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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's 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 15 October 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Oxford.

Introduction: Lord Mendoza

12.07 pm

Neil Francis Jeremy Mendoza, having been made Lord Mendoza, of King's Reach in the City of London, was introduced and took the oath, supported by Lord Trevethin and Oaksey and Baroness Finn, and signed an undertaking to abide by the Code of Conduct.

Introduction: Baroness Shafik

12.13 pm

Dame Nemat Talaat Shafik, DBE, having been made Baroness Shafik, of Camden in the London Borough of Camden and of Alexandria in the Arab Republic of Egypt, was introduced and made the solemn affirmation, supported by Lord Stern of Brentford and Lord O'Donnell, and signed an undertaking to abide by the Code of Conduct.

Arrangement of Business

Announcement

12.18 pm

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points. I ask that Ministers' answers are also brief.

Covid-19: Access to Vaccine

Question

12.18 pm

Asked by Baroness Sheehan

To ask Her Majesty's Government what steps they are taking to ensure equitable access for low and middle-income countries to any future vaccine for COVID-19.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Sugg) (Con): My Lords, the UK is committed to equitable global access to safe and effective Covid-19 vaccines. Last month, at the UN General Assembly, the Prime Minister announced up to £500 million for the COVAX advance market commitment to provide access to Covid-19 vaccines for 92 developing countries.

Baroness Sheehan (LD) [V]: My Lords, I welcome the government support from the UK aid budget for the initiatives that the Minister has mentioned. However, we still do not have a way to scale up the global manufacturing capability needed to meet the colossal demand that there will be for a Covid vaccine. There are two initiatives in play: the WHO Covid-19 Technology Access Pool—C-TAP—and today's proposal to the TRIPS Council by South Africa and India to waive parts of the TRIPS Agreement. Urgent action is needed, so can the Minister say which option the Government favour?

Baroness Sugg (Con): My Lords, we are working closely with the WHO through the ACT accelerator to ensure that we are able to rapidly develop and produce the vaccines as and when they become available.

Lord Browne of Ladyton (Lab) [V]: My Lords, although I too commend the Government for joining the COVAX initiative, I note that experts warn that this plan is no guarantee that Covid-19 vaccines will reach the world's poor. Is the Minister aware that a team of global experts led by Ezekiel J Emanuel, a distinguished medical ethicist at the University of Pennsylvania, have proposed a new model known as the "fair priority model"? What is the Government's assessment of this as an alternative plan?

Baroness Sugg (Con): My Lords, the funding I spoke of in my original Answer will contribute to the supply of 1 billion doses in 2021 and the vaccination of up to 500 million people. We believe that the right way forward is for the world to come together through the COVAX commitment. On the specific proposal that the noble Lord mentioned, I will have to look at that in detail and come back to him in writing.

Baroness Walmsley (LD) [V]: My Lords, it is reported that the UK has bought six experimental vaccines, stockpiling 340 million doses, awaiting the results of clinical trials. While this is probably a wise strategy, can the Minister say how much the Government have paid for these? This is enough to vaccinate our population five times over; will any surplus licensed stock be distributed to poorer countries?

Baroness Sugg (Con): My Lords, our commitment to global access to Covid-19 medical tools includes supporting voluntary methods of sharing intellectual property and non-exclusive voluntary licensing agreements. We think it is right to follow both bilateral deals and the COVAX joint facility to maximise the chances of finding a vaccine.

Baroness Blackwood of North Oxford (Con) [V]: My Lords, I join other noble Lords in congratulating the Government on joining COVAX and for the significant funding commitment announced at UNGA, but obviously this happened after additional optionality was added to the facility to encourage countries such as the UK, which already have advanced domestic vaccine programmes. Is the Minister confident that vaccine candidates can still be affordably manufactured at scale through COVAX if wealthy countries opt out of certain candidates?

Baroness Sugg (Con): My Lords, doses for the advance market commitment countries will be secured through advance purchase agreements with manufacturers. If countries do not exercise their options to buy a vaccine, it should still be available within COVAX for other countries.

Baroness Watkins of Tavistock (CB) [V]: My Lords, I join others in welcoming the Government's commitment to COVAX and to the WHO aim to distribute vaccines widely to lower- and middle-income countries. However, what safety nets will the Government press both parties to put in place to ensure that the distribution and delivery of the vaccines to individuals is equitable within the countries that are supplied through this system?

Baroness Sugg (Con): My Lords, of course, we recognise the importance of ensuring that any successful vaccine developed can be distributed to all those who need it, particularly in developing countries. The logistics and the support needed for vaccine distribution will be very important. We are working closely with partners like Gavi to help roll that out, and with civil society organisations to make sure that we can get the vaccine to the very people who need it.

Lord Collins of Highbury (Lab): My Lords, the Minister just mentioned Gavi. I received its briefing this morning, which announced that 181 countries have signed up to the COVAX Facility. I welcome the UK's leadership on this, but one country is missing: the United States. What are we doing to ensure that the United States joins the global economy in the fight against this pandemic?

Baroness Sugg (Con): My Lords, we are very pleased with the number of countries, including China, that have signed up to the COVAX Facility. The UK has been working hard with our partners across the world on that. Just yesterday I spoke to some of our team in the Caribbean, who have recently helped all the Caribbean sign up to the COVAX Facility. The US continues to be one of the biggest donors to Gavi's core immunisation programme, which we of course welcome. We continue to encourage the US to join multilateral efforts to support equitable access to Covid-19 vaccines.

Lord Roberts of Llandudno (LD) [V]: I welcome very much our co-operation with the World Health Organization, and only hope that the United States might rejoin, possibly after 3 November. We must make sure that any vaccine is tried and tested and not inferior; people are probably trying to take advantage and get some personal benefit by distributing unsuitable vaccines. I also suggest that we need an independent body in the UK that is involved not for political gain but only because of its experience and work over the years in bringing vaccines into being.

Baroness Sugg (Con): I completely agree that we must ensure we have community trust in vaccines, which will be essential to persuade people that taking the vaccine is the right thing to do. In the UK the

Vaccine Taskforce is leading this work to ensure that, as and when a vaccine is found, it is safe and that we communicate its effectiveness properly.

Baroness Uddin (Non-Afl): My Lords, I welcome the Government's commitment to COVAX and the WHO. Will the Minister accept that the vaccine may not be the panacea or exact solution for all countries, including those in conflict regions, where international responses must include the reasonably costed availability of safe and quality medicinal products and equipment, including CPAP systems, for the management of Covid? Notwithstanding the inevitable demands on this side of the planet, what discussion has taken place with countries such as Bangladesh and India, which have excellent reputations in the production of medicines, so that they can be easily available to the regions and elsewhere?

Baroness Sugg (Con): My Lords, the noble Baroness is quite right that we do not know how effective a vaccine may be or when it may come, so of course, we must continue our work across the world, supporting nutrition and handwashing facilities and making sure we are keeping people as safe as possible while we wait for the vaccine. The noble Baroness is also right that we must work with countries that have expertise in this field. On India specifically, we were very pleased to see AstraZeneca's partnership with the Serum Institute of India; collectively, they will support the production of 1.3 billion doses of the Oxford University vaccine, should it be successful.

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I applaud the Minister and the Government for their commitment to equitable access to vaccines and COVAX. However, what are the Government doing to combat the anti-vaccine message being put out by some groups, which could undermine mass vaccination at home and, indeed, overseas?

Baroness Sugg (Con): My Lords, getting vaccinated against preventable diseases is of course the right thing to do to protect others. The UK Government take the issue of disinformation very seriously; it is really important at this time of national emergency that the public have accurate information. We are working at pace with partners to help combat false and misleading narratives about coronavirus, making sure that the public have the right information they need to protect themselves.

Baroness Goudie (Lab) [V]: My Lords, following on from the question from my noble friend Lord Collins, how are we going to ensure that larger nations such as America do not try to buy all the vaccine, thereby taking it away from other countries, as we have read about in the press recently? What could Britain's role be in that?

Baroness Sugg (Con): My Lords, as the noble Baroness says, COVAX does not prevent countries signing up to their own bilateral deals, but we really believe that bringing the world together through the COVAX Facility is going to be the best way to prevent vaccine nationalism.

We will continue to work with our friends and partners around the world to encourage all countries to sign up to COVAX.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has elapsed.

Afghanistan Question

12.29 pm

Asked by Baroness D'Souza

To ask Her Majesty's Government what plans they have to provide assistance for (1) humanitarian, (2) development, and (3) girls' education, work in Afghanistan after the withdrawal of peacekeeping forces.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom warmly welcomes the start of the Afghan peace negotiations, which are the best chance of securing enduring peace. While the spending review is ongoing, I cannot comment on future assistance levels. However, the Government remain absolutely committed to supporting the people of Afghanistan, and we expect to announce funding for 2021 at the pledging conferences this autumn. Our ongoing programmes support humanitarian development and girls' education, which will continue to be a priority.

Baroness D'Souza (CB): I thank the noble Lord for his answer. It is firmly established that educating girls is one of the surest ways to achieve development: social, economic and political. In view of this, will Her Majesty's Government commit to not only continuing but expanding their education programme, including female teacher training, secure school construction and vocational courses in Afghanistan?

Lord Ahmad of Wimbledon (Con): I assure the noble Baroness that the issue of girls' education remains a government priority. Indeed, our Prime Minister, the right honourable Boris Johnson, leads directly on the campaign for 12 years of quality education for every girl around the world. As the noble Baroness knows, the situation in Afghanistan is fluid, but we remain very committed to the central objective and indeed the priorities that she has outlined.

Baroness Blackstone (Ind Lab): My Lords, it is essential to maintain development aid in this desperately poor country, as were it to collapse the illicit economy would also almost certainly take over. However, can the Minister tell the House what position the UK Government will take at the pledging conference he mentioned just now in Geneva in November on conditions with respect to corruption and human rights?

Lord Ahmad of Wimbledon (Con): The noble Baroness raises two important points. We of course lead on anti-corruption in the context of humanitarian support

around the world, and Afghanistan is no exception. Particular mechanisms in the programmes ensure that corruption is tackled, and those who seek to cause disruption to those processes are fully held to account. The UK National Crime Agency, for example, works very closely to build Afghani capacity. On the pledging conference, which takes place in November, we recognise the need to continue to support programmes in Afghanistan, but to do so for every agency and every person in a secure manner which also ensures that every pound that is pledged and delivered goes to the purpose for which it is intended.

Baroness Tonge (Non-Aff) [V]: My Lords, the Minister will know that in Afghanistan there is a high prevalence of child marriage. A third of girls marry before the age of 18, some as young as 12, which brings physical and mental consequences and loss of education. What support can the Government realistically give the Government of Afghanistan to help eliminate that problem?

Lord Ahmad of Wimbledon (Con): The noble Baroness is quite right to raise these issues. As Minister for Afghanistan, this is a central concern for me, particularly with the Afghan peace talks under way—although they have stalled. I assure her that these issues remain the key priority in the support and the training we give through the schools and education programme, and the Girls' Education Challenge fund. We continue to prioritise this as we move through the current talks and for future programmes. Child marriage is of course not unique to Afghanistan, but is found in other parts of the world. Education and education for girls remain essential to tackling it.

Baroness Helic (Con) [V]: My Lords, the official figures for women reported to have tested positive for or to have died from Covid-19 in Afghanistan are significantly below the equivalent figures for men. That does not match with the experience of other countries, suggesting that Afghan women are not receiving adequate attention or treatment, and many may be suffering and dying in their own homes. Can my noble friend tell the House what steps the Government are taking to contribute to reducing barriers to healthcare for women in Afghanistan, and how they expect women's access to healthcare to be impacted by the withdrawal of international forces?

Lord Ahmad of Wimbledon (Con): On my noble friend's second point, this poses a massive challenge for countries continuing to have a presence there, and indeed for donor countries such as ourselves that are engaged in humanitarian programmes. She is right to highlight the challenge. To be candid with her, I recognise and understand it. The challenge will be how the security situation prevails with any new governance arrangements in Afghanistan, to ensure that the achievements we have made, including in providing health support to women, are sustained and strengthened in the months and years ahead.

Baroness Northover (LD): My Lords, one of the key advances that has come out of the engagement in Afghanistan has been the improvement in women's

[BARONESS NORTHOVER] rights. What discussions have the Government had with our former EU colleagues to make sure that our departure from the EU does not lead to them reducing their commitment?

Lord Ahmad of Wimbledon (Con): The noble Baroness is quite right to raise this. Engagements are going on regarding the US withdrawal between other NATO partners who continue to have a presence on the ground, because security has to be the primary objective in securing the gains that have been made. I assure the noble Baroness that I am looking at all the programmes in Afghanistan with the very purpose of seeing how we can strengthen partnership working to ensure that we continue to deliver them.

Baroness Fall (Con) [V]: My Lords, we do not yet know the outcome of the peace talks between the Taliban and Afghanistan, but we know for certain that US withdrawal of troops is imminent and that the Taliban's reach is wide and deep across the community. I seek assurances from the Minister that he will not just continue to support education for girls, but look more creatively at ways in which we can teach in communities, including within homes, which are unlikely to fall foul of the Taliban.

Lord Ahmad of Wimbledon (Con): I can certainly give that assurance to my noble friend. Indeed, the challenges of Covid and the pandemic have shown how we can enable learning through technology. I certainly want to look at that area further, not just in Afghanistan, but in other areas across the world.

The Earl of Sandwich (CB) [V]: My Lords, as the Minister has already said, the UK has been prominent in anti-corruption and police reform, alongside the EU and the UN—President Ghani himself attended a meeting on that on 4 October. However, does the Minister have any evidence that in the present political situation, these initiatives are effective and will lead to real change?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Earl is right to raise this issue. The UK has supported the Afghan National Police, which helps to support the Afghani defence and security forces. We continue to fund up to £70 million through trust funds for this purpose, and we continue to engage and support through technical support and training. I cannot speculate what the outcome of the negotiations will be. They remain challenging; as I said earlier, they have stalled. However, we are ensuring that all the support we give, including to the Afghan police, stays in place.

Lord Collins of Highbury (Lab): My Lords, President Ashraf Ghani referred to climate change as one of the five drivers of turmoil in his country and highlighted recent droughts and floods. Can the Minister say what support we are giving to Afghanistan in response to these humanitarian crises, not just with funding, because I hear what he says about the pledging conference, but regarding expertise to help mitigate some of these natural disasters that are occurring?

Lord Ahmad of Wimbledon (Con): The noble Lord raises an important point; whether it is climate change, girls' education or police training, the engagement of experts is required. I assure him that we work on our programmes in Afghanistan specifically with that objective in mind, including with key NGO partners. However, I cannot stress enough that the situation on the ground is fluid. The issue of the security and the continued presence of NGOs is a challenge not just to the country, but directly to them.

Baroness Sheehan (LD): My Lords, what support is the FCDO giving Afghani women during the peace process? A strong platform for them will be crucial to protect girls' education from Taliban ideology.

Lord Ahmad of Wimbledon (Con): The noble Baroness knows as well as I do that Taliban ideology is not just discriminatory; it isolates women. I assure her that I am very much invested in this issue on a personal level. We are supporting Afghani women through the UN—we lead the Afghan engagement group. The current ambassador from Afghanistan to the UN is a woman, and we continue to support women's direct and pivotal engagement in the peace process in Afghanistan. However, I will be very honest with the noble Baroness: from the Taliban side, that remains an immense challenge.

Lord Alton of Liverpool (CB): My Lords, returning to the point the Minister just made about ideology, given the probable return of the Taliban to positions of power in Afghanistan and its ideological commitment to early child marriage, denying girls the chance of an education, is there any sign that the Taliban has modified its implacable hatred of girls' education, exemplified by its attempts in Pakistan to murder Malala Yousafzai?

Lord Ahmad of Wimbledon (Con): I would not hazard to think what the Taliban ideology is. It is not just against girls; it is fundamentally against empowerment through education. The check and balance must be that we as a Government, with international partners, remain firm and resolute that education empowers and, yes, it empowers girls. For anyone involved in the peace process, if you empower a girl, you empower the individual, her family, her city and her country, and it is about time that all those involved with the intra-Afghan peace talks woke up and realised the objective and how beneficial it will be for the future of Afghanistan.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has elapsed.

Social Mobility Question

12.41 pm

Asked by **Baroness Bull**

To ask Her Majesty's Government what assessment they have made of the report by the Social Mobility Commission *The long shadow of deprivation*, published on 15 September.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, we welcome the Social Mobility Commission's report and its contribution to the evidence supporting our levelling-up agenda. The report confirms that education plays a key role in spreading opportunities so that every child in every part of the country has a fair chance. That is why we have announced the biggest funding boost for schools in a decade, giving schools more money for every child, and established opportunity areas in social mobility cold spots.

Baroness Bull (CB): My Lords, the Government's investment in opportunity areas is indeed welcome and is making a difference. Nevertheless, this report reveals that in one in every six local authority areas, two boys born into equal disadvantage will have vastly different earnings as adults. In those areas, only two-thirds of the pay gap can be explained by education; it is simply about where they grew up. Many of those places are designated opportunity areas, but many are not. Given their commitment to levelling up, can the Minister say whether the Government will increase opportunity areas funding, and will they extend the programme to reach all the cold spots identified in this report?

Baroness Berridge (Con): My Lords, each of the 12 opportunity areas have already been encouraged, because of their positive outcomes, to twin with an additional area. In addition to the £90 million we put into the opportunity areas, £22 million was put into essential life skills, so there was an additional initiative, but the continuation of the opportunity areas is obviously a subject for the spending review.

The Lord Bishop of Oxford: My Lords, I welcome this report and it is good to hear the Minister welcome it too. Deprivation is an issue that goes to the core of natural justice, and therefore our common good as a nation. Does the Minister accept in particular the report's findings that employment interventions are as critical as educational improvement in addressing systematic inequalities and levelling up? What additional steps do the Government propose to take to improve employment opportunities, particularly when facing the current recession, in the cold spots that the report identifies across the nation?

Baroness Berridge (Con): My Lords, the report was co-commissioned by the department and uses the longitudinal educational outcomes data the department has been collecting. Yes, in addition to skills, social mobility obviously does not end at the age of 18. That is why we have made level 3 qualifications fully funded from April next year—available to everyone, regardless of age. We are looking at digital training and digital boot camps in areas of the country. There is a whole effort in reskilling at the moment.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): The noble Baroness, Lady Wyld, has withdrawn, so I call the noble Lord, Lord Singh of Wimbledon.

Lord Singh of Wimbledon (CB) [V]: My Lords, the report of the Social Mobility Commission usefully reminds us that widespread social disadvantage can be successfully countered by carefully tailored interventions. Does the Minister agree that a school ethos that encourages aspiration, such as that of the Guru Nanak Academy in Hayes, which has well above average results in GCSEs and A-levels, despite pupils coming mostly from a deprived background, is also important in enhancing life chances?

Baroness Berridge (Con): My Lords, yes, the report highlights how important education is, but says that it is not the only factor, particularly in areas with great disparity in household income. I agree with the noble Lord on the ethos in schools. That is why, in addition to the opportunity areas, a specific school programme called Opportunity North East is being run by the department, focused on secondary schools in the north-east, where we see that primary school attainment is around the national average, but it drops off at secondary school, so we are intervening directly in schools as well.

Baroness Armstrong of Hill Top (Lab) [V]: My Lords, this is a very sobering report, which recommends a place-based approach that, yes, has education interventions but much more than that. We know that the pandemic has made things much worse for children in poor families and their communities. Can the Minister assure us that there will be further place-based interventions where the money is awarded with integrity, based on sound data and not, quite honestly, with the bad taste of political interference that still lingers over the last round of the Towns Fund?

Baroness Berridge (Con): My Lords, I can assure the noble Baroness that local enterprise partnerships are, as the report outlines, one of the solutions here in opportunity areas. They are funded by a grant to the local authority, so it is up to the local authority to then put the stakeholders around the table, and the LEPs are very much involved in that. We are also trying to support disadvantaged children nationwide by developing a national tutoring programme.

Baroness Smith of Newnham (LD) [V]: My Lords, the report makes clear that both place and education have significant impacts on social mobility. What assessment have the Government made of the additional impact of Covid in further exacerbating such differentials?

Baroness Berridge (Con): My Lords, the noble Baroness is correct. In terms of the impact of Covid, we have recently commissioned Renaissance Learning to assess children as they return to school, and that is being evaluated by the EPI. One reason that is very positive is that it will not be an additional burden on teachers. Renaissance Learning is a tool that schools already use, so they have baseline data and, as they begin to use the same tool again, we should have an assessment as soon as possible of where children are in their education.

Lord Baker of Dorking (Con) [V]: My Lords, I must declare my interest as the promoter of university technical colleges, which are major agents of social

[LORD BAKER OF DORKING]

mobility, as we have a very challenging intake. I give just one statistic. In July of this year, our UTC in Tower Hamlets, the Mulberry UTC, had 78 leavers, mainly girls, most with English as a second language, and generally within the school, 40% come from deprived homes. Of its 78 leavers, 69 went to universities to study STEM subjects in health—88%. If you are born in Tower Hamlets, your chance of going to university is just 12%, so 88% compared to 12% is quite good for social mobility.

Baroness Berridge (Con): My Lords, I pay tribute to my noble friend for his tenacity and perseverance with university technical colleges, and thoroughly enjoyed the recent round table that I hosted on UTCs. We are indeed seeing more children from disadvantaged backgrounds going to university: 23.1% went into higher education, the highest proportion since records began. We also know that 59.1% of black students are now entering higher education, so, along with the efforts of UTCs, I pay tribute to the efforts of schools, which are paying dividends.

Lord Bassam of Brighton (Lab) [V]: My Lords, the Social Mobility Commission report looks only at boys, and apparently the model cannot be adjusted for part-time work. What work is being done in government to look at the impact of gender inequalities on social mobility, including issues such as part-time work, increased caring responsibilities and low pay? That way, we can properly judge the policy changes needed to address inequality and social mobility issues for boys and girls, particularly post Covid.

Baroness Berridge (Con): As noble Lords will be aware, I also hold the privilege of being the Minister for Women. Unfortunately, the link data that the LEO relies on does not contain women's data at the moment, but we are aware of the increased caring responsibilities that women are taking on, particularly during the pandemic. Subject to consultation, there will be an employment Bill that will make flexible working the default option, unless there is good reason otherwise. There is also a proposal for a £1 billion childcare fund, so we are aware of the importance of that issue for women in the workplace.

Viscount Colville of Culross (CB) [V]: The commission's report says that,

“a long-run shift to further homeworking would open up new opportunities that could spread ... high-quality jobs more widely across the country”.

What are the Government doing to ensure that residents in deprived areas can easily access well-paid public sector jobs by working from home? That is particularly important in this time of Covid.

Baroness Berridge (Con): My Lords, I am sure that the noble Viscount is aware that, even before this current situation, the Government had a specific initiative in relation to their workforce in Whitehall to look at moving as much as possible of the government function outside London. Around half the Department for Education's workforce is outside London, and we are

major employers in places such as Darlington. In relation to opportunity areas, teaching is obviously not a work-from-home job, but this has been about attracting teachers to those opportunity areas, and in many of them it has been successful.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has elapsed. We now come to the fourth Oral Question.

Trade and Agriculture Commission and Trade Remedies Authority *Question*

12.52 pm

Asked by **Baroness McIntosh of Pickering**

To ask Her Majesty's Government what is the budget for (1) the Trade and Agriculture Commission, and (2) the Trade Remedies Authority.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, the commission members are unpaid and are reimbursed for reasonable travel costs. They are supported by a secretariat run by DIT, made up of officials from various government departments and paid for out of their respective departmental budgets. We estimate the cost of the commission's secretariat to be £770,000 over the duration of its term. The 2020-21 financial year budget for the Trade Remedies Investigations Directorate is £12,210,307. Once established, provisions will be made in accordance with usual procedures to fund the TRA.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am grateful for that Answer. It confirms that the Trade and Agriculture Commission is not independent but run entirely by the Department for International Trade. Will my noble friend concede that there is a widely held view that the commission should become a permanent body or, as suggested by his adviser, Henry Dimpleby, replaced by an independent, permanent body to make sure that the commission and its standards are statutory, and that it has its own budget, resources and staff. Otherwise, it is a sham, an empty vessel, and is not able to do the work that it has been charged by the Government to do.

Lord Grimstone of Boscobel (Con): My Lords, I am afraid that I do not agree with my noble friend. The commission is an independent body and is made up of independent-minded representatives from across the agriculture, retail, consumer, hospitality, animal health and environmental sectors. It questions their integrity to think that they are other than completely independent.

Lord Davies of Gower (Con): With regards to the Trade Remedies Authority and its resourcing, given that we are fast approaching the end of the transition period and in an uncertain climate, if I may put it that way, can my noble friend assure us that the authority

will, come January, have sufficient resources to be effective and capable of supporting ongoing and topical tariff issues between Boeing and Airbus, given all the implications for competitiveness and manufacturing, which means so much for employment, particularly in Wales?

Lord Grimstone of Boscobel (Con): My Lords, current plans are for the TRA to have 129 posts. Currently, more than 75% are filled within the TRID. I am certain that there are enough resources and the authority will be able to undertake the duties given to it.

Baroness Hayman (CB): My Lords, during our debates in Committee on the Trade Bill, Ministers have resisted making amendments to align trade policy and agreements with our environmental and climate obligations in the Bill. They have, however, assured us of

“the Government’s commitment to addressing the global environmental challenges that we face.”—[*Official Report*, 13/10/20; col. 1068]

What mechanisms will they put in place to ensure that the TRA and the Secretary of State receive appropriate advice on climate and environmental considerations? Will there, for example, be consultation with the Committee on Climate Change?

Lord Grimstone of Boscobel (Con): My Lords, the Government take their responsibility towards climate change and net zero extremely conscientiously. I can reassure the noble Baroness that we take advice from and consult all those bodies as appropriate when we are considering FTAs.

Baroness Young of Old Scone (Lab) [V]: My Lords, the Trade Remedies Authority is basically about locking the stable door after the horse has bolted and dumping has occurred. Given the Minister’s statement, it has a generous budget compared with that of the Trade and Agriculture Commission, which is about maintenance of standards and preventing dumping before it happens. Is that a sign of how unimportant the Government believe the Trade and Agriculture Commission to be, as already signalled by its stunted remits and limited period of existence?

Lord Grimstone of Boscobel (Con): My Lords, with all due respect, I do not accept the hypothesis advanced by the noble Baroness. The Government have been clear that we will not sign a trade deal that will compromise our high environmental protection, animal welfare and food standards. We are a world leader in these areas and this will not change.

Lord Purvis of Tweed (LD): My Lords, the Government’s extraordinary move to trigger the Parliament Act to prevent MPs from even debating a Lords amendment to the Agriculture Bill on a trade standards commission was described by the Tenant Farmers Association’s chief executive George Dunn as,

“a shocking piece of political chicanery to prevent MPs from a vote on this important piece of legislation.”

If, at Report on the Trade Bill, we seek to strengthen the Trade and Agriculture Commission, as the noble Baroness, Lady McIntosh of Pickering, indicated, will the Minister assure the House that there would be no such chicanery, as described by the Tenant Farmers Association, and that we would be able to pass an amendment that the Government would allow MPs to have a view on?

Lord Grimstone of Boscobel (Con): My Lords, I am happy to remind and perhaps educate the noble Lord on how parliamentary procedures work in this area.

Noble Lords: Oh!

Lord Grimstone of Boscobel (Con): Decisions on financial privilege are taken by the Speaker, following clear parliamentary procedure. The Government do not have any input into this process.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, after the Trade Bill receives Royal Assent, the Secretary of State will have the power to appoint the TRA chair and its non-executive directors and approve the appointment of the TRA chief executive officer, all without independent scrutiny or parliamentary approval. How do those authoritarian powers protect the TRA’s operational independence and ability to make impartial assessments, as required by the Bill?

Lord Grimstone of Boscobel (Con): My Lords, we will be debating these matters during the Trade Bill Committee this afternoon, when I will cover the topic in more depth. However, I can assure the noble Lord that, in appointing people to the TRA board, we will strictly adhere to the code on public appointments and make sure that people who are appointed are all completely fit for purpose.

Lord Cormack (Con): My Lords, I refer my noble friend to the letter in the *Times* this morning from the admirable president of the NFU, Minette Batters, in which she makes a plea for Parliament to, “take back control of our trade policy”, so that British farmers are, “not undercut by imports that would be illegal to produce here”. There is widespread concern on these matters that is given voice by Minette Batters. Can my noble friend give an encouraging reply to her concerns?

Lord Grimstone of Boscobel (Con): My Lords, I am afraid that I have not seen that letter, but I will certainly read it afterwards. The Government are focused on getting trade deals that protect and advance the interests of our farmers and consumers. If a deal is not the right one for our farmers, we will walk away from it.

Lord Curry of Kirkharle (CB) [V]: My Lords, the Trade and Agriculture Commission has been given a very tight timetable within which to produce what we hope will be a meaningful report. Does the Minister accept that the timetable, as given, may be difficult,

[LORD CURRY OF KIRKHARLE]

and would he be willing to extend it if necessary? How soon can we expect a report from the commission to be tabled before the House for Parliament to discuss?

Lord Grimstone of Boscobel (Con): My Lords, the noble Lord is right to say that the TAC has a fixed term, as set out in its terms of reference. Members of the commission accept their appointments on that basis and, I am sure, feel satisfied that there is sufficient time. At the end of the TAC's term, it will submit its advisory report, which will be presented to Parliament by the Department for International Trade at that time.

Lord Morris of Aberavon (Lab) [V]: My Lords, I welcome with pleasure the appointment of the president of the Farmers Union of Wales—a union I worked for as a legal adviser when I was a young man—to the Trade and Agriculture Commission. Specifically, what are the objections to extending the period of the commission's remit, and when will it publish its reports?

Lord Grimstone of Boscobel (Con): My Lords, the commission has a specific task: to provide strategic advice to the Government and write a report on a particular area. As I said previously, it will produce its report at the end of its six-month term and that report will be presented to Parliament. I am grateful for the noble and learned Lord's acknowledgement of the quality of at least some of the commission's members.

Lord Bradshaw (LD) [V]: When this report is completed, on what basis will it be submitted to Parliament? Will it be a document of which we are to take note? Will we have an opportunity to debate it or change the legislation if necessary? How much power will Parliament have once this report is published?

Lord Grimstone of Boscobel (Con): I am sure that that will be discussed in the usual channels and considered by the Leader of the House at the appropriate time. If I find more information, I will write to the noble Lord.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has now elapsed.

Youth Unemployment

Private Notice Question

1.02 pm

Asked by Lord Baker of Dorking

To ask Her Majesty's Government, further to the estimate by the Office for National Statistics in *Labour market overview, UK: October 2020*, published on 13 October, that approximately 60 per cent of those unemployed as a result of the COVID-19 pandemic are aged between 16 and 24, what action they are taking to reduce youth unemployment.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con):

My Lords, the Government are taking unprecedented action to protect young people's jobs, with more than 9 million of them supported via the furlough scheme. Earlier this year, we announced our £30 billion Plan for Jobs, which provides an unlimited number of Kickstart placements, recruits new youth employability coaches and establishes youth hubs across the country. We are also expanding our excellent sector-based work academy programme to offer bespoke opportunities to support claimants to fill job vacancies and pivot into new careers.

Lord Baker of Dorking (Con) [V]: In July, about a quarter of a million 18 year-olds left schools, sixth-forms and other colleges. Most of them are now on the unemployment register. I accept that Kickstart will help trainees to some extent, but much more is needed. An unemployed 18 year-old should be able to take a one-year course, such as an HND or an HNC, to acquire better skills. If they do this, however, they must pay £6,000 or more for the course; often, they have to take out a loan. It is morally and politically unacceptable that we expect 18 year-olds to take out a loan to receive a training course. These courses must be free. I ask the Minister to convey my views to other Ministers because, rest assured, we will need more measures to reduce youth unemployment.

Baroness Stedman-Scott (Con): I am happy to relay to Ministers the noble Lord's concerns about loans and the fact that 18 year-olds are asked to take them out. I will certainly pass his concerns on to the Department for Education as well. However, we have launched a wide-ranging youth employment programme. We have the National Careers Service and the new enterprise allowance. We are doubling the number of work coaches; please do not underestimate the work of these great people and the difference that they are making in getting young people into jobs, which is what we all want.

Baroness Clark of Kilwinning (Lab) [V]: In the 1980s, when I was growing up in the west of Scotland, there were very high levels of youth unemployment. In Glasgow, it stood at 80%. There were few opportunities and little hope. Now, we are walking into something similar. Will the Government agree to hold a job summit to meet trade unions, local authorities, metro mayors and representatives from Scotland and Wales and talk about all the different things that can be done to prevent such a catastrophe? It is the job of the UK Government to lead. Will they take the initiative here?

Baroness Stedman-Scott (Con): I thank the noble Baroness for that constructive idea; I will certainly take it back to the department. However, we are holding what are almost local job summits around the country and people are working closely in geographical areas to achieve exactly what she challenges us to achieve.

Baroness Janke (LD) [V]: Sixteen to 24 year-olds suffer discrimination through universal credit in that they do not receive the full amount. What steps will the Minister take to ensure that these young people

receive a fair, realistic and just entitlement under universal credit so that they can meet their essential living costs and support themselves in seeking new work?

Baroness Stedman-Scott (Con): On young people on universal credit receiving help to get work, I say that we do not compartmentalise any age groups. We are doubling the number of work coaches and we have the job finding support service. We have a £150 million support fund that can be used flexibly to meet the needs of people going into work. The support that young people will get will be second to none and we will turn every stone to get them into work. The noble Baroness will know that lots is being said about universal credit at the moment. I will not add to that but it is being looked at all the time to see how we can make life better for people.

Lord Laming (CB) [V]: My Lords, does the Minister recall a saying that I often heard in my youth: “Idle hands make light work for the devil”? We all know that the years between the ages of 16 and 24 are a period of a transition—but, for many, a transition to what? Services for this age group have been severely cut. We worry about their mental health, drug abuse, county lines and knife crime but, if we do not put in place a robust and effective range of services, these young people are in danger of being left behind. Do the Government have in place an action plan for these young people?

Baroness Stedman-Scott (Con): The Government have an action plan that we are putting into action. It is our Plan for Jobs, which is grossed up into a £30 billion fund. I have already mentioned some of things that we are doing with that money; I do not want to repeat them. I take the point about the devil making work for idle hands, I really do, but what is different here is that young people will get a work coach—a personal coach—who will stick with them. We will do everything we can to make sure that young people transfer into work, achieve their destiny and do not fall into activity that we do not want to see them involved in.

Lord Farmer (Con): My Lords, blunt-instrument measures that force the shielding of the old and vulnerable, instead of allowing them to choose to shield themselves, are devastating areas of the economy in which young workers’ careers flourish. This is widening the divide between young and the old. The Government are balancing many considerations, but are they including the impact of tighter restrictions on intergenerational harmony? And, crucially, what are the Government doing to support young people who are not receiving universal credit?

Baroness Stedman-Scott (Con): The department is committed to providing targeted support for young people, including those who are still claiming jobseeker’s allowance. This support offers basic skills training, traineeships, work experience, sector-based work academies and support that is funded through other organisations. I would say to the noble Lord that immense work is going on with different businesses. I know that my Secretary of State and the Minister responsible for employment will be going to Pinewood Studios to

launch “from aviation to the creative industries”. The Buckinghamshire LEP has done a great job and we hope that there will be opportunities similar to that all over the country.

The Lord Bishop of Oxford: My Lords, I thank the Minister for the compassion and passion in her answers but, as we must acknowledge, this is a very serious situation. The Resolution Foundation now forecasts that unemployment among the 18 to 29 year-olds could triple to 17% by late 2020—a level not seen since 1984. Given the well-established link between unemployment and mental health, and the risks of a mental health epidemic, will the Government undertake to fund support for additional mental health provision, in addition to the education and employment initiatives which she has unpacked, to support this very hard-pressed and vulnerable Covid generation?

Baroness Stedman-Scott (Con): I will say to the right reverend Prelate that we do not underestimate the seriousness of this situation. I think that we are all mindful of the impact that it can have on the lives of all those who are affected by unemployment. On the question I have been asked about mental health, I am not sure what support, fiscally or otherwise, is available, but I shall talk to my colleagues in the Department of Health and Social Care and write to the right reverend Prelate to confirm it.

Lord Brooke of Alverthorpe (Lab) [V]: My Lords, does the Minister recall the complaints that I have been making to her department about the increasingly poor performance of call centres? In conversations I have had with people working in call centres, they have said that they are very short of staff. When will the Government engage with all these call centres? They already have people there to do the training. They should get them to create the jobs that are needed so that proper performance standards are met by these companies—and if they are abroad, the work should be brought back home, which in turn will create many jobs for the young unemployed.

Baroness Stedman-Scott (Con): I can confirm to the noble Lord that I will go back to the department with this and speak to the Director General for Service Excellence. I also offer to meet with the noble Lord so that he can share his concerns verbally and get some answers.

The Deputy Speaker (Lord Bates) (Con): My Lords, I am afraid that the time allowed for this Private Notice Question has now elapsed, so we will move on to the next business.

In fact, the time allowed for this Private Notice Question has not elapsed. We have an extra five minutes, which is wonderful. I therefore call the noble Baroness, Lady Benjamin.

Baroness Benjamin (LD): My Lords, thank goodness for that. Black, Asian and culturally diverse people are more likely to be unemployed, and the 16 to 24 year-olds in this group are no exception. They are finding themselves

[BARONESS BENJAMIN]

at the very bottom of the pile during this pandemic and are hardest hit, with little hope of finding a job. So what pathways and policies are being put in place beyond the six-month Kickstart Scheme to reassure these vulnerable young people, many of whom are suffering from anxiety and depression?

Baroness Stedman-Scott (Con): The point I would like to make to the noble Baroness is that the ethnic minority employment rate reached a record high of 67.5%, which is an increase on the previous quarter. It is not good enough, but it was an upward trend. The point that the noble Baroness makes is completely justified; this is of great concern. I should say that the Government have unlocked an additional £150 million from dormant bank accounts to support charities and social enterprises help vulnerable individuals into work.

The Deputy Speaker (Lord Bates) (Con): I now call the next speaker, the noble and learned Lord, Lord Woolf.

Lord Woolf (CB) [V]: [*Inaudible.*]

The Deputy Speaker (Lord Bates) (Con): We cannot hear the noble and learned Lord, so I shall call the next speaker, the noble Baroness, Lady Stroud.

Baroness Stroud (Con) [V]: [*Inaudible.*]

The Deputy Speaker (Lord Bates) (Con): My Lords, we seem to be having some technical problems, so I suggest that the House should now adjourn for five minutes.

1.17 pm

Sitting suspended.

1.22 pm

The Deputy Speaker (Lord Bates) (Con): My Lords, we will now recommence consideration of the Private Notice Question in the name of the noble Lord, Lord Baker, for a further three and a half minutes. I call the noble and learned Lord, Lord Woolf.

Lord Woolf (CB) [V]: I am grateful to your Lordships for dealing with the local difficulties. The point I emphasise is that, while everything I have heard about the immediate action that the Government are taking is encouraging, I am concerned about when things go wrong, as they will, and youngsters land up in the court system. What action do the Government propose to ensure that the harm already done is not aggravated by that experience?

Baroness Stedman-Scott (Con): It is important that, when young people fall into the court system, they have good role models and mentors to keep them on the straight and narrow. As far as the DWP is concerned, our work coaches will be providing that support. I am not aware of what the Home Office is doing, but I am happy to find out and write to the noble and learned Lord.

Baroness Stroud (Con) [V]: My Lords, it is now clear that the impacts of the Covid-19 pandemic have not been equally distributed across society. Official statistics show that the number of under-25s on universal credit nearly doubled during lockdown, rising by 250,000 to 538,000. What assessment has the DWP made of an age-stratified approach to Covid, which could allow resources to be focused on older people and high-risk patients, while allowing younger and healthier people to keep working and businesses to stay open? Given that the DWP exists to get and keep people in work, what forecasts and representation are the department making to the Prime Minister?

Baroness Stedman-Scott (Con): The impacts of Covid-19 are felt differently by different groups, which is why the Plan for Jobs supports people of all ages. We are supporting the most vulnerable through our wider offer and specific programmes, such as job entry targeted support. People need hope in this very difficult time, and I assure the whole House that we will make sure that there is no poverty of hope, aspiration, determination and inspiration for our young people.

Lord McNicol of West Kilbride (Lab) [V]: My Lords, I declare my non-financial interest, as in the Members' register. With the comprehensive spending review a matter of weeks away, does the Minister agree that organisations such as the National Citizen Service, with a proven track record of equipping young people with life skills and facilitating volunteering activity—both of which contribute to employability—should have their income streams protected?

Baroness Stedman-Scott (Con): I pay tribute to the work of the National Citizen Service. Not wanting to disappoint the noble Lord, I cannot comment on what the Treasury may or may not do, but I am sure that the National Citizen Service has made its representations well known.

Lord Aberdare (CB) [V]: My Lords, there used to be many more opportunities for young people in small businesses in sectors such as hospitality, travel and retail. Which sectors does the Minister believe are likely to offer young people the best opportunities for jobs with small employers in the current environment? What are the Government doing both to encourage young people into those sectors and to make small businesses more aware of the benefits of employing young people with the skills that they desperately need, notably in the digital and STEM areas?

Baroness Stedman-Scott (Con): The three sectors to which I would refer all noble Lords, which are recruiting young people, are health and social work, education and manufacturing. Through our sector-based work academies, we are trying to ensure that young people are equipped with the skills that they will need in the difficult days coming. We are working hard to ensure that.

The Deputy Speaker (Lord Bates) (Con): My Lords, I am afraid that the time allowed for this Private Notice Question has now elapsed.

Communications and Digital Committee

National Plan for Sport and Recreation Committee

Risk Assessment and Risk Planning Committee

Membership Motions

1.27 pm

Moved by *The Senior Deputy Speaker [V]*

Communications and Digital Committee

That Lord Vaizey of Didcot be appointed a member of the Select Committee, in place of Baroness Meyer.

National Plan for Sport and Recreation Committee

That a Select Committee be appointed to consider the effectiveness of current sport and recreation policies and initiatives, and the case for a national plan for sport and recreation, and to make recommendations; and that, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Addington, L, Blower, B, Brady, B, Grey-Thompson, B, Hayward, L, Knight of Weymouth, L, Krebs, L, Morris of Yardley, B, Moynihan, L, Sater, B, Snape, L, Willis of Knaresborough, L. (*Chair*)

That the Committee have power to appoint specialist advisers;

That the Committee have power to send for persons, papers and records;

That the Committee have power to meet outside Westminster;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the Committee do report by 30 November 2021;

That the report of the Committee be printed, regardless of any adjournment of the House.

Risk Assessment and Risk Planning Committee

That a Select Committee be appointed to consider risk assessment and risk planning in the context of disruptive national hazards, and to make recommendations; and that, as proposed by the Committee of Selection, the following members be appointed to the Committee:

Arbuthnot of Edrom, L, (*Chair*), Browne of Ladyton, L, Clement-Jones, L, Mair, L, McGregor-Smith, B, O'Shaughnessy, L, Rees of Ludlow, L, Robertson of Port Ellen, L, Symons of Vernham Dean, B, Triesman, L, Thurso, V, Willetts, L.

That the Committee have power to appoint specialist advisers;

That the Committee have power to send for persons, papers and records;

That the Committee have power to meet outside Westminster;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the Committee do report by 30 November 2021;

That the report of the Committee be printed, regardless of any adjournment of the House.

Motions agreed.

Public Health Restrictions: Government Economic Support

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 13 October.

“Yesterday, the Prime Minister and the Chancellor set out further measures to support local authorities through the crisis. On Friday, the Chancellor set out how we will support jobs in every part of the UK through an extension of the Job Support Scheme, and these announcements build on the Chancellor’s September Statement on the winter economic plan.

Throughout the pandemic the economic policy focus has been clear—to save jobs. Last month, we set out our plans to help viable businesses that can open through the Job Support Scheme. However, businesses that are required to close due to coronavirus restrictions will also need our help. On Friday, the Chancellor announced the expansion of the Job Support Scheme. Where coronavirus restrictions legally require business premises to close, we will pay up to two-thirds of an employee’s salary, up to £2,100 a month, if they cannot work for a week or more. The scheme is nationwide and will run for six months.

In addition, businesses in England required to close will be eligible for a non-repayable cash grant of up to £3,000 a month. This can be used for any business costs. On Friday the Chancellor and I agreed with the First Minister of Wales, the First and Deputy First Ministers of Northern Ireland and the Finance Minister of Scotland on this additional package of support. We have now also guaranteed an extra £1.3 billion of funding to the Scottish, Welsh and Northern Irish Administrations if they decide to do something similar, bringing total guaranteed Barnett funding for this year to £14 billion.

In addition, as announced yesterday, we are providing local authorities in England with around £1 billion to protect vital services, and up to £500 million for local authorities at high or very high risk.

These measures build on the Government’s economic package, one of the most generous in the world, and underline our unwavering commitment to the people of this country.”

1.28 pm

Lord Tunncliffe (Lab) [V]: My Lords, it was disappointing that the Chancellor once again sent his deputy to respond to this important Urgent Question. The Chief Secretary was either unable or unwilling to

[LORD TUNNICLIFFE]

answer the supplementary questions put to him by the shadow Chancellor. Now the Government have had 48 hours to prepare, I shall try again. Why will local areas be provided with support for test and trace only once they are subject to tier 3 measures? Why will the Government not allow £1.3 billion of unspent local grants to be used to support businesses in affected areas? Why are workers in closed businesses expected to face poverty as a result of their employer doing the right thing?

Baroness Penn (Con): My Lords, I watched the Urgent Question in the other place and do not agree with the noble Lord's assessment of the answers given, but I will do my best to supplement them. It is not correct that there is support for track and trace in tier 3 areas only, as £300 million has been provided across all local authorities in England to support local track and trace measures. In addition, up to an extra £465 million has been allocated to further efforts. That includes money for areas in tier 1 with high infection rates, and tiers 2 and 3. I believe that my right honourable friend the Chief Secretary addressed underspend well, but the 67% that workers in closed businesses will receive from the Job Support Scheme will be supplemented, for those on low incomes, by an increase in their universal credit. That could take their incomes up to 88% of normal. I think I have delayed the noble Lord enough.

Baroness Kramer (LD): My Lords, the Chancellor's Job Support Scheme simply is not sufficient to protect jobs or businesses in the reality of the Covid second wave that we face today. It is also less generous than other schemes in Europe, as the Minister well knows. Will the Government now adopt two critical features of the German Kurzarbeit scheme; first, to step up the percentage of wages paid for lost hours, which in Germany goes to 70% and then to 80% the longer the period of lost hours or restricted furlough, and, secondly, continues with extra money for workers with children? Will this Government, like the German Government, pick up the full cost of the support, which, frankly, is beyond the capacity of many businesses to bear?

Baroness Penn (Con): My Lords, in international comparisons, the UK is around the average for these kinds of support schemes. There are some schemes, like those in Germany, in which support goes up over time, but there are others in which the support is reduced over time. As I said to the noble Lord, Lord Tunnicliffe, the support for those on low incomes and those with children will increase as universal credit goes up and as incomes go down, and so those on low incomes will receive more than the 67%.

The Earl of Clancarty (CB): My Lords, it is easy to forget that the combination of nearly full support for the employed and the self-employed, and getting people to stay at home, was part of a suite of measures that was successful, in less than three months, in drastically reducing the number of cases and deaths, if what ultimately was lacking was test and trace. What research is there now on transmission of the virus during a working day? Will the Government consider that such

national measures will be needed again if we are to beat the virus and avoid destitution for large numbers of people?

Baroness Penn (Con): My Lords, a lot of work has gone into the Covid-secure guidelines for workplaces, to enable people to return to work in a Covid-secure way. The approach that the Government are taking is all around balance. National lockdown does not come without costs to people's livelihoods and wider health costs. With the tiered approach we are trying to target measures more seriously in those areas with the highest transmission. We believe that this is the right approach in balancing the different interests that we must face.

Baroness McIntosh of Hudnall (Lab) [V]: My Lords, I draw the House's attention to my interests in the register. I remind the Minister of the plight of performing arts organisations and practitioners in the areas newly affected by restrictions, and indeed, all over the UK. Has she seen the evidence on this subject, given last week to the Economic Affairs Committee? The Culture Recovery Fund, welcome as it has been, is not enough. When will the Government bring forward further targeted support for this very hard-hit sector?

Baroness Penn (Con): My Lords, I will look at that evidence. On the Culture Recovery Fund, the first tranche of funding has just been announced. There will be more to come. Noble Lords are interested in international comparisons: the cultural recovery fund in Germany is £1 billion, whereas in the UK it is £1.57 billion.

Lord Caine (Con): My Lords, I commend the Government for the unprecedented levels of support that they are providing, and for so far resisting a second national lockdown, which would be disastrous. Does my noble friend the Minister agree that it is vital that we keep the economy moving, and, in this context, will the Government at least review the 10 pm curfew on pubs and restaurants, which is having such a damaging effect on the night-time economy in places such as my home city of Leeds, where the impact is simply to throw thousands of people on to the streets at the same time?

Baroness Penn (Con): My Lords, as I said earlier to the noble Earl, Lord Clancarty, the Government's approach is all about trying to find a balance. I acknowledge that the 10 pm curfew has caused difficulty for those in the hospitality sector. That is one reason why there is additional economic support, such as VAT cuts lasting until March. We keep all measures under review so that we can continue to strike the right balance.

Lord Mackenzie of Framwellgate (Non-Aff) [V]: My Lords, the pandemic has hit the north-east of England harder than it has the south, not least because fewer jobs in this area lend themselves satisfactorily to working from home. Will the Government level up by taking account of these factors and considering financial support for those unable to work in this region through no fault of their own because of government regulations?

Baroness Penn (Con): My Lords, that is exactly what the Government are trying to do with the new Job Support Scheme. Where people are unable to work due to their workplace being closed or need to work reduced hours due to a reduced level of demand, the Government are there to step in with support for those workers' wages.

Lord Harris of Haringey (Lab): My Lords, yesterday the Leader of the House misspoke, no doubt unintentionally, when she told us that the level of wage support being offered was in line with that of most other European countries, including Germany. Germany has lower rates of infection and its economy has not been hit as hard as ours has. As the noble Baroness, Lady Kramer, just said, Germany offers up to 80% in wage subsidy. For the public health measures to work, people must be able to comply. If people cannot pay their rent and cannot put food on the table, are the Government not setting up these new local lockdowns to fail?

Baroness Penn (Con): My Lords, as I explained to the noble Baroness, Lady Kramer, the support to people's incomes does not come only from the Job Support Scheme; for those on low incomes, universal credit is designed to go up in value as people's incomes come down, meaning that those on the lowest incomes can expect to receive about 88% of their incomes. On the international comparisons, the figures that the noble Lord quoted for Germany are correct. I am happy to write to him with some other comparisons, so that he can see how we are doing compared with other countries.

Baroness Warsi (Con): My Lords, I congratulate the Government on what has been a substantial and comprehensive series of packages. I declare an interest as set down in the register. Will my noble friend the Minister comment on what may happen months from now? We have seen Governments across the world now indebted, so what conversations, if any, are taking place with our European partners, and, more broadly, in relation to the impact that this level of indebtedness will have on the global economy?

Baroness Penn (Con): My Lords, I do not want to speculate too much about what may happen months into the future. That seems a long time away from where we are now, given the pace of change. We need to distinguish between the short term, when we must do everything that we can to support the economy while we fight the pandemic, and the medium term, when we will need to get public finances back on a sustainable footing. My honourable friend the Chancellor announced today the work at G20 level of international co-operation for the economic response to this crisis.

Lord Blunkett (Lab) [V]: My Lords, I am on record as being in favour of a local rather than a national fiat in dealing with this pandemic, but since Tuesday, 28 million people are now in either tier 2 or tier 3, and where businesses are not mandated to close, inside and outside of tier 3, they are dying on their feet, because in tier 2 and tier 3, people cannot meet others except

for their families outside the home. Surely it is now time to provide a much more comprehensive approach than the Government have managed in this phase so far?

Baroness Penn (Con): My Lords, the financial support that the Government provide to businesses is not limited to those in tier 3. We have the £1.57 billion Culture Recovery Fund for those in the arts and the VAT cut to 5% for those in hospitality, and we have billions of pounds in the Bounce Back Loan Scheme. In the *Winter Economy Plan* we said that we would extend the terms of those loans to halve monthly repayments for most of those who take them out, and of course, there will be no repayments and no interest for the first year while businesses struggle with their cash flow.

The Deputy Speaker (Lord Bates) (Con): My Lords, I am pleased to say that all supplementary questions have been asked. There will now be a short pause while we change Front-Benchers to allow for the next business.

Parliamentary Constituencies Bill

Third Reading

1.40 pm

Motion

Moved by Lord True

That the Bill do now pass.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I will most graciously yield—as they say in the US Senate—to the noble Baroness opposite shortly, but I should like to say to the House that we conclude now our work on the Parliamentary Constituencies Bill, which is the first Bill I have had the privilege of taking through the House. Once upon a time, it was my delight on a shining night, but I find now that I am no longer a poacher but a gamekeeper. I thank all noble Lords who have made this new role so properly testing but also rewarding in doing the work of the House and trying to get the best results on this legislation. I particularly thank my noble friend Lord Young and the noble and learned Lord, Lord Thomas of Cwmgiedd, for their constructive contributions on important amendments, and the many other Peers who spoke. Even though we have come to different opinions, of course I thank the noble Baroness, Lady Hayter, opposite, the noble Lord, Lord Lennie, and the quartet who spoke for the Liberal Democrats, the noble Lords, Lord Wallace of Saltaire, Lord Sharkey, Lord Tyler and Lord Rennard, for the time they put aside to explore their amendments and look for common ground in the margins of our debates.

I am sure noble Lords would like to join me in thanking the clerks and the digital team who have enabled these hybrid proceedings, not always without surprises, but that is no fault of theirs, I am sure. I also thank the officials on the Bill team for their tireless work in helping all of us to see the Bill proceed in a proper manner and to have the information needed.

[LORD TRUE]

We all agree on one thing: the constituencies of the UK Parliament are at the heart of our democracy. They are integral to a voter's right to choose the Government of the day. As a result, the number, size and location of constituencies, and the way they are kept under review and up to date, are matters of the greatest importance. We therefore look forward to the further views of the other place and I look forward to continuing our discussions on these and related issues in future. I beg to move.

1.43 pm

Baroness Hayter of Kentish Town (Lab): The Bill made parliamentary history by being the first to have a Lords Committee stage in the hybrid Grand Committee, so just in case it makes the Government's history by being the first to have all our amendments accepted in the other place so that it is not returned here, I shall take this opportunity on its last outing to thank those who smoothed its passage. As the Minister said, the broadcasters and the parliamentary staff did enormous work to enable those hybrid sessions to take place in the new Moses Room.

I also thank the noble Lord, Lord True, and congratulate him on his maiden Bill. He and the noble Baroness, Lady Scott of Bybrook, made valiant, not always successful, efforts to defeat our arguments, although at every stage they heard our points, explained the Bill and its rationale and assisted us in the handling of business. We particularly welcome the Government's adoption of—if I may call it this—the Young-Cormack amendment, which gives greater confidence about the impartiality of the move to automaticity. The Bill team, who are not here, but who I am sure are listening somewhere, were, as ever, helpful, including to the Opposition. On our side, my noble friends Lord Lennie, who has been mentioned, and Lady Gale did much of the heavy lifting, and we were assisted behind the scenes by our colleagues Catherine Johnson and Dan Stevens.

As the Minister indicated, this is a serious Bill on a serious matter. We congratulate the Government on restoring 650 seats to the other place. As the Minister said, we all want a fully functioning democracy, and how MPs are elected, who they represent and where they represent are part of that, so we welcome the Bill and look forward to its use in a general election—perhaps even an early one.

1.45 pm

Lord Tyler (LD) [V]: My Lords, the Bill will return to the Commons substantially improved. I, too, pay tribute to all who have helped to make it so, including the Minister, the noble Lord, Lord True, by accepting and endorsing the important change originally promoted by the noble Lords, Lord Young of Cookham and Lord Cormack. The Minister explicitly accepted that it is the right and responsibility of your Lordships' House to perform this task, not least when MPs and the governing party may need the corrective of relatively dispassionate, non-partisan, independent scrutiny of electoral law. Although he was not able to endorse the specific proposals for strengthening the independence of the Boundary Commissions, I sense that he was sympathetic there, too.

The Bill is improved in particular because it now provides more continuity and less disruption for all concerned, especially for electors, as well as for those whom they elect. It is more people-friendly and less obsessed with party advantage. Neither the extension of the review periods from eight to 10 years, nor the greater flexibility available to the four Boundary Commissions will materially weaken the Government's declared aim. We may argue, when other legislation reaches us, that their manifesto promise of

“making sure every vote counts the same—a cornerstone of democracy”

will have to be addressed by a more effective voting system but, in the meantime, we can surely agree that to insist on retaining the previously drafted eight-year review or the narrow 5% variation in the electorate quota would be absurd in this context. The exhaustive and forensic analysis by authoritative academics, which has been the core factual evidence provided to us all, should reassure MPs that they can accept these improvements without materially undermining the purpose of the Bill. Had the Bill continued in its original form the majority of constituencies, up to two-thirds of MPs, could have been faced with the knock-on impact of absurdly irrational and irritatingly regular alterations. To stick with the original proposals, at the risk of far too much disruption, too often, for constituencies and constituents, would be as perverse as it would be pointless.

The other very welcome change relates to the inclusion of immensely practical provisions to encourage young people who should be taking on their civic role as full citizens at the age of 18 to be registered. The current shortfall, reported by the Electoral Commission, is scandalous. Some people—even Ministers—seem unaware that there is a firm obligation for these attainers to be on the electoral register. Voting is entirely voluntary, of course, but not so registering, as this is the pool from which juries are appointed—hence, those who are eligible and are not specifically exempted can be fined for failing to do so. I hope that Ministers will not seek to undermine that obligation and will encourage local electoral registration officers to remind people at every opportunity of that civic duty.

The formidable case for this modest reform set out in the letter to Ministers from the group of senior academics should be conclusive. This team, from the universities of East Anglia, Liverpool, Manchester and Newcastle, provides point-by-point analysis of both the need for and the efficacy of these changes. Again, we must hope that MPs will recognise that the very large majority in your Lordships' House for that new clause on registration represents a substantial cross-party, non-party agreement on the way forward.

Finally, on behalf of the Liberal Democrat Peers, particularly those who have worked on the Bill, I express our thanks and admiration to all those who have assisted the House in reaching this consensus success: the Minister and his team, the Public Bill Office and other officials of the House, Members from all sides who have valued the integrity of the democratic process and, most especially, the academic experts who give us their well-researched and non-partisan advice.

1.49 pm

Lord Thomas of Cwmgiedd (CB) [V]: I too add my thanks, and thanks on behalf of the Cross-Benchers, to the Minister for the very courteous way in which he has brought this Bill before the House. Being somewhat inexperienced in these matters, I had not appreciated that this was the first occasion on which he had piloted a Bill through the House. I would never have known that from his magnificent performance. I also thank him for the courtesy he showed me in discussing the various provisions of the Bill in which I was interested. We had very good discussions and they were carried out in a spirit of great courtesy and friendship.

Perhaps I may add two further observations. First, the hybrid nature of these proceedings require me to find a substitute in case the connection from Wales, where the broadband provided is not as good as it should be, fails. I had to ask my noble friend Lord Janvrin to be available to deliver my speech. Having on occasion prepared speeches never to deliver them, I know that that is rather a thankless task, so I am most grateful to him. Secondly, I thank all noble Lords who supported the amendments that I and other Cross-Benchers put forward.

I have two concluding observations. First, thanks are due for the way in which the broadcasting team has so skilfully enabled us to carry through these proceedings. Secondly, thanks are due also to the Bill team and the clerks, and in particular the civil servants in the Cabinet Office, who have been so helpful to me in explaining the intricacies of some parts of the appointments process. Sometimes we do not sufficiently recognise the devotion to duty of those who form our Civil Service and are the backbone of the way in which we run ourselves.

I have one final observation. On the day of Report, I was meant to be at a conference in the United States by videolink. When I explained to those at the conference the reasons for my delay, they expressed the hope that some of the procedures in our House and some of those that we have for altering constituency boundaries might be introduced there and that gerrymandering will be brought to an end. I am sure that this Bill will ensure that we will never have any gerrymandering in the UK.

1.52 pm

Bill passed and returned to the Commons with amendments.

Social Security (Up-rating of Benefits) Bill *Second Reading*

1.53 pm

Debated in Grand Committee on 13 October.

Bill read a second time and committed to a Committee of the Whole House.

Fire Safety Bill *Order of Commitment*

1.54 pm

Tabled by Lord Greenhalgh

That the bill be committed to a Committee of the Whole House.

Baroness Scott of Bybrook (Con): My Lords, on behalf of my noble friend Lord Greenhalgh, I beg to move that the Bill be committed to a Committee of the Whole House.

Motion agreed.

1.54 pm

Sitting suspended.

Trade Bill *Committee (6th Day)*

2 pm

Relevant document: 15th Report from the Constitution Committee

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, the hybrid proceedings will now resume. Some Members are here in the Chamber, respecting social distancing; others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

I will call Members to speak in the order listed in the annexe to today's list. Members are not permitted to intervene spontaneously. The Chair calls each speaker. Interventions during speeches or "Before the noble Lord sits down" are not permitted. During the debate on each group, I invite Members, including Members in the Chamber, to email the clerk if they wish to speak after the Minister. I will call Members to speak in order of request and call the Minister to reply each time.

The groupings are binding and it will not be possible to degroup an amendment for separate debate. A Member intending to press an amendment already debated to a Division should have given notice in the debate. Leave should be given to withdraw amendments. When putting the question, I will collect voices in the Chamber only. If a Member taking part remotely intends to trigger a Division, they should make this clear when speaking on the group.

Clause 6: Provision of advice, support and assistance by the TRA

Amendment 80

Moved by Lord Rooker

80: Clause 6, page 4, line 32, at end insert—

"(5) The TRA may publish in such a manner as it thinks fit—

- (a) any advice given under this section, and
- (b) any other information in its possession, from any source.

(6) Before deciding to publish any information under subsection (5), the TRA must consider whether the public interest is outweighed by any consideration of confidentiality."

Member's explanatory statement

The purpose of this amendment is to give the TRA the same powers as the Food Standards Agency to reinforce its operational independence.

Lord Rooker (Lab) [V]: My Lords, I shall be brief in moving this amendment. It is partly probing and partly serious, and in due course I shall probably reserve the right to come back to it on Report.

I referred to the idea for the amendment in my Second Reading speech at col. 712 of *Hansard* on 8 September. I accept of course that the two bodies, the Trade Remedies Authority and the Food Standards Agency, do not have the same legal status. The Food Standards Agency is a non-ministerial government department whose staff are civil servants, and indeed its board would make such a decision as implied in the amendment. It is the principle that I seek to transfer, which has worked quite successfully in the legislation for the Food Standards Agency for over 20 years, under Governments of all parties—in other words, the principle of transparency and openness when dealing with what can sometimes be confidential matters.

The power is there, as I say in my explanatory statement, to be a further guarantee to reinforce the operational independence of the authority. No one is ever going to believe that any of these bodies—set up at the behest of Ministers and perhaps fulfilled without proper due process, in the way that all bodies should be—are actually operationally independent. The one way to ensure that is to give the body such a power. I fully accept that that is very unusual—government departments, in the main, do not understand how the Food Standards Agency legislation came to provide such a power—but it was freely given by the Government and accepted by Parliament in the 1999 legislation. To the best of my knowledge, it has not actually been used, in the sense of being a sanction.

I referred at Second Reading to a stench of corruption about this Government—not as individuals, but there is a general feeling that something is not quite right about the way things are being done. Any wayward move on a trade deal—that is the polite term—could be avoided if those who wanted to be a little wayward knew that the TRA had such a power. That is where the idea of a sanction comes in: it would be established in primary legislation, even though I suspect, and sincerely hope, it would never be used. Then, we could better trust the trade deals, which is the important, central point. I beg to move.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I have listened with interest to the noble Lord, Lord Rooker. While I am in favour of transparency and of what he called the ability to sanction, I am also cautious when it comes to the disclosure of information from any source. I can see that with food, there is a public health issue that might override everything else, but I question whether the comparison is the right one when expanded more generally. Much information will be submitted to the TRA from UK and overseas companies that is commercially confidential and has been given on the understanding and indeed requirement of confidentiality—among other things, under WTO treaty obligations.

I will leave it to the Minister to reply, but it seems to me that the amendment, maybe unintentionally, goes too far and could undermine international co-operation or even leave the UK in breach of international rules. Not that I would expect the TRA to do that, but it

should be clear that it is not in contemplation, so as to avoid international misunderstanding. Maybe the amendment could be worked on to include some acknowledgement of those constraints.

Baroness Ritchie of Downpatrick (Non-Aff) [V]: My Lords, I support Amendment 80 in the name of the noble Lord, Lord Rooker, which is trying to create levels of transparency in the Trade Remedies Authority similar to the principles of openness and transparency that underpin the Food Standards Agency.

There is no doubt that the TRA must have operational independence to enable transparency and prevent any form of corruption in trade deals. We are in a new dispensation that requires such trade deals to bring benefit and, obviously, to be open, subject to the issue of confidentiality which, I believe, the noble Lord, Lord Rooker, covers in his amendment. In many ways, I suppose there is also that direct read-across with the need for an international trade commission, but that was dealt with in previous amendments on Tuesday in your Lordships' House.

We are all aware of the concerns about hormone-infused beef, chlorinated chicken and other issues surrounding corruption. We therefore need those high standards of transparency and openness. In that respect, the model of transparency and openness ushered in by previous Governments back in 1999 and 2001 with the Food Standards Act, which set up the Food Standards Agency, provides a useful paradigm for the transferral of those principles.

There is undoubtedly a need for the Trade Remedies Authority. It should publish advice, and any information issued should be subject to issues of confidentiality. I believe that the amendment would enable openness and transparency and help to prevent the concern that pivots around the issue of corruption. I will be happy to support the noble Lord, Lord Rooker, if he wishes to bring the amendment back on Report.

Baroness Kramer (LD): My Lords, I join the noble Lord, Lord Rooker, my noble friend Lady Bowles and the noble Baroness, Lady Ritchie, in favouring transparency, in particular for its salutary effect on the independence of a body such as the Trade Remedies Authority. I say that after looking at the report from the Select Committee on the Constitution, which is hot off the press. It speaks with real frustration when it says:

“We remain of the view that the Bill's skeletal approach to empowering the Trade Remedies Authority is inappropriate.”

The committee points out that the TRA must have regard to guidance published by the Secretary of State but says, quite accurately:

“There is no further indication of the content of such guidance.”

It emphasises that

“it is not clear why, more than two years after the previous version of the Bill was introduced, the functions and powers of the Trade Remedies Authority cannot be set out in more detail in this Bill.”

So I think we can all agree with the underlying purpose of the amendments tabled by the noble Lord, Lord Rooker, and others that focus on trying to flesh out the contents of the Bill so that this House, and the other House, have a clue about what exactly we are signing off on.

Transparency is particularly crucial when it has direct implications for consumers, especially where safety is a concern. I am sure that is the logic behind the powers of the Food Standards Agency to make disclosures; I would like to see that logic carried over into the TRA. However, as my noble friend Lady Bowles identified, we must recognise that the TRA will be drawn into a wide range of industry sectors, where revelations may well have no safety implications and might be commercially sensitive. So, like my noble friend, I would like a more comprehensive set of criteria than those in the amendment as drafted. I say this in case the noble Lord, Lord Rooker, decides to bring the amendment back on Report. I recognise that, in Committee, we are discussing the principles of an amendment and not the precise wording. I am sure that none of us wishes to discourage applications to the TRA when justified, and nor would we want it used as a weapon of unfair competition. So getting the language right is important, and it is something that could be addressed in a further drafting exercise.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank my noble friend Lord Rooker for his very good probing amendment. He has a habit of picking up on issues which, on first sight, seem not to be mainstream—but he is absolutely right that this is important, and I think it will be of long-lasting concern.

We believe that the creation of the Trade Remedies Authority is both necessary and welcome, but we are worried that, as presently constituted, the TRA lacks the stakeholder engagement or parliamentary oversight and accountability that would give it the visibility and independence that it needs. To this list, thanks to my noble friend Lord Rooker, we should add the question of transparency. It is up to the Minister, when he comes to respond, to explain how independence and accountability will be achieved without the TRA having the power to publish such information as it sees fit. I look forward to his response.

Viscount Younger of Leckie (Con): My Lords, Amendment 80, in the name of the noble Lord, Lord Rooker, seeks to provide additional powers for the Trade Remedies Authority to publish information that it holds and advice it provides to the Secretary of State. This was not an amendment raised during the passage of the 2017-19 Bill, so it is interesting that he has chosen to raise it now. However, I fully recognise his desire to ensure that the TRA is impartial, objective and transparent, and I appreciate the opportunity to debate this aspect briefly. As I have said, the Government share these objectives. As can be seen from the trade White Paper that we published in 2017, they have been our guiding principles in establishing the TRA as an independent body. They are at the very heart of the trade remedies system set out in the Taxation (Cross-border Trade) Act 2018 and in the Bill.

The role of the TRA is to gather and assess information from manufacturers, businesses and others to establish whether there is evidence that trade remedy measures are needed to protect domestic producers from injury caused by unfairly traded imports. The TRA's decision on whether to recommend the imposition of measures will be dictated solely by the evidence available to it,

in accordance with WTO rules, as implemented into the United Kingdom's own legal system, and nothing else.

2.15 pm

As the noble Baroness, Lady Bowles, eloquently and clearly indicated, to fulfil its role the TRA must be trusted with confidential and often business-critical information. However, it must also ensure that parties have access to the information they need to represent their interests. The way that it treats information is therefore crucial, as much to meet the requirements set out under WTO rules as to ensure that businesses can have the confidence to bring, or participate in, investigations. That is why the Taxation (Cross-border Trade) Act 2018 and related secondary legislation set out a clear framework for transparency and the handling of confidential data. Given a few of the questions that noble Lords have raised this afternoon, it may be appropriate for me to write a letter with my noble friend Lord Grimstone clarifying the transparency that is already there as part of that Act. I will speak to officials after the debate to look at that aspect.

As part of its role as the UK's investigating authority, the TRA is also able to advise and assist the Secretary of State, including in cases where trade remedy measures recommended by it are subject to an international dispute. While it is the Government's responsibility to represent and defend the UK in such cases, the TRA may hold important information and evidence needed for the UK's defence. On that basis, I do hope that the noble Lord, Lord Rooker, will be content to withdraw his amendment.

Lord Rooker (Lab) [V]: My Lords, I am very grateful for all the comments on this technical amendment, if I can put it that way. I say to the noble Baronesses, Lady Bowles and Lady Kramer, that I fully accept that “from any source” in proposed subsection (5)(b) looks dramatic. Frankly, I just lifted the text straight out of the Food Standards Act 1999. That is exactly where I got the wording; in fact, there are a few more caveats built in—I think it is in Section 19—but it did not seem appropriate to have a huge probing amendment. Of course, proposed subsection (6) lays down a provision for checking on it.

The central point is that it is not for the TRA to simply publish its evidence—it “may” do. In the main it will not, but if Ministers receive advice on a wayward trade deal that they decide not to accept, the TRA should have the right to let everybody know what advice it gave. That is where the sanction comes in, in terms of being open. Nevertheless, this has been a useful debate and I will look at it again to see whether it is worth coming back to. I will be happy to receive a letter from the Minister and, obviously, I will look at it to decide whether to bring the amendment back on Report, because I do think that the issue has legs. For now, I beg leave to withdraw the amendment.

Amendment 80 withdrawn.

Clause 6 agreed.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): We now come to the group beginning with Amendment 81. I remind noble Lords that anyone

[BARONESS GARDEN OF FROGNAL] wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this amendment or anything else in the group to a Division should make that clear in debate.

Amendment 81

Moved by Lord Stevenson of Balmacara

81: After Clause 6, insert the following new Clause—

“Board of Trade Appointments

Appointments to the Board of Trade may only be made—

- (a) following the recruitment process set out in the Governance Code for Public Appointments,
- (b) under the supervision of the Commissioner for Public Appointments, and
- (c) after appointees have appeared in front of the Select Committee for International Trade of the House of Commons.”

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this group covers a lot of ground, including some more discussion on the Trade Remedies Authority, on Board of Trade appointments and on trade advisory groups. In rising—not literally—to move Amendment 81, I shall speak also to the other amendments in my name and that of my noble friend Lord Bassam.

I think that we were all surprised and somewhat shocked at recent appointments to the Board of Trade, but the key issue here is accountability and transparency around appointments to such important bodies. Amendment 81 seeks to establish a public process for board of trade appointments, including advisers to the board. When the Minister comes to respond, I would like him to explain why such appointments do not follow the recruitment processes set out in the Governance Code for Public Appointments, why they are not made under the supervision of the Commissioner for Public Appointments and why prospective appointees—and certainly the senior ones—do not appear in front of the International Trade Select Committee.

Amendments 83 and 106 seek to broaden representation on the trade advisory groups and the TRA. Over the summer, the Government, rather surprisingly, cancelled all their previous arrangements for discussion about trade and launched 11 new trade advisory groups “to support the UK’s ambitious trade negotiations.”

Apart from the agri-food trade advisory group, there is a considerable lack of wide representation, particularly for the trade unions, which Amendment 83 seeks to address.

Amendment 83 also refers to NDAs—non-disclosure agreements. In June, the Government requested that members of the expert trade advisory groups sign an NDA for seven years to be able to see confidential material relating to trade negotiations. One appreciates that there will be confidential material, but seven years seems out of proportion. Many groups, including the TUC, said that they simply could not sign such an NDA because it would limit their ability to consult their members. That is an important point to bear in mind. The sharing of documents is obviously not to be encouraged while trade negotiations are continuing, but can the Minister say when he comes to respond

that the process of reviewing the NDA will end, why seven years was selected and why he thinks it so important that it should be in place?

In previous debates, I have said that Labour is also worried about the Trade Remedies Authority lacking effective stakeholder engagement across sectors and regions. Therefore, Amendment 106 would:

“ensure that the Trade Remedies Authority includes, among its non-executive members, representatives”

of

“producers ... trade unions ... consumers, and ... each of the United Kingdom devolved administrations.”

On the TRA, the TUC has said that without trade union representation

“There is no guarantee provided that the non-executive members will represent the interests of workers in manufacturing sectors who will be severely affected by the dumping of cheap goods such as steel, tyres and ceramics.”

Such dumping has already happened recently. Amendment 108 would also ensure five-year terms for members of the TRA, renewable for a further term, to ensure a reasonable turnover.

Ultimately, we need to ensure a degree of transparency and accountability for trade advisers and trade negotiations. The Government insist on trying to hold these away from public scrutiny. These bodies are part of the process and they could, with advantage, listen to these arguments and open them up to a wider group of people. I hope the Minister will view these amendments as proportionate and see them as offering solutions that actually strengthen the Government’s hand in negotiations. I beg to move.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I shall speak primarily to Amendment 81, in the name of the noble Lord, Lord Bassam, ably if very restrainedly just set out by the noble Lord, Lord Stevenson, and to which I attached my name, as did the noble Lord, Lord Rooker. Since we have yet to hear the explanations for Amendments 83, 106, 108 and 113, I will simply say that I offer the Green group’s support to all of them to increase the transparency and representativeness of advice to the Government. I particularly note the strong cross-party support for Amendment 106 and look forward to hearing the explanations for Amendments 110 to 112.

However, I turn to Amendment 81, which is about Board of Trade appointments—or, to give it its full title, the Lords of the Committee of the Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations. As an aside, I think that the Government might use this legislative opportunity to bring our constitutional arrangements out of the 17th century, at least in a small way, by modernising the name.

However, Board of Trade appointments might normally be considered a rather arcane matter and something that would be of little public interest, although there would probably be a general assumption, if you were to be brave enough to survey 100 members of the public in the street, that such important roles would, of course, be filled by a fair, competitive and transparent procedure.

Then, of course, we come to Tony Abbott. Should my accent have yet to do so, I remind everyone that I maintain a residual interest in Australian politics. Your

Lordships' House has a tradition of politeness and a different kind of language to that often used in the other place. Normally, I do not find that a constraint; today, I do. Therefore, I will simply produce a factual list: there is clear evidence of misogyny, homophobia, climate change denial, a lack of trade expertise and a clear conflict of interest. The Government really could not have done a better job of highlighting the importance of the amendment. They might have intended the appointment as a blow in the culture war—it is hard to think of another explanation—but they set out their position of intending to use an important technical role for a clearly political purpose. I say very seriously to the Committee that your Lordship's House has a major constitutional responsibility in ensuring that this amendment is sent to the other place. Defending the Nolan principles should not be necessary, but it clearly is.

Lord Rooker (Lab) [V]: My Lords, I will say a few brief words on Amendment 81, to which I attach my name. It would strengthen the individuals concerned when they have been through quite a rigorous public process for appointment. It would legitimise them and give them greater confidence and an assuredness in dealing with outsiders. If they have been slipped in under the net there is always that residual feeling that, from their point of view, they know that they are there illegitimately.

I speak from personal experience because I have appeared in front of a House of Commons committee. Paragraph (c) does not say that the appointment has to be approved by the House of Commons Select Committee; it just says “appeared”. There have been occasions where people have appeared and there has been a majority against, but the Government still carried on and appointed, which is within the law; they are perfectly entitled to do so.

Those House of Commons hearings are not perfect. I appeared, as an ex-Minister, as the putative chair of the Food Standards Agency. It is true to say—as the record shows—that I was asked more questions in the session about my previous role as Housing and Planning Minister, dealing with some of the constituency matters of the members, than about food standards. It was a bit frustrating, but, nevertheless, they are the ones who ask the questions, and that is what they chose to do.

However, the fact of the matter is that it gives you a greater degree of legitimacy if you have gone through a process. If there has not been one and it has been a ringing-up by chums or a tap on the shoulder, you do not seem legitimate. In the end, it shows. Therefore, I strongly advise the Government to beef up the public appointments process. There may be other ways of doing it, but the fact is that we have some tried and tested systems in this country for public appointments. We have been able to lead in some areas, and this is one where we should not be backsliding; we should use the most rigorous public appointments process that we have because it legitimises those so appointed.

Lord Wigley (PC) [V]: It is a pleasure to follow the noble Lord, Lord Rooker, and I appreciate the very great contribution he is making to our Committee's work, as do many other colleagues. I am so glad that I

can contribute briefly today after having been frozen out of our last session. I was very grateful to the noble Baroness, Lady McIntosh, for explaining my discomfort in having to follow the deliberations of this Committee on Tuesday but being prevented from speaking. Although my name was on amendments on the most recent Marshalled List then available, it was not on the previous list, from which the Committee was working. This may be a matter to which the appropriate people in the House may wish to give some consideration at the appropriate time.

I will speak to Amendment 106 in this group, in the name of the noble Lord, Lord Stevenson, and I am grateful to him for including the need for the Secretary of State to include a representative of each of the devolved Administrations on the Trade Remedies Authority in a non-executive capacity. On many occasions, we have addressed the need to include the devolved Governments in all such matters, and I will not repeat the arguments for ensuring that there is harmonious working and mutual understanding between the TRA and the devolved Governments. Having their voices there will ensure that any potential issues are recognised at an early stage and will in this way eliminate avoidable misunderstandings.

Likewise, I have added my name to Amendment 109, which proposes a similar provision in relation to the TRA advisory committee. Of course, I support the inclusion of other voices, as provided for by other amendments, and I have very much sympathy with the points made by the noble Baroness, Lady Bennett, regarding Mr Abbott. I hope the Minister can give us some reassurance on these matters.

2.30 pm

Baroness McIntosh of Pickering (Con): I am delighted to follow the noble Lord, Lord Wigley. I fell foul of the procedures myself today—I think I am still a new girl, navigating my way through these extraordinary times, but I pay tribute to the facilities we have and we are grateful to have the hybrid system that is working so well.

I shall speak to Amendments 81 and 83 and later amendments. For the record, I perhaps misled my noble friend the Minister in my question at Question Time, but I have the highest possible regard for members of the Trade and Agriculture Commission—they have proven their independence and their value to date. My noble friend said that they take no money for their role, so we are particularly grateful for their public service contribution. My noble friend will be under no illusion, however: I would like the commission to be independent and to have its own resources, its own staff and its own offices, and I shall continue my little campaign in that regard.

On appointments made under Amendment 81, can my noble friend put my mind at rest? What does the Governance Code for Public Appointments say about non-disclosure agreements? I am sure they do not sit comfortably within the present arrangements.

On Amendment 83 and the trade advisory groups, I noticed in the previous group that we had 17 expert trade advisory groups in July with, I think, 250 representatives. In August, we had fewer representatives and only 11 trade advisory groups. I would like to clarify, if I

[BARONESS McINTOSH OF PICKERING] may, what the current composition is. Do they include, for example, anybody—a British national, ideally—who has first-hand experience of negotiating trade through the EU Commission, which would obviously be hugely beneficial at this time, as we set out negotiations on our own? To what extent is industry involved, either through the CBI or otherwise? I understand that the CBI is represented in the earlier trade advisory groups and it is extremely important, if the CBI is not represented, that we have some kind of business representation.

Can my noble friend also put my mind rest that services, both professional—such as legal services—and financial, have bodies that are represented through the trade advisory groups? If that is the case, could he please explain which they are?

I was delighted to sign Amendments 106, 107 and 108. I support the sentiments behind them and I consider them, at this stage, probing amendments, but it is extremely important that the Trade Remedies Authority also represents those categories. In Amendment 106, under proposed new sub-paragraphs (a), (b), (c) and (d) I would add (e) and (f) to include representatives of business, professional and financial services as well, because services are so important to our future trading potential.

On Amendment 108, I repeat my earlier remarks and endorse the provision that a person should hold office “for a fixed period of five years”, which would, I think, increase the potential for independence. A fixed term would give Trade Remedies Authority members greater security of tenure and therefore reinforce their independence and impartiality. A commitment was given by my right honourable friend the Minister, Greg Hands, in Committee in the House of Commons, that people are appointed on merit following fair and open competition, in keeping with the Governance Code on Public Appointments. The code itself states that there is a strong presumption that no individual should serve more than two terms or serve in any post for more than 10 years, other than in exceptional circumstances. I therefore hope that my noble friend will see fit to put this in the Bill through this amendment.

Lord Lansley (Con): My Lords, I am glad to follow my noble friend. My amendment in this group is Amendment 113, which I shall come to at the end, where it is listed. However, there are two other areas that I shall briefly touch on.

First, Amendment 81, and those linked to it, cover appointments to the Board of Trade, or indeed to the trade advisory groups. I have a disinclination, I have to say, for statute or, indeed, the Select Committees of either House to be reaching into government departments and telling Secretaries of State who they should have to advise them. Amendment 81 probably misses the point, in that there are, as I understand it, very few appointments to the Board of Trade as such; most of the appointments being discussed are appointments of advisers to the board rather than members of the board itself. However, that is neither here nor there from my point of view. If Ministers are able to give the Committee assurances about the balance they will bring, I would be perfectly happy that they are getting balanced advice—that is terribly important.

Secondly, on Amendment 107, the noble Lord, Lord Stevenson, and my noble friend Lady McIntosh are venturing back into the territory I ventured into on Tuesday. I said that there should be a pre-appointment hearing of the International Trade Select Committee of the other place for the appointment of the chair. I await a letter from my noble friend the Minister explaining why I am wrong. I may well be wrong, but the point was well made by the noble Lord, Lord Rooker: we are dealing here not with the appointment of those who advise the Secretary of State in his own department but an independent body. That independent body is accountable to Parliament, and Parliament should have a say, although not a determining say, in who is appointed to chair it.

I am not proposing, as Amendment 107 does, that these appointments of non-executive members of the Trade Remedies Authority should be subject to consent—that goes further than I would—but the appointment of the TRA chair is important. It has impact and, if not wide public importance, very wide business importance. It is something that should be clearly commented on by Parliament. That does not mean that Ministers cannot go ahead and appoint whom they wish. Indeed, even where there is a pre-appointment confirmatory hearing in other cases, Ministers, when I last looked, on nine occasions made recommendations to which Select Committees objected, and on six of those occasions, Ministers went ahead anyway. It would not prevent Ministers doing what they want to do, but it would give them Parliament’s view, so I am rather sympathetic to that amendment.

Amendment 113 is not about appointments or the membership of the TRA; it refers to Clause 6, which gives the Trade Remedies Authority the power—indeed, the obligation—to give advice to the Secretary of State in a number of respects, and the Secretary of State can request such advice. The Trade Remedies Authority is an independent body; there is a statutory relationship with the Secretary of State and the Secretary of State may ask for advice. For example, and I make no apology for coming back to this, let us say that we are talking about the Airbus and Boeing dispute, and the Secretary of State has asked the Trade Remedies Authority for advice on the “trade remedy measures” adopted by the United States in relation to that dispute, as both sides have secured World Trade Organization consent to the imposition of additional duties. When the Secretary of State asks for that, it is something on which the Trade Remedies Authority should expose for accountability purposes that it has given advice when it comes to the annual report.

It is important, and the fact that its advice has been sought is also important. I do not expect the annual report to go into obsessive or spurious detail, but, when one makes an annual report for an independent body accountable to Parliament, it should tell us how and when this statutory provision has been deployed during the year.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I call the noble Lord, Lord Judd. No? Let us go to the noble Baroness, Lady Bowles of Berkhamsted.

Baroness Bowles of Berkhamsted (LD) [V]: This mixed group of amendments shows that there are a lot of ideas around the TRA and the thinness of the elaborated governance arrangements, which makes appointments all the more a matter of concern. Amendments up to and including Amendment 109, in my name and that of my noble friend Lady Kramer, concern appointments, the important matter of representation and how to ensure that stakeholders have a voice, and where that voice and influence take place.

We support a role for the Select Committees. I have already spoken about how it can be a positive experience all round. We also agree that there must be a voice and policy influence for stakeholders. However, there is a significant difference between where stakeholders are placed in Amendment 106, in the name of the noble Lord, Lord Stevenson, and in our Amendment 109. This difference is important in terms of what independence means for the TRA and it is that which I wish to probe, but the amendments both show that there are issues around devolution, regional representation and dispute resolution that are missing, as indeed they are in the internal market Bill.

Much of the concern about representation stems from the economic interest test. As I said on Tuesday, it has the potential to play an important part in final decisions about applying remedies and requires analysis of various socioeconomic factors, including effects in geographical areas. The test echoes the EU interests test but has been further elaborated, and as it only covers the UK, offers scope for greater granularity. Guidelines issued in 2019 broadly envisage the economic interest test being technical, but they also say that there should not be an over-prescriptive methodology. While such flexibility may well be appropriate, it does not diminish anxiety.

No other country has quite the same test. The EU's is nearest, but it has majority voting of member states in Council as a final decider. On the economic interest test, we have the TRA and, in some very limited circumstances, an override possibility for the Secretary of State and then the Upper Tribunal.

The TRA will carry the burden of proof of having to show a disproportionate effect in order to remove or dilute a remedy that is otherwise shown as justified under international trade law criteria. This could be controversial, pitching consumer versus jobs and upstream jobs against downstream jobs that may be in different areas. There is also a requirement to consider competition and market structure, which at its core is also about consumers.

Reducing an otherwise justified remedy will inevitably cause upset—which is why most countries avoid it. It potentially puts the TRA in the position of “picking losers”, so of course stakeholders want to be there to make sure that they are not the losers. Even though there will be hearings and submissions involving all interested parties, there is reasonable justification for stakeholders having some closer involvement in the evolution of the policy, especially for the devolved Administrations.

2.45 pm

This far, we agree with the noble Lord, Lord Stevenson, and I hope that the Minister takes note that something is missing. However, we cannot disregard the international background, which is that trade remedies are sensitive measures. WTO rules are detailed and clear, and transposed into UK law, meaning that legal challenges can, and no doubt in due course will, be made to the Upper Tribunal and to the WTO if assessments and procedures are not legally correct.

In the internationally required steps establishing the legitimacy of a remedy, it is vital for the TRA board to be, and be seen to be, free of bias from any source. It is worth noting that the TRA is not set up like the CMA, where the board is at arm's length from panels that make decisions.

In Amendment 106, the noble Lord, Lord Stevenson, has suggested that the non-executives of the TRA include representatives of a range of stakeholders. I am concerned about the term “representative”, as it could make the TRA into an organisation of stakeholders. If individuals are there to represent interests and influence results of individual investigations, how can that make the TRA independent or look independent? It would be at risk of failing the international perception test.

It would also gobble up all the independent NED positions, which I reckon at a maximum of six after the chair, chief executive and at least one other executive, leaving no separate space for other expertise and the usual business duties without enlarging the board, unless there is doubling or tripling up of roles. If we look at the CMA as an example, we see that it has four executive members on it. The recent adverts for TRA non-execs said that it sought between three and five, so that gives the direction of travel on numbers. On the other hand, if the intention is that, collectively and individually, the TRA NEDs should have knowledge and experience relevant to those various categories, that is different and one would expect it along with other kinds of diversity, although it could still become numerically challenging.

Our Amendment 109 also addresses the matter of stakeholders and would create instead an advisory committee or committees, which would take care of the international perception test concerning independence for the board. The list of stakeholders should probably be longer; for example, to include English regional or LEA input, maybe via a sub-committee. It is possible for the TRA itself to set up such an advisory committee, but I tend to think that it should have legislative status, especially for the devolved Administrations, and maybe its chair should attend the TRA board.

The rest of our amendments in this group are to different matters. Amendment 110 relates to the transfer of liabilities from the Trade Remedies Investigations Directorate, which is done under Schedule 5, and includes liabilities such as pensions. The staff transfer scheme as defined in Schedule 5 seems to be very flexible and, under paragraph 2, specifically allows for transfer of things that normally would not be transferrable, and it can create rights and liabilities. What Schedule 5 does not seem to provide for, unless it is buried in other regulations, is how funding covering the liabilities

[BARONESS BOWLES OF BERKHAMSTED]
is assured to the TRA. Therefore, Amendment 110 would add to paragraph 29 in Schedule 4 that funding should also cover liabilities transferred under Schedule 5. I hope the Minister can explain whether this is already catered for and, if not, why not and whether the Government will put forward such an amendment.

Amendments 111 and 112 would add to the requirements of the annual report to cover activities as well as functions, information on the recommendations accepted or rejected by the Secretary of State, an assessment of the impact on consumers and jobs, and the weighting given to various elements of the economic interest test.

Could the Minister also comment on why the annual report goes to the Secretary of State, who must then lay it before Parliament? Although the schedule says that the report must be laid, there is no timetable, so could it be excessively delayed? I notice that the sequence adopted in the internal market Bill is somewhat different, with the proposal being for reports to go directly to Parliament from the CMA. If the TRA is independent, it should be able to publish its annual report and have similar arrangements as under the internal market Bill, including copies being sent directly to the devolved Administrations.

Baroness Noakes (Con): My Lords, I want to comment on three amendments in this group. First, on Amendment 81, I will echo some of what my noble friend Lord Lansley has said. As I understand it, the Board of Trade is composed only of privy counsellors, and I believe they are normally Cabinet Ministers. The noble Baroness, Lady Bennett of Manor Castle, read out its full title, and I think embedded in there is “privy counsellor”. It would be wholly inappropriate for Parliament ever to be involved in the appointment of privy counsellors to a body.

As we have heard, particularly from the noble Baroness, Lady Bennett, what people are really upset about is the appointment of Tony Abbott. But he is, of course, an adviser to the Board of Trade, and I do not think there is any precedent for Parliament to be involved in the appointment of advisors or for the normal public appointment processes to apply necessarily to advisers. So I would not support Amendment 81 at all.

The noble Baroness, Lady Bowles of Berkhamsted, has said most of what I wanted to say in respect of Amendment 106. I would like to underscore that I do not think that boards of bodies such as the TRA should have representatives on them. The board is a place where the governance of the body is played out, which is why there is a majority, under the schedule, of non-executives. It is important to remember that it is not there to bring a particular point of view, but to make sure that the body is itself well managed and well governed. The issue about bringing stakeholder interests to bear should be covered either by committees—whether we need a special committee to be hard-wired into the schedule or the TRA can use its committee power in the schedule—or, more probably, by ensuring that there are proper mechanisms for consultation in the formulation of any policy. I do not believe we should be using the board in that way. I also note in passing that the representatives are to include each of

the United Kingdom devolved Administrations, which leaves England out in the cold. There is no representation for England, which is often one of the failings of devolution—having representatives from the devolved Administrations but forgetting that England is also rather important.

Lastly, Amendment 107 would require the House of Commons, via its International Trade Committee, to consent to the appointment of non-executives to the body. Again, this is unprecedented. It is normal nowadays—although it used not to be—for the chairman to be put through a process, either pre or post-appointment, but I do not think that there is any precedent for the Commons to start approving individual members of public bodies. It is unnecessary and cumbersome to clog up committees by getting involved in the many kinds of individual appointments that are made to public bodies.

Viscount Trenchard (Con): My Lords, I have listened to the speeches of the noble Lord, Lord Bassam of Brighton, and the other two proposers of Amendment 81, which seeks to restrict appointments to the Board of Trade. As my noble friend Lady Noakes has pointed out, I think that he intended his amendment to apply to advisers to the Board of Trade. It must be most discouraging for new appointees as advisers to the Board of Trade to hear the criticism of their suitability. I agree with my right honourable friend the Secretary of State that the new Board of Trade should be well advised by experienced people who can make the case for free and fair trade across the UK and around the world. I am happy to see that Tony Abbott, Daniel Hannan and others have been appointed, and I disagree with those who say that people who hold different views on social issues unconnected with trade should not be appointed to such positions. There is, at the present time, great global insecurity as a result of the Covid-19 pandemic. More than ever, the UK needs to be a strong voice for open markets and for reshaping global trading rules, together with countries such as Australia, with which we expect to soon agree on the terms of a new free trade agreement.

In response to the suggestion that appointments to the Board of Trade should be made subject to the Governance Code on Public Appointments, I would say that perhaps the governance code is too restrictive and generally leads to the selection of a particular type of person, excluding those who are able to think outside the box and suggest innovative solutions, rather than those who resist change to practices that will not work well for global Britain in future.

Amendment 83, in the name of the noble Lord, Lord Stevenson of Balmacara, seeks to increase the influence of trade unions over the trade advisory groups. This amendment is also unnecessarily prescriptive, especially as there are representatives of each of the four nations’ national farmers unions on the Trade and Agriculture Commission beside the representative of the Farmers’ Union of Wales. Besides, the further attack on the Government’s prerogative powers on treaty negotiations by exposing day-to-day salient developments in trade negotiations to public scrutiny would seriously detract from our negotiators’ ability to represent British interests successfully.

Amendment 106, in the name of the noble Lord, Lord Stevenson of Balmacara, also unreasonably seeks to restrict the Secretary of State's ability to appoint the board of the Trade Remedies Authority. It is notable that the noble Lord does not think it so important to include people with experience of international trade disputes and business as he does representatives of his four chosen categories. I tend to agree with what the noble Baroness, Lady Bowles of Berkhamsted, said in this regard. However, I suggest to the Minister that it would be better if the chief executive and both executive and non-executive directors were appointed by the chairman with the approval of the Secretary of State. This would result in better corporate governance and lead to smoother functioning of the board.

I agree with the noble Baroness, Lady Kramer, that her Amendments 110 and 111 would be improvements to the Bill. I agree with the intention of her Amendment 112, and I agree with my noble friend Lord Lansley, in his Amendment 113, that the annual report should be as informative as appropriate. Perhaps the Minister could suggest some suitable amendments to that effect, even if he considers these particular amendments to be too prescriptive.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I shall now try and call the noble Lord, Lord Judd. Are you there, Lord Judd?

Lord Judd (Lab) [V]: My Lords, I apologise for the fact that our BT hub has been playing hell with us this morning—and indeed for several days—which prevented my coming in earlier. I am grateful to those who have accommodated my coming in now.

I want to speak briefly but very strongly in support of my noble friend Lord Stevenson's amendments. We are talking about taking back control; the Government have repeatedly told us that the whole purpose of Brexit and the rest is so that we take back control. What does this mean? Above all, it means that we are taking responsibility more fully into the hands of the representatives of the British people in our Parliament. It is therefore very important that, when an appointment is made, Parliament can be reassured that the proper procedures have been followed. It is part of scrutiny; it is the nuts of bolts of scrutiny.

3 pm

As for Amendment 106 and so on, dealing with representation of trade unions and other equally significant organisations in the process, I just do not agree with the noble Viscount. To me, it is common sense and self-evident that the quality of the accountability being exercised by Parliament needs to be informed by those intimately involved in the processes and their consequences.

This is a very sensible amendment. My noble friend's amendments are about how you effectively make accountability to Parliament and the people have muscle and good effect, as well as rhetoric. I am very glad to support him in his amendment.

Baroness Kramer (LD): My Lords, I drafted Amendment 109 essentially in reaction to Amendment 106 proposed by the noble Lord, Lord Stevenson, which

would require the group of non-executive directors of the TRA to include stakeholders. I have no problem with people with those backgrounds and expertise being on that board, but I fear that it could raise false expectations. You could say that this was a particular *bête noire* of mine: non-execs on a board must act in the interests of the organisation on whose board they sit. Membership is in many ways a gagging order, if they have other interests and represent other relevant parties. The noble Baroness, Lady Noakes, pointed out, as did my noble friend Lady Bowles, that their work is very largely procedural and concerns governance: whether rules have been followed, whether risks have been assessed and what remuneration is right for senior executives. However, I believe that stakeholders, especially given the economic importance and potential impact of the TRA, should be able to speak and persuade freely in the interests of the organisations or different nations of the UK, the businesses they belong to or the consumers they represent. That applies just as much to other relevant groups.

Our proposal in Amendment 106 is to create an advisory committee. In my mind at least—and this is not necessarily underscored in the amendment's language—it would be like the two-tiered corporate governance systems that we see in many continental European countries. Of course the TRA can set up committees. However, I am concerned that, as they are written in the Bill, they will have a tendency to be ad hoc and lack status, whereas a board that contains representatives with a specific role and status established in legislation has much more impact and is exceedingly important as a flow of information and advice to the TRA. I pick up a comment which I think the noble Lord, Lord Lansley, made, which is that it is really important that advice is balanced, and this would be one of the mechanisms that would help to ensure it.

I join the noble Lord, Lord Stevenson, and others in their call in Amendment 81 for pre-appointment hearings by the Select Committee on International Trade. These would be for appointments to the Board of Trade—and, as the noble Baroness, Lady Noakes, said, TAGs would probably be thrown into that as well. I spoke on this extensively on Tuesday, and I shall not repeat the comments, as the case has been very well made. The same amendment calls for appointments to be made following the governance code for public appointments. We are in a pretty pass when this House has to put such a requirement in a Bill in regard to such key and important appointments. Clearly, it has to do so because No. 10 has been so clear in its intentions to skirt those requirements wherever possible.

The noble Baroness, Lady Noakes—and I saw the noble Lord, Lord Lansley, nodding confirmation—pointed out that the appointments would essentially be limited to members of the Privy Council. I am really shocked at the thought that the Privy Council mechanism is being used to get around what everyone would expect to be a process that came under the governance code for public appointments. The noble Lord, Lord Grimstone, has a long history with that code, and I hope that he will be sufficiently shocked that he goes back to the Government and discusses

[BARONESS KRAMER]

that issue. All these appointments need to have the absolute smack of integrity, and there must be an absolute absence of cronyism.

Amendment 83 raises the issue of non-disclosure agreements. I was very pleased to see this language in there. I think that the drafting probably needs some work but, again, we are in Committee. Non-disclosure agreements are being widely abused, instead of being kept to their original and narrow purpose of preventing commercial harm essentially by a competitor company, or disclosure of intellectual property, pricing and so on. I have worked with so many whistleblowers who have experienced the impact of these gagging orders, which tend to work very much against the public interest. We need a proper drafting into the Bill of the kind of language that would limit the scope and purpose of non-disclosure agreements to the most restricted kind of necessity that they originally covered, not the expansive use that has become habitual as a way to protect privacy and avoid challenge.

Amendment 110, in my name and that of my noble friend Lady Bowles, again raises the issue of properly funding the TRA, including providing for its inherited liabilities, to protect its independence. I spoke to this on Tuesday, so I shall not repeat myself, but there is a common sense among many of your Lordships that funding the TRA is an issue that has to be challenged. It must not find itself in a position of being short of resource and, therefore, curtailing or basically shaping what it does because of a lack of funding.

Amendments 111 and 112 in my name and that of my noble friend and Amendment 113 in the name of the noble Lord, Lord Lansley, which I think is a very significant amendment, strengthen the reporting requirements of the TRA and finally provide some substance to the report. I spoke on an earlier group of the criticism of this Bill from the Constitution Committee—essentially, of its thinness and skeleton nature. Providing this kind of substance is genuinely critical if the significance of Parliament is to be recognised. As drafted, the Bill, as we have heard on two groups of amendments today, raises issues of transparency and independence. Therefore, like my noble friend Lady Bowles, I find it frustrating and inappropriate that the report of the TRA comes to Parliament only via the Secretary of State. That strikes me as a mark of undesirable dependency. We have been arguing all the way through that the TRA must be visibly, clearly and openly independent. Its ability to report directly to Parliament is surely a litmus test of that.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, we have had a most interesting debate on this group of amendments, particularly touching on many aspects of corporate governance. To put my cards on the table, I am a fervent believer that good corporate governance leads to good decisions. Noble Lords were absolutely right to make their comments about the importance of governance.

I thank the noble Lords, Lord Bassam of Brighton and Lord Rooker, and the noble Baroness, Lady Bennett of Manor Castle, for tabling Amendment 81, and the

noble Lord, Lord Stevenson of Balmacara, for moving it. Noble Lords may be interested to hear that, technically, the only member of the Board of Trade is its president, the Trade Secretary, as it is a requirement that, to be a member, you must be a privy counsellor. The Board of Trade is one of our most historic boards, which is why, as noble Lords can imagine, it was set up that way. My noble friend Lady Noakes was quite right about this, as was my noble friend Lord Trenchard, who added his normal wisdom to our debate.

The Board of Trade advisers are just that: advisers. They are not board members. We brought together experts from business, academia and government, who we hope will use their expertise and influence to help Britain make a stronger case for free trade on the international stage and to encourage more businesses across the UK regions and nations to boost their international trade. They are not policymakers, as such; the board and its advisers take a collaborative approach, focused on promoting the UK regions as destinations to trade and do business with.

The selection process for all advisers is the same: they are first shortlisted by the president of the board; departmental officials then conduct due diligence, in accordance with guidance from the propriety and ethics team at the Cabinet Office. Throughout this, principles are followed that are consistent with those underpinning the Governance Code on Public Appointments, to provide advice on the suitability of appointments. As they are direct appointments, the Secretary of State considers the advice provided and, following No. 10 approval, has the final decision on whether or not to appoint. The board's sole function is to provide expert and apolitical advice to the department. As such, the role of adviser to the board does not carry with it the responsibility to make decisions, hold senior staff to account or have any role in striking trade deals while representing the UK overseas.

I listened carefully to the comments made by the noble Baroness, Lady Bennett, and the noble Lord, Lord Wigley, about Mr Tony Abbott. As the PM has made clear, the Government do not agree with all of Tony Abbott's views; nor do his views reflect the views of the Government. As with all advisers, he has been appointed because of his expertise in trade matters.

I thank again the noble Baroness, Lady Kramer, for her kind words about my small role in public appointments and for explaining the need for all public appointments to be made with integrity. Cronyism must have no place in our public appointment system.

Amendment 83, tabled by the noble Lord, Lord Stevenson, relates to the trade advisory groups established by my department. The trade advisory groups will engage with businesses across the whole of the UK to access the strategic and technical expertise necessary to progress our trade negotiations with new partners across the globe. They have a very wide membership, embracing exactly the types of organisations referred to by my noble friend Lady McIntosh. The names of all members and their affiliations can be found on GOV.UK.

Trade advisory groups are just one part of the Government's external engagement on international trade. We of course recognise the very important

position that civil society organisations, such as trade unions, occupy in our society, particularly the unique insight that they can offer on important issues. I confirm that we are deepening our engagement with trade unions in relation to trade matters and we will announce more details of that in due course.

I have heard the concerns over confidentiality, and I reassure the House that we intend to share sensitive information only where it is relevant to current negotiations and where the trade advisory groups are best positioned to provide advice and expertise. This is information which must of course be protected, because if such information were to be released it may compromise our negotiations with key partners.

3.15 pm

It would have belittled the role of the members of the trade advisory groups if they had not been able to have insights into these confidential matters and to offer their advice in relation to them. Consequently, as a sensible precaution, signing a confidentiality agreement will be a prerequisite to membership of the trade advisory groups. These are in no way gagging orders, but a sensible response to the need to allow members to have access to the information. I agree with the noble Lord, Lord Stevenson, that seven years seems a long period at first blush, but I am assured that such a period of time is customary for agreements of this sort.

I turn to Amendments 106 and 107 on the TRA board, in the names of the noble Lord, Lord Stevenson of Balmacara, and my noble friend Lady McIntosh of Pickering. Amendment 106 seeks to require the appointment of board members from specific interest groups and from each of the devolved Administrations. We conducted a wide process for recruiting members of this board and I am pleased to say that applications for the TRA non-executive positions have been received from a wide variety of backgrounds and from across the UK. Consideration of a breadth of experience has been an integral part of the selection process to date, and we are confident that we will be able to appoint a knowledgeable and strong board. Once that process is completed and noble Lords see exactly who the members are, they will endorse that approach.

We have set out our concerns previously that having board members who are beholden to—or perceived to be beholden to—any particular interest group would undermine the independence of the TRA and the core principles of impartiality and objectivity that underpin our new trade remedies framework. This framework has to be impartial and objective. I listened carefully to the expert views of the noble Baroness, Lady Bowles of Berkhamsted, on this matter and her broad agreement with this approach. I also thank my noble friend Lady Noakes for her endorsement of this. If I may, I will write to the noble Baroness, Lady Bowles of Berkhamsted, to answer some of the other detailed points that she made on this topic.

Amendment 107 would require non-executive members of the board to be approved by the International Trade Committee of the other place and also require the Secretary of State to consult the TRA chair on their appointment. I point out that Schedule 4 already requires the Secretary of State to consult with the chair before appointing non-executive board members.

Giving a parliamentary committee a veto over non-executive appointments would be unprecedented. Decisions on public appointments are made by Ministers, who are accountable to Parliament and the public for the appointments that they make.

Amendment 108, in the names of the noble Lord, Lord Bassam of Brighton, and my noble friend Lady McIntosh of Pickering, looks to fix in statute the tenure of non-executives appointed to the TRA board. The Governance Code on Public Appointments states that it is usual for Ministers to decide on length of tenure and that no individual should serve more than two terms, or more than 10 years in any post. For the TRA board to function effectively, the resilience and memories of the board will need to be protected, which may require a managed turnover of members both now and in the future. Speaking as someone who has chaired many boards, you certainly do not want all members to leave at the same time. Appointing some of the initial board members for less than five years and staggering the process is a sensible mechanism to ensure that not all tenures end together.

Amendment 109, from the noble Baroness, Lady Kramer, aims to allow the TRA to establish advisory committees comprising stakeholders that include representatives of the devolved nations, the Trades Union Congress, and businesses and consumers. The Government agree that the TRA should have this ability, and I am pleased to tell the noble Baroness that Schedule 4 already allows the TRA to establish a committee including persons who are not members or employees. I am sure that the TRA will want to take heed of the comments made by noble Lords today, including those made by the noble Baroness.

The noble Baroness also tabled Amendment 110 to ensure that the costs of transferring staff to the TRA are adequately provided for. I can give the noble Baroness, Lady Bowles of Berkhamsted, complete reassurance about this. Again, this is already covered by the Bill's provisions.

Amendment 111, the next amendment in the name of the noble Baroness, Lady Kramer, specifies that performance of the TRA's activities must be included in its annual report, alongside the performance of its functions. Again, we share the noble Baroness's ambitions in this area, and Schedule 4 requires the TRA to produce an annual report to be laid in Parliament. This report will include detailed information about the TRA's performance, governance and use of resources, as well as details of the work it undertakes each year. I can assure the noble Baroness, Lady Bowles, and other noble Lords that this report will find its way punctually to Parliament, even if that is via the Secretary of State. Any activities the TRA carries out will be in the course of performing its statutory functions, and they will therefore be included in the annual report. It will be a comprehensive document.

Amendment 112, also in the name of the noble Baroness, Lady Kramer, would require the TRA to publish in its annual report details of how the economic interest test has been applied, focusing specifically on the impacts on affected industries and how such impacts affect jobs. I can reassure the noble Baroness that details of the economic interest test will be published

[LORD GRIMSTONE OF BOSCOBEL]

in the statement of essential facts for each recommendation made by the TRA when a case is concluded, so there is no need to publish this information and duplicate it in the annual report.

I turn finally to Amendment 113, in the name of my noble friend Lord Lansley, which would require the TRA and the Secretary of State to publicly share the fact that the Secretary of State has made a request for information in connection with a matter listed in Clause 6(1), together with the date and purpose. Of course, while I recognise this was not my noble friend's intent, requiring the TRA to disclose the fact and the timing of assistance it provides to the Secretary of State could have unhelpful consequences. For example, it may well highlight preparations for a dispute against another country, which may be politically sensitive information.

I hope I have reassured noble Lords about the TRA and the trade remedies system, which are designed to have transparency at their core and to provide independent, expert advice to the Secretary of State, and that on that basis they will therefore agree not to press their amendments.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, I have received no requests from noble Lords wishing to speak after the Minister, so I call the noble Lord, Lord Stevenson of Balmacara.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank all noble Lords for their contribution to this debate. I especially thank those who supported the amendments in either my name or that of my noble friend Lord Bassam, particularly my noble friends Lord Rooker and Lord Judd.

My noble friend Lord Rooker made a very good point about the additional legitimacy which stems from public hearings, and he was picked up on this by the noble Lord, Lord Lansley, and the noble Baroness, Lady Kramer. Their points were strong enough to be convincing, although I am sorry that the Minister did not give a very explicit reason why he was not prepared to accept the amendment as it stood.

I am reminded that when we discussed this issue last time around, we had a slight advantage: we knew that the then Minister, the noble Baroness, Lady Fairhead, had actually been through that process of hearings as she had been the prospective chair of the BBC. Unfortunately, she was not terribly enthusiastic about the process itself, but I think she agreed with the points made today about the additional support it gives to those who have been through the process, and the general sense in which these appointments are, on one level at least, open for wider consideration and discussion.

In thinking through some of the issues raised later in the debate on the particularities of how organisations appoint, recruit and sustain their organisational structures, we need to have regard to the long-running debate—which I precipitated with some of the amendments that we tabled—about whether these people are to be seen as representatives or whether their background, having been gained in particular areas, would be of value to

the organisation concerned. Perhaps I am not as naive as the noble Baronesses, Lady Bowles and Lady Noakes, alleged in suggesting that we needed to have a firm representative structure in place for the TRA; that would be ridiculous.

Taking a step back to look at some of the outcomes of processes to try to have a representative group on boards to help with better decision-making, legitimacy, transparency and all the other issues we are concerned about, it is quite interesting that we do not always get in place the sort of backgrounds reflected by the amendments in front of the Committee. I simply point that out. If the Minister is saying that the advisory committee may be the route here, that the words mentioned in this debate will be reflected on by the TRA, and that he will make sure that this is the case, I think we can feel we have made that point and do not need to continue discussing it.

I have two final points. First, to reassure the noble Viscount, Lord Trenchard, I did not mention any names when talking about appointments to the Board of Trade. Indeed, my amendment was specifically about the absurdity, or the Gilbertian situation we seem to be in, that there is one member and loads of advisers. This is more like a court than an advisory group; I wonder why we go through this charade.

If it is limited to privy counsellors that is one way of doing it, I suppose; it is probably better than some other routes we can think about. However, there are hundreds of privy counsellors. There are probably 100 engaged in this process at the moment—not including myself, of course, but others have been honoured by that. I would not have thought there would be difficulty in finding a privy counsellor if we wanted to make it two instead of one member of the Board of Trade. It really raises the question of why we have a Board of Trade with only one member if it needs advisers to advise it, but does not seem to produce anything one way or the other, yet we have thousands of other people sitting in trade advisory groups and other groups yet to be appointed. I leave that on the table.

My last point is that the Minister was intriguing when he said that the department hoped to deepen its engagement with the trade unions. I am pleased to hear that. I think I can speak for the trade unions to say that they are ready and willing to do what is required. I can only suggest that he gets ahead with his invitation, whatever it is he is going to do.

This is not an attempt to try to hijack things, but the feeling I am left with at the end of this debate, which has been a good, rich and important one, is that there is a bit of ground to make up. All that the Minister can do in using his experience of the processes needed to get fair appointments, the systems that need to be in place in the bodies once they are established, and the engagement with civic society and the wider group of people who are interested and want to support them, is important and will be the sustaining point as we go further down the track. With that, I beg leave to withdraw the amendment.

Amendment 81 withdrawn.

Amendments 82 to 83A not moved.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): We now come to the group beginning with Amendment 84. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this, or anything else in this group, to a Division should make that clear in debate.

Clause 7: Collection of exporter information by HMRC

Amendment 84

Moved by **Baroness Noakes**

84: Clause 7, page 5, line 8, at end insert—

“() Regulations under subsection (3) may not have the effect of making the provision of information compulsory.”

Member’s explanatory statement

This amendment is designed to ensure that compliance with a request for information under subsection (1) is voluntary.

Baroness Noakes (Con): My Lords, in moving Amendment 84 I will also speak to Amendments 87 and 88 in this group. These are all probing amendments. We have now arrived at the trade information clauses. They are much less exciting than some of the other clauses we have debated earlier. At first sight they seem pretty straightforward. We want the Government to have a successful trade policy in our new existence as an independent trading nation again, and the Government clearly need information to inform that policy, so what is not to like?

Clause 7(1) says that HMRC may “request” information from businesses in connection with exports. Nothing in Clause 7 or the Bill more generally requires businesses to comply with such a request. In the other place, my right honourable friend the Minister of State for Trade Policy was clear that trade information was to be provided voluntarily. Amendment 84 would add a new subsection after Clause 7(3) to ensure that the regulation-making power in subsection (3) cannot be used to make the provision of information compulsory.

3.30 pm

In the other place, the Minister stated that information could be provided in

“tick boxes on existing tax returns.”—[*Official Report, Commons, Public Bill Committee, 25/6/20; col. 298.*]

This made me question whether the trade data that the Government would want could in fact be provided by ticking boxes. And, if tax returns were used, would it be possible for a business not to provide the information without incurring the penalties that HMRC can impose in relation to tax returns?

My purpose in tabling the amendment is to ensure that the Government do not impose additional burdens on business by the back door. I have no basic objection to businesses being required to provide information to the Government to assist them with policy formulation, but I do have a serious objection if this imposes significant burdens on businesses without at least a commensurate benefit and proper justification before taking such a power.

My experience is that HMRC routinely underestimates its impact on businesses; noble Lords should read the reports from your Lordships’ Economic Affairs

Committee on making tax digital if they are in any doubt about that. That is why I believe that it is important to establish by this probing amendment whether the provision of information can be compelled or is genuinely voluntary.

Amendments 87 and 88 are somewhat different. They are attached to Clause 8, which empowers HMRC to disclose information for trade function purposes. Those functions are defined in subsection (2) as

“the analysis of the flow of traffic, goods and services ... the impact, or likely impact, of measures or practices relating to ... such flow ... the design, implementation and operation of such measures”.

So far, so good. The opening words of that subsection say that these functions are not exclusively defined. My Amendment 87 omits “among other things” in order to pose the question to the Minister: what on earth would those other things ever amount to, and why can the Government not provide a clear and comprehensive definition in this Bill?

Lastly, subsection (3) prohibits the use of information other than for the trade purposes set out in subsection (1), and also prohibits further disclosure. It goes on to say that HMRC can give consent to such use or disclosure. My Amendment 88 would remove this ability to consent. The clause contains significant offences and penalties in the case of wrongful disclosure but, if HMRC can consent to its disclosure, the protection offered to businesses or individuals is, in effect, meaningless. So can my noble friend the Minister explain why HMRC should be given this power in relation to information that has been collected for trade policy purposes? If it is necessary for HMRC to have this power, can my noble friend explain how its use will be scrutinised?

I beg to move.

Baroness Neville-Rolfe (Con): My Lords, I support my noble friend Lady Noakes on these amendments. Their purport is to protect company data in line with government wishes, if the Explanatory Notes are to be believed—as I am sure they should be. In particular, it is claimed that the provision of data is to be wholly voluntary—that is the crux of the matter here—yet the provisions in the Bill are worryingly vague, as my noble friend explained so well. These amendments would define more closely what can be demanded, and I agree with them.

Data provided under the Act can be shared with other public and private bodies. Unfortunately, data provided to government is not always protected as well as it should be. In an earlier life, I represented Tesco in a competition inquiry. During the course of the inquiry, I was much surprised to be sent confidential data supplied to the competition authority by Morrisons. This was a mistake, of course, but the data was very interesting, as it informed me that Morrisons made more profit on food items than we did. Of course, I ought not to have received that information in the first place. I know of other similar examples of data supplied to government going astray, so I hope that the Minister will not seek to claim that serious mistakes in the distribution of data cannot occur. Since the amendments are fully compatible with the Government’s stated aims, I trust that they will be carefully considered.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I share the concern of the noble Lord, Lord Bassam, and the noble Baroness, Lady Noakes, about the creeping power of HMRC to demand information, potentially from anyone, without any controls or supervision. I am a member of the Finance Bill Sub-Committee, and this is a matter that we, too, are investigating in our current inquiry.

Here in the Bill there is another swathe of powers, or potential powers. I am not against powers to investigate or to make sure that any taxes due are properly paid; the problem comes with generalised powers that can then be used beyond what might be called their proper limit, or exercised by individuals at relatively junior level without appropriate training. We have seen that before. HMRC also has a track record of being rather heavy-handed on innocent or easy victims—as with the loan charge—and missing the big fish.

Against that background, Clause 7 is drawn too wide. Clause 7(1), which kicks off the provision, is worded to cover any person. It is not limited to whether they have an interest or are connected in any way with the trade, business or profession. It could enable fishing anywhere—and potentially compulsorily under regulations made via Clause 7(3). Clause 7(3) also seeks to be able to amend Acts of Parliament on the type of information required and how the request is to be made, again without limitations. If it follows HMRC's present trend, that could include seeking the disclosure of information that would normally require the approval of a court. I expect that that is intended, as it is in the current Finance Bill. That is already unacceptable, but at least it is in a Bill; it would become even more unacceptable were it done by regulation.

Once HMRC had got such information, Clause 8 would permit it to allow the onward disclosure of that information—again, at HMRC's own discretion—which should not be allowed, and most certainly not in blanket form.

Viscount Trenchard (Con): My Lords, I support Amendment 84 in the name of my noble friend Lady Noakes, which she moved so eloquently. Like her, I am a strong supporter of the Government's trade policies, but I share her wariness about the Bill's powers to require disclosure of information. I believe that it is not the kind of thing a Conservative Government should do, in so far as those powers go beyond what is absolutely necessary.

I also agree with my noble friend's Amendment 87, and I ask my noble friend the Minister to explain exactly which other functions the Government had in mind when they drafted the rather convoluted language of subsection (2). I also agree with my noble friend's Amendment 88. Why does the Minister think that HMRC should have the power to disclose what may well be sensitive information, the disclosure of which might have an anti-competitive effect?

I also have some sympathy with Amendment 85 in the name of the noble Lord, Lord Bassam of Brighton. Can the Minister explain in what circumstances he thinks it would be necessary and reasonable to use this Henry VIII power?

Lord Grantchester (Lab): My Lords, I thank the noble Baroness, Lady Noakes, for her Amendment 84 in this group, as it gives the Committee the opportunity

to examine again the powers being taken by the Government and their agencies in the Bill and whether they are being drafted too widely. The noble Baroness asked some very pertinent questions about the powers being given by the Government to HM Revenue and Customs, not only regarding the compulsion with which any person must comply and the comments made in the other place but on whether this will become a general trawl for all sorts of commercially sensitive data. Under Clause 7(3)(a), regulations may be drawn rather more widely than is considered appropriate.

I will speak to Amendment 85, in the name of my noble friend, Lord Bassam of Brighton, which raises the issue that secondary legislation does not and should not have the power to change primary legislation. Clause 7(4) does this, "among other things". Paragraph 71 of the Explanatory Memorandum explains that this power is needed to make amendments to the tax primary legislation in order to allow tax returns

"to be amended to include the request for exporter information."

This probably brings us back to Amendment 84 and compulsion. Would it be an offence to mark the question "not appropriate"? When the words "among other things" are used, how far does that go? If the power is necessary, surely it can be made quite simply in the next Finance Act, maintaining constitutional propriety.

As this is a probing amendment, there is no need to press the point regarding Clause 7(5). Your Lordships' Delegated Powers and Regulatory Reform Committee did not draw anything in the Trade Bill to our attention, although the Constitution Select Committee discussed the Bill at length in its 15th report. While that committee focused primarily on the Trade Remedies Authority and the devolved Administrations, it drew attention in general to the Government taking presumptive rather than explicit powers. It did not specifically draw attention here to Clause 7, even though powers over taxation have a long history. The Committee needs to seek further clarification and detail on the exporter information being requested in the clause. Can the Minister clarify whether this will be purely financial and whether any guidance on the matter will be published? Could not this information be acquired in a separate request, apart from a person's tax return? Clause 7(1) seems to suggest that the information required is merely to establish the number and identity of exporters. Is this heavy-handed approach therefore appropriate? I suggest that the information sought goes somewhat wider than that.

The noble Baroness's Amendments 87 and 88 return to the extent and the wide-ranging nature of the powers. Other speakers in this group have outlined the importance of data to companies. The noble Baroness, Lady Neville-Rolfe, confirmed that data can and does go astray. In a later group we will discuss wrongful disclosure. The noble Baroness, Lady Bowles, spoke against allowing disclosure to be wholly at the Government's discretion. There are some serious questions here, and I await the Minister's further comments.

Viscount Younger of Leckie (Con): My Lords, I am most grateful to my noble friend Lady Noakes and the noble Lord, Lord Bassam of Brighton, for their amendments and their contributions to the discussions

on the Bill and on these amendments. I will take Amendments 84, 85, 87 and 88 together as they are closely related. I hope I will be able to address most of the questions raised this afternoon in this very short debate, notably by my noble friend Lord Trenchard and the noble Lord, Lord Grantchester. If not, I will certainly do so in writing, in particular on the questions raised on the powers and constraints regarding data sharing.

3.45 pm

On Amendments 84 and 85, on the collection of exporter information, I am sure we all agree that, importantly, the Government must have a comprehensive understanding of UK exporters to ensure that the work we do to build and grow UK export capability is properly targeted at and tailored to businesses where it will deliver the maximum benefit. My noble friend Lord Lansley articulated this topic very well when we debated his amendment on trade promotion and on ensuring businesses can access these opportunities.

Although much data already exists, we must always be alive to opportunities to improve our knowledge. Clause 7 sets out the powers needed for the Government to collect data in order to establish the number and identity of UK businesses exporting goods and services, particularly smaller businesses and sole traders, which may not be readily identifiable from existing data but which may benefit from a helping hand from government to reach existing and new markets.

The regulations under Clause 7(3) can set out only the types of information that may be requested and how that request is made; they cannot be used by HMRC to compel a respondent to provide information. Including new questions within the relevant tax returns will require an affirmative SI to amend the relevant legislation. This is the purpose of Clause 7(4). By deleting this provision, as Amendment 85 would do, government's ability fully to implement the new voluntary exporter question would be restricted.

My noble friend Lady Noakes raised a number of important points, which I share. DIT analysis has shown that collecting the information through this approach is the cheapest, most effective mechanism and presents the lowest burden to business. In addition, as I have indicated, businesses will not be compelled to provide the Government with this information. It would not be possible for HMRC to impose penalties on businesses for not responding to the question.

Our analysis has also identified that a mandatory question might result in a potentially complex enforcement and compliance regime for businesses that do not complete the question. As the Committee probably realises, this would lead to millions of pounds in additional business burden each year and increased costs to government, when the intention of this measure is to improve our understanding of exporters across the country. I hope that reassures my noble friend and the Committee. I also remind noble Lords that the approach in Clause 7 has been reviewed and agreed by the Delegated Powers and Regulatory Reform Committee.

On Amendment 87, on data sharing, I should make it clear that Clause 8 is intended to outline functions relating to trade which the Minister of the Crown holds, and which may not be immediately obvious.

It is not the intention of the clause, or the Bill, to outline all functions relating to trade for all bodies; indeed, as I am sure noble Lords will recognise, the sheer breadth and number of such functions means it would not be possible to do this. I hope this gives some reassurance to my noble friend Lord Trenchard.

Amending Clause 8 in the way my noble friend Lady Noakes suggests would constrain its use in a way that I am sure she did not intend. For example, the DIT and the devolved Administrations would not be able to receive the exporter information collected by HMRC under Clause 7(1), other than for the specific purposes listed in Clause 8(2)(a) to (c). That would hinder export promotion functions and, ultimately, impact on UK businesses that government is committed to helping, particularly SMEs, as I mentioned earlier.

I turn now to Amendment 88, which is also on data sharing. This would limit the use of data by a body with a public function related to trade where the onward sharing of processed data with a partner body would be necessary for carrying out that public function. For example, the DIT might wish to share record-level analysis of data that we have processed on food products with Defra to inform the setting of tariff quotas. Under the proposed amendments, this would not be possible and the Government would not be able to use the most detailed information for collective decision-making.

However, I do understand the concerns of my noble friend in relation to data sharing and I would like to reassure the Committee of the safeguards that we have put in place around the collection, handling and processing of information collected under this clause. The data-sharing powers in the clause are permissive, so all instances of data sharing and onward disclosure must be approved by HMRC. Criminal penalties for any unauthorised sharing of data will apply under the existing Commissioners for Revenue and Customs Act 2005. Nothing in the clause permits the disclosure of information that is not otherwise permitted in data protection law, including the Data Protection Act 2018 and the Investigatory Powers Act 2016. I hope that that will offer some reassurance to my noble friend Lady Neville-Rolfe and the noble Lord, Lord Grantchester.

I hope that the clarifications I have given will provide noble Lords with the reassurances that are being sought, and it is on that basis that I would ask that the amendment should be withdrawn.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, I have received no requests from noble Lords to speak after the Minister, so I call the noble Baroness, Lady Noakes.

Baroness Noakes (Con): My Lords, first, I thank all noble Lords who have taken part in this short debate. I am grateful to my noble friend for confirming positively that the regulation-making power in Clause 7(4) cannot be used to compel the provision of information and that HMRC would not be able to impose penalties—that is exactly the assurance I was seeking.

However, I have to say that I am not entirely sure that I followed everything my noble friend said in relation to Clause 8. I did not follow what he said

[BARONESS NOAKES]

about why, if the words “among other things” were to be deleted from subsection (2), that would impede the use of information for trade purposes. I will read carefully in *Hansard* what he said, but I put him on notice now that it did not quite ring true when I heard him say it for the first time.

I have to say that I remain concerned about HMRC being regarded as a “safeguard” for information. If my noble friend the Minister listened to what some other noble Lords said in this short debate, he will have heard that people are concerned about what HMRC sometimes does. So to say that HMRC is one of the safeguards in this does not quite meet the point. That is why I asked my noble friend specifically to say what safeguards there are and what oversight there is of the use by HMRC of this kind of power, because it is very significant to authorise the disclosure of information other than for trade purposes. I hope that my noble friend will reflect on that and possibly come back to explain how we will oversee how HMRC uses its power here, effectively to override the provision of information only for trade purposes, and how that will be effective. But for today, obviously, I am happy to withdraw the amendment.

Amendment 84 withdrawn.

Amendment 85 not moved.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, we now come to the group beginning with Amendment 85A. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this or anything else in the group to a Division should make that clear in the debate.

Amendment 85A

Moved by Baroness McIntosh of Pickering

85A: Clause 7, page 5, line 17, at end insert—

“(7) Nothing in regulations made under subsection (3) may require the disclosure of information or the production of documents which are subject to legal professional privilege.”

Baroness McIntosh of Pickering (Con): My Lords, it makes sense to take Amendments 85A and 89A together and I am grateful for the opportunity to do so. It is generally believed in legal circles that Clause 7(1) and the whole of Clause 8 as currently drafted are extremely wide and give great discretion to HMRC to require information. A similar amendment was moved in the other place that these provisions should be much more clearly defined to give greater certainty about the extent of the information and the anticipated frequency of this method of data collection. As my noble friend Lady Neville-Rolfe described so clearly, while in normal circumstances it could be quite amusing, a breach of confidentiality or legal privilege is no laughing matter—and accidents and mistakes do happen. It is for that reason that Amendment 85A seeks to add at the end:

“Nothing in regulations made under subsection (3) may require the disclosure of information or the production of documents which are subject to legal professional privilege.”

Similar wording would be added to the relevant provisions of Clause 8.

I know that my noble friend Lord Younger went to some pains in summing up the previous debate to make it clear that the information would be provided on a voluntary basis—his defence was that there should be no compulsion. That indeed was the summing-up of my right honourable friend the Minister, Greg Hands, in the other place: that legal professional privilege was, in his words,

“a long-standing principle that protects the confidentiality of communications between lawyers and their lay clients and vice versa.—[*Official Report*, Commons Public Bill Committee, 25/6/20; col. 299.]

He went on to expand on why the principle is so important.

In thanking the Committee for the opportunity to speak to these amendments, I will say that it is felt that there are grounds to have these two amendments written into the Bill. Perhaps the Minister could meet me half way to make sure, by putting these phrases into the Bill, that there is absolutely no scope for anything to be done involuntarily or accidentally. With those few remarks, I beg to move.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, we support these amendments and, broadly speaking, I could just repeat my comments on the previous group. So, if your Lordships could take them as read, I will not repeat them.

The powers of HMRC cannot ride roughshod over matters that are protected, in this instance by legal privilege. It seems to me that HMRC cannot be put above the law as a matter of principle. I will repeat that there are concerns because of the current provision in the Finance Bill seeking to obtain access to bank accounts that would normally have required a court’s approval. There is also doubt as to whether, within HMRC, there are the appropriate procedures for the proper handling of some of the information that it may demand. The issue is around the training and abilities of the people who may access or disclose things who, if previous form is to be followed, can be in relatively junior positions. I think that these are matters that HMRC is trying to address but, despite that, it seems improper to demand to acquire powers before any safeguards are in place. Also, legal privilege would appear to me to need special protection, and therefore provisions to achieve the aims of these amendments would be useful in the Bill.

Lord Bassam of Brighton (Lab) [V]: My Lords, I thank the noble Baroness, Lady McIntosh, for her speech and amendments. As she says, the provisions in the Bill are quite widely drawn, and the amendments stop information on documents relating to legal professional privilege being disclosed. I well understand the sensitivity of legal professional privilege. All information between a lawyer and their client must be handled with care and confidentiality, so we will be listening carefully to whether the Minister’s response alleviates the concerns of the noble Baroness, Lady McIntosh. I suspect that her amendments are probing but, as the noble Baroness, Lady Bowles, said, they touch on sensitive issues.

4 pm

I will take this opportunity to ask the Minister a question on Clause 7. The Government have suggested that export information could be used for trade promotion. That does not seem unreasonable, on the face of it, but we need to understand it better. I hope that the Minister can go into more detail about the type of promotion that this can be used for, because I can see that there might be privileged sensitivities. Who will the information target? Will individuals be notified if their information is being used in this way? We need more reassurance on this to let through the Bill as it is currently drafted.

Viscount Younger of Leckie (Con): My Lords, I will deal with Amendments 85A and 89A, in the name of my noble friend Lady McIntosh of Pickering, together, as they are closely related. My noble friend has written half my speech, because it echoes her remarks. Both amendments concern legal professional privilege, which, as noble Lords know, is a long-standing principle that protects the confidentiality of communications between lawyers and their lay clients, and vice versa. It enables lawyers to consult and advise their clients, without clients fearing that information will have to be disclosed later.

As a matter of general interest, any person who wishes to consult a lawyer must be free to do so under conditions which ensure uninhibited discussion. I do not believe it has been mentioned in this debate that this principle is recognised and protected under Article 8 of the European Convention on Human Rights. I can therefore provide an absolute assurance to the Committee that the Government have no intention, either now or in the future, of using these powers to seek or share information that is protected by legal professional privilege.

For Clause 7, the information being requested from exporters will be provided voluntarily. This has already been said by me and other noble Lords. That the information is being provided voluntarily is, perhaps, an indication of the Government's position on minimising burdens and, therefore, not requiring privileged information to be disclosed.

As part of this short debate, it is crucial to make this point: Clause 8 allows for the sharing of data that is already held by HMRC for its administrative functions. Such information cannot, therefore, be subject to legal professional privilege, as it has already been provided to HMRC. However, I understand your Lordships' concerns about data sharing, and I reassure the Committee about the safeguards we have put in place around the collection, handling and processing of information collected under this clause. In response to the winding-up speech of my noble friend Lady Noakes, who raised concerns despite my remarks, I take this opportunity to confirm that I will write to her and all noble Lords, and put a copy in the Library of both Houses, concerning those reassurances.

The data-sharing powers in this clause are permissive, so all instances of data sharing must be approved by HMRC. Criminal penalties for any unauthorised sharing of data will apply under the existing Commissioners for Revenue and Customs Act 2005. Nothing in the clause permits the disclosure of information that is not otherwise permitted in data protection law, including

the Data Protection Act 2018 and the Investigatory Powers Act 2016. A lot of this was said in the remarks on the previous amendment. I hope that this provides the reassurance that my noble friend Lady McIntosh seeks on this point, and that she will withdraw her amendment.

Baroness McIntosh of Pickering (Con): My Lords, I am grateful to those who have contributed and for the support expressed by the noble Baroness, Lady Bowles, and the noble Lord, Lord Bassam. I am slightly concerned by the response of my noble friend Lord Younger. I understand that Conservatives support, and have enshrined in this and other legislation, the European Convention on Human Rights, but it begs the question of what would happen if a future Government were to resile, so they were no longer a signatory to it. This is not beyond the realms of possibility as we leave the European Union. I realise that the Council of Europe is a separate organisation, but it begs the question.

As my noble friend Lord Younger so clearly said in summing up, legal professional privilege exists so that information can be communicated between lawyer and client. I am sure he recognises that many UK statutes already give express protection of legal professional privilege and that it is protected vigorously by the courts. The noble Lord, Lord Bassam, was absolutely right that this is a probing amendment, but my concern is only that, if we do not insert something like this, my noble friend and the Government may face future court cases, in the event of a breach of legal professional privilege. Having expressed these concerns, I beg leave to withdraw the amendment at this stage.

Amendment 85A withdrawn.

Clause 7 agreed.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): We now come to the group beginning with Amendment 86. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this or any other amendment in the group to a Division should make that clear in the debate.

Clause 8: Disclosure of information by HMRC

Amendment 86

Moved by Lord Grimstone of Boscobel

86: Clause 8, page 5, line 22, after "trade," insert—

"(aa) facilitating the exercise by a devolved authority of the authority's functions relating to trade,"

Member's explanatory statement

This amendment would ensure that HMRC is able to disclose information to a devolved authority.

Lord Grimstone of Boscobel (Con): My Lords, this group consists of three government amendments, which are minor and technical in nature, together with an amendment in the name of the noble Lord, Lord Stevenson. I will present the government

[LORD GRIMSTONE OF BOSCOBEL] amendments, before responding to Amendment 89. The amendments all relate to the data disclosure provisions at Clauses 8 and 9.

On government Amendment 86, it has always been our intention that the devolved Administrations should be able to access HMRC information to facilitate the exercise of their trade functions through the powers in the Bill. However, in recent discussions, colleagues in the devolved Administrations asked for their ability to receive information to be made more explicit in the Bill. I am happy to offer this clarity. This amendment puts beyond any perception of doubt that the devolved Administrations can access HMRC information for their trade functions through the Bill.

The associated government Amendment 96 is simply a consequence of Amendment 86, and explains what is meant by “devolved authority” for the purposes of the Bill. We have worked closely with the devolved Administrations to ensure that the data-sharing gateways in the Bill also assist them with their devolved functions. In this spirit, I make two further commitments to the devolved Administrations on data-sharing in Clause 9.

First, the data shared under Clause 9 will be used by the border impact centre and the Cabinet Office to develop strategic insights. They are committed to sharing strategic analysis related to flow of trade, where it will support the more effective management of flow through the border. I understand that Cabinet Office officials have been working closely with counterparts in the devolved Administrations to ensure that relevant analysis and information relating to trade and management of the border can be shared to support devolved functions. Examples of the types of information that the border impact centre intends to share with relevant parties in the devolved nations are flow patterns through ports. The Cabinet Office will continue to work with the devolved Administrations to ensure that the border impact centre provides strategic benefit to management of flow through key ports.

Secondly, the UK Government commit to consulting the devolved Administrations before any devolved authorities are added to, or removed from, the list of specified authorities that can share data under Clause 9.

Amendment 90 corrects a drafting omission in Clause 10(4)(b)(i) in relation to the imprisonment term for a person guilty of an offence who is liable in England and Wales on summary conviction. Clause 10 as currently drafted provides that a person guilty of an offence under the clause is liable on summary conviction in England and Wales to imprisonment for a term not exceeding 12 months or to a fine, or to both. Until the relevant provisions of the current Sentencing Bill are enacted and commenced, however, magistrates can impose a sentence of only up to six months’ imprisonment for a single offence in England and Wales.

In other legislation that provides for a maximum penalty of 12 months’ imprisonment on summary conviction, a provision concerning magistrates’ current sentencing powers is included to provide that reference to “12 months” is to be read as reference to six months until the relevant provisions of what will be the Sentencing Act are commenced. The amendment adds a similar provision to the Trade Bill.

I hope noble Lords will support these minor and technical government amendments.

Baroness McIntosh of Pickering (Con): My Lords, I express my gratitude to my noble friend Lord Grimstone for making these amendments. This flags up a constant issue, whereby issues are raised late and at quite short notice by the devolved Administrations, but it also flags up a broader issue for another day as to where we are with the common frameworks.

I want to put one question to the Minister about the remarks that he has just made. He refers to the fact that the Cabinet Office will be responsible for disclosing this information and making it available to the devolved Administrations under Clause 9. He went on to say that in future they will now be consulted under Clause 9. I want to go one step further and ask him, in the usual way, that they are not just consulted but that the Government wait for them to give their consent to these changes, particularly if they might not just be technical but could be substantial. It is extremely important to keep the devolved Administrations on side, given that there will be elections at some point in the future where this could be used to the Government’s disadvantage. Could the Minister just confirm that they might await consent rather than just consultation?

Baroness Neville-Rolfe (Con): My Lords, as I am very supportive of this Bill and of my noble friend Lord Grimstone, I put my name down to support the Government. However, having listened to earlier exchanges on both information and legal privilege, and having studied the wide power in Clause 8(1), I am a little uneasy that the data being collected can be passed on to devolved authorities in the way provided for in Amendment 86. The devolveds will obviously have very different objectives on international trade that are not always compatible with those of the Government, and they may take a different view on who in the public or private sector can safely be sent data that in some cases will be confidential and sensitive to a company’s competitive position. I assure noble Lords that other countries in the world would not be so keen to risk the interests of their businesses.

As the noble Lord, Lord Bassam, has said, we are not entirely clear who will be targeted. Will individuals be informed that their circumstances, if only reflected in a number, are the subject of trade policy discussions? I was thinking about scotch and the much smaller distilling interests in other parts of the UK. I am afraid I am also not entirely clear as to what borders my noble friend was talking about, although obviously I will look very carefully at his comments. As we are still in Committee, and therefore at the probing stage of some of these important amendments.

I am both curious about and a little uneasy with Amendment 89 from the noble Lord, Lord Stevenson, which I think forms part of this group. I was hoping to hear from him, particularly as I am not familiar with the customs legislation referred to. However, if I have understood it correctly, he seems to be adding very fierce penalties—imprisonment and/or a fine of up to 4% of a corporation’s annual turnover—for non-compliance. I have to say that I often agree with the

noble Lord on business and enforcement issues, but these proposals could be disproportionate and damaging. They are penalties that stem in concept from EU law, notably competition law, and I have always had reservations about them. They seem likely to lead to companies hiring expensive lawyers and, more generally, to a loss of common sense and humility. I would also like to understand whether the financial penalties would apply to officials as well as to private operators. I suspect not, but the Minister may be able to clarify these matters.

To conclude, I urge my noble friend to be very careful in this area. The amendments are technical but it is very important that we get them right.

4.15 pm

Lord Wigley (PC) [V]: My Lords, I was about to enthuse about the Government going in the right direction, but the comments of the noble Baroness, Lady Neville-Rolfe, have made me hesitate a little and I will wait to hear the Minister's response to her. I am glad of the opportunity to probe exactly what the Minister's intention is in tabling this amendment. I welcome it as a step in the right direction but I want to press him for further clarification, perhaps going in the opposite direction from the noble Baroness who has just spoken.

The amendment allows HMRC to disclose information to devolved Governments. That is fine as far as it goes—it would be totally unacceptable if HMRC were barred by default from releasing relevant information in this way—but the amendment does not necessarily require HMRC to provide information requested by a devolved Government and needed to undertake their responsibilities. HMRC is therefore presumably allowed to refuse to provide the relevant information needed for trade purposes if it deems it fit. Am I right that that is the Government's intention and the effect of this amendment? If so, how do the Government justify refusing to provide devolved Governments with the power that they may need to require relevant information to undertake their trade work responsibilities? If it is their intention to allow the devolved Governments to have the information that they need and for HMRC not to be able to refuse to give that information, would the Government therefore consider a further amendment later to require HMRC not unreasonably to withhold such information?

Lord Purvis of Tweed (LD): My Lords, at Questions today the Minister indicated that he was on a mission to educate me—I see the noble Baroness, Lady D'Souza in her place, and she was there—so I give the Minister an opportunity to educate me further with the questions that I have on this group. With regard to the previous question I asked, no doubt he will give me a full tutorial in response to the letter that I have written to him today in response to the very partial answer that he gave me at Questions.

I welcome the fact that good things happen, notwithstanding the concerns of the noble Baroness, Lady Neville-Rolfe, when devolved Administrations are consulted. Even in the middle of the Lords stages of a Bill, sensible things can come about, so I support the Minister's amendments. Still, I have a couple of questions.

The first is not about what is in the amendment but about what he said in his introduction, which contained a little more clarity about the use of the information. Very soon we will be getting legislation not only on the frameworks, as the noble Baroness, Lady McIntosh of Pickering, mentioned, but on the thorny subject of the border operating model, including the legislation for the Kent access permit. I believe those regulations will include the power for our authorities to use automatic number plate recognition information, which enhances border port flows. I want to flag up to the Minister, although he may not wish to clarify this point today, that there will be concern if there is a lack of clarity about what information is fully anonymised, and will only ever be anonymised, and what information will be collected by the same authorities that will have access to, for example, automatic number plate recognition for those carrying out the businesses. We will have to be very clear, otherwise some of the concerns in the previous group and some of the concerns about disclosure will be heightened.

Clause 8(1) covers the power for HMRC to disclose information, but it also says, in brackets, “or anyone acting on their behalf”.

It might be fully down to my ignorance but I am not entirely sure who that is likely to be and by what processes they are acting “on their behalf”. It has not been spelled out in the Explanatory Notes. Therefore, perhaps the Minister could clarify that because, as has been said, some of this information is sensitive, and not only to individual businesses. It is of strategic importance to the UK, and our competitors would probably quite like to have that knowledge too. If the Minister can explain who the “anyone acting on their behalf” might be, that would be useful.

While doing that, he might also be able to explain the Explanatory Notes. Paragraph 75 says:

“Clause 8(1) allows HMRC to share data with public or private bodies”.

Can he give examples of the kinds of private bodies that HMRC would share that data with? The clause expands the sharing of data quite considerably. Unlike the noble Baroness, Lady Neville-Rolfe, I have no problem with the devolved Administrations receiving this information under the terms of this legislation, but my antenna is directed to the words “or private bodies”.

Paragraph 75 of the Explanatory Notes goes on to expand the extent of data sharing. It says:

“This includes powers to share data, when needed, with international organisations that oversee the world trade system (for example the WTO)”.

That goes beyond what the Minister said, which concerned the purpose of this measure regarding strategic border flow information. If data is collected to help the WTO oversee the world trade system, there might have to be some parameters for that. I am not saying that I would be opposed to it, but at the moment I think that it would be useful to have more information, if possible.

Clause 9 concerns the disclosure of information by bodies other than HMRC. Subsection (3) lists those bodies as the Secretary of State, the Cabinet Office Minister—we know that the Cabinet Office Minister is responsible for the border operating model and

[LORD PURVIS OF TWEED]

preparations for the new border processes after January—a strategic highways company appointed under the Infrastructure Act and a port health authority. Therefore, we might have a slightly odd situation when it comes to the management of our ports in Scotland and Wales, in that the authorities responsible for those ports will have the power under this legislation to receive the information but they will not have the power to do anything about it for their own ports. Would it not make some sense if that were tidied up to ensure that the devolved authorities were able to use that data under the strictures of this legislation for the ports within those home nations? I say that because Clause 9(3)(c) refers to a strategic highways company appointed under the Infrastructure Act, but that Act extends to England and Wales only. Why does it not cover Scottish and Northern Irish export routes? In addition, Clause 9(3) lists, at paragraph (d),

“a port health authority constituted under section 2 of the Public Health (Control of Disease) Act 1984.”

However, that Act does not extend to Scotland or Northern Ireland, so, as I said, we might have a really odd situation here. Perhaps the Minister can clarify that point and see whether it can be tidied up.

Finally, a similar point arises in relation to Amendment 89. I can understand the case that is being made for higher penalties, but, unfortunately, something similar happens with regard to the offences—under Section 19(7) of the 2005 Act—referred to in the amendment of the noble Lord, Lord Stevenson. The amendment would not apply to Scotland or Northern Ireland, because the sentence for the offence of wrongful disclosure in Scotland is six months. Even the Government’s amendment would not apply to Scotland, and there is a separate offence within Scotland under that legislation. Assuming that the noble Lord, Lord Bassam, can clarify that point or indicate that he does not seek to extend an offence by eight times, I think that I would be satisfied.

Lord Bassam of Brighton (Lab) [V]: My Lords, I am always mindful of and sympathetic to a Minister who starts out with a speech by saying that the amendments he is moving are minor and technical. That is a wonderful disguise for all manner of things, and sometimes things can unravel when you say that.

That said, in general terms we do not have any issue with the intention behind the government amendments. They seem perfectly acceptable, as other noble Lords have said. However, we feel that the Government might have been better advised to offer these amendments in the negative, as we and many other noble Lords have not generally had the option of voting in Committee. It would probably have been more appropriate to move the amendments on Report, and I hope that the Minister will take note of that point.

Colleagues in this Committee have asked a series of quite important questions this afternoon, not least about how these things will work for the devolved Administrations and how they might apply. The question from the noble Baroness, Lady Neville-Rolfe, about which borders were involved was particularly appropriate, given some of the chaos that might well ensue if we do not get a proper deal in the current discussions.

I myself have a question for the Minister. How will the border impact centre report its information to us as parliamentarians? Will there be regular reports? Clearly, we do not want individual data but it seems to me that that will be very important in order to understand better the flows at borders. It would be useful to us if we could understand how that information and data will be reported back.

Noble Lords made reference to the amendment in the name of my noble friend Lord Stevenson, and I will speak to that now. In the Bill as currently drafted, if information were passed on without authorisation in such a way that it allowed an individual to be identified, Section 19 of the Commissioners for Revenue and Customs Act 2005, which deals with the offence of wrongful disclosure, would apply. This provides for a maximum penalty of two years’ imprisonment for such an offence. My noble friend’s amendment seeks to increase this penalty to five years’ imprisonment, as well as having the potential to fine a corporation by up to 4% of its annual turnover. The noble Baroness, Lady Neville-Rolfe, took exception to that, but we think that this provision needs to have some detail, power and meat to it. I cannot answer the question from the noble Lord, Lord Purvis, but I will take away his point and reflect on it after this afternoon’s debate. In general terms, we want to make sure that individuals are protected, and we do not believe that the current penalty acts as a great enough deterrent to stop parties acting carelessly and without authorisation. We believe that these proposed changes are proportionate and will provide that protection. We hope that the Minister will agree with that but, in any event, we shall be very interested in his comments on the penalty range as it currently is.

4.30 pm

Lord Grimstone of Boscobel (Con): My Lords, if it is a parliamentary expression, I may perhaps first say *touché* to the noble Lord, Lord Purvis, in relation to our earlier exchanges and I look forward to receiving his letter on those matters.

On my amendments, I was perhaps too optimistic and hopeful in describing them as minor and technical government amendments. So that I can give a full and accurate response to noble Lords who have raised questions on them, I will write to noble Lords answering all their points and place a copy in the Library.

Turning to Amendment 89 in the name of the noble Lord, Lord Stevenson, there are criminal penalties for any unauthorised sharing of data that apply under the existing Commissioners for Revenue and Customs Act 2005, which the Bill references. I would not want to impose different penalties for wrongful disclosure of HMRC data shared for trade purposes from those for HMRC data shared for other purposes under the 2005 Act. It would seem wrong to make that differentiation. I hope that provides reassurances to the noble Lord and that he will withdraw Amendment 89. I commend Amendments 86, 90 and 96.

The Deputy Chairman of Committees (Baroness Garden of Frogmal) (LD): I shall now put the Question that Amendment 86 be agreed to. As many as are of that opinion will say content. To the contrary, not content.

A noble Lord: Not content!

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I will take advice from the clerk.

Baroness McIntosh of Pickering (Con): We find ourselves in strange circumstances and I find it a little disconcerting. I have asked one specific question to which I would like a reply before the government amendments are adopted. Once they leave here, they become part of the Bill and we cannot come back on Report.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I wonder whether I could take advice from the Minister on whether to call a Division.

Lord Grantchester (Lab): I suggest that, as with all other noble Lords' amendments, the Government just withdraw it at this stage so that we can return to it on Report.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): Would the noble Lord, Lord Purvis, be happy if we returned to this at a later stage? Does the noble Lord particularly want to call a Division at this stage?

Lord Purvis of Tweed (LD): I know it is not in order in these proceedings to have points of order from Members, but a solution, given the very valid point made by the noble Lord, Lord Grantchester, is to allow this pause to happen. It is highly unusual for government amendments to be presented in Committee and for the Minister to indicate that answers to questions raised in Committee will be provided after a vote for them to pass has happened. There is no ability for the House to reflect on the letter from the Minister. A solution would be for the Government not to press these amendments in Committee but to bring them back on Report, which may well happen very straightforwardly. That may well be the solution.

Viscount Younger of Leckie (Con): My Lords, I am listening to the various comments from around the House. I am surprised that the noble Lord, Lord Grantchester rose to suggest that he was against us moving the amendments. However, bearing in mind the mood of the Committee, we will withdraw this amendment.

Amendment 86 withdrawn.

Amendments 87 to 89A not moved.

Clause 8 agreed.

Clause 9 agreed.

Clause 10: Offence relating to disclosure under section 9

Amendment 90 not moved.

Clause 10 agreed.

Amendment 91 not moved.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): We now come to the group consisting of Amendment 92. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate. Anyone wishing to press this amendment to a Division should make that clear in debate.

Amendment 92

Moved by Lord Lansley

92: After Clause 10, insert the following new Clause—
“Preferential rates given unilaterally

(1) In section 32 of the Taxation (Cross-border Trade) Act 2018, subsection (3), at end insert—

“(d) the first regulations under section 10 (preferential rates given unilaterally).”

(2) In Schedule 3 to the Taxation (Cross-border Trade) Act 2018, Part 4, paragraph 2(1), at end insert—

“(c) in the case of the list in Part 2 or 3, the government of that country has committed abuses of human rights of such a character and scale that, in the view of the Secretary of State, unilateral trade preferences should be withdrawn.””

Member's explanatory statement

This new Clause relates to the Scheme of Preferences as provided for in Section 10 and Schedule 3 of the Taxation (Cross-border Trade) Act 2018. The first sub-clause requires that the first regulations made to establish the scheme (to apply from IP Completion day) must be made by an affirmative process. The second sub-clause confers a specific power to remove a country from the list of those benefiting from unilateral trade preferences where the government of that country has committed human rights abuses.

Lord Lansley (Con): My Lords, we come to the last group of amendments in Committee. It is my privilege to move Amendment 92. It may be last, but it is not least: it is of considerable importance to our future trade relationships. It concerns the provisions of the unilateral scheme of preferences, as it is referred to. It might be referred to as the generalised scheme of preferences to bring it into line with the naming of the scheme under the European Union. Noble Lords will recall that the Taxation (Cross-border Trade) Act 2018 made statutory provision for the granting of unilateral preferences to eligible developing countries and least developed countries.

The structure of the provision in that Act is such that it would enable us to replicate what has been until now, and will be until the end of this year, the European Union's generalised scheme of preferences. We have been reminded during the debates that the European Union scheme consists essentially of a generalised scheme of preferences, which grants for a wide range of products the absence of tariffs or a reduction in tariffs; and a generalised scheme of preferences-plus, which, by virtue of adherence of these least developed countries, and sometimes, I think, low-income countries, to 27 international conventions, including those on labour rights, environmental protections, human rights and good governance provision, gives them access to essentially a zero-tariff arrangement. In addition to that, for the least developed countries, there is what is

[LORD LANSLEY]

known as Everything But Arms, which is in fact everything but arms and ammunition—a zero-tariff commitment for all their products apart from arms and ammunition.

The European Union scheme that we are presently part of was reviewed in 2018. In the early part of this year, the European Commission undertook a consultation to which responses were received and it closed in June. I do not know that more has been said about the further revision of the European Union's regulations, which I suspect would not come into effect until the end of 2023, when the current scheme expires. So, to an extent, although we might replicate the European Union's generalised scheme of preferences to begin with, from the outset we will have our own scheme and diverge from that scheme. I have no problem with that; my point is about how we go about this process.

The Taxation (Cross-border Trade) Act says that Ministers may make regulations. Section 10 of that Act gives Ministers the power to make regulations for the purposes of the unilateral preferences. Section 32 determines which of those regulation-making powers is to be exercised by reference to the negative or affirmative procedure. In this instance, it is all by the negative procedure. The first part of Amendment 92 is to change that, but not to make all regulations relating to the unilateral scheme of preferences affirmative—there will be a lot of such potential regulations. It is one of those areas where, rightly, Ministers do not want to burden the House with a constant stream of regulations.

However, as is the case for the global tariff, where Ministers put into that Act provisions whereby the first regulations made in relation to Section 32 would be subject to the affirmative procedure, this amendment would provide that the first regulations made for the unilateral scheme of preferences, our GSP, would also be subject to an affirmative procedure. I hope that those regulations will be made by the end of this year because we need them to be in place by then. If that is not the case, it would be immensely disappointing and could lead to considerable dislocation.

The second part of the amendment relates to the question of whether, when the Government make the regulations, Ministers have the power to disapply, suspend or withdraw the unilateral preferences when a country or territory is responsible for significant human rights abuses. This is not an idle point. On 12 August this year, the European Commission suspended GSP access for Cambodia, which will affect some 20% of its exports to the European Union, on the grounds of significant human rights abuses in that country. About three weeks ago, the European Parliament passed a resolution—not obligatory but a substantial expression of European opinion—suggesting that there should likewise be a withdrawal or suspension of preferences in relation to the Philippines by virtue of that country's human rights abuses and lack of good governance. That was not responded to well by that country's regime.

These are not idle points and potentially are issues on which we would have to make our own decisions. This Parliament has for decades not been used to taking decisions about such trade preferences and their relationship with developing countries. I am pleased

that we will have that opportunity; it is one of the few effects of Brexit that would be positive, whereby we can positively influence developing countries through our trade preferences.

Interestingly, only today, the UK Trade Policy Observatory from the University of Sussex posted a blog stating that it was worried that the unilateral scheme of preferences will not compensate many developing countries for loss of their competitiveness in the United Kingdom market because our global tariff reduces tariffs on a most-favoured nation basis. That is part of a liberalising process and I do not object to our overall reduction in tariffs, which is not large in scale. However, it reduces the preferential margin for the unilateral scheme of preferences. Therefore, countries that benefit from our preferential scheme will see less competitive advantage as compared to many other countries that will be able to access our global tariff.

The TPO also said that difficulties are being experienced by low and low-to-middle income countries in relation to rules of origin, access to origination from those countries giving them access to the preferential scheme, certification and the like. This is one of those technical areas in which it will be important for us to make sure that the regulations are right in that respect, not least because there is a complex interrelationship between the free trade agreements that we are entering into and the origination of product from countries with unilateral preferences because they can use cumulation in relation to other countries and those countries with which we have a free trade agreement. Of course, we do not have free trade agreements with all the countries with which the European Union has such agreements. They might lose some of that potential for cumulation at the end of the year if we do not put all these provisions in place. Instanced in the TPO's blog are Ghana and Kenya, which might thereby lose out. I shall not go down that path because I know that the noble Lord, Lord Chidgey, who was kind enough to co-sign the amendment, might want to talk about some of those effects in Africa, given his expertise. I am grateful to my co-signatories on the amendment.

4.45 pm

I hope that I have given an illustration of why the amendment is extremely important. Before the end of the year I want a substantive and, I hope, positive debate on the new regulations that will come into force from the beginning of next year and that we as a House, and potentially the other place, have an opportunity through an affirmative procedure to express our views about the future structure of these important regulations. I am looking for the following from my noble friend the Minister in his response. In relation to the first part of the amendment, I hope that Ministers will look at this matter and come back in a positive vein on Report, and that they will ensure that this House has an opportunity for a substantive debate on the preferential scheme before it is introduced next year. I hope that the second half of the amendment is unnecessary because Ministers will indeed make sure that the regulations give our Government the opportunity to take decisions about access to preferences in areas such as human rights abuses, similar to decisions made recently by the European Commission. I beg to move.

Lord Chidgey (LD) [V]: My Lords, I congratulate the noble Lord, Lord Lansley, on his presentation. He has second-guessed that I would want to speak about the implications of the amendment for countries in Africa. I agree with him that the amendment is important. It provides for the Secretary of State, on being satisfied that a developing or least developed country has committed human rights abuses, to remove it from the trade preference scheme. Specifically, with regard to preferential trade agreements for developing countries, at Second Reading of the Bill in the other place, the Secretary of State for International Trade, Liz Truss MP, said:

“Fundamentally, free trade is humanitarian and we will maintain preferential margins for developing countries, helping businesses lift millions out of poverty. As a Government, we have committed to going further than the EU has in terms of trade for development”.—[*Official Report*, Commons, 20/5/20; col. 613.]

It is perhaps inevitably the case that the most extreme examples of state-sponsored human rights abuse tend to occur in least developed countries—not all but an awful lot—particularly where state institutions and governance are weak or non-existent. The African continent as a whole received close to £2.5 billion in ODA from the UK in 2018-19, thereby helping to address a wide range of poverty, development and human rights issues, and to tackle them head on. I shall give three examples of horrendous difficulties faced as a result of human rights abuse.

The countries of the Great Lakes region of Africa and their neighbours have suffered military incursions and civil wars for decades. Massive investments in peace-making and peacekeeping intervention by UN and AU forces, together with national armies, have barely kept the violence in check. The Lord’s Resistance Army, led by the self-styled prophet Joseph Kony, roamed across northern Uganda, kidnapping, mutilating and butchering tens of thousands, and creating 2 million internally displaced persons. More than 20,000 children were killed, and many more used as soldiers, porters and sex slaves.

I had the opportunity to lead an all-party delegation to the Democratic Republic of the Congo. I travelled to Goma, in the north-eastern region of Kivu. It was accessible only by plane. My plane was piloted by expatriate Bulgarians—no disrespect to the pilots, who were excellent, but it just shows the diverse nature of the exercise. They were on contract to the UN. In a local church, we were met by a small group of women and children, with some village elders. The women were determined to tell us how they had been attacked by armed men in uniform. They wanted their story to be seen by the rest of the world. One woman described how she was raped after her baby was torn from her arms and brutally killed. Her nine year-old daughter was then raped in turn by the soldiers. We were witnessing the results of sexual violence used as a weapon of war.

On a separate mission, in Juba, the capital of South Sudan, we witnessed the plight of thousands of refugees, displaced from the north by the Bashir regime. They arrived on huge barges on the River Nile with just the possessions they could carry. The fortunate few were being met by relatives and taken to safety and shelter. The least fortunate—the orphaned children—found their way to Juba central market, where they could shelter under the stalls. The girls were destined to be

pimped into prostitution. The boys faced enslavement. As of 3 October, the Juba peace agreement has brought together the warring parties marginalised during the Bashir era. It could change the face of the transitional Government and see the establishment of a single, professional army and the return of two million Darfuris to their villages. It could build on the £350 million of UK ODA provided between 2016 and 2019 and at least £75 million more allocated to consolidate the peace agreement in conjunction with the World Bank. The introduction of trade preference eligibility could well be an incentive for the new settled state to curb the almost endemic state-sponsored human rights abuses.

My third and final example is that, in another development, on 11 October, Uganda’s president, Yoweri Museveni, announced that Uganda, the DRC and South Sudan have agreed jointly to develop road infrastructure to boost trade between those countries and the region. Uganda has received more than £600 million in UK ODA since 1986 and currently has a rolling 10-year ODA programme of more than £50 million a year. Uganda, understandably, is considered a strategic priority by the UK. President Museveni emphasised that building roads that will connect Uganda to eastern DRC and South Sudan would tremendously increase connectivity within the region and unlock its growth potential. We must remember that access to the eastern part of the DRC is possible only by air because there are hardly any roads and it is traversed by river after river. President Museveni makes the point that a good road network connecting Uganda with eastern DRC would go a long way to help solve the question of insecurity and that movement of personnel and equipment to pockets of insecurity would be eased, as it is the territory where the remnants of Joseph Kony’s LRA still lurk, kidnaping and killing with impunity. Yet while these trade opportunities are emerging, Bobi Wine, the prominent opposition leader of the National Unity Platform party, claims his presidential candidature is threatened by human rights abuse and impunity in Uganda. Could this be a test case for this new legislation?

The former Foreign Office Minister, Rory Stewart, reflected recently that while on mission in the DRC, where he intended to discuss human rights and the illegal postponing of an election with President Joseph Kabila, the summit passed largely with Kabila—and I quote—

“laughing at me about Brexit”.

I support this amendment and suggest to Liz Truss that while, fundamentally, free trade is humanitarian, there is still some way to go before human rights abuse eradication is part of the trade preference package, particularly in Africa.

Lord Judd (Lab) [V]: My Lords, the noble Lord, Lord Chidgey, and I have known each other for almost a lifetime, since his very young days as a student in Portsmouth when I was the MP. We did not agree politically, and we do not agree politically now, but we have been good friends and I have always valued his insight, experience and total commitment on a range of issues concerning our part in the world, developing countries, particularly in Africa, and our responsibilities towards them.

[LORD JUDD]

I thank the noble Lord, Lord Lansley, for this amendment. It seems appropriate that as we come to the end of our considerations in Committee on the Trade Bill we come back to human rights. I have always felt that trade and human rights have a complex and close relationship. The other evening, we were debating with real feeling, emotion and commitment the proposals on China from the noble Lord, Lord Alton, and our deep concerns about the actions we felt would become necessary. I said in that debate and will repeat now that the problem is that there is genocide, which is very clearly defined and well established in international law and on which the issues are stark, but there is a whole range of issues on the edge of genocide or comparable with the situation under genocide but it is not a race or a people who are at stake but elements of a society. It is long overdue that we should have sensitive arrangements in our trade policy that would mean that we could respond to such a situation by taking appropriate action to bring home to those with authority in the country concerned what is at stake and the corrective actions. This amendment raises that point, and for that reason I was very glad to see it on the Marshalled List.

Of course, we have to remember our own responsibilities in this context. It is not just us as judge of the rest of the world. We must look at ourselves. It is simply not true that there is something called trade or business which is self-contained and separate from our concerns about humanity and the responsibilities of civilised values towards the cause of humanity. This amendment gives us the opportunity to do something about it in a graduated way and from that standpoint I think it deserves very full consideration.

Lord Purvis of Tweed (LD): My Lords, I am grateful to the noble Lord, Lord Lansley, for moving this amendment, which my noble friend Lord Chidgey signed and spoke to so well. I commend the noble Lord, Lord Lansley, for presenting the amendment in a methodical, sensible and persuasive way. I agree with the thrust of the amendment: that we should have an opportunity in this House to debate substantially the scheme of preferences that we will have from January next because of the consequences they will have.

5 pm

In an ideal world, I would have preferred the framework of the scheme to have been in primary legislation and the details of the implementations, with the countries and the various elements of it, in secondary legislation. As we have seen in our relationship with the European Union, from the development of the scheme of preferences, from the early discussions of the Cotonou agreement and through the 1970s and 1980s, this subject has not been free from controversy or debate. It is also a subject where we have seen significant advances, diversification and expansion in the economies of many of the countries that we trade with. We have then looked to expand that in the way that the noble Lord, Lord Lansley, indicated for development of the schemes of preferences. Moving from the general scheme to the enhanced scheme of GSP+ has been very beneficial. Therefore, it is important that we have an opportunity to debate this.

Time is now of the essence. The noble Viscount, Lord Younger, could probably forecast what I am about to say, because I am waiting for the letter from the Ministers. My noble friend Lady Northover and other noble Lords made a very good point: the clock is ticking for many of the least developed countries and those countries that will be operating under the new unilateral trade preferences scheme from January. I have referenced previously in Committee a letter that Theo Clarke and I received by virtue of our being co-chairs of the All-Party Group on Trade out of Poverty, which I declare as an interest. That letter, sent to us on 16 September, said that further details on the documentary requirements of the UK GSP will be published this autumn. We are substantially into autumn now, so I would be grateful if the Minister could indicate when the full documentation will be available for our trading partners, in addition to the clear list of those countries that are likely to see disruption if we do not roll over the continuity agreements.

The letter also said something intriguing, which was very interesting to read. I think that the noble Lord, Lord Lansley, will also be very pleased to hear it. The Minister said that the Government have also committed to making the US GSP even more generous and easier to access. However, unless we have the sort of procedure that the noble Lord has indicated for us to consider this fully, how are we to judge its generosity or how easy it is to access? The negative procedure will give us a very limited ability to test that argument fully and allow us to speak with our interlocutors. My noble friend Lord Chidgey has vast experience of dealing with colleagues across Africa. I have been in regular contact with those within the NGO community and charities, and with the Governments of the EPA countries, on some of the practical considerations.

One reason why this is vital is that some decisions that have already been taken by the Government make me question what the impact would be. The noble Lord, Lord Lansley, referred to what is my first question, which some people may underestimate and so is worth repeating. With great fanfare, the Government said that the new universal tariff that the UK would have would be lower than what we currently have, but any overall reduction of our external tariff inevitably would have an impact on those countries that currently enjoy universal zero tariffs. It is true that it will have different impacts for certain countries that trade with us in certain markets, but having an understanding of the impact is really important, otherwise we will not be able perhaps to shift some of our support or our trading relationships with some of those countries in certain products.

The second aspect is that those countries are desperate to know, as we all are, what our free trade agreement will be with the European Union. For many of the countries that deal with us through the GSP, or Everything But Arms, we are a gateway to that wider European market for processed goods and the end point for many of the processed goods that come via the European Union, so the trading relationship that we have with the European Union is very significant for those.

There is also, importantly, how the tariff quotas will link with our GSP scheme. The Government quietly indicated over the summer that they were increasing

the autonomous tariff quota rates on raw sugar. That could be seen as beneficial for some, because it would save one American-owned, British-based company many millions of pounds and another British company a lot of money. But they increased it to 260 kilotonnes, providing an additional market. That allows an expansion of zero-tariff quota access in raw sugar. For those least developed countries that already benefited from zero tariffs in a protected quota, it has massively undermined the benefit they have from that zero-tariff rate with us.

Not only that; it also meant that the Government expanded zero-rate tariffs on raw sugar—I see that the noble Baroness, Lady McIntosh, is still in her seat—which, as the NFU said, massively undermined some of our own beet producers. There are very significant consequences even to what was simply an announcement without any detail, because we have not yet seen the orders. A debate on any new scheme is vital and I hope that the Minister will be able to say that the Government will commit, in our hybrid proceedings, to debate this fully because of those significant consequences.

On another point, I am desperate to receive the letter from the Minister regarding what may well be the consequences at the beginning of January if we have not rolled over the agreements for countries that perhaps do not benefit from Everything But Arms but are within the category of the GSP. I was interested to hear the noble Lord, Lord Lansley, mention Kenya and Ghana. I have very interesting information provided to me by the excellent Fairtrade Foundation, highlighting the consequences if we do not have rollover agreements or any protective mechanisms in place for trade with Kenya and Ghana. I want to share some of the statistics with the Committee because, if your Lordships will forgive me, they illustrate the noble Lord's point. On cut flowers, for example, the current tariff on exporting from Kenya to the UK is zero. Unless there is some mechanism in place to protect that continuity of trade, in January the tariff on those cut flowers from Kenya will go up to 8%. Kenya could theoretically apply to the GSP+ category, although doing that within two months seems unlikely; even then, that would go back to 0%. We would be looking at the UK global tariff going up to 8% on those goods.

The Minister referenced some of these products on a previous day in Committee. The current tariff on bananas from Ghana is 0%. Without any mechanisms in place to protect continuity for that trade, it will go from 0% on all banana imports to £95 a tonne. The impact of this will be compounded by those on cocoa beans, or cocoa butter and paste, from Ghana going up from 0% to 6% or 8% accordingly. It will also be compounded by the indications on the logistics of the border processes and the fact that some goods are processed to transit between the UK and EU, and vice versa. If no deal is agreed, it would mean that if a good has been processed in the EU from one of these countries, and ends up in the UK market, they will have to pay a tariff of 8% from the UK Government. Businesses exporting Fairtrade products to the continent that come from the UK will need to pay a new tariff of at least 6% from the EU. We are looking at quite a damaging set of circumstances for the countries that have been referenced so far.

So we not only need to debate the GSP scheme, we also need to ensure that, with the countries that we currently trade with, there will be genuine continuity in those trades. Especially in the time of Covid-19, these countries cannot afford disruption. In the overall scheme of UK imports, you may look at it as a tiny fraction, but these are very significant markets for the people working within those industries.

I turn to my second and final point. I am really glad that the noble Lord, Lord Lansley, has raised the issue of human rights, which was referenced in previous groups. Then we focused on domestic human rights legislation, but now we are focusing on it around the world. Earlier, I referenced the framework of the Cotonou agreement, which has now concluded, and a new framework would have been needed anyway in the European Union and the UK, regardless of whether we were in the EU or not. So how the Government intend to update or renew the EPAs is going to be very important, and more information about that from the Minister would be very helpful.

In recent years, the human rights clauses in our EPAs with countries have also been reflected in the other agreements that are not linked with trade with those other third countries, for the very sensible reason that, if we are to take “appropriate measures”—as the European Union will have been reviewing with regard to those countries that the noble Lord, Lord Lansley, mentioned—then countermeasures can be taken under international law on obligations owed in other agreements. So it strengthens the fact that we would be able to take “appropriate measures” if necessary.

Up to now, “appropriate measures” has been the term used for those measures when we have determined that there have been breaches of significant human rights undertakings in our agreements. We have had a graduated process that has started from ongoing dialogue and moved to intensive political dialogue. That first dialogue has been able to open up to other parties, including individuals. Then there would be formal bilateral consultations, which, if unsuccessful—or if there was special urgency that was defined—could lead to “appropriate measures”. Therefore, it is very helpful to know what the Government's response is.

In moving the amendment, the noble Lord, Lord Lansley, indicated that we would seek to have the power to activate measures. It would be interesting to know whether he has in view replicating a similar type of graduated response to what we had in the Cotonou agreement, because that is now out of date and so we will have to design what the UK approach is. Do we have a graduated or a nuclear option? Further discussion on that would be very helpful.

Finally, on 3 October 2019, we debated this in the House in a Question for Short Debate secured by the noble and right reverend Lord, Lord Harries of Pentregarth. The noble Baroness, Lady Berridge, responded for the Government, and she said, on human rights and trade deals, that we have an opportunity and that:

“It is a time of exploration and innovation, while of course aiming to maintain continuity”.—[*Official Report*, 3/10/19; col. 1889.] However, a year on, we have had no further information on how the Government wish to explore and innovate in human rights and trade. We cannot really wait

[LORD PURVIS OF TWEED]

much longer, because this will have to be put in place from January, so I would be grateful if the Minister can outline the intentions of the Government today.

Lord Bassam of Brighton (Lab) [V]: My Lords, we owe the noble Lord, Lord Lansley, a debt of gratitude for bringing this amendment before us. We should also thank the noble Lord, Lord Chidgey, for his heart-rending speech on human rights abuses; it was very moving indeed.

The Taxation (Cross-border Trade) Act allows the Secretary of State to create a trade preference scheme for developing countries. Schedule 3 to that Act lists which “eligible” and “least developed” countries can be considered for inclusion as a beneficiary country under the preference scheme. The amendment in the name of the noble Lord, Lord Lansley, would confer a power to remove a country from the list if

“the government of that country has committed abuses of human rights of such a character and scale that, in the view of the Secretary of State, unilateral trade preferences should be withdrawn.” It is hard to argue against that point, and the noble Lord has made it forcefully. These are obviously very serious issues. Whether we are talking about genocide or torture, the department should be aware of which trade policies are relevant and take account of them.

5.15 pm

It would be helpful to hear more about how the Secretary of State will determine whether human rights abuses have taken place, what advice they will seek to take and what threshold will be set to withdraw those trade preferences. Will the threshold be different for different types of abuses? I do not know how one can tabulate or grade these things, but clearly that will be an issue—it has been in the past. How can we make sure that such decisions are both transparent and accountable? As the noble Lord, Lord Purvis, said, the consequences are significant. He described rather well the impact of different tariffs and the way in which they work down.

Ultimately, of course, trade is much more than trade. That is why it is important that the Minister explains properly to us how human rights abuses will be factored into decisions about the trade preference scheme. Given everything else that is going on in government, and everything else that is occurring with trade and Brexit too, we need some confidence that the scheme can be made ready and put in place from 1 January next year.

The noble Lord, Lord Lansley, made a good point about the procedure for considering these issues: that it would be better if it were the affirmative procedure rather than the negative procedure. Clearly, there are issues such as timeliness to consider, but the affirmative procedure offers greater scrutiny to Parliament. In general terms, we on our side tend to agree with that.

Lord Grimstone of Boscobel (Con): My Lords, I thank my noble friend Lord Lansley for his interest in the UK trade preference scheme. The Government share his interest in using trade preferences to support trade and development, and I am happy to discuss the Government’s commitments in this area.

I reassure the Committee that the Government have made long-standing commitments, including to Parliament, to replicate the EU trade preference scheme. The UK trade preference scheme—UK GSP—will provide the same level of access as the current EU trade preference scheme by granting duty-free, quota-free access to the UK market to least developed countries and by granting tariff reductions to other developing countries. It will replicate the three levels of market access provided by the EU, including an enhanced level of market access for economically vulnerable countries that ratify and implement 27 international conventions.

As noble Lords will be aware, coronavirus has had a severe impact on trade for many developing countries. Providing certainty that we will continue their GSP access is an important way of supporting their economic recovery.

I can confirm that the first set of GSP regulations will be laid before the end of the year and that they will maintain continuity of market access. I listened carefully to the points made by my noble friend Lord Lansley and the noble Lord, Lord Purvis, but, as these regulations do not effect any significant changes compared with the EU’s generalised scheme of preferences, the Government consider it more appropriate, when parliamentary time is stretched, to keep these as negative procedures.

However, I say to noble Lords that, after we have ensured continuity of the EU trade preference scheme in the transition period, we are committed to improving the UK’s trade preference scheme further in due course. I can confirm that we want the UK’s unilateral preferences to be as effective and simple to access as possible, to best support economic development in poor countries and to support UK businesses and consumers to access competitively priced goods. I reassure the noble Lord, Lord Purvis, that we will make available the information in the autumn that we said we would make available.

I turn to the second part of amendment on human rights, and reassure noble Lords that the power in Section 10 of the Taxation (Cross-border Trade) Act allows for preferences to be varied, suspended or withdrawn and, by extension, allows the Government to address human rights violations of the type that this amendment seeks to address. I can assure the House that regulations to create the UK preference scheme will include provisions for the variation, suspension, or withdrawal of trade preferences where the beneficiary country engages in serious and systematic violations of human and labour rights. The noble Lord, Lord Chidgey, gave us some very powerful and chilling reasons why it is very important that we have these options. The Government will look at range of options in the event of human rights violations, and we shall balance the need to act decisively, where required, with the need to follow due process.

My noble friend Lord Lansley raised the question of Cambodia. The UK shares the EU’s concerns over the human rights situation in Cambodia, and continues to raise them with the Cambodian Government. However, the UK, rightly and properly, will take into account all the available evidence before taking a decision on whether to partially suspend Cambodia’s preferences at the end of the transition period.

The UK has a strong history of protecting these principles and promoting our values globally, and we will continue to do so. The Government do not shy away from issues of human rights, including during our discussions on trade. Moreover, the introduction of political considerations related to human rights does not fit with the purpose of the list of countries in Schedule 3 to the Act. This was intended to determine eligibility based on objective classifications by international bodies. The proper place to include these provisions is in the regulations that we will be introducing before the end of the year.

I undertake to write to noble Lords who raised detailed questions in the debate that I have not covered in this winding-up.

As this is the last amendment we are debating, I ask for the Committee's indulgence to put on record my gratitude and appreciation to noble Lords, who have spoken with great passion, knowledge and experience during all the debates. I have personally found the expertise and constructive engagement I have had extremely valuable, and I thank noble Lords for their patience as I have begun to learn my trade as a Bill Minister. I thank the noble Lords, Lord Stevenson, Lord Grantchester, Lord Purvis and Lord Fox, the noble Baroness, Lady Kramer, and my noble friends Lord Lansley, Lady Neville-Rolfe and Lady Noakes. I think that noble Lords will also want to join me in paying tribute to my noble friend Lord Younger, whose support, guidance and good humour has been invaluable to me. On a personal level, I also thank the Bill team in my department for some tremendous work, and my private secretary, Donald Selmani, for spending long hours sitting in the Box.

The debates that we have had in Committee have allowed a detailed assessment of this Bill, as well as of wider trade issues. We now have some time in which to reflect on the views that we have heard—and, of course, I undertake to do that. I will use this time carefully and I look forward to engaging with Peers and debating the Bill further on Report.

On the amendments that we have been discussing, that just leaves me to say that I am grateful to my noble friend Lord Lansley for raising these important issues. I hope that I have been able to reassure him and other noble Lords, and that he will agree to withdraw his amendments.

Lord Lansley (Con): My Lords, I am grateful to the Minister for his response to this debate. I am pleased that we have finished with an illustration, and I am grateful to the noble Lord, Lord Chidgey, in that regard, and to the noble Lord, Lord Purvis of Tweed, for giving powerful, relevant examples of how the trade preferences and the way we manage our trade in future can have substantial impacts in some of the poorest countries of the world.

It is rather important that we finish by recognising that, while we do our dry legal work here, there will be powerful, real-world consequences of the decisions that we take. It is precisely for that reason that I tabled this amendment—to illustrate that, as a Parliament, we want to get involved in the debate about how we can make our UK trade preference scheme more generous, more accessible and able to support sustainable

development around the world more effectively. We may well start by replicating the EU scheme, and I think the EU would legitimately argue that its generalised scheme of preferences is a world leader, but that does not mean it is perfect. It is important for us to recognise that there may be ways we can further develop it, given our ability to deploy our development expertise around the world.

I also understand the Minister's argument about the first regulations being essentially to replicate the EU scheme, so why should we take up our valuable time debating them? The noble Lord, Lord Purvis of Tweed, shared the point that our global tariff is not the same as the EU's tariff. In so far as there are differences, it will have consequences for the least developed countries. Some of those consequences—for some products for some countries—might be really significant, and the noble Lord gave us examples of that. That is especially true if we do not have rollover agreements. It is bound to be true in that the EU has, for example, regional trade agreements that give rise to accumulation opportunities that we will not necessarily have in place early next year. So, easy as it is to say that we will simply replicate the EU scheme, I am afraid that there will be differences from the outset. I want to make sure that those differences are not negative and we find ways to deal with the potentially negative consequences for the neediest countries, but also go on, perhaps, to find new opportunities in the future.

I hope this is a debate that the Minister wants to have and that we will continue to have but, in view of everything he said, I do not want to press it now. As someone who has participated in all these Committee days—as my noble friend Lord Bates will recall, we did the same back in the early part of 2019—I think the Minister can rest assured that he has had an effective, capable and impressive first outing as a Minister working on a Bill. In response to his kind words to noble Lords, we have all very much appreciated the way that he, my noble friend Lord Younger of Leckie and officials have gone about the process of working with us. We look forward to that being continued on Report. I beg leave to withdraw Amendment 92.

Amendment 92 withdrawn.

Amendments 93 to 95 not moved.

Clause 11: Interpretation

Amendment 96 not moved.

Clause 11 agreed.

Clauses 12 and 13 agreed.

Amendments 97 and 98 not moved.

Clause 14 agreed.

Schedule 1: Restrictions on devolved authorities

Amendment 99 not moved.

Schedule 1 agreed.

Schedule 2: Regulations under Part 1

Amendments 100 to 103 not moved.

Schedule 2 agreed.

Schedule 3 agreed.

Schedule 4: The Trade Remedies Authority

Amendments 104 to 114 not moved.

Schedule 4 agreed.

Schedule 5 agreed.

House resumed.

Bill reported without amendment.

House adjourned at 5.31 pm.