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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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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

Thursday 18 June 2020

The House met in a Hybrid Sitting.

11 am

Prayers—read by the Lord Bishop of Peterborough.

Arrangement of Business

Announcement

11.07 am

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. A limited number of Members are here in the Chamber, respecting social distancing. Other Members will participate remotely, but all Members will be treated equally wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants.

If the House will indulge me for a moment, this is the 50th anniversary to the day of a number of Peers being elected in the general election of 18 June 1970 who have served continually in the House of Commons and the House of Lords ever since. They are Lord Prescott, Lord Pendry, Lord Cormack, Lord Cunningham of Felling and Baroness Fookes—and, indeed, me. I congratulate them—my colleagues, that is—on having survived 50 years of continual service. We might not always have agreed, but one thing I can say with absolute certainty and without doubt is that we have never had a stranger Parliament than this in the last half-century. Let us get on with the business of the hybrid House.

Covid-19: Track and Trace System

Question

11.08 am

Asked by Baroness Anelay of St Johns

To ask Her Majesty's Government what progress they have made with the implementation of the COVID-19 track and trace system.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, this country has gone from 2,000 tests a day to 200,000 tests a day, with capacity to trace 10,000 indexes a day. We took 39,000 antibody tests yesterday and we are dramatically reducing turnaround times. The “test and trace” programme is a remarkable national asset that protects us from this virus through diagnosis, research and surveillance. I am very proud of the remarkable collaboration of the NHS, PHE, universities, the private sector, the military, local government and many other inspiring colleagues.

Baroness Anelay of St Johns (Con) [V]: What impact do the current lack of a nationwide NHS Covid-19 app and the statement by the director-general of the

biosecurity centre that they do not expect to reach full operating capability until the end of the summer have on the Government's decision about when and how to ease lockdown conditions?

Lord Bethell [V]: My Lords, the current low level of prevalence of the virus means that the pressure on automated tracing devices such as the app is less heavy than it would be under other circumstances. The biosecurity centre is already making a massive difference to co-ordinating our local response to the disease. We have made terrific progress so far and our management of lockdown measures will reflect that fact.

Baroness Young of Old Scone (Lab) [V]: Statistics on the first full week of operation show that less than 58% of the contacts of confirmed symptomatic cases are traced and say that they will self-isolate—it is difficult to know whether they do so. “Test and trace” tracks only contacts of symptomatic cases, and the ONS infection study shows that only one-third of total new infections are symptomatic. Will the Minister admit that “test and trace” is resulting in the isolation of an ineffectively small proportion of the contacts of all new cases and will not prevent a second wave of the disease?

Lord Bethell [V]: My Lords, last week's figures suggest that 67% of people who tested positive for coronavirus were reached by our contact tracers. This figure is rising every week. The epidemiological logic is that a system such as “test and trace” will never be 100% ubiquitous or track everyone who carries the disease—asymptomatic infection is a part of this terrible disease. However, it can have a profound effect on its spread and break the chain of transmission. That is why we have invested in this infrastructure and why we appealed to the British people to comply with the isolation protocols.

Baroness Jones of Moulsecoomb (GP) [V]: When will the people of the Isle of Wight be allowed to stand down in terms of the app that they have been guinea pigs for, and to concentrate on a wider “test and trace” and their own recovery?

Lord Bethell [V]: My Lords, we are enormously grateful to the people of the Isle of Wight for their collaboration on the pilot. There is no question of them needing to stand down. Other measures for “test and trace” are working extremely well on the Isle of Wight, and both the pilot app and the manual “test and trace” have helped break the chain of transmission. We remain extremely grateful for their support.

Lord Ribeiro (Con) [V]: My Lords, six weeks ago, the contact tracing app was launched on the Isle of Wight, since when, the emphasis has shifted from the app to the use of 25,000 call centre workers to identify the contacts of people testing positive for Covid-19. What lessons have we learned from countries such as Australia, Singapore, Italy and Switzerland, which all launched contact tracing apps, and is the purpose of the “test and trace” app to help end this pandemic or to protect us from the next?

Lord Bethell [V]: My Lords, we are in regular contact with many of the countries that are working with apps. Two things are crystal clear. The opportunity of using automated technologies to create extra tracing contacts is enormous, and we are working extremely hard to chase down that opportunity, but the technical challenges are also enormous. We are working very closely with our tech partners and with other countries to develop the best possible app, particularly for a moment when the prevalence in society might increase, for that is when the mass automation delivers its unique advantage.

Baroness Walmsley (LD) [V]: My Lords, can I press the Minister on his answer to the noble Baroness, Lady Young? In the first week of “test and trace”, over 8,000 cases were referred, but the ONS said that there were 33,000 cases. If only a quarter of cases are being referred, how does the Minister think that we will ever stamp out this virus? When will we get more widespread asymptomatic testing and tracing?

Lord Bethell [V]: My Lords, the epidemiological maths is as the noble Baroness describes, but our focus on symptomatic cases does not mean that the system does not work. Taking out more than a quarter of infected cases is a massively important and impactful event. Asymptomatic testing has started in healthcare and social care workers. It is making a big difference in both those forums, where prevalence is higher than the community prevalence, and we will be learning lessons from those schemes.

Baroness Blackwood of North Oxford (Con) [V]: My Lords, a key priority of “track and trace” is to monitor the emergence of localised hotspots and intervene before wider community transmission can occur. Local authorities and public health officials have expressed concerns that they do not have the powers to deliver swift local interventions and that a top-down approach might be too slow. Can the Minister say what process is in place to prevent community transmission when “track and trace” finds evidence of such localised hotspots?

Lord Bethell [V]: My noble friend is entirely right that local action is central to an effective response to Covid-19. We are working extremely hard through the JCVI to take the intelligence from our testing programme to identify hotspots when they occur and to move resources to those areas to support local directors of public health and local infection officials with the resources they need, whether in terms of testing or surge control of the disease.

Baroness Coussins (CB) [V]: My Lords, the Government have translated Covid-19 advice and information into a number of languages, but can the Minister assure me that proper mechanisms and a budget have also been built into the “track and trace” system for the use of interpreters where needed—by that I mean professionally qualified human beings, not a down-the-line Google Translate service—so that no one from any minority group experiences delayed or inadequate instructions about contacts or isolation, which could be damaging at best and fatal at worst?

Lord Bethell [V]: I pay tribute to the perseverance of the noble Baroness on the issue of interpreters. She is entirely right that marginal communities are incredibly important in this process and can be like rockpools when the tide recedes—left as areas of infection if we do not focus on them effectively. That is why we are working extremely hard to identify those communities that might be left behind and to use resources such as interpreters to ensure that the message gets through.

Baroness Wheeler (Lab) [V]: My Lords, the ambition of the Minister, reported yesterday, to get a national “track and trace” system going before the winter is in marked contrast to the hype and promises of the test trial launched in May, when Matt Hancock promised that where the Isle of Wight leads, Britain follows—though obviously now not until Christmas. Does the Minister acknowledge that the failure to have an effective system up and running this summer will have a huge impact across vital services, including residential and nursing care homes? Do the Government expect care homes not to open for regular and routine visits from family, friends and others until the end of the year?

Lord Bethell [V]: I do not agree with that analysis. I am afraid that areas such as care homes are where the app is least effective, because the residents are static and therefore the app is not really the facility for identifying infections. This is where the manual “test and trace” process is the most effective. That is why we are super-focused on getting it right. We are working very closely with the social care community to ensure that the “test and trace” systems are working well. We are flooding social care with tests and ensuring that our tracing agents are well trained to handle local outbreaks in care homes and to deal with care home staff.

The Lord Speaker (Lord Fowler): My Lords, I regret that the time allowed for this Question has elapsed, so we come to the second Oral Question. I call Lord Clark of Windermere.

Nurses: Recruitment Question

11.20 am

Asked by Lord Clark of Windermere

To ask Her Majesty's Government what plans they have to facilitate the recruitment of nurses onto degree courses beginning in September 2020.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, the health and education sectors are working jointly to increase applications and places. The Government announced 5,000 more healthcare places from September. In England, nursing students can access more funding worth at least £5,000 per academic year. During July in clearing, there will be marketing campaigns aimed at students considering nursing.

Lord Clark of Windermere (Lab) [V]: My Lords, one reason why we were so ill prepared for Covid-19 was that the NHS was short of over 40,000 nurses.

Will the Government ensure that the number of nursing places available at universities this coming September will significantly begin to reduce that dire shortage of nurses?

Lord Bethell [V]: I reassure the noble Lord, Lord Clark, that from September 2020 eligible pre-registration students in English universities studying nursing, midwifery or one of the many allied health professional courses will benefit from additional funding of £5,000 per academic year. The correct number of places will be made available to hit our objective of 50,000 more nurses by 2025.

Baroness Verma (Con): Can my noble friend say what the take-up is of nursing apprenticeships, and will his department consider a combined apprenticeship that includes social care workers to ensure a route to career progression?

Lord Bethell [V]: My noble friend makes an incredibly interesting suggestion on a combined course. I am prepared to look into that and write to her about whether work has been done on such a measure.

Baroness Watkins of Tavistock (CB): My Lords, I declare my interests as outlined in the register. Not only do we need to recruit new students this year, but we must retain those entering their second and third years of study and ensure that those in their final year, who are currently helping the NHS in a working capacity, complete their training. It is vital that we introduce universal cost of living maintenance grants that reflect students' needs. I understand that the Prime Minister said that he will look into that further following a meeting of the Education Select Committee. Will the Minister confirm that in addition to the £5,000 maintenance grants there will be an additional £1,000 for mental health and learning disability nurses this year? Is he willing to meet me and other interested Peers to look at the long-term support for nursing students?

Lord Bethell [V]: The noble Baroness is entirely right about retention: we are battling the leakage of skills and experience from the NHS. In September 2019, the Government announced a £210 million boost for front-line NHS staff, which includes, as she referred to, funding for a £1,000 personal development budget for every nurse, midwife and allied health professional working in the NHS. I would be glad to meet her and her colleagues to discuss what more can be done.

Baroness Pitkeathley (Lab) [V]: Among the extra 4 million people who have become carers during the pandemic, 72,000 left the NHS to take on caring responsibilities. Many will eventually want to return to work or training. How will the Government support those who will need to combine caring with employment or training? Are there plans to enable career progression, as the noble Baroness, Lady Verma, suggested, so that skills learned in caring can be translated into professional qualifications?

Lord Bethell [V]: My Lords, the Covid epidemic has thrown a spotlight on the essential role of carers, who have clearly played an enormous role in looking after

those who are vulnerable. I completely support the sentiments of the noble Baroness that we should do more to help carers in their professional development so that they can convert to different secondary careers. I would be happy to look at any suggestions she has for ways in which we can do that better.

Baroness Jolly (LD) [V]: Not for a long time have nurses had such a high national profile. The career options are many and now many more men are nurses too. Will the Minister explain to the House what careers material is available to schools, what opportunities there are for potential nurses to see what the role entails, and what efforts are being made to encourage young men?

Lord Bethell [V]: My Lords, we have backed an enormous marketing campaign called "We are the NHS", which throws a huge spotlight on the role of nurses of all genders, backgrounds and professional focus. That campaign includes a strong schools element. It seeks to attract a broad range of backgrounds of people who might think of applying to the nursing profession.

The Lord Bishop of Winchester [V]: My Lords, support for key public service staff and maintaining quality training for those professions will be strategic in the successful rebuilding of our post-Covid society. In the Royal College of Nursing 2019 employment survey, 37% of qualified nurses said that they were seeking a new job outside the profession. Does the Minister agree that the retention of qualified nurses, midwifery and allied health professional staff is just as important as the recruitment of trainees? Will he therefore say more about how the Government will review the support packages available to both students and new post-qualification nurses and allied health professionals, in order that more of those newly qualified are encouraged to remain in the profession?

Lord Bethell [V]: I entirely support the observations of the right reverend Prelate. I have already said that retention is incredibly important. The culture in which nurses work is vital to achieving the kind of retention objectives we have in mind. That is why we are working on a people plan for the NHS. One thing we have learned from Covid is that when you give professionals the scope to deliver their best professional results, you get the best out of them. That is something we want to apply in the NHS people plan.

Lord Randall of Uxbridge (Con) [V]: I was pleased to hear my noble friend announce the additional funding for nursing students, but will he give serious consideration to reviewing funding considerations for all nursing students in England, perhaps with a view for the Government to cover tuition fees for future students as long as they stay in the NHS for a period of years?

Lord Bethell [V]: We have made a clear, well-defined and thoughtful new funding package for nurses. We would like to see how that is applied and what the response is. Once we have done our review, we will look at alternatives or potential supplements.

Lord Singh of Wimbledon (CB) [V]: My Lords, the Covid pandemic has underlined the vital role of nurses in the health system. Bearing in mind that nursing students do unpaid work while learning, does the Minister agree that the £5,000 bursary is not enough to meet the fees and living costs of those whom the Government are trying to attract?

Lord Bethell [V]: The noble Lord is entirely right that the role of nurses in the healthcare system has been extremely well exemplified by the response to Covid. The £5,000 bursary was agreed in collaboration with, and with the input of, the Royal College of Nursing. There is of course other support that students can already access through the student loans system and the existing learning support fund, and that goes a long way towards paying for childcare, travel and other costs in cases of exceptional hardship.

Baroness Thornton (Lab): My Lords, does the Minister agree with the Chief Nurse, Professor Mark Radford, that student nurses who volunteered to be redeployed on the front line during the pandemic are now feeling cast aside due to the uncertainty about their future, with some finding themselves out of a job but still with debts of up to £30,000 from having done a degree? If he does agree, can he say what the Government intend to do about making them feel less abandoned?

Lord Bethell [V]: The noble Baroness raises a very concerning point. I take the Chief Nurse's advice and observations at face level. I express my profound thanks to all those nurses who have been redeployed to the front line and have performed an important task but who are now feeling a sense of either anti-climax or uncertainty. I reassure them that there is an enormous number of job opportunities in the NHS, that there is a role for them in the NHS of the future, and that we will be investing massively in the role of nurses in the years ahead, as exemplified by our commitment to recruit.

The Lord Speaker (Lord Fowler): My Lords, I regret that the time allowed for this Question has elapsed. It would be very helpful if colleagues would keep their supplementary questions short so that we can get everyone on the list to ask their question. The third Oral Question is from the noble Lord, Lord Arbuthnot of Edrom.

Post Office: Horizon Accounting System Question

11.32 am

Asked by **Lord Arbuthnot of Edrom**

To ask Her Majesty's Government, further to the answer by the Prime Minister on 26 February (HC Deb, col 315), what steps they have taken in relation to the establishment of an independent inquiry into the Post Office's Horizon accounting system.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, last week the Government announced an independent review to consider whether the Post Office has learned the necessary lessons from the Horizon trial judgments and to provide an independent and

external assessment of its work to rebuild its relationship with its postmasters. The Government are keen to see this review launched as soon as possible, and we are in the process of identifying a chairman to lead its work.

Lord Arbuthnot of Edrom (Con): My Lords, perhaps I may explain why this review is so inadequate. The terms of reference have been designed to exclude all possibility of blame falling on the Government. However, last week my noble friend told me that the Government became aware only in early 2019 that transactions entered remotely might be invisible to sub-postmasters. That was unconvincing, since the Post Office had said in open court in January 2017 that that could happen. That verified what Second Sight had said in its interim report of July 2013—but then of course it was quickly sacked. Nor do the terms of reference say anything about the likelihood of the Post Office improperly making a profit from the sub-postmasters, or about the suspense accounts or the critical role that Fujitsu played in all this. Without asking those questions, you cannot get to the bottom of this, as the Prime Minister wants. Does my noble friend appreciate that the Government appointing one of their own rather than a judge as the chairman of this review does not fill us with confidence that it will be independent of the Government?

Lord Callanan: I pay tribute yet again to the work that my noble friend has done in both Houses on this important issue, along with other noble Lords and MPs. The findings outlined throughout the Horizon judgment already provided an extensive insight into what went wrong at the Post Office, including an independent judicial view of all the facts that all sides were looking for. However, the Government now accept that more needs to be done. We want to be fully assured that, through the independent review, there is a public summary of the failings that occurred at the Post Office, drawing on the judgments from the Horizon case and listening to those who have been most affected without repeating the extensive findings already entered into by Mr Justice Fraser. The Post Office has committed to co-operating fully with the review and we, as Ministers, will hold it to that. The review will have sufficient strength and breadth to deliver in a timely manner, and I assure my noble friend that the chair of the review will be fully independent of both the Post Office and the Government.

Baroness Falkner of Margravine (Non-Aff) [V]: My Lords, I, too, pay tribute to the noble Lord, Lord Arbuthnot, but I think that the Minister is playing with semantics to the extent that he talks about how the review will be independent. Does he recognise that people want responsibility to fall where it should, whether on this Government, the previous Government, the Post Office, Fujitsu or anyone else? Does he not think that 20 years is long enough for the victims to have waited for this review? Will he please get on with it and deliver a proper, independent review to address these issues?

Lord Callanan: I can say only that I agree completely with the noble Baroness. We need to get on with it and get to the bottom of these things as quickly as possible, and that is what we are endeavouring to do.

Lord Cormack (Con) [V]: My Lords, as one of those kindly mentioned by the Lord Speaker at the beginning of today's session, on Waterloo Day in 1970 I could never have imagined being part of a hybrid House of Lords 50 years later. I pay tribute to my noble friend Lord Arbuthnot and endorse all that he said. Does my noble friend the Minister agree that in the last half-century no well-regarded public institution has behaved with more apparent malevolent incompetence than the Post Office? Will he do his best to ensure that we do indeed have a thoroughly independent review and that those who have suffered so much are publicly exonerated and generously compensated—and can we have this done within this calendar year?

Lord Callanan: First, I offer my congratulations to my noble friend on his 50 years of exemplary service, as indeed I do to the Lord Speaker. I can only agree with my noble friend. We need to get to the bottom of this quickly. We need to get on with it, and the best way of doing that is through an independent review.

The Earl of Erroll (CB) [V]: Why has this taken five years since these miscarriages of justice were revealed to Parliament in an Adjournment debate in the Commons? What happened to the later independent report by Second Sight, which was due to be published in March 2015? Horizon was already in trouble with developments at ICL, and was nearly scrapped in the mid-1990s on the merger with Fujitsu. Perhaps it is a pity that it was not.

Lord Callanan: Of course, the Horizon court case occupied a lot of time and effort in both government and the Post Office, and it provided an extensive and, indeed, damning indictment of what went on at the time. However, we think that there is more to be done and that an independent review is the best way of proceeding with that.

Lord Browne of Ladyton (Lab) [V]: My Lords, will this review be able to be held up pending the determination of the criminal investigations that are ongoing, as well as perhaps criminal appeals? The priority should be that those damaged by the scandal are exonerated and compensated. The Government are the owner of the Post Office. Will they exercise their muscle to ensure full compensation? Indeed, Parliament, in a two-clause Bill, could legislate for exoneration of all those convicted. Surely the Government do not want to prolong the agony. What more evidence is needed before these steps can be taken to achieve the inevitable?

Lord Callanan: It is extremely important that we do not interfere with the proper consideration of these cases through the Criminal Cases Review Commission. I obviously cannot pre-empt what might happen, but I think that noble Lords will realise what I hope will happen as a result of this process. It is also important to get on with the review and to make sure that we learn the lessons from what went wrong. We also need to make sure that these things never ever happen again, because this is a terrible, terrible scandal.

Baroness Burt of Solihull (LD) [V]: The Minister seems keen to move on from this debate, but there are many faithful ex-servants of the Post Office who cannot move on, whose lives have been ruined. Does he agree that they deserve proper justice—yes or no? The noble Lord, Lord Arbuthnot, has shown that the proposed review is inadequate. If the Minister does believe in justice, will he now finally sanction an independent, judge-led inquiry?

Lord Callanan: I do agree with the noble Baroness that they deserve justice. Nothing that we can do will be able to put back together some of the lives that have been shattered and broken by this terrible scandal but I honestly believe that the best way of securing justice is through the judicial process, which is ongoing and which I cannot pre-empt. That process will run its course but then there is additional work to do; we think the best, swiftest and fastest way of doing that is through an independent review.

Lord Polak (Con): Following on from the noble Baroness, Lady Burt, earlier this week I spoke to the lovely Rita Threlfall, who was a sub-postmistress in Liverpool from 1998 to 2010. One of six children, Rita told me how she was brought up with three guiding principles: education, hard work and honesty. Can your Lordships imagine the devastation following the Horizon-created £35,000 shortfall, when Rita was suspended and charged with theft and false accounting? She was left a mental and physical wreck. She said, "Since my dismissal, my health declined. I depend on a wheelchair, seldom leave the home, suffer with extreme anxiety. I lost my income, my health, my sanity and I am now bankrupt." I plead with my noble friend the Minister, for the sake of Rita and so many others, to ensure that the Government set up a judge-led inquiry and remove the previous chief executive from her position as chairman of Imperial College Healthcare NHS Trust.

Lord Callanan: I thank my noble friend for drawing attention to one of the many tragic cases that have resulted from this; there are many others like it and I too have heard some terrible tales. We believe that an independent review is the best way of getting to the bottom of it. This will have essentially similar terms of reference to a judge-led public inquiry. With regard to the former chief executive, it would be very helpful if she would account much more fully in public for what she knew and for the actions that she took at the time. I have written to the Department of Health to make clear our position on her future. The Care Quality Commission is, I believe, looking at whether she is a fit and proper person for the role that she holds. I hope that it will conduct that review swiftly. Obviously, I cannot predict that, and it is not a matter directly for me, but I have written to the Department of Health to make my views clear.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. I repeat what I said previously: if noble Lords could keep their supplementary questions reasonably short, we could get more people into the list.

Schools: Online Support for Pupils Question

11.43 am

Asked by **Lord Addington**

To ask Her Majesty's Government, further to the paper by Professor Francis Green *Schoolwork in lockdown: new evidence on the epidemic of educational poverty*, published on 15 June, and the finding that 20 per cent of pupils have done either no schoolwork at home, or less than one hour a day, during the COVID-19 pandemic, what steps they are taking to publish guidance on what is an acceptable level of online support for pupils.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con) [V]: My Lords, we are committed to supporting schools to ensure that all pupils, particularly disadvantaged pupils, are supported for lost education since lockdown. The Government have provided a £100 million package of support to enable remote teaching, including delivering devices to vulnerable children and working with the Oak National Academy, the BBC and others to ensure strong national availability of remote education. Expectations for the next academic year will be published before the end of term.

Lord Addington (LD): My Lords, I thank the Minister for that reply. However, will the Government take on board that the report states that different types of teaching are required—that there should be direct contact with the pupil by the teacher and a conversation about different ways of learning? Virtual environment learning, is, I think, what it was called in the report. This is seen to have very much better results for vulnerable pupils. When were the Government aware that this was getting good results? When will they have a universal application system, or advice on this, for teachers?

Baroness Berridge [V]: My Lords, we expect teachers and schools to use their professional judgment and to make available the best possible education, bearing in mind the home-learning circumstances of pupils. We have made guidance—case studies—available to assist schools with this, as well as, of course, making more devices available to vulnerable children.

Lord Knight of Weymouth (Lab) [V]: I remind your Lordships of my entry in the register. Grandparents are losing their lives, parents their livelihoods, and now children are losing their life chances. The absence of a credible plan for schools opening in September is a disgrace. By then, we need to end the digital divide in education, deliver training and teaching using technology through an additional inset day, map a coherent set of teaching content, and know how we will flexibly use people and vacant premises to offer a full-time universal schooling service. We urgently need a plan. Ministers must publish a plan for September that we can all stick to—more urgently than before the end of term. When will we get it?

Baroness Berridge [V]: My Lords, as I have outlined, there will be a plan before the end of term in relation to curriculum expectations going forward. The

Government have made available free expert help and have had over 2,000 applications offering free expert help to make Google Classroom or Microsoft Education available to schools. The department has brokered deals with internet providers and has a specific arrangement with BT such that 10,000 children can have access to BT wi-fi hotspots. The department is incredibly concerned and we are working as best as we can within the scientific advice. We want to see all children back in school in September, subject to that scientific advice.

Baroness Tyler of Enfield (LD) [V]: It has been exposed that at least 700,000 disadvantaged children do not have proper access to computers or the internet access needed to study online at home. While it is good news that BT is offering free internet access for six months, the scheme will reach only about 10,000 families and, crucially, will not help those without devices. Does the Minister agree that we have a moral obligation to ensure that all these disadvantaged children have access to the internet at home, including devices? What further steps will the Government take to tackle this growing social inequity?

Baroness Berridge [V]: My Lords, the Government have also made available school-to-school support through the EdTech innovation programme to help schools that are not necessarily on those platforms. As of 14 June, more than 114,000 devices have been delivered to local authorities and trusts to be distributed to vulnerable children, including care leavers. The Government are concerned, particularly about disadvantaged children, and we are looking at, potentially, a targeted online national tutoring service.

Lord Baker of Dorking (Con) [V]: I declare my interest as chairman of the Baker Dearing Educational Trust, which promotes university technical colleges. Is the Minister aware that, this morning, 47 of the 48 university technical colleges have teachers and students in them engaged in the learning process? If we can do it, any secondary school in the country can do it. They should not wait until September, which is 75 days away, with all the schools empty, locked up and padlocked. That is a disgrace. Will the Government encourage secondary schools to open on 1 July with as many students as they can accommodate? If they do not do that, they should be named and shamed.

Baroness Berridge [V]: My Lords, students, teachers and parents are working hard during this period, and 92% of settings are now open. There has been clear guidance about bringing in different year groups, particularly year 10 and year 12, who are approaching exams. We have also issued guidance on flexibility where schools have not had the take-up and could accommodate more pupils within the guidelines of social distancing and class size. We have also specifically encouraged those secondary schools which have capacity to make this available to primary schools that could use that capacity. I pay tribute to the statistics that the noble Lord outlined in relation to UTCs.

Lord Carrington (CB) [V]: My Lords, I declare my educational interests as set out in the register. In severely disadvantaged areas, online teaching can be

extremely limited by the lack not just of promised laptops but of study space, particularly if several children are at the same home. Please can the Minister explain how the guidance, and then Ofsted, take this into account when looking at the performance of schools facing these challenges?

Baroness Berridge [V]: My Lords, Ofsted has currently suspended its routine inspections but is able to go into schools for safeguarding reasons. When Ofsted's inspections begin again, it will inspect on the offer of recovery that schools are giving to children, including of course blended learning, but there will not be retrospective inspections of schools' provision during this time.

Lord Watson of Invergowrie (Lab) [V]: My Lords, I declare an interest as the parent of a year 4 child at a state school in London. It has provided excellent online resources for home-schooling but has been unable to offer face-to-face online teaching, as not all pupils have access to the necessary technology. Fortunately—in my case—it is not necessary to master year 4 maths to understand that the figures in the UCL report foretell long-term damage to life chances. Careers can be furloughed, but childhood and education cannot. In April, the Government promised to provide 200,000 devices to disadvantaged families. Very few have been delivered yet and, as the noble Baroness, Lady Tyler, said, four times that number are now required. When will the Government show the urgency needed to end the postcode lottery of the digital divide?

Baroness Berridge [V]: My Lords, the Government realise that, while we urgently wish all children to be back in school, it is subject to the scientific evidence at the moment. But it is good news that during the lockdown we have offered school places to all vulnerable children and those of critical workers. Those numbers are increasing dramatically: 47,000 children who are in contact with a social worker are now back in school, which is up from 37,000. However, we are looking at all the evidence base to help those children catch up and drawing on a specific pilot project that the Education Endowment Foundation ran with Sutton, NESTA and Impetus in relation to access to high-quality external tutoring. We will pilot that over the summer with 1,500 disadvantaged students. We take very seriously the need to assist schools to help these students catch up.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, the Government have committed to seeing more children from disadvantaged families go to university. The experience of lockdown has made these aspirations disappear over the horizon. Since lockdown, around one in five pupils have done no schoolwork at home, or less than an hour a day of it. The UCL survey found that 97% of private school children had access to a computer at home, while one in five of those on free school meals had none. Can the Minister tell the House exactly what the pupil premium is currently being spent on?

Baroness Berridge [V]: My Lords, the pupil premium is around £2.4 billion a year and the Education Endowment Foundation gives schools information and

evidence on the best use of that pupil premium. However, the Government have entrusted school leaders and school professionals to determine the best use of that pupil premium, because they best know the students in their classrooms.

Baroness Blackstone (Ind Lab) [V]: We now know that there is a huge and growing inequality in access to learning, with dire effects on children's mental health. Given the ineffectiveness of remote learning, why have we seen such a pathetic failure in providing a can-do approach to getting all children back to some schooling, not just in September but before the end of this term? Why, for example, have separate morning and afternoon sessions not been introduced, which could double the numbers returning, and why has the Department for Education had so little success in getting a dispensation on social distancing rules in schools, given that the Minister told the House last week that it would be very pleased to move away from the two-metre rule? Is the Secretary of State for Education as invisible in government discussions as he is in the media?

Baroness Berridge [V]: My Lords, throughout this pandemic the Government have made it clear that we would be guided by the scientific evidence. The evidence we have at the moment means that there is the two-metre social distancing rule, but I must pay tribute to the teachers who are working hard out there. They have carried on running their schools throughout this pandemic and are now opening them up to reception and years 1 and 6, along with face-to-face time with years 10 and 12. Education is happening but, of course, along with all noble Lords, we want to see all children back at school in September.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed and that concludes the Hybrid Proceedings on Oral Questions. I thank all colleagues for their contributions.

11.55 am

Sitting suspended.

Arrangement of Business

Announcement

Noon

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, proceedings will now commence. Some Members are here in the Chamber, others participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply.

Economic Outlook and Furlough Scheme Changes

Commons Urgent Question

The following Answer to an Urgent Question was given on Tuesday 16 June in the House of Commons.

“Before I start, may I join with all the words that have been said in praise of Jo Cox during the proceedings so far? I know that many more such words will be said today. One thing that colleagues may not know, amid all the many things that they have been told about her, is that she was very fond of visiting Symonds Yat in my constituency in Herefordshire. I look forward to the day when many other people can do that, following lockdown.

From the onset of this pandemic, the Government’s top priority has been to protect the NHS and to save lives, but we have also made it clear that we will do whatever is needed to support people, jobs and businesses through the present period of disruption, and that is what we have done. On Friday, the Office for National Statistics published its first estimate of April GDP and showed the economy contracting sharply by a record 20.4% on the month. It is clear that restrictions introduced during the lockdown, while necessary, have had a severe impact on output.

However, it is important to note that the OECD, the Office for Budget Responsibility and other external forecasters have all highlighted that the cost to the economy would have been significantly higher were it not for the swift and decisive action that the Government have taken. Measures such as the Coronavirus Job Retention Scheme—the CJRS—which has protected almost 9 million jobs and more than 1 million businesses, have helped to limit the adverse impact of the crisis. It is also important to note that the OECD forecast the UK to have the strongest recovery of all the large countries that it looked at, with an unemployment rate projected to be lower than that in France and Italy by the end of 2021.

As we are reopening the economy, the Government are supporting putting people back into work. Last month, my right honourable friend the Chancellor announced that the CJRS would be extended for four months, until the end of October. From July to October, employers currently using the scheme will be able to bring furloughed employees back part-time. That will ensure that the CJRS will continue to support all firms so that no employer faces a cliff edge.

This remains a very uncertain and worrying time for businesses and employees alike. The Government have set out separately the five principles that must be satisfied before we make further changes to the lockdown rules, which we based on advice received from the Scientific Advisory Group for Emergencies. However, I can assure the House that the thoughts, energies and resources of the Government are focused increasingly on planning for the recovery. We will develop new measures to grow our economy, to back businesses and to boost skills. I am confident that the United Kingdom can continue to thrive in a post-Covid world.”

12.01 pm

Lord Livermore (Lab) [V]: My Lords, as well as the UK recording the highest excess death rate from Covid-19 of any country, it is now forecast by the OECD to suffer the worst recession in the G7, with a projected fall in GDP of 11.5% this year. Why is the UK likely to experience over this year the worst economic impact from the coronavirus crisis of all industrialised countries?

Baroness Penn (Con): My Lords, the noble Lord is correct that we have a severe outlook for this year, but that OECD report also forecasts us to have one of the strongest recoveries of the large countries it looked at. If two years are put together, we emerge close to the top of the table.

The noble Lord asked for some of the reasons why we will be particularly badly affected. I can point to two: one is the services nature of our economy, which has been particularly affected by the lockdown; the second is the relative openness of our economy, which means that we are more affected by changes in global demand.

Baroness Kramer (LD) [V]: My Lords, numerous whistleblowers are now reporting that quite a number of SMEs are struggling to get people back to work safely. Will the Minister support proposals by my colleague Ed Davey MP and some significant business names to scale up the Health and Safety Executive so that, free of charge, it can assist SMEs with risk planning and mitigation, and will the Government fund the HSE quickly to recruit retired professionals to meet the urgent need?

Baroness Penn: My Lords, the Government are providing more support to businesses to reopen safely. A specific fund is available for getting high streets open safely. We are also putting additional funding into the Health and Safety Executive to ensure that any enforcement action necessary can be taken.

Lord Dobbs (Con) [V]: The furlough system is delaying rather than solving the epidemic of unemployment about to hit us, particularly among our young. A prime cause of this disastrous loss of jobs is the two-metre rule, which is increasingly ignored by many and in any event is based on science that is widely questioned. May I beg the Government to take their courage in their hands, balance one risk against another, scrap the two-metre rule and in its place issue guidelines that rely primarily on the great common sense that the vast majority of people always show?

Baroness Penn: My noble friend will be aware that the PM has commissioned a comprehensive review of the two-metre guidance. It will take advice from a range of experts, including the CMO, the CSA, behavioural scientists and economists. That work will be completed in the coming weeks.

Lord Wood of Anfield (Lab) [V]: My Lords, a YouGov survey this week showed that more than half of UK businesses will lay off more than a quarter of their staff within three months of the end of the furlough scheme. That scheme was bold and necessary, and I

applaud the Chancellor for it, but it is vital that it is an employment subsidy scheme and not an unemployment benefit scheme. Can the Minister commit to making further wage support for employers, especially large firms, conditional on their providing commitments to retain their workers and/or to invest in their retraining in the months ahead?

Baroness Penn: The noble Lord is right that the design of the scheme is about keeping a connection between an employee and an employer during lockdown so that they can return to that job afterwards. That is why we have set out a careful process for unwinding the scheme so that, from August, employers will need to begin to contribute costs, scaling up from national insurance and pension contributions to 10% and then 20% of the wages covered.

Lord Holmes of Richmond (Non-Afl) [V]: The Government's investment in the furlough scheme has benefited millions across the country. Does the Minister agree that the way to ensure that we get maximum benefit from that investment is to reduce the two-metre rule to one metre, to stop the ridiculous quarantine rule currently in place, and urgently to consider establishing a sovereign wealth fund to invest in businesses that need it, with the Government taking a share, which would benefit both government finances and the long-term security of those businesses?

Baroness Penn: The noble Lord will be aware of my previous answer on the two-metre rule. In our road map for reopening the economy, we have been able to take important steps forward—for example, the reopening of non-essential retail this Monday. We encourage people across the country to be aware that, when we take such steps to reopen, it is then safe to go out and support their local high street and their local economy.

Baroness Neville-Rolfe (Con) [V]: Building on what my noble friend the Minister just said, does she concur with the view that we have now reached the stage—admittedly, slowly and fitfully—for normal economic life to restart? Does she agree that we should be wary of extending special schemes such as furlough for too long because of their huge cost and the inevitable disincentive and perverse effects?

Baroness Penn: My noble friend is right that there is a balance to be struck with such schemes. The pathway that we have set out for the gradual contribution of businesses to the costs of furloughed employees, and the ability to bring them back to work flexibly and for as many hours as they need, strikes the right balance in that scheme.

Lord Bird (CB) [V]: I suggest that one of the big issues today is not simply removing the homeless from the streets—as this Government valiantly did, and we should back them for that—but preventing homelessness. That is the real big issue. I call on the Government to have a moratorium on evictions, provide work through jobs training and invest in businesses to keep people in work. Importantly, if people slip into the treacle of homelessness, they will be there for decades, children will be hurt and there will be a knock-on effect on the

NHS and the well-being of our whole society. We have to concentrate on preventing people falling into homelessness.

Baroness Penn: I completely agree with the noble Lord that we need to take preventive action on homelessness as well as dealing with the problem where it arises. The Government have put in place a three-month moratorium on evictions, which can be extended. We have also increased the generosity of the local housing allowance to help those who are renting but may have lost their job or income due to coronavirus. A couple of noble Lords have now raised the question of investing in businesses; most of our support is of course given through loans to businesses, but the Future Fund makes equity investments in early start-ups that have been unable to access other finance.

Baroness Altmann (Con) [V]: My Lords, I congratulate the Government on their speedy furlough scheme, protecting the jobs of people who were at risk from this sudden economic shock. But does my noble friend agree that, given the likelihood of huge numbers on furlough ending up being made redundant, it is enormously important to beef up apprenticeships and training opportunities across the country as we try to recover from this pandemic?

Baroness Penn: I absolutely agree with my noble friend about the importance of apprenticeships and other schemes that will help people who have unfortunately lost their jobs during this pandemic to re-enter the labour market and recover as our economy opens up.

Lord Mann (Non-Afl) [V]: Academic research from New Orleans after its flooding disaster shows that entrepreneurs were the key to regenerating a very damaged economy. What support are the Government giving now to incentivise entrepreneurs to take risks and employ people so that new ideas, new products and new services can re-boost our economy?

Baroness Penn: One important change that the Government committed to in their manifesto and have implemented is increasing the employment allowance in national insurance contributions. This means that new businesses can employ more people without paying those national insurance costs, and it incentivises them to take on their first one or two members of staff as they grow their businesses.

12.12 pm

Sitting suspended.

Arrangement of Business

Announcement

12.30 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, proceedings will now commence. Some Members are here in the Chamber, others participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the

[LORD DUNCAN OF SPRINGBANK]

Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply. I understand that the Whip would like to make a short intervention at this point.

Baroness Sanderson of Welton (Con): My Lords, the timing for this debate is very tight, so I urge noble Lords to keep their speeches to time.

The Deputy Speaker: The time limit is one and a half hours.

Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2020

Motion to Approve

12.31 pm

Moved by Baroness Vere of Norbiton

That the draft Regulations laid before the House on 5 March be approved.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con) [V]: My Lords, these draft regulations will—[*Inaudible.*]

Baroness Sanderson of Welton (Con): I am afraid that we cannot hear the Minister well due to the bad connection. Could she turn off her visuals to see whether the connection is any better?

Baroness Vere of Norbiton [V]: I apologise—[*Inaudible.*]

Baroness Sanderson of Welton: Apologies, but due to the bad signal, we will adjourn for five minutes.

12.33 pm

Sitting suspended.

12.42 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): Now, where were we? Let us begin. The Motion is in the name of the noble Baroness, Lady Vere of Norbiton. I remind noble Lords that the time limit for this debate is one and a half hours.

Baroness Vere of Norbiton [V]: My Lords, I apologise for the technical issues. I blame them on the weather.

These draft regulations will be made under the powers conferred by the European Union (Withdrawal) Act 2018 and will be needed at the end of the transition period. As noble Lords are aware, the Government are committed to ensuring that the UK has a functioning statute book at the end of the transition period while we continue to work to achieve a positive future relationship with the EU. We have therefore conducted particularly intensive work to ensure that there continues to be a well-functioning legislative and regulatory regime for aviation, including for insurance.

These regulations are the second in a series to address deficiencies in a recent EU regulation relating to minimum insurance requirements for air carriers

and aircraft operators in respect of passengers, baggage, cargo and third parties. I will give noble Lords some background. EU Regulation 785/2004 requires air carriers and aircraft operators to be insured in respect of passengers, baggage, cargo and third parties and against other risks such as acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion. The amounts for which carriers and operators are required to be insured are measured in special drawing rights, an international reserve asset created by the International Monetary Fund. The EU regulation also requires air carriers and aircraft operators to demonstrate their compliance with the minimum insurance requirements set out in the regulation.

The withdrawal Act will retain Regulation 785/2004 in UK law in its entirety at the end of the transition period. In practical terms, the same minimum insurance requirements for air carriers and aircraft operators that apply today will continue to apply after the transition period.

The first SI relating to this area, the Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2018—I will call them “the 2018 regulations”—was made in October 2018. It made changes to the retained regulation so that it continues to function correctly after EU exit. The need for today’s SI has arisen after the EU adopted Regulation 2019/1243, which amended Regulation 785/2004 after the 2018 regulations were made. The purpose of this SI is to fix further deficiencies introduced by those amendments.

The amendments made by this SI are minor and technical in nature. This instrument makes no changes to the policy intent. Regulation 785/2004 includes powers for the Commission to adjust minimum required levels of insurance where international treaties make this necessary. The 2018 regulations converted these into powers for the Secretary of State to do the same via regulations. However, since the 2018 regulations were made, the EU’s amendments to Regulation 785/2004 have replaced the Commission powers with new versions more closely aligned to the legal framework established by the treaty of Lisbon. These regulations take the same approach used in the 2018 regulations for the previous versions of the Commission powers. They replace them with powers for the Secretary of State to amend the minimum insurance requirements by regulations. That is all that this SI does.

In summary, no change in policy is made by these regulations. They make only minor technical and consequential changes to ensure that UK legislation on aviation insurance continues to function effectively after the end of the transition period.

I commend these regulations to the House.

12.46 pm

Lord Blunkett (Lab) [V]: My Lords, I am grateful to the Minister. I, too, had problems with my technology.

In the brief time available, I want to acknowledge that this is a narrow and technical statutory instrument—I appreciate that—but it would be remiss of me, in declaring a non-pecuniary interest in the register, if I did not raise issues that are pertinent to the moment. I know that other noble Lords will probably want to contribute on the current difficulties that our people have in relation to insurance arising from the pandemic.

It is one of those twists of fate that we are debating regulations relating to insurance covering war, terrorism, sabotage and the like when we are in the middle of a crisis that is affecting the whole of the aviation industry and, catastrophically, airlines and airports.

I ask the Minister, who knows of my interest in this, to write to me if she cannot respond at the end of the debate to my comments about those who are described as “passengers with restricted mobility”. Most people are not aware of the problems that these passengers have with insurance cover for baggage; nor are they aware of the difficulties for those with wheelchairs carrying either dry or wet batteries and those who find that their equipment is severely damaged, whether in catastrophic occurrences as outlined in these regulations or on a day-to-day basis. These difficulties make travelling a virtual nightmare for many people. They involve the interface between the airport and the airline and the contractors for baggage recovery. People often have great difficulty in getting compensation as well as immediate action to facilitate their continuation in travelling. I hope therefore that, although this is technically out of scope, the Minister will recognise—as I know she does—the importance of this issue for literally hundreds of thousands of travellers each year.

12.49 pm

Lord Bradshaw (LD) [V]: My Lords, when we debated the other set of civil aviation regulations yesterday, the Minister assured us that the Civil Aviation Authority was extremely happy with the regulations. Having worked for a public body, I know very well that it is extremely difficult to disagree with whatever the Government want; in fact, if you do so, you run the risk of losing your job.

I am concerned about the effects on the insurance industry, which is a big earner. I want the Minister to assure us that the British insurance industry, which obviously has a considerable interest in this matter, has been properly consulted and has not—as in so many cases—had a change waved in front of it, with the assumption made by government that it agrees.

I realise that these sets of regulations have to be rushed through because of the Government’s timetable, but I want to be assured that the best interests of British industries are being considered in the rush towards a legislative framework. Perhaps the Minister could answer that.

12.50 pm

Lord Blencathra (Con) [V]: My Lords, I thank my noble friend the Minister for setting out the scope of these regulations, which, if I understand correctly, are a technicality to ensure that the UK rather than the EU is now the legislator. My concerns go wider than that and relate to the compensation levels for disabled passengers and wheelchairs. I endorse absolutely everything the noble Lord, Lord Blunkett, has just said.

Can my noble friend confirm that the EU regs and these UK regs exactly replicate the 1999 Montreal Convention latest compensation levels of 113,100 SDRs, about £90,000, for death and 1,131 SDRs, about £900, for loss of baggage? The EU regs go further and compensate for delay.

However, my noble friend will have been briefed on the scandal in 2016, championed by our noble friend Lord Holmes of Richmond, when Athena Stevens had her £25,000 wheelchair irreparably damaged on a BA flight from London to Glasgow and was offered compensation based on its weight. The Montreal Convention deems wheelchairs to be hold baggage, where the compensation is payable on the weight of the articles, not their value.

I have my battery-operated wheelchairs insured for everything, but the one thing you cannot insure for is air travel, so when the delightful Miami baggage handlers dropped my lightweight aluminium wheelchair costing £2,500, the most I would get—after enormous hassle—would be \$300. Air carriers are hiding behind an international convention to avoid paying for damaged mobility equipment vital for disabled people to live their lives independently. As our noble friend Lord Holmes of Richmond said in the Athena Stevens case:

“This unfair policy is trapping disabled people in a cycle of disadvantage, and British air carriers have the moral responsibility to stop applying it to disabled customers’ mobility equipment, as it’s clearly unfit for purpose.”

The United States has passed the Air Carrier Access Act, applying to all internal flights, which states:

“The basis for calculating the compensation for a lost, damaged, or destroyed wheelchair or other assistive device shall be the original purchase price of the device.”

Canada has said that the levels in the Montreal Convention will not apply, and in Europe only Lufthansa has said the same thing. I wish I knew that when I watched my late departed previous wheelchair dropped six feet from a baggage elevator at Frankfurt.

I ask my noble friend the Minister ideally to introduce US-style legislation for all flights departing or landing in the UK, in which damage to wheelchairs will be compensated at the full replacement cost. There is nothing to stop us from 1 January next year; we will be out of the bureaucratic dead embrace of the EU empire. This country was always ahead of every other country in the EU on disabled rights, so let us be in the forefront once again.

There is no downside to bringing in this legislation; the cost to airlines will be minimal. To be fair, my current electric wheelchair has been to Belarus, Azerbaijan, Ankara, Istanbul, Athens, Strasbourg, Paris, Basle, St Petersburg, Bosnia, Georgia and even Aberdeen, and has not been damaged by airlines or airports—not yet, at any rate, but I am tempting fate by boasting about it. The airlines would have to pay for a small number of cases, but cases absolutely crucial to the disabled passengers affected.

If legislation cannot be brought forward in the short term, which I understand, will my noble friend make it clear to all UK-operating airlines that the Government expect them to implement this voluntarily, the same way that Lufthansa has? Of course, we know that there are nasty little operators—we could all name them, but I will not do so—but if the more reputable carriers make this undertaking, wheelchair users will know who to trust and who to travel with.

12.55 pm

Lord Berkeley (Lab) [V]: My Lords, I am grateful to the Minister for introducing these regulations. Previous speakers have identified that there is an awful lot wrong with the whole aviation insurance sector at the moment.

The Minister has said it will not change just because we are leaving the EU, but how does this affect the insurance of airlines, airports and other sectors? Does it depend on where companies are registered or located? It is quite clear that there are very different policies coming out of different member states, as well as other parts of the world. This covers safety standards, baggage, compensation and delays—we have seen a lot of these in the last few months. It does not seem to make much difference where the airline is registered; they can have very different policies.

In addition to asking the Minister for some clarification on this, one has to ask what will happen after the end of this year. These regulations give the Government powers to diverge from the European regulations, and maybe the international ones in the future. It is worth pointing out that in the future the only three main groups in the airline business will be the US, the EU and probably China. I do not think the UK will have much of a look-in, so we will have to follow one of them. If we are to produce yet another set of insurance regulations just to make sure that we are seen to be separate, and insist obdurately on not staying in EASA, there will be a very serious and long-term set of consequences for passengers and the insurance industry, as well as airlines.

Like the noble Lord, Lord Bradshaw, I too do not believe a word when the CAA says it supports this. As he says, if it does not support it, it will be out of a job. We have to hope that the Minister can explain in her response what ability the Government will have to change these regulations in future without any consultation with the industry just because they feel it is a good thing.

12.58 pm

Lord Chidgey (LD) [V]: My Lords, I confirm my entry in the register of interests as a companion of the Royal Aeronautical Society. I am pleased that the Minister was able to get through to us in the end. It was quite concerning; for those with long memories, she sounded a little like Rowan Atkinson's famous sketch from outer space. Anyway, she got through.

The Minister mentioned that the EU regulations require a wide range of insurances—obviously so—but can she tell us who oversees the need to demonstrate compliance with these regulations? What is the mechanism for doing this, and who is responsible for doing it? I thought that the contribution from the noble Lord, Lord Blunkett, was particularly pertinent in this regard, and I hope the Minister is able to respond to that. My noble friend Lord Bradshaw's call for assurances that the British insurance industry has been fully consulted is equally pertinent.

Civil aviation insurance is clearly a critical component of the regulatory process, controlling airlines, civil aircraft design and production and operating procedures around the world—and never more so, I suggest, as we

stand on the threshold of a new era of civil aviation technology and reduce our reliance on fossil fuels, turning instead to electricity. I recognise that this is a slight diversion from the main essence of the SI, but I hope I might emphasise these points for the general good.

There is an emerging market for green, electric-powered aircraft in the UK and neighbouring Europe. Cranfield Aerospace Solutions, an offshoot of Cranfield University, has aircraft-designing capability and DOA approval, as noble Lords will know. There are reports in the aerospace journal of the Royal Aeronautical Society saying that with this DOA for complex modifications to existing aircraft, Cranfield can also design and create new concept aircraft. It also has production organisation approval, POA, from the UK Civil Aviation Authority and the European Union's aviation safety authority, EASA—all key requirements in civil aviation insurance for complex design and production changes. The company recently announced its plans to restart the manufacture of complete aircraft in the UK—I pick up the point of the noble Lord, Lord Berkeley. It believes that it can credibly compete in the small, sub-regional nine to 19 aircraft market, where it is not economical to operate aircraft with conventional fuels. It is now looking at converting the Britten-Norman Islander aircraft to a hybrid aircraft, with Rolls-Royce electric engines, as part of a consortium of UK firms.

Over the past 12 months, a lot of attention has been paid to green aviation, and the potential market for these smaller, sub-regional electric aircraft, with electric propulsion in a neglected sector, now makes a lot of sense. What becomes critical, however, is that the UK Brexit legislation must not deny the UK a potential leadership role in this engineering. It is a sustainable, cutting-edge market. Can the Minister give noble Lords an assurance that this no-deal legislation for civil aviation insurance regulations does not do just that, keeping us out of a market that we have a lead in?

1.02 pm

Lord Naseby (Con) [V]: My Lords, I first thank the Minister for introducing this SI. She may know that I am a former RAF pilot and civil pilot, and have done some work for airlines in the past. I am going to ask a series of questions and quote the paragraph number. I do not necessarily expect firm answers this morning. Perhaps she would be kind enough to write to me afterwards on those aspects not covered in her wind-up. I will start by saying how very much I support my two colleagues, the noble Lord, Lord Blunkett, and my noble friend Lord Blencathra. They made a good case that I do not need to re-emphasise, other than to say that I hope the Minister will take it seriously on board.

First, my understanding of the net result of paragraph 2.3 is that, as matters stand, there will be no difference between the EU and the UK in terms of the regulations. Secondly, I will ask about the extent and territorial application. We are to some degree responsible for our overseas territories, and aviation in particular is key to almost all of them—whether it be the Falklands, the Cayman Islands or wherever. Has there been any consultation with them? I know that they have their own devolved Governments, but it would be sensible

for a check to be made on whether there is any adverse effect and whether they have any views on the matter. That relates to paragraph 4.

Paragraph 7.1 has partially been covered by my colleagues. Some families have been through horrendous experiences with insurance claims, baggage claims and so on. I was amazed to read last week that there are still 10,000 British citizens wanting to get back to the UK. I do not understand from Her Majesty's Foreign and Commonwealth Office why on earth, after two months or more, arrangements have not been made to get them back. I hope that the Minister will have a look at these problems as we come out of lockdown and begin to make plans for the future.

Paragraph 10.1 on the consultation outcome states that the CAA has been consulted. Well, one would hope that it has been. I should like to know what the reactions of the CAA and the aviation industry were. The paragraph does not give us any clue on that. Did they just sort of say, "Oh, okay, they're all right", or did they have some reservations as yet to be resolved? That is an important dimension.

Paragraph 12.3 talks about correction of deficiencies. What were the deficiencies? It says not only that there are specific deficiencies but that they are minor. Who decides what is a minor deficiency as opposed to a major one? That would help us.

As regards paragraph 14.2, once again, there should be a review clause. I said this yesterday. Governments learn. I sat on the Public Accounts Committee for 12 years and, time after time, problems arose because no one had the nous to review a situation. It does not matter what the length of time is, but officials should do that.

Finally, as the Minister knows, I take a specific interest in drones and would be grateful to hear of any instance in which they should be treated separately.

1.06 pm

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, I too thank the Minister for her helpful introduction, in spite of technical difficulties. However, those difficulties underline the importance of getting a Minister to come into the House in person, wherever possible. I hope that the Government Chief Whip will take this on board.

As I have mentioned in relation to previous orders, this order is part of huge swathes of SIs currently being rushed and trotted through Parliament to deal with what even the Government call the deficiencies arising from our withdrawal from the European Union.

I do not want to oppose this regulation, because it is important and I support it. We need minimum insurance requirements for air carriers and aircraft operators in respect of passengers' baggage, cargo and third parties, as we heard from the noble Lord, Lord Blencathra, who I travel with regularly around Europe. My concern is about the sheer volume of legislation we need to get through and our ability to properly scrutinise and review it, given the fast-approaching, fixed transition deadline and now, on top of that, the impact of Covid-19, which has altered the workings of our House.

However, I do have a couple of specific points to raise in relation to this instrument. First, it mentions that insurance covers specific risks from acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion. I know that it is somewhat different from those risks, but are Government looking to extend the number of risks to include events such as the current pandemic. I think my noble friend Lord Blunkett referred to that.

I am also keen to understand why there has been a change in phrasing, from the Commission being "empowered to", to the Secretary of State "may" in both paragraphs 2(2) and 2(3). Can the Minister confirm whether this changes the effect of the powers under this order?

On a positive note, the order shows that we are getting some elements of our house in order to support the aviation sector during this turbulent period. However, looking to address the elephant in the room, while all these regulation changes are necessary and important, I remain concerned about the bigger picture and our progress on negotiations with the EU. Particularly relevant to this debate is the need for a new aviation agreement between the UK and the EU, like the existing open skies agreement, which was mentioned yesterday. In spite of the Government's rhetoric, it is increasingly likely that the reality for aviation, as well as for other areas, of a no-deal exit from the EU at the end of the year will be very damaging.

While Brexit continues to create a huge element of uncertainty for the aviation sector, the economic upheaval and operational challenges posed by Covid have put the industry under even more significant pressure, as it tries to adapt and survive. Ironically, as we discuss the aviation industry today, and as we did yesterday, our skies are all but empty. The industry is under increasing threat from the pandemic. We can all see that the empty skies have improved our environment, and so the industry will be obliged to take further steps to reduce its impact on the environment as we move out of the current crisis.

I hope that the Minister will find some time, probably not today but at some point in the future, to update the House on all these issues: dealing with the EU, financial support for the industry, how to enforce the quarantine measures and how air bridges might work, along with a number of other areas which are now so important to the aviation industry's survival.

1.10 pm

Lord Goddard of Stockport (LD) [V]: I fully agree with the comments made by the noble Lord, Lord Foulkes, about Ministers. It would be really helpful if they were in the Chamber. We are sympathetic if a Minister is trying to speak remotely and they sound like Donald Duck, but that does not help me, the Minister, or indeed Parliament. Perhaps the powers that be could look at Ministers' attendance in the House, so that they can stand up in front of the Members who are in their places.

I turn now to these minor amendments. As a member of the Delegated Powers and Regulatory Reform Committee, I know that we get very nervous about, and debate for hours and hours, the specific meaning of the words in SIs. As a previous speaker said, when

[LORD GODDARD OF STOCKPORT] something turns on the phrase, “the Minister may”, that smacks of Henry VIII powers coming in through the back door.

The insurance industry is crucial to all of this. It must understand the importance of these regulations and stand foursquare behind them. The Minister said that the regulations deal with some further technical deficiencies, although she did not explain what they are, and that there will be no change to the policy. But some 19 speakers are down to speak today on an SI that should probably attract only two or three people who have specific problems, such as the issue of wheelchairs, like the noble Lord, Lord Blunkett. Will the Minister answer a few of the questions that they have put?

People need to understand that people like myself, and others on the Delegated Powers Committee, spend hours looking at these SIs. When they are suddenly amended and brought back without full scrutiny, where is the forensic examination of the real meaning of the changes? It is not enough to say that there will be no change in policy and that these are tidying-up amendments. We are making laws and regulations that will affect millions of people travelling right across the world. The regulations need to be right and they need to be watertight.

Look at all the people who booked and paid for tickets with Ryanair. The boss of Ryanair has said on TV that it will take six to eight months to repay all those bookings, because the situation is very complicated. It is not complicated. He could hit one button and everyone who should have flown with Ryanair could get their money back. This is what we are dealing with: airlines and insurance companies that are very quick to take our money and very loath to hand it back. Insurance is critical to protecting people, whatever their circumstances, when they travel far and wide.

1.14 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank my noble friend for introducing this instrument and for giving us the opportunity to scrutinise it in some detail. Perhaps I may put a number of questions to her. In her introduction, my noble friend said that a key feature of the regulations is the transference of responsibility from the European Commission to the Department for Transport on exiting the European Union. Will there be regular reviews of this, as there were in 2018 and 2019, and now in 2020? Will my noble friend commit to a regular review of the cover under the regulation? Will parliamentary scrutiny of such a review be allowed?

My noble friend will be only too aware of the particular challenges that the current Covid-19 pandemic has presented to the whole of the civil aviation sector, in particular to airlines and airports. In just three short months, we have seen an unprecedented challenge being dumped on to them. Along with other noble Lords, in particular the noble Lords, Lord Foulkes and Lord Blunkett, I would like to ask my noble friend if she can confirm that the Covid-19 pandemic will be added to the categories that are specifically included in the provisions of this instrument.

I have another question in response to my noble friend’s invitation to comment on these regulations. Can she confirm that the refunds, which will come to a huge amount, to reimburse passengers for flights that have been cancelled—I must declare an interest in this regard—will also fall within the remit and the provisions of these regulations?

The greatest challenge to airlines is their cash-flow problem. Most of their funds are tied up in planes and the payment of staff. While we have seen a review of the furlough provisions, we have also had announcements about the very sad redundancies in most of the airlines that fly from the UK. There has been a double hit, in the sense that airlines are being asked to make substantial refunds at speed, but at the same time, surely no future bookings will be made until we know that they can operate as normal again. Will my noble friend take this opportunity to confirm that refunds for those cancelled flights will be covered by the statutory instrument before us?

I have two other brief questions. First, is my noble friend able to confirm the status of the vouchers being issued by most airlines in place of refunds? Will she also confirm that, while having the same validity, these vouchers are not as easily accessible as immediate refunds? Secondly, can she confirm that the provisions for checking in luggage, as part of the new ways in which airlines will operate, are advisory, or are they indeed mandatory?

1.17 pm

Baroness Kennedy of Cradley (Lab) [V]: My Lords, this statutory instrument is technical. It makes sure that the Government can ensure that the correct insurance requirements are in place for air carriers and aircraft operators at the end of the transition period. However, as has been noted by my noble friend Lord Foulkes, the deadline for the end of the transition process is fast approaching. With aviation being one of the most heavily regulated industries, there will be a number of SIs in this policy area for Parliament to agree by the end of the year. They must all be done in time for the CAA to prepare and to give airlines the certainty they need after this period of significant upheaval.

Given the understandable delays due to Covid-19, and the limits on Parliament due to social distancing, is the Minister confident that there will be time for proper parliamentary scrutiny, and agreement, of all of the SIs that will be needed to ensure the smooth running of our aviation industry?

I turn now to the issue of aviation insurance. Covid-19 has hit the aviation industry very hard. Hundreds of aeroplanes have been left grounded. Social distancing measures and quarantines, along with low consumer confidence, are creating considerable uncertainty about what air travel there will be in the coming months. Yet I understand that commercial aviation operators have not typically purchased business interruption coverage, nor has it been widely available in the industry. That is why, as we have heard in the debate, discussions about insurance, and in particular business interruption insurance against pandemics, is now a hot topic.

There is interest in exploring insurance solutions to manage the potential impact of future pandemics and other costly disruptions, such as volcanic eruptions

and extreme weather. The insurance sector has the capacity to create solutions for these risks. That will take time and will require a high level of commitment and collaboration between airlines, consumer groups, risk advisers and insurance representatives. However, as the world becomes increasingly interconnected, and risk becomes more global and complex, surely now is the time to address this issue by finding a creative solution that can protect passengers and airlines alike. Do the Government have plans to facilitate discussions in order to secure a system that protects airlines and passengers as regards insurance? If so, what conversations have they had with airlines and insurers about a new pandemic-based co-insurance agreement?

Finally, as we begin to look forward to air travel once more, what plans do the Government have to review protections for consumers following the experience of passengers during this pandemic regarding both refund policies and being able to fly safely?

1.20 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I extend my sympathies to my noble friend the Minister. It must be very difficult when the connection goes: I think we have all been there.

My basic question on the regulations is whether there is any intention ever to move away from the EU limits. That needs to be clarified by the Minister. I would also like to pick up the point made by my noble friend Lord Naseby about UK citizens overseas. If the Minister is unable to give specific details, I am sure that she could write to all those participating in the debate to let us know what the position is in respect of any UK citizens overseas who are currently unable to get back into the country.

I have given advance notice to my noble friend the Minister about my intention to raise something that is somewhat off-piste but very relevant to the continued viability of air carriers and airlines, which is, of course, in some doubt at the moment; that is, the issue of quarantine and the related issue of testing at airports. It seems to me that quarantine has difficulties, particularly with the dangers related to the unsupervised journey from the airport to home. There is testing, for example, at Iceland's international airport for people flying in. They are tested there and contacted later if the test is positive, and that gives some assurance to people. There is also testing in Hong Kong on a slightly different basis, but it is obviously a much larger airport with much greater throughput. Is this something that the Minister could say something about? Are the Government giving consideration to this? The context of these regulations means that it is really only if we are able to instil some confidence in the airline sector and provide proper testing facilities for people coming into the country that we will be able to ensure that these regulations have any real lasting relevance. I would be grateful if my noble friend the Minister could deal with that in her reply.

1.22 pm

Lord McConnell of Glenscorrodale (Lab): My Lords, I am very happy to support these regulations and to see their passage through Parliament but will take this opportunity to raise a couple of issues. I strongly

support the points made by my noble friend Lord Blunkett and others in relation to the difficulties faced by particular travellers. I hope that the Minister will respond positively on that issue, with an indication not just of understanding but of what action might be taken. The point made by my noble friend Lord Foulkes about adding other situations such as the current pandemic to the list of issues that might be covered is a valid and topical one, and I hope there is a response to that too.

My remarks will mainly follow on from the points made by the noble Lord, Lord Goddard, about the conduct of airlines. Having read the debate on these regulations in the House of Commons and listened to the Minister today and Ministers generally over recent weeks, I sense that there is sympathy for the aviation industry. There is a desire to see it functioning again properly and to see that those who work in the aviation industry have some job security in very difficult times.

However, we cannot ignore the fact that the conduct particularly of airlines—but also airports in this country and beyond—is absolutely appalling at times. There have been comments this week in the other place about the way in which British Airways has been treating its staff over recent weeks. It has been treating its customers in that way for a very long time, and it has been at it again during this pandemic. It is not alone: it is not the worst, but it is certainly far from being the best. It carries our national flag, but it discredits it every time it treats customers badly when they are making complaints, looking for refunds or trying to ensure that their plane actually turns up on time. This is particularly acute in the domestic sector, where British Airways dominates the routes between Scotland and London. It treats customers as almost irrelevant in the way it conducts its business, because it has such domination that it is able to do that when people have no other choice.

Therefore, I hope that the Government will take this on board in all their current negotiations with the aviation industry. Yes, they should be positive and do what they can to help protect the industry and the jobs of those who work in it, and get international routes functioning again, but they should also demand change in the culture of the industry, which takes customers for granted and treats them like dirt far too often.

1.26 pm

Baroness Ritchie of Downpatrick (Non-Aff) [V]: My Lords, I welcome the opportunity to participate in this debate. I thank the Minister for her contribution and for setting the statutory instrument in context. The principal context of the aviation industry at the moment is that of the pandemic, which has already been referred to by previous speakers, including my noble friends Lord Blunkett, Lord Foulkes and Lord McConnell and the noble Baroness, Lady McIntosh. There are very clear issues there. What discussions has the Minister or her colleagues in the Department for Transport had with those in the Treasury concerning these insurance issues to ensure that they are uplifted and that they reflect a pandemic situation? Will this area of the pandemic be included in those other areas that she outlined and which are currently applicable in these regulations?

[BARONESS RITCHIE OF DOWNPATRICK]

I have a couple of other questions, because all of this is set in the context of Brexit and coronavirus. Will these insurance measures be the same as EU rules on insurance or will they be different? How much will they vary and what will be the cost—above all, to the traveller? Will it be additional and what will be the impact of Covid? As I explained yesterday, there is absolutely no doubt that the aviation industry, particularly in Northern Ireland—which is regionally world-leading in aircraft manufacture, and in the manufacture of aircraft seats and furnishing—is being hit and undermined at the moment, so it needs assistance. What further discussions have been held with the Treasury in relation to the relaxation of air passenger duty for UK regional airports? Will reciprocal EU cover take place and what will be the relationship with the European Aviation Safety Agency?

Flights from London and other regional airports to the Republic of Ireland, which will remain in the EU, are the principal way of travel between London and Dublin for cargo and passengers, and traffic is very heavy. You have only to go to Heathrow to see that. What will be the impact of these insurance arrangements on the east-west relationship between Britain and Ireland, and on air traffic? We do not want to further undermine the aviation industry. Will there be more protected routes to the EU and will the quarantine rules be relaxed? These are perhaps outside the remit of this statutory instrument, but we need answers to these questions, particularly if we face a no-deal Brexit because that will have far-reaching implications on not only the aviation industry but other sectors of manufacturing and business avenues. I thank the Minister but look forward to answers to these questions.

1.29 pm

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, I agree with the call by my noble friend Lord Foulkes of Cumnock and the noble Lord, Lord Goddard of Stockport, for the Government to make every effort to get the Minister standing at the Dispatch Box on all occasions. I hope the Government Whip in the Chamber will take that point back to her noble friends the Leader of the House and the Government Chief Whip.

The noble Baroness, Lady McIntosh of Pickering, and my noble friend Lady Kennedy of Cradley raised important points regarding consumer rights with respect to refunds and vouchers. I look forward to the Minister's response to these points, and to those raised by the noble Lord, Lord Goddard of Stockport, regarding the conduct of airlines and how they treat their staff and customers, echoed by my noble friends Lord McConnell of Glenscorrodale and Lady Ritchie of Downpatrick.

As we heard, these regulations are, on the face of it, fairly minor. We are using this transition period to make long-term changes and adjustments but, as we read at paragraph 2.4 of the Explanatory Memorandum, the policy context remains unchanged. Powers that were exercised by the European Commission are to be excised by the Secretary of State. It would be helpful to the House if the Minister could answer the point about what will happen in the future. The Government have taken these powers. Do they always intend to

follow without question the European Commission's decisions? "Take back control" does not appear to fit very well there. Or is the Government's intention to take different decisions over time? If the latter is the case, could the Minister set out the process for doing so? How will that happen?

Aviation is global, by its very nature, and being global Britain it seems that we have to be part of international agreements to ensure that the UK aviation industry can compete in this new world we all find ourselves in. On that point, could the Minister set out any work done by the department to see what the cost will be of deciding to differ from the European Commission's decisions, and what the process is for ensuring that any decisions made will not put us in breach of any further international agreements beyond the European Commission and cause our aviation industry further difficulties?

Paragraph 10.1 of the Explanatory Memorandum says that

"The Civil Aviation Authority has been consulted",

but a subsequent sentence says:

"The devolved administrations and the aviation industry have been informed".

Could the Minister please set out for the record what, in the Government's view, is the difference and why the different approaches were taken? Who took the decision only to "inform" the devolved Administrations and the aviation industry, not "consult" them?

Finally, what discussions have taken place with the insurance industry? A number of noble Lords raised this point and I cannot find any reference to it in the Explanatory Memorandum.

1.33 pm

Lord Balfé (Con) [V]: My Lords, I declare my interest as president of BALPA, the airline pilots' union. I endorse what has been said about attendance in the House, not only by Ministers. The Chamber is empty. We need the Whips to get together to find a way to get far more people into the Chamber. At the moment it is very difficult.

I turn to the points made so ably by the noble Lord, Lord Blunkett, and my noble friend Lord Blencathra. I serve on an international pensions committee. It had a disabled member on it for a few years. I became all too aware of the catalogue of errors that my noble friend outlined—the number of times things went wrong and airlines just looked the other way or their compensation was inadequate. Mention has been made of Lufthansa. I like to think that the Minister will introduce a disabled rights in aviation SI or law, or something. As noble Lords all know, I did not support leaving the European Union but, now that the British people have pronounced quite decisively that we are going to leave, for goodness' sake let us get something useful out of it. This is certainly one thing.

The noble Lord, Lord Kennedy, took part of my speech away, I am afraid. I will mention paragraph 7.1 of the Explanatory Memorandum on the article that confers powers on the Commission to adjust minimum levels. Is it intended that the UK will follow this? How will it monitor what is happening and what the EU intends to do? The EU will obviously have its own internal processes before making changes. How do we

propose to be linked into them? What notification arrangements are we expecting to get? I note also that there will be powers for the Secretary of State to amend the minimum insurance requirements by regulation. Are there any plans to do this at the moment?

The next paragraph talks about how an article inserted by the regulations

“includes provision for the European Parliament or the Council to object to continuation of the delegated powers at five-year intervals ... these provisions have no practical application in relation to the UK”.

That is because we have a deficient democratic system, frankly. We should also have some system, now that we are leaving the European Union, to look at the continuation of delegated powers and decide whether they should be revoked. I would like the Minister to agree to look into this.

I endorse the points made by my noble friend Lady McIntosh. I have now had three months struggling with BA to get a refund on a ticket. I have very little sympathy for it. It is very good at asking for money, but very bad at giving it back. I would like the Government to add some weight to those customers who are still waiting for refunds after months and a deliberate attempt by airlines, particularly BA, to avoid paying out. I could paper a wall with the number of times that I have been offered a voucher.

Finally, I take the point that the noble Lord, Lord Kennedy, made about the aviation industry having been informed of the department’s intention. Specifically, with what information and in which way were the trade unions informed of the department’s intention and what response did the Government receive from them?

1.37 pm

Baroness Randerson (LD) [V]: My Lords, there could not be a more appropriate time to discuss aviation insurance. When we eventually could hear the Minister I was pleased that she set out very clearly the SI’s intention. The EU regulations establish minimum insurance requirements in respect of passengers, baggage, cargo and third parties, but they also require carriers to have insurance that covers acts of war, terrorism, sabotage, unlawful seizure and civil commotion. As other noble Lords mentioned, I am sure that many people wish that that list covered pandemics as well. As the Minister said, this SI replaces the European Commission’s powers regarding this with those of the Secretary of State. Like others, I regret that the SI has to be brought and the causes of it, but I will take the opportunity to discuss some of the specific issues within it.

We have discussed insurance and consumers’ rights several times here in the last few years, but always in the context of the financial failure of an airline, and questions have been put on consumers’ rights in relation to payment methods. This SI puts the spotlight instead on the basic obligations of the airline operators.

The pandemic has placed huge stresses on the aviation industry in general and, as other noble Lords have said, some airlines have resorted to extreme delaying tactics to avoid repaying their customers for cancelled flights. Many consumers are waiting very long periods

to receive refunds—the noble Lord, Lord Balfe, being one. Airlines are resorting to devious tactics to make it very difficult even to claim a refund; for example, by removing the refund request option from their website, so customers have to phone to request a refund but then find that the number is continuously busy. There is pressure to accept vouchers instead, but in the current uncertain situation is not surprising that customers consider that a risky option, and they may not wish to travel anyway. There are adverts tempting the public to purchase cheap flights in the near future, when it is highly unlikely that that flight will actually operate. The suspicion here is that this is a device to bolster short-term income for the airline. While all this is understandable at this difficult time, it is certainly not acceptable. Therefore, the level of guarantees and consumer rights provided by the EU regulations have proved valuable and the public will expect them to continue. They will expect Brexit to provide improvements to their rights—that is what those who supported Brexit thought would come. Certainly, they will not expect the EU to provide any improvements that are not immediately adopted in the UK.

Consumers who book linked travel arrangements, such as connecting flights, are often not fully aware of the national registration status of the airlines they choose to use. They might well start off with a UK airline but change planes midway on to an airline from another country. The official national status of airlines is often not obvious. Despite its appalling behaviour towards its employees, BA, for example, trades on its status as the British flag carrier, but it is Spanish-owned. Sometimes, one books with airline A and ends up flying with airline B, its so-called agent. All these uncertainties emphasise the value of a co-ordinated system of insurance and consumer rights, so my question to the Minister is: will the system guarantee the same level of co-ordination and ease of use for consumers in future?

Paragraphs 14.1 and 14.2 of the EM cover monitoring and review and make it clear that no systematic review process is planned. However, paragraph 7.2 shows that the EU regulations have a five-year mechanism for review built in, so there is surely the danger that our regulations will become outdated by default. I would be grateful for the Minister’s comments on this. Finally, on the issue of consultation raised by others, paragraph 10.1 states that the CAA “has been consulted” and was happy with the changes proposed. It does not refer at all to the insurance industry. It goes on to say:

“The devolved administrations and the aviation industry have been informed”

of the Government’s intention. That is a new choice of words to me. It sounds very high-handed. It is against all the usual courtesies of the devolution settlements and it puts us back at least 30 years in the way that, by convention, government works with business. I ask the Minister to address this specific point: is this just a one-off or is it the way the Government intend to do business in future? A very long time ago it was accepted that good government relies to a great extent on partnership and consultation with those within each sector, which leads to a more effective way of doing things. I hope that that will not be abandoned.

1.44 pm

Lord Rosser (Lab) [V]: I thank the Minister and her officials for the virtual meeting on these regulations on Tuesday, and the Minister specifically for her explanation of the content and purpose of this draft SI, to which we are not opposed.

EU regulation 785/2004 establishes minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties. It also requires that air carriers and aircraft operators have insurance which covers specific risks, including acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft, and civil commotion. The regulation will be retained in our law at the end of the transition period and the Minister has already been asked more than once about insurance cover for Covid-19 type pandemics—I am sure she will respond to that point.

As a result of recent amendments made to EU regulation 785/2004, these further draft regulations are needed to ensure that the terms of that regulation, as amended, continue to operate effectively in our domestic law after the end of the transition period. This is achieved by replacing Commission powers with powers for Secretary of State for Transport to amend the minimum insurance requirements by regulations which will be subject to the affirmative resolution procedure. As I understand it, the 1999 Montreal Convention provided for airlines to be responsible for compensation in the case of death and injury to passengers, and to be adequately insured to cover any liabilities, and the EU minimum insurance requirements stemmed from that. First, I ask the Government to confirm, as I believe the Minister said, that these regulations make no changes in the present minimum insurance requirements that apply in the UK on the day after the end of the transition period, apart from replacing Commission powers with powers for the Secretary of State.

I wish to raise a couple of other points. Will UK air carriers and aircraft operators have to have, at all times in the future, minimum insurance levels that are not below EU minimum requirements in order to be able to fly to EU countries? If we wanted to, could we have minimum insurance requirements that are below EU minimum requirements and not put in jeopardy the ability of our air carriers and aircraft operators to fly to EU countries? The Government's mantra is that at the end of the transition period we will have taken back control and be able to do what we want to do and not, as a member of the EU, be a party to EU legislation. What does this draft regulation enable us to take back control of, in practice and not just in theory? What have we been wanting to do but have been unable to do on minimum insurance requirements for air carriers and aircraft operators because we have been a member of the European Union?

The insurance requirements covered by these draft regulations are about providing cover for airline operators rather than consumers, including passengers. Can the Government say whether the minimum insurance requirements provided for in these draft regulations cover airline operators against legal proceedings for failing to reimburse fares for flights that were cancelled? On the face of it, these regulations offer no good news

for passengers, of whom I am one, waiting far too long for such refunds. Nevertheless, I hope that the Government, in their response to this debate, will also take the opportunity to say what actual progress they have made in ensuring that airlines make the necessary arrangements to refund these fares promptly and not leave it for several months.

I will listen with interest to the Government's response to the points made in the debate, including the issues raised by my noble friend Lord Blunkett and the noble Lord, Lord Blencathra.

1.49 pm

Baroness Vere of Norbiton [V]: My Lords, I thank all noble Lords who took part in the debate today, and once again I apologise for my technology. It is the first time that that has happened to me and it is a Minister's worst nightmare. I will certainly be in the Chamber next week and possibly in the future. Some of the debate has reached far beyond the scope of the statutory instrument. I will do my best to respond today but if not, of course I will write. It might help if I start by outlining the underpinning of the EU regulations in the Montreal convention 1999.

The convention was brought in to update and bring together existing international conventions on air carriers' liability. The main change was to set maximum standards of strict liability in claims against airlines for loss of life or injury and damage to or loss of baggage in cargo. The limits are refreshed every five years, most recently in December 2019. I can tell my noble friend Lord Blencathra that the liability amounts for passengers and baggage will remain in place.

Prior to the Montreal convention, passengers were required to prove that an airline had been wilfully negligent for all claims. Nowadays, passengers are still able to claim above the strict liability limits set out in the Montreal convention, but need to prove negligence on the part of the airline. The convention provides that air operators should have adequate insurance to cover any claims but it does not set out insurance requirements beyond that, so the EU regulations—and in consequence the UK regulations in the future—build on the convention but do not replace it. Instead, the regulations will set out the requirements for minimum insurance levels for air operators flying to, from, within or over a particular state. This sets the definition of minimum insurance standards, rather than the convention's requirement for adequate insurance.

The regulations' minimum insurance levels are broadly based on the convention's strict liability limits, but in general the EU requires insurance levels—and therefore we will require insurance levels—significantly above, in some cases, the strict liability limits set out in the convention. For example, for a liability in respect of passengers, the minimum insurance cover in the EU is 250,000 Special Drawing Rights, which is about £275,000 per passenger. That is about twice as much as the strict liability limit in international law. While strict liability limits are set by the international treaty, if the country is party to it, minimum levels of insurance are set by country, or pan-EU in this case. Minimum levels of insurance for different countries can of course change, and any operator flying into, over or within a country must have such minimum levels of insurance in place.

Part of this is about demonstrating compliance, which is where the Civil Aviation Authority comes in. In the case of the EU, EEA, EFTA and the UK, an air carrier has to be able to demonstrate its compliance with the insurance requirements by providing evidence of valid insurance to the member state that granted its operating licence, or if it flew into that country. In the UK, operating licences are granted by the CAA, which already performs that role. The noble Lord, Lord Chidgey, asked about compliance. The CAA monitors compliance by carrying out spot-checks on aircraft. Non-compliance is a criminal offence. Therefore, we do not anticipate that this SI will have a financial or practical impact on the CAA as it already performs all of those functions and is content with the proposals. I am a little disappointed that the noble Lord, Lord Berkeley, said that he did not believe me when I said that. His words were perhaps a little strong.

A number of noble Lords mentioned the scope of the insurance, which is an important issue as it applies to all carriers and operators flying into or out of various countries. The noble Lord, Lord Foulkes, asked whether insurance could be extended to cover pandemics and the noble Baroness, Lady Kennedy, mentioned business interruption insurance. Of course, carriers are free to make their own insurance arrangements. The insurance under consideration today specifically refers to loss of life or injury to a passenger, and loss of or damage to property, but given how few flights there are, it is not immediately clear how a pandemic could cause these outcomes; the implications are not clear. But I believe that the relationship between the aviation industry and protections for passengers will receive an enormous amount of scrutiny as we come out of this crisis. The Government had already announced an aviation insolvency Bill in the Queen's Speech and when this crisis is over and done with and planes are starting to fly again, we will be able to look at this in more detail.

My noble friend Lady McIntosh asked whether an insurance policy includes the refunds of payments made by passengers for services not received. Again, that would be a contractual matter if the aviation supplier wanted to get that insurance from an insurer. I know that noble Lords are aware of this, but refunds to passengers where they have been denied boarding or suffered a cancellation are covered by EC regulation 261/2004, which requires compensation within seven days. It will continue to apply. I recognise that in the current circumstances, some passengers are not receiving their refunds within the specified time. The Government are absolutely clear: where a passenger is due a refund, it must be paid.

The noble Lord, Lord Blunkett, and my noble friend Lord Blencathra raised the incredibly important issue of protections for wheelchair users and other passengers with reduced mobility when their wheelchairs and other belongings are damaged. The EU regulations we are discussing today give the minimum insurance cover of 1,131 SDRs for baggage per passenger. I am aware of the case of Ms Stevens' damaged wheelchair and I sympathise with her situation. Wheelchairs that cost thousands of pounds are subject to the same damaged baggage legislation that limits compensation to around £1,000. A number of UK airlines already voluntarily waive that limit, and the Government will

call on all airlines to adopt that practice. We will certainly return to this issue very soon. It is a complex one, given the wide variety of wheelchairs available and their values, and the fact that there are no standardised tether points for safe stowage in the holds of aircraft. We have discussed this with the industry in great detail and we continue to do so. We are looking at testing different storage solutions and improving training. We will continue to work on this.

The noble Lords, Lord Berkeley and Lord Kennedy, asked about divergence in the future. The UK cannot diverge from the requirements of the Montreal Convention. We are obliged to follow it, given that we are a party to the convention. The Government have no plans to diverge from the minimum insurance levels which currently exist in the UK and the EU. However, as with all these things, changes may be required in the future as a result of inflation. Any changes made by domestic legislation, rather than by EU legislation as now, would require an affirmative resolution by your Lordships' House and the other place, and we will of course be consulting the industry.

The Government discuss matters relating to EU exit with the aviation industry, the travel industry and with consumer representatives. The last round-table meeting was on 16 March. No issues were raised in relation to this instrument, because it keeps all elements of the current system in place. Regarding the insurance industry, there is no change to the insurance requirements, so there will be no practical impact on the industry, but we will have ongoing discussions with the industry on EU exit and other matters.

The Government maintain a close and ongoing relationship with the devolved Administrations. Perhaps the word "inform" is not right, because we rightly discuss matters relating to EU exit, even where they are reserved matters. No concerns have been raised in relation to this instrument.

As for the changes made by this instrument, the noble Lord, Lord Foulkes, mentioned the change from "empower to" to "may". I assure the noble Lord that there is no difference in this regard. Both confer a discretionary power as opposed to a duty, and "may" is simply more often used in UK legislation. The changes in the SI are very minor, as I said in my opening remarks. They relate to a change in the power of the Commission to do with the legal framework of the treaty of Lisbon. We transferred that power to the Secretary of State in the first SI, which was approved by your Lordships' House.

Finally, the noble Baroness, Lady Randerson, raised the European Commission's power to object to the continuation of these powers on a five-year basis. We looked at this and considered it already inherent in our system, as Parliament may, at any time, legislate to remove a relevant power—or powers—from the Secretary of State.

I am aware that this was rushed, that I have not covered everything and that I must write, but this instrument ensures that legislation on aviation insurance requirements—an important part of the regulatory framework for civil aviation—continues to work effectively. I commend the regulations to the House.

Motion agreed.

2 pm

Sitting suspended.

Arrangement of Business

Announcement

2.15 pm

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, proceedings will now commence. Some Members are here in the Chamber, others participating virtually, but all Members are treated equally. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply.

Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020

Motion to Approve

2.16 pm

Moved by Baroness Penn

That the draft Regulations laid before the House on 24 March be approved.

Baroness Penn (Con): My Lords, your Lordships will be aware that, since July 2018, HM Treasury has put in place legislation, using powers under the European Union (Withdrawal) Act 2018, as amended by the European Union (Withdrawal) Act 2020, to ensure that the UK has an independent and coherent financial services regulatory regime at the end of this year when the UK leaves the transition period. This SI is part of that programme of work, and the approach aligns with the general approach established by the EU (Withdrawal) Act 2018, providing continuity by retaining existing legislation at the end of the transition period, but amending where necessary to ensure that it continues to function and is effective in a UK-only context.

The SI makes deficiency fixes to a new piece of EU legislation that has recently become applicable relating to the European market infrastructure regulation, hereafter referred to as EMIR. EMIR implemented the G20 Pittsburgh commitments, agreed in the aftermath of the financial crisis in 2009, regulating over-the-counter derivative markets and, in particular, requiring some derivatives to be cleared in a central counterparty, known as a CCP, to manage risk between users of derivative products. EMIR has been effective in increasing the safety and transparency of derivatives markets, thereby reducing the associated risks users may face. UK CCPs play an essential role in reducing systemic risk and ensuring the efficient functioning of global financial markets. Parliament has previously approved

several EU exit instruments to ensure that EMIR continues to function at the point of the UK's withdrawal from the EU.

EMIR was updated by a regulation known as EMIR 2.2 on 1 January this year. This regulation modifies the third-country, or non-EU, CCP supervision framework so that EU authorities have greater oversight over third-country CCPs that are systemically important to the EU. Most of these changes are made to the recognition framework for CCPs outside the EU. Each CCP has to be individually recognised by the European Securities and Markets Authority, known as ESMA.

The Bank of England has already been given the power to recognise non-UK CCPs wishing to operate in the UK via an earlier SI under the EUWA. Because this recognition framework has now been updated, this SI transfers ESMA's new powers to the Bank of England. That means that the Bank of England will have the power to tier non-UK CCPs according to their systemic importance to the UK. Under the tiering system, tier 1 CCPs will continue to be supervised by their home regulator alone, while systemic CCPs will be recognised as tier 2 and expected to comply with certain requirements in UK EMIR. The power to supervise tier 2 CCPs has also been transferred from ESMA to the Bank. Where a CCP is subject to the supervision of the Bank of England, this SI extends parts of the current supervisory framework for UK CCPs to non-UK CCPs. This is appropriate as this supervisory framework is working effectively in the UK already, and largely mirrors the powers that ESMA will have. For example, both ESMA and the Bank will have the power to issue fines.

EMIR 2.2 also empowers the Commission to adopt delegated acts to specify how the framework will function in practice. This includes tiering, but also how the UK supervisor's deference to the rules of the non-UK CCPs' home authorities, referred to as "comparable compliance", will function. This SI transfers the power to establish those frameworks to the Bank of England. The Bank has existing responsibilities for safeguarding financial stability in general, and managing systemic risk in CCPs in particular. It is therefore appropriate that the Bank can establish the details of the framework to manage the systemic risk posed by some non-UK CCPs in a way appropriate for the UK.

The remaining functions of the Commission are transferred to Her Majesty's Treasury through this SI. This includes the so-called location policy. Under EMIR 2.2, ESMA can recommend to the Commission that a third-country CCP that is felt to be "substantially systemically important" cannot offer some services to EU clearing members unless those services are offered from inside the EU. The UK did not support the inclusion of this location policy during the negotiation of EMIR 2.2, due to concerns that it could lead to market fragmentation and reduce the benefits provided by the global nature of clearing. However, the powers in the EUWA, under which we are making this SI, extend only to addressing deficiencies arising from withdrawal, and commitments were made during the passage of the Bill that the power would not be used to make significant policy changes.

Therefore, this instrument transfers the power to use the location policy to Her Majesty's Treasury via a negative regulation, subject to advice from the Bank of England, and appropriate procedural safeguards and transitional provisions. However, I can assure the House that it is hard to foresee a circumstance in which using the location policy would be effective in supporting financial stability in the UK. The UK clearing market sees a large proportion of clearing occur in UK CCPs; it is therefore unlikely to be appropriate ever to use this tool in practice.

EMIR 2.2 also makes changes to the internal EU supervisory and co-operation mechanisms, including creating a CCP supervisory committee inside ESMA and increasing responsibility for EU supervisory colleges. As the UK is no longer part of the EU, these provisions are removed by this instrument.

Finally, the instrument updates the recognition powers set out in the temporary recognition regime. This regime was established by a previous SI to enable non-UK CCPs to continue their activities in the UK while their recognition applications are assessed. This SI updates the recognition requirements in line with the new EMIR 2.2 provisions, helping to provide certainty for non-UK CCPs regarding their recognition within the UK market during the transition period.

The Treasury has worked closely with the Bank of England to prepare this instrument and has engaged with the financial services industry. The draft legislation has been publicly available on the legislation.gov.uk website since 24 February to maximise transparency to Parliament and industry, and the instrument was laid before Parliament on 25 March.

In summary, this instrument will ensure that the UK's regulatory framework will continue to function effectively in the UK at the end of the transition period. Without an operable regime, the UK's ability to regulate the financial sector effectively, and manage the financial stability risks posed by some of the largest non-UK CCPs, will be compromised. I hope noble Lords will join me in supporting these regulations. I beg to move.

2.24 pm

Baroness Bowles of Berkhamsted (LD) [V]: I declare my interests as in the register as a director of the London Stock Exchange plc.

I have forgotten how many of these Treasury statutory instruments I have done, but it must be around a half-century innings so far. With each one my past flashes before my eyes and, although EMIR 2.2 was done after my time in the European Parliament, the content is familiar.

I support the UK taking an open stance on location policy, at least for now. I successfully negotiated away attempts at its introduction in the original EMIR because it was then intended to be used in a protectionist way to undermine the financial single market, and the European Court agreed. Brexit changes that protection for the UK. Now that we are on the outside, it comes down to balancing fear and retaliation—fear that massive moving of contracts is itself a systemic risk, fear of extra costs to industry, and perpetual EU pressure on decisions and location of key personnel.

Maybe, in the end, it will be the attractiveness of London and London business that wins out—as it has done for the Unilever listing—but no one should underestimate the effort that involves.

Do I object to one of the Commission powers being given to the Bank of England rather than the Treasury? No, that is where the skill lies—although anyone following exchanges between me and Mark Carney on the Economic Affairs Committee will know that I think it has been overoptimistic about how its regulatory relationships will win over EU demands. I do not dispute the good relationships or technical correctness, but this issue has political overtones.

I hugely regret that there is no way that this Parliament gets a say anything like that which the European Parliament has, particularly at primary level. Everything is delegated away from accountable objectivity or the ability for Parliament to steer or understand our largest industry.

Finally on this instrument, look at the mess of it: if it were the olden days, when we had long exchanges in the Moses Room, I might have challenged the Minister to a game of hunt the provisions. It can pass now, but it is a travesty of democracy to have such an entanglement of legislation that no person—not even the Treasury—knows where everything is.

2.27 pm

Lord Wei (Con) [V]: My Lords, I declare my interests as in the register. I broadly welcome this instrument; it comes in extraordinary times, and we do not really have enough time to debate it, but we are at a critical point in our negotiations with the EU during the transition period. This is an incredibly technical instrument, and I am glad to be among the notable Peers who have far more expertise than I do on this matter.

In the limited time, I will focus on questions of sovereignty, because a lot of this has been picked off by our exiting the EU. I have had some contact with both the financial services industry and this area of derivatives, which, though often castigated in public, is crucial to our future as a financial hub. It is a growth sector and, as the world becomes riskier, we need to cement our position in this kind of trading globally to help reduce risk for businesses, organisations and markets around the world.

I have a couple of concerns for my noble friend the Minister to address. She may not have time to fully answer them all, so I would be happy to have a letter placed in the Library in response. My concerns are about sovereignty and how governance may shift over time, particularly in the course of our negotiations—and if they perhaps break down—and post this transition period. As mentioned, we are giving quite a bit of leeway to the Bank of England. What provision has been made, or what guidelines exist, to ensure that the Bank of England does not give away any powers during this period, given the freedoms it has around regulating and bringing in third parties to that regulation?

My second question is on human rights. We are obviously in a period when financial services are being pulled into discussions about past slavery and practices within supply chains. I would be interested to know

[LORD WEI]

how the sovereignty in this instrument works with third parties and the question of who decides about human rights. This could very much complicate these markets, which are huge.

Finally, and this is perhaps more of a speculation, but what thought has been given to the provisions in this instrument and decisions that might be made in the Bank of England? Should our relationship with the EU turn sour—I hope it will not—and the EU choose to impose further protectionist measures against us, this could somehow undermine our position in discussions. I look forward to hearing the rest of the debate, but I would welcome some answers from the Minister.

2.30 pm

Lord German (LD) [V]: My Lords, at one level these regulations could be seen as a technical set to see us through to the end of the year in order to be compliant during transition. However, they raise some very substantive issues which set a pathway with much greater significance.

What we are legislating for here is derived precisely from the legislation which the EU will use in dealing with the United Kingdom from 1 January next, onwards. Unless there is some major shift in governing policy, the EU form of these regulations will be the rules which govern the activities of UK entities within the 27 member states of the European Union. All of the tightened EMIR 2.2 regime rules on the over-the-counter derivatives market will be applied to us a third country. In the context of the Government's aim not to be within the single market, a primary concern must be whether our regulatory regime will be regarded as equivalent by the 27 member states of the EU next year.

It is through this lens that we must assess the adequacy of these regulations. I am afraid that all the signs of what will happen next year to our relationship with the EU look increasingly gloomy. As written, the Explanatory Memorandum is either very misleading or incredible in its paragraph 7.1, depending on your view of its literal meaning. Its opening words state:

“The UK has left the EU with a deal”,

yet the EU, as we know, has said that we are not even negotiating effectively on the agreement—the political declaration which the UK reached at the end of last year. What was achieved was leaving with an agreed declaration on the future issues to be negotiated. I suspect that the terms of this bald statement in paragraph 7.1 of the EM refer to a much narrower arrangement than the one currently cited by all sides and the media, including our own Prime Minister, as leaving with a deal. Can the Minister tell the House what deal the Government are referring to in this statement, and which terms of that deal are relevant to these regulations?

According to the political declaration, the UK is required to conclude its equivalence assessments in 12 days' time. These regulations are part of that exercise. How much more needs to be concluded in these coming days, or will we require an extension of some weeks or months to finish the exercise?

Turning to the regulations themselves there is a considerable increase, as noble Lords have said, in the powers and role of the Treasury and the Bank of England. What level of scrutiny do the Government envisage over the use of these powers? The only reference to Parliament is in relation to Regulation 21 of this instrument. As the Minister said, it uses the most limited form of parliamentary scrutiny, the negative procedure; additionally, this regulation is the one most likely never to be used. As we seek to provide regulatory equivalence and, I hope, avoid a cliff edge at the end of the year, I am bound to reflect that none of this can replace the market access we currently enjoy.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): We can see you, Lord Mann, but we cannot hear you.

2.33 pm

Lord Mann (Non-Aff) [V]: My Lords, you should be able to see me. I thank the Minister for and congratulate her on the clear way in which she introduced this statutory instrument. I have three questions. First, have the FCA and the Bank of England identified to Treasury Ministers any specific systemic risks that the House should be aware of? Secondly, are there any ongoing concerns within the FCA and the Bank of England over inter-trade repository reconciliations? Thirdly, does the power remain to suspend reporting obligations for 12 months and, if so, what criteria will the Treasury use to enact it? Can this power be rolled over for a further 12 months, beyond the initial 12?

2.35 pm

Baroness Altmann (Con) [V]: My Lords, I support this statutory instrument. I welcome it and congratulate my noble friend on her introduction. It is of course important that derivatives are increasingly cleared through CCPs since the lessons that we learned in 2009. The security of global derivatives markets is vital to the functioning of the financial system and the stability of institutions such as pension funds and insurers, which use derivatives widely nowadays in their risk management processes.

Extending the Bank of England's supervision of domestic CCPs to global CCPs is necessary as we depart the EU; likewise, ensuring that it can continue to maintain its responsibilities for safeguarding financial stability and systemic risk is important. However, does my noble friend feel that the Bank of England has sufficient resources to deal with these wide-ranging new responsibilities and technical standards, especially if we leave the EU without any formal agreement or continuation of the transition, should that be necessary at the end of this year?

I also welcome the fact that the Treasury will take responsibility for location policy, because that is where such responsibility should rightly lie in the post-Brexit environment. I do not believe that the Bank of England would be the appropriate place, especially given all its other extra duties. Has consideration been given to the concerns expressed that this may become a political issue, with a trade-off of competing interests? Finally, what scrutiny will Parliament have over this broad extension of powers to the Treasury and the Bank of

England? It seems of concern, as other noble Lords have suggested, that this is to be subject to the negative procedure should changes be made. I did hope that Parliament would have more of a say.

2.37 pm

Lord Holmes of Richmond (Non-Aff) [V]: My Lords, it is a pleasure to speak on these regulations and I join other noble Lords in congratulating my noble friend on the way in which she introduced them. Making the complex clear is no mean feat, given the number of acronyms in them. I am sure she would agree that we have a world-leading financial services sector in the City of London, given its ecosystem, geography and regulator.

I note—other noble Lords have commented on this—the shift in responsibility for CCPs to the Bank of England. Does my noble friend believe that the Bank has the breadth of experience to make decisions on CCPs? I am sure that it has the specific, narrow understanding but, in wanting the decisions to be made in line with broad government policy, what discussions have the Government had with the Bank of England on this issue? Can she also say something about discussions with the Bank over the level of resourcing that she believes it currently has to exercise this task?

As has already been said by other noble Lords, the regulations are required for compliance at the end of this year. Post that, does my noble friend believe that these regulations will enable not only compliance but optimisation? Does she believe that, post-Brexit, more could be done to ensure that we have an optimised OTC derivatives market in the UK?

Finally, on the role of the Bank of England—which, again, is wider than these regulations—I ask the Minister to update the House, in writing if necessary, on the current progress on a central bank digital currency. She talked, quite rightly, about financial stability. If a social media platform launched a cryptocurrency that took hold in any nation state, that could have a significantly detrimental effect on financial stability. Can she update noble Lords on the Bank's current discussions and consultation on CBDC?

2.40 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I congratulate my noble friend on introducing the regulations and thank her for the opportunity to consider them. I have a number of queries.

I share the concern of the noble Baroness, Lady Bowles. If it is difficult for the Treasury to know where all the instruments are, how on earth are industry and investors expected to keep on top of all the changes as a result of our exiting the European Union? I make particular reference to paragraph 2.15 of the Explanatory Memorandum. Can my noble friend explain why the functions previously held by the European Commission have been split between the Treasury and the Bank of England? It would be helpful to know the thinking behind that.

Derivatives are perhaps the most complex area of financial services. We have moved a great deal away from passporting or equivalence. In this regard, what

will the status of industry and investors be going forward? Will we enjoy the same protections in the UK under the statutory instrument set out today as if we were still a member of the European Union? Also, what will be the impact of the location policy described by my noble friend on the City of London and its ability to compete on equal terms and on a level playing field with its erstwhile partners and competitors in the European Union?

Finally, can my noble friend put my mind at rest that, while it might suit the industry to have a weaker overview and oversight of the regulations, the protections for consumers and investors in these instruments will be safeguarded? I would like an assurance on that.

2.42 pm

Baroness Kramer (LD) [V]: My Lords, I recognise that adopting this SI is sensible and technical. The underlying questions, however, are totally political.

Can the Minister tell us where we stand on equivalence negotiations with the EU on clearance? As the noble Lord, Lord German, reminded us, we are 12 days away from the deadline. The EU, on quite legitimate grounds of financial stability, may well decide to take back into the EU 27 a significant portion of the clearing of euro-denominated derivatives—something it would likely do slice by slice as the 27 build their capabilities. As the Minister pointed out, these regulations in their EU form enhance the power over changing that location. If the EU does so, we lose not only that business but many other wholesale financial market activities that typically collocate. That would be a devastating blow to financial services here in the UK, with knock-on effects on our tax take and public spending.

However, keeping a dominant role in derivatives clearance, with over \$30 trillion in exposure in the form of open contracts, is a high risk, frankly—a risk that the EU 27 could legitimately argue that it need not share with us in future. The risk has always been scarily high, but it has increased exponentially with Covid because of the deterioration in the quality of the collateral that stands behind those contracts and is the primary protection against that risk. In her reply, will the Minister address collateral quality and how the deterioration over the past few months as a result of the global economic crisis will be addressed so that we will still be in a reasonable position to manage the exposure created by the major CCPs in London?

2.45 pm

Lord Tunncliffe (Lab) [V]: My Lords, I am grateful to the Minister for her introduction of this measure, which is the latest in a long line of statutory instruments to amend EU-derived legislation so that it continues to function correctly following the conclusion of the transition period at the end of December. With the events of the past few months, I had forgotten just how many Treasury SIs we dealt with as part of the Brexit process. Indeed, paragraph 6.2 of the Explanatory Memorandum lists a dozen relating to this area alone.

As the Minister outlined, this SI expands the UK's existing supervisory framework for central counterparties to cover third-country CCPs, to ensure that the Bank

[LORD TUNNICLIFFE]

of England is able to undertake the necessary supervisory responsibilities required under the EMIR 2.2 framework. It transfers a number of functions currently carried out by the European Commission to domestic bodies, including the Treasury and the Bank, and makes minor amendments to deficiencies in other Brexit financial services SIs.

My right honourable friend Pat McFadden MP asked the Commons Minister a number of questions during the debate there on this measure, including whether the Government think that they can achieve an equivalence decision in the timeframe envisaged in the political declaration. Mr Glen simply said that the Government were “working through” the process. I hope that the noble Baroness the Minister can go into slightly more detail today.

We remain deeply concerned about the future impact of our changing relationship with the EU on the success of this country’s financial services sector. Financial services contribute significantly to Britain’s exports. In 2016, they were worth about £61 billion, with a surplus of £51 billion over imports. More than 300 firms in Britain have opened EU hubs to ensure single-market access, while £1 trillion of City assets and 7,000 banking jobs have been transferred to the eurozone. London has been supplanted by New York as the world’s leading financial centre in the *Global Financial Centres Index* and is close to being overtaken by Hong Kong. EU officials have insisted that at the end of the transition period the UK, as a third country, must abide by equivalence—a guarantee that its financial regulations meet European standards—and there are additional risks to access, as equivalence status can be revoked at any time.

While we cannot and must not rely on financial services to bring home the bacon, they will have an important role to play in returning the economy to growth once the coronavirus pandemic has been brought under control. We on this side accept that negotiations with the EU are ongoing. I hope that the Minister will note that our concerns have been heard and are shared.

Finally, can the Minister indicate how many further SIs are expected before the end of the transition period? This may be dependent on the number of open legislative files in Brussels but, as I have said on previous occasions, financial services regulation is complicated enough without multiple measures being brought forward to correct deficiencies in instruments that themselves amend other regulations. I trust officials at the Treasury, the Bank of England and the Financial Conduct Authority to ensure that we have a functioning statute book on exit day. However, given the challenging times we find ourselves operating in, I hope that Ministers will do their best to make officials’ lives and the work of your Lordships’ Secondary Legislation Scrutiny Committee as straightforward as possible.

2.49 pm

Baroness Penn: As noble Lords have noted, this is quite a technical debate, and I will do my best to address the points that they have raised. I defer to their greater experience in previous roles, potentially having made some of these regulations as Members of the European Parliament and, as Members of this

House, having taken through a large proportion of the regulations in the process of onboarding our financial services regulations in preparation for leaving the EU.

Several noble Lords raised the question of the new responsibilities that this SI gives the Bank of England as the regulator versus the powers that will, for example, come back to Her Majesty’s Treasury. The Bank’s new responsibilities are consistent with its existing responsibility for safeguarding financial stability in general and for managing systemic risks in CCPs in particular. Responsibility for recognising non-UK CCPs was transferred from ESMA to the Bank of England in a previous SI, and EMIR 2.2, which this SI translates into UK law ready for Brexit, transfers the responsibilities for tiering non-UK CCPs in the recognition process.

The Bank has been given two new supervisory powers over tier 2 non-UK CCPs through the extension of the existing supervisory framework and tools that apply in the UK. To ensure that the Bank can fulfil its supervisory obligations, it will be able to sign a memorandum of understanding with non-UK competent authorities of a recognised CCP. The Bank will also have the power to set further technical standards to specify the tiering criteria and establish a framework that allows for comparable compliance where the framework that a non-UK CCP operates under is recognised as comparable to the one that we have in the UK and is therefore satisfactory for regulatory purposes. These powers are going to the Bank rather than to the Treasury because of the Bank’s existing responsibilities for safeguarding financial stability and managing systemic risk in CCPs.

The question of the resources for the Bank to fulfil its obligations was raised by several noble Lords. We are confident that the Bank has made adequate preparations and is effectively allocating resources in order to manage its new responsibilities. Furthermore, it has already been assigned the ability to levy fees to fund the responsibilities arising from its role in relation to non-UK CCPs.

My noble friend Lord Wei asked about the Bank giving away the powers that it will receive under this statutory instrument. It will not be able to give away these powers; it will only be able to enter into supervisory co-operation agreements to manage how it uses those powers in practice.

Several noble Lords asked how we are progressing with the assessment of equivalence. As they noted, there was a commitment in the political declaration to undertake equivalence assessments by the end of June. We are working hard and are focused on fulfilling our obligations and commitment to conclude those assessments. I am afraid that I cannot expand further than that.

As I said, this is a very technical SI to move regulation from the EU to the UK in preparation for the end of the transition period, but several noble Lords asked what the prospects of the further politicisation of this process might be—in particular, with regard to the use of the location policy, about which concerns have been expressed. The UK regards the politicisation of financial services as being in no one’s interests. The financial stability that underpins our and the EU’s economies depends on trust and predictability in regulatory matters. What is more, the potential use of

the location policy could result in the fragmentation of the clearing market, which, again, would undermine financial stability and increase costs for those involved.

The noble Lord, Lord German, asked what deal the Government are referring to in their Explanatory Memorandum. The deal is the withdrawal agreement, which this House and the House of Commons have spent a significant amount of time debating and agreeing, and which of course was endorsed by Parliament in January this year.

Several noble Lords asked about parliamentary scrutiny of the powers transferred under this SI. Of course, Parliament has several ways in which to scrutinise both the Government and the Bank of England—through Ministers appearing in this Chamber and through Select Committees.

The noble Baroness, Lady Kramer, asked about the use of the location policy, which I believe I have covered. We have brought in the power to use the location policy but have no intention of doing so.

That brings me to a question asked by several noble Lords—whether, through this SI or the broader process, we would lower our standards. This SI is intended simply to transfer EU powers into UK legislation and to amend any deficiencies that might arise through that process. Therefore, it does not diminish any regulation of the sector, and in fact it provides further protection for consumers by bringing into UK law protections that have been provided for through EU regulation.

The noble Lord, Lord Tunnicliffe, asked how many further SIs we might expect under this process. As he noted, the number is partly dependent on files that might come from the EU Commission during the rest of this year while we remain in the transition period. Therefore, I cannot give him a specific number but I hope I can reassure him that it will be much lower than the number we have seen so far during this process of bringing EU regulation into the UK system.

I do not believe that I have covered all the points raised by noble Lords and I hope that they will forgive me if I write to them on the outstanding matters. To conclude, this instrument is necessary to ensure that existing EMIR legislation continues to function effectively in the UK from the end of the transition period following the updates made by EMIR 2.2. In particular, it will ensure that the UK has an enhanced recognition regime, with the tools necessary to manage the financial stability risks posed by some of the largest non-UK CCPs. I hope that the House has found this afternoon's debate informative and that it will join me in supporting these regulations.

Motion agreed.

2.58 pm

Sitting suspended.

Arrangement of Business

Announcement

3.30 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, proceedings will now commence. Some Members are here in the Chamber and others are participating virtually, but all Members are treated

equally. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. The usual rules and courtesies in debate apply. The time limit for the Motion in the name of the noble Baroness, Lady Penn, will be one hour.

Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020

Motion to Approve

3.31 pm

Moved by Baroness Penn

That the draft Regulations laid before the House on 6 May be approved.

Relevant document: 13th Report from the Secondary Legislation Scrutiny Committee

Baroness Penn (Con): My Lords, noble Lords will be aware that since July 2018 Her Majesty's Treasury has put in place legislation using powers under the European Union (Withdrawal) Act 2018, as amended by the European Union (Withdrawal Agreement) Act 2020, to ensure that the UK has an independent and coherent financial services regulatory regime at the end of this year, when the UK leaves the transition period.

This SI is part of that programme of work, and the approach aligns with the general approach established by the EU withdrawal Act 2018: providing continuity by retaining existing legislation at the end of the transition period, but amending where necessary to ensure that it continues to function and is effective in a UK-only context. This SI makes deficiency fixes to a new piece of EU legislation that has recently become—

My Lords, I apologise; I am speaking to the wrong SI. I will have to briefly get the correct SI, so I will defer to the Whip.

3.32 pm

Sitting suspended.

3.34 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, on this occasion I will not read out the usual preamble but will go straight to the point. Motion in the name of the noble Baroness, Lady Penn, to approve the Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020. The time limit is one hour.

3.34 pm

Baroness Penn: My Lords, I apologise for the previous confusion. I believe I have already set out the programme of work that this SI—in addition to the previous SI—is part of, so I turn to the specific content of this SI.

The approach taken in this SI aligns with the general approach established by the EU withdrawal Act 2018: providing continuity by retaining existing legislation

[BARONESS PENN]

at the end of the transition period, but amending where necessary to ensure effectiveness in a UK-only context. While this SI makes amendments to approximately 20 pieces of legislation, the number and nature of these amendments are modest and minor. They act to preserve the effect of recent changes to EU legislation in the UK, and in doing so limit any impact on business that would otherwise arise at the end of the transition period.

Primarily, this SI fixes deficiencies in recently applicable EU legislation. For example, the fifth money laundering directive was transposed in the UK in January this year through amendments to the Money Laundering Regulations. This SI fixes minor deficiencies in the Money Laundering Regulations resulting from the recent transposition of this directive. These minor amendments remove references to EU institutions and regulatory distinctions between EEA and other third countries, and change a requirement for co-operation with overseas authorities into an ability to co-operate. This will ensure that the UK has an independent and coherent anti-money laundering regulatory regime at the end of the transition period.

As a further example, the EU has recently amended the benchmarks regulation to include two new categories of low-carbon benchmarks—the “Climate Transition Benchmarks” and “Paris-aligned Benchmarks”. The EU also extended existing transparency rules to reflect environmental, social and governance, or ESG, factors. This SI fixes deficiencies that will arise in retained EU law as a result of these EU amendments. It inserts definitions for a “UK Climate Transition Benchmark” and a “UK Paris-aligned Benchmark” into the retained EU law version of the benchmarks regulation. It also specifies disclosure requirements in relation to ESG factors. This will ensure that the UK continues to have an effective regime to enhance the transparency and comparability of low-carbon benchmarks, enabling investors to make informed decisions.

At the end of the transition period, there will be elements of retained EU law and domestic law that would not be appropriate to keep on the statute book. This SI therefore revokes certain pieces of retained EU law and UK domestic law—for example, elements of the European system of financial supervision regulations—that will not be relevant in a UK-only context.

This SI also makes a small number of minor clarifications and corrections to previous financial services EU exit instruments. Noble Lords will be aware of the unprecedented scale of the legislative programme that the Treasury has undertaken, and this has been carried out with rigorous checking procedures. However, it is unfortunately the case that errors are made on occasion, and when they arise it is important that they are corrected as soon as possible.

I note that this SI also includes provisions initially included in the Cross-Border Distribution of Funds, Proxy Advisors, Prospectus and Gibraltar (Amendment) (EU Exit) Regulations 2019. This instrument was laid using the “made affirmative” procedure in October 2019, when it was necessary to ensure that the SI was in force prior to the previous exit date of 31 October. The SI subsequently ceased to have effect, but it is important

that those provisions, which include amendments to the UK’s prospectus regime to ensure it remains operational in a wholly domestic context, are in force before the end of the transition period. These provisions have therefore been included in this SI. Noble Lords will be aware that this information was also identified by the Secondary Legislation Scrutiny Committee in its report published on 7 May.

Finally, I turn to the amendments this SI makes to a previous EU exit instrument: the Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019, which I will refer to as the equivalence SI. The equivalence SI enables the Treasury to make equivalence directions for EEA states, for specified provisions, during the transition period. Today’s SI adds additional equivalence regimes to the scope of the power for the Treasury to make equivalence directions for EEA states during the transition period—through the inclusion of provisions relating to central securities depositories, which are entities that hold financial instruments, and trade repositories, which collect and maintain records of derivatives trades.

This SI also amends the existing drafting on the length of the direction power to tie it to the end of the transition period. This will enable Ministers to make directions during the transition period to come into force at the end of the transition period, granting equivalence to those EEA regimes. Finally, it clarifies that Her Majesty’s Treasury can impose limitations on the application of state-level equivalence decisions when granting equivalence to the EEA; for example, in response to EU conditions placed on the UK.

The Treasury has been working closely with the financial services regulators in the drafting of this instrument. The Treasury is also engaged with the financial services industry on this SI, as it has been extensively over the course of its financial services EU exit legislation programme. In summary, the Government believe that this instrument is necessary to ensure that the UK has a coherent and functioning financial services regulatory regime at the end of the transition period. I hope noble Lords will join me in supporting these regulations. I beg to move.

3.41 pm

Lord Hain (Lab) [V]: My Lords, I thank the Minister for her agility in so seamlessly and cogently speaking to the correct regulations. She says that they are minor, but the real importance of these regulations is that they illustrate what is at risk if we fail to reach an adequate trade deal, as seems very possible. Surely the regulations cannot in themselves begin to replace the unfettered access to the single market for our financial services sector which EU membership provided.

As the Minister will know, this sector employs 2.2 million of our workforce and is estimated to account for 6.5% of the UK’s economic output, generating more than £70 billion in tax revenues in 2017, making up 11% of the national total. Until the financial crisis of 2008, the City of London was seen as the country’s greatest economic asset, as well as being by far the most important financial centre in the European Union. Financial firms in London have benefited hugely from EU membership, most obviously through passporting

rights which enable firms to trade in any other member state, under the supervision of British regulators, without having to seek further authorisation from each country. Around 5,500 firms based in the UK currently benefit from passporting, with financial exports worth £26 billion, while 8,000 companies in the European Economic Area use this mechanism to offer services in Britain. After the post-Brexit transition period, UK financial services will lose their EU passport rights and be forced to rely on equivalence for their market access to Europe. Under that scheme, the European Commission decides whether a country's regulations are deemed robust enough for it to operate within the single market, and can later withdraw the decision with as little as 30 days' notice—so much for taking back control.

In the run-up to the last election, many financiers seemed to assume that a Conservative victory would ensure business as usual for the City. However, as these regulations show, Britain's status as Europe's leading hub for financial and legal services is at real risk after Brexit. Already, more than 300 firms in Britain have opened EU hubs in order to ensure single market access, while £1 trillion of City assets and 7,000 banking jobs have been transferred to the eurozone. London has been supplanted by New York as the world's leading financial centre in the Global Financial Centres Index and is close to being overtaken by Hong Kong. Again, so much for the Brexit promise of taking back control, even with these regulations.

3.44 pm

Baroness Northover (LD) [V]: My Lords, I thank the Minister for her introduction, and her team for the clarity of their Explanatory Notes. Can the Minister confirm that the Gibraltar authorities are happy with these provisions? In relation to the United Kingdom, we need to stay aligned during the transition period, but it also seems clear and welcome that we intend to stay aligned after that. Can the Minister confirm this?

The EU has amended its regime to include new categories of low-carbon benchmarks and extended rules on transparency in relation to environmental, social and governance factors. I note that

“As far as possible, HM Treasury's approach ensures that the same laws and rules would continue to apply at the end of the Transition Period, to provide continuity and certainty to firms and their customers.”

That is excellent. Also, as new EU legislation becomes applicable during the transition period, the Treasury will introduce further SIs to ensure that this continues to operate effectively in the UK

“at the end of the Transition Period.”

The emphasis here is mine.

Despite this apparent commitment, however, the duty to co-operate with supervisors has been substituted with a power to co-operate after the transition period—why the difference? At the end of transition, the UK will be outside the EU's single market for financial services, including the passport regime. This is hugely to be regretted, as the noble Lord, Lord Hain, has just said. There is the possibility of equivalence. How do we make sure that we secure this, and secure it long-term? My noble friend Lady Kramer, in the previous SI discussion, expressed her enormous concern about this. I did not feel that the Minister grasped the overarching point she made.

Given the potential impact of this, how optimistic is the Minister about securing equivalence in the long term? To what extent do the Government consider diverging from the EU in financial services, and what would be the effect on equivalence? Significant resources will need to be put into our close monitoring of any changes governing the EU financial services market, ensuring that we follow suit. Of course, this does indeed make us a rule-taker rather than a rule-maker. Can the Minister spell out how the Government intend to do this? I look forward to her reply.

3.47 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank my noble friend the Minister for introducing this regulation and giving us the opportunity to debate it this afternoon. I commend her for her speedy recovery in a very difficult opening. She has certainly worked extremely hard this afternoon for the House and, indeed, the public.

I notice that, at the end of the transition period, the passporting provisions will no longer apply. I join other noble Lords who have spoken in expressing my deep regret and recording the massive contribution that financial services have made to facilitating investment not just in this country but across the European Union. Obviously, the loss of passporting equivalence will be a very poor second; again, I join other speakers in wanting to make sure that this will work as well as it possibly can.

I welcome the fact that the regulations, as set out by my noble friend the Minister, will ensure that low-carbon benchmarks enable investors to have the knowledge and choices to make their investment—in particular, recognising the environmental, social and governance factors that this covers. They are extremely important; I am pleased that environmental and social policies feature as strongly as they do in the instrument before us.

I have a specific question for my noble friend. The statutory instrument clearly sets out the exemption that investment funds do not have to produce a key information document detailing potential investment risks and how the funds will operate; that exemption is extended for a further period of two years. Is she minded to extend it beyond this period, and will Parliament be consulted at that time?

What is the significance of replacing a “duty” on the UK supervisory authorities to co-operate with other supervisory bodies with only a “power” to do so? Surely it is in the best interests of the industry and investors to seek to co-operate wherever it is appropriate, particularly in sharing best practice.

3.50 pm

Lord Holmes of Richmond (Non-Aff) [V]: My Lords, I am pleased to speak to these regulations. In doing so, I thank all those across financial services, in the City of London and beyond, who helped to get the regulations into the condition they are in. We have one of the finest financial services centres on the planet, and potentially the best is yet to come—but that is “potentially” rather than “inevitably”. Does my noble friend agree that a large part of the success to date of financial services, not least in London, is due to the fact that London is

[LORD HOLMES OF RICHMOND]

one of the most diverse cities on the planet? Like cities, financial services organisations benefit from such diversity, and we have seen that benefit throughout the UK and across the world.

Echoing the question asked by the noble Baroness, Lady Northover, will my noble friend the Minister set out the position of Gibraltar as regards the regulations? Secondly, will she clarify whether equivalence is still the target and, if not, why not? Come our exit, does she believe from her perspective that financial services in the UK will be in a better position going forward than they are today?

The Deputy Speaker: Lord Wood of Anfield. No? I think that we will come back to him, so we move on to our next speaker, the noble Baroness, Lady Jones of Moulsecoomb.

3.52 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I find these regulations very hard to scrutinise on their own, without knowledge of what the future of financial services will look like. There are two huge moving parts here: what, if anything, will come out of the EU negotiations, and what plans the Government have to diverge from EU regulations. I am curious about whether the Government have identified any blockages caused by EU law that they believe can now be overcome now we have left the EU, or will finance be yet another area where we are apparently free from the shackles of the EU but choosing to stay exactly where we are?

The Queen's Speech contained the most incredible green stuff:

"My Government will continue to take steps to meet the world-leading target of net zero greenhouse gas emissions by 2050. It will continue to lead the way in tackling global climate change." Somehow, I do not find this world-beating ambition in any legislation coming through at the moment. Moving money out of dirty investments and into the clean, green revolution is absolutely essential for solving the ecological and climate emergency. The Government should lead global ambition on this and use our international negotiations as a route to turn the global finance system into a delivery arm of the Paris climate agreement. To what extent do the Government see green finance as a priority in their future plans, and how much work are they doing to make the UK the centre of global green finance?

I agree that the Minister recovered very quickly earlier; it was very impressive.

3.54 pm

Lord Purvis of Tweed (LD): My Lords, the Minister in outlining these measures said that it is important that we are coherent and in good order. By "coherent", I think she meant that we should be in good functioning order, but there is no coherence as in good policy regarding the Government's direction of travel. The changes may be modest and minor, as she indicated, but they speak to a wider and major impact on our economy.

Two things this week summarised neatly this Government's philosophical approach to the future of our economy. The first was the great fanfare about the

opening of trade talks with New Zealand and Australia; the second is the rather mouse-like way that these changes, which may be technical in nature but will have a significant impact, are being handled. The first of those, the new trade talks, came with an assessment of what the impact would be on UK GDP. The *Financial Times* put it today at a homeopathic 0.01% over 15 years, though some estimates suggest that it could actually cost the economy 0.01%. The *FT* went on:

"If you're in the UK, nip out and buy a bag of crisps after reading this and you might well have done more for the British economy than a New Zealand trade deal."

These regulations, with—rightly—no government promotion, show piece by piece a dismantling of the UK's relationship with the most well-developed and successful financial services single market ever devised in the world, whether it be combined funds, the ability to market across country to our biggest market or having a common view on how funds are invested sustainably, on how we continuously drive up ethics in investment and on how services and products within the UK can be easily passported to the most well-developed market in the world. It is clear that the approach of this Government is a real and present danger to our economy.

I am sure that the Minister will not take my word for it, and I know that the Government like listening to Americans, so let me use what the Chamber of Commerce of the United States said of the UK in its report about the Atlantic economy published earlier this year:

"In terms of FDI trends, UK-based EU institutions are decamping for other parts of Europe. According to Reuters, financial firms in the UK have opened over 300 subsidiaries in the EU with an estimated 7,000 workers to staff these operations, in order to avoid any disruptions to financial market access after the transition period. According to preliminary data from the UN, total world FDI flows to the UK declined 6% in 2019 due to a lack of large M&A deals targeting the country."

Another indicator—just one of many—is that the £3.5 billion German digital bank, N26, pulled out of the UK because of losing passporting rights to operate here using a German banking licence.

It seems a long time ago, on 27 February, that Chancellor Sunak wrote to the EU saying that he saw no reason why equivalence assessments could not be completed by the end of June. Can the Minister confirm that we have carried out what we could consider to be equivalence assessments, and will the Government make them public? Clearly, if the Government said that they saw no reason why they could not be carried out, we should have sight of them.

The EU was rightly sceptical about this, because, only a week earlier, Sajid Javid, the Chancellor's predecessor, told the EU that it was the Government's policy to seek "comprehensive, permanent equivalence decisions". Can the Minister confirm that that is still the position?

On Regulation 21, on the ending of marketing passports, which had been considered vital by another previous Conservative Chancellor, what assessment has been done of the economic impact of losing those marketing passports? And what economic impact assessment has been carried out for the changes to combined fund management and delegated funds?

Let me give one real example of this, because it is not simply academic. I was contacted to raise in this debate an issue relating to the 40,000 combined funds

across the UK which are used for diaspora disbursement by people who work within the UK and the EU but send money to some of the poorest areas of the world. They are extremely concerned that there will be major disruption to those diaspora funds, so can the Government guarantee that some of the changes down the line for the operation of the combined funds will not see any disruption to those that are focused on social aims?

On sustainability, as mentioned by the Minister, Regulation 22 creates elements of confusion as to what sustainability-related disclosures there will have to be in the UK. These are set out clearly in the EU, but we will no longer be compelled to operate under a straightforward and common system, and we will have to set our own. What will they be? If we are no longer participating in a joint committee on standards, how will we operate?

On equivalence, combined funds and others, and integrated markets, we are leaving an integrated market that we currently lead. We are replacing duties to co-operate with simple options. We are creating uncertainty over sustainability, ethics and standards, and there is a great lack of clarity as to what the Government's intentions are for this fundamentally important market for the United Kingdom.

4 pm

Lord Livermore (Lab) [V]: My Lords, I am very grateful to the Minister for introducing the statutory instrument, which touches on many aspects of financial services-related retained EU law. Overall, it seeks to replicate at a national level the regulatory regime for financial services to which we currently subscribe at an EU level. Until the end of the transition period we will of course continue to follow the EU's regulatory rulebook. This is about what will happen in January, if, as the Government confirmed last week, the end of this year marks the end of the transition.

As the Minister outlined, the regulations cover areas such as equalising the regulatory requirements of enhanced due diligence measures; replacing references to the European Securities and Markets Authority with references to the Financial Conduct Authority or the Bank of England; tidying up a number of previous EU exit instruments to ensure that they function correctly following the transition period; and revoking certain EU-derived measures that will no longer be applicable beyond the end of December. We welcome the changes in this instrument that will help maintain the pre-Brexit relationship between the UK and Gibraltar, and we have no fundamental objections to the other specific measures, although I have a number of questions.

On the anti-money laundering provisions, why is the current duty to co-operate with supervisors in other countries being removed and replaced with the weaker power to co-operate if we so choose? It is unclear why we would ever not want to co-operate to tackle money laundering, which can fund everything from international terrorism to the drugs trade. I was perplexed by an answer given by the Minister in another place on Tuesday, when MPs were told that there is no need to maintain a duty to co-operate with other countries' supervisory bodies because there remains a political desire to talk. But if there is no duty, what happens if a future Minister takes a different view?

On the cross-border distribution of funds, can the Minister confirm that this statutory instrument enshrines the loss of passporting rights for our financial services that will result from the Government's decision to withdraw from the single market, as well as from the EU itself? As a side note, on this issue of cross-border co-operation, while in the past we have not been critical of the Government's approach to the "lift and shift" exercise, it is concerning that policy change is now starting to creep in.

Finally, on equivalence determinations, can the Minister confirm that, as yet, we have no guarantee that our regulatory regime will be regarded as equivalent by the rest of the EU? It is of course true that negotiations are ongoing and that we may in time gain an equivalence decision from the Commission. However, the loss of passporting rights will require a fundamental change in how UK institutions do business. We have already seen the restructuring of companies and the redeployment of staff. This will no doubt continue.

As my noble friend Lord Hain observed, while these regulations are intended to ensure continuity for UK financial services at the end of the transition period, the Government's stated intention is to erect new trade barriers between our financial services and the rest of the EU, so even as we replicate EU regulations at the UK level, we are pursuing a course that will be incapable of replicating the market access we currently enjoy. We are taking the area that makes up 80% of our economy and, in the case of the financial services sector—a sector in which we trade at a substantial surplus with other countries—inserting new barriers between us and our nearest customers. The fact that the sector is resigned to that, and has established alternative bases in Dublin, Luxembourg, Frankfurt or Paris, does not change that reality.

We will start January 2021 largely at a point of regulatory equivalence. That is welcome. However, regardless of the outcome of negotiations, no amount of duplication can avoid the basic fact that although we can replicate the rules, we cannot replicate the market access to which they apply, and for which they were designed in the first place. As a result, UK businesses will start next year with significantly diminished market access, and at a significant disadvantage as a result.

4.04 pm

Baroness Penn: I thank all noble Lords for their contribution to this debate and for their forbearance with my confusion at the beginning of it.

I will first address three points which many noble Lords raised. The first is about the coherence of the UK strategy in the process for leaving the EU and setting up a system of financial services regulation after the end of the transition period. There is a clear, coherent and consistent strategy when it comes to this: a simple—that is the wrong word; I should say "clear"—process for onboarding existing EU regulation, without policy changes, into UK law, so that there are no changes on the day at the end of the transition period, apart from where it may be to correct inconsistencies that may arise from the fact that we are no longer part of the EU and therefore no longer part of EU bodies. That is the strategy and that is what we are pursuing. This SI is part of that, as so many others have been.

[BARONESS PENN]

The next question is on what we do after day one, when we have left. Many noble Lords also raised the question of divergence. I will say three things on that point. In taking the decision to leave the EU and the single market, we have had feedback from the financial services sector that it is important for it to have regulatory autonomy and control and not be a rule-taker from the EU. We are therefore committed to regulatory autonomy, and this process reflects that. However, the freedom to change rules does not mean pursuing divergence for the sake of it. The UK is committed to high standards of regulation and appropriate levels of supervisory oversight, and, in many areas, we go beyond that which the EU rules require. Where we make any changes, they will be for good reasons, and our starting point will be what is right for the UK, to protect our economy and our financial stability.

That brings me to the point about the equivalence procedures and the process for securing an equivalence agreement with the EU, which remains our aim. I reassure the noble Baronesses, Lady Northover and—if she is still listening—Lady Kramer, that we take that very seriously. We are committed to meeting the June deadline for those assessments to be made. As part of that process, we have received questionnaires from the EU, as part of its assessment process. The Treasury is working closely with the Bank of England, the Prudential Regulation Authority, the Financial Conduct Authority and others on this process.

The noble Baroness, Lady Northover, my noble friend Lord Holmes of Richmond and others raised the question of Gibraltar. We have liaised closely with Gibraltar during this process, and this SI is consistent with government policy to preserve the pre-withdrawal relationship between the UK and Gibraltar on financial services.

A number of noble Lords, including the noble Baroness, Lady Northover, and the noble Lords, Lord Livermore and Lord Purvis, raised the question of the duty to co-operate on anti-money laundering versus a power to co-operate. I reassure noble Lords that this is not an intention to dilute that commitment. It is merely that a duty to co-operate requires both sides to be under that duty, so the power reflects that the other side is not under the same duty. However, there is no intention to reduce the commitment to seek and use that co-operation in this area.

On prospectus exemptions, raised by my noble friend Lady McIntosh, we will keep the time period and that measure under review as regards going beyond two years.

The noble Baroness, Lady Jones, talked about the priority that the UK gives to green finance. The UK wants to become a global hub for green finance. She will know that, as part of our hosting of COP 26, we appointed the former Governor of the Bank of England, Mark Carney, to lead on work in the area of green finance. As regards to the environmental standards that this SI brings into UK law, the intention is to maintain the same, if not better, standards than those which the EU has on this.

The noble Lord, Lord Purvis, raised a number of issues to do with trade. They go slightly beyond the scope of this SI, the purpose of which is to bring in

existing EU regulations so that we have certainty, in the context of having or not having a deal with the EU at the end of the year.

The importance of having a regulatory regime in place was raised by the noble Lord, Lord Hain, at the outset. Of course, this SI is part of the process of getting us ready for the end of the transition period, but I assure noble Lords that we are working hard to reach a deal with the EU. The Prime Minister met the Presidents of the EU Commission and the EU Council this week. The result of that meeting was an agreement to intensify efforts to reach an agreement during July, which we hope to do.

I hope I have covered most of the points raised during this debate and I commend the regulations to the House.

Motion agreed.

4.12 pm

Sitting suspended.

Arrangement of Business

Announcement

4.45 pm

The Deputy Speaker (Baroness Garden of Frognal) (LD):

My Lords, we now come to questions on the Statement on global Britain. For Members participating remotely, microphones will unmute shortly before they are to speak; please accept any on-screen prompt to unmute. I remind Members that our normal courtesies in debate still apply in this new hybrid way of working.

It has been agreed in the usual channels to dispense with the reading of the Statement itself, and we will proceed immediately to questions from the Opposition Front Bench.

Global Britain

Statement

The following Statement was made on Tuesday 16 June in the House of Commons.

“Mr Speaker, before I begin, I am sure the whole House will join me in paying tribute to the memory of Jo Cox, who was cruelly murdered four years ago today. Her sister, Kim Leadbeater, spoke for us all when she urged everyone to remember Jo by pulling together with ‘compassion and kindness’.

I was concerned to learn that the honourable Member for East Dunbartonshire (Amy Callaghan) is now in hospital: we all send her our best wishes.

With permission, I will make a Statement about the ambitions of a global Britain and the lessons of the Covid-19 pandemic. We are living through a daily demonstration of how events on the far side of the world influence not only British security and prosperity, but something as elemental as the state of our health, and whether we can go to work or go shopping. This crisis offers vivid proof of the seminal importance of international engagement and exactly why our country must perform its global role. I have begun the biggest review of our foreign, defence and development policy since the end of the Cold War, designed to maximise our influence and integrate all the strands of our international effort. The overriding aim is to bring this

country's strengths and expertise to bear on the world's biggest problems, seizing the opportunities of Britain's presidency of the G7 next year and the UN climate change conference—COP 26—which we will host in Glasgow.

The UK possesses the third-biggest aid budget and diplomatic network in the world: we owe it to our people to make best use of these assets, which scarcely any of our peers can match. The British taxpayer has a right to expect that we will achieve the maximum value for every pound that we spend. One cardinal lesson of the pandemic is that distinctions between diplomacy and overseas development are artificial and outdated. For instance, to protect ourselves against another calamity, the UK will need to work alongside our friends to strengthen international bodies such as the World Health Organization, and help vulnerable countries to improve their health systems and achieve greater resilience. It makes no sense to ask whether it amounts to aid or foreign policy: they are one and the same endeavour, designed to achieve the same goals, which are right in themselves and serve our national interest.

On 4 June, I chaired a virtual summit of the global vaccine alliance, which raised enough money to immunise 300 million children. I doubt whether any other occasion will save more lives, avoid more suffering, or produce a better example of the good this country can do by its international engagement, in the true and broad sense, alongside our friends. Yet today, as anybody who has any experience of the matter will know, a dividing line between aid and foreign policy runs through our whole system, with our Department for International Development working independently from the Foreign and Commonwealth Office, and our aid budget parcelled out between different arms of Whitehall.

DfID outspends the Foreign Office more than four times over, yet no single decision maker in either department is able to unite our efforts or take a comprehensive overview. We give as much aid to Zambia as we do to Ukraine, although the latter is vital for European security, and we give 10 times as much aid to Tanzania as we do to the six countries of the western Balkans, which are acutely vulnerable to Russian meddling. Regardless of the merits of those decisions, no single department is currently empowered to judge whether they make sense or not, so we tolerate an inherent risk of our left and right hands working independently.

Faced with the crisis today and the opportunities that lie ahead, we have a responsibility to ask whether our current arrangements, dating back to 1997, still maximise British influence. Those well-intentioned decisions of 23 years ago were right for their time. They paved the way for Britain to meet the UN target of spending 0.7% of national income on aid—a goal that was achieved by the coalition Government in 2013, that has been maintained ever since, including this year, and that remains our commitment. Yet those judgments date from a relatively benign era when China's economy was still much smaller than Italy's and the west was buoyed by victory in the cold war.

We must now strengthen our position in an intensely competitive world by making sensible changes, so I have decided to merge DfID with the Foreign and

Commonwealth Office to create a new department: the Foreign, Commonwealth and Development Office. This will unite our aid with our diplomacy and bring them together in our international effort.

DfID has amassed world-class expertise and all of its people can take pride in how they have helped to transform the lives of hundreds of millions of people around the world. To select but a few examples, they have striven to protect millions of children across the world from polio, which is now on the verge of global eradication; they have paved the way for millions of girls to attend school for the first time in countries such as Pakistan, as I have seen for myself; they have done their utmost to ease the suffering in Syria; and in Sierra Leone they were central to the defeat of an outbreak of the Ebola virus. All that amounts to the finest demonstration of British values, following in the great tradition of the country that ended the slave trade and resisted totalitarianism.

It is precisely that ambition, vision and expertise that will now be at the heart of a new department, taking forward the work of UK aid to reduce poverty, which will remain central to our mission. The Foreign Secretary will be empowered to decide which countries receive or cease to receive British aid, while delivering a single UK strategy for each country, overseen by the National Security Council, which I chair. Those strategies will be implemented on the ground by the relevant UK ambassador, who will lead all the Government's work in the host country. In that, we are following the examples of Australia, Canada and New Zealand, all of which run their development programmes from their Foreign Ministries. We will align other British assets overseas, including our trade commissioners, who will come under the authority of the UK ambassador, bringing more coherence to our international presence.

Amid this pandemic, the House may ask whether this is the right moment to reorganise Whitehall, but I must say that in reality this crisis has already imposed fundamental changes on the way that we operate. If there is one further lesson, it is that a whole-of-government approach, getting maximum value for the British taxpayer, is just as important abroad as it is at home. This is exactly the moment when we must mobilise every one of our national assets, including our aid budget and expertise, to safeguard British interests and values overseas. The best possible instrument for doing that will be a new department charged with using all the tools of British influence to seize the opportunities ahead. I therefore commend this Statement to the House."

4.46 pm

Baroness Smith of Basildon (Lab): My Lords, I take this opportunity to pay tribute to the life of Dame Vera Lynn, who has died today aged 103—I can see the shock on the face of the noble Baroness the Deputy Speaker at that. In the most difficult of times for this country, she symbolised enormous resilience, optimism and hope. We send our condolences to all her family, friends and fans throughout the country and across the world; she was genuinely a national icon.

Turning to the Statement, the noble Baroness will be aware of the wide distress and anger in response to the Prime Minister's announcement that DfID is to be

[BARONESS SMITH OF BASILDON]

merged with the FCO. It is largely because of comments from Mr Johnson and others that this feels more like a hostile takeover than a genuine merger.

I want to deal with the implications but also comment on the timing of this announcement. Looking at the hugely important issues on the Prime Minister's desk, we see the response to Covid-19, particularly the serious problems with track and trace and how our outcomes compare poorly with so many other countries; the massive rise in unemployment and increased poverty, which has led to a screeching and humiliating, if very welcome, U-turn on free school meals; and the urgency of our trade deal negotiations with the European Union. I therefore find it quite remarkable—not in a good way—that Mr Johnson considers it a priority, now of all times, to reorganise Whitehall departments. I suspect that I am not alone in thinking that this rush to announce is an attempt to distract attention from government failures.

Even when this is viewed as a stand-alone decision, it fails the test of good governance and good policy. To understand the concerns about the change, the Government need to understand why DfID was set up with the status of an independent Whitehall department with a Cabinet-ranking Minister and why, after years of political hokey-cokey, with upgrades and downgrades for the department depending on the colour of the Government, it became widely accepted and built on as the best way to address the issues by all subsequent Governments and Prime Ministers—until now.

Mr Johnson talks about value for public money. That is why DfID was set up in first place, in the wake of the Pergau Dam scandal, when the Secretary of State was found to have acted illegally in funding an excessively expensive energy project, financed by British taxpayers, to secure a major arms deal. That had a significant impact on the commitment to ensure that trade and aid should not be linked.

Yet on Monday 11 February last year, the Prime Minister said on the BBC's "Today" programme in relation to the aid budget:

"We could make sure that 0.7% is spent more in line with Britain's political, commercial"—

and then he added "diplomatic" interests. He even cited Japan as a model, in how it had used the aid budget to promote Japanese railways.

While I am on the issue of value, the transparency index—an independent assessment of the effectiveness of aid spending across the world—praises DfID as being "very good" and in the top three, while the FCO languishes near the bottom of the league with a poor rating. The Foreign Secretary announced in a radio interview this morning that we would get "more bang for the buck"—an embarrassing approach to aid policy. It is why we are concerned and why this proposal has been criticised, including by three former Prime Ministers.

The great benefit of DfID is that it has earned a reputation for integrity and has built up trust that it will provide help and support in the areas of greatest need. We should always confront head on the suffering in our world—whether it is poverty, disease, famine or conflict—not just for sound ethical reasons but because it is in our national, as well as the global, interest to do so. We ignore such suffering at our peril: the dire

consequences and greater instability that can follow can pose threats to all across the world. For aid and development to be downgraded in this way when the world is facing a global health crisis shows a deep arrogance about how best to promote British values and interests.

The Government appear to ignore the incalculable diplomatic influence of soft power and our reputation across the world. Have they given any consideration at all to the ramifications for the UK's diplomatic programmes, as well as our developmental work? The FCO's core diplomatic funding is already at its lowest level in 20 years, and Professor Malcolm Chalmers of RUSI has observed that consular activity and diplomacy could become increasingly underfunded sidelines. The UK's diplomatic influence was once the envy of the international community. At a time in history when we most need to build allies, support and credibility across the world, the Government have created uncertainty about their commitment to do so.

I have a few questions on this for the noble Baroness. First, can she give a commitment that the Government will maintain diplomatic and consulate funding at at least present levels after the takeover? Secondly, is it true that the Secretary of State for International Development was not involved in the decision-making process and was told of the announcement only on the day it was made? Thirdly, will the Cabinet retain a Minister with overall responsibility for international aid? Fourthly, what reassurance can she give the staff at DfID? Can she confirm that the Permanent Secretary has told staff that he cannot guarantee the jobs of the 200 EU nationals currently employed? Fifthly, can she guarantee that the Government will not seek to change OECD rules on what is classified as aid, nor amend the 2002 legislation in a way contrary to those rules? Finally, DfID has a well-established global network and core development expertise. The dilution of these stakeholder-focused skills within the FCO will be a cause for concern. Therefore, what guarantees can the noble Baroness give that that essential work will continue at the same high standard that we see now?

We have had many debates in this House about Britain's place in the world. We take enormous pride in wanting the UK to take an international lead as a force for good. With this decision, and the explanation of the rationale behind it, the Prime Minister has just made achieving that ambition so much harder.

Lord Newby (LD): My Lords, I am grateful to the noble Baroness the Leader of the House for answering questions on the Statement. To me, the Statement raises three principal questions. First, why is this change happening at all? Secondly, why is it happening now? Thirdly, is it a good idea?

On the first point, the Statement and the Prime Minister's comments on Tuesday make it very clear why this move is being made. First, he and many in the Conservative Party believe that DfID has simply too much money, or, as the Prime Minister disparagingly put it, that it acts like a "giant cashpoint in the sky". He also believes that it spends it badly, as the disgraceful and wilfully inaccurate anti-DfID briefings put out by the Government and faithfully repeated in some of yesterday's newspapers made clear.

Secondly, the Prime Minister wants to use the money for something other than DfID's core aims of extreme poverty reduction and the fight against disease. He says in the Statement:

"We give ten times as much aid to Tanzania as we do to the six countries of the Western Balkans, who are acutely vulnerable to Russian meddling",

with the clear implication that this was the wrong set of priorities. Yet income per head in Tanzania is under \$4,000 while that in Montenegro, one of the six west Balkan countries, is \$22,000—over five times as much. Even the poorest western Balkan country, Kosovo, is more than three times as prosperous as Tanzania.

If you are worried about poverty, the current priorities make absolute sense, but they make no sense at all if you want the money to gain diplomatic leverage against Russia. This may well be desirable, but it is not what DfID was established for and it is not what development aid should be used for. From now on, poverty and disease are not to be the hallmarks of our development policy. The priorities are to be—I quote from the Prime Minister's letter to parliamentarians on Tuesday—"driven by the overarching strategy set by the National Security Council." What expertise does the National Security Council have in poverty reduction and combating disease, and will it now be strengthened to include people who do have such expertise?

Why is this move being made now? As Justine Greening pointed out, the Government should be concentrating their efforts on fighting coronavirus rather than tinkering with departmental boundaries. It is not as though the Government are making such a good fist of dealing with coronavirus that they have extra capacity on their hands and are looking for other things to do. There are other big problems as well, not least Brexit, where things are not exactly going swimmingly. Indeed, cynics have argued that the only reason the decision has been announced now is to throw some red meat to the Government's critics on their own Back Benches regarding their handling of the coronavirus crisis. If that is not the reason, what is it? Perhaps the noble Baroness can tell us.

Finally, is the abolition of DfID and the refocusing of its priorities a good thing? Outside one wing of the Tory party, the move has no supporters. Three Prime Ministers, including David Cameron, have condemned it, and so too have at least three former Conservative International Development Secretaries. The Prime Minister's claim that the decision reflects

"a massive consultation over a long period of time"

is simply belied by the fact that of the 400-plus NGOs working with DfID, none was consulted at all.

All those with experience in this field are concerned that the focus of development aid will shift away from the reduction of extreme poverty and disease. All are concerned that the transparency and accountability of the development programme will be reduced. And all are concerned that as a result, far from enhancing the concept of global Britain, this will diminish it.

The Prime Minister makes a habit of claiming that his policies and initiatives are world class when they are anything but. However, in the case of DfID, he has done the opposite. Here, we do have a world-class

institution and set of policies—and he has disparaged it. But this Prime Minister has long wanted to get his hands on DfID funds to promote other foreign policy goals. He will now indeed have his hands on the money, but he is devoid of any articulated foreign policy on which to spend it. "Global Britain" seems to mean "anywhere but Europe", but beyond that phrase, the policy is completely vacuous. The decision is, as Andrew Mitchell has said, an "extraordinary mistake" by a Prime Minister for whom extraordinary mistakes are becoming a hallmark of his tenure. The poorest will suffer most, but the Prime Minister simply does not care.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): I thank the noble Baroness and the noble Lord for their questions and comments. First, I fully endorse the tribute paid by the noble Baroness to the remarkable life of Dame Vera Lynn. I thank her for making those statements at the Dispatch Box.

Both the noble Baroness and the noble Lord asked about the timing of this announcement. While the arrangements for two separate departments were right in their time, things have changed. In particular, the coronavirus has imposed a fundamental change in the way that we operate. It has shown that a whole-of-government effort is as important abroad as it is at home. That is why we believe that the time is right to integrate diplomacy and overseas development. The merger of DfID and the FCO will unite development and diplomacy in one department, which will bring together Britain's international effort. It is about bringing together the best of both and putting the ambition, vision and expertise of our world-leading development experts at the heart of our international policy.

The noble Baroness asked about discussions. The Prime Minister did of course discuss this merger with both Secretaries of State affected. Both the noble Baroness and the noble Lord are right that programmes funded by UK aid are consistently rated as some of the most transparent and effective in the world. It is that very expertise that will now be at the heart of the new department. I assure the noble Lord that our commitment to the world's poorest remains as strong as ever. Tackling extreme poverty around the world remains a government priority and we believe that bringing these two departments together will enable us to use all our levers in a comprehensive approach to achieve that goal. Reducing poverty remains central to the new department's mission.

The noble Baroness and the noble Lord talked about the broader context of foreign and international policy; I refer to the review that is being undertaken of our foreign, defence and development policy. This merger of the two departments—and it is a merger—is within the context of that review, which will define the Government's ambition for the UK's role within the world, and its outcomes, which will shape the objectives of the new department. The review will establish the strategic aims for our national security and foreign policy, determining the capabilities and structural reforms needed and how we will work with international partners and organisations to promote the UK's interests around the world. Both this review and the merger are evidence of the Prime Minister's commitment to a unified British foreign policy as we go forward.

[BARONESS EVANS OF BOWES PARK]

The noble Baroness rightly asked about staff. There will be no compulsory redundancies, although some roles and responsibilities will change. Staff will be worked with very closely throughout this process and full details, including the structure of the department, will be set out in due course. As I have repeatedly stressed, we want this merger to bring out the best of what we do in aid and diplomacy, and we believe it will also create new work and travel opportunities for staff. The majority of DfID and FCO staff working overseas are already collocated and work together very closely. This will build on work that is ongoing. I can confirm to the noble Baroness that we will continue to spend ODA money according to legal requirements and continue to abide by the OECD and DAC rules for aid.

5.04 pm

Lord Jay of Ewelme (CB) [V]: My Lords, I am glad that the Prime Minister paid tribute to the staff of DfID in his Statement; that was well deserved. Of course, foreign policy and aid, and FCO and DfID staff at home and abroad, need to be closely aligned, but a merger between the FCO and DfID is somewhere between a distraction and a mistake. Does the Leader of the House agree that Britain's influence in the world is greatly enhanced by an aid programme focused on the world's poorest countries and the poorest people within them? Will she confirm that the long-term focus of aid on those countries, and on the people who really need help, will continue?

Baroness Evans of Bowes Park: I hope that my answer to the question of the noble Lord, Lord Newby, provided that reassurance. As I said, our commitment to helping the world's poorest remains as strong as ever, and we believe that by merging these two departments, and using the fantastic expertise that the noble Lord, Lord Jay, rightly pointed out, we will enhance our ability to do that, not diminish it.

The Lord Bishop of Peterborough [V]: My Lords, I thank the Leader of the House for answering questions on this matter. On these Benches, we affirm the Government's right to organise themselves as they think best for the common good. We look forward to greater integration between foreign and development policy and values, and we warmly commend the continued 0.7% commitment. I am grateful to have heard the noble Baroness's assurance that the Government will remain committed to the OECD DAC rules—it would be lovely to have that repeated. Can we have another assurance that the Government will preserve the primary focus of UK aid as poverty reduction?

Baroness Evans of Bowes Park: My Lords, I am happy to confirm that we will continue to abide by the OECD DAC rules for aid, and I have said a couple of times now that tackling poverty remains as important to us as ever. We also believe that the bringing together of the expertise in both departments will mean that we can achieve more. Having quality staff from DfID and the FCO come together, with a coherent vision of a global Britain, and joined-up approaches to countries and issues, will mean that we will be able to play our leading role—as, for instance, the Gavi summit that took place only a week or so ago showed. We can bring these aims together and make a real difference.

Lord Boateng (Lab) [V]: My Lords, disease and instability on a global scale are the greatest threat to our country's security. Can the noble Baroness confirm that in this relocation of roles and responsibilities, as she put it, there will be no reduction in the overall headcount of development-related staff deployed overseas, or those in crucial functions in London and Scotland, who are focused on reducing poverty and global disease, and on promoting safety and security, rather than instability? That has been the focus of so much of DfID's work. It is different and distinct from diplomacy. Will that distinction be maintained and respected, and will the headcount be kept up?

Baroness Evans of Bowes Park: I said in answer to the noble Baroness that there will be no compulsory redundancies, although some roles and responsibilities will change. There are certainly no plans to close the DfID office in Scotland, where staff play a vital role in ensuring that UK aid delivers results for the world's poorest. The opportunity to work at Abercrombie House in East Kilbride will be open to staff from across the reconfigured department. We will be working closely with staff as the programme goes ahead and the two departments merge, to ensure that we get the best out of the fantastic people who work in both departments.

Baroness Sheehan (LD) [V]: My Lords, DfID is held in high regard, in large part due to its openness and accountability—the result of a carefully constructed governance structure, at the heart of which sits the International Development Committee and ICAI. Will the Leader, in Cabinet, argue to retain that crucial oversight of how 0.7% of taxpayers' money is spent, especially when it comes to the prioritisation process currently under way? Otherwise, this is nothing more than a cynical move by a man who knows the price of everything and the value of nothing.

Baroness Evans of Bowes Park: As I said in a previous answer, I am very happy to say on the record, again, that we absolutely recognise that programmes funded by UK aid are consistently rated as some of the most transparent and effective in the world, and we want to bring that expertise to the heart of the new department. We remain of course absolutely committed to full transparency in our aid spending, and there will continue to be independent and parliamentary scrutiny of the aid budget.

Baroness Jenkin of Kennington (Con) [V]: My Lords, the British taxpayer is less likely to be concerned with which department spends their hard-earned money on humanitarian work and alleviating poverty than they are with ensuring that the money is spent wisely. To that end, with the planned abolition of the Select Committee and its important oversight role, the scrutinising work of the Independent Commission for Aid Impact, ICAI, will be more crucial than ever. Can my noble friend confirm that ICAI's work ensuring that aid is spent effectively and delivers value will continue, or possibly even be enhanced?

Baroness Evans of Bowes Park: As I said in response to the noble Baroness, Lady Sheehan, we remain committed to transparency and we will continue

parliamentary and independent scrutiny of the aid budget. The form that this takes following the merger will be set out in due course.

Lord Kerr of Kinlochard (CB) [V]: I worked for Judith Hart and with Clare Short, and I admired the work of Andrew Mitchell. What made them great Development Secretaries was not just the independence of the ministries, but their passion for development and the support they got from No 10. I am not reassured by the Prime Minister's continuing to parrot the false dichotomy of national interest versus helping the poorest. It is poverty abroad that breeds disease, disorder, migration and terrorism. The noble Baroness assures us that the fact that the Statement made no reference to the primacy of the poverty criterion is not sinister. I hope she is right. Will she please disassociate herself from the totally unworthy slur on a professional department of calling it a great cashpoint in the sky?

Baroness Evans of Bowes Park: I have very happily talked on record several times already during this Statement about the fantastic work of the department and the fact that we want this to be at the centre of the new Foreign, Commonwealth and Development Office. Foreign and development policy will be fully integrated in Ministers' portfolios in the new department, and we want to bring the best of overseas development and diplomacy together, to make sure that we have a coherent and strong international strategy that means we can play our part in the world in the way that we want to, and show leadership, as we have done in so many areas already.

Baroness Goudie (Lab) [V]: My Lords, I very much regret the subordination of international aid to the United Kingdom's foreign policy considerations, for all the reasons that have been given by former Prime Ministers and many others. I would like an undertaking from the Leader on poverty, girls' education and dealing with peacekeeping on the ground, which was done by DfID previously. Why was this done ahead of the full review? We had an earlier undertaking that the reviews of the Ministry of Defence, the Foreign Office and DfID would be done together. Why, in particular, was this done early, with no contact with the staff? Staff did not know until some of us knew.

Baroness Evans of Bowes Park: I set out in my opening comments why this is happening now. I talked about the challenges of the pandemic and the way that that has shaped our view that these things need to be brought together internationally. I can certainly reassure the noble Baroness that girls' education will remain a priority. I also point out that we are currently one of the few OECD donors that still has a separate development ministry. Other countries, such as Canada, Australia and New Zealand, have merged their functions effectively, and we will look to learn from them. We are extremely lucky to have a very high-quality Foreign Office and Department for International Development, which we can bring together to ensure that our expertise remains unparalleled in all areas.

Baroness Ludford (LD): My Lords, I will follow up the comments from my noble friend Lord Newby. Why do the Government seem to regard support to countries

such as Ukraine and those in the western Balkans as an alternative to support for the poorest countries in Africa? The UK currently supports those EU-aspirant countries through its own funding programmes, so all the UK will be doing is spending some of the much-vaunted so-called savings on EU contributions in a less efficient way. There is no need to deprive Zambia and Tanzania to do it. If we are to continue to operate under the OECD DAC rules, as the Government pledge, can the Minister explain what we are prevented from doing at the moment that this move will allow the UK Government to do?

Baroness Evans of Bowes Park: My Lords, as I have said repeatedly, our view is that bringing diplomacy and international development together makes sense in our new complex global world. For instance, to protect ourselves against another pandemic, the UK will have to work alongside our friends to strengthen international bodies like the WHO, and help vulnerable countries come together to improve their health systems and achieve greater resilience. Therefore, it does not make sense to have a dichotomy and say that the two should be separate in our complex international world, with the challenges that we face.

Baroness Falkner of Margravine (Non-Aff) [V]: My Lords, we are entering a period of much harsher international relations. That is what Sir John Sawers told us on the "Today" programme this morning, and I agree. I can see the argument for a more strategic approach to our international relations in the round—although I am slightly sceptical about the timing of this announcement—but since the noble Baroness has mentioned Australia, Canada, New Zealand and other allies, all of which have their international trade departments as well as international development within the ambit of their foreign services, I ask why we are not doing that. Can she say a little more about the part of the Prime Minister's Statement where he says that the Government will align international trade with the Foreign Office?

Baroness Evans of Bowes Park: The decision that has been made in this announcement is obviously about those two departments, but we believe that we need single cross-government strategies on the ground in each country headed up by the ambassador or high commissioner. Trade envoys will work within that, so there will be very close working between DIT and the new department. We feel that this is the right move at this point.

Baroness Pidding (Con) [V]: My Lords, I welcome the Government's decision. Can my noble friend the Leader of the House reassure us that this will enhance not only our ability to drive the UK's interests globally but also our ability to help protect the most vulnerable around the world? Next year, Britain takes the presidency of the G7 and hosts the UN Climate Change Conference. Does she agree that this is an opportunity to play a leading role in international bodies such as the World Health Organization and the World Trade Organization?

Baroness Evans of Bowes Park: I entirely agree with my noble friend. She is absolutely right that next year we take on the presidency of the G7; we also have the delayed COP 26. This is an ideal time for us to lead the

[BARONESS EVANS OF BOWES PARK]
world in so many ways, building on the great work that we do already. We believe that this merger—this bringing together of the two departments—will help us to continue to be the world leaders that we all want to be.

Lord Alton of Liverpool (CB) [V]: My Lords, there is a case to be made for a better alignment of diplomacy and development and the empowerment of UK ambassadors. However, would not good governance suggest that we should have heard that case put to the Government's own major integrated review of foreign policy, defence and development that people have mentioned, rather than pre-empting the review and its conclusions? Given that the size of the ODA cake will inevitably shrink as GNI shrinks, what new measures will be put in place to at least ensure that fraudulent and corrupt misuse of ODA is combated more effectively in the future?

Baroness Evans of Bowes Park: The noble Lord is absolutely right. We need to focus on corruption and will continue to do that. As I said, for a variety of reasons we believe that the time is now right for this merger of the departments to take place. He is also right to point out that it needs to be seen in the context of our ongoing broader integrated review, which will help to shape the priorities and focus of the department and our overall international policy.

Lord Liddle (Lab): Does not the very fact that the Prime Minister made such a point of mentioning Ukraine and the western Balkans in his Statement demonstrate that the Government intend to deprioritise poverty relief as one of their overseas aid objectives? Does not the noble Baroness feel a sense of regret, perhaps even a sense of shame, that this Government are tearing up a political consensus that has lasted for 23 years and has seen the level of overseas aid spent on poverty rise from 0.23% of GDP in 1997 to 0.7% today? Does she not accept that this measure tears up that consensus? Finally, is this not just a demonstration of how the Conservative Party is rapidly becoming the party of populist English nationalism?

Baroness Evans of Bowes Park: I am afraid that I disagree completely with the noble Lord. I am happy to put on record once again that the work of UK aid to reduce poverty will remain central in the new department's mission. We are incredibly proud of the work we have done. Since 2015 we have supported more than 51.8 million people in accessing clean water or better sanitation; we have supported 14.3 million children, including nearly 6 million girls, in gaining a decent education; we have committed £3.1 billion in response to the Syrian crisis; and we have committed £970 million to the humanitarian crisis. In June, we hosted the extremely successful Gavi summit, raising \$8.8 billion for Gavi to immunise 300 million more children. This is work that we are all incredibly proud of. This is work that the UK is a leader on. This is work that we will continue and which we believe can be enhanced by taking this action.

Lord Bowness (Con) [V]: The Statement says that the current crisis
“offers vivid proof of the seminal importance of international engagement and exactly why our country must perform its global role.”

Yet in the other place on Tuesday, in a debate on UK-EU negotiations, my right honourable friend Mr Gove stated that any settlement with the EU must reflect our “regained sovereignty” and “independence”. Since all engagements or agreements involve some sharing of sovereignty, does my noble friend see any contradictions in those aspirations?

The departmental changes are due to come into effect on 1 September. Is it wise to have a major change at a time when the EU negotiations remain unresolved and before the crack unit of Taskforce Europe, which is drawn from across our resources in government, returns to its respective departments? Are we not in danger of getting a brand-new, glitzy front door while at the same time leaving the back door unattended, giving short-cut access to our close friends and neighbours?

Baroness Evans of Bowes Park: I am afraid that I disagree with my noble friend. He is absolutely right that the merger will take place in September. The work to implement it is being led by a team in the Cabinet Office, working closely with teams from the FCO and DfID. That work is being overseen by the Cabinet Secretary, who reports to the Prime Minister, so it can go on at this time. We believe that it will enhance our ability to play a leading role in the global world.

Lord Campbell-Savours (Lab) [V]: As part of the shadow ministerial team in the 1990s behind the policy of ODA/Foreign Office separation, and having heard the questions up to now, I say to the Minister, in summary, that this decision will kill DfID morale; it will distort DfID's current poverty alleviation priorities; it will leak resources from development into other Foreign Office activities; and it will downgrade the roles played and positions held by DfID officials. It was precisely to deal with those problems that Labour set up DfID under Clare Short as a separate department in the 1990s. Is this not the third time that the Conservatives have wound up the department? They did so in 1970 under Ted Heath, in 1979 under Thatcher and now in 2020 under Johnson. It is madness, and it is the work of development aid bigots.

Baroness Evans of Bowes Park: Obviously, I fully respect the work that the noble Lord has done and he is, as ever, entitled to his views. I am afraid that I cannot agree with him and certainly do not accept being called a development bigot. As I have said, we believe that this is the right move at the right time. We want to take the best of the departments, both of which are a credit to our Civil Service, and bring them together to enhance the work that they do. We believe that this will be a positive, strong move. We will be involving staff in this decision and making sure that this department is at the vanguard of our international policy efforts.

5.25 pm

Sitting suspended.

Arrangement of Business

Announcement

5.45 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, we now come to questions on the Statement on the United Kingdom and European

Union negotiations. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Our normal courtesies in debate still apply in this new hybrid way of working.

UK-EU Negotiations

Statement

The following Statement was made on Tuesday 16 June in the House of Commons.

“With permission, Madam Deputy Speaker, I would like to make a Statement on the Government’s negotiations on our future relationship with the European Union.

Yesterday the Prime Minister met the President of the European Council, Charles Michel, the President of the European Commission, Ursula von der Leyen, and the President of the European Parliament, David Sassoli, via videoconference. The purpose of this high-level meeting, as the political declaration puts it, was to take stock of progress on the negotiations and to agree actions to move forward. All parties agreed that now was the moment to accelerate the pace of these negotiations—in the Prime Minister’s words, to ‘put a tiger in the tank’.

The three Presidents welcomed the Prime Minister’s call for greater pace, focus and flexibility in the negotiations, and the tempo of the talks process has now been escalated.

I am pleased to say that both sides pledged yesterday, in a joint statement that was made public immediately afterwards, that they would intensify the talks in July and, if possible, seek to find an early understanding on the principles underlying any agreement. Our respective chief negotiators and their teams will therefore intensify talks from the end of this month, starting on 29 June. I also welcome the Commission President’s statement yesterday that the EU is available 24/7, and we will be too. Meetings will take place every week in July, with a keen focus on finding an early understanding on the principles that will underpin a broad agreement. As the Prime Minister said yesterday, the faster we can do this, the better. We are looking to get things done in July. We do not want to see this process going on into the autumn and then the winter. We all need certainty, and that is what we are aiming to provide.

Yesterday’s high-level meeting followed the second meeting of the withdrawal agreement joint committee, which took place on Friday 12 June, again via videoconference. I am grateful to the Vice-President of the European Commission, Maroš Šefčovič, for the very constructive way in which progress was made under his chairmanship. In that meeting, I set out our plans to implement the protocol on Ireland and Northern Ireland, and updated the EU on our ongoing work to protect the rights of EU citizens in the UK. This is a priority for the UK Government. I also sought assurance, for our part, that the EU intended to meet its obligations under the withdrawal agreement around the protection of the rights of our nationals currently living in the EU. We have concerns in this area, and we will continue to press the EU to ensure that our citizens’ rights are properly protected.

If we are to make the progress that we all want to see in our negotiations on the future relationship, we all need to be both clear-eyed and constructive. Our EU partners agreed yesterday that during the four full negotiating rounds completed to date, we have all gained greater clarity and understanding of our respective positions. Discussions have been productive and legal texts have been exchanged, even as both sides have had to deal with uniquely difficult challenges posed by the coronavirus pandemic.

But as my right honourable friend the Paymaster-General advised the House last week, following the fourth round of negotiations it is still the case that there has been insufficient movement on the most difficult areas where differences of principle remain. We are committed, in line with the political declaration, to securing a comprehensive free trade agreement with the EU built on the precedents of the agreements that the EU has reached with other sovereign states, such as Canada, Japan and South Korea—and we are ready to be flexible about how we secure an FTA that works for both sides. The UK, however, has been clear throughout that the new relationship we seek with the EU must fully reflect our regained sovereignty, independence and autonomy. We did not vote in June 2016 to leave the EU but still to be run by the EU. We cannot agree to a deal that gives the European Court of Justice a role in our future relationship, we cannot accept restrictions on our legislative and economic freedom—unprecedented in any other free trade agreement—and we cannot agree to the EU’s demand that we stick to the status quo on its access to British fishing waters.

There must be movement, and the clock is ticking. The transition period ends on 31 December. That was a manifesto pledge on which the Government were elected, and it was the instruction from the electorate in the 2016 referendum: to leave the single market and the customs union and to grant the opportunities of full economic and political independence. Four years on from the referendum result, no one can argue that this is a rushed or precipitate step. It is delivering at last on democracy. We will manage the adjustment required at the end of the transition period in a flexible and pragmatic way to minimise any challenges and to maximise all opportunities, but the call from opposition politicians to extend the transition period is not in the national interest.

Staying under the EU’s control after this December would mean paying money into EU budgets that we could spend on our NHS, accepting new laws over which we would have no say—laws shaped in the interests of others—and being prevented from taking the actions that we need to supercharge our economic recovery. That would clearly not be in our national interest. There is no intrinsic reason why a deal cannot be concluded in good time. As Roberto Azevêdo, the director-general of the World Trade Organization, confirmed at the weekend, a deal between the UK and the EU can be reached in a timely way

‘if the political will is there’.

The UK’s political will is there. Our position is reasonable, based on precedent, and we still have the time to bring a deal home. That is why the Prime Minister

[LORD McNICOL OF WEST KILBRIDE] has led the drive to accelerate these talks, to reach agreement, and to ensure that next January we leave the regulatory reach of the EU and embrace the new opportunities that our independence will bring. I commend the Statement to the House.”

5.46 pm

Baroness Hayter of Kentish Town (Lab) [V]: My Lords, we should welcome this rare ministerial Statement—indeed, the first since negotiations began—but while I am delighted, of course, to see the Minister, I am surprised that following the PM’s first direct talks with EU leaders since we left the EU, he did not report to the Commons on these, instead choosing to announce the merger of two Whitehall departments.

The Statement before us rehearses old arguments while being shamefully lacking in detail, with more on process than on content. The Statement quotes the WTO director-general as saying that a deal can be reached in a timely way “if the political will is there”.

It is a shame that it does not give the full quote, in which the director-general suggests that a no-deal Brexit risks extra trouble for the UK during a recession that could be as deep as the great depression. What Roberto Azevêdo actually said was:

“In these circumstances, the less disruption the better, the less turbulence the better. The less turbulence is the closest to where you were before ... if you can maintain the degree of integration and relationship that you had before Brexit, it is a less traumatic situation, of course, than if you have to go to WTO terms”, which would require adjustments that “can be painful”. He said that

“in my view the less changes the better.”

Can the Minister confirm whether Mr Gove had actually read the whole quote before selecting a small part to repeat? Can he also confirm, for all the bluster about not accepting any ECJ role, that trading on WTO terms means answering to its appellate body?

Our concern is with what deal will emerge from the talks. We want the Government to achieve their manifesto promise: no tariffs, fees, charges or quantitative restrictions, across all sectors. Can the Minister indicate whether that is still the aim and whether he judges it to be achievable? Even a free trade agreement means that we will move from a highly integrated relationship with the EU to one in which trading becomes significantly more difficult. More worrying is the Government’s assertion that they would be content with an Australia-type deal, completely ignoring the fact that Australia does not have a deal with Brussels, so that must be code for no deal.

Tony Barber suggests in the *FT* that Ministers are trying to disguise the seriousness of no deal by playing on some positive image of Australia as a prosperous, easy-going country, while an *FT* editorial opines that even

“a bad ... trade deal is better than no deal”

—although any deal struck before December will be so modest as to fall short of the comprehensive accord for which the Government had originally aimed.

Some things are urgent whatever is agreed, such as in manufacturing or food, where the trade associations call for special rules to maximise commerce between

the UK and the EU. Similarly, mutual recognition of professional qualifications and rules of origin needs sorting urgently.

It is no good relying on advertising. We have just learned of a £4.5 million “shock and awe” advertising campaign to spur businesses to prepare for the end of the transition. Businesses cannot prepare for the unknown. An advertising blitz without substance is yet more money down the drain—perhaps even worse than on the side of a plane. Until they know what tariffs, rules of origin declarations, certificates and checks are needed, how the new borders will work or even where they will be, businesses simply cannot prepare. The reality is that a hard border for physical goods, involving customs duties and checks, probably cannot be introduced by the end of December—hence the six-month leeway the Government have announced, but without any sense of clarity.

Nowhere is this uncertainty more harmful than over Northern Ireland. Can the Minister tell the House what talks are taking place with Northern Ireland businesses and others trading across the Irish Sea?

Finally, the Department for International Trade established a Strategic Trade Advisory Group with trade unions, consumer bodies and trade organisations for other trade negotiations. Even at this late stage, could the Government involve these groups now as we enter the new, intense round of EU negotiations?

Baroness Ludford (LD): My Lords, I thank the Minister for this opportunity to question him on the Statement. The Prime Minister wants a “tiger in the tank” Brexit, which is no doubt better than a no-deal dog’s dinner Brexit, but was described by European Council President Charles Michel as a “pig in a poke”. Given farmers’ fears that they are going to be sold down the Swanee, the use of so many animal metaphors is interesting.

The alarm in the farming community and among consumers ought to cause retreat from the gung-ho, “let them eat chlorinated chicken” approach to the prospect of a US trade deal, which requires the sacrifice of our current EU standards of food safety, environmental protection and animal welfare. Worryingly, however, the Government are reported to want to enforce this by undermining the EU system of protection of specialist local foods—Cornish pasties, Melton Mowbray pork pies and so on—known as geographical indications, presumably to keep the US happy. There is obviously a tussle going on in government about food standards and protections. Can the Minister tell us the exact current state of play?

It is worth noting that Mr Gove used the term “comprehensive” about the deal sought. That, at least, is part-way to the notion in the political declaration, which was “ambitious” and “comprehensive”, and seems to improve on the stance adopted since February of minimalist objectives for a skinny deal. Is there a dawning recognition, even in No. 10, that unless it makes more of an effort there could be no deal, which in a reverse of previous insouciance it now wants to avoid? Also, perhaps it realises that a comprehensive deal is actually easier to negotiate, because it gives room for mutually acceptable trade-offs.

The EU is preoccupied with Covid and its proposed recovery plan. The UK economy shrunk by 20% in April and will be in no condition whatever to cope with a no-deal shock to business and jobs at the end of the year. It finally seems to have begun to scare No. 10 that the potential disruption—to manufacturing supply chains in areas such as cars and aerospace, to produce supply chains in medicines and food, or to Northern Ireland in particular—might make it somewhat unpopular, on top of its bad ratings, not least from Tory MPs and voters, for its handling of the Covid pandemic.

I think it has begun belatedly to realise that the public is unnerved by buccaneering in government, which is why we have seen in the last few days—coinciding intriguingly with the Brexit summit—a series of dead cat distractions such as the abolition of DfID, a new royal yacht and a union jack plane. I love cats, so I somewhat regret that popular phrase. It seems to be trying to disguise a preparedness to make concessions and compromises in the talks with the EU to maintain suitable British access to its market and programmes. Can the Minister comfort me and confirm that this is the case?

All things are relative in Brexit, since nothing can be as good as EU membership—but with that caveat I welcome what I perceive as a shift. Maybe the Government will even realise that if the “sunlit uplands” of Brexit are so great, the fact that a shock and awe media campaign is needed to prepare for it will strike British citizens as pretty odd.

David Frost told our EU Committee:

“As a policy decision, the Government’s view is that the benefits of having regulatory control ... outweigh the cost”.

Has this Government’s obsession with sovereignty led them to forget Mrs Thatcher’s understanding, which she enunciated 45 years ago, of the necessity

“to pool significant areas of sovereignty so as to create more effective political units”?

This insight is also true of effectiveness in fighting crime. It would be bizarre if a Government from a party that lauds itself for upholding law and order refused to guarantee continuity in upholding European values of data protection and human rights in order to ensure access to EU crime-fighting databases and effective extradition.

In conclusion, I hope the Minister can give me some hope that developments this week mean that the Government recognise the need to ditch the symbolism of an empty kind of independence in favour of meaningful access to EU markets for British businesses, including farmers, and solidarity with the EU in upholding European values.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I thank both noble Baronesses for their remarks. I was very grateful for the positive tone from the noble Baroness, Lady Ludford. I will start with that first. I do not think that it is correct to characterise what is happening as a change. The British Government have been consistent in their policy and in the statement of that policy that we wish to achieve a free trade agreement and the other things in the suite of agreements we are looking at. That is the desirable goal.

As the Prime Minister said in his statement at the high-level meeting, a preferential trade agreement is desirable and achievable, but it is not essential for either side. We would like to have a deal, but we are prepared for any eventuality. Our position is, as the noble Baroness will know, that the United Kingdom Government are asking for very little—indeed, virtually nothing—that is not preceded in agreements that the European Union has struck with others. Everyone in the Government wishes to go forward with good relations with our partners in the European Union in every way. It is symbolic to have the President of France here in London today, attesting to the deep affection and friendship between our two countries, which will continue irrespective of institutional outcomes.

Both noble Baronesses were a little bit critical of the Prime Minister making a Statement on the reform of Whitehall to improve Britain’s capability to assist people abroad—our friends abroad and those in need. It is perfectly apposite for the Prime Minister to make a Statement on such an important reorganisation—indeed, it must be for the Prime Minister to make such a Statement.

The noble Baroness, Lady Hayter, spoke about there being a lot in the Statement about process, not explicit content. I understand that it is sometimes testing to noble Lords’ patience—indeed, sometimes it is testing to the patience of those of us inside government—that the very fact that this is a negotiation means that one cannot track every tick and comma of a delicate arrangement. Indeed, it is important that the confidentiality and integrity of the process be protected to secure the positive outcome that we want.

Yes, the Statement is more about process than specific content, but process is important. The Statement refers to an acceleration of the process, which I would think would be welcomed by noble Lords opposite me and those on this side of the House. An earnest commitment to try to reach agreement in five successive rounds has been announced; that change of pace is important and should be welcomed. If we cannot reach agreement, it is better that we know that early on, rather than have a prolonged, and potentially bad-tempered, negotiation into the autumn. I welcome the fact that both sides have agreed to this new process; that is important.

The noble Baroness, Lady Hayter, talked about no deal, and was scathing about the Government’s reference to an Australia-style deal. Australia has a range of arrangements with the European Union. I repeat that no deal is not really on the agenda now. We are out of the European Union, and we are negotiating the best possible outcome for trading and other arrangements, for us both. But whatever happens at the end, we will subsist outside the European Union, on the basis of the treaty passed by this Parliament.

Both noble Baronesses rightly referred to the importance of agriculture and agricultural products. I can certainly reassure them that, as has been made clear, the interests and the position of the agricultural industry and the treatment of agri-foods are constantly being considered.

[LORD TRUE]

There was criticism of the advertising programme proposed by the Government. This is one of those cases at the Dispatch Box where one feels damned if you do and damned if you do not. Most of the time, I come here to try to assist your Lordships, and am criticised about people being left in the dark about what is proposed. Then, when the Government say that they wish to set up an intensive process of information for industry, relevant to the proposed border arrangements—the programme which will be going forward over the next few months—I am told that this is ridiculous and that we cannot spend taxpayers' money on an advertising programme.

The parties opposite need to decide whether they wish business and people to be informed, or to complain that they are left perpetually in the dark. We want to treat all interests in this nation as partners in this exercise. That includes business, those dealing with the transit of goods and the border, and the devolved Administrations. In the judgment of the Government, it is important that we keep people informed.

The noble Baroness, Lady Hayter, also referred to the border phasing arrangements. In the light of the Covid-19 situation, it was generally agreed, and welcomed as a sensible proposal, that the system should be phased in during the first six months of next year.

Both noble Baronesses referred to Northern Ireland. Of course, it remains our position that there will be unfettered access for Northern Ireland goods to the United Kingdom. The noble Baroness, Lady Hayter, rightly said it was particularly important that Northern Ireland business be engaged and consulted. There is a specific business engagement forum dealing with that process, and there is internal and external dialogue—never in this life does one suffer from lack of dialogue.

The noble Baroness, Lady Ludford, asked about data protection. There are of course negotiations in that specific area, and I recently wrote to her noble friend Lord Wallace of Saltaire about the nature of those negotiations. We hope that there is some evidence of a convergence of opinion between the UK and the EU. I refer her to the letter which I sent, but I cannot go into the specifics of negotiations.

Security of course is important, but it does not have to be part of an overall specific architecture. I refer again to the very welcome visit of the President of France today, which recalled the intensely moving relationship between our countries during some of the gravest days of this great continent in the last century. No one who witnessed the evocation of the events of the past that the events of today referred to could have any doubt that we will always be good partners in good faith to our close allies and friends. So there are issues, as noble Lords know, but I hope very much that we will be able to have a good relationship, whatever form that takes in the future.

I hope that I have answered most of the questions. I do not think that I have to deny being a buccaneer—I am a bit too corpulent to be a very good buccaneer. The Government are not approaching the matter in a buccaneering fashion. This is an extremely important process, but it is also, above all things, a process of

delivering the undertaking that we have given to the British people to deliver a United Kingdom that is an independent state at the end of this year. That remains our fundamental position, and it does not change—whatever the noble Baroness, Lady Ludford, may seek to divine.

6.07 pm

The Deputy Speaker (Lord McNicol of West Kilbride)

(Lab): My Lords, we now come to the 20 minutes allotted for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

Viscount Waverley (CB) [V]: I wish the Government well in delivering a far-ranging, successful set of negotiations that will serve all sides in the long term. It is to be hoped that an eye is being kept in parallel during these complex negotiations on the central necessity of broad relationship-building with civil society, the Commission and the capitals of the 27. If that is the case, will the Minister offer the House specific examples of programmes that are being and will be implemented to ensure that a deep and special relationship will be the outcome, whereby both sides are mutually satisfied?

Lord True: My Lords, I will preface my answer by saying that some noble Lords will have seen the name of my noble friend Lord Forsyth on the speakers' list. It is not that he has not turned up; he suffered a close family bereavement, and I know that all noble Lords who may be asking themselves why he is not here will understand that.

The noble Viscount's question was framed in a manner about the cultural, social and instinctive links that the United Kingdom has with other European nations. Some of those have been institutional links of different sorts, while others have been links that are not in any sense political. I am personally committed, as are the Government, to maintaining the closest possible cultural and societal links between the nations of Europe. The question is what institutions are required to secure that. I submit that the European Union is not one of them; other institutions and arrangements are currently still under consideration.

The Earl of Kinnoull (Non-Afl) [V]: My Lords, Michel Barnier, in his remarks following the fourth round of negotiations, said that the full legal text of the future relationship was needed by 31 October for planning and ratification reasons. There is no mention of these constraints in the Statement. Does the Minister agree with Monsieur Barnier's analysis? If not, what is the date by which a full legal text is needed?

Lord True: My Lords, I shall not go into specific dates regarding the text. We have published texts at appropriate stages of the negotiations. We have said—and the Prime Minister said again at the high-level meeting—that October is too late for us to get serious. If I remember, those were his words. I think that the intensification in the negotiations will help us to answer the noble Earl's question and others.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): The noble Lord, Lord Young of Norwood Green, is not with us, so I now call the noble Lord, Lord Wallace of Saltaire.

Lord Wallace of Saltaire (LD) [V]: My Lords, Ministers have frequently referred to the Canadian or Australian models as “oven-ready” recipes for a deal. Can the Minister therefore confirm that our negotiators are including arrangements for the provisional application of such a mixed-competence agreement while we wait for national ratification? The Canadian FTA was signed in 2016 but ratification is not yet complete. Does he understand what the Prime Minister means by the Australian model? The Australian Government website tells me that the seventh round of negotiations on a potential agreement took place last month.

Lord True: My Lords, I am not good at figures but I think that the Australian Government have about 29 different arrangements with the European Union. With regard to the phrase “oven ready”, I am afraid that I like cooking—something that I have enjoyed particularly during the lockdown. Turning to the central core of the noble Lord’s question, the Government are preparing for every eventuality. There is an intense amount of planning on a wide range of fronts, and I assure him that that process is continuing.

Lord Howard of Rising (Con) [V]: My Lords, I am glad to see that my right honourable friend the Chancellor of the Duchy of Lancaster in the other place said in his Statement that our new relationship with the EU “must fully reflect our regained sovereignty, independence and autonomy”.—[*Official Report*, Commons, 16/6/20; col. 685.] Will the Minister confirm that unnecessary compromises will not be made by Her Majesty’s Government and that they will not be deluded into thinking that, because the EU has moved from a totally unreasonable position to a half-unreasonable position, it is a fair compromise? Going half way is no sensible compromise if you start from a completely idiotic position.

Lord True: My Lords, I can give my noble friend some assurance. The EU has begun to show some recognition, including of some of the United Kingdom’s positions. The Prime Minister stated at the high-level meeting—I believe that I have his words this time—“I have to be clear that I will never agree to a treaty in which we accept new constraints from the EU on our ability to set our own rules in our own way. The British Parliament and people are the best and strongest guarantees of our standards.” I can also assure my noble friend that the Prime Minister again made it clear that there can be no role for the Court of Justice in any part of any agreement between us.

Baroness Coussins (CB) [V]: My Lords, has there yet been any agreement in the negotiations on the UK’s access to the various multilingual European databases? They are used many millions of times a year by our police to tackle transnational crime coming into the UK, such as the trafficking of arms, drugs and people. If there is no agreement, what specific contingency plans exist so that tackling this type of crime will not be undermined at the end of the transition period?

Lord True: My Lords, consideration on security matters is obviously ongoing. The safety and security of our citizens is the Government’s top priority. We obviously hope for a negotiated outcome in every area and have had constructive exchanges with the EU on future co-operation in this area. I do not believe that there is a reason to think that such an agreement should be beyond us.

Lord Howarth of Newport (Lab) [V]: My Lords, does the Minister agree that the fact that we are negotiating free trade agreements in parallel with the USA and Japan is serving to concentrate the minds of EU negotiators, who are beginning to show more pragmatism. Will not this process of parallel negotiations strengthen our ability to achieve satisfactory environmental and animal welfare standards in all our free trade agreements?

Lord True: My Lords, as he often does, the noble Lord has made a cogent and powerful point. The United Kingdom Government are obviously negotiating in good faith for a free trade agreement across the board on merit because we believe that free trade is of the greatest possible benefit in improving conditions for people across the world. Of course, if the different parties with whom we are negotiating wish to make cross-calculations, that is entirely a matter for them. However, I can certainly assure the noble Lord—the Prime Minister has been absolutely explicit on this—that our commitment to environmental standards and to standards generally will not be weakened by any of the negotiations that we are undertaking.

Baroness Smith of Newnham (LD) [V]: My Lords, in his Statement, the Chancellor of the Duchy of Lancaster indicated that we all need to be both clear-eyed and constructive in our negotiations on the future relationship. He also indicated that the Government would manage the adjustment after the transition period in a flexible way. Could the Minister give the House one example of how the Government propose to be constructive and where he envisages that they may be flexible?

Lord True: On implementation, the announcement we have made about the phasing in of import controls and border arrangements is, I would say, profoundly pragmatic. The very fact that we are intensifying the pace of the negotiation, which has faced serious obstacles so far—and those obstacles remain—is an indication of our good intentions. As to how the negotiations might proceed, it is above my pay grade to be a prophet on those matters.

Baroness Hooper (Con) [V]: My Lords, my question is very specific. Gibraltar is the only one of our overseas territories in Europe, and with a border in Europe. Can my noble friend reassure us that in the current negotiations, the people of Gibraltar have not been forgotten and are being safeguarded? We all know that a hard Brexit would be a disaster for them. Gibraltar is already suffering, undeservedly, from the Government’s quarantine restrictions, in spite of having been very successful in controlling the spread of the virus, with no recorded deaths—so it is really low-risk. Since the Statement mentions the Government’s welcome support and concern for United Kingdom nationals

[BARONESS HOOPER]

living in the European Union, where does that leave the people of Gibraltar? I declare my interests as vice-chairman of the All-Party Parliamentary Group for Gibraltar and as honorary president of the Friends of Gibraltar.

Lord True: My Lords, my noble friend is a powerful advocate on behalf of the good people of Gibraltar. I can assure her that the interests and position of Gibraltar are very much in the mind of the Government in the course of this negotiation.

Baroness Andrews (Lab) [V]: My Lords, my noble friend Lady Hayter has laid out the risks facing this country from no deal. Despite all the Prime Minister's clichés, it is clear from the Statement's tone and lack of substance that we are nowhere near resolving the fundamental issues necessary for a good deal, and it was clear in the Minister's tone that he has suggested that he would accept that. The Prime Minister is still arguing that an extension is not in the national interest, so can the Minister explain how the national interest would be better served by a no-deal exit, because that is increasingly the most likely and the most dangerous outcome for the country?

Lord True: My Lords, I simply do not agree with the characterisation of no deal—in any case, we left the European Union with a deal on 31 January 2020; we are now in a transition period. I greatly respect the noble Baroness and understand the point that she is trying to make, but uncertainty is the worst enemy of business. I point to what was said last week by Dame Carolyn Fairbairn of the CBI, who was not exactly canvassing shoulder to shoulder with me in the Brexit campaign:

“Business does not have any interest in delaying that”—that is, the transition—

“because that is uncertainty magnified ... we have supported the Government's timetable and most businesses—not all, but most—still recognise the value of getting to a conclusion.”

That is the voice of business, from someone who was very much on the other side of the argument before the referendum.

Lord Oates (LD): Did the Minister have a chance to listen to Stephen Kelly of Manufacturing Northern Ireland when he said on the BBC this morning:

“Our firms do not have the money; they have very little time, and they don't have any of the information required in order to prepare for what happens next year”?

Will the Government heed what Northern Ireland businesses are saying and start working with them now on the technical detail, which the Business Engagement Forum is not covering and which businesses urgently need if they are to be ready for an end to transition?

Lord True: I did not hear the comments to which the noble Lord refers—that is not because I am under some ban on listening to the “Today” programme; I gave up listening to that when I worked in No. 10 many years ago—but I agree with him that Northern Ireland business is hugely important. It is made up of many small businesses, which makes the task of keeping

them informed and supporting them particularly germane. I assure him that we will step up and sustain a process of engagement there. I am sorry that the gentleman concerned felt that it had not started enough. He is not necessarily wrong now, but we will hope to prove him wrong in the weeks and months ahead. I understand the important point that the noble Lord makes.

Lord Wigley (PC) [V]: I hope that the Government succeed in coming rapidly to some conclusion, because planning for every eventuality is something that Governments can do but business, such as the aerospace industry and the motor industry in Wales and the Welsh agricultural sector in particular, cannot plan unless it has the information. Whereas getting some reasonable deal is certainly what all businesses want, leaving without one would be a total disaster. Will the Minister convey to the Prime Minister the wish of the Welsh Government and the First Minister of Wales that a meeting take place to clarify these urgent matters as soon as possible?

Lord True: My Lords, we regard the relationship with the devolved Administrations as being of great importance and we have appreciated close contact with them in the work going on. We have different views on the way forward, although, as the noble Lord will know, the Welsh people voted to leave the European Union. We are grateful for thoughtful and considered contributions from the Welsh Government and Welsh business. There have been many opportunities to discuss arrangements, both in public and in private, but I assure the noble Lord that the interests of Welsh business and particular sectors of it continue to be well understood and well addressed and are of central concern to the Government.

Lord West of Spithead (Lab) [V]: My Lords, on this auspicious day, with President Macron visiting our Prime Minister, we are forced to focus on the past impact of war and, hence, unusually, defence. What is clear is that defence links with France, a country which pulls its weight militarily, remain close; as do our bilateral defence links with countries such as Holland and Norway, plus many other European nations. Overarching all this is our commitment to NATO, the organisation which has ensured European security since 1949. Will the Minister confirm that there have been no discussions or tacit agreements to be involved in some form of EU military force, and that the UK is not being excluded from involvement in broad, pan-European defence-industrial programmes? I quite understand if he is not up to speed on these issues, and would be very happy with a briefing on Privy Council terms.

Lord True: My Lords, with all the firepower that I see behind the noble Lord, it is hard for me to deny him anything. However, I am not in a position to give him specific answers. The points that he makes about security co-operation and vital defence, which run far outside the European continent in the present, changing world, are of great importance. I will write to him on the specific issue that he raised on defence matters.

Lord Robathan (Con) [V]: Is my noble friend the Minister aware that the People's Vote campaign has apparently resurrected itself as something called

“Democracy Unleashed”? It gives away the fact that the people who now whinge about our negotiations, which I believe are going quite well, and about wanting an extension to the transition period, are the same people who did not want Brexit and who then tried to get the democratic decision of the British people reversed. Can my noble friend confirm absolutely that there will be no extension of the transition period and that we will leave, as we have said we will do, promptly?

Lord True: My Lords, I will not follow my noble friend too closely in tracing congruities between the members of various movements, although I had noticed the odd one. On a more serious response, the Government will neither accept nor seek any extension of the transition period. Parliament, including this House, has legislated for the conclusion of the transition period on 31 December 2020. The Government have

no intention of presenting or supporting any legislation to change that. The transition period will end on the date suggested, and all our efforts should be bent, first, to securing good, lasting arrangements in the intervening period, and, secondly, to ensuring that everything is prepared for things to go smoothly in any eventuality that occurs on 31 December. I can give my noble friend that guarantee: 31 December is in law and it will stay in law.

Divorce, Dissolution and Separation Bill [HL]

Returned from the Commons

The Bill was returned from the Commons with a privilege amendment. The amendment was considered and agreed to.

House adjourned at 6.27 pm.

