PARLIAMENTARY DEBATES

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GENERAL COMMITTEES

Public Bill Committee

DEEP SEA MINING BILL

Wednesday 15 January 2014

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The Committee consisted of the following Members:

Chair: Sir Roger Gale

† Burns, Mr Simon *(Chelmsford)* (Con)
† Colvile, Oliver *(Plymouth, Sutton and Devonport)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
Esterson, Bill *(Sefton Central)* (Lab)
Fitzpatrick, Jim *(Poplar and Limehouse)* (Lab)
† Glindon, Mrs Mary *(North Tyneside)* (Lab)
† Lidington, Mr David *(Minister for Europe)*
† McCarthy, Kerry *(Bristol East)* (Lab)
† McKenzie, Mr Iain *(Inverclyde)* (Lab)
† Murray, Sheryll *(South East Cornwall)* (Con)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
O'Donnell, Fiona *(East Lothian)* (Lab)
† Offord, Dr Matthew *(Hendon)* (Con)
† Shannon, Jim *(Strangford)* (DUP)
† Thornton, Mike *(Eastleigh)* (LD)
Tomlinson, Justin *(North Swindon)* (Con)

Kate Emms, *Committee Clerk*

† attended the Committee

Public Bill Committee

Wednesday 15 January 2014

[Sir Roger Gale *in the Chair*]

Deep Sea Mining Bill

Clause 1

Amendments of Deep Sea Mining (Temporary Provisions) Act 1981

2.30 pm

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Amendment 1, in clause 2, page 1, line 9, after 'Wales' insert ', Scotland'.

Amendment 2, in schedule, page 2, line 30, leave out ' "sovereign rights" to "other Sovereign Power" substitute' and insert ' "certifying" to "Power" substitute

"or the Scottish Ministers certifying that'.

Amendment 3, in schedule, page 3, line 18, leave out from '(2)' to end of line 20 and insert—

'( ) omit "subsection (4) and", and

( ) for the words from "the Secretary of State" to the end substitute—

"(a) the Secretary of State may on payment of such fee as may with the consent of the Treasury be prescribed grant to such persons as the Secretary of State thinks fit exploration or exploitation licences, except where the Scottish Ministers have power to grant the exploration or exploitation licence in question;

(b) the Scottish Ministers may on payment of such fee as may be prescribed grant to such persons as they think fit exploration or exploitation licences.".'.

Amendment 4, in schedule, page 3, line 24, after 'fit' insert

'or, as the case may be, the Scottish Ministers think fit'.

Amendment 5, in schedule, page 3, line 28, after 'fit' insert

'or, as the case may be, the Scottish Ministers think fit'.

Amendment 6, in schedule, page 3, line 40, after 'State' insert

'or, as the case may be, the Scottish Ministers'.

Amendment 7, in schedule, page 3, line 43, after 'State' insert

'or, as the case may be, the Scottish Ministers'.

Amendment 8, in schedule, page 4, line 9, after 'prescribed' insert—

'(ka) requiring payment to the Scottish Ministers of such sums as may be prescribed at such times as may be prescribed;'.

Amendment 9, in schedule, page 4, line 11, after 'State' insert

'or, as the case may be, the Scottish Ministers'.

Amendment 10, in schedule, page 4, line 14, leave out from 'Where' to 'grant' in line 15 and insert

'the Secretary of State has, or the Scottish Ministers have, granted an exploration licence, neither the Secretary of State nor the Scottish Ministers may'.

Amendment 11, in schedule, page 4, line 23, leave out from beginning to 'grant' and insert

'Neither the Secretary of State nor the Scottish Ministers may'.

Amendment 12, in schedule, page 4, line 31, at end insert 'or the Scottish Ministers'.

Amendment 13, in schedule, page 5, line 18, after 'environment)' insert—

'(a) in subsection (1)—

(i) after "State", in the first place, insert "or, as the case may be, the Scottish Ministers",

(ii) after "State", in the second place, insert "or the Scottish Ministers", and

(iii) after "him" insert "(or them)", and

(b) '.

Amendment 14, in schedule, page 5, line 19, at end insert—

'(ii) after "State" insert "or the Scottish Ministers", and

(iii) after "considers" insert "(or they consider)"'.

Amendment 15, in schedule, page 5, line 19, at end insert—

'6A In section 6 (variation or revocation of licences), after subsection (2) insert—

"(3) This section applies in relation to an exploration or exploitation licence granted by the Scottish Ministers as if references to the Secretary of State were references to the Scottish Ministers."'.

Amendment 16, in schedule, page 5, line 20, leave out from 'action)' to end of line 21 and insert—

'(a) in subsection (1), after "State" insert "or, as the case may be, the Scottish Ministers",

(b) in subsection (2)—

(i) for "section 2(3) above, the Secretary of State" substitute "section 2(3A) above, the Secretary of State or the Scottish Ministers", and

(ii) after "considers" insert "(or they consider)", and

(c) in subsection (4), after "State" insert "or, as the case may be, the Scottish Ministers".'.

Amendment 17, in schedule, page 5, line 26, after 'Court' insert

'or the Court of Session ("the registering court")'.

Amendment 18, in schedule, page 5, line 29, leave out 'High Court' and insert 'registering court'.

Amendment 19, in schedule, page 5, line 32, leave out 'appropriate' and insert 'registering'.

Amendment 20, in schedule, page 5, line 38, leave out 'High Court' and insert 'registering court'.

Amendment 21, in schedule, page 5, line 45, leave out 'High Court' and insert 'registering court'.

Amendment 22, in schedule, page 6, line 3, at end insert—

'(7) In the application of this section in relation to Scotland references to costs are to be disregarded.'.

Amendment 23, in schedule, page 6, line 24, leave out from 'award' to end of line 25 and insert 'and

(b) is to be treated for the purposes of sections 18 to 22 of the Arbitration (Scotland) Act 2010 (which make similar provision for Scotland) as a Convention award,

whether or not (in either case) it would be so treated apart from this section."'.

Amendment 24, in schedule, page 6, line 27, at end insert—

‘ In section 11 (inspectors)—

(a) in subsection (1)—

(i) after “State” insert “or the Scottish Ministers”,

(ii) after “him”, in both places, insert “(or them)”, and

(iii) after “considers” insert “(or they consider)”, and

(b) in subsection (2)—

(i) after “State”, in the first place, insert “or the Scottish Ministers”, and

(ii) for “may determine with the approval” substitute “or, as the case may be, the Scottish Ministers, may determine with the approval (in the case of an appointment by the Secretary of State)”’.

For section 12 substitute—

“12 Regulations and orders

(1) The Secretary of State may make regulations—

(a) prescribing anything required or authorised to be prescribed under this Act in relation to an exploration or exploitation licence granted or to be granted by the Secretary of State;

(b) generally for carrying this Act into effect, except where the Scottish Ministers have power to make provision under subsection (2)(b).

(2) The Scottish Ministers may make regulations—

(a) prescribing anything required or authorised to be prescribed under this Act in relation to an exploration or exploitation licence granted or to be granted by the Scottish Ministers;

(b) generally for carrying this Act into effect.

(3) Regulations under this section may, in particular, make provision with respect to any of the matters mentioned in the Schedule.

(4) Regulations under this section may make different provision for different cases or classes of case and may exclude the operation of any provision of the regulations in specified cases.

(5) Any power of the Secretary of State to make regulations or an order under this Act is exercisable by statutory instrument.

(6) A statutory instrument containing regulations made under this Act by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Regulations under subsection (2) are subject to the negative procedure, within the meaning of section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010.”’.

Amendment 25, in schedule, page 6, line 28, leave out ‘13 (disclosure of information)’ and insert ‘13(1) (disclosure of information)—

(a) in paragraph (b), for “or the Secretary of State” substitute “, the Secretary of State or the Scottish Ministers”; and

(b) ’.

Amendment 26, in schedule, page 6, line 32, leave out from ‘in’ to ‘applies’ in line 33 and insert ‘the following enactments’.

Amendment 27, in schedule, page 6, line 34, at end insert—

‘(2) Those enactments are—

(a) Part 2 of the Food and Environment Protection Act 1985 (deposits in the sea);

(b) Part 4 of the Marine and Coastal Access Act 2009 (marine licensing);

(c) Part 4 of the Marine (Scotland) Act 2010 (marine licensing).’.

Amendment 28, in schedule, page 7, line 38, at end insert—

‘After section 17 insert—

“17A Exercise of functions by the Scottish Ministers

Any provision of this Act which confers a function on the Scottish Ministers is to be read as conferring a function exercisable only so far as within devolved competence (within the meaning of section 54 of the Scotland Act 1998).”’.

Amendment 29, in schedule, page 7, line 41, at end insert—

‘In the Schedule, in paragraph 5, after “Secretary of State” insert “(or, in the case of regulations made under section 12(2), the Scottish Ministers)”.’.

Good afternoon, ladies and gentlemen, and welcome. Right hon. and hon. Members may remove their jackets if they wish, but I am not prepared to allow coffee in the room.

We can play this in one of two ways. My preferred option is that we have a broad-ranging debate, cover as many of the issues as are likely to arise out of the entire proceedings, and move to a series of votes. We can do it on a clause-by-clause basis, but under these circumstances that would be cumbersome, so I suggest the former option. However, if any hon. Member feels obliged to do it the other way, please let the Chair know.

Sheryll Murray (South East Cornwall) (Con): It is a pleasure to serve under your chairmanship, Sir Roger. The clause will give effect to amendments to the Deep Sea Mining (Temporary Provisions) Act 1981. We had a long discussion about these issues on Second Reading, and in essence, the purpose of the Bill is to update the 1981 Act. If enacted, it will enable the Government to issue licences to companies to explore for, and in due course to exploit, all the mineral resources of the deep-sea bed.

Under the 1981 Act, the Government’s power to issue licences is confined to polymetallic nodules, but the International Seabed Authority has already adopted regulations on exploration for polymetallic sulphides and cobalt-rich crusts. We do not want the Government to have to turn away companies that wish to explore for those mineral resources in the deep sea, beyond any state’s national jurisdiction. In addition, the Bill will ensure consistency between UK legislation and the United Nations convention on the law of the sea.

The development of deep-sea mining is exciting and I believe—this was the general sentiment on Second Reading—it is important for the United Kingdom to be at the forefront of those developments. Clause 1 will make the necessary amendments to our law for that to happen.

Amendments 1 to 29 will apply the Bill to Scotland. The amendments are to clause 2 and the schedule, and I am pleased that they are being taken as a package because they all have the same purpose of extending the Bill to Scotland. They are necessary because deep-sea mining has been devolved to Scotland. I am pleased that agreement has been reached with the Scottish Government to extend the Bill to Scotland. That will enable Scottish Ministers to issue licences for deep-sea mining where that is within their devolved competence, That is obviously an important and welcome step. I know that many Scottish companies have developed

[Sheryll Murray]

significant expertise in the North sea, and I am sure, therefore, that they will be in a strong position to bid for contracts with companies engaged in deep-sea mining. I hope the amendments will commend themselves to the Committee.

Clause 2 sets out the extent, commencement and short title of the Bill. If passed, the Bill will come

"into force at the end of the period of 2 months beginning with the day on which it is passed",

and will be called the Deep Sea Mining Act. The Bill, as drafted, will apply to England, Wales and Northern Ireland. During the debate on the Ways and Means resolution, the hon. Members for North Down (Lady Hermon) and for Strangford asked about the application of the Bill to Northern Ireland. I know that my right hon. Friend the Member for East Devon (Mr Swire) wrote to the hon. Members after the debate, and I reiterate that the Bill does extend to Northern Ireland. It does not apply to the waters off Northern Ireland, however, because it covers only the deep-sea bed—areas of sea beyond the jurisdiction of any state.

Mr Simon Burns (Chelmsford) (Con): Will my hon. Friend clarify subsection (2) of clause 2? Has she received any communications from the British overseas territories expressing any interest in the Bill?

Sheryll Murray: I confirm to my right hon. Friend that I have not had any direct communications. Perhaps the Minister will confirm whether he has received any when he sums up.

Jim Shannon (Strangford) (DUP): I congratulate the hon. Lady on clause 2 and the extension of the Bill to Northern Ireland. She has clearly outlined the issues in relation to the Northern Ireland Assembly, which I understand will potentially have responsibility. How will that affect the fishing industry, which is still the responsibility of the Northern Ireland Assembly through the Department of Agriculture and Rural Development? I want to gauge the response from that Department in relation to what has been planned.

Sheryll Murray: As I pointed out, the Bill extends to areas of sea beyond the jurisdiction of any state. I do not know of any fishing vessel that is capable of fishing in the deep sea areas we are referring to, but again, the Minister might want to expand on that when he speaks.

Finally, the schedule makes detailed amendments to the 1981 Act. These are largely designed to ensure consistency between UK legislation and the United Nations convention on the law of the sea. Obviously, that is important in its own right, but it is particularly important because it will enable the Government to issue licences to explore for, and in due course exploit, all mineral resources of the deep-sea bed, and not only polymetallic nodules, which are the only minerals covered by the 1981 Act. That concludes my outline.

Kerry McCarthy (Bristol East) (Lab): It is a pleasure, as ever, to serve under your chairmanship, Sir Roger. Some people might feel that the Bill is simply another private Member's Bill that goes through on the nod, but I am afraid I might disappoint people by speaking at some length about the issues raised in the Bill, because important principles are at stake. We know that the deep seas are full of unexplored regions and resources that are unknown to us at the moment. To what extent do we cross the boundary between exploration and exploitation, and then cross the line further into environmental damage, which could be irreparable? We debated that issue when we discussed oil drilling in the Arctic, for example, and it is pertinent to the shale gas debate that I am sure we will discuss in the years to come.

Sheryll Murray: Perhaps I can clarify for the hon. Lady that the reason we are extending the 1981 Act is so that the UK can apply for licences on behalf of UK companies to ensure that the strictest environmental practices and protection are carried out.

Kerry McCarthy: I understand the hon. Lady's point, but I want to press the Minister to ensure that that is so because it is not spelt out in great detail in the Bill—and it is a short Bill.

The original Bill, which contained the words "temporary provisions" in its title, came into force in 1981, yet here we are 32—nearly 33—years later, trying to make the arrangements permanent. I am concerned about the timing. The original Bill was brought into effect and agreed a year before UNCLOS was decided, and it took quite a while for that convention to be implemented. The ISA is considering drawing up a regulatory regime for exploitation, but I am concerned that that will supersede provisions in the Bill. This is not described as a temporary provisions Bill, and I want to ensure that whatever is agreed at the ISA is reflected in UK legislation, rather than waiting another 30 years before revisiting the issue.

On Second Reading, a Government Back Bencher said that,

"resources were placed on this world for the exploitation of man".—[*Official Report*, 6 September 2013; Vol. 567, c. 600.]

I am sceptical about that because there are boundaries we should not cross. Dr Adrian Glover from the Natural History museum, a leading expert in this field, said:

> "Like the Amazon basin, the deep-sea ecosystem has been considered to be both an unexplored wilderness, and a resource frontier. The potential resources of the deep sea are tremendous, while scientific understanding of natural processes in this ecosystem is very poor. This is a dangerous combination."

He is flagging up the fact that we do not know what environmental damage could be caused if we proceed with deep-sea mining. I accept that deep-sea mining is inevitable and that, as the Minister said on Second Reading,

"we could not stop it even if we wanted to."—[*Official Report*, 6 September 2013; Vol. 567, c. 637.]

It is, however, important that the UK is at the forefront of this industry, so that we can help determine standards. If we are not, that could—sadly—be left to others who would not consider environmental protection as important as we do. We must ensure that that happens in way that does not cause irreversible damage.

Paragraph 2(3) to the schedule updates the reference in the 1981 Act to hard mineral resources to include liquid and gaseous resources. Will the Minister or the

hon. Member for South East Cornwall, who is promoting the Bill, comment on concerns about that measure providing for the exploitation of oil and gas too? On Second Reading, the then Minister, the right hon. Member for North East Bedfordshire (Alistair Burt), said,

"we are not talking about hydrocarbons, at least not at the moment."—[*Official Report*, 6 September 2013; Vol. 567, c. 623.]

Does the Minister intend to revisit the legislation if or when there are plans to apply it to hydrocarbons?

Under the UNCLOS constitution, the ISA is responsible for providing a regulatory framework for oil and gas in the high seas. I understand that it is not in a position at the moment, in terms of its resources, to properly fulfil that role. Does the Minister agree that oil and gas extraction in the high seas should be prevented from going ahead until the issue of the capacity of the UNCLOS is resolved?

Paragraph 6 to the schedule, which amends section 5 of the 1981 Act, covers environmental protections but does not strengthen the provisions. On Second Reading I was concerned that some Conservative Back Benchers were working on the misguided assumption that any damage caused will just be repaired naturally as nature takes its course. One MP said that the environmental effect of mining is not permanent and that

"the habitat will return to its normal state after the mining ceases in an area."—[Official Report, 6 September 2013; Vol. 567, c. 610.]

Another Back Bencher expressed relief about

"the speed with which the sea…restores itself to pristine condition after someone has been down and done a little digging."—[Official Report, 6 September 2013; Vol. 567, c. 616.]

However, environmental organisations, such as the World Wildlife Fund and Greenpeace are concerned that deep-sea mining could cause irreversible or significant adverse effects. Greenpeace said,

"If seabed mining is allowed to go ahead without a comprehensive system of environmental protection in place we may be destroying species forever before they have even been scientifically described."

Dr Adrian Glover from the Natural History museum stated,

"Because so little is known about this remote environment, the deep-sea ecosystem may well be substantially modified before its natural state is fully understood."

Mr Iain McKenzie (Inverclyde) (Lab): My hon. Friend is making an informed speech about the consequences of allowing these licences. Does she agree that we have to be careful about licensing out deep-sea mining when we know less about the deep oceans than about the moon?

Kerry McCarthy: That is exactly my point. I secured a debate a while ago on the protection of marine ecosystems, and people will know from that that I am a keen scuba diver. The number of fairly large species, such as squid and octopus we have never charted before, that are discovered is fascinating. Divers and marine biologists have discovered all sorts around places such as the Pitcairn Islands—which we hope will be a marine protected area—from tiny nudibranchs and very small organisms to species of shark that they are not sure have previously been logged. It is incredibly important that we tread cautiously and do not rush in and assume that just because mineral resources are there, they should be our prime objective in exploring the sea bed.

2.45 pm

Let me mention a few things that environmental groups are particularly concerned will be detrimentally affected by deep-sea mining. Hydrothermal vent communities, which would be removed during mining for polymetallic sulphides—this relates to the point I have just made—were discovered in only 1977. Greenpeace notes,

"the organisms that live here are like nothing on earth, drawing their energy not from the sun but from the chemicals gushing from the vents".

They are home to the largest reservoir of marine genetic resources, and are of considerable interest to pharmaceutical companies—it is not only mining companies that have an interest in what can be found. There is also a concern that deep-sea mining could destroy resources before scientists have a chance to discover their full potential in other areas.

Sheryll Murray: I am sure the hon. Lady is aware that there are two forms of vent: live ones and dead ones. There is a clear distinction between the two.

Kerry McCarthy: I sound a note of caution as to what impact will be, but I will get on to that when I start to talk about how compliance can be monitored. I want to mention other things that concern people.

Some types of habitat, such as seamounts, are particularly fragile due to their low resilience to changes in their environment and slow recovery rates. There is concern that they may be destroyed in the extraction of cobalt-rich crusts. Greenpeace reports that in cases where seamounts have been destroyed by bottom trawling, there has been no sign of recovery of large bottom-dwelling fauna five years after trawling stopped. Other concerns are about sensitive species and habitats that could be smothered by the release of sediment plumes. Some deep-sea species are unique to their particular habitat or even specific location and are highly vulnerable to disturbance, which could mean extinction if they are disturbed. There are also concerns about the variety and density of fish populations. Scientists and fishing communities in areas targeted for exploration and mining have raised concerns about the potential for tainting of fish, and even the introduction of harmful levels of contaminants into the food chain.

As the hon. Member for South East Cornwall said today and on Second Reading, the Government intend to "impose stringent environmental conditions" on deep-sea mining and want to take a lead in ISA council meetings, which have recently started. It is there that a regulatory framework for exploitation, including environmental regulations and standards, will be developed. Although the aim of the Bill is to bring UK legislation in line with the ISA system, does the Minister agree that the ISA system needs to be improved? Will he outline the position the Government will take in the negotiations and provide reassurances on the level of environmental safeguards on which the Government will seek common agreement? Specifically, does he agree with the WWF and others in wanting to update the current threshold of "serious harm" to the environment using the UN Food and Agriculture Organisation's "significant adverse effects" as a guideline?

[Kerry McCarthy]

Will the precautionary principle, established under principle 15 of the Rio declaration, be embedded in the negotiations, to require that deep-sea mining activities will not be licensed unless and until it can be demonstrated that there are no indications of likely irreversible or significant adverse effects on marine ecosystems? The hon. Lady said that that was the intention, but it is not spelled out in the Bill. A lot will depend on what happens at the ISA negotiations. Embedding the precautionary principle would also address a serious weakness in the system: if a contractor considers the environmental risk of mining to be too high prior to the environmental impact assessment, the concession will be offered to another contractor, perpetuating the risk.

In addition, environmental impact assessments, which are undertaken as part of the process and for which companies pay sizeable sums, are not shared, so scientists and non-governmental organisations will not know what could be damaged or destroyed. If things are discovered that are new, rare, endangered or could be used for other extractive or medicinal purposes, they will not know. I accept that there is an issue of commercial confidentiality, but it is important that the environmental impact assessments and strategic impact assessments are transparent, so they can be publicly evaluated. The public should be able to assess the cumulative impact of deep sea mining—not just the impact of a particular licence—on things such as fisheries and climate change. Proposals set out by the WWF and others for improving the transparency of the environmental impact assessments will help to address weaknesses in monitoring the compliance of companies with environmental regulations and ensure that the UK maintains control over the companies it sponsors for licences. That will become even more critical once exploitation starts.

Let me return to the point made by the hon. Member for South East Cornwall. The Library standard note contains a quotation from a Woods Hole Oceanographic Institute senior scientist who said:

> "On land, one can simply visit a site to make sure reclamation is being done"

after the work has been carried out, and continued:

> "Checking the deep sea sites is another matter entirely".

The current process is not independent of contractor influence. NGOs, for example, do not know whether the activities authorised by the licences are damaging. It is up to the contractor to stop if it feels that the work it is carrying out is damaging to the environment, and it will be difficult for anyone not involved in the extractive work on the sea bed to know exactly what is going on unless there is a degree of transparency. Does the Minister support the "polluter pays" principle, which makes the contractors that are granted licences liable for any costs associated with containment or clean-up exercises?

I am concerned that the Bill seems to be out of sync with discussions that are taking place at the ISA, and that the previous legislation was out of sync with UNCLOS, which was approved and implemented many years later. The Bill does not seem to take into consideration the provisions and designations of other international treaties on protecting the marine environment beyond national jurisdictions—for example, the UN convention on biological diversity, which defines ecologically or biologically significant marine areas—or the Food and Agriculture Organisation's committee on fisheries, which defines vulnerable marine ecosystems in the high seas and prevents bottom fishing from taking place. However, those areas could be opened to deep-sea mining. Does the Minister agree that the system should be aligned with the other international regimes that cover the high seas, so that we have one coherent approach to how we treat the resources there?

Jim Shannon: I would like to make a couple of quick points. First, I apologise that I have to leave at 3 o'clock. I mean no disrespect to the Minister, but I might not be here for the answers to my questions.

I suspect that there will be a substantial fee for the licences. Will that money go directly to the Treasury or will there be benefits for the countries whose jurisdictions are close by, whether Scotland, Wales or Northern Ireland? My second question is about the benefits of deep-sea mining. I want to make it clear that am not against the principle of deep-sea mining. If benefits can be gained and the conditions are right to enable it to happen, that is good news. We can all see the potential benefits, but will countries whose jurisdictions are close to the mining benefit financially or from jobs? Those are my questions. There might be more technical questions, but as a Northern Ireland MP, I want to know what the benefits will be for my constituents.

Mr McKenzie: It is a pleasure to serve under your chairmanship, Sir Roger. I have a couple of brief questions for the Minister. We should be cautious in issuing the licences. How will we ensure that mining companies are scrupulous about what they are doing in the environment? We have noticed in the past few years that certain countries are absolutely devouring natural resources. China in particular is going into continents and taking just about every resource it can lay its hands on. Would it do the same if the seas were opened up, meaning that most of the licences would go in that direction? In that respect, we must bear in mind that where we allow the mining to take place could be one mile-plus below the surface. How would we measure the damage or check that it was irreversible and that due caution was being taken not to do further damage to the sea bed? That is about regulating.

My final question is about what I term "mining-plus". Although we are issuing licences, rather than just receiving a licence fee for mining, would there be any commitment that the mining industries would bring the materials back to refine in the UK, bringing further jobs and business?

Sheryll Murray: The hon. Gentleman seems to be of the opinion that the United Kingdom would issue the licences. He clearly does not understand that the Bill allows the UK to apply on behalf of UK-registered companies to the ISA for a licence.

Mr McKenzie: I thank the hon. Lady for the explanation, but that still raises the question whether we would get additional business and jobs back in this country from any licence secured.

The Minister for Europe (Mr David Lidington): As always, Sir Roger, it is a pleasure to serve under your chairmanship.

I am delighted that the Committee is considering the Bill of my hon. Friend the Member for South East Cornwall. I congratulate her on taking the Bill forward and on the way she has drawn support for it from both sides of the House. Both this afternoon and at Second Reading, she has brought to life a complex and technical issue, and explained the Bill in layman's terms, for those of us not routinely up to scratch with the difference between polymetallic nodules and cobalt-rich crusts.

The Government welcome and support the Bill. It is true that it is about mineral deposits that few of us had heard of and whose actual exploitation is probably still a few years off due to current world market conditions, but the Government believe that this developing industry is important and that the Bill is in our national interest. I will talk in more detail about the environmental aspects a little later, but first I want to say that we support the proposed amendments, tabled by my hon. Friend, which will extend the Bill to Scotland.

As was explained on Second Reading, under the terms of the various devolution Acts, deep-sea mining remains a reserved issue in respect of Wales and Northern Ireland, but it was not explicitly reserved in the Scotland Act 1998. The UK Government have therefore been talking to the Scottish Government about how to bring Scotland within the system that we propose will operate in the UK in respect of deep-sea mining. My right hon. Friend the Foreign Secretary has been in correspondence with John Swinney MSP, the Scottish Cabinet Secretary for Finance, Employment and Sustainable Growth. Both the UK and the Scottish Government are pleased to have reached agreement. Extending the Bill to Scotland in the way that the amendments collectively do—I am afraid the parliamentary draftsman has used belt and braces to ensure that the amendments do the job properly in law—means the whole of the UK will henceforth be covered by the Bill.

Mr Burns: Have the Government had any discussions with the British overseas territories about the legislation?

3 pm

Mr Lidington: I was going to come to my right hon. Friend's comments about clause 2(2). As yet, there has been no expression of interest from the United Kingdom's overseas territories, but I assume that if Parliament gives its consent and the Bill becomes law, we will formally consult the British overseas territories. Clearly, the extent of their interest will depend a little bit on the exact terms of the constitutional relationship between each overseas territory and the United Kingdom, but it is a general principle that the United Kingdom remains responsible for the external relations and foreign policy of all of them. That includes responsibility in most circumstances for their representation in international organisations, so this is certainly an important matter that we would intend to take forward.

However, I would reiterate the point made by my hon. Friend the Member for South East Cornwall earlier and by my right hon. Friend the Member for North East Bedfordshire on Second Reading. The arrangements provided for in the Bill and, for that matter, by the International Seabed Authority, concern areas of the sea bed that are outwith the national jurisdiction of any member of the United Nations or of any other country or territory. Therefore, those parts of the sea bed that fall already within the territorial waters, or exclusive economic zones, of British overseas territories are, by definition, not within the ambit of the Bill.

The hon. Member for Strangford spoke about fisheries. I would start by referring back to the comment that I have just made—we are talking about the sea bed below waters that are not subject to any national jurisdiction. For that reason, there can be no question of national sovereignty, or agreed fishing rights that have been subject to EU or other international agreements, being affected by the Bill. Clearly, when the International Seabed Authority draws up in detail its regulations, it will quite rightly have regard to broad conservation issues, including the sustainability of fish stocks and the maintenance of sea bed ecology, which I think were the issues that particularly concerned the hon. Gentleman. However, I would emphasise again that there is nothing in the Bill that would in any way interfere with existing fisheries rights, either national or which had been internationally negotiated.

The hon. Members for Bristol East and for Inverclyde asked questions basically on how we could try to safeguard conservation interests in the legislative and regulatory framework that should in future govern the exploitation of deep-sea minerals. I must start by presenting this pretty starkly in the context that deep-sea mining will almost certainly happen irrespective of whether we pass the Bill, and regardless of whether the International Seabed Authority continues to evolve or is dissolved tomorrow. The Government's judgment is that it is probable that global demand for minerals will continue to increase, given the pace at which developing countries are increasing their demand. If that in turn places pressure on existing terrestrial sources of those minerals and their global price increases substantially, mining companies and their customers will once again look at the potential of the deep sea bed. A higher global price for minerals will make it potentially economic and profitable for those companies to search for and exploit deep-sea minerals.

The question is not whether we can prevent such deep-sea mining, or even whether we can delay it until an appropriate international regulatory regime has been put in place. Whether it happens will be decided by global supply of and demand for minerals. As individual countries, we can control access to and exploitation of sea bed minerals in our waters, but we cannot control those things when it comes to deep-sea resources. The question is therefore how we ensure that the United Kingdom has in place legislation that dovetails with the international regime, competence for which lies with the ISA—negotiations are very much ongoing—and how we do our best nationally and internationally to ensure appropriate conservation safeguards. Ultimately, there is nothing in law to stop a company that wanted access to deep-sea minerals from simply establishing itself or a subsidiary in a jurisdiction that perhaps did not have the sort of licensing system that we propose to introduce through the Bill.

The Bill is not a substitute for the ISA regulations—it cannot be, since neither our Parliament nor our courts have jurisdiction over the deep sea bed—and the ISA's

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regulations will not override United Kingdom legislation. The two complement each other. United Kingdom legislation provides for a system whereby we vet and approve companies and sponsor their subsequent applications for licences from the ISA. To get those licences, such companies would have to commit to abide by the entire regulatory framework that had been negotiated, agreed and applied in the ISA.

The hon. Member for Bristol East asked me about the ISA regime. Somewhat against expectations of perhaps 20 years ago, there has not been the anticipated surge in global demand for minerals, and the ISA's regime is, let us face it, embryonic. It can be improved and, as a Government, we are determined to ensure that the ISA adopts the highest possible environmental standards. The ISA already applies the precautionary principle and our representation to it has made it clear that all stakeholders, including non-governmental organisations that represent environmental interests, and potential contractors, who often have relevant experience of trying to mitigate the environmental impact of extractive industries, should be properly consulted on the exploitation regulations that it is due to consider soon. As a Government, we are committed to transparency in those matters and we will press the ISA to adopt that principle in its approach to the final negotiations on the regulations and in subsequent discussions.

The hon. Member for Inverclyde asked how we would go about approving companies before letting them go forward. We have a lot of experience, not least with our offshore oil and gas industry, of the appropriate environmental standards to expect of companies. I do not claim to be a technical expert on that policy area, but, as a general rule, the hon. Gentleman could expect that a company that came forward with a proven track record of successful involvement in extraction—perhaps offshore extraction in particular—and had a record of ensuring that environmental interests were safeguarded, it would stand a much stronger chance of getting Government approval than a company that approached the Government without any such record.

Mr McKenzie: The Minister is now saying that there is a proven track record, but it is a proven track record of drilling for oil and gas in much shallower water off the coast of Scotland. For an example of going into deeper water, we need look only to the gulf of Mexico to see the disaster that happened there.

Mr Lidington: I would not necessarily describe some of the waters off Shetland as shallow. I am in danger of digressing, but if one talks to the oil and gas companies, they will say that, at the time, fields such as Magnus were regarded as ambitious moves forward from some of the earlier North sea fields, precisely because they were in deeper and much more inhospitable waters than earlier developments in the North sea basin.

The hon. Gentleman is quite right to say that we should also look at international experiences. Many UK companies, including Scottish ones, have been active in offshore exploration and development in the waters of many different countries around the world. I do not think it will be too difficult to identify companies with the sort of track record that we expect. When we get to the point of applying detailed tests, that clearly means that the relevant officials and inspectorates will go through what a company proposes to do in some detail, as well as looking at its past record and making a technical assessment of whether the Government believe that it is capable of delivering on the promises it has made.

Kerry McCarthy: It is not quite clear to me how the finances will work out. Consider a company investing considerable amounts of money in exploring the deep sea bed and mining the area. If it applies to the UK for a licence, the natural resources do not belong to any particular country—they belong to us globally—so who gets the profits? To what extent does the country granting the licence get anything? Does the ISA take a share? Or is it just the company that invests the money, gets in there first and applies for the licence that profits?

Mr Lidington: It is not a country that is granting the licence—the waters fall outwith the jurisdiction, including for tax, of any national Government. It is not like the North sea where we have a petroleum tax regime and royalties that accrue to Her Majesty's Exchequer. How it might wish to introduce and structure fees is a question for the ISA, and it clearly might want to think about the extent to which some kind of fee or charge could be related to eventual output, but any company will of course be paying the appropriate corporate taxes for the tax jurisdiction in which it is based. The more profit that a company is able to make, therefore, the more the tax take for the jurisdiction concerned.

Sheryll Murray: Is my right hon. Friend aware that the Prime Minister made a speech last year in which he stated very clearly that deep sea mining has the potential to create up to £30 billion of income for UK companies by 2030? UK companies that apply to the Government for the go ahead to get licences from the International Seabed Authority will create jobs and generate substantial income for the UK.

3.15 pm

Mr Lidington: My hon. Friend puts the point well. One reason why the Government support the Bill is that the regime proposed will bring closer the day when UK companies can, if they choose to, participate in deep-sea mining. In so doing, they will not only add to the Exchequer's tax take and employment in the UK, but at the same time—precisely because of both the Government and the business traditions in the UK of looking for strong environmental safeguards when considering the operations of extractive industries—ensure that that deep-sea mining is undertaken by companies that not only adhere to a system of regulation, but have a corporate culture that takes environmental responsibility seriously. Because they operate in our country, they know that they will be under very close scrutiny from Parliament, environmental non-governmental organisations and public opinion. They will therefore have every incentive to safeguard their corporate reputation by maintaining those high environmental standards.

Kerry McCarthy: As I think the Minister said earlier, there is nothing stopping a company going ahead with deep-sea mining without going through the ISA—for example, a Chinese company might want to explore.

Am I right in thinking that that company would be entitled to all the proceeds, and that anything the ISA asks for in fees, as well as tax on revenues and profits, would be irrelevant?

The UK supported a successful application for an ISA licence by UK Seabed Resources, which is a British subsidiary of Lockheed Martin, which is based in the US. We therefore granted a licence to a British subsidiary of a US company, but the US is not currently a signatory to UNCLOS. The problem is that although the company has used the UK as a sponsor for the licence, the profits could go to the US parent company, and the UK sees no benefit as a result. Should we put pressure on the US to sign up to the regime and the environmental safeguards that go with it?

Mr Lidington: A number of questions are bound up in that intervention. First, of course it is correct that a company based in a jurisdiction that does not subscribe to UNCLOS and does not have a vetting and approval system could simply decide to go ahead. When the ISA's international regime is in place, such a company could find its financial interests at risk, because it could be in breach of international law. The hon. Lady might find that my right hon. Friend the Member for North East Bedfordshire described that situation in his response on Second Reading.

On the hon. Lady's point on China or other countries that have a great demand for minerals, every country that has signed up to UNCLOS is under huge moral and international legal pressure to abide by the work of the ISA. I see no evidence yet to suggest that we have rogue states of the sort she describes.

The hon. Lady asks about the position of a UK subsidiary whose parent company is based in the US or another country that does not subscribe to the UN convention on the law of the sea. If the company is a UK subsidiary, it is constituted under UK corporate law. It is therefore subject to our laws, and to our regulatory and tax arrangements. The question of transfer pricing between subsidiaries and corporate headquarters is a separate issue for debate, but it will not have escaped her attention that, at the G8 summit in Enniskillen last year, the Prime Minister made a big issue of the need for much greater tax transparency among such transnational organisations, and that every other G8 Head of Government who took part in the summit signed up to a declaration making it clear that they wanted progress on that front.

Finally, the hon. Lady asked about our Government's position with regard to the United States and UNCLOS. We have consistently put the argument—I think this has been true under Governments of all parties—to our friends and allies in the United States that they ought to join the UN convention on the law of the sea. We hope that they will eventually decide to do so.

Oliver Colvile (Plymouth, Sutton and Devonport) (Con): Can my right hon. Friend explain what the position is with the Chinese, who of course have a significant amount of interest in mining for resources and minerals in some of the more developing countries? That is important, because if they go into countries where they have deep-sea activities, I think we need to be aware of it.

Mr Lidington: We are talking this afternoon not about national territorial waters or exclusive economic zones, but about deep-sea waters and sea beds that are not within the jurisdiction of the United Kingdom, China or any other nation, so it is a different legal order that can be governed only by international law. China is active in this area and has had applications approved by the ISA already. The fact that not only China but a significant number of the rising developing economies in the world have a growing appetite for minerals makes it even more important that we do our bit, both nationally and internationally, to bring into being an effective international regime of law and regulation to govern deep-sea mining, because the longer this framework is delayed, the greater the chance of people going ahead and engaging in deep-sea mining without adequate safeguards in place. Whether we are talking about the ISA negotiations or about the Bill, it is important that we get on and complete the job as soon as possible.

The hon. Member for Bristol East asked whether oil and gas were involved. At the moment, there is no demand to include oil and gas in the ISA regime, but, if that situation were to change, we would support measures to adapt the ISA regulations accordingly. She asked about the definition of "mineral resources". The definition adopted is intended to reflect what is in the UN convention on the law of the sea. She asked how the ISA's regime on deep-sea mining would be affected by other international agreements regarding the marine environment. We want to see a coherent system. There is already an agreement in place between OSPAR and the ISA, and we would like that to serve as an example for the further development of that sort of coherent system.

The hon. Lady referred specifically to a report by Dr Adrian Glover of the Natural History museum in which he referred to the deep-sea environment and the lack of understanding—the sparse nature of our understanding at the moment—of the ecosystems that might exist there. The Committee may be interested to know that UK scientists from both the Natural History museum and the National Oceanographic Centre recently took part in the maiden voyage of the UK contractor to the Pacific ocean precisely to study the ecology of the sea bed. The evidence so far is that those UK-based companies, partly for the reasons of corporate reputation I described earlier, see their interests as working alongside environmental organisations and environmental scientists and demonstrating to a perhaps sceptical public that they are committed not only to making the greatest possible profit but to carrying out their operations in the way that has the least damaging impact on the marine environment.

The United Kingdom is committed to ensuring that the ISA regulations meet the appropriate standards. At the ISA's annual meeting in July last year, we emphasised the need for resource exploitation to be conducted in accordance with the highest environmental standards. In particular, we emphasised the importance of talking to NGOs as well as commercial stakeholders about the proposed regulatory regime for the exploitation of polymetallic nodules.

We and the ISA, I believe, take our environmental responsibilities seriously. The Bill that my hon. Friend the Member for South East Cornwall has promoted provides an appropriate mechanism for ensuring that we, for our part, have a system in our national legislation

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that supports and complements this important new international regulatory regime. That is why the Government have been such a keen supporter of the Bill.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

EXTENT, COMMENCEMENT AND SHORT TITLE

Amendment made: 1, in clause 2, page 1, line 9, after 'Wales' insert ', Scotland'.—*(Sheryll Murray.)*

Clause 2, as amended, ordered to stand part of the Bill.

Schedule

AMENDMENTS OF DEEP SEA MINING (TEMPORARY PROVISIONS) ACT 1981

Amendments made: 2, in schedule, page 2, line 30, leave out ' "sovereign rights" to "other Sovereign Power" substitute' and insert ' "certifying" to "Power" substitute "or the Scottish Ministers certifying that'.

Amendment 3, in schedule, page 3, line 18, leave out from '(2)' to end of line 20 and insert—

'() omit "subsection (4) and", and

() for the words from "the Secretary of State" to the end substitute—

"(a) the Secretary of State may on payment of such fee as may with the consent of the Treasury be prescribed grant to such persons as the Secretary of State thinks fit exploration or exploitation licences, except where the Scottish Ministers have power to grant the exploration or exploitation licence in question;

(b) the Scottish Ministers may on payment of such fee as may be prescribed grant to such persons as they think fit exploration or exploitation licences.".'.

Amendment 4, in schedule, page 3, line 24, after 'fit' insert

'or, as the case may be, the Scottish Ministers think fit'.

Amendment 5, in schedule, page 3, line 28, after 'fit' insert

'or, as the case may be, the Scottish Ministers think fit'.

Amendment 6, in schedule, page 3, line 40, after 'State' insert

'or, as the case may be, the Scottish Ministers'.

Amendment 7, in schedule, page 3, line 43, after 'State' insert

'or, as the case may be, the Scottish Ministers'.

Amendment 8, in schedule, page 4, line 9, after 'prescribed' insert—

'(ka) requiring payment to the Scottish Ministers of such sums as may be prescribed at such times as may be prescribed;'.

Amendment 9, in schedule, page 4, line 11, after 'State' insert

'or, as the case may be, the Scottish Ministers'.

Amendment 10, in schedule, page 4, line 14, leave out from 'Where' to 'grant' in line 15 and insert

'the Secretary of State has, or the Scottish Ministers have, granted an exploration licence, neither the Secretary of State nor the Scottish Ministers may'.

Amendment 11, in schedule, page 4, line 23, leave out from beginning to 'grant' and insert

'Neither the Secretary of State nor the Scottish Ministers may'.

Amendment 12, in schedule, page 4, line 31, at end insert 'or the Scottish Ministers'.

Amendment 13, in schedule, page 5, line 18, after 'environment)' insert—

(a) in subsection (1)—

(i) after "State", in the first place, insert "or, as the case may be, the Scottish Ministers",

(ii) after "State", in the second place, insert "or the Scottish Ministers", and

(iii) after "him" insert "(or them)", and

(b) '.

Amendment 14, in schedule, page 5, line 19, at end insert—

(i) after "State" insert "or the Scottish Ministers", and

(ii) after "considers" insert "(or they consider)"'.

Amendment 15, in schedule, page 5, line 19, at end insert—

'6A In section 6 (variation or revocation of licences), after subsection (2) insert—

(3) This section applies in relation to an exploration or exploitation licence granted by the Scottish Ministers as if references to the Secretary of State were references to the Scottish Ministers."'.

Amendment 16, in schedule, page 5, line 20, leave out from 'action)' to end of line 21 and insert—

'(a) in subsection (1), after "State" insert "or, as the case may be, the Scottish Ministers",

(b) in subsection (2)—

(i) for "section 2(3) above, the Secretary of State" substitute "section 2(3A) above, the Secretary of State or the Scottish Ministers", and

(ii) after "considers" insert "(or they consider)", and

(c) in subsection (4), after "State" insert "or, as the case may be, the Scottish Ministers".'.

Amendment 17, in schedule, page 5, line 26, after 'Court' insert

'or the Court of Session ("the registering court")'.

Amendment 18, in schedule, page 5, line 29, leave out 'High Court' and insert 'registering court'.

Amendment 19, in schedule, page 5, line 32, leave out 'appropriate' and insert 'registering'.

Amendment 20, in schedule, page 5, line 38, leave out 'High Court' and insert 'registering court'.

Amendment 21, in schedule, page 5, line 45, leave out 'High Court' and insert 'registering court'.

Amendment 22, in schedule, page 6, line 3, at end insert—

'(7) In the application of this section in relation to Scotland references to costs are to be disregarded.'.

Amendment 23, in schedule, page 6, line 24, leave out from 'award' to end of line 25 and insert 'and

(b) is to be treated for the purposes of sections 18 to 22 of the Arbitration (Scotland) Act 2010 (which make similar provision for Scotland) as a Convention award,

whether or not (in either case) it would be so treated apart from this section."'.

Amendment 24, in schedule, page 6, line 27, at end insert—

'In section 11 (inspectors)—

(a) in subsection (1)—

(i) after "State" insert "or the Scottish Ministers",

(ii) after "him", in both places, insert "(or them)", and

(iii) after "considers" insert "(or they consider)", and

(b) in subsection (2)—

(i) after "State", in the first place, insert "or the Scottish Ministers", and

(ii) for "may determine with the approval" substitute "or, as the case may be, the Scottish Ministers, may determine with the approval (in the case of an appointment by the Secretary of State)"'.

For section 12 substitute—

"12 Regulations and orders

(1) The Secretary of State may make regulations—

(a) prescribing anything required or authorised to be prescribed under this Act in relation to an exploration or exploitation licence granted or to be granted by the Secretary of State;

(b) generally for carrying this Act into effect, except where the Scottish Ministers have power to make provision under subsection (2)(b).

(2) The Scottish Ministers may make regulations—

(a) prescribing anything required or authorised to be prescribed under this Act in relation to an exploration or exploitation licence granted or to be granted by the Scottish Ministers;

(b) generally for carrying this Act into effect.

(3) Regulations under this section may, in particular, make provision with respect to any of the matters mentioned in the Schedule.

(4) Regulations under this section may make different provision for different cases or classes of case and may exclude the operation of any provision of the regulations in specified cases.

(5) Any power of the Secretary of State to make regulations or an order under this Act is exercisable by statutory instrument.

(6) A statutory instrument containing regulations made under this Act by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Regulations under subsection (2) are subject to the negative procedure, within the meaning of section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010."'.

Amendment 25, in schedule, page 6, line 28, leave out '13 (disclosure of information)' and insert '13(1) (disclosure of information)—

(a) in paragraph (b), for "or the Secretary of State" substitute ", the Secretary of State or the Scottish Ministers"; and

(b) '.

Amendment 26, in schedule, page 6, line 32, leave out from 'in' to 'applies' in line 33 and insert 'the following enactments'.

Amendment 27, in schedule, page 6, line 34, at end insert—

'(2) Those enactments are—

(a) Part 2 of the Food and Environment Protection Act 1985 (deposits in the sea);

(b) Part 4 of the Marine and Coastal Access Act 2009 (marine licensing);

(c) Part 4 of the Marine (Scotland) Act 2010 (marine licensing).'.

Amendment 28, in schedule, page 7, line 38, at end insert—

'After section 17 insert—

"17A Exercise of functions by the Scottish Ministers

Any provision of this Act which confers a function on the Scottish Ministers is to be read as conferring a function exercisable only so far as within devolved competence (within the meaning of section 54 of the Scotland Act 1998)."'.

Amendment 29, in schedule, page 7, line 41, at end insert—

'In the Schedule, in paragraph 5, after "Secretary of State" insert "(or, in the case of regulations made under section 12(2), the Scottish Ministers)".'.—*(Sheryll Murray.)*

Schedule, as amended, agreed to.

Mr Lidington: On a point of order, Sir Roger. May I take this brief opportunity to thank you and all members of the Committee for the good natured and constructive way in everyone has contributed to the debate? I once again warmly congratulate my hon. Friend the Member for South East Cornwall on her success in taking the Bill through another stage in its House of Commons process.

The Chair: That is not a point of order for the Chair, but it is now a matter of record and is greatly appreciated. While we are completely out of order, I add my thanks to the Officials and Officers of the House, without whom we could not do our job.

Bill, as amended, to be reported.

3.28 pm

Committee rose.