cannot be excused and should face the judgment of law. But I am staggered that we have shown so little faith in the strength of our institutions, and that we have failed to find a legal and effective way to defuse this significant strategic threat in a manner that strengthens, not undermines, our moral authority. Stripping British nationals of their citizenship and leaving them in a security vacuum in the Middle East does not serve our security and is a danger to the citizens of the countries where they have brought so much misery and damage. We cannot wash our hands of this problem.

I hope that my noble friend the Minister can shed light on what the strategy now is to avert the risk that some of the hardest and most dangerous of these terrorists might once again be free to roam the region, to mount an insurgency of the kind we have seen in Iraq or Afghanistan, or to pose a direct threat to citizens in Europe. I also hope that he can confirm what the UK's policy is towards the setting up of a regional court or international tribunal to prosecute ISIS terrorists.

I have sympathy for Ministers trying to chart a course in foreign policy, given the erratic nature of US policy under the current Administration. But I hope that on critical questions affecting the peace and security of the world, the UK will not try to split the difference between the US and other allies but will be absolutely clear where our interests and values lie and pursue those vigorously.

My noble friend opened his speech yesterday by warning that the rules-based international system is under attack, and I agree with him. But I respectfully note that it did not help that, when our German and French allies launched an alliance for multilateralism at this year's UN General Assembly, it appeared that the UK initially did not join the joint statement or plan to send a Minister. I hope that, in the future, we will be strongly aligned with all efforts to uphold the international rule of law and its core institutions.

Over the last four years of our intense preoccupation with Brexit, Russia has carried out aggressive actions in Syria and on the streets of this very country; the Government in Myanmar carried out the ethnic cleansing of over 1 million Rohingyas from Rakhine State; the Indian Government have unilaterally stripped away statehood from Kashmir; there is talk of changing borders and swapping populations in the Balkans; Saudi Arabia has openly murdered a journalist and imprisoned women's rights activists; the actions of some Gulf states have inflicted famine and starvation upon Yemen; China has imprisoned its Uighur population; and the number of displaced people and refugees has risen to over 75 million. This is in addition to the destabilising effects of the cyber era and other transnational threats, such as climate change. Some people will ask what we could have done differently to change the course of any of these crises. The answer is a little on our own, but a great deal with our allies.

I hope that, whatever happens at the end of this month, we have the strength as a country to rediscover our purpose, moral spine and diplomatic steel in foreign policy. There is an urgent need for a renewal of UK foreign policy, underpinned by the bipartisanship that, until Brexit, was a notable aspect of our strength. I hope that the

Government move beyond the slogan of "Global Britain" to a much clearer definition of the United Kingdom's international strategy and conduct an urgent review of our nation's long-term foreign policy interests and capabilities, given that the last strategic defence and security review was published in 2015.

I also hope the Government will be clear that there will no weakening of our commitment to upholding human rights internationally. I want to particularly highlight women's issues, which are always the first casualty of every crisis. I commend the Government for continuing their support of the Domestic Abuse Bill, which I look forward to debating in this Chamber. But I hope that this will be equally matched by support for the Preventing Sexual Violence in Conflict Initiative. Despite the great efforts of the Minister and my noble friend Lady Anelay, this has suffered from a lack of commitment and leadership from all four Foreign Secretaries since 2014, even though systematic rape has become a weapon of choice against women and girls, and men and boys, in the most complex conflicts we are facing today. I therefore hope that the PSVI conference planned for November, in London, will champion the creation of a permanent body focused on securing accountability for these crimes. We need prosecutions, not more awareness.

I also urge the Secretary of State for International Development, with whom I am yet to secure a meeting, to dedicate a small percentage of the overall development budget—1%—to fighting violence against women. I hope that the Government will also consider whether we need a women, peace and security Act in the United Kingdom, akin to that recently adopted in the United States.

Brexit is something we have done by choice. Foreign policy is what we must do from necessity and on behalf of every citizen of the United Kingdom. It is the most serious responsibility of any Government: on it hangs our security and our long-term prosperity. It cannot be seen through only the lens of Brexit, it cannot be driven by trade considerations alone and we cannot rely on aid to do the work of diplomacy. So I hope that, when we finally depart the EU—if that is where we end up—we take a deep breath, look critically around us and chart a course based on the totality of our interests, responsibilities and values as a nation, and one that rises to the severity of the challenges of our times.

5.23 pm

Lord Hussain (LD): My Lords, Her Majesty the Queen delivered her humble Address in your Lordships' House on the same day as their Royal Highnesses the Duke and Duchess of Cambridge began their four-day visit to Pakistan. The Pakistani nation has shown a very warm welcome to the visiting royal couple. Indeed, a royal visit shows the close relationship and level of understanding and co-operation between the two nations. I wish the royal couple all the best and hope that they enjoy every second of their trip to Pakistan. Her Majesty also spoke when the British nation is at a crossroads, with Brexit looming and uncertainty overshadowing the political and economic future of this country. I hope that this Government, which led this country into this mess, will take the nation out of this misery and uncertainty in the days to come.

This is a time when we may want to reflect on and review our foreign policy. Over the years of my political upbringing, I have witnessed war after war in one part of the world or another. I remember sitting in front of the television screen watching the mujaheddin fighting the Soviet army in Afghanistan when the British Prime Minister, Mrs Thatcher, and the US President, Ronald Reagan, went all the way to Peshawar to show their support for the mujaheddin. Then, many years later, I watched the present war on Afghanistan, led by the US coalition, to fight the very force that it supported during the Soviet occupation. I watched nine years of the Iran/Iraq war followed by the Iraq/Kuwait war, then the US-led wars in Iraq, Libya and Syria. I wonder, which country will be next, and why? During these wars, millions of people, including our own service men and women, have been killed and many more injured. Hundreds of thousands of people have been made homeless while many of them have been forced to flee their countries. Those countries have been left with devastating effects.

As a permanent member of the United Nations Security Council and a close ally of the United States, Britain had a huge role to play in these wars. If we look back and are honest with ourselves and our people, can we say what we have achieved that could not have been achieved without going to war in these countries? I would say: very little. If that is the case, is it not time to revisit our foreign policy and start playing a more effective role at the United Nations to help resolve these issues and bring justice to the world without going to war? A number of issues in this world need to be resolved. Some of them have been discussed at length in the United Nations and the UN has passed many resolutions to resolve them. However, if countries like Britain had played a more effective role, they would have been resolved a long time ago.

One of the long outstanding issues in the history of the United Nations is that of Kashmir. It is waiting to be resolved according to the United Nations resolutions of 1948 and 1949 along with many subsequent ones to bring justice to the people of the state and peace and prosperity to the whole region. The state of Jammu and Kashmir is going through the worst type of oppression. According to Amnesty International and the UN Commission on Human Rights, the Indian army is reported to have been involved in illegal detentions, torture, rape, killings and fake encounters, while there are thousands of missing persons and mass graves. Their reports clearly show that the Indian army is acting with complete impunity under the Armed Forces (Special Powers) Act 1958 in Kashmir. The UN Human Rights Commission, in its 2018 and 2019 reports, asked for free access to Kashmir to investigate the reports of these human rights violations. I believe that India has refused to entertain any of those requests. Kashmiris living inside the state and abroad, including roughly 1.3 million of them living in the UK, are looking to Britain for help to bring an end to their suffering and agony. What have the British Government done so far and what do they plan to do to help the UNCHR with regard to obtaining access to investigate human rights violations in Kashmir? Can the Minister tell the House what the Government are doing to facilitate a dialogue between India and Pakistan to

[Lord Hussain]
find a long-lasting solution to the issue of Kashmir in the spirit of the UN resolutions and the UN charter that is acceptable to India, Pakistan and the people of Kashmir?

5.28 pm

Baroness Quin: My Lords, the Queen's Speech this year was perhaps the strangest one that I have experienced since I entered the House of Commons in 1987. In some ways, it seemed a very odd occasion, with a Government that do not have a majority bringing forward a programme that does not seem to be implementable and a Government, moreover, which have been at odds with Parliament over the illegal Prorogation as well as over one of the central aspects of their Brexit policy. Indeed, the speech read a bit like an election pitch, and I almost wondered whether the whole occasion should perhaps be charged to the Conservatives' election campaign.

We have heard a couple of very interesting speeches, which makes me want to apologise, like the noble Lord, Lord Butler, for bringing us back to Brexit. We are all grateful in particular to the noble Baroness, Lady Helic, for bringing in so many important foreign policy issues on which we ought to be concentrating, and I certainly hope we have that opportunity in the future. None the less, I do want to speak about Brexit, partly because it is the crucial issue and partly because I was not able to speak in our most recent debate on the subject, on 2 October, which I felt was a remarkable debate marked by some great speeches and some deep knowledge.

In the debate on the Queen's Speech on Monday, the Leader of the House said that the views of the House of Lords were very important to the Government and to our political system. I would that this Government and their immediate predecessor had taken much more note of the views of the clear majority of this House on the Brexit issue. At the moment, we are all trying to focus on what is happening, on whether or not there will be a deal in the next few days, and what the nature of the deal will be. Will it be as good as Mrs May's deal? Will it be as good as the deal that we have now? The signs are not very promising.

There are also a lot of questions about timing. Is a deal practicable by 31 October? What about the translation of texts and all the legal processes that have to be gone through? Yesterday, from the Front Bench, my noble friend Lady Hayter raised the question of the provisions of the Constitutional Reform and Governance Act, and I hope the Minister will respond to the point that she raised. If there is a deal, what do the Government envisage as a transition period? Originally, we asked for a two-year transition period and the EU offered us 20 months. What do the Government now envisage? Do they envisage a 20-month transition or, say, just 14 months, which would go on to the end of December 2020? We should be grateful if the Government could clarify this.

I am glad to see that the Minister the noble Lord, Lord Ahmad of Wimbledon, is in his place, because I would like to refer to some of the points he mentioned yesterday which rather alarmed me. He gave a wildly optimistic picture of striking new trade arrangements, helping UK businesses to expand into new markets and maintaining the UK's leading position as,

"the number one destination in Europe for foreign direct investment".—[*Official Report*, 15/10/19; col.37.]

How easy is that going to be while we are exiting the EU and not being part of its single market or customs union?

As regards trade figures, while I am a great fan of India as a country, none the less we export twice as much to Belgium as we do to India. Great play is often made by the Government of seeking new markets, particularly in China. Germany already exports five times as much to China as we do, and it does not need to have left the European Union in order to do that. Why is the European Union apparently such a barrier to expanding our trade?

I was also concerned about the comments on freedom —that, somehow, we will be able to set our own rules and follow without influence. I do not understand how we will continue to export to the European Union unless we adopt their standards of consumer safety, environmental protection and so forth. Some of the freedom that has been talked about seems entirely illusory and worse than that because we will lose our influence in setting those rules. In recent years, industry has made the point very strongly to me that, within the single market, British industry has been very influential in setting the rules and the agenda. I was particularly impressed by the evidence that the Creative Industries Federation gave to me on that subject.

I am also alarmed about the effect on my own area in the north-east of England. Government figures for the past three years show that that part of the country will be more dramatically affected than anywhere else. I know that the noble Lord, Lord Callanan, shares my passion for the north-east of England, but I do not understand how the north-east will flourish if the government figures are anything like accurate for the next few years. That worries me a great deal. When we talk about foreign direct investment, we know that a lot of that investment is linked to the fact that we are part of the European single market. Indeed, Nissan made that position very clear in recent days. That also worries me a great deal.

As well as being very concerned about trading issues, I am also deeply concerned about the consequences for the future of our union if we go down the Brexit approach that we have been pursuing. I do not know the details of the latest proposals for a deal. Some people have said that it means re-erecting a border in the Irish Sea. I hope that that is not the case. But the arrangement that we have at the moment suits the economies of both Northern Ireland and the Republic of Ireland. To change that situation is something that we do at our peril. I worry about the future of Northern Ireland and the peace process as a result of this. I also worry about some of the other measures that the Government have been proposing. For example, how would the immigration Bill announced in the Queen's Speech that aims to end freedom of movement affect the border between Northern Ireland and the Republic? I would like an answer to that question from the Government.

I am also very concerned about the situation in Scotland. I say that with some emotion. I feel British rather than English, having both English and Scottish forebears—and indeed some Irish forebears, come to that. I campaigned ardently for Better Together in the referendum campaign and I live in Northumberland, not far from the border. The thought of that becoming an international border in the future fills me with absolute dismay. Again, if there were an independent Scotland with its own immigration policy, I do not see how you could avoid some sort of border control in that circumstance, which would be tragic given the history of our union and the fact that so many people, like me, have mixed heritage and therefore a British loyalty rather than simply a loyalty to a country of the UK.

I would like to see the choice given back to the people. I do not like referendums. As far as I know, I have never actually voted in a referendum during my time in Parliament. None the less, the logic of it seems to me that if people had the vote at the beginning of this process, they ought to have the vote on the final option. I do not think it would be particularly easy for either side to win that referendum, so I certainly do not approach it feeling that there would necessarily be a foregone conclusion, but it makes sense.

However, a lot of nonsense is still being talked about the first referendum. The Government frequently say that it was the biggest democratic exercise in our history. My understanding is that that is not correct. There was a bigger turnout in the 1992 general election, and I think more people actually voted in that election, even though the population of the UK was smaller then than now. If we go back even further in time, the turnout was greater also in the 1945 election, so the claim that it was the biggest democratic exercise does not hold water. Also, the result was very narrow and two parts of our union, Northern Ireland and Scotland, both voted remain. That provides a lot of difficulties for the future.

I also hear the argument being made repeatedly that, "Oh, it was in the parties' manifestos in the 2017 general election, so we must honour the result of the referendum", but the Government did not win an overall majority as a result of that election. My own part did not win either, so the electorate hardly gave a ringing endorsement to the manifesto of any party in that election. I think the people should be allowed to think again. The idea that we can just say to them "Well, you've thought once, but we will never allow you to think again" does not make any sense to me whatever.

As someone who knocked on a lot of doors during the referendum campaign—I will not be alone in this—some issues, such as the Northern Ireland one, were never mentioned at all on the doorstep, even though that issue has taken up so much of the debating time in this House subsequently, and quite rightly so. For all those reasons, the people should be asked to have a think again about it and give their view. We will have to live with the result, which might be one that I will like, but it might be one that I will not. In the meantime, I wish those marching this weekend on 19 October every success. The previous march was a huge success in calling for a people's vote and I hope that this one will be equally successful.

My final comment is a plea: if we do exit at the end of October or shortly afterwards, I hope we will not enter some phase whereby those on the leave side will be triumphalist about this situation. I was shocked that Jacob Rees-Mogg should talk about "remainiacs", as he did this week. I am also shocked by some of the language that is being used. I was shocked, perhaps not surprisingly, by a tweet from Nigel Farage, which showed a photograph of a large number of union jacks flying outside Parliament. It said:

"Share this photo to wind a Remainer up".

As a remainer, I am not wound up by the sight of the union jack. I am proud of it, it is our flag and it belongs to the whole country. I think the false patriotism that is being expounded by some people in this debate is absolutely contemptible.

We all care about the future of our country and the future of the parts of the country which we come from, so I hope that, whatever the outcome, triumphalism will be avoided. If my side won in another referendum and we stayed in the European Union, I can assure Members of this House that I would not be triumphalist. I might heave a huge sigh of relief, but I hope then I would be able to go on and tackle some of the other great issues of the day along with colleagues in this House—issues which have been raised in this debate—and look all together at the challenges and opportunities for our country as we move forward.

5.42 pm

Lord Dykes: My Lords, it is always a great honour and pleasure—I say that deliberately and with emphasis—to follow such an excellent speech by the noble Baroness, Lady Quin. She is one of our champions of the cause of Europe and we thank her for all the work she has been doing in the campaign for us to stay in the European Union, which she would prefer, as I would. We may have to face an alternative outcome but, none the less, what she said was, as usual, very wise; if only the Government could listen more wisely to that and her points, we would be in a better state. Unfortunately, the Government still seem to have not only a lack of democratic support in all their antics and activities, but also a closed mind about this matter of our membership of the European Union.

I agree with the meaning of what she was saying about the union flag. We are all proud of the national flag, but it is not the only thing we are proud of. We can be proud of going down to our village or our town, our county, our region, our country—one of four in the United Kingdom, England being the biggest and with, perhaps, sadly, more of a Brexit component in its voting propensities last time than in other parts in terms of percentages—and proud of the European Union, which has been one of the greatest achievements of all. I think the noble Baroness, Lady Quin, was reflecting the majority of speakers in this debate. If you go through the list, you will see how strong, once again, the majority for remaining in the European Union is in the House of Lords.

"Never since the second world war has Europe been so essential. Yet never has Europe been in such danger. Brexit stands as a symbol of that. It symbolises the crisis of a Europe that has failed to respond to its people's need for protection from the major shocks of the modern world. It also symbolises the European trap. The trap lies not in being part of the European Union; the trap is in

[LORD DYKES]

the lie and the irresponsibility that can destroy it. Who told the British people the truth about their post-Brexit future? Who spoke to them about losing access to the",

huge EU internal market?

"Who mentioned the risks to peace in Ireland of restoring the border? Retreating into nationalism offers nothing; it is rejection without an alternative. And this is the trap that threatens the whole of Europe: the anger mongers, backed by fake news, promise anything and everything.

We have to stand firm, proud and lucid, in the face of this manipulation and say first of all what Europe is. It is a",

massive,

"historic success: the reconciliation of a devasted continent is an unprecedented project of peace, prosperity and freedom. Let's never forget that".

I would like to say that those are my words but, sadly, they are not. I have to confess that they were the wise words of the President of the Republic of France, Emmanuel Macron, in an opinion piece in one of our more sensible newspapers on 6 March this year. That wisdom is needed now in this country as well. People have to answer those questions and search their minds, asking what people really think.

However, the dark clouds are there not only in the guise of the Prime Minister and the Government but in the British press, which we have to suffer. It has a very strange mixture of journals, as we know. Following the sinister and ruthless raid on the decent British press by Murdoch years ago and, subsequent to that, the activities of other non-UK personal-tax-paying owners—how convenient—many years ago as well as now, we have a cluster of increasingly neo-fascist comics masquerading as newspapers, with only a few credible papers left. The *Daily Mirror* has had to be a dramatic, colourful tabloid to keep up with the threat of competition from the *Sun*, but it has very sensible general, economic and political standing and opinions, and it is very keen on the European Union. Therefore, we have the *Daily Mirror* as a tabloid and at, I suppose, the other end of the spectrum the *Guardian* and the *Financial Times*, but we do not have any others.

It is one of the tragedies that the press's effect has been so massive, understandably, on very disgruntled voters in this country. They voted as they did in the referendum mainly because they were disgruntled, fed up with their lot and wanted to give the Government a kick in the teeth. That is a natural habit of all voters in referendums, and it has been experienced in other countries across the world. That was the main thing. It was not really anything to do with the intrinsic nature of Europe, although that was part of it; it was mainly that they were just fed up with their lot, fed up with austerity and fed up with the then Conservative Government and their austerity programme. I could quote from other respectable papers.

We are now suffering from Boris Johnson and all his antics and activities, and it will get worse before it gets better. He appears to have become more reasonable in the last few days because he has had to surrender—what a terrible word—to the pressure and wisdom of the EU negotiators, who have pointed out to him the realities of the modern world. However, the Prime Minister,

"is not a consistent upholder of proper process at all. On the contrary, he is a shameless and serial abuser of it. This week, the damage being done to this country by this most untrustworthy of prime ministers is scattered as far as the eye can see".

I agree with that and, again, I wish that those were my words but they appeared on 8 October in one of the more sensible papers that I have just mentioned. The next paragraph of that article continues:

"Only two weeks ago, do not forget, Mr Johnson suffered probably the most humiliating constitutional reprimand ever inflicted on a British prime minister, when the supreme court unanimously dismissed his five-week prorogation of parliament as unlawful. The judges found that his move breached the principle that a government must be held to account by a sovereign parliament. The embarrassing implication was that Mr Johnson misled the Queen".

I do not know how others in this House felt about the State Opening on Monday. I thought it was depressing and sad. I felt very great sympathy for Her Majesty. I must not bring her into any political context at all, but she looked very sad and unsmiling. I felt sympathy for her too with this problem that we have in this country, which must now be dealt with properly and with proper action. The main things that we need to focus on again are the advantages of our membership of the European Union and what it really means.

I once again say to the House: what is the Brexiteers' ridiculous, old-fashioned, 100 year-old obsession with getting back so-called national sovereignty? It is totally meaningless in the modern world, the world of interaction and interchange, with multinational, multiracial countries —as we are too, and becoming more interesting because of it—rather than the old-fashioned island we were even after the Second World War.

What is the intrinsic meaning of such old-fashioned sovereignty—150 years old, even—which no longer exists for any country, even the United States? I suppose that China might possibly think that it has that kind of sovereignty because of its huge growth and development in recent years. In reality, every country has to work with the others. The European Union provides that apparatus, machine and structure for giving rational interaction between member countries for the good of everybody. Sovereignty in the EU goes up as people make collective decisions within the system of sovereign countries working within integrated institutions that agree mainly through treaties and other things such as majority voting, with COREPER making decisions as well—all those things down below at the various stages. That is not losing national sovereignty and control of events in this country.

European Union legislation is only a minority of our total picture: most of our legislation is still national. The European issue was not really at all high on the barometers of this country until Cameron made the fatal mistake of becoming obsessed with it because he was terrified of UKIP—the Brexit Party more recently. That was his mistake. When he first became an MP, we had a long conversation—we were both Conservative MPs. He told me emphatically that any Tory leader must make sure that they did not get overly obsessed by the European issue. Look at the mistakes made by Cameron, May and—now, on a gigantic scale—Boris Johnson. We see the whole tragedy unfolding once again before our eyes.

There is only one solution. It is not even to say, "Let's maybe accept some kind of gradualist deal", as the noble Lord, Lord Butler, said—I sympathise with some of his arguments—but to say, "No, we resist this",

and see what the public say. The national march on 19 October will show a huge number of people who want to stay in the European Union. That is the only viable future for Britain.

5.52 pm

Baroness Crawley: It is always a pleasure to follow the noble Lord, Lord Dykes, with whom I agree very much, as well as my noble friend Lady Quin, who made an outstanding intervention.

That great American philosopher, Neil Sedaka, used to say—indeed, sing:

"Breaking up is hard to do".

My goodness, we have been exposed to that truth in the past three years. Debating the gracious Speech is a tradition that this House looks forward to. Whether one is in the Government or in opposition, aspects of the Government's programme are normally worthy of serious consideration, if not agreement.

However, we have been presented this year, extraordinarily, with what has been called by some a political stunt, by others a fantasy wish list and, by me, the next scene in the Whitehall farce that British politics has become. While the Government may have been promoting this farce, we are all to blame for the bad acting in it, in a way. The noble Lord, Lord Alderdice, is right: there has been far more fury than focus in this Brexit debate over these past three years. That is coming from a committed remainer such as myself—or remainiac, as we have been called. We are seen to be sticking so closely to our red lines that the whole country is now beginning to see red. The nation's dentists report that they have never known so many people to be grinding their teeth in their sleep.

As my noble friend Lady Quin said, we have had a draft Conservative manifesto put before us in a most elaborate and, I have to say, cynical fashion weeks before a probable general election—not usual, given the Government's severe lack of a majority—outlining a programme of work that will not even get started, let alone completed and implemented.

Yes, of course, looking at the gracious Speech, it would be absurd not to want the UK to punch above its weight in global affairs, invest more in our Armed Forces, keep to our NATO commitments or honour the Armed Forces covenant. Yet, as other noble Lords have asked, how will all this investment and global activity be possible when the same Government are contemplating a no-deal Brexit that could, according to independent sources, knock more than 8%—or 6% under the Prime Minister's deal—off our country's gross domestic product, thus beckoning a recession? There is all this talk of investment when we are about to cut ourselves off from our largest world trade partner.

As my noble friend Lady Hayter said in her authoritative speech yesterday, the UK's,

"relationship with our near neighbours, trading partners and close friends lies at the heart of our wider global defence, security, commercial and diplomatic relations",—[*Official Report*, 15/10/19; col. 38.]

with the rest of the world. The world is looking askance at us and wondering if, as a country, we are having a spectacular breakdown. The noble Lord, Lord Newby, in an excellent speech yesterday, spoke about his uncomfortable conversation with an Australian taxi driver; we have all had those conversations, in Paris, Dublin, New York or Birmingham. If only, as the poet said, we could see ourselves as others see us.

The gracious Speech refers to,

"seizing the opportunities that arise from leaving the European Union".

Will those opportunities, when they come to, say, farming, include the slaughter of livestock that cannot be exported in the event of no deal? Will they include the opportunity to remove ourselves and our future influence from European forums for vital research into science, medicine and technology, or the opportunity to see the possible end of our motor industry—I ask that as a former West Midlands MEP—or, perhaps, the opportunity no longer to share intelligence on much criminal and terrorist activity in Europe with our European partners? Of course, there is always the opportunity to mess up 20 years of peace and prosperity in Northern Ireland and a century of relations with our closest trading partner, the Republic of Ireland, which is at the moment staring at tens of thousands of job losses in the event of our no-deal Brexit. There may—as my noble friend Lady Quin said—be an opportunity to see the break-up of the United Kingdom.

The noble Lord, Lord Ahmad, for whom I have a great deal of respect, spoke yesterday about the "golden" trade opportunity of leaving the EU; he managed to say it with a straight face. This "golden" opportunity assumes that our trade with the world beyond the EU will quickly make up for our leaving. Yet, the ONS —the Office for National Statistics—tells a different story. It tells us that the EU accounts for 48% of goods exports from the UK, while goods imports from the EU are worth more than imports from the rest of the world combined. How long will that take to change?

This reminds me of a speech one Boris Johnson made to the Conservative Party conference in 2018 when he spoke about the fantastic trade opportunities soon to emerge between Peru—yes, Peru—and post-Brexit Britain. I do not know how much quinoa he expects us to eat per head of population, but because of geography —which even Boris Johnson cannot change—and because of the size of the country's GDP and its capacity, Peru, for all that it is a wonderful country, will never be a major trading partner for us. Of course, his implication was that EU membership has corrupted our awareness of so many other exciting parts of the world. Yet here on our doorstep, we are deliberately turning our back on the maximum trade opportunities we could squeeze from our largest and nearest trading partner, the EU.

Deal or no deal, I cannot for the life of me understand what these so-called Brexit opportunities are. What I can see is a future of diminished opportunities and a poorer, less tolerant, less outward-looking country, where civilising regulation in the workplace, equality, consumer rights and the environment are sacrificed to a deregulation vision of the "Singapore on the Thames", which my noble friend Lord Liddle referred to in his riveting speech yesterday. Perhaps it will be more like Armageddon-on-Sea. I see a future in which our grandchildren will not have the freedom their parents had to be British and European. Shame on us; this country and its young people deserve better. They deserve a confirmatory vote.

[Baroness Crawley]

The last time I spoke on Brexit in this Chamber, the noble Lord, Lord Callanan, whose patience has been much tried over the past few years, dismissed what I had to say by suggesting that I had taken too much sun during the Recess. I presume he was quoting Hamlet saying to Claudius that he is,

"too much i' the sun".

If the noble Lord can set out the sunlit upland opportunities of both a Brexit deal and a no-deal Brexit, I am willing to listen, but I cannot guarantee that I will be convinced.

6.02 pm

The Earl of Sandwich (CB): My Lords, I am sure that the noble Baroness will always remain in the sun, as far as this House is concerned.

International development is not listed in the title of this debate, but we have had some powerful speeches and it has of course cropped up from time to time. Our new Secretary of State led on it yesterday and our own noble Lord, Lord Ahmad, joined in. The Library briefing also made up for it. Incidentally, all cited the last Government's record on girls' education and climate change. When the noble Lord mentioned,

"our brave men and women",—[*Official Report*, 15/10/19; col. 35.]

engaged in dangerous areas of the world, I know he was including the army of humanitarian workers in the NGO sector as well.

Like most of the Opposition, my noble friend Lord Butler and a string of splendid Tory rebels, including the noble Lords, Lord Jopling and Lord Cormack, I was all prepared to support a plan which set out a new relationship with the EU. The noble and learned Lord, Lord Mackay, was clear and right to remind us of the blurred distinction between the withdrawal agreement and the plan, which we have not seen. Where is it? At the last moment, the Prime Minister keeps putting on new emperor's clothes to convince us that he has a plan, but we are still waiting. So how can we really comment today?

Some members of this Government are behaving like Little Englanders and not as part of a Government who regard the European Union as an equal partner to trade with in the future. Whether it is deliberate or not, they show an almost casual disregard for our combined history, mainly through two world wars but which goes back many centuries.

The empty chair issue is outrageous and does not recognise that, whatever the result, we still need to be present at the most critical EU meetings—the Foreign Affairs Council was mentioned by the noble Lord, Lord Kerr. It is a blinkered attitude and it is damaging to relationships that have been carefully built up over decades. My noble friend Lord Kinnoull has already made at least one strong complaint from the EU Committee, which he made again today. It is an attitude of mind in the present Cabinet that has to change and I do not see how our present Minister can answer it.

Today, however, I wish to talk about another third country and one of our most important allies over centuries. I was back in Delhi, in India, last month, and met a senior general serving with the UN. I asked him, rather angrily, why there was so little in the Indian press about Brexit. "You know", he said calmly, "Brexit is not really of much interest here. Our young people have moved on from the UK. They are looking to America". What a put-down. I felt humiliated but I knew he was right. Post-colonial India is not interested in our problems, unless we show that we are genuinely ready to rebuild that complicated relationship. My noble friend Lord Bilimoria keeps reminding us of this. The noble Lord, Lord Desai, said that countries such as India are not panting to get to know us. Lutyens' Delhi is no longer fit for purpose and I hear that the parliament itself, the Lok Sabha, is out of date and, like this building, needs a complete refit. But will we be there? Are we still in contention for new architecture and other deals in India? We should be, because our image in India needs a lot of improvement and we have made technical advances that can be shared, especially with the younger generation.

During Brexit, we deserve to be ignored by young Indians, just as we have alienated young Britons. What are we doing for those young Indians and Nepalis who would like to learn more about the UK? Are visa and immigration rules now really more favourable to them? Here, I declare a voluntary interest in the British College in Kathmandu, which has direct links with two UK universities so that students can obtain British degrees without leaving Nepal—they still cannot afford to come to the UK.

I was encouraged to read the Foreign Affairs Committee report published earlier this summer, *Building Bridges: Reawakening UK-India Ties*. It castigated the Government—I hope that the Minister has read it—for not developing stronger trade relations with India, including the promised but elusive FTA, and for restricting Indian students through crude immigration controls, while encouraging the Chinese. The Government's response came back fairly vigorously in August, protesting that things were changing in both these areas. There is no doubt that the immigration message is getting across at last, and that some of the bad mistakes of the Cameron Government are being put right. However, as the noble Baroness, Lady Quin, mentioned, a country such as Belgium has more trade with us than India. India has somehow been downplayed by this Government, and not just in the universities. Will the Government make more effort to regenerate our relationship through more cultural exchanges and more dynamic forms of trade and aid?

When I first went to India in the 1960s, Noel Coward plays were still being offered and PG Wodehouse was on the curriculum—I would not be surprised if they were still there. Today, we and they have much more to offer and celebrate: archaeology, modern literature, museum collections, theatre and film. The Indian diaspora often takes a lead in this.

What about China? With Trump's trade war with Beijing, the trouble in Hong Kong and other unsatisfied security and human rights concerns, there is a continual risk of rupture with China. Surely, therefore, it makes sense to rebuild our relations with that other Asian giant, which, while it may not have the economic muscle now, is one of the fastest-growing economies and must be destined to grow exponentially.

We know that Mr Modi is going to encourage the private sector and we should build on that. There will be human rights concerns about India too—notably the position of Muslims and other minorities, which we do mention in this House—but our shared democratic ideals will give us the strength to overcome those issues, if only we can get our act together.

I am pleased that some aid money—in line with the 0.7% target that we are very glad the Government are keeping to—is going to India's infrastructure and communications. Without these, the very poorest and most isolated communities will suffer. The noble Viscount, Lord Eccles, was in his seat just now. The Commonwealth Development Corporation, which he once led, is a useful bridge in this context, since it receives a huge proportion of the aid budget. It will, however, have to demonstrate that it can directly reach the poorest, and it knows that the Select Committees and the independent watchdog, ICAI, will be on its back if it does not. I hope, however, that the CDC and the Prosperity Fund programmes will not deter DfID from continuing to support non-governmental and faith programmes, which can demonstrate outreach to the very poorest. I have visited many of these programmes in the past and am concerned that the present climate among UK NGOs and their counterparts is unsteady, which means that some joint programmes may be at risk or unsustainable.

I compliment the Government on one particular scheme. The FCO—not DfID—is backing an extensive gender equality programme involving major textile companies in India. It is run by an Indian charity, Change Alliance, with backing from a UK NGO that has long experience of human rights and anti-slavery work in India. I am impressed that it is the FCO, and not DfID for once, behind this programme, because it has enormous potential and can be multiplied many times. Those are examples of good news.

Incidentally, this is in keeping with business practice in both countries. We should remember that in large Indian companies such as Tata and Shriram, philanthropy goes hand in hand with economic incentives. This surely provides an opportunity for UK companies that have similar moral, as well as financial, objectives.

Finally, the Foreign Affairs Committee also mentions India's bid for permanent membership of the Security Council, which was strongly supported by the US and the UK when Barack Obama was President. What is the UK's position now that both President and Prime Minister have changed and Kashmir has resurfaced as an issue in the Security Council? Do the Government still support the applications of India and all the so-called BRIC countries?

6.14 pm

Baroness Sheehan (LD): My Lords, it is always a pleasure to follow the noble Earl, Lord Sandwich. The noble Earl and I are usually in agreement, and he did not disappoint today. I pay tribute, too, to the other many fine contributions from noble Lords across the House. It is a privilege to take part in this debate.

This is obviously the international development slot and I intend to confine my remarks to it. The truth is that if we are to maintain Britain's standing on the international stage and claw back the prestige that has already been jeopardised, we must use every lever in our arsenal, and there is none so powerful as the moral authority of our position as an undoubted leader in the humanitarian aid and development arena.

Curiously, or maybe ominously, the Tory manifesto masquerading as the gracious Speech is silent on dedicating 0.7% of GNI to the aid budget. We have heard some positive noises from the Government, but will the Minister give a sure undertaking today that this Government will match the Liberal Democrats' unequivocal commitment to continue to dedicate 0.7% of GNI to the express purpose of alleviating poverty in the poorest countries of the world?

I wonder how many noble Lords took notice of the cover of the *Economist* just a few weeks ago. It showed a sort of stripy red, white and blue flag which colour-coded the average temperature for each year starting from the mid-1800s to the present day, as measured against the average temperature from 1971 to 2000. The colours range from deep blue, signifying very cold, to deep crimson, signifying very hot. It is, quite frankly, frightening to see the cumulative effect. Since the 2000s, we have been in red territory. Two out of the last three years have been deep crimson. The planet is warming at an accelerating rate. It is no wonder that people have taken to the streets. Like the suffragettes a century ago, they have right on their side.

Back in 1989, when I was doing my master's in environmental technology at Imperial College, Gro Harlem Brundtland's report, *Our Common Future*—I am sure that many noble Lords are familiar with it—was a sort of bible for those of us who wanted to make the world a better place. It recognised, even then, that environmental degradation had become a survival issue for developing nations and linked it directly to poverty and inequality.

Today, we see more starkly the catastrophic damage that extreme and unusual weather is wreaking across the world, and of course it is the poorest who always suffer the most. Their fragile existences are blown or washed away, often with devastating loss of life and livelihoods. Sometimes, the devastation comes with the slow but relentless drying out of the land that feeds them. Drought and famine stalk the Sahel, and recovery time between droughts is decreasing. All the while, the Amazon burns, destroying the lungs of the Earth that are vital carbon sinks and taking with them flora and fauna that have not even been catalogued yet. It is therefore right that the Liberal Democrats have undertaken not to ratify the Mercosur-EU free trade agreement until the Brazilian Government have put in place effective measures to protect forests and their indigenous peoples.

Here in the West, we shamelessly continue to support fossil fuel infrastructure in developing countries—infrastructure that will continue to pump out CO_2 well after 2050 in contravention of the Paris agreement. Where is the sense and justice in that?

In June this year, the Commons Environmental Audit Committee's report into UK Export Finance's support for fossil fuel infrastructure in developing countries found that, over a five-year period, it spent £2.4 billion supporting fossil fuel projects in low and middle-income countries. Liberal Democrats will stop

[Baroness Sheehan]
that and replace it with support for renewables. The argument for gas as a transition fuel is becoming less compelling by the day. The move in the West is to stop the use of gas, so why are we exporting production to developing countries? Let us face it: this infrastructure will soon be defunct, and stranded assets help no one.

The noble Lord, Lord Ahmad, in his opening remarks, mentioned both the International Development Infrastructure Commission and the Ayrton Fund for climate innovation. Turning first to the IDIC, I say at the outset that I welcome any honest initiative to encourage the private sector to invest in developing countries, because how else are we going to move from the billions to the trillions that are needed to achieve the sustainable development goals? These announcements are all well and good but often the devil is in the detail, so let us have the detail in the public domain. Can the Minister say when the website will be up? I have not been able to find it. Can he also say how the commission will deliver for the poorest people, which countries it will work in and, really importantly, how it will guard against corruption and make sure that tax receipts from the new enterprises stay in-country?

Turning to the Ayrton Fund, which I understand will be administered by the Department for Business, Energy and Industrial Strategy, I again ask the Minister: when can we expect the website? We need transparency to be sure that ODA money is not diverted from essential pro-poor programmes in developing countries. My concern is that it will be,

"poorly designed to deliver its primary purpose of addressing development challenges and advancing development for the poorest people and countries through research and innovation, and does not ensure its spending is a good use of UK aid".

So said ICAI—the Independent Commission for Aid Impact—in its evaluation of the Newton Fund, a similar £735 million research and innovation partnership fund managed by BEIS.

It does not inspire confidence that the £1 billion Ayrton Fund is anything other than a ruse to keep aid money in the UK to make up for the dropping of EU funding for science and innovation. Let us face it: it should not cost £1 billion of UK aid money to research how to tackle climate change in developing countries—just stop backing new fossil-fuel infrastructure. There would be £2.4 billion straight away to fund the fight against climate change, going straight to the people who know what to do with it.

I am going to move off at a tangent to a different but equally important subject, as I want to say a few words about building longevity into DfID's programmes. Too often, when I have visited projects in developing countries, the feedback has been, "That was a great programme while it lasted, but what next?" This "What next?" question is a vexing one. Would it not be sensible to design long-term sustainability into a programme as an integral and essential element at the outset, for all DfID-funded projects? I would welcome the Minister's remarks on that.

To conclude, I will say a few words about the sustainable development goals. The SDGs are a transformational vision, one that recognises the interconnectedness of all life on Earth, from the Arctic to the Antarctic and every latitude in between. To quote *Our Common Future*:

"The environment does not exist as a sphere separate from human actions, ambitions, and needs",

and we cannot "defend it in isolation". Climate is a matter for the whole of government and cannot be shunted off to one government department. Can the Minister say what this Government will do to ensure coherence of policy across government departments to tackle the climate emergency? Will he also give an assurance that the autonomy of DfID will be safeguarded so that the UK's much-respected expertise in the development arena is readily available in this crucial coming decade, in which progress to reach the SDGs must be accelerated? This will be of the utmost importance. In order to realise the SDGs, we will need leadership of the highest calibre, and it would be a wanton act if this Government were to sacrifice DfID on the altar of the right-wing press at this moment in time.

6.25 pm

Viscount Waverley (CB): My Lords, given the hour, I shall be brief. No matter the outcome of the negotiations, which we await with keen anticipation, the complexity of political hoops still needs to be overcome. I hope that shortly we can move on, but it must be right to do so only when the time is right.

The UK is embarking into uncharted waters. Britain's institutions have been, and will continue to be, tested to the limit. Regardless of the outcome, a new approach to the implementation of our foreign policy output is paramount. My attending the Speakers of Eurasian Countries' Parliaments conference on Greater Eurasia in Kazakhstan last week, made up of 41 countries, was testament to that, given that I was the only person from the UK in attendance. That is wrong. Engagement is everything.

Our withdrawal from an interconnected world now demands to be reversed by a strategy of constant engagement. The role of parliaments must increase. I will encourage mechanisms in this new Session to enable more outward-looking mechanisms to assist us in embracing, defending or challenging our persona around the world. We have reconciled ourselves to the fact that Britain now needs to recalibrate its approach to one that fully accounts for a world of new realities if we are to neutralise the economic impact of Brexit.

However, let us gather fortitude in the knowledge that when the going gets tough, we need to, and can, get going. We will make a success of this. Decades will pass before the true results can be fully gauged. It is, after all, the gift of Governments of the day to tailor policy to suit the occasion.

Trade deals will have to be forged at breakneck speed, but not at the risk of cutting corners and forgetting what we stand for as a nation. I identify with the positive nature of the Minister's opening remarks on trade but would counsel on the creation of partnership that it should be not just with Commonwealth members, for example, to which he referred, but internally in this country, recognising that the role of government is to create the environment in which our private sector-driven economy can thrive. Much more of a

working relationship should be worked on between the public and private sectors in this country. I will press for the release of the trade commissioners' assessments of the opportunities within their regions, together with their plans. I have attempted to do this on multiple occasions, with no success, but I really would encourage a degree of transparency—working together as a team with our civil servants to get this right in the national interest.

The concern is that the rules-based order as we know it is under threat in certain quarters. Threats to the nation's security are no longer the sole domain of state players. Increased connectivity has exposed the vulnerabilities of critical national infrastructure. It should be remembered that, just a short while ago, China, France, the United States, Russia and the United Kingdom forged a programme.

In the years ahead, Britain has an important global role to play, with our influence being enhanced by the necessity of politics not just of confrontation but of constructive engagement. Our time will shortly be upon us, but we could do well to reflect also that a new set of nations are on the climb and that to be a global player in this interconnected world is to listen and to strive for positive engagement.

6.29 pm

Baroness Northover (LD): My Lords, this has been a most unusual Queen's Speech and I fully agree on that with the noble Baroness, Lady Quin. Usually, a Queen's Speech occurs after a general election or as a Government complete one annual or biennial cycle of work and prepare for the next. However, we now have a Queen's Speech at a time of national crisis pretending that there is not a national crisis, as if it were intended that the rather scanty measures outlined here would now be taken forward. Nevertheless, yesterday and today we have debated foreign affairs, defence, international trade and international development, but arching over all is Brexit.

We had an interesting speech, as we would expect, from the noble Lord, Lord Ahmad, although he clearly felt less comfortable dealing with Brexit and trade and the international challenges that we face there. Of course, we would expect his colleague to do his very best to respond to the 43 speeches in the debate and to write to all of us with a very full response, answering fully any points that he had failed to pick up. Something tells me, however, that this might not quite pan out that way.

Let us look at this Queen's Speech. Perhaps here I could recommend a new book by Ian McEwan, *Cockroach*. It introduces an interesting concept that he calls reversalism. There are parallels to *Nineteen Eighty-Four* and doublethink, with which noble Lords might be more familiar. The Queen's Speech states that we are working towards a new partnership with the EU,

"based on free trade and friendly co-operation".

Other noble Lords have made reference to that. However, we already have totally free trade with the EU through the customs union and the single market. Therefore, what we are aiming at—doublespeak-wise—is less free trade, as the noble Baroness, Lady Quin, and others have pointed out.

Perhaps it means free trade with others. For most countries around the world, we have preferential arrangements by virtue of being in the EU, but maybe we want to improve these. No, largely we want to roll them over. How have we got on? The Government have just published where we have got to. Arrangement after arrangement was declared "not ready" for 31 October. This is just as well, when you look at some of the trumpeted new opportunities: Japan, 2.27% of UK trade; Canada, 1.41%. Those are the ones where there is something other than a zero to the left of the decimal point. There are others into which we have been putting lots of effort and resource: Albania, for example, which is 0.00% of UK trade, and so on.

I return to the Queen's Speech. Its reference to "friendly co-operation" with the EU is presumably in keeping with the Downing Street memo, which states:

"We obviously won't give any undertakings about co-operative behaviour, everything to do with 'duty of sincere co-operation' will be in the toilet".

There is already evidence of that: pulling out of EU meetings and the policy of the empty chair. The noble Earl, Lord Kinnoull, has spelled out quite how damaging that empty chair is. I look forward to hearing from the Minister what its benefits are. It is no wonder that the noble Lord, Lord Cormack, noted that his party has behaved in a "shameful and stupid way", particularly recently.

The noble Lord, Lord Jopling, bemoaned the "state … of my party" and spoke of an "extremist caucus" within it. That is not a reason to bow to it. The Queen's Speech mentions "a sensible fiscal strategy", yet the IFS says that we have become untethered as the Government seek to outspend Labour and at the same time damage our economy by leaving the EU.

The Queen's Speech then says:

"My Government will bring forward measures to protect individuals, families and their homes".

However, anyone who read the impact assessments of Brexit would see that those needing the most help—the poorest, in the poorest regions—would be hit the hardest by leaving the EU. Listen also to my noble friend Lady Miller on the situation of UK citizens in the rest of the EU, who do not know where they will stand on pensions, health or anything else, and of course those who are in our country.

What of the United Kingdom itself? Did the Minister hear Jonathan Powell speak this morning of a customs border in the Irish Sea as being a step towards a united Ireland? Did he note that Nicola Sturgeon, who previously has urged caution on her party, this weekend let it off the hook and demanded a referendum on Scottish independence in 2020? Did he hear the noble Lord, Lord Wigley, say yesterday that the time had come for Wales—not even mentioned in the Queen's Speech—to plough its own independent furrow? Risks of tariffs of 48% on Welsh sheep farmers would kill that industry, which would even change the ancient landscape of Wales, as the noble Lord, Lord Jopling, would recognise.

Then the Speech says:

"My Government will be at the forefront of efforts to solve the most complex international security issues".

[Baroness Northover]

Can the Minister explain therefore why his right honourable friend the Foreign Secretary chose not to mention Syria or Turkey when he made a speech the other day at the NATO Parliamentary Assembly? Yes, he was asked about it in Q&A, but it was not in the speech he chose to deliver. At the forefront, was he?

Then we hear that the Government will,

"work alongside international partners to solve the most pressing global challenges".

Noble Lords over the last two days have given very short shrift to that. For anybody who was not here yesterday afternoon, I recommend that they read the forensic speeches by the noble Lords, Lord Kerr and Lord Ricketts, on Britain's role in the world. I hope that the Ministers have now read it. Both Front-Benchers were staring down at their phones throughout the speech of the noble Lord, Lord Kerr. The noble Baroness, Lady Berridge, noted that I got up just to check that as he spoke; she looked at me with a question in her eyes. The noble Lord, Lord Callanan, received an amusing thing on his phone that made him smile—it certainly was not what the noble Lord, Lord Kerr, was saying.

The noble Lord, Lord Kerr, took apart the very notion that the UK still is playing a leading part in foreign affairs, let alone that it will in the future. He contrasted, for example, John Major's role when the Kurdish area of northern Iraq was under attack—now the most settled area of that country—with what has happened just now in north-east Syria. On Syria, the noble Lord, Lord Ricketts, stated that we do not have,

"any discernible impact at all",—[*Official Report*, 15/10/19; col. 89.]

and my noble friend Lord Wallace said:

"A British foreign policy without European co-operation at its heart is like a polo: it has a hole in its centre".—[*Official Report*, 15/10/19; col. 42.]

Those who have been here today will have heard the powerful speech of my noble friend Lord Campbell on how challenged NATO itself is today, despite global crises, including those in the Middle East, and how this is even now playing into the hands of Putin. There was the speech from my noble friend Lord Alderdice on what we must do to look at the character of conflict at all levels in the world today, and there was the most extraordinary contribution from the noble Baroness, Lady Helic, who said that she could not discern a UK strategy in foreign affairs and that we needed to rediscover our purpose—our moral spine.

The greatest crisis facing us today is surely climate change, as flagged up by my noble friend Lady Sheehan. The UK led in the EU in an ambitious approach to the Paris climate change agreement, which then had international effect. Had we the slightest ability to persuade the US not to pull out of that agreement? To what extent do we dare risk Trump's ire—even when a poor boy is knocked down by an American, who then retreats to the United States? The noble Lord, Lord Ricketts, points out that we do not even have an ambassador appointed in the US, and it is not as if they have to learn a new language.

What are we doing to defend human rights worldwide? I know that the noble Lord, Lord Ahmad, takes his responsibility there seriously, but the *Economist* recently reported on an assessment of the UK at the UN. I quote:

"'We've lost our marbles', one diplomat is quoted as saying … Fearing defeat or retribution, Britain now champions fewer, less difficult causes. Wary of Chinese ire, it was loth to condemn Myanmar over the Rohingyas. It agonised over tabling a resolution on Yemen, fearing Saudi hostility".

We can no longer count on automatic EU support. The UK, as everyone knows, failed to get a judge reappointed to the International Court of Justice in 2017, for the first time since we helped set it up. The *Economist* reports that there is,

"'increasing nervousness' about Britain's chances of being re-elected to the Human Rights Council in 2021".

Yet, as many noble Lords have said, there are many pressing human rights problems, including in Syria, which was raised by many noble Lords; Kashmir, mentioned by my noble friend Lord Hussain and others; China; Hong Kong; and North Korea. The noble Lord, Lord Alton, as ever, flagged up some appalling challenges. The Queen's Speech did not even mention sustainable development goals, which the world is supposed to be addressing. Why not?

Where are we on security and defence? They cropped up less often than our strategy on foreign affairs generally, but the Government were urged to do more by the noble Lord, Lord Sterling, and the noble and gallant Lord, Lord Craig. The noble Lord, Lord Anderson, indicated that we would be retrenching rather than expanding, and will no longer have the leverage of influence via the EU that we have had until now. Before 2016, Britain mobilised EU money to support the African Union mission in Somalia, but France has since lobbied for the EU to focus on the Sahel instead, which has forced Britain to contribute more itself.

The battle raging over our membership of the EU is about so much more than our economic strength or global influence. The right reverend Prelate the Bishop of Coventry movingly recounted the story of his own family. His son married his German wife amid the ruins of Coventry Cathedral, with grandmothers there whose fathers had fought each other in the Second World War. As the noble Baroness, Lady Hayter, made very clear, the EU has been an outstanding project for peace.

Right now, we are in a national crisis, with Brexit unresolved and no outcome considered to give the UK a better deal than we have now. We do not yet know what will emerge today or over the next few days, but it is essential that any deal is properly scrutinised and the full impact of leaving the EU assessed. At the moment, the focus is on the Northern Irish border, but it seems that the plan generally is to diverge further from the EU, with an even harder Brexit than Mrs May proposed—as laid out by the noble Lord, Lord Hannay.

The Government's figures suggest the cost could be up to £49 billion a year, threatening jobs and public services. If, as seems to be the case, the Government are aiming for a low-regulation regime, access to our biggest market will be even more limited. The Government have been fearful all along of letting any information

get out. They are right; the real impact of what they are doing would be revealed. Now is the time that it must be analysed and then—as has been said by my noble friends Lord Wrigglesworth and Lord Taverne, and the noble Lord, Lord Hannay, and others—any deal must be put to the people in a vote with the option to remain in the EU. After that, we can have a proper Queen's Speech and move forwards.

6.44 pm

Lord Collins of Highbury (Lab): My Lords, like many other noble Lords, I want to open briefly on Brexit. I cannot do more than repeat the words of Boris Johnson to the 1922 Committee an hour ago when he said:

"We are close to the summit … but it is still shrouded in mist".

That is exactly where we are today. I hope that we will be able to have proper scrutiny of any proposed deal and that this House will have a full opportunity to scrutinise it properly. I do not really want to add much to the excellent introduction to this debate by my noble friend Lady Hayter and, like many other noble Lords, I feel very strongly that in the end it is the people who should have the final say on whether to remain or to leave with the best possible deal. By the way, I do not accept the rationale that a deregulated economy is one that will build success. We have had strong guarantees on consumer rights and workers' rights, and it is really important that this country is able to see what the future holds in terms of those important issues.

I want to pick up a couple of points, especially the point made yesterday by the right reverend Prelate the Bishop of Coventry in his excellent contribution and the point made by the noble Baroness, Lady Finlay of Llandaff, in her contribution today. This is not simply about relationships with countries and Governments; it is very much about relationships with peoples. That is how we will be successful in our future relationships with many countries. Unfortunately, I recently had to spend a couple of weeks in hospital. Three of the nurses who treated me in the special care unit were from European countries. While we might give them guarantees, all three said that they felt rejected by this country. We must address that issue. I would also note that my husband is Spanish and that, for the first time in 22 years in this country, after the referendum he faced racist abuse while working in a shop: "Go back home", he was told. I hope that the Minister will address the contribution made by the right reverend Prelate the Bishop of Coventry. Whatever happens in terms of Brexit or remain, we have to focus on building trust with the people of Europe. It is vital that we do so.

This debate is about the gracious Speech and the issues of foreign policy, international development, international trade and defence. In the gracious Speech, the Government have said that they will be at the forefront of solving the "most complex international security issues" and "pressing global challenges". Yet, as the noble Lord, Lord Kerr of Kinlochard, argued, it is difficult to see the evidence for that. Where have we been in stopping the horrors unfolding in northern Syria, as the noble Lords, Lord Hylton and Lord Hannay, reminded us, or ending the civil war and humanitarian crisis in Yemen? The Government have sat idly by as the President of the US wrecks the world's efforts to tackle climate change and nuclear proliferation.

As we have heard in the debate, a successful foreign policy requires development, defence and diplomacy going together. As noble Lords have highlighted, including my noble friend Lord West, successive Conservative Prime Ministers since 2010 have cut our defence capability, undermining our ability to keep to our international commitments and obligations. We needed to see in the Gracious Speech the demonstration of a joined-up, whole-government approach. If, as the noble Lord, Lord Ahmad, argued yesterday, the UK's foreign policy is to be used to promote our values and not only our commercial interests, then I would have expected a greater focus on human rights and a review of the Government's regime for arms exports.

As the noble Baroness, Lady Tonge, said yesterday, we have an FCO condemning human rights abuses and a Department for International Trade supporting closer relationships—constant mixed messages. This is not joined-up government. In June, the Court of Appeal ruled British arms sales to Saudi Arabia unlawful. Ministers were found to have illegally approved arms sales without proper assessment of the risk this would cause to civilians. In September, the Government admitted that the UK had breached the court order three times by unlawfully issuing export licences for arms sales to Saudi Arabia. I hope the Minister will give a clear assurance that there will be no more breaches.

At the Tory conference, Dominic Raab announced plans for a new Magnitsky law to place visa bans and asset freezes on those individuals deemed responsible for serious human rights abuses, including torture. It was this House that delivered amendments to the then Sanctions and Anti-Money Laundering Bill, introducing these powers. I hope the Minister can tell us what Dominic Raab has in mind to ensure that those responsible for the grossest violations of human rights—as my noble friend Lord Pendry highlighted—face the consequences of their actions.

As the noble Lord, Lord Campbell of Pittenweem, put it, with Trump's election and Brexit, we have seen the twin pillars of the post-war strategy completely undermined. As my noble friend Lord Judd said, our response should be to strengthen our commitment to the United Nations while acknowledging its shortcomings, particularly in the light of repeated abuses of the veto power by certain members of the UN Security Council.

Many noble Lords mentioned the role of the Commonwealth, and I certainly recognise its importance. It is a family of nations that, through its charter, provides the means to promote the values of democracy, transparency, the rule of law and human rights. The Minister the noble Lord, Lord Ahmad, referred to our role as chair-in-office, but where are we on the commitments we made at the end of CHOGM? Despite some progress, we still have Commonwealth countries where LGBT people face not only discrimination and anti-gay laws but increased violence. I hope that, in the Minister's response, we can have greater detail as to how we are supporting efforts to ensure the decriminalisation of homosexuality.

[Lord Collins of Highbury]

If the Government were serious about Britain's part in creating a just, safe, secure and sustainable planet, free from the fear of hunger and poverty, then I would have expected a clear focus in the gracious Speech on the United Nations 2030 agenda, building a unified approach to deliver the sustainable development goals and to ensure that we leave nobody behind. The Government could have used the gracious Speech to signal a new approach to the SDGs by creating a new policy unit in No. 10 dedicated to them, with a Cabinet Minister responsible for co-ordinating across Whitehall.

There are various moments during the coming year when DfID and our Government can accelerate progress on tackling global poverty. I take particular interest in the Tokyo Nutrition for Growth summit. Here, I have to declare an interest as chair of the APPG on Nutrition for Growth. Malnutrition drives ill health and undermines the effectiveness of health systems. It prevents children, particularly girls, from meeting their educational and economic potential. In addition, food systems are a major driver of climate change and are extremely sensitive to climate shocks. DfID has taken some great steps in all of these areas, but in order to unlock the full benefits of DfID's support for health, education, climate and economic development, nutrition must be a priority. I therefore ask the Minister to see that DfID delivers on its remaining 2013 Nutrition for Growth commitments and takes full advantage of the Tokyo summit in 2020.

After President Trump's unilateral withdrawal from the Paris agreement, I welcomed the commitment in the 2017 gracious Speech for Britain to be in the lead in creating a sustainable planet. I hope that the Minister will give us details on how we strengthen work with our allies, particularly in the EU, on delivering the climate change agreement. Loss and damage from climate disaster is already having a severe impact on vulnerable countries and diminishing their capacity to develop. Poorer countries have felt the impacts of climate change first and worst, yet they have done the least to cause it. Climate change has mostly been caused by rich, developed, industrialised countries that have developed their economies while burning fossil fuels.

On our own contribution, according to the Committee on Climate Change, the UK is way off target to meet its fourth carbon budget in 2023-27 and its fifth carbon budget in 2028-32. Last year, the committee set out 25 headline policy actions for the year ahead. Twelve months later, only one has been delivered in full, and 10 of the actions have not even shown partial progress.

International trade was a key theme over the past two days. I had hoped to see in Her Majesty's gracious Speech clear proposals to tighten the rules governing corporate responsibility and accountability for abuses in the global supply chain. They were not there. On global trade agreements, there are opportunities, but principles must govern them. The most important is a pro-poor and pro-development policy. In the Trade Bill, we demanded in this House, as the noble Baroness, Lady Finlay, reminded us, the maintenance of high social and environmental standards in trade agreements post Brexit to guarantee continuing access to the EU market.

Sadly, the Government have a poor record when it comes to respecting parliamentary sovereignty. This House —certainly this side of the House—demands provisions for proper parliamentary scrutiny of all proposed trade deals and treaty obligations in the future. We must be involved and the people must have a say.

I want to pick up the point made by the noble Lord, Lord Alton, because he is absolutely right. We cannot just have words; we need clear action. In Manchester, the Foreign Secretary said that he would, "relish not shrink from" our global duty to bring the perpetrators of injustice and war crimes to account. In this Queen's Speech, I hoped to see specific proposals on how we would achieve this. I hope that the Minster, in winding up the debate, will tell us what they are.

6.58 pm

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, it is a great privilege to be closing this debate following Her Majesty's gracious Speech, which set out the programme of legislation put forward by this Government. I welcome the noble Lord, Lord Collins, who is restored to full health and with a new beard. He is back enjoying his place on the Front Bench again and we are pleased to see him. He has lost none of his customary wit and influence on the legislation.

The Speech sets out a legislative agenda that seeks to protect our people, promote our prosperity and project our influence on the world stage. I am particularly grateful to noble Lords for their considered and thoughtful contributions made over the course of two days of debate. I will do my utmost to respond to as many points as possible, but I apologise in advance if I do not have time to get through everybody's contributions.

I will commence, as so many others did, with Brexit and my own department—as expected, it was covered by many noble Lords, including the noble Lords, Lord Desai, Lord Wrigglesworth and Lord Wigley, my noble friends Lord Ridley and Lord Flight, and my noble and learned friend Lord Mackay. The Government's priority has always been, and remains, to secure the United Kingdom's departure from the European Union on 31 October, with or without a deal, and without any further pointless delay. Brexit provides us with a range of new opportunities, including the ability to take back control of our money, borders and laws, including on agriculture and fishing, as well as to set out our own independent trade policy for the first time in nearly half a century. I will say more on that later. To seize those opportunities—and here I agree, as I so often do, with the noble Lord, Lord Grocott, and his excellent speech—we must get Brexit done. My noble friend Lord Jopling did not sound so convinced, but it remains the Government's focus to get a deal this week at the European Council and to leave on 31 October in an orderly and friendly way.

The Government have had fruitful and constructive discussions with the European Commission over the last few days. I have been here in the House but I am told that, as I speak, the technical talks are continuing with the Prime Minister's Brexit Sherpa, David Frost, and the UK negotiating team. Their talks last night were constructive and the teams worked late into the night. They met again this morning and are continuing

discussions today. I agree that, as the right reverend Prelate the Bishop of Coventry reminded us, it is important that throughout this process we must work constructively together and seek to nurture our relationships, both in Europe and further afield.

I will address the points made on EU meetings by the noble Lord, Lord Hannay, and the noble Earls, Lord Kinnoull and Lord Sandwich. As I informed the House last week, it is now the policy of the Government that UK officials and Ministers will attend EU meetings only where the UK has a significant national interest in the outcome of discussions. This will enable officials to better focus their talents on our immediate national priorities—our top priority being work on preparations for Brexit. This decision is not intended in any way to frustrate the functioning of the EU. The UK's vote is delegated in a way that does not obstruct the ongoing business of the remaining 27 EU members. I look forward to meeting the noble Earl, Lord Kinnoull—I think we have a date in the diary for next week—and no doubt he will want to discuss the matter further.

The noble Baroness, Lady Quin, asked about the implementation period. We are still awaiting the final agreement but I remind her that the existing withdrawal agreement sets December 2020 as the end of the implementation period, and for good reason: it is the end of the EU's existing multiannual financial framework. There is an option in there to extend. I am not aware that that will change, but let us wait and see what the final agreement says.

Lord Kerr of Kinlochard: Putting together the last two points that the noble Lord has made, if we do leave and there is an implementation period that lasts until the end of next year, does it really make sense that we will be applying in this country laws which are written in rooms in Brussels in which there is no Briton present? How do these two points fit together? If there was nothing happening in that room that could be relevant to us, I can see an argument for us not being there. But if until the end of next year we will be applying rules and regulations written in the European Union, surely we ought to go on having a say in how they are written.

Lord Callanan: My response to the noble Lord is that we are. He will know of the slow decision-making process of the European Union. Most of the new directives and regulations that would be implemented during the implementation period are already being discussed, or indeed have been decided, so we are taking part in discussions on those matters.

Lord Wallace of Saltaire (LD): My Lords, we have not discussed the future political declaration in much detail. There is a very large agenda to be negotiated once, as the Minister said, we have got Brexit done. Do the Government have an estimate of how long that will take? Are they confident that they really can negotiate and agree all those matters and get the treaty through during the implementation period, or are we talking about another two or three years before this is completed?

Lord Callanan: It remains our belief that we can get it concluded during the implementation period. We believe that the discussions on all the different areas can proceed in parallel, but of course we are awaiting the implementation of the new European Commission, which has now been delayed. We will wait to see how it wants to structure the negotiations from its point of view but of course, we are getting ahead of ourselves. We do not yet have a deal or an implementation period, but certainly from our point of view preparations in my department are well advanced for the co-ordination and construction of those negotiations.

A number of noble Lords—the noble Baroness, Lady Quin, the noble Lords, Lord Ricketts and Lord Anderson, and the noble Baroness, Lady Crawley, who will always remain in the sun as far as I am concerned—raised what is probably this House's favourite subject: the second people's vote. I see that it has now morphed into a confirmatory referendum or confirmatory vote. No doubt the focus group testing of "second people's vote" did not work too well. As the noble Lord, Lord Grocott, brilliantly pointed out, it is somewhat Orwellian to hold a people's vote specifically to reverse the original vote of the people. If that does not work, we will no doubt get another name for it from the campaigners next week. However, I shall go no further on that subject other than to say that this Government will not support another referendum, whatever they call it.

On the subject of no deal, as I said—

Lord Hannay of Chiswick: The noble Lord speaks extraordinarily dismissively of having two referendums. Is that not a little insulting to the Government of Ireland and the Government of Denmark, who have done precisely that in various years? Might he not be a little more polite about that?

Lord Callanan: What Denmark and other countries do is of course a matter for them. It seems to be a habit in the EU that, if referendums do not produce the results that the proponents wish, people need to vote again until they give the right answer.

Lord Anderson of Swansea (Lab): Does the noble Lord at least accept the possibility that the people have changed their mind after a snapshot vote?

Lord Callanan: I listened carefully to the noble Lord make that argument during his contribution, in which—he will correct me if I am wrong—he effectively said, "Well, every five years we might have a general election. It's been only three years since the referendum. Therefore, people might have an opportunity to change their mind". The problem with that argument is that, when we have a general election, a new Government are installed and by the following general election people have the opportunity to see how they have performed. We have not yet implemented the results of the original referendum, so he might want to come back to the subject when we have left the European Union and people have seen how successful this country can be outside the EU.

Although our focus remains on securing a deal, the Government are ready to leave without a deal, if necessary, on 31 October. Last week we published a Brexit—

Lord Cormack (Con): Can my noble friend explain how the Government reconcile that with the law of the land as it is at the moment? He has repeatedly told me that the Government will obey the law. There is a law that says that that should not, and cannot, happen. How does he answer that point?

Lord Callanan: Actually, the law does not say that that cannot happen. At the risk of returning to a subject that we have covered extensively, a decision on whether we leave on 31 October is now not a matter for UK law; it is a subject of European law. That is one of the great ironies of this process. However, I repeat what I have said to the noble Lord on many occasions: we will of course abide by the law. If he wants to look at the record, he will see that my right honourable friend the Brexit Secretary, appearing in front of the Brexit Select Committee this morning, said something very similar.

While our focus remains on securing a deal, we are still ready to leave without one on 31 October. Last week, we published the Brexit readiness report, which sets out the preparations that the Government have undertaken to ensure that the UK is prepared for 31 October. As I set out on that occasion, when repeating the Statement made by the Chancellor of the Duchy of Lancaster in the other place, the report includes the steps that businesses and citizens should take, including to bring about the smooth flow of goods.

We have announced spending of more than £8.3 billion for Brexit planning. We have signed or secured continuity trade agreements with non-EU countries, as well as continuity agreements across many key sectors including aviation and civil nuclear power. We have launched a public information campaign—Get Ready for Brexit—to advise everyone of the clear actions that they should take to prepare for leaving with no deal. Of course, as always, we have given particular focus to citizens' rights, which was raised by a number of noble Lords including the noble Baroness, Lady Miller, and the noble Lord, Lord Randall. Our message to EU citizens in the UK is clear, and I will repeat it: you are our family, our friends, our colleagues; we value your contributions to this country and we want you to stay. We are now working to gain reciprocal assurances from other European countries towards UK nationals living in their countries.

I highlight to the noble Baroness, Lady Miller, that the UK pushed hard in the negotiations for UK nationals living in the EU and for EU citizens in the UK to retain or have the right to stand and vote in local elections. However, the EU did not want to include these rights in the withdrawal agreement, so we are to forced to pursue—and are actively pursuing—bilateral arrangements with individual member states. We have written to every other member state seeking such an agreement. I am pleased that we have so far reached such agreements with Spain, Portugal and Luxembourg. We are in discussions with a number of others.

The noble Baroness, Lady Finlay, asked about support and funding in devolved Administrations. The Government have provided them with over £300 million since 2017 to prepare for Brexit. We continue to involve them in ongoing discussions on funding, including under the provisions of Project Kingfisher. Last week, I was in Edinburgh with my right honourable friend the Chancellor of the Duchy of Lancaster for discussions with the Scottish and Welsh Governments and the Northern Ireland Civil Service. These covered ongoing negotiations and no-deal planning, in which the devolved Administrations are extensively involved.

I move on to trade. For the first time in nearly 50 years, the UK will have an independent trade policy. We will be able to set our own tariffs, take our own decisions on regulatory issues and create new and ambitious trade relationships around the world. My noble friend Lord Lilley—who spoke with great experience—touched on this, and I agree with many of the points that he made.

Lord Lilley: I am grateful to my noble friend for saying that. I take this opportunity to put the record straight and apologise to the House. I said that no Commission had ever resigned en masse. Actually, one did. I said that only Madame Cresson resigned. Actually, most of them were not reappointed, but she was the only one found guilty by the European Court of Justice. I wanted to correct that because I do not like misleading the House.

Lord Callanan: I wondered about that during the debate, but it was slightly before my time as an MEP.

The noble Baroness, Lady Hayter, asked whether amendments to the Trade Bill will be retained in the new Bill. The Government welcomed the contribution of your Lordships during its debates on the Trade Bill in the last Session—it says here. No decisions have yet been taken as to the provisions to be included in the legislative package. However, I did hear the noble Baroness's suggestion about noble Lords' previous amendments on standards. I refer her to the Secretary of State for International Trade's statement before the International Trade Committee today. It is the Government's policy to maintain standards and enhance them where appropriate. We will bring forward legislation that will ensure that we can deliver certainty to business. This will include continuity—for after we leave the EU—of existing trade agreements that the UK currently participates in as a member of the EU, as well as establishing an independent Trade Remedies Authority.

Of course, this trade legislation does not deal with future free trade agreements, and the Government's position regarding scrutiny of these agreements is outlined in the February 2019 Command Paper. We have not stood still in forging new trade relationships as we stand on the brink of a new era in our trading history, where we are finally in control of how we trade with countries around the world. We have established working groups and high-level dialogues, launched four public consultations on our future trade agreements and are using a range of other instruments, such as joint trade reviews, with a range of key trading partners including the United States, Australia, China, the Gulf Cooperation Council, India, Japan and New Zealand.

I highlight to the noble Baronesses, Lady Tonge and Lady Finlay, that we will not pursue trade to the exclusion of human rights; these can and should be complementary. The UK has a strong history of protecting human rights and promoting our values globally.

Many noble Lords used their great experience and knowledge of international affairs in their contributions on global Britain, including the noble Lords, Lord Anderson, Lord Cormack, Lord Hylton, Lord Jopling, Lord Kerr, Lord Liddle, Lord Ricketts, Lord Sterling, Lord Wallace, and the noble Baronesses, Lady Cox and Lady Tonge. As my noble friend Lord Ahmad set out in his opening speech, the Foreign and Commonwealth Office is preparing for our departure from the EU by strengthening our international relationships, reaffirming our commitment to the rules-based international system and championing our values abroad.

The Government want an ambitious free trade agreement with the EU. The details of this partnership, as the noble Lord, Lord Butler, pointed out, are a matter for negotiations after Brexit. The Government are preparing for that negotiation, as I said in response to an intervention earlier, and we will work with a wide range of partners to ensure a successful outcome for UK businesses and citizens.

We are also proceeding with strengthening our partnerships internationally. The noble Baroness, Lady Hayter, and the noble Lord, Lord Wallace, raised doubts about our special relationship with the United States. It is, of course, true that we may not always agree—current examples of that being the Iran deal and the Paris agreement. However, we continue to do more together than any other two countries. Our unparalleled intelligence sharing has undoubtedly saved many lives. Beyond Brexit, we are determined to maintain a close partnership with both the EU and the US. In our view, this is a win-win and not a zero-sum game.

Lord Campbell of Pittenweem: The Minister is very generous in giving way. If the relationship with the United States is that important, why do we not yet have an ambassador?

Lord Callanan: That is a matter way above my pay grade. When I next see the Prime Minister, I will pass on the noble Lord's comments about the importance he attaches to this subject.

As my noble friend Lord Ahmad said, we are also determined to increase our co-operation with our Commonwealth partners. Some noble Lords seemed doubtful about this, so let me reassure them that Commonwealth member states including India, which the noble Lord, Lord Wallace, in particular, mentioned, are increasingly engaged and cognisant of what we can all achieve together .

As we leave the EU, we remain absolutely committed to playing a leading role in international security and to sustaining and strengthening vital alliances. The noble Lord, Lord Campbell, who just intervened, rightly said that NATO is the most successful alliance in history. It has kept us safe for 70 years and it remains at the heart of UK defence policy. The UK is NATO's leading European ally, our defence budget is the largest in Europe and the second largest overall. We are one of only a handful of allies that spends more than 2% on defence, and 20% of that on major equipment; it is a shame that the noble Lord, Lord West, is not here to remind us of the ship programme.

The noble Lord, Lord Ricketts, commented on the challenges facing NATO. The Government welcome the suggestion of a debate on the alliance and its future. Ahead of the leaders' meeting in December, we will give this due consideration together with the suggestion of the noble Lord, Lord Sterling, of a debate on defence matters. We will, of course, do that in consultation with the usual channels.

We remain committed to the rule of law internationally, to the Joint Comprehensive Plan of Action as the best way to prevent a nuclear Iran, to a clear, defensive and proportionate response to Russia and—as the noble Lords, Lord Kerr and Lord Pendry, raised—to de-escalation in Hong Kong. A number of noble Lords raised this subject. The Foreign Secretary has made our concerns clear to both the Hong Kong Chief Executive, Carrie Lam, and the Chinese State Councilor and Foreign Minister, Wang Yi, and will continue to do so. He has also spoken to a wide range of counterparts on this issue. We raised the situation in Hong Kong at the G7 and the UN. The way forward must be through meaningful dialogue with all communities that addresses the concerns of the people of Hong Kong.

Lord Alton of Liverpool: The noble Lord might recall that, in my remarks, I referred to a letter that was signed by more than 170 parliamentarians of both Houses and sent to the Foreign Secretary, suggesting an international, Commonwealth-led initiative to give an insurance policy to the citizens of Hong Kong, based on second places of residence and second citizenship. If he cannot give a response on that now, will he undertake that a proper response, signed by the Foreign Secretary, will be available to the signatories of that letter before our debate next Thursday?

Lord Callanan: I know that my noble friend Lord Ahmad has taken close note of that. I am sure that he will ensure that the matter is addressed and that an appropriate reply is received.

The noble Lords, Lord Hylton, Lord Hannay and Lord Alton, spoke of the need for a peaceful solution to the current situation in northern Syria. Along with the US and others, we have made clear our opposition to the unilateral Turkish military incursion in north-east Syria. The offensive has seriously undermined the stability and security of the region.

A number of noble Lords, including the noble Lords, Lord Collins, Lord Taverne and Lord Kerr, the noble Baroness, Lady Sheehan, and my noble friend Lord Randall mentioned climate change. We are proud of the world-leading action that the UK is taking as the first major economy to legislate to end our contribution to global warming entirely by 2050. We as a nation should be proud of that major contribution, which will be taken forward under cross-party initiatives.

Yesterday, the noble Lord, Lord Loomba, mentioned the global girls' education campaign, Leave No Girl Behind, which promotes 12 years of quality education for all girls. The campaign aims to lead by example to get girls learning, build international political commitment and boost global investment in girls' education. At this year's United Nations General Assembly, the Prime Minister announced a further £515 million to get help to more than 12 million children, over half of them girls, and get them into school, where they belong.

[Lord Callanan]

The noble Lord, Lord Hussain, raised the issue of Kashmir. We have expressed our concern over the current situation in Indian-administered Kashmir and the importance of lifting the restrictions currently being imposed. Our view remains that all matters should be addressed bilaterally between India and Pakistan, as per the Simla Agreement.

On the subject of Indian students, raised by the noble Earl, Lord Sandwich, 2019 saw a significant rise in the number of Indian students studying in the UK. I am pleased to tell him that, according to ONS figures, the number increased by 40% from 2018 to 2019. The number of students studying in the UK has doubled over three years.

We continue to support India's bid for a permanent seat on the UN Security Council—

Lord Hannay of Chiswick: My Lords, the Minister is repeating some figures that have been used again and again in this House and are completely worthless because the rise in the number of Indian students follows a drop of more than 50% in the previous years. If he does the arithmetic, he will discover that it does not mean very much.

Lord Callanan: I take the noble Lord's point. However, we changed the visa regime and students are now being allowed to stay at the end of their study. We think that that has contributed to the rise in the number of students. We are proud of our world-class education system and hope that the number of Indian students coming will continue to increase.

The noble Lord, Lord Collins, mentioned the sustainable development goals. In June this year, the UK published its first voluntary national review of progress towards them—a comprehensive and credible report covering all 17 SDGs. It highlights some of the wide range of actions we are taking to support the delivery of the goals both domestically and internationally, with a focus on the domestic.

The noble Lord also raised the important subject of the Nutrition for Growth summit in Tokyo. We have been a global leader on nutrition since hosting the first Nutrition for Growth summit in 2013. Since 2015, the UK Department for International Development has reached 60.3 million people with nutrition services, and we currently have nutrition-related programmes operating in more than 33 countries. The UK Government are working closely with the Government of Japan to ensure that the next Nutrition for Growth summit in 2020 secures meaningful and transformational commitments from Governments, donor agencies, businesses and civil society.

I have been on my feet probably for too long. This has been a wide-ranging and thought-provoking debate, with nearly 50 speakers. We have touched on many aspects of this Government's priorities. We have made clear our vision for a global Britain. We will be a good friend and ally to our European partners, an ambitious and outward-looking trading power and a leading voice on the world stage.

Baroness Sheehan: Before the Minister finishes, can he commit to the 0.7% of GNI to be spent on UK aid?

Lord Callanan: Yes, of course. That is our policy. It is a matter of legislation now. Both our parties supported the introduction of that legislation.

Baroness Finlay of Llandaff: I hesitate to come in so late, but I have been listening very carefully to the Minister's reply. Can he confirm—because I do not think I heard it—that in negotiations the Government will undertake to ensure that intellectual property rights are considered; and that where any implementation of any arrangements requires implementation through the devolved nations, they will have been involved proactively in negotiations rather than being informed later on?

Lord Callanan: The noble Lord, Lord Wigley, approves of that comment. This is something that we are in consultation with the devolved Administrations about. At our meeting last week, we discussed exactly how we would structure the negotiations, the involvement of the devolved Administrations, and how we can ensure that they get the opportunity to feed into negotiating mandates and the policy that negotiators will pursue. They are cognisant of that, as indeed are we.

Ahead of this week's European Council, I emphasise that this Government's priority has always been to honour the result of the 2016 referendum and secure the United Kingdom's departure from the European Union on 31 October without any further, pointless delay. I thank noble Lords for their attention, and beg to move that this debate be now adjourned.

Debate adjourned until tomorrow.

House adjourned at 7.28 pm.

Grand Committee

Wednesday 16 October 2019

Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

3.45 pm

Moved by ***Baroness Blackwood of North Oxford***

That the Grand Committee do consider the Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, I thank noble Lords for their consideration of the regulations. I am confident that we have the shared intention to ensure that the high standards of food and feed safety and consumer protection we enjoy in this country are maintained when the UK leaves the European Union. This instrument, and the original instrument that it amends, seek only to protect and maintain these standards. Changes are limited to minor drafting amendments to ensure that the legislation is operable on exit day. No policy changes are made through these instruments and we have no intention of making any at this point. This amends a previous EU exit SI, the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019. Further clarity was required in setting out the authorisation process for products that can be used to remove surface contamination from products of animal origin. The clarification will ensure that the process is robust and can be applied clearly in assessing the risk of new products.

This instrument was made on 9 September under the urgent, made-affirmative procedure, which was considered appropriate to meet the deadline for the European Commission's third country listing vote on 11 October. It needed to be in place to support the UK's application for third country listed status with the EU. Third country listed status guarantees that the UK can continue to export animals and animal products to the EU after exit. The application was voted on by the European Commission on 11 October, and I am pleased to report that the vote was indeed in favour of accepting the UK's application for third country listed status for products of animal origin.

I shall now talk a little about the specific detail of the minor and technical changes made by the instrument. The new instrument makes clear that the responsibility to approve substances that may be used to remove surface contamination from products of animal origin rests with the Secretary of State for Health and Social Care and the appropriate Minister in each of the devolved Administrations. Lack of clarity may affect implementation and has the potential to undermine the responsibilities for authorisation; the instrument therefore rectifies this. The measure introduces no substantive policy changes to what was successfully passed and made in Parliament in March 2019.

Food business operators are not permitted to use any substance other than potable water or, where permitted, clean water, to remove surface contamination from products of animal origin unless this has been approved. This relates to business establishments that handle products such as meat, eggs, fish, cheese and milk and do not supply to final consumers. Currently, approval for such substances is given by the European Commission, but after EU exit this responsibility will be carried out by Ministers. The amendment to Regulation (EC) 853/2004, made by the specific food hygiene SI, is being further amended to make it absolutely clear that Ministers will be responsible for prescribing the use of any other substances and the process of consulting the Food Safety Authority is retained. That decision will be made based on rigorous, evidence-based and independent food safety advice from the FSA and the FSS.

If, after EU exit, any additional substances are proposed to be approved for this purpose, they will be subject to risk analysis by the FSA, which has established a rigorous and transparent risk analysis process for assessment and approval of any such new substances. Any requests for substance approval would be subject to thorough scientific risk assessment and risk management before being put to Ministers for the final decision. The advice provided to Ministers, and the analysis and evidence on which that advice is based, will be publicly available. All decisions to approve the use of substances to remove surface contamination from products of animal origin will be implemented by means of legislation, thus also providing opportunity for parliamentary scrutiny.

Let me be clear that neither this instrument nor the instrument it amends introduce any changes for food businesses in how they are regulated or run, and nor does it introduce an extra burden. The overall changes to the food hygiene regulations will ensure robust systems of control that will underpin UK businesses' ability to trade both domestically and internationally.

It is also important to note that we have engaged positively with the devolved Administrations throughout the development of this instrument, and this ongoing engagement has been warmly welcomed. The Welsh Government have provided their consent and the Northern Ireland Civil Service has given its acknowledgement of this instrument. FSA officials have also been in close contact with the Scottish Government regarding these regulations. They have not yet had the opportunity to give their agreement, due to the necessity of having these regulations in place by 11 October, but we expect that to continue in a positive direction. I stress that we are still committed to the intergovernmental agreement accompanying this Act not to normally make EU exit regulations without the agreement of the devolved Administrations where the policy area is devolved in competence. However, as I explained, this is a very minor drafting change to a regulation the Scottish Government have previously agreed.

Finally, I draw noble Lords' attention to the fact that, in line with informal communications that the FSA has had with the Joint Committee on Statutory Instruments, the agency will, in accordance with the terms of the free issue procedure, be making this instrument available free of charge to those who purchased

[Baroness Blackwood of North Oxford]
the earlier exit SI. The Government accept that this instrument should have been made available under the free issue procedure when it was first made, but that did not happen due to an oversight. I apologise to noble Lords for that oversight and confirm that it will be corrected. The Food Standards Agency will be taking action, together with colleagues in the National Archives, to ensure that anyone entitled to a free copy of the instrument under that procedure will, where appropriate, be able to apply for a refund, or otherwise obtain a free copy of this instrument on request, in accordance with the usual terms of that procedure.

This instrument constitutes a necessary measure to ensure that our food legislation relating to food safety continues to work effectively after exit day. I urge noble Lords to support the amendment proposed to ensure that we continue to have effective food safety and public health controls. I beg to move.

Baroness Thornton (Lab): I thank the Minister for introducing these regulations. I also thank my noble friends Lord Rooker, Lady Jones and Lady Wheeler for carrying the bulk of the food standards instruments that we dealt with before the summer, when we seemed to do a great many of them. As the Minister said, these are important regulations because they address the process for approval of substances that may be used to remove surface contamination from products of animal origin.

As the noble Baroness confirmed, this SI was discussed earlier this year, but a great deal has changed since then, as we all know. We have a completely new Government, though I am pleased to see that the noble Baroness has remained in her job. What has not changed is the uncertainty over whether the UK will leave the EU in the next 15 days or so, with or without a deal, and the impact that could have. For the record, once again, we find ourselves back debating necessary statutory instruments and having to spend time and money putting through legislation in case of a no-deal Brexit.

We all agree that the safety of our food is of the utmost importance to our health and well-being. We have been fortunate to lead the world in food safety, in some areas. We have also had to learn some very hard lessons from our own food scares. We know that food safety must be protected at all costs. Therefore, I share the Government's commitment to ensuring that there is no change in the high-level principles underpinning the day-to-day functioning of the food safety legal framework. Ensuring continuity for business and public health bodies is of the utmost importance and in the interest of the public. This has been the protection that the EU regulatory framework has afforded us in the UK.

While the Minister assures us that there is no substantive policy change, I need further reassurance. Paragraph 2.7 of the Explanatory Memorandum states:

"Following further policy deliberations, a revised approach to describing the process for approval of substances which may be used to remove surface contamination from products of animal origin is felt to be desirable".

What does that revised approach consist of if it is not a policy change?

Why was this SI not among those we took through in March? What would have happened if we had left in March and this SI had not been on the statute book? What would have happened to this regulatory framework?

I am not convinced that the SI does not give some leeway for Ministers to approve substances that can be added to our food. I shall be interested to hear how confident the Minister is that the high standard of food safety will be maintained. What additional substances could be approved by Ministers if needed? How will that impact food safety? The safety of our food is hugely important and we cannot get this wrong, so I have made these very brief comments. I do not want to delay the Committee, but I welcome interventions from other noble Lords. We will, of course, not oppose this statutory instrument and I look forward to the Minister's response.

Baroness Kingsmill (Lab): My Lords, I shall add a few comments to my noble friend's remarks on subjects that concern me considerably. I lived through the BSE food crisis. It was the result of what was described at the time as a minor change in the regulations. That minor change cost UK farmers something like £3.75 billion and led to the slaughter of very many cattle. Minor changes to regulations can make an enormous difference. Therefore, we should give this statutory instrument very careful scrutiny. It seems a little rushed, so I should like more explanation of why we have to rush it. It ought to be considered very carefully.

I notice in *Hansard* the words that the Minister repeated today: "for the moment". That worries me slightly. What does it mean? Is there some intention to change things in the near future and is this SI just a means of getting something through fast, as it is necessary for the moment?

My concerns about this minor change in regulation are not simply about the food safety implications, although they are enormous, but about changes to the substance used to remove contamination from animals for human consumption. That can mean many different things and can have a huge impact not only on consumers' health and safety but on animal welfare. I think particularly of what has become a bit of a euphemism for health and safety in food: chlorinated chicken. I am also concerned about the substances used to prepare farmed salmon for human consumption. I should like specific clarification of the Government's intentions about future regulation in this area, to the extent that the Minister is able to give it.

One of the things that has always concerned me about these regulations—I have dealt with quite a few—is that there seems to be no sunset clause in the event that we do not leave without a deal. Is there a proposal for a sunset clause for these regulations? Can the Minister give us an assurance about the extent to which animal welfare has been taken into account? We all know that chlorinated chicken means treating at the last minute and that it does not matter what contamination the animal received beforehand; once you have washed it in the swimming pool, if you like, it will be okay for human consumption, which is not necessarily the case. It is important that such issues should be taken into account and considered in these regulations.

4 pm

Baroness Jolly (LD): My Lords, I do not intend to detain the Committee for very long. The Minister has outlined the instrument clearly and the noble Baroness, Lady Thornton, has raised some pertinent issues but I too would appreciate some clarification. The briefing that I received from the FSA says:

"The new instrument makes clear that the responsibility to approve any additional substances which may be used to remove surface contamination from products of animal origin rests with the Secretary of State for Health and Social Care, in England, and the appropriate Minister in each of the Devolved Administrations".

This raises a few questions and I have some that I would be grateful if the Minister could answer, or at least get back to the Committee about.

I wonder whether we could have different outcomes in each country of the union. Would this impact on, for example, the sales of Welsh lamb into England? If we can operate slightly differently in Wales and make different decisions there from those in England, could there be an issue with that? I also wonder who the Secretary of State will take evidence from in making his or her decision in this matter. What public consultation will be carried out in advance of a decision? Finally, we have already heard chlorinated chicken being raised but could the Minister assure us that this is just an English measure? Can she assure us that there will be no English chlorinated chicken on English dinner plates?

Lord Rooker (Lab): My Lords, I should like to raise a few points and I suppose I ought to declare an interest, as between 2009 and 2013 I chaired the Food Standards Agency. I will not go into any detail about the regulations but they are really about Ministers' powers. It is a Minister I want to talk about because it seems that we now have another Secretary of State who does not like the FSA. The Minister here may shake her head but wait until I have finished, please.

The noble Lord, Lord Lansley, did not like the FSA and sought to abolish it in 2010 but was prevented. Labour Ministers did not like the FSA either; that is the point. That is why it was set up, but now we have a Minister openly attacking the FSA in the public prints. He talked about action on "best-before zealotry" after the Prime Minister said that mouldy jam was okay: "Just scrape the top off, it's okay". Sod the toxins that have got into the rest of the jar and can cause major food poisoning. The Prime Minister and the Secretary of State were obviously better qualified than the medics who give the advice. The Secretary of State also weighed in when he said back in February, "I want a new chief executive at the FSA", and he got one—did he not?—when the previous one left in June or July. I do not criticise that. I am sure it was perfectly ordered and all fine. However, he is starting to speak out on matters related to food safety. He has piled in about the "government body's line"—referring to the FSA, a non-ministerial department—on beef burgers. He is very unhappy about the FSA's interventions on food safety and wants it to go back to its "original purpose".

These regulations are quite good, in a way, because they are essentially about surface contamination. But I invite the Minister and the Secretary of State to go and read Hugh Pennington's report about the south Wales outbreak of E. coli 0157 in September 2005. A butcher provided meat then to schools in four local authorities; 157 people fell ill and, regrettably, Mason Jones, aged five, died. The butcher went to jail. It was all about the contamination and cross-contamination, and Hugh Pennington did a major report for the whole of the country. It did not relate just to Wales or that incident, as he had of course done others as well. That was about surface contamination, so surface contamination is not unimportant.

The Secretary of State said that if beef patties—beefburgers—were served rare, that was perfectly all right. I have some news for him: that is the whole point. I know that there is dispute between some scientists on this, but if you chop up meat, part of it will have been the outer part of the meat, the bit that can get contaminated. If you then mix it all together and do not cook it properly, it is highly likely that somewhere in the middle of the product will be meat that could be contaminated but has not been cooked. That is the great thing: cooking gets rid of most of the problems, whether E. coli or salmonella.

We have had cases in recent years where people have been seriously ill. It is not just a UK issue; there was the death of a young boy in France, who died 5 years after eating rare burgers from a Lidl supermarket. It is not unimportant.

My noble friend mentioned CJD. When I led a debate on the ban on beef on the bone—the most controversial debate I have ever led—it was at 10 pm in the House of Commons, everyone had had a good dinner and I came along as Grandpa Nanny Rooker saying that we need to ban beef on the bone. It was pretty acrimonious. What silenced the House was that during the day—this was in 1998 and I am not a doctor—I had asked: what happens to people who get CJD? What are the symptoms? During my conversation with three or four medics, it transpired that when those identified as having CJD—there is no final figure, but there are well over 100—were operated on to check the situation in the brain, the medical instruments had to be destroyed. They could not be sterilised. That really put the House of Commons to bed. It suddenly dawned on us that this was serious.

We may not have some of those issues now—heaven forbid that we do—but we must learn lessons from the past. It is so easy to say, "We haven't had any problems; we will relax the rules because we have too much regulation".

Just before I left the FSA—I am not sure of the date because I have not checked, but it was either 2012 or 2013—we were lobbied intensively by industry to allow animal protein to be fed to animals. We had a long board discussion about it, which is all on the record. One beauty of the FSA is that it is open and transparent. We came down 100% against allowing animal protein.

This Secretary of State is obviously amenable to industry, given how he has been bellyaching that the FSA is doing too much and should stick to its original purpose. There are attempts to restore that procedure, because it is a cheaper way to do it. I understand the pressure from industry. I and others were lobbied—submissions were made—to go back to it, saying,

[Lord Rooker]

"We will follow the rules; we will not mix it up with anything else", but everybody spoke on the record and the FSA board unanimously said that we were not going down that road, because we were still worried about what had happened.

We understand that this Secretary of State does not like what is happening at the FSA. I have not spoken to anybody on the board, by the way, but I assume that it is bold enough and has enough backbone to follow the rules and the law that set it up in the first place. I warn the Secretary of State that if he ever comes to this House trying to change Section 1 of the FSA Act, it will not go through. I am certain of that, because there is no excuse for watering down.

Ministers do not like it when things go wrong. They love to pull the levers when things are okay, because they are Ministers and they want to do this and announce the other. That is the thing they do not like about the FSA. My caveat—not a warning—to them is that they need to have officials and scientists front up the media when things go wrong. If Ministers start interfering when things are not going wrong, it might be that one day they will end up in the spotlight themselves. They will be the Minister who has taken health and food risk decisions. They will carry the can. There is no need for that. That is what the FSA has been set up for—not to carry the can, but to be the public guardian. That is its main function.

I have looked at various of the Secretary of State's musings. It is probably unfair of me; I have probably not seen all the good things that he has said about the FSA. In fact, I have not found anything good that he has said about it, but I have found a few things that are negative. I thought that this would be an opportunity to put on record that we are watching him, because when things go wrong people will start opening the books and saying, "Who's responsible for this?" It was the same when the horsemeat issue broke. I was in Northern Ireland at the time and so was the chief executive. It broke overnight.

When things go wrong, you start to say, "Hang on, who's responsible for which bit here?" You can test these things out, but when things go wrong that is when people open the book. When things are going okay and we do not have major outbreaks, you can always say, "We can relax. We're being too tough on industry. We want less regulation and to free up the market". On food safety, however, the FSA's staff have spent the best part of 20 years rebuilding British people's confidence in their food supply. It is very important that we do not put that at risk. I fully accept that the regulations and the statutory instruments that the Government have provided for Brexit fully conform to all that. I have no problems with any of them. I have absolute confidence in what Ministers are planning.

However, the vulnerability is in the meat plants in particular. It is a closed industry. I think there is only one plc in the meat industry, which might be Morrisons, because it has a vertically integrated system—at least it used to; I am not up-to-date these days. Generally, it does not advertise on its factories, "By the way, we kill animals here so you can have your meat". It is a very closed industry, but when you go to abattoirs for pigs, sheep and cattle you see the care and attention that has to take place for live cattle, some of which might be dirty cattle—the vets are there to stop that; a clean cattle policy is supposed to operate—from live animals at the beginning to the end product for the table. It is vital that that process is looked after. There are people in that industry who will seek to cut corners. I will not give examples; it would be unfair because they are out of date. But the fact is that it is a closed industry and it does not expose itself. I understand why. A few documentaries so that people understand where meat comes from might be helpful, but nobody has ever had the courage to do it.

It is in the industry's interest that it resists any ministerial temptation to cut corners, because industry would be the loser. The beef ban lasted until 2006. It was the last thing that I did as a Northern Ireland Minister. I did not go to Brussels; I am one of those who has hardly ever been there. I went there to serve Northern Ireland beef on the day that the beef ban was lifted. Traders were over there doing deals to restore their past links. The last few years of the beef ban were purely political. There was nothing scientific or health-based about it whatever. We in this country know far more about CJD and BSE than anybody else simply because we have gone through it. We had reports galore. The fact is that industry suffers economically, and then the country suffers as well.

I wanted to put those few pointers on record so that someone could say to the Secretary of State, "By the way, it's probably not a good idea to keep rubbishing the FSA, because people are watching what you are saying".

4.15 pm

Baroness Blackwood of North Oxford: I thank noble Lords for what has been, as ever on the issue of food safety and the FSA, an informed and very expert debate. While I would never dare to call the noble Lord "Grandpa Nanny Rooker", I assure him that the value and expertise of the FSA are under no question from the Department of Health and Social Care and the Government. Experts are very much in vogue in our department, and the importance of the FSA on exit day is very much understood. That is why we have taken such care in bringing forward the statutory instruments that, as he recognised, have been crafted to ensure the highest standards of food safety on exit day, no matter what the nature of the deal. I entirely agree with him that we should ensure that we continue to value the FSA and to communicate that value publicly and privately. I should expect no less than to be held to account by him on this issue every time I come into the Chamber. His expertise shone out during his speech.

I thank the noble Baronesses, Lady Thornton, Lady Jolly and Lady Kingsmill, for their support for the statutory instrument. I shall answer some of their questions, and I welcome their commitment to join the Government's commitment to the very highest standards for food and food safety, represented in the statutory instrument.

I reassure the noble Baroness, Lady Kingsmill, that this instrument will not have a sunset clause for the specific reason that it amends retained EU law, so any

future changes, as with the other statutory instruments, will be subject to parliamentary scrutiny and control in the normal way. It is in the event of no deal, so, should the Government reach a deal with the EU, as we very much hope they will, we will repeal or amend it in accordance with that outcome. It is being put forward to reassure rather than to create any concerns, so that we can ensure that we have in our legislative framework very clear processes for the cleaning of products of animal origin.

In response to the question put forward by the noble Baroness, Lady Thornton, this issue was not missed in the original statutory instrument. It was dealt with, but it was felt that the drafting needed to be clearer. It was brought forward in a swift and made-affirmative way because we wanted to make sure that, when we went forward to the vote on the third country listing, this was part of our statutory instrument programme at that point. That is why it went through quicker than it would otherwise have done. There was no intent to be underhand or sneak it through; we just wanted to make sure that it was part of the package at that stage. That is why we are having this debate now, after the fact. With this statutory instrument, we wanted to ensure that we clarified further the process for making decisions on the approval of substances to remove surface contamination from products of animal origin, and to move beyond doubt that the decision on approvals was for Ministers and a statutory instrument, so that there would be a double question of scrutiny on the basis of clear scientific and risk advice from the FSA.

A very clear process has been set out. Currently an applicant makes a request to the European Commission following agreement from representations with member states, which will refer the application to EFSA. EFSA will carry out a scientific evaluation of both the safety of the substance and the efficacy of its use. Following the issue of EFSA's opinion, the member states will then vote on whether the substance will be approved by the European Commission Standing Committee meeting. After EU exit, we will have a similar process, with just the Ministers, or the devolved Administration representatives, replacing the European Commission, but we will have just as strong an emphasis on scientific advice and transparency.

I have a helpful diagram, provided for me by the Food Standards Agency, which I hope it is acceptable for me to display and which I am happy to put in the Library. It demonstrates the process the FSA will go through in ensuring that there is a transparent process for gathering scientific evidence. There are several points of publication of the evidence, which would then be presented to the Minister and then be available as part of the scrutiny process for statutory instruments. I hope that this is reassuring and that there would be no question of undermining the expert advice provided to Ministers. I will place this in the Library of both Houses for assessment by your Lordships.

In answer to the question from the noble Baroness, Lady Kingsmill, regarding farmed salmon—I did not know this, so it is a helpful, educational moment for me—there will be no policy change in this area, as in any other. The treatment of farmed salmon will follow the rules as now: either clean water or seawater could be used to surface-wash salmon. I hope that is reassuring for the noble Baroness.

On chlorinated chicken, the current situation will remain. No substances other than potable water are approved to remove surface contamination from chicken carcasses, and there is no intention to change this when we leave the EU. Any change to this would have to go through the application process, which I have outlined, and would be clearly transparent to Members of this House and members of the public. It would be open to scrutiny, so I hope that is reassuring.

The noble Baroness, Lady Kingsmill, rightly raised the important issue of animal welfare in the context of chlorinated chicken. That would be considered with an application, as it is an important concern. Scrutiny would be available not only through scientific consideration and the FSA's consideration, but also through public and parliamentary consideration. The retention of current law helps us promote the good welfare standards we already have, so I hope that is a reassuring answer.

Finally, I turn to the important question from the noble Baroness, Lady Jolly, regarding the potential for different food and feed safety standards to emerge across the UK after exit. The FSA has considered this and discussed it closely with the devolved Administrations as we have prepared very carefully with the Administrations in Scotland, Wales and Northern Ireland for the—albeit unlikely—potential no deal. There is a commitment from all the devolved Administrations to a common approach across the UK, albeit with the potential for evidence-based divergence. We are confident that, in practice, it will be possible to make arrangements to operate a framework for food and feed safety regulation across the UK. It is one of the policy areas set out in the UK Government's published provisional policy analysis, which is subject to detailed discussions between the UK Government and the DAs to explore what common framework arrangements are needed after we have exited the EU. Officials across the different devolved Administrations have already been working over recent months and years to make sure that this is implemented effectively, so there is confidence in the FSA and FSS that this can continue effectively. I hope I have answered all the questions asked.

Baroness Jolly: The Minister has not answered one question; it may be that she does not have the answer at the moment. I have not seen her diagram with blobs on, but can she indicate whether there would be any element of public consultation if the Secretary of State were to consider a change?

Baroness Blackwood of North Oxford: The noble Baroness asks an important question. There is the opportunity for formal consultation as necessary, depending on the nature of the change. This is point 10 in the diagram and, yes, I have just been told that it is there in the SI, depending on the nature of the change that comes forward. Given that any formal advice would be available for public scrutiny, it would be evident and open should there be any need for public consultation. Given that there are implications for industry, this would be carefully managed. It is notable, and important to take into account, how

[Baroness Blackwood of North Oxford]
carefully the FSA has managed its statutory instrument programme. It carried out a six-week consultation to prepare for its 16 SIs and managed its engagement very carefully. The impact assessment was very carefully managed, and I think this is an indication of its intention going forward. I beg to move.

Motion agreed.

Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019

Considered in Grand Committee

4.25 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests as set out in the register. I hope it will be helpful to your Lordships if I speak to the instruments together, given the close connection between them.

These statutory instruments primarily amend retained EU law relating to the common organisation of markets in agricultural products. They also make minor amendments to cross-cutting common agricultural policy legislation and legislation governing rural development programmes and maritime and fisheries funds. The CMO sits in Pillar 1 of the common agricultural policy and was set up as a means to meet the objectives of the CAP. Over time, it has broadened to provide a mechanism that enables the EU to incentivise collaboration between, and improve the competitiveness of, agricultural producers and to facilitate trade.

The framework legislation of the CMO, which contains the basic rules for the schemes therein, was debated in this House earlier this year. The legislation considered today is technical in nature and limited in scope, as it primarily amends legislation setting up the finer details of the CMO to ensure that its provisions can continue to work after we leave.

Bearing in mind previous discussion, I assure your Lordships that we are adamant in upholding standards and maintaining process and are keeping as close to the current system as possible. The legislation makes appropriate corrections to ensure that the current system and its processes are operable after exit.

The Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019 primarily make operable functions contained in EU legislation relating to the CAP and the CMO currently carried out by the European Commission or member states in the reserved areas of import and export controls, international trade and regulation of anti-competitive practices and agreements. Under the amendments, those reserved functions will instead be carried out by the Secretary of State or, in one instance, in relation to contractual negotiations in the dairy sector, by the Competition and Markets Authority. Some of these functions are administrative; for instance, to recognise hop producer groups. Others are powers to make regulations to amend rules relating to particular schemes; for example, conditions for recognition. The powers conferred are limited to those of reserved competence. They include powers such as setting conditions for when an export licence may or may not be required, fixing amounts payable on exports where they are subject to an international agreement, updating standard terms for sugar sector contracts and making additional requirements with respect to customs procedures where it is necessary to do so for the purposes of CAP checks. The instrument also makes operable retained EU law concerning producer organisations, import of eggs and contractual negotiations in the dairy sector.

Examples of the amendments made are: omitting obligations to report information on producer organisations to the Commission; conferring on the Secretary of State the power to recognise producer organisations, which currently lies with member states; a requirement that the Secretary of State must make a determination of equivalence in relation to the marketing standards of eggs from a third country before eggs from that country may be imported; and providing for notifications on volumes of milk covered by contractual negotiations, which are currently provided to member states, to be provided to the Secretary of State.

4.30 pm

The second of the instruments, the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No.2) Regulations 2019, makes appropriate corrections to retained EU legislation relating to the CMO to ensure operability. This instrument mainly concerns areas falling within devolved competence. As such, powers and responsibilities have been conferred on the devolved Ministers and the Secretary of State in appropriate ways that respect the devolution settlements. The main CMO policy areas covered by this instrument can be broadly categorised as: aid schemes for fruit and vegetables, milk in schools and apiculture; marketing standards for olive oil, eggs, poultry, meat and wine; import and export licensing; and provision of information and notifications.

The changes made in this instrument will ensure continued operability, for example by conferring functions currently exercisable by the Commission or member states on the applicable authorities in the UK; for instance, administrative functions relating to aid schemes and powers to make regulations on wine labelling. The changes also include removing redundant provisions that will not apply to the UK after exit, for example on support schemes for the olive oil and table olives sectors. Another change is replacing EU-centric terms with the appropriate UK equivalents, such as replacing "Union" with "UK". The approach when amending retained EU law has been to keep the effect of retained legislation close to the current system where possible.

The instrument omits two deficient references to "member states" and amends a reference to "Union legislation". It also omits two powers that the Commission has to make secondary legislation, which are redundant after our exit, and confers on the appropriate authorities in the UK a power—currently conferred on the Commission—to make regulations altering the format

of the financial instrument report to be submitted to the monitoring committee responsible for the programme in question. These are technical amendments to make operable the existing retained EU law.

The third, reserved, instrument, the Import and Export Licences (Amendment etc.) (EU Exit) Regulations 2019, makes changes to EU regulations governing the agricultural import and export licensing regime to ensure operability. Those EU regulations set out a licence system for the import and export of certain agricultural products such as rice, hemp seed and ethyl alcohol. They also set out specific provisions for the import of hemp. This instrument makes amendments to allow the Rural Payments Agency to continue to manage the import and export licences as it does currently once we have left. Other amendments include updating EU regulatory cross-references to equivalent provisions in domestic legislation, replacing references to "the Union" with "the United Kingdom", and converting licence securities from euro values into sterling using the average annual exchange rate for 2018. The instrument also revokes some obsolete and redundant regulations in relation to the payment of export refunds in the dairy sector and on administration of EU third-country export quotas for cheese and skimmed milk powder. The instrument will ensure that the policies outlined above will continue to operate effectively, as now, after exit.

The aim of the fourth statutory instrument, the Common Organisation of the Markets in Agricultural Products (Transitional Arrangements etc) (Amendment) (EU Exit) Regulations 2019, is to make simple amendments to existing EU exit SIs to ensure that where provisions refer to a transitional period this can be realised as intended, notwithstanding the delay of exit to 31 October. The transitional periods in this SI concern the reserved area of import and export controls, specifically: import documentation for hops; certificates of conformity for fruit and vegetables issued by other countries; and imports of veal from the EU. These transitional periods were set out in an existing EU exit SI approved earlier this year. In that legislation, the end dates of these transitional periods are explicitly stated as 29 March 2021 for hops, and for fruit and vegetables, and 30 June 2019 for veal. However, the extension of Article 50 to 31 October makes these transitional periods significantly shorter. Of course, in the case of imports of veal, it has effectively removed it.

The instrument makes simple amendments to that existing EU exit SI so that, rather than using specific dates, the transitional periods are expressed as applying for a specific period from exit day. This ensures that transitional periods are drafted consistently in our EU exit SIs, helping us to convey a clear and consistent message to stakeholders on the duration of those transitional periods.

The instrument also makes some amendments to that existing EU exit SI in the reserved area of regulation of anti-competitive practices and agreements to correct inconsistencies in the drafting and minor inoperabilities. These include: clarifying and improving the text, for example changing "them" to "Secretary of State"; omitting obligations to recognise producer and inter-branch organisations in respect of products not produced in the UK on a significant commercial scale, such as olives and olive oil, silkworms and tobacco; and clarifying that the power to recognise inter-branch organisations in the milk and milk products sector will lie with the Secretary of State after exit, in line with other EU exit SIs.

I turn finally to the Common Agricultural Policy and Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2019. This instrument makes similar amendments to transitional periods, but in areas of devolved competence. These include: special provisions on imports of wine; labelling of wine; labelling of beef and beef products; labelling of packages of fruit and vegetables; and import documentation for hops.

As before, these transitional periods were set out in existing EU exit SIs approved earlier this year, with the end dates of the transitional periods explicitly stated as a specific date. The instrument makes simple amendments to express them instead as applying for a specific period from exit day. It also makes minor amendments to a series of domestic EU exit SIs concerning marketing standards, the horizontal CAP legislation and the rural development programmes to remove ambiguity and inconsistencies, correct typographical errors and ensure operability.

As I have referred to reserved and devolved competence, I should say that we have consulted extensively with the devolved Administrations on all the statutory instruments in this group, regardless of their reserved or devolved status. Similarly, Defra has informed and discussed with stakeholders the plans to make both retained EU CAP legislation and existing domestic CAP regulations fully operable at the point of exit.

The whole purpose of these instruments is to provide continuity. I beg to move.

Baroness McIntosh of Pickering (Con): I thank my noble friend for so eloquently and comprehensively speaking to this group of statutory instruments, which appear technical in nature, as he said. I have a couple of questions rather than comments.

My noble friend mentioned the exchange rate that was used. Is it set in stone or kept under review? Have his department or the Treasury taken a view about the impact on the farming community of the difference between the exchange rate used for these purposes and the general exchange rate, which we know has fluctuated wildly since the date of the EU referendum? Will it be kept under review going forward?

My second question was raised in the House of Commons in relation to one of this group of SIs. It is generally understood that the department will pursue the principle of recovering costs, which I presume will not be that great. Does my noble friend have any idea about at which stage they might be recovered?

My final question relates to the Import and Export Licences (Amendments etc.) (EU Exit) Regulations. I think there may be a role for export refunds. Have they been frowned upon by the EU Commission and the department, or are they something that may be considered? Or would my noble friend rule them out because he does not imagine that there would be any scope or role for export refunds in relation to this SI?

Lord Jones (Lab): My Lords, these regulations are surely needed. I thank the Minister for his introduction. As ever, he was very cogent and persuasive and spoke from experience. However, to me and to others these regulations appear very complex. From the Explanatory Memoranda, it is clear that the officials of his department have helpfully gone to great trouble, but the regulations are still very complex. The Minister will not mind me asking a few questions and making a few observations.

I note that there has been considerable consultation, not least with tenant farmers, the Country Land and Business Association, the Farming Community Network and the ubiquitous and influential National Farmers' Union. That is to the credit of the Minister and the department. These five sets of regulations cover agriculture, markets, import and export licences and the organisation of markets. They necessarily go on. The Minister mentioned the devolved Parliaments across Britain. When he replies, will he say which Ministers in each of the devolved Parliaments he or his colleagues have consulted? Notwithstanding that the devolved Parliaments have primacy, it appears that the Minister and his department have brought things together, particularly at a time such as this when Brexit is an overarching issue.

4.45 pm

My particular concern is Brexit's impact on upland communities. Many are in our national parks or in the borders, the Cheviots, Cumbria and most of Wales. Your Lordships' Committee may well have its own insights about them; but these upland communities are far-flung, all across Great Britain. The industry in those uplands is essentially sheepmeat. The upland farmer, with her or his flocks, faces challenges of a very serious nature—an immediate challenge, if other things come forward. Their futures, in that sense, are questionable.

I am glad that the Minister mentioned dairying; he will not mind my mentioning this industry. Perhaps he can give assurances, and some hope, to those distinct communities and these most resilient and hard-pressed farmers.

If I might briefly instance Wales, at one time the Welsh flock exceeded 10 million, alongside considerable overgrazing, it must be said. It is still many millions strong, particularly in cefn gwlad—that is, the hinterland and heart of central Wales. I instance the beautiful county of Powys, wild Snowdonia, and the iconic Beacons. All run sizeable flocks and all, and others, have far-flung communities. At this moment, this very week—in fact, this very day—their future is being decided, one way or the other. I say to the Minister that, notwithstanding the running of the sheep flocks, there is also a considerable tourist industry, which is becoming more and more successful, despite the consequences of those places being of some elevation and in western parts of Great Britain.

These uplands have their distinctive culture. The language of heaven is rooted in these communities. Arguably, the language is a factor in Northern Ireland, perhaps in the southern and western part, and certainly in Scotland. I will not say any more about language, because it can be controversial, but it is important. I am not talking here about postcard Wales, but of the hard graft of the upland farmer, who keeps the land in fine shape and needs to be there in the decades ahead.

If I raise any matter to which the Minister and his officials cannot immediately respond, perhaps he might write to me. I thank him for his skilled exposition.

Baroness Byford (Con): My Lords, may I add a couple of comments? I am grateful to the noble Lord, Lord Jones, for his comments. My understanding of these statutory instruments is that they make no basic change to what there already is. Again, this relates EU law to UK law, so a lot of the language—which, to be honest, is tedious to work through—is very simple in what it is trying to do. I follow the noble Lord's passion; some of our upland farmers, and other farmers elsewhere, will be challenged, particularly when we look at tariffs and trade. However, that is not to do with the SI that we are dealing with today.

I would love to think that the noble Lord was going to speak in tomorrow's debate, which gives us all the wonderful opportunity to talk about things that we think are hugely important. I agree with much of what he said.

I would like to support these statutory instruments, so in some ways it is a shame that we are doing some of them twice. We dealt with some of this earlier, but are having to deal with it again, as changes take place. The instruments will probably give greater flexibility, which will give much help to the Government and the Ministers. I have nothing else to add on that, but I have one query. In introducing the instruments, the Minister referred to the import of eggs, but the one topic that always gets dodged is that of dried eggs and powdered milk—probably because it is a difficult one to deal with. The buying and selling of fresh eggs is very clear and easy, but a lot of the eggs and egg content that go into manufacturing come through on the dried side. I do not know whether that applies to this SI but, in the meantime, I support the instruments.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I am grateful to the Minister for so clearly setting out the issues in these five statutory instruments, which make minor adjustments and corrections to previous SIs that we debated earlier in the year, as most noble Lords have said. I am delighted that we are debating all five together and not separately. I thank the Minister for his time and that of his officials in providing a briefing for these SIs.

All the SIs cover small details and technical amendments, but they are quite complicated. The reserved matter in the first SI covers areas concerning trade import of hops and agricultural processed products, and a minor amendment on the import of eggs and the whole list that the Minister gave us. The SI covers anti-competitive practices and helps to protect sugar beet growers, and milk and milk products. Although there are no policy changes and it will remove redundant legislation post Brexit, it is important to get these matters right so that we are not debating the same things fairly regularly.

I was intrigued by the subject of the import of rice. I understand that the issue is how much rice might be contained in a processed product, such a tin of rice pudding or baby food. Nutritional content on these products is extremely important, especially if they are to be consumed by children.

The second SI concerns CMO operability amendments and, as has been said, transfers functions from the EU to the devolved Administrations. The majority of issues have been carried over from March. The SI again includes eggs, but also poultry meat. Given this, can the Minister can say where poultry breeders fit specifically in the list of six consulted stakeholders that the noble Lord, Lord Jones, listed for us, since it is not immediately apparent from the list?

It is interesting that not all matters in the SI apply to Wales, which is doing its own thing, yet marketing standards are the same across all the devolved Administrations. Are the regulations being applied in Wales better than those that will pertain in the rest of the UK, or worse?

The third SI is about import and export licences and is a reserved matter. I note that changes are very minor to ensure operability after EU exit, including changes from the euro to the pound, as mentioned by the noble Baroness, Lady McIntosh, and are being set and calculated on 2018 conversion rates. Will this have a negative effect should the exchange rate alter dramatically? The Rural Payments Agency will manage the process, which remains the same. Export repayments will be made only in circumstances of crisis. Can the Minister indicate examples of crisis that might qualify for payment?

The fourth and fifth SIs are similar, except that the first is reserved and the second devolved. They are all about transitional arrangements. Again, they amend existing EU SIs made in March this year but which, since we failed to leave, have to be amended because the transition dates were for a fixed two-year period relating to March. It is a very sensible alteration to move the date to relate to when an actual deal finally transpires, should one ever be negotiated. Hence the words concerning coming into force two years from Brexit date are an excellent catch-all solution.

In the fourth SI there are technical changes on products not produced here—at the moment, that is: olives, olive oil, tobacco and rice. In the last SI there are some alterations related to labelling, which I believe is for 21 months, but the import-export licences are for two years. Again, all this was debated last March and is being amended and tidied up today.

I have no substantive comments to make on any of these SIs, which I support, and I am sure there will be others shortly.

Baroness Jones of Whitchurch (Lab): My Lords, I am grateful to the Minister for introducing these SIs and for the helpful briefing he organised for us beforehand. As he says, they are largely technical amendments necessary to enable retained EU law relating to the CMO, the CAP and rural affairs to operate effectively after exit day. I agree with the noble Lords who said that the wording of these five SIs is particularly complex, and we were grateful to have a prior opportunity to work through some of those complexities before debating them. Having said that, we do not find them particularly controversial, but I have a few general questions about the approach taken here, on themes that run through these five SIs but also some of those we will debate in the coming weeks.

First, a number of SIs in this group amend existing EU exit SIs that we have previously debated and approved. This includes amendments to transition periods, which are required because the original SIs set out specific dates when arrangements would cease, based on an assumption that we would leave on 29 March 2019, which, as the Minister said, clearly did not happen. These amendments update a series of those transitional arrangements so that they will commence on "exit day", whenever that might be, and cease after a given period of time. I agree with the noble Baroness, Lady Bakewell, that this makes very good sense.

In the absence of an acceptable deal, and on the basis on the Benn Act, I am of course grateful for this change in approach so that we will not have to repeat this exercise when Article 50 is inevitably extended once more. But can the Minister explain why the original SIs, which contained specific dates when the transitional arrangements would end, spelled out that they were based on the UK leaving the EU on 29 March? Why did we not foresee that this might be a problem? Why has there not been consistency on this matter? Other EU exit SIs set out the length of the period that would commence on exit day. It is such a common-sense way to approach this that I am curious as to why we have been inconsistent in our approach.

Secondly, as the Minister described, these SIs provide for transitional arrangements to give businesses time to adjust before they must adapt to the new regulations and requirements stemming from Brexit. As he said, this includes a 21-month transition period for forms and certificates the UK will accept from third countries attesting that a fruit or vegetable product meets marketing standards requirements, during which both the new UK forms and certificates and their equivalent EU versions would be accepted. It also includes a three-month transition period for veal imports, which would have allowed the EU time to gather and submit the required notification information to the UK. That is all very well, and I understand that we have now changed those transitional arrangements, but can the Minister advise whether these new transitional arrangements have been reciprocated by the EU? If not, can he advise the Committee what impact this will have on UK businesses and how these changes have been communicated to those affected? If a mutual transition period is not agreed, what action is Defra taking to encourage a pragmatic approach to enforcement within the UK?

Thirdly, the SIs in this group amend retained EU law and domestic legislation relating to the CAP and CMO to ensure continuity and facilitate a smooth transition to a domestic regime. As we know, the powers to change and diverge from these retained measures will be set out in the agriculture Bill. The farming sector expressed frustration at the delay to the previous Bill's progress earlier in 2019. The National Farmers' Union said in response to the 2017-19 Agriculture Bill failing that the timetable for changing farm payments should be delayed by at least a year, to start from 2022.

5 pm

The Treasury previously guaranteed to maintain the same level of support under both Pillar 1 and Pillar 2 of the current CAP until the end of this Parliament,

[Baroness Jones of Whitchurch]
whether the UK has a transitional period or not. This was of course understood to be in 2022, when the new provisions under the previous Agriculture Bill were expected to take effect. Can the Minister assure the Committee and the farming sector that if the Prime Minister and the leader of the Opposition get their wish for an early election, payments would be guaranteed until at least 2022 in the unlikely event that we have a Conservative Government re-elected? Can he advise whether any consideration would be given to further extending transitional arrangements relating to the CMO and CAP payments, owing to the delay in bringing forward another agriculture Bill? I am sure he will understand that this has caused further uncertainty in the farming community. What representation has he received from stakeholders on this issue?

On devolution, as the Minister described, many of the areas covered by the SIs are devolved, with the powers transferred to devolved Ministers but with provision for the Secretary of State to act on behalf of Scottish Ministers, Welsh Ministers or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. My noble friend Lord Jones understandably raised the concerns of the upland sheep farmers in Wales, the impact of all this and whether it was necessary to take a different line or strategy in Wales to protect upland farming from a policy that might be pursued elsewhere. The Explanatory Memorandum advises:

"The ability of the Secretary of State to be able to act for one or more of the Devolved Administrations will allow for powers to be exercised uniformly across the UK or across certain constituent nations, where it is convenient to do so".

It goes on to state:

"The ability of the Secretary of State to act with the consent of Ministers does not apply to Wales in certain cases".

This is because in some areas relating to enforcement Wales has chosen to introduce its own statutory instruments, including on the administration of apiculture or beekeeping schemes and some of the design elements of school milk schemes. Can the Minister shed some light on why the Welsh Government have taken this approach and what discussions have taken place to try to ensure a uniform approach? I am sure he would agree that that would be preferable for businesses in the sector, which would not necessarily have to make changes as they import and export across the borders.

The Explanatory Memorandum also notes that some of the European Commission functions that have been amended could be exercised in ways that are reserved, such as when they affect trade or are devolved in other ways. In such cases, the power is conferred on the Secretary of State as they need to be exercised uniformly across the whole of the UK. Can the Minister elaborate on this explanation by providing examples of when the Secretary of State might use such powers and insist on that uniformity, rather than allowing for the greater flexibility that devolution brings? In that case, when the Secretary of State exercises those powers what role will the devolved authorities have? To what extent will they be consulted to show that they are content with the proposals before they are implemented?

Finally, as the Minister knows, Scotland chose not to be part of the agriculture Bill, which will lay the foundations for agriculture policy outside the EU. Does that have any implications for powers that have been conferred on the Secretary of State that need to be exercised uniformly across the UK? I look forward to the Minister's response.

Lord Gardiner of Kimble: My Lords, I have every sympathy with the noble Lord, Lord Jones, because I always go to the Explanatory Memorandum first. I congratulate colleagues and officials who have given us a comprehensive understanding of the background of these technical changes. In seeking to address these points, it is important to understand the context, which is that we are having to fine-tune systems that we are going to have across the UK in one way or another and it is very important that there is certainty. I understand this involves noble Lords, particularly the noble Baronesses on the Front Bench and some of my noble friends, in considerable scrutiny, but we must get this right. I was struck by the words of the noble Baroness, Lady Bakewell: "We must get this right". That means that when we make typographical errors or whatever, they should be attended to as soon as possible.

I shall run through the commentary. My noble friend Lady McIntosh and the noble Baroness, Lady Bakewell, referred to the exchange rate matter. The 2018 exchange rate was used to convert euro amounts in the retained EU regulations into sterling amounts. This is a one-off amendment. In future, we will take licensed securities in sterling. There is therefore no reason to peg these figures to the euro exchange rate. As I say, this is a one-off amendment and the figures will now be dealt with in sterling.

My noble friend Lady McIntosh asked about cost recovery. We take securities in the area of import and export licences. The only payment required to obtain an import or export licence is a security which is taken and held by the RPA. The RPA releases the security when it receives proof that the obligations specified on the licence have been fulfilled. As a result, there is no cost to an operator who uses the licence as intended. I understood that anyway. My noble friend also spoke about export refunds. In line with our WTO obligations, we have committed to the phasing out of export refunds from 2020. The EU has not used export refunds for quite a number of years.

The noble Lord, Lord Jones, made a powerful speech. He is a champion of upland farmers across the kingdom, but particularly those in Wales. Having walked parts of Powys—the beacons—and Snowdonia in my time, I recognise the beauty of that landscape. Let us not forget why it is so glorious. It is because of that particular brand of pastoral farming, the custodianship of the upland farming community and the culture that goes with it. We should treasure that. That is why the noble Lord is right to refer to tourism. They are places people want to go to because of the culture that those great families have produced over the generations. I would be failing if I did not also mention the high-quality Welsh lamb and Welsh beef they have produced, as well as Anglesey sea salt. All these are products of which we should be proud.

It is not just the uplands of Wales. There are the lowlands as well, which my noble friend Lady Byford mentioned. Farming communities across this country

are essential not only because of their glorious food but because of what they do and will do as we take ourselves through the environmental enhancement. It is essential that we work collaboratively with the farming community. With over 70% of the land in the UK farmed, and the figure is probably much higher in Wales, this is the route by which environmental enhancement—habitat recovery, nature recovery and wildlife recovery—will happen.

On the question of devolution, agriculture is devolved. Yes, there are elements relating to Wales in the Agriculture Bill. I am looking forward very much to opportunities for further discussions, perhaps tomorrow but also on agriculture legislation. In championing devolution, I should say—and I am going on to talk about common frameworks, which are hugely important—that the Welsh Government launched their new consultation, *Sustainable Farming and our Land*, on 9 July, which will be open to responses until 30 October. In England there is the environmental land management proposal, as a way of recognising what farmers do by way of public benefits.

I turn to the issue of divergence, and I thank the noble Baronesses, Lady Bakewell and Lady Jones of Whitchurch. In respecting the areas of devolved competence, my feeling is that at both official and ministerial level there is a strong recognition of what I would call common sense prevailing. UK government officials have been working closely with officials from all devolved Administrations to design future common frameworks where they are necessary and desirable. The Scottish and Welsh Governments continue to commit not to diverge in ways that would cut across future frameworks where it is agreed that they are necessary, or indeed where discussions continue. And not forgetting Northern Ireland: the Government remain committed to restoring devolution in Northern Ireland, but also acknowledge the engagement that has continued with the Northern Ireland Civil Service on common frameworks.

I have here a note on the discussions. The Secretary of State and the Minister of State, Mr Eustice, meet Lesley Griffiths from Wales, with whom I have a good connection; they meet Fergus Ewing from Scotland, with whom I have worked on a number of issues; and of course they meet DAERA officials, who have been most helpful to all of our Lordships on the SIs relating to Northern Ireland. All the Administrations are taking the issue of divergence forward in a very sensible and professional way. We respect the devolution arrangements, but common sense clearly suggests that there are ways in which we can work forward to the common good for businesses, consumers and indeed well-being.

The noble Baroness, Lady Jones of Whitchurch, specifically mentioned Wales and the issue with certain elements of the statutory instruments. There are some circumstances where the mechanism does not apply to Wales. That is because certain provisions are specific to the Welsh devolution settlement. That said, the Welsh Government have carefully considered whether the Secretary of State should be able to act on their behalf in respect of each of the functions concerned, and the drafting reflects that. Again, certain elements of the settlement relating specifically to Wales mean that it will be bringing forward its own statutory instruments, but that is within the mechanism of co-operation and understanding. To conclude on the divergence/common framework position, we are absolutely clear—if I might say this on behalf of all the devolved Administrations—that we are working together, I think successfully, at ministerial and official level because that absolutely makes common sense and is right for the United Kingdom.

The noble Baroness, Lady Bakewell, referred to poultry stakeholders. We have engaged with poultry breeders through the UK Livestock Brexit Group, which is made up of representatives from the livestock sector including the British Poultry Council, which itself represents all parts of the poultry sector—breeding, hatching, growing and processing. On amendments made to provisions concerning poultry and poultry meat, we have engaged with the British Poultry Council directly. The noble Baroness also referred to crisis payment examples. I must say that these have never been applied in the EU since the introduction of that provision in January 2014. There are no examples of such crises in EU law. I do not know whether that requires further consideration but my understanding is that there is no reference.

5.15 pm

My noble friend Lady Byford raised the issue of eggs. With regard to marketing standards, the SIs cover only eggs in the shell, not egg products. The SIs also confer on the Secretary of State the powers that the Commission currently has to make rules on the import of ovalbumin: the protein in the white part of the egg. I did that look up: it was very educational.

I have asked the same question as the noble Baroness, Lady Jones of Whitchurch, did about transitional periods: would it not have been a good idea if we had done that in the first place? The fact that I asked the same question might be the best way to reply to her: the point is very much taken. I hope that message goes across Whitehall. On her question about transitional periods and communication, importantly, the duration of the transitional periods has been communicated to stakeholders during our discussions and via the GOV.UK website, which is regularly reviewed and updated for obvious reasons. The noble Baroness also raised the issue of reciprocity. As noble Lords may be aware, the European Commission has published a notice in relation to EU food law and rules on quality schemes, stating that, subject to the conditions of a withdrawal agreement, the UK will be classified as a third country once we have left. This means that UK producers wishing to export goods to the EU will need to comply with the relevant EU rules and requirements on third-country imports.

For our part, we have determined that providing appropriate transitional periods will be the best way to ensure that UK businesses and consumers can still access products from the EU so as to maintain free and frictionless trade and to limit disruption to our businesses. I should also say, being the Biosecurity Minister, that we have taken the view that on day one, given the high standards that exist in the EU which we are already adopting, we are confident that that is a proportionate and correct approach to take in the early times after exit.

[Lord Gardiner of Kimble]

The noble Baroness, Lady Jones of Whitchurch, also asked about farm support. As she said, the Government have pledged the same cash in total in funds for farm support for the whole of the UK until the end of this Parliament. I am afraid that I do not know when the end of this Parliament will be. Perhaps I should bat the ball back to her and ask, "When will the leader of Her Majesty's loyal Opposition take a view on this matter?", because the real point that she rightly makes is that it is important that we have as much certainty as possible for the farming community.

As I have outlined to your Lordships, the farming community does a lot of things for this country. We will want it to do even more on the custodianship of the land and enhancing the environment, as well as, vitally, producing food for the nation and abroad. That is why we will work to provide that certainty through the agriculture Bill. That is why we have specifically stated the importance of having a transitional arrangement over seven years, with the reduction in direct payments and the trialling of environmental land management schemes, along with an improved Countryside Stewardship Scheme. This is all intended to work with the farming community to make sure that farmers have the right support not only in that regard but to improve productivity and to undertake research, such as that at Rothamsted, with which the noble Baroness is associated. It is essential that we have research and development into the challenges that this sector faces and the opportunities that this country can provide in producing food.

This regular dialogue with farming unions and interests is important because it is essential that they know the position. On continued support for Pillar 1 and Pillar 2, as I have said, no Parliament can bind its successors. I am not writing the noble Baroness's party's manifesto—or, indeed, my own party's—but if there is a general election, my suggestion would clearly be that agriculture, the production of food and environmental enhancement will be extremely important.

I am nearly finished. The noble Baroness, Lady Bakewell, referred to pragmatic enforcement. During the transition period set out, producers will not suffer adverse consequences for their products on the UK market. When exporting products to the EU, businesses will need to abide by the relevant EU rules.

I will look at *Hansard* because there some other points may have been raised. I think I have covered everything, unless the noble Lord wanted me to emphasise something.

Lord Jones: The Minister is very persuasive. He persuades me to request that he writes, when he considers the debate, with as many assurances as he dares.

Lord Gardiner of Kimble: I think I have given the Committee assurances that these statutory instruments are technical and operable. We have gone into a wider debate about the Government's support for agriculture and agricultural communities. We want agriculture to prosper in all parts of the kingdom. We obviously look to the farmer for many things, and we will continue to do so. This is an opportunity for me, in declaring my farming interests, to say that we must work very productively with farmers across the United Kingdom, for all the reasons I have outlined. I give that assurance to the noble Lord and to the Committee.

Motion agreed.

Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No. 2) Regulations 2019

Considered in Grand Committee

5.23 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No. 2) Regulations 2019.

Motion agreed.

Import and Export Licences (Amendment etc.) (EU Exit) Regulations 2019

Considered in Grand Committee

5.23 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Import and Export Licences (Amendment etc.) (EU Exit) Regulations 2019.

Motion agreed.

Common Organisation of the Markets in Agricultural Products (Transitional Arrangements etc.) (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

5.23 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Common Organisation of the Markets in Agricultural Products (Transitional Arrangements etc.) (Amendment) (EU Exit) Regulations 2019.

Motion agreed.

Common Agricultural Policy and Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2019

Considered in Grand Committee

5.23 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Common Agricultural Policy and Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2019.

Motion agreed.

Environment and Wildlife (Legislative Functions) (EU Exit) (Amendment) Regulations 2019

Considered in Grand Committee

5.25 pm

Moved by ***Baroness Chisholm of Owlpen***

That the Grand Committee do consider the Environment and Wildlife (Legislative Functions) (EU Exit) (Amendment) Regulations 2019.

Baroness Chisholm of Owlpen (Con): My Lords, it is a pleasure to lead this debate today to discuss the Environment and Wildlife (Legislative Functions) (EU Exit) (Amendment) Regulations 2019.

The Convention on International Trade in Endangered Species, or CITES, provides protection to more than 35,000 different species of endangered animals and plants. By regulating international trade in live animals and plants and their parts, the convention aims to reduce the threat to these species in the wild. Many UK businesses currently trade in CITES specimens. The relevant sectors are diverse and include musical instrument makers and musicians, fashion, antiques, pharmaceutical, floristry and businesses that trade in live animals for aquariums, zoos and pets. The Government's support for CITES is a key part of our wider commitment to combating the illegal trade in wildlife and tackling loss of biodiversity around the globe.

The draft instrument we are discussing today makes sure that after we leave the European Union the regulations implementing CITES will work in the UK. The regulations make technical, legal amendments to maintain the effectiveness and continuity of UK legislation that would otherwise be left partially inoperable, so that following our exit from the EU, the law will continue to function properly.

CITES is currently implemented in the EU through a number of regulations known as the EU wildlife trade regulations. The EU regulations will become retained EU law on exit day, and we have already made various EU exit regulations to make the legislation work in the UK. This statutory instrument corrects the drafting in one of the previous EU exit instruments. The EU regulations put in place a system of permits and certificates for cross-border movement of specimens of endangered species. The main EU regulation, 338/97, contains a number of derogations—exceptions—from the permitting regime. Further detailed provisions on derogations are then set out in a subsidiary, implementing regulation, 865/2006. The main regulation currently gives the European Commission powers to legislate and the rules are set out in the subsidiary legislation.

Today we are talking about three specific provisions. The main regulation contains derogations in Article 7(1) to 7(3). Those relate to specimens of species born and bred in captivity or artificially propagated, specimens in transit, and specimens which are personal and household effects. Article 7 currently gives the European Commission legislative powers to make further detailed provisions on those derogations, and that has been done in subsidiary legislation, EU Regulation 865/2006.

The derogations cover, for example, the process by which you may be able to import certain artificially propagated flower species without the CITES paperwork and checks that are normally required. They also govern how you might be able to move a personal item, such as a hardwood chest, as part of a family household move from one country to another.

This statutory instrument ensures that the Secretary of State has the necessary legislative powers to amend detailed provisions on key derogations in retained EU law. The SI corrects the drafting in a previous SI: the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019, henceforth referred to as SI 2019/473, which will in turn amend CITES-related retained EU law on exit day. SI 2019/473 provides for the Secretary of State to carry out functions currently performed by the European Commission and to set out the detailed provisions on the relevant Article 7 derogations in writing.

The draft instrument makes two amendments to SI 2019/473. The first corrects a drafting error, so that the Secretary of State can set out the regulatory detail of the derogations "in regulations", rather than "in writing". This will ensure that the Secretary of State has the legislative power to amend the retained EU law provisions after exit. This will ensure that we can, for example, amend the detailed derogation provisions to strengthen the controls we have, in line with our policy aims. The second amendment provides that regulations made by the Secretary of State in respect of these derogations will be subject to parliamentary scrutiny under the negative resolution procedure.

5.30 pm

With this SI, we are not changing the rules implementing CITES but simply ensuring that the Secretary of State has powers to amend retained EU law on specific derogations after we have left the EU. The Government have made it clear that our intention is to increase environmental standards when we leave the European Union. This includes our efforts to protect endangered species and our commitment to CITES.

As I have outlined, these amendments are necessary to make clear that the Secretary of State has a power not simply to take administrative action but to legislate and amend retained EU law in respect of these key derogations. It does not introduce new CITES policy and simply makes sure that retained EU law will work. However, this SI paves the way to ensuring we have the future ability, outside the EU, to legislate to set the UK's direction on the derogations in question—for example, if we want to tighten or strengthen the permitting regime.

This instrument deals with entirely reserved matters and so covers the whole of the UK. A draft of this SI was shared with the devolved Administrations for information.

In closing, I reiterate that this instrument will ensure that the Secretary of State can amend provisions on key derogations in the regime implementing CITES. It provides for regulations made by the Secretary of State in respect of these derogations to be subject to parliamentary scrutiny under the negative resolution procedure. For these reasons, I beg to move.

Lord Stunell (LD): I thank the Minister for her introduction. I am sure all Members of your Lordships' House share her enthusiasm for CITES to be implemented fully in this country and for our legislative route to be absolutely clear cut and without any ambiguity. Therefore, from that point of view, nobody could object to what is in front of us today.

However, it seems to be an example, not the only one, of something drafted in haste and repented at leisure—or perhaps revised in haste, bearing in mind that there is only another fortnight to go before it might need to be implemented. I was somewhat reminded of my own experience when I was instructed to write 50 lines before I could go out to play. On presenting the 50 lines, I was told they were not tidy enough and had to write another 50 lines. I very much hope that this is the last time we will change this and that the Government—or the next Government, as the case may be—will move forward with it.

I am encouraged by what the Minister says about giving Ministers the right to tighten bans and regulations. That is good, although it is of course also true that with the power to tighten them would come the power to loosen them. She may want to comment a little on that. Overall, I wonder whether she is not just a little embarrassed at wasting our time on this one.

Baroness Jones of Whitchurch (Lab): My Lords, I welcome the noble Baroness to her new role. I look forward to working with her on many the hours of primary and secondary Defra legislation that we have before us. I am sure that they will be instructive to both of us. I echo the comments of the noble Lord, Lord Stunell, because we accept that this is just an exercise in correcting mistakes. We have always been concerned that errors and mistakes would creep in because of the speed with which some of this legislation is being pushed through, but we would not want to say or do anything that jeopardises the CITES agreement, which is very important to us.

The Minister will be pleased to know that I do not have any questions, but I echo the obvious point, which is that these mistakes should not happen and that there should be a better checking mechanism in the first place. I hope that this will be the last time that we will see this SI and that we can put it to bed.

Baroness Chisholm of Owlpen: I thank noble Lords for their comments. I could not agree more with the noble Lord, Lord Stunell, about the importance of CITES. It is doing some great work.

I can only apologise to the noble Baroness, Lady Jones, and the noble Lord, Lord Stunell. Perhaps I should be writing 50 lines that they can correct if they are wrong and I will have to write them over again. In its defence, the department has had to prepare an enormous number of SIs, most of which have been done absolutely excellently. I can only apologise for these mistakes.

The noble Lord, Lord Stunell, asked about the dangers in the way the powers can be used. As far as that is concerned, there will always be parliamentary scrutiny, whatever decision is made. We can feel safe in that respect.

I thank noble Lords very much for their queries.

Motion agreed.

Pesticides (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

5.37 pm

Moved by ***Baroness Chisholm of Owlpen***

That the Grand Committee do consider the Pesticides (Amendment) (EU Exit) Regulations 2019.

Baroness Chisholm of Owlpen (Con): My Lords, these regulations correct deficiencies in the EU's regulatory regime for plant protection products and maximum residue levels, including making some amendments to previous EU exit SIs, namely the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019, which I will refer to throughout the debate as "the PPP EU exit SI"—I do not think that that makes it any easier, but still—and the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019, otherwise known as "the MRL EU exit SI". These instruments were put in place ahead of the original exit day in March. We have worked closely with the devolved Administrations to develop the further instrument and they have consented to it being made on a UK-wide basis.

Plant protection products, or "pesticides" as they are commonly called, are currently regulated by means of two EU regulations: Regulation (EC) 1107/2009, concerning the authorisation of active substances and placing of plant protection products on the market, and Regulation (EC) 396/2005 on maximum residue levels of pesticides that are permitted in or on food and feed. As mentioned, we have already put in place the main EU exit SIs to convert these regulations into operable national law, ensuring continued levels of protection for human health and the environment. The instrument that we are considering makes a number of additional, minor amendments to retained direct EU legislation. This instrument will ensure that the PPP and MRL regimes can continue to operate effectively after leaving the EU. They have no, or no significant, impact on business.

Amendments are required to be made to the EU exit SIs for three reasons. First, certain dates in the retained law were based on the original exit day of 29 March. These dates require extending so that they can work as originally intended. Secondly, new EU legislation on active substance and MRL decisions has since come into force during the extension period. This needs to be converted into national law in the same way as in the earlier EU exit SIs. Finally, this instrument fixes a number of errors within those earlier EU exit SIs, most importantly in relation to provisions on endocrine disrupting chemicals—EDCs. I will explain each of these in more detail.

With regard to amendments required following the change in exit day, the PPP EU exit SI contains some transitional measures which apply until specified dates to allow business time to adjust. These dates were calculated based on exit day being 29 March. These transitional provisions now require updating so that they can allow the amount of time originally intended. This instrument also deals with new EU legislation

that has come into force since the original EU exit SIs were produced. The EU exit SIs converted active substance and MRL regulations into a new national register, which gives effect to the provisions in a national context. The EU regulations themselves were therefore no longer required and were revoked.

This instrument takes exactly the same approach to new regulations that have come into force since by revoking the EU legislation listed in the schedule. Their provisions are given effect through the new national statutory register and so it is superfluous. Some older redundant EU regulations can also be revoked. This instrument also contains transitional provisions relating to grace periods for the withdrawal of active substances under such EU regulations, ensuring that they are carried across correctly and apply unchanged in national law.

I draw the Committee's attention to, and apologise for, a number of technical errors in the earlier EU exit instruments. They were noticed after they were made. We have used this opportunity to fix those errors that we were unable to amend via a correction slip, the vast majority of which are typographical and very minor in stature. The most significant issue is that the earlier PPP EU exit SI erroneously removed links to provisions relating to endocrine disrupting chemicals, or EDCs for short. This omission was purely unintentional. As a responsible Government, we have therefore taken the earliest opportunity to correct that error through this instrument, so that the provisions are carried over correctly into national law and there are no implications.

The House of Commons sifting committee recommended that this instrument be upgraded to the affirmative procedure, which my department accepted. The recommendation was on the basis that it includes a provision relating to charging fees. Specifically, it revokes Article 13a of Commission Implementing Regulation (EU) 844/2012, which clarifies that EU member states can require the payment of fees and charges to cover costs in relation to renewals of active substances. In practice, this simply removes a redundant provision. This instrument does not change the existing fees and charges, nor does it have any effect whatever on the UK's future ability to charge or make changes to current fees. After leaving the EU, the UK will no longer need permission to make provision for charging fees and charges. The necessary national fees and charges powers are provided by domestic legislation in the Plant Protection Products (Fees and Charges) Regulations 2011, which will continue to operate without any practical impact.

To conclude, without this instrument various highly technical provisions will not be transferred across into national law in a way that will work correctly. As I have previously said, this Government are committed to ensuring continued levels of protection for human health and the environment as well as to providing stability and continuity for business. I beg to move.

5.45 pm

Lord Stunell (LD): My Lords, I am pleased to note that this SI has far more substance than the previous one. I thank the Minister for the briefing she gave to my noble friend Lady Bakewell and others, which cleared many of the points that might otherwise have been made. Her introduction was very clear and thorough. The revised SI covers two circumstances: the errors and omissions—I shall quickly skate over the 50 lines effect—and the passage of time, which is more important and relevant to the point I want to raise. It means that the EU regulations have moved and the MRL regulations from the EU now need to be transposed into the SI. In future, what will be the process for retaining that alignment? There are no doubt multiple reasons why it has changed, but among them is that pesticides, their testing and their application to different crops change constantly and the regulations need to chase that. On the other hand, UK regulations need to be parallel and mirror those of the other 27 countries if there is to be easy trade of UK agricultural products across the channel or the Northern Ireland border without the risk of regulatory trouble.

The system of checks and balances is being taken out of the hands of the European Union regulatory system and moved to a UK supervisory system, but the reality is that that supervisory system will have to have a high level of regard to the EU regulatory environment if we are not over time to diverge and be disconnected in a way that would be a major disbenefit to UK agriculture and horticulture. Will the Minister comment on that? Can she offer us some idea about how the process of reconciliation with constantly moving standards on both sides of the channel will be accommodated in the new situation? It seems likely that that will mean that there will be a succession of additional SIs chasing the facts as quickly as can be achieved. Nevertheless, this is clearly a step that has to be taken, and I am content to see this SI move forward, although I hope we can have some reassurance about the long-term way in which we shall maintain the ability of UK agriculture and horticulture to participate fully in international trade with our European colleagues.

Baroness Jones of Whitchurch (Lab): My Lords, I am grateful to the Minister for introducing this SI and for the helpful briefing she organised beforehand. I declare an interest as chair of Rothamsted Enterprises, which carries out crop and crop protection research.

The use of pesticides is of huge public interest and has significant environmental and public health challenges. It is therefore important that we take the issue seriously. This SI is a part of a package of SIs that we have dealt with in previous months. They have raised concerns about whether the Secretary of State's powers are in any way equivalent to the EU's thorough product evaluation processes. We remain concerned that the application of the best scientific advice and external audit powers are missing from these proposals. While this SI makes relatively minor changes, our overarching concerns remain. What assessment has been made of the national capacity, including specialist scientific expertise, to enable the UK to operate a stand-alone regime that would be truly equivalent to that which exists in the EU at the moment?

Can the Minister also explain why the SI has been drafted to read that the Secretary of State "may" rather than "shall" obtain expert advice? What discussions are taking place to create a shared register of approved pesticides and mutual recognition schemes across the EU and the UK? I absolutely agree with the point

[Baroness Jones of Whitchurch]
raised by the noble Lord, Lord Stunell, about future alignment once we leave the EU. He rightly says that this SI cannot be the end of the road, because, as we speak, other amendments are probably being made to EU pesticides legislation. Almost inevitably, we will be revisiting this. When does the Minister feel that we will be able to draw a line and move from one regime to another? Future close alignment is vital.

Can the Minister update the House on the progress of the replacement for the maximum residue levels system? When will that database go live and how will people be authorised to use it? Can she outline the process by which active substances will be authorised and their acceptable levels determined when we are operating under a UK-only regime? What additional funding has been allocated to the Health and Safety Executive, the Environment Agency and Natural England to ensure that they have the capacity to provide the best scientific and policy advice? Time and again we have debated the capacity and funding of those organisations and whether we have sufficient scientists available to provide the necessary expert advice.

Can the Minister advise what the future reporting requirements for the UK Government will be? It is understandable that the UK will no longer report to the European Commission, but what body will replace that reporting requirement? Is it envisaged that the office for environmental protection will have that statutory role? Finally, as we have debated before, we do not accept the proposition in the EM that exit date is to be 31 October. It makes sense to amend the wording in the SI to derive a more prosaic phrase, "the date two years after the date after exit day". Is that wording now to be used more widely in SIs to avoid the technical nightmare of having constantly to revisit the date in legislation? I look forward to the Minister's response.

Baroness Chisholm of Owlpen: My Lords, I thank the noble Lord, Lord Stunell, and the noble Baroness, Lady Jones, for their questions. They both asked what the process will be. Collectively, our EU exit SIs will put in place a stand-alone, independent regulatory regime under which we will make our own decisions. This gives effect to them in our own national register. We will make our own decisions and be able to take account of other regulatory assessments to inform our decision-making.

Lord Stunell: I understand this that there will be new processes here, but equally, the Minister will recognise that for our agricultural products to be exportable, they will need to comply, or at least be very closely aligned, with the regulations of the receiving country—or, in this case, the European Union. Will she comment on whether we will require ourselves to keep in a parallel regulatory system in some way and to some extent?

Baroness Chisholm of Owlpen: We will have our own regime, obviously. Basically, producers will have to meet the requirements of their market. We will have our national register and make up our own minds about what we want to do. It will go from there. Does that answer the question? Would you like more?

Baroness Jones of Whitchurch: I would like more. I am sorry to push the Minister. First, what will be the process within the UK before we reach the final decision over approval? What stages will a new product, for example, have to go through? Secondly, something will be happening very much in parallel across the EU, where it will be doing its own assessments. At what point do we share information so that we are not doing our own unique research when that research already exists elsewhere? How much collaboration will there be? I am still not clear from what the Minister is saying what those stages, and the checks and balances, will be. Although the EU's process sometimes appears long-winded, it gives confidence that thorough checks and balances are in operation. I am not sure that the Minister has expressed that in the new regime being proposed.

Baroness Chisholm of Owlpen: Part of that comes from the fact that the SI is basically talking about a no-deal Brexit. Those other questions and queries will presumably come with there being a deal of some kind, when those issues will be discussed further. This SI is basically dealing, as we know, with a no-deal Brexit. Inspiration has come over my right shoulder, but I do not know whether it will be any help. Industry already produces different standards—for example, the supermarkets and their regulations—but the main answer is that this SI is basically for a no-deal Brexit. Any future conversations will stem from what is decided with the deal, when presumably we will have the transition period and carry on talking about this.

Lord Stunell: I thank the Minister for being as helpful as she possibly can. Perhaps she might agree that this is another illustration of why it would be a really good idea if a deal were reached.

Baroness Chisholm of Owlpen: I could not agree more. Let us hope that when we leave this Room we will discover that there are bright lights and that something has occurred.

The noble Baroness, Lady Jones, talked about capacity and the funding of UK scientists to do necessary work post Brexit. As we know, we already have significant expertise and capacity in our expert national regulator, the HSE, which already does a large proportion of the scientific work with the EU regime, so we are well-placed to run our own regime. We are working closely with the HSE to ensure that the transition is as smooth as possible. Additional capacity will be required in the event of a no-deal exit. That is not required immediately on exit day but will be developed over the next few years.

Extra resources will be required and extra people will need to be hired. The additional cost will broadly be in the region of £5 million per year, and money will be there to help with that. On exit day there will not be an immediate necessity to hire people but there will be as time goes on, and that money will be available.

Increased resources will be put in place for the Expert Committee on Pesticides, reflecting the increase in its responsibilities and need for additional work. We will also explore how we can collaborate internationally on the science, including with the EU, to minimise any burdens.

On the question of whether there will be a shared register with the EU for pesticides, the earlier EU exit SIs, along with this one, will provide us with a fully independent UK regulatory regime in the event that we leave the EU without a deal. Leaving without a deal would be a definition not included in a shared register with the EU. We would have our own statutory register of approved active substances with the MRLs, although at the point of departure the content would be the same as in the EU. Alternatively, if there is a deal, obviously the future arrangement would depend on the nature of that deal.

The noble Baroness, Lady Jones, talked about "shall" or "may". Scientific assessment will remain the fundamental basis for decision-making, as it is now. These assessments shall be undertaken by our expert national regulator, the HSE, including additional independent expert advice from the Expert Committee on Pesticides, where needed. The FSA's statutory functions are being retained and repatriated to a national regime, where they remain relevant in a national context. Those will be delegated to the HSE and carried out by them: for example, undertaking public consultations on active substances and producing the conclusion report of the active substance assessment process. There will no longer be a need to separate these functions into a separate EU layer of activity to ensure consistency between the many EU member states' regulatory bodies. That has been understood by some as weakening the requirement, but it will not. Where appropriate, it is felt that "shall" is the right word, because we will carry on doing everything that is necessary. This is a straightforward conversion of the current statutory requirement into our national law.

Have I covered everything? I thank noble Lords for their queries and hope that I have answered them satisfactorily.

Motion agreed.

Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019

Considered in Grand Committee

6.03 pm

Moved by ***Lord Bethell***

That the Grand Committee do consider the Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019.

Lord Bethell (Con): My Lords, as the Committee will be more than aware, Parliament has now approved well over 50 EU exit SIs for financial services. That includes three miscellaneous provisions SIs, which are sometimes necessary to make isolated deficiency fixes that do not fit easily into more thematic instruments. These miscellaneous SIs have sometimes been used to correct minor errors in or omissions from earlier exit legislation. This instrument makes some such changes and updates some earlier exit provisions to account for the Article 50 extension. As I have explained to the House previously, the errors in our exit legislation have been minimal. Of approximately 1,300 pages of financial services instruments, miscellaneous instruments have accounted for only 60, with these miscellaneous instruments used only partially to correct errors.

However, this instrument also makes substantive changes to earlier exit legislation in two key areas: first, to the contractual continuity and temporary permissions regimes for payment services; and, secondly, to transitional arrangements for financial benchmarks. These changes are not to correct errors but to strengthen our readiness for exit. We are continually reviewing our exit arrangements to ensure that they are as robust as they can be. In these two areas, we decided it is right to do more to protect UK consumers of payment services and to prevent disruption to firms and markets that rely on financial benchmarks.

An important aspect of our no-deal preparations is the temporary permissions regime, which will enable European Economic Area firms that operate in the UK via a financial services passport to carry on their UK business after exit day while they seek to become fully UK-authorised. We have also introduced run-off mechanisms via the Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019, which were made on 28 February, for EEA firms that do not enter the temporary permissions regime or that leave it without full UK authorisation.

Part 3 of this instrument supplements provisions for the temporary permissions and contractual continuity regimes for EEA payments and e-money firms through changes to underlying payment services and e-money legislation and previous EU exit SIs. A review of this legislation has identified a limited number of provisions that require amending by this SI to ensure that these temporary regimes are as robust as possible. The amendments fall into two categories. The first is to ensure that EEA firms in contractual run-off can continue to carry out various payment-related activities as intended. This will include provision of payment and e-money services by EEA credit institutions such as banks. The second category applies to the temporary regimes for EEA payments and e-money firms. These amendments clarify and make more explicit the full range of permissions and obligations of firms that enter these regimes. For example, the amendments make explicit that an EEA firm in a run-off regime can legally redeem outstanding electronic money, making it clear that it can return any balance on an account to UK e-money holders. In a limited number of areas, the instrument makes FCA powers more consistent with the powers it has with respect to credit institutions in the run-off regimes, for example by making explicit that the FCA may publish a register of firms in contractual run off. These changes ensure that the FCA has proportionate powers to take action to protect UK consumers.

The second substantive set of provisions in this instrument covers changes being made to the onshored benchmarks regulations by the Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019, which the House debated in February. As they stand, these onshored regulations contain a transitional regime for third-party benchmarks, allowing UK entities to use non-registered third-party benchmarks until

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31 December 2019. However, since these regulations were made, it has become clear that there will be a damaging cliff-edge impact when this transitional regime expires at the end of 2019, a point highlighted by the Secondary Legislation Scrutiny Committee in its report published on 3 October.

Very few third-party benchmark administrators have made applications to be registered, and only two equivalence determinations have been made by the European Commission, covering only seven third-country benchmarks. If we leave the EU without a deal on 31 October, benchmark administrators outside the UK will have insufficient time to make an application under the UK regime by 31 December 2019. This would mean that UK firms would no longer be able to use those benchmarks for new contracts and products, causing considerable market disruption. For example, loss of access to third-party foreign exchange rate benchmarks, such as the Indian spot FX rate, could prevent firms carrying out important risk-management functions, such as hedging their currency risk. Equally, the inability to use equity benchmarks, such as the Nikkei 225, may make it more difficult for UK investors to gain or hedge equity exposures. These instruments extend the period that the transitional regime applies by three years, from the end of 2019 to the end of 2022, ensuring that benchmark administrators outside the UK have an appropriate period to make an application under the UK's onshored third-country regime.

Finally, I want to explain the amendments that the instrument makes to our onshored equivalence framework. These amendments are purely for legal clarity and do not change the policy approach to equivalence that Parliament has already approved. When making an equivalence determination after exit, the law needs to be clear about on which aspects of the UK regime a third country has equivalent provisions. For example, if Parliament were to approve a decision on a third country having equivalent insurance regulation to the Solvency 2 directive, UK law will be clear that this refers to the UK's implementation of Solvency 2 as it stands when the equivalence decision is made.

Before I conclude, I should point out that this instrument was made and laid before Parliament on 5 September, under the made-affirmative procedure provided for in the EU withdrawal Act. This is an urgent procedure which brings an affirmative instrument into law immediately, before Parliament has considered the legislation, but this procedure also requires that Parliament must consider and approve such a made affirmative instrument if it is to remain in law. As I explained to the House last week, the Government have not used this procedure lightly and it must be remembered that, across departments, we have already laid over 600 exit instruments under the usual secondary legislation procedures. Indeed, of the 58 SIs that the Treasury has put before Parliament, only four have been made using this procedure. But as we draw near to exit day, it is vital that we have all critical exit legislation in place, including legislation necessary to ensure that our financial services regulatory regime continues to function effectively from exit. Industry and our financial regulators need legal certainty on the regime that will apply from exit if we leave the EU without an agreement.

I have spoken of my gratitude for the hard work that has gone into preparing our regulatory regime for exit in previous EU exit SI debates, and I repeat that thanks. I know that the Bank of England, the FCA and industry have greatly appreciated the Treasury's constructive, collaborative approach to this task. The legislation we have put before Parliament has been very positively received by the industry and has done a huge amount to provide confidence and reassurance that the UK's regulatory regime will continue to work effectively in all scenarios. Once again, I thank all those involved. I hope colleagues will join me in supporting these regulations. I beg to move.

Baroness Bowles of Berkhamsted (LD): My Lords, I thank the Minister for this introduction and also for sharing with us a draft of his speech. I appreciate that he us trying to be as helpful as possible, because this House is of course not involved in the various consultations. It is industry that gets the benefit of that. A point that I have made about when we get into non-Brexit legislation in future is that I think we need to have more consultation at the same time as industry.

As this is a financial services matter, I declare my interests as in the register. As the Minister said, this is a miscellaneous provisions SI, which have been thankfully rare from the Treasury. I repeat what we have said before: in general, the Treasury has done a very good job of converting the EU legislation into UK law and following a formula that we can generally see on all the documents as they come forward. I agree that it adds clarity and is a useful extension to previously defined transition periods.

I broadly welcome the provisions, in particular regarding the contractual run-off. It seems a very useful provision for the FCA to be able to list firms that are in contractual run-off, and it is very useful for consumers. I do not expect consumers to be wandering around the FCA website—I might do that and it is hard enough for me—but there are various consumer-oriented organisations, some of which make useful broadcasts to alert consumers to things.

They would find a use for that kind of information in circumstances where a consumer needs to be alerted: for example, if some provision is coming to an end or if the time is right for them to have to switch away from a provider that will not continue forever. It says that the FCA "may" do this; this is one of those occasions where I wish it said "shall", because I regard this as essential and hope it is written with that spirit in mind.

6.15 pm

I welcome the clarity on and extension to the transition period for third-country benchmarks. Benchmark regulation is still relatively newly within the regulatory perimeter—in fact, anywhere in the world. It is something on which the EU has largely been in advance of regulation elsewhere, so it is actually quite new for third countries to have to grasp the fact that they may need permissions and other approvals around their own benchmarks. For that reason I thought that the

time provided previously was too short, so I welcome the longer extension. I do not consider this soft; it is highly necessary.

I notice that the conversion date in Regulation 20(2)(a) for those already in the system is 31 December 2019, the three months, I think, for an application for registration or authorisation of an existing EEA entity, benchmark or something of that nature. I query the wisdom of writing a date in. "Three months after exit day" might have been more sensible, in case there is a delay to get some kind of deal, particularly one to 31 December 2019—I suppose that if that fell through we would have to reamend, although I hope that that is a circumstance we do not have to entertain.

I kind of welcome the clarifications around equivalence. It is always difficult if you say, "Saying we are equivalent on Solvency II relates only to Solvency II and not other things", because there is a great deal of entanglement. There will be bits to do with MiFID and bits to do with other things that have either amended, imported or applied Solvency II. Where there are explanations regarding this, to say, "Just Solvency II" could lead people astray. You have to make it clear whether, if you are finding them equivalent on Solvency II, that means that any related bit to do with some other obligation somewhere else that you have to do if you are an insurance company has also been taken account of. Again, that is where the web of legislation, made more complex by the way in which we have imported and amended it, and the absence of checklists and correlation tables about what is where, will make it very difficult for industry and any practitioner to follow. It will also be quite difficult for those seeking equivalence decisions. I have no objection to what is being done, but I fear that on equivalence and clarification it will need revisiting at some point in a more generic way.

Baroness Kramer (LD): My Lords, I will be brief thanks to my noble friend Lady Bowles, who takes all the pressure and burden off my shoulders. I thank her very much. I also thank the Minister for his clarity and advance notice of his speech. I want to bring up a couple of issues. As with my colleague, it seems to me good sense to follow the tactic of contractual run-off. That that was not in one of the earlier SIs was probably an oversight given the volume that the Treasury has had to deal with, and I do not think that anybody can raise too many eyebrows at that.

I want to focus a little more on the third-country benchmarks, because I wonder whether that really was an oversight. The UK may have assumed that third countries would stand in line so that, on the first possible day that they could have a discussion on recognition of benchmarks, they would be knocking at our door and begging to be able to go through the process. It has been a rather salutary experience to find that many countries have not been all that concerned about standing in line to make sure that they continue to be able to use London for a wide range of their activities—most of them are exploring alternative markets fairly vigorously and with quite a bit of enthusiasm. Making it easier and taking away some uncertainty for a period of three years therefore makes great sense, but I suspect that the initial thought was that London was so necessary to everybody that it could not be replaced by anyone in any way and consequently did not have to think carefully about providing the opportunity now covered by this SI.

That brings me to the issue of equivalence which the Minister mentioned, although I know it is not essentially embedded in this SI. He said that the UK almost from the moment we leave—if Brexit happens—would begin potentially to diverge. Different interpretations and different rules might come under the umbrella of Solvency II, but their UK life would be different from that for the 27 countries within the European Union. That is one of the things that worry me more than anything else. While all these measures focus on the UK discussing how it will allow EEA firms to continue to use London, the real issue is whether UK-based firms can continue to service clients across the EU, because that is obviously where the overwhelming majority of the client base is.

Let us look at insurance. Commercial insurance is the most significant part of that industry and the overwhelming majority of its clients are EU 27 companies. I have no idea whether any relaxation in terms has now been offered by the EU that is greater than the original temporary permissions. As I remember, most of the temporary permissions from the EU expire next March, so potentially we are looking at some fairly rough waters. If the Minister is making a statement that underscores the expectation that the UK will have a different interpretation or will step away from our common heritage quite rapidly after Brexit, he is doing a great deal to diminish any willingness on the part of the European Union to extend temporary permissions or to consider that the terms are being met for equivalence. I counsel him to think carefully before flagging up an intention to create divergence, when such divergence is largely at a cost to the UK financial services.

Lord Tunnicliffe (Lab): My Lords, I welcome the Minister to the Moses Room. I do not know whether he has done any propositions here before, but I hope he is not overwhelmed by the number of Peers in attendance.

The Liberal Democrats are blessed with people who understand this industry. I am afraid that the Labour Opposition is blessed with me; I do not know the industry and have had to slog through the Explanatory Memorandum to try to understand what it is all about. I note the Minister's praise of the Treasury staff and others involved in its creation. As a constant critic of Explanatory Memorandums, I also extend praise, because slotting together these 58 SIs must have been a dreadful task. Nevertheless, I fall back on reading the Explanatory Memorandum and hope I add some rigour to the exercise by insisting on explanations where the plain language has failed to get the information across to me.

The first issue I raise is in Regulation 1(2) itself, which says:

> "This regulation and regulations 2 to 7",

et cetera,

> "come into force the day after the day on which these Regulations are made".

By my understanding of the "made affirmative" process, that means they are actually in force now—I stand to be corrected on this. One of the problems we have had

[Lord Tunnicliffe]

all the way through is that this is a so-called no-deal SI, so what happens to the parts of the regulations which are now in force if in fact we get a deal? Will they be repealed, when and by what mechanism?

Plunging into the Explanatory Memorandum itself, the first place I paused was paragraph 2.5. Here, there is an amendment to FSMA,

"so that the Financial Conduct Authority … can, if necessary, be exempt from consultation requirements where an urgent change to BTS is needed to protect UK consumers. The ability of the FCA to make urgent rule changes, where necessary to protect consumers, is an important crisis management tool in the UK regulatory framework".

I always worry about these urgent tools where consultation is abandoned. If it is important and about a crisis, and if there is no consultation because of the timescale, is there subsequent consultation? Should amendments made under these circumstances be subject to some sort of review process?

The next area I will look at is paragraph 2.6, which says:

"Updates are necessary to take account of EU amendments made to the CRR which became applicable in June 2019. The CRR cross-references to be updated are in domestic legislation concerning the recovery and resolution of banks, and the reorganisation and winding up of credit institutions".

For my sins, I have been involved in this legislation over the past several years and know that this is really important stuff. Is it possible to give me some sort of feel as to what these changes effect? Clearly I could go back through the many documents, but it would be useful if the Minister could give a short explanation.

6.30 pm

The next area I tripped up on was in paragraph 2.7, when I was happily reading through the document. Clearly there was a problem, and here was a solution. The end of paragraph 2.7 says:

"A review of this legislation has identified a limited number of provisions which should be amended in order to ensure these temporary regimes operate as intended from exit day".

That seemed to me a pretty sensible idea, until I read the explanation over the page, at paragraph 2.9(i), which states that the regulations,

"ensure that relevant funds of payment service users and e-money holders continue to be prioritised above the claims of other creditors as they are currently, in the event that these firms enter a UK insolvency procedure".

That seems to me, as a non-expert, to be a pretty significant impact on insolvency law. Am I right that it amends or influences the appropriate insolvency law, and is it accepted that this is quite a significant impact? It seems entirely sensible and I cannot quibble with it; I just worry that it is a little paragraph in an instrument that amends an instrument, and so on. Have all the implications been taken into account, or is it a more straightforward situation that there was some ambiguity and it is merely eliminating that to a minimum of ambiguity?

Later in the document, paragraph 2.16 introduces the MAR, which is about market integrity and investor protection. Clearly this is very important. I do not understand how the MAR works. It seems that it must relate to criminal law, because any insider trading and so on presumably has a criminal consequence. But the paragraph goes on to specifically explain that this removes any ambiguity as to whether overseas territories are involved. First, I do not understand who the overseas territories are; I knew the definition once, but I would like it repeated just to clarify things in my own mind. Secondly, do we have the appropriate law to intrude into overseas territories to make sure that the MAR has the right impact?

On the benchmark issue, Liberal Democrat colleagues have drawn out the issue in paragraph 2.25 of the poor rate at which other authorities have sought to administer. I too shuddered a little at this. Is it an indicator that London will have a diminished status after a no-deal Brexit? Is our feeling that Europe cannot manage without London justified? This is the first direct reaction to it, and it is almost as though the importance of London is being ignored.

Finally, I have a little quibble about paragraph 3.1. I try to be nice to civil servants, but that paragraph explains that the "made affirmative" procedure is being used because it is urgent—and if you then look at the schedule at the back, it explains again why it is urgent. However, the only reason it is urgent is because the process was started late. Are there good reasons why the process was late to begin with?

Lord Bethell: My Lords, I thank noble Lords for a lot of scrutiny of this set of incredibly technical SIs. I appreciate the time and consideration that has gone into examining them. I also thank noble Lords for their warm welcome to me in the Moses Room because it is indeed my first time. However, I like and welcome the more intimate and friendly nature of the debate here. Many specific and technical questions have been put, so I hope that I will be forgiven if I go through them systematically and share some answers in the best way possible.

On contractual run-off, I welcome the view of the noble Baroness, Lady Bowles, that the creation of this device is helpful. It has been warmly received by the industry. When it was explained to me, I wondered why we did not have it in the first place, so I am pleased to see it. I completely understand and can convey the noble Baroness's point on changing "may" to "shall" to the Treasury; I will pass it on to officials. The noble Baroness also queried the date on benchmarking—that is, changing it from a fixed day to perhaps a more flexible one; the noble Lord, Lord Tunnicliffe, also referred to this. Again, I will convey that point to officials because it seems an extremely sensible suggestion.

Let me say a few words about equivalence. The noble Baroness is right: what the third parties are equivalent to must be extremely precise. We will review this in the longer term but, for the moment, we must prioritise getting something prepared for a potential no-Brexit date, so we are working on a shorter term. However, we will not lose sight of the need for that precision in the long term, so we will revisit it.

The noble Baroness, Lady Kramer, asked about third-party benchmarks and why we had not spotted the benchmarks issue earlier. I assure the noble Baroness that it was not a question of not spotting it because it was very much on the radar screen. However, there is

an issue right across the EU around putting in the regulations for third-party benchmarks. In particular, they are newly more important and the problems that we have faced flow from new EU regulations, not from the UK's approach. We have been playing catch-up during the drafting of these SIs and I think that we have reached a place where we now feel much more confident than before.

I turn to reciprocity. Again, I assure the noble Baroness, Lady Kramer, that onshoring has kept divergence to a minimum, as she will know and as we have discussed in the House a couple of times. The UK provisions that a third-party country will need to be equivalent will, in substance, be exactly the same as the EU provisions, so the question of whether firms based in the UK will be able to trade as normal in the EU will, we believe, be substantially secure in the case of no deal. I also take confidence from some of the progress that has already been made in our negotiations with EU member states. I cite two or three examples. The first is the granting of temporary equivalence in recognition of UK CCPs and CSDs. The second is the decision of ESMA to approve MOUs to include provisions to allow the cross-border delegation of portfolio management between the UK and the EEA. The third is the EIOPA recommendations, which call on relevant member state regulators to put in place measures that aim to minimise detriment to insurance policyholders. I believe that that was an error referred to by the noble Baroness. Certain member states, particularly France, Germany, the Netherlands, Sweden, Finland, Italy, Luxembourg and Ireland, among others, have also announced various contingency measures. We are reassured that there is a commitment on the part of our EU partners to ensure that trading continues and that there is not some kind of problem should a no-deal Brexit occur.

The noble Lord, Lord Tunnicliffe, asked a number of characteristically focused questions. I will tick some of those off, if I may. There was a correct question about commencement. Yes, some of the measures are in force because of the procedure used to lay and make them. They are in force right now and, if a deal is secured, we expect that any provisions in EU exit SIs due to commence on exit day will be deferred until the end of the implementation period. That would be achieved by legislation used in ratifying the deal. We are keeping an eye on all these loose ends and they will be rolled up in the ratification process. Some provisions in exit legislation have already commenced—for example, our temporary permissions regime, which enables firms to apply now to be covered by all of the regimes covered by these SIs in time for exit. Any provisions that have commenced already will need to be amended appropriately to cater for any agreement reached between the UK and the EU.

The noble Lord also asked about the urgent and crisis procedures, quite understandably. He asked whether there was any way that they could be reviewed after they have been implemented or consulted on. The particular amendment in these regulations does not introduce any urgent procedures itself. It enables the FCA to use a provision that it already has in the Financial Services and Markets Act 2000 to dispense with consultation requirements when an urgent rule change is needed to protect consumers. Since it is already on the statute book and the procedure already exists, there was not felt to be a strong need for further consultation in this case, but we have continued to engage with regulators in the industry on our exit legislation, including instruments made under the "made affirmative" procedure, and we are keeping all the exit legislation under review. The noble Lord makes a good argument for potentially revisiting all this in the case of a no-deal Brexit to ensure that the provisions made under the urgent and crisis procedures remain relevant and of the best quality.

On paragraph 2.6, and the question of what these regulations actually do, I will try to explain. Regulations 2(3), 3, 9 and 12 update cross-references in various pieces of domestic legislation to the UK's onshore capital requirements regulation to ensure that these references continue to function after exit. These amendments are purely about updating cross-references in legislation and do not change the substance or policy of the regulations concerned. After exit, we cannot continue to refer to EU legislation. We must refer to equivalent provisions in UK law.

Paragraph 2.7 was another area that invited a question. The noble Lord, Lord Tunnicliffe, asked about "as intended". That stray phrase refers to the intention in the originating legislation—the Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019—which introduced temporary run-off regimes for EEA credit institutions, payment institutions and e-money institutions with pre-existing contracts. The intention was that they could continue to service pre-existing contracts for a limited period. This instrument ensures that they will be able legally to provide the full range of services that may be required under pre-existing contracts.

The noble Lord, Lord Tunnicliffe, asked about insolvency and whether these regulations would have a big impact on insolvency law. I confess that when he put it to me, it made me lift my head and wonder the same question—for instance, by changing the order of claimants on assets. I assure him that that is not the case. The amendment continues to prioritise the claims of customers, for instance against payment firms in a UK insolvency procedure. That totally protects UK consumers of EEA firms in a run-off as currently required by the European payments regulations, and will be transposed into UK law. Currently, if an EEA payment or e-money institution becomes insolvent, UK customers would enter a single insolvency procedure in the firm's EEA home state. In the event of a no-deal Brexit, there is the potential for an additional UK insolvency procedure. From what I understand, that actually enhances the security of UK customers.

The noble Lord also mentioned the market abuse regulations in paragraph 2.16. He asked whether they cover criminal offences and asked about overseas territories. I cannot reel off the 16 overseas territories off the top of my head, but I would be happy to send him a link to that list. With reference to paragraph 2.16, I assure the noble Lord that this is about ensuring that existing criminal offences continue to apply as they do now once the UK is outside the EU's jurisdiction; it is not about creating any new criminal offences. Overseas

[Lord Bethell]
territories—for example, Bermuda—are currently within the scope of the EU's market abuse regulations for activities carried out in the EU, so the regulations ensure that they continue to remain within the scope of the UK's post-exit market abuse scheme.

Lastly, both the noble Baroness, Lady Kramer, and the noble Lord, Lord Tunnicliffe, asked about diminished status, which is a difficult issue to address because we do not know what is happening in the negotiating room. This Government and, I think, everyone in this Room, very much hope that a deal will be done. It is very much the intention behind the SIs and the entire thrust of government policy to ensure that, even under a no-deal Brexit, the financial services industry will be protected and will not suffer diminished status. We very much hope that these measures will achieve that objective.

Motion agreed.

Prospectus (Amendment etc.) (EU Exit) Regulations 2019

Considered in Grand Committee

6.46 pm

Moved by ***Lord Bethell***

That the Grand Committee do consider the Prospectus (Amendment etc.) (EU Exit) Regulations 2019.

Lord Bethell (Con): My Lords, the Government have previously made all necessary legislation under the EU withdrawal Act to ensure that, in the event of a no-deal exit on 29 March 2019, there was a functioning legal and regulatory regime for financial services from exit day. Following the extension to the Article 50 process, new EU legislation has become applicable. Under the EU withdrawal Act, this legislation will form part of UK law at exit. Additional deficiency fixes are therefore necessary to ensure that the UK's regulatory regime remains prepared for exit.

This instrument amends the EU prospectus regulation and related legislation, including a previous EU exit instrument—the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019, or the official listing instrument. That instrument, which was debated back in February, fixed deficiencies in the EU prospectus regime prior to 29 March 2019. However, on 21 July 2019, the new EU prospectus regulation applied in full across the EU, replacing the existing regime.

The EU prospectus regulation contains the standardised rules that govern the format, content, approval and distribution of the prospectus that issuers may need to produce when securities are offered to the public or admitted to trading on a regulated market in an EEA state. Deficiency fixes to the new EU prospectus regulation are necessary to reflect that, after exit, the UK will be outside the EU single market and the EU's regulatory and supervisory framework for financial services. Where appropriate, the amendments in the instrument follow the same approach as the prior amendments made in the official listing instrument to the UK prospectus regime. Overall, this instrument will ensure that the UK will continue to have an effective prospectus regime after exit.

First, after exit, EEA issuers wishing to access the UK market will be required to have their prospectus, or their registration document, approved directly by the Financial Conduct Authority, as any other third-country issuer would. Currently, an EEA issuer's prospectus or registration document can be passported for use in the UK once it has been approved by an EEA regulator. To provide continuity, this instrument introduces transitional arrangements that will allow a prospectus approved by an EEA regulator and passported into the UK before exit to continue to be used and to be supplemented with additional information until the end of its normal period of validity.

Similarly, the instrument permits registration documents—the part of the prospectus that contains information on the issuer—that are passported into the UK before exit to continue to be used as a constituent part of a full prospectus in the UK. However, the full prospectus will still require FCA approval after exit. For both a full prospectus and a registration document, the period of validity is usually 12 months after it was originally approved. I should stress that the Government have worked very closely with the FCA in preparing this instrument. The FCA is confident that it has the appropriate level of resource to manage its responsibilities, including the approval of prospectuses as of exit day.

Secondly, the exemption for certain public bodies from the obligation to produce a prospectus under the EU prospectus regulation is maintained but is extended to the same set of public sector bodies of all third parties after exit. This exemption is limited to certain types of securities issued principally by Governments, central banks, local or regional authorities of a third country and public international bodies of which a third country is a member, such as the Nordic Investment Bank. This approach is in line with the approach previously taken in the official listing instrument. Noble Lords will remember that this issue was deliberated during the debate on that instrument in February and, as then, while this is a change from the current limitation to EEA states only, I believe it makes sense to extend this exemption more broadly. This will ensure UK capital markets continue to be attractive to public body issuers, which have historically raised substantial volumes of capital in the UK. We estimate that in 2016 and 2017 at least $84 billion was raised by public bodies making use of this exemption.

It is also important to remember that the EU prospectus regulation is not the only protection in place for those looking to invest in securities. Most significantly, the marketing and promotion of securities will remain subject to the financial promotion restrictions set out in the Financial Services and Markets Act and overseen by the FCA. The EU prospectus regulation allows issuers to incorporate information from certain documents that are available electronically elsewhere by making reference to them in a prospectus. This includes documents approved by the regulator of another EEA state. To provide continuity for market participants, this instrument sets out that information contained in the relevant documents approved by an EEA regulator before exit day can continue to be incorporated by reference in a UK prospectus going forward. However,

the FCA will still need to approve any prospectus that incorporates information in this way before it can be used in the UK.

Lastly, this instrument ensures that matters in relation to the UK prospectus regime and transparency framework will continue to apply to Gibraltar, as they did prior to the UK's departure from the EU. This is in line with the approach taken in other EU exit instruments.

As with all our EU exit legislation on financial services, the usual consultation process has not been used. It would have been unfeasible in the time available to prepare for exit. Nevertheless, the Treasury has engaged extensively with the financial services industry, particularly through TheCityUK, to develop our exit legislation, including this instrument. TheCityUK was supportive of the approach taken and helped to improve the clarity of the instrument.

Before I conclude, I want to address the procedure under which this instrument has been made. It, along with three other financial services exit instruments, were made and laid before Parliament on 5 September under the made-affirmative procedure provided for in the EU withdrawal Act. As described earlier, this is an urgent procedure which brings an affirmative instrument into law immediately, before Parliament has considered the legislation, but the procedure also requires that Parliament must consider and approve a made-affirmative instrument if it is to remain law. The Government have not used this procedure lightly but, as we draw near to exit day, it is vital that we have critical exit legislation in place. It would have been inappropriate to leave this until the last minute. Industry and our financial regulators want legal certainty on the regime that will apply from exit.

In summary, this Government believe that the proposed legislation is necessary to ensure that the UK's prospectus regime can continue to function appropriately post-exit if the UK leaves the EU without a deal. I hope that noble Lords will join me in supporting these regulations, which I commend to the Committee.

Baroness Bowles of Berkhamsted (LD): My Lords, I thank the Minister for his introduction to the statutory instrument and also for his previous email contacts. As has been said, the delay to Brexit has brought another EU regulation into scope and, given that it is a regulation, it is already directly applicable. As usual I must declare my interests as in the register and especially as a director of the London Stock Exchange. I think that prospectuses are slightly relevant there.

All the usual concerns that have been voiced previously, often by the noble Lord, Lord Tunnicliffe, and my noble friend Lady Kramer, as well as me, about the complexity of following the state of play of our UK legislation apply. In statutory instruments such as this, which is a second round of amendments, they seem to bear more heavily than usual. It is rather unfortunate that the word "regulation" applies at so many different levels. It is easy, even for someone like me, to wonder which regulation it is: is it the EU regulation, is it one of the regulations that we have done for Brexit, or is it an individual regulation within a set of regulations? That is not helpful, but there is not a lot we can do about it, other than choose a new name.

7 pm

On content I have little to complain about, given that the regulations seem to follow the usual logical pattern, but there are a few things to which it is worth drawing attention. Much as it is probably well known that, in many instances, I have reservations and consider IFRS to be unfit for purpose as applied to company level accounts, for reasons that I have elaborated in detail to the Kingman and Brydon inquiries—they relate to things such as solvency and conforming to company law, so they are quite fundamental—IFRS are nevertheless important at group level and in the context of listing companies from major overseas countries in the UK. So, I am pleased to see that existing equivalence provisions are to be maintained, although not in this instrument.

As I have said before in relation to IFRS, quite a lot of countries have tweaked it, often in ways that perhaps we should have done. Australia and Japan are examples. It is important not to be overly hung up about this UK-endorsed IFRS. That ties in to the debate about what we mean by equivalence. I sweated blood to get the equivalence provisions into most of our legislation, it being something that the UK wanted the EU to have on a global basis. The idea was that it would be a more broad brush thing—that it was outcomes-focused, and did the same thing—rather than the kind of detailed, line-by-line analysis that is how the EU has ended up applying it. Many speeches have been made about this in Europe, by me and others, saying that that was not how it was intended. I feel that we are falling into that trap a little bit ourselves. I can understand how industry wants to say, "If you can point to everything, therefore there must be equivalence". Of course we know that equivalence is politicised when it comes to the EU. It may not give the UK equivalence on things where we have exactly the same law because it just does not feel like it or it fears that we are going to be Singapore-on-Thames or whatever. I just feel that we are being quite picky in our definitions. This came up, in relation to the Solvency II example in the previous debate, in the context of knowing exactly what we are equivalent to. We are losing the flavour of what equivalence has always meant in the UK context. That is in the box of "There is a debate to be had about equivalence", which makes clearer to us what we are aiming at. In the context of wishing to maintain a centre for global capital markets, we should have the usual UK outcomes-focused version of equivalence and should not tie ourselves up too tightly.

I have a question of which I gave notice to the Minister. What happens if the FCA spots a flaw in a prospectus that has been passported in in the period where we have left the EU but it can be used? One answer might be that the FCA will not look at it because it has been passported in, so nothing will ever be spotted. These things happen, and while we were in the EU there was always a back route to get some kind of correction made inside the EU through contacting the regulator, through ESMA or however it was going to be done in some informal way. My common sense tells me that if there is some kind of material change that would provoke some kind of supplemental disclosure, but I wonder where in a legal text it says that the FCA could ask for that top-up in that period. When we were in

[Baroness Bowles of Berkhamsted]
the EU, it would have said, "You are not allowed to do it; it is passported", but we are in this special hiatus moment, which could last for nigh on a year, in which there might be something.

Other specifics that I noted relate to the annual registration document, the incorporation of information by reference, the Gibraltar provisions and the transfer of functions to the UK. They all seem to be in proper order. They relate to the new regulation and to things that we need to put right. As far as I can tell, they follow the usual logical path.

On the extension of the public body exemptions, we have to face a choice: do we shrink to UK-only, do we extend globally or do we keep it exactly the same in policy terms and make something special for the EEA when it is not necessarily making something special for us? I think that it is the right approach for a global capital market to have the same exemption as is already in the official listing instruments, and that we look globally. I am sure that concerns could be raised that central banks are not all equal everywhere—the noble Lord, Lord Tunnicliffe, and I have had this debate with previous Ministers—but here one is looking at a sophisticated market. Still, it would be nice to know what caveats had been thought of for some of the lesser known public bodies that this might include.

Baroness Kramer (LD): My Lords, I begin by sharing an area of disagreement between myself and my colleague, despite the fact that she is far more expert in this area than I am. I pick up the issue that she raised at the end of her speech: the extension of the prospectus exemption for public bodies. I would like to hear from the Minister what risks he thinks we are taking on board as a consequence. There is a rationale to allowing the other members of the EU in effect to use our marketplaces without a prospectus: we know them all; we all participated in the same membership structure of the EU; every one of them is a democracy; and their financial services and most of their activities are governed by laws that are either common or very close to ours. So we have a very high level of confidence in the integrity of the bodies involved.

From reading this extension, I need to ask the Minister this. Presumably, as it reads as such, if President Assad of Syria were to decide to use the capital markets to raise some additional funds to prosecute his current war against those whom he considers rebel forces within Syria—he has joined with Kurdish forces—it will not be a problem. They can come to the UK; the law basically says yes. It is the same for a long list of countries including Saudi Arabia and Yemen. It seems a big step to have taken and not one that was extensively discussed in Parliament. I have raised this before, but never had much of an explanation or any analysis of the risks entailed. It is important that the reputation of our capital markets here continues to be protected. I know there are forces who want to see regulatory dilution—which noble Lords often talk about—who have a much more casino attitude towards financing and who love the idea of all the buccaneers being able to come in and use British markets while we make money from them. I raise those issues as they are genuine concerns that need to be addressed.

I want to address a related issue. Look at some of the fintechs. I am thinking particularly of crowdfunders, but this could apply to many others. The dominant crowdfunders across the European Union have typically been UK-based. The big four have been raising money for everything from charities to small businesses—but they are critical to start-ups and small businesses—from investors across the 28 countries of the EU. They are raising money not just from the UK market but from Estonia, France and Germany. That has been crucial to many of our small businesses and start-ups.

I now understand that, with the removal of passporting, the e-commerce directive and now the prospectus directive, they no longer have a mechanism that enables them to raise that funding. If we no longer have in common a single prospectus that operates across the 27, their ability to raise funding across the 27 is reduced to raising money from the one. There are consequences to that, which I wonder whether the Minister might address. I think all the four that I named have now set up an alternate location within the 27, so I suppose we can expect a shift of business out of the UK or a cost from running two operations, one in the UK and one outside. But it will make it difficult for new players in the crowdfunding arena to start up within the UK. It will be far more logical to set up somewhere within the 27—Berlin being one of the most attractive locations. Those questions have to be addressed.

I want to pick the Minister up on equivalence. He made the point—which I think is right and fully accept—that the purpose of most of these SIs is to make sure that, at the nanosecond we leave, nothing has changed in the rules and regulations that people follow. I understand that but, initially, these conversations took place in the context of Mrs May's intentions for a long-term relationship with the EU. It was one where we remained very close to the single market, with only rare circumstances in which there was an overweening reason to diverge. We are now, I understand—the Prime Minister has been very open about this—in the very different situation where divergence is the intent and leaving is in fact seen as an opportunity to break away from being close to the single market. Therefore, suddenly the issues of equivalence become much more difficult and complex. Although there has been fairly limited concern about long-term reciprocity—there are various temporary arrangements that run, typically, for only a matter of months—it is now becoming far more serious. That is why, on this side, we are constantly raising equivalence as an issue. It would be very wrong to assume that it is a given.

Perhaps I may pick up and address in a slightly different way the point that my colleague made. She basically explained how originally equivalence was meant to be much more focused on outcome rather than actual rules, but the EU is a rules-based organisation. It will not change the way that it works just for us. We might say that we are happy to give equivalence where we think there is equivalence in outcome. That is fine but, frankly, most people do not care very much about getting an equivalence decision from the UK. It is a pretty small market. However, we do care about getting equivalence decisions from the EU. The situation is not symmetrical. The EU has the customer base and the cash, and it uses the many instruments that London

wishes to provide. Therefore, I point out that a lot of complexity is entangled in all this and, although this matter does not relate narrowly and directly to these SIs—except, for example, as in this one, where the removal of any mutuality in the prospectus directive is an issue—a lot of questions are embedded in all this.

Lord Tunnicliffe (Lab): My Lords, I thank my Liberal Democrat colleagues for ranging in an interesting way over many of the issues relating to SIs in general and to this one in particular. We seem to have converged on one or two of the same ideas. I have of course slavishly worked through the Explanatory Memorandum in an attempt to understand it, and I quite enjoyed this one—you have to have some peculiar tastes to be here—until I got to paragraph 2.14, where a problem was being explained. The paragraph says:

"This decision was made to provide continuity for market participants after the UK leaves the EU and comes into effect on exit day. To maintain this continuity, this Direction will be amended to refer to the EU Prospectus Regulation".

There is then the astounding sentence:

"This amendment is not contained within this instrument".

At that point, my ability to read the document failed, because it explained a problem and then said that we are apparently not going to do anything about it. I hope that the Minister can enlighten me on that. Apart from that, I have only a couple of points to make.

To show my naivety, it was not until I got to paragraph 2.18 that I was informed that the prospectuses have three constituent parts—a registration document, a securities note and a prospectus summary—so I am now better informed. However, having explained how things are passported and so on, paragraph 2.20 then says:

"However, a prospectus that contains one of these registration documents will still require FCA approval for the securities note and the prospectus summary".

I accept that it is my lack of understanding, but I cannot for the life of me see why one of the three is treated in one way but the other two are treated differently, so I would value an explanation.

We have all alighted on the same issue set out in paragraph 2.26: the exemption for public bodies being extended, apparently, to public bodies of the whole world—not "apparently"; that is what it actually says. At first I thought that this exemption must be discretionary, because there must be some public bodies where you would want a pretty solid prospectus. This would seem to allow some small town in Zambia or Zimbabwe to benefit from this exemption, so I would be very grateful if the Minister could spell out what the safeguards are for this, because it could lead to quite serious risks if there are not appropriate ones.

7.15 pm

I have a final word for this process. I hope that this is the last Treasury no-deal SI. I would be really happy to see some nods from officials—I see none of them moved. I assume it is, at least. It seems that while they are all terribly complex, they all boil down to two ideas. The first is what I would loosely call "competence transfer". Over and again, we were told which body does it now and which body will do it in the future. There is loads of cross-referencing to make things work; if you slung hard enough, you could see how it worked.

The other thing that is consistent through many of the SIs is the creation of a transition arrangement, but these transition arrangements are all asymmetric. They allow EU firms to carry on trading in the UK under one set of rules or another, but they do not preserve any rights for UK firms trading in the EU. It is perfectly clear why—we can only influence what we influence—but it is a sorry state of affairs. It points to a future where the UK is a second-class participant in the European financial services industry. Leaving the EU without a deal will have a catastrophic effect on the City of London's financial sector. It would be an irresponsible act of gross self-harm. We, the Labour Party and the Lib Dems, have slogged our way through 58 SIs and have co-operated in passing them because we accept the fact that, without them, the effect would be even worse, but it is with a heavy heart that we have done so. As we say goodbye to these SIs, I pray that they are never used.

Lord Bethell: I thank noble Lords again for an incredibly detailed analysis of a complex but very important SI. I share the small prayer made by the noble Lord, Lord Tunnicliffe, at the end there. I look forward to the end of this debate to find out whether his prayer has been answered in the ongoing negotiations. In the meantime, we will put prayer to one side and focus on trying to secure this SI. I will talk about some of the very detailed things that were raised but also some of the larger things.

On equivalence, I completely understand what the noble Baronesses, Lady Bowles and Lady Kramer, and the noble Lord, Lord Tunnicliffe, are talking about in terms of the ongoing regime. The strategy is very much that, under a no-deal scenario, which would be hugely regrettable and is not government policy, there is the largest amount of alignment possible with the current situation to provide market security and avoid any kind of cliff edge or calamity. That is very much the view supported by regulators, by industry, by government and by our partners in the EU. What kind of regime the City will have after that will be a matter for a debate that will occur here in Parliament, principally. There remains on the statute book a huge amount of protections for the City. They are not addressed in this or any of the other SIs, but I reassure noble Lords that the debate will be lively and will engage everyone involved in the financial services industry. This SI is simply trying to protect the industry in a no-deal scenario. That is its intention; it does not seek to creep further than that.

For those who wish to engage in the technical debate on equivalence, can I share a little advertisement from my Treasury colleagues for an important consultation that they are undertaking? They are issuing a call for evidence on a long-term review of the regulatory framework and the key issues which we will need to consider for a regime which operates outside of the EU. For those who wish to engage in a formal review, this is a wonderful platform and opportunity. We should be very happy and thankful to hear noble Lords' views on the future of equivalence as part of that process.

[Lord Bethell]

I emphasise that it is very much the intention of the Government, in a deal or no-deal scenario, to work closely with EU member states. There is nothing in this SI, or in the strategy that it is part of, that precludes or in any way diminishes the determination of the Government to work with other EU states to have the best possible regulatory framework for the financial services industry.

Moving on to one of the detailed questions raised by the noble Baroness, Lady Bowles, she asked what would happen when there were flaws in a prospectus that has been passported into the UK prior to the UK's departure, given that the recourse to the original approving regulator would be different or gone. The answer to a seemingly short and straightforward question is a little long; I have two or three of these, for which I apologise, but let me give noble Lords the full answer.

Under the EU prospectus regulation, if a significant new factor, material mistake or material inaccuracy which may impact on the investors' assessment of the securities being offered arises, the issuer must produce a supplement to the prospectus or the registration document to address this. Currently this supplement must be approved by the relevant EEA regulator. The transitional provisions introduced in this instrument mean that prospectuses passported into the UK prior to exit day will be treated as if they were originally approved by the FCA. However, after exit, this means that the FCA will be required to approve any supplements for prospectuses or registration documents that are passported into the UK prior to the UK's departure.

I hope that that addresses the question. I am happy to share that document with the noble Baroness if she wishes, as it is quite detailed.

The noble Baroness, Lady Kramer, and the noble Lord, Lord Tunnicliffe, raised questions about the extension of public body exemptions to all third parties. I will provide a little reassurance on that point. This is absolutely in no way a dramatic loosening of the regulatory regime to allow some kind of Learjet sales bonanza for crackpot securities to bonkers regimes. There is an extremely strong financial promotions regime already on the statute to which all these securities will remain subject, set out in instruments such as the Financial Services and Markets Act, which, as noble Lords will be aware, imposes strong restrictions on the marketing and promotion of securities. This allows existing arrangements with EEA countries to roll over. It is not possible under global trade arrangements to provide favourable treatment for EEA countries over other third-party countries. This is a natural and necessary extension, and it will be held under very close review. We have worked closely with the FCA in drafting this instrument to ensure that investors remain suitably protected. We believe that this approach offers the most appropriate balance.

Baroness Kramer: Can I just ask a favour of the Minister? It seems that the protection is the prospectus; that is exactly what is being tossed out. Might it be possible to provide us later with a note that directs us to the various protections? That would be helpful.

Lord Bethell: I am very happy to provide that, and we will make sure that the noble Baroness is sent that material.

The point I was really trying to make is that the FCA is fully aware of this change in the regime and has put in place the resources necessary to track and review this important development. On the specific case of Syria, which is an extreme example of the natural concern around this point, I assure the noble Lord that these public bodies will not be allowed to be used to break international sanctions or criminal law.

On crowdfunding, the noble Baroness, Lady Kramer, asked about the potential loss of prospectus passporting. I assure her that the loss of prospectus passporting will not prevent any organisations, such as crowdfunding organisations, raising funds in the UK as well as the EU. It is just that any prospectus will need to be approved in the UK by the FSA; that is the principal change.

The noble Lord, Lord Tunnicliffe, asked a couple of short but precise questions for which, I am afraid to say, there are long answers; I will just trot through those. He asked about paragraph 2.14 and the update to the existing equivalence direction. This instrument transfers the power from the European Commission to Her Majesty's Treasury to make equivalence decisions in respect of the EU prospectus regulation as of exit day. Such determinations are to be made through statutory instruments and are therefore subject to the usual parliamentary scrutiny procedures. If equivalence decisions were laid before Parliament on exit day, there would be a lag between their application in UK legislation and exit day itself. I hope that answers that question.

Secondly, on paragraph 2.20, he asked about the difference between the transitional provisions for registration documents and others introduced by this instrument. I will share with noble Lords a slightly long answer. Under the EU prospectus regulations, there are separate passporting regimes for registration documents and prospectuses. Given this, the instrument introduces separate transitional provisions for registration documents and prospectuses passported into the UK prior to the UK's departure from the EU. However, the effect of these transitional provisions is almost identical. That is, they provide that documents approved by an EEA regulator and passported into the UK prior to exit will remain valid for use in the UK until the end of their normal period of validity. However, registration documents are valid only as a constituent part of the prospectus. Any prospectus that utilises a passported regulation document in the UK will still require FCA approval. On that note, I think we have drawn to a close on the questions.

Motion agreed.

Committee adjourned at 7.28 pm.