

TRANSPORT, INFRASTRUCTURE AND CLIMATE CHANGE COMMITTEE

Tuesday 26 May 2009

Session 3

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TRANSPORT, INFRASTRUCTURE AND CLIMATE CHANGE COMMITTEE 14th Meeting 2009, Session 3

CONVENER

*Patrick Harvie (Glasgow) (Green)

DEPUTY CONVENER

*Cathy Peattie (Falkirk East) (Lab)

COMMITTEE MEMBERS

*Rob Gibson (Highlands and Islands) (SNP)
*Charlie Gordon (Glasgow Cathcart) (Lab)
*Alex Johnstone (North East Scotland) (Con)
*Alison McInnes (North East Scotland) (LD)
*Des McNulty (Clydebank and Milngavie) (Lab)
*Shirley-Anne Somerville (Lothians) (SNP)

COMMITTEE SUBSTITUTES

Alasdair Allan (Western Isles) (SNP)
Gavin Brown (Lothians) (Con)
David Stewart (Highlands and Islands) (Lab)
Jim Tolson (Dunfermline West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Brian Adam (Aberdeen North) (SNP)
Sarah Boyack (Edinburgh Central) (Lab)
Robin Harper (Lothians) (Green)
Elaine Murray (Dumfries) (Lab)
Stewart Stevenson (Minister for Transport, Infrastructure and Climate Change)

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Clare O'Neill

LOCATION

Committee Room 2

Scottish Parliament

Transport, Infrastructure and Climate Change Committee

Tuesday 26 May 2009

[THE CONVENER *opened the meeting at 14:02*]

Climate Change (Scotland) Bill: Stage 2

The Convener (Patrick Harvie): Good afternoon, everybody, and welcome to the 14th meeting this year of the Transport, Infrastructure and Climate Change Committee. I remind members, witnesses and everyone else present that all mobile phones and other devices should be switched off.

We have no apologies to record. I welcome to the meeting two MSPs—Sarah Boyack and Robin Harper—who are not members of the committee.

The only item on the agenda is the beginning of our stage 2 consideration of the Climate Change (Scotland) Bill, which is a substantial item and is perhaps enough to be going on with. I welcome the Minister for Transport, Infrastructure and Climate Change, Stewart Stevenson, and his colleagues: Philip Wright is deputy director of climate change in the Scottish Government, Fiona Page is the bill team leader, Frances Beck is a solicitor, and Max McGill is an assistant Scottish parliamentary counsel.

Before we begin our consideration of amendments, I put on record my appreciation of the great deal of hard work that the clerks have put into processing the amendments in difficult circumstances. Their late work is much appreciated.

I will say something about the process. In order to speed things along, if any member who is responsible for an amendment does not wish to move it, they should simply say, "Not moved." At that point, I will not specifically call for another member to move the amendment, but any other member may move it simply by saying, "Moved." However, I will not pause for long, so the member should get that in quickly. If no other member moves the amendment, we will simply proceed immediately to the next amendment on the marshalled list.

If a member wishes to withdraw an amendment after it has been moved, I will ask whether anyone objects to its being withdrawn. There is no scope for having a division on whether an amendment should be withdrawn. If any member objects to the

amendment being withdrawn, we will immediately proceed to the question on it.

Although it will be possible to intervene when other members are speaking, all members will have the opportunity to contribute to the debate on each group of amendments, if that is possible within the time that is available. I do not expect a great number of interventions, except perhaps when the closing speaker is speaking.

Finally, on the use of the casting vote, which is a possibility, the normal process would be to vote for the status quo. Having looked at the amendments, I do not anticipate their being any reason for me to depart from the normal process. I expect to vote for the bill as it stands, if I am required to use a casting vote.

We might not cover all the amendments that are in front of us today, but we will make as much progress as we can. At the end of the meeting I will announce the deadline for amendments for the next stage 2 meeting.

Before section 1

The Convener: Amendment 75, which is in my name, is in a group on its own. We are considering amendment 75 first, but it relates to the final paragraph of our stage 1 report—paragraph 370—on the bill's overall purpose. The purpose is perhaps self-evident to committee members who have studied that subject and immersed themselves in the bill for so long, but I argue that there is a clear opportunity to bind legally future ministers not only to the targets and the framework but to the bill's objective.

Amendment 75 was inspired by the Stop Climate Chaos Coalition, which argued that the aim and logic of the bill should be explicit in its text. The amendment takes its form of words from the United Nations Framework Convention on Climate Change, which states in article 2 that its objective is

"to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system."

I have used a similar form of words for amendment 75, arguing in it that we should

"ensure that Scotland makes ... an equitable contribution"

to the UNFCCC's purpose.

I move amendment 75.

I now ask whether any members wish to—I beg your pardon, I have also—forgive me, but this is my first stage 2 as a convener. I hope that you will bear with me for the many mistakes that I am sure I will make.

Do any other members wish to contribute to the debate on amendment 75? Does the minister want to comment?

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Amendment 75 clearly aims to insert a founding principle into the bill, and we recognise the spirit in which the amendment was lodged. The proposing member referred to the UN convention from which the amendment's words come. As a general point, of course, such statements do not necessarily have any particular legal effect. If a bill becomes law, it should determine the rights and responsibilities of individuals, companies, Government and public bodies such as local authorities. Laws should impose duties or convey powers. Every word in an act should have legal effect and actually do something.

I want to address a particular point in amendment 75—although the wording properly comes from the UN convention—which could unintentionally, I am certain, have a restricting effect on the bill in some circumstances. I refer to the use of the word “anthropogenic”, which could allow a challenge to actions that are taken in exercise of powers under the bill to address climate change effects that are not anthropogenic in their origins. Examples of that are the substantial emissions of CO₂ that can result from earthquakes and earth fissures; eruptions, because we know that there have been significant periods in history when eruptions have affected the climate; and, perhaps less important but still potentially open to challenge, the effects of unconstrained growth in populations of ruminants. I am thinking in particular of deer, in Scottish terms, but such growth could also occur elsewhere.

The use of the word “anthropogenic” might appear to restrict the bill to addressing only climate change effects that are derived from human activity. That could restrict the application of the powers in the bill in other circumstances that, although not frequent, are far from improbable. On that basis, I ask Patrick Harvie to withdraw amendment 75.

The Convener: The term “anthropogenic climate change” is widely—in fact, globally—recognised and understood. I do not accept the argument that it would introduce ambiguity in relation to livestock or ruminants, which can be related to human land use policies and practices. The minister mentioned larger geological sources of emissions, such as volcanic activity, but the clear evidence from around the globe is that anthropogenic emissions—that is, human-induced emissions—are driving the problem. I am content with the term “anthropogenic” and will press the amendment.

The question is, that amendment 75 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 75 disagreed to.

Section 1—The 2050 target

The Convener: Amendment 76, in the name of Robin Harper, is in a group on its own.

Robin Harper (Lothians) (Green): For the Climate Change (Scotland) Bill to be a success, it will need to do two things: first, it will need to set targets for reductions in emissions at the right levels, and secondly, it will have to set out how to achieve those targets. My first two amendments focus on the targets themselves and I will address them collectively.

The targets in the final bill must be at the levels that are demanded by science. They must also be at levels that allow Scotland to play the responsible role that we want it to play internationally—the bill has frequently been flagged up in that respect. Finally, they must be practical and achievable. Some people would like our economy to be decarbonised completely by 2020, but that is an impractical target and would be doomed to fail.

The best research to date on the issue is by the Tyndall Centre for Climate Change Research, whose staff are Britain's leading experts on climate change. They calculate that a 90 per cent reduction in our emissions is needed by 2050 to give us even a 30 per cent chance of keeping temperature rises below 2°C. The fact is that the science is shifting, and the news gets worse and worse; it does not get better. Scientists who met in Copenhagen earlier this year ahead of the crunch talks that will take place in December confirmed that the 2007 Intergovernmental Panel on Climate Change data were conservative, that sea level rises will be worse than previously thought and that emissions reductions will need to be quicker than previously proposed. Much of our thinking has been based on the Stern report, which it is universally recognised is already largely out of

date. My amendment 76 therefore seeks to bring the existing long-term target of 80 per cent up to the 90 per cent that has been recommended by Tyndall, Al Gore and others. It is a target that even Epson, the printer company, is prepared to set for itself. Are we going to be less ambitious than Epson?

14:15

We have before us an interim target of a 50 per cent reduction by 2030. That would leave too much of the work to the later phases of the legislation's life, and would therefore make the final target harder to reach. We can do the mathematics. Every tonne of carbon that we put into the atmosphere at the moment will stay there for 100 years, so it is important to begin reducing carbon now. I therefore urge the committee to back Alison McInnes's amendment 1, which seeks to retain the 50 per cent interim target but to bring it forward to 2020. I was going to lodge a similar amendment myself, but Alison McInnes got there first.

We need annual targets from the start—targets that allow us to hold ministers accountable. The bill sets no minimum levels for reductions in emissions before 2020, which must be fixed. My second amendment in this area would therefore introduce an annual minimum target—

The Convener: I remind the member that we are debating amendment 76, which is the only amendment in this group. There will be opportunities to debate other amendments as we proceed.

Robin Harper: I see. I am sorry, convener. When I was preparing what I wanted to say, I presumed that the amendments that I have been discussing would be taken together.

I move amendment 76.

The Convener: As no other members want to contribute to the debate on amendment 76, I invite the minister to respond.

Stewart Stevenson: Members will know that I have emphasised the need to be driven by expert advice; we should not proceed before taking expert advice. The United Kingdom Government has sought advice and the figure at the moment is 80 per cent.

Mr Harper said that targets have to be practical and achievable. At this stage, we do not have the information that would help us to understand how 90 per cent would be achievable. However, Mr Harper quite properly made the point that the science is shifting. We will discover whether the 80 per cent target remained the target of successive Governments up until 2050 when we get to 2050. During that time, expert advice will advance.

At this stage, we feel that it would be premature to revise the target in the bill of "at least 80%". I therefore ask the committee not to support amendment 76.

The Convener: I invite Robin Harper to wind up the discussion on amendment 76.

Robin Harper: I suppose that it all depends on our attitude. The minister would like us to prove that it is necessary to revise the target to 90 per cent and that we can achieve it, but I would like somebody to prove to me that we cannot achieve 90 per cent. If we consider the rapid progress of recent years—both in renewables and, more important, in the possibilities for energy conservation—we can see that 90 per cent is not an impossible target. One way of looking at it is that it is only 10 percentage points more than 80 per cent. It depends on which way you look through the telescope.

The trend of the news does not change, and things are already worse than was suggested in the Stern report. When we compare the presentation made by Jacqueline McGlade with the one made by Lord Adair Turner in the McEwan hall in Edinburgh recently, we see a remarkable contrast. On the one hand, there was a relatively content Government position from Lord Adair Turner, who said that we can do what is required; on the other hand, there was a remarkable series of figures that had been produced by the European Environment Agency. It was not put very strongly, but it was suggested that the situation was already much more severe than we had thought even a year ago.

I argue strongly that if we want the bill to mean something, even in the next five or 10 years, we should go for a target of 90 per cent.

The Convener: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 76 disagreed to.

Section 1 agreed to.

Section 2—The interim target

The Convener: Amendment 1, in the name of Alison McInnes, is grouped with amendments 2 to 6, 8, 24 to 31 and 35. I refer members to the notes on pre-emptions in this group, which are provided on the list of groupings. Members should also note that amendments 2 and 3 are direct alternatives.

Alison McInnes (North East Scotland) (LD): Amendment would 1 bring the interim target date forward to 2020, putting the Scottish bill in line with UK and other international reporting and legislation. It reflects the recommendation in our stage 1 report, with which the minister has already said he agrees.

Amendment 3 would set the new 2020 interim target at 42 per cent. As you said, convener, amendment 3 is a direct alternative to the minister's amendment 2, which proposes that the interim target be the less scientifically credible 34 per cent. In my view, 34 per cent would mean more or less business as usual. For Scotland to show real leadership on climate change, the interim target must be ambitious. That means setting it above the 34 per cent level that has already been established for the UK as a whole.

Science now indicates that a 42 per cent cut by 2020 is the minimum that must be achieved if our efforts are to have any real impact in limiting the damaging effects of climate change. The target is achievable in Scotland, and simply hitting the 3 per cent annual reduction, which was one of the Scottish National Party's promises for the bill, would allow it to be reached. Long-term targets are all very well, but they are no substitute for short-term action. My amendment 3 would ensure the delivery of early, sustained action. There is overwhelming evidence, as we heard from witnesses at stage 1, that early, sustained action is necessary. Our stage 1 report stresses the need for a "more robust" target. In its evidence, the Royal Society of Edinburgh stated:

"It should be a challenging target that encourages early action, and one that, because of its imminence, perennially impinges on Government perspectives no matter which party is in power."

Our natural resources give us the ability to deliver more than the UK Climate Change Act 2008 asks of us. As Robin Harper has already mentioned, new research by the Tyndall Centre for Climate Change Research shows that a target of at least 42 per cent is needed to give us the best chance of avoiding dangerous climate change.

The minister has said that the science should determine the targets. It would seem, however, that expedience is currently uppermost in his mind. A weak target means larger cumulative emissions, and it increases the risk of not meeting

the overall target. The Government has claimed that it has

"the most ambitious climate change legislation anywhere in the world",

but I do not believe that yet. I urge the committee to support the target of 42 per cent, which is driven by the necessity for urgent action. In so doing, the committee can set the tone for the rest of the bill.

I move amendment 1.

Stewart Stevenson: I will explain our position on Ms McInnes's amendments. I am happy to support amendment 1—indeed, we submitted an identical amendment, albeit after Ms McInnes, so we are entirely happy to support it.

A challenging target will set the pace for the first decade of statutory annual targets, thereby helping to drive early emissions reductions. I am pleased that we share that ambition—I am sure that that is true of everyone here. However, I cannot support amendment 3. We need a suitably challenging interim target for 2020 that will ensure real, tangible action by the Scottish ministers, but I cannot support a target that cannot be delivered in the absence of appropriate action by the UK Government and the European Union.

Let me talk through some of the difficulties with that. We have a clear understanding of the level of challenge that is required to deliver emissions reductions of 34 per cent and 42 per cent in 2020, and we have considered carefully and in depth the information and recommendations in the UK Committee on Climate Change's first report, which was issued in December 2008. We have also undertaken additional analysis to explore and clarify the details behind those recommendations as part of work to identify how to meet new Scottish climate change targets.

Reducing emissions is a complex business that involves different tiers of activity throughout Scotland, the UK and the European Union. Collectively, those tiers of activity influence the overall amount of Scottish emissions each year. Scotland's emissions are split between the traded sector and the non-traded sector. That key distinction has significant implications for achieving the target. The traded sector is made up of power stations and other energy-intensive industrial installations, which are covered by the EU emission trading scheme. That scheme is one of our strongest policy levers to reduce emissions from large emitters, but it will deliver to our numbers emissions reductions to 2020 at levels that are predetermined by the European Union. Those emissions account for approximately 40 per cent of Scottish emissions. We do not directly have the power to influence the level of those reductions. The only factor that will increase the reductions that are planned through the ETS is the

level of emissions reductions that the European Union commits to. That is why we are eagerly looking to a future decision by the EU to reduce greenhouse gas emissions by 30 per cent by 2020, which is not expected until we are successful in agreeing a new international agreement to replace the current Kyoto protocol.

It is also important to remember the UK Government's influence on Scottish emissions. We cannot seek to reduce emissions at a higher rate than the UK rate in reserved areas such as energy generation. We can plan emissions reductions of 42 per cent in 2020 only if the UK Government is equally ambitious and the EU reduces its emissions by 30 per cent. I will give members some quantitative numbers. A 42 per cent target would mean that we had to deliver reductions of around 17 million tonnes of CO₂ equivalent between 2006 and 2020. Even if the Scottish ministers delivered everything that is detailed in the UK Committee on Climate Change's 500-page report, we would still have a 4 million tonne shortfall on the 42 per cent target. It is thus impossible for us to deliver by ourselves. We need matched action and commitment by the UK Government and the EU.

However, I share the committee's ambition to reduce emissions as quickly as possible, which is why I have lodged amendments on behalf of the Scottish Government. Our amendment 2 requires a 2020 interim target to reduce emissions by at least 34 per cent. More significant, amendment 4 will require the Scottish ministers to lay an order before Parliament that seeks to increase the 2020 interim target to at least 42 per cent if the EU agrees to reduce its greenhouse gas emissions by at least 30 per cent by 2020.

In order to change the interim target year to 2020, a number of consequential amendments are required throughout the bill. My remaining amendments in the group seek to achieve that aim.

We are absolutely committed to increasing the interim target to 42 per cent at the earliest opportunity, which is why I propose to put that requirement on the Scottish ministers in the bill. There are no ifs and no buts. We will have to increase the target if the EU commits to emissions reductions of at least 30 per cent. Doing things in that way is our firm challenge to the EU to rise to the ambitions that we are setting. It will ensure that we increase the 2020 target at the earliest opportunity, and it signals our commitment to delivering the target to the international community.

14:30

Des McNulty (Clydebank and Milngavie)

(Lab): We are talking about a complex and difficult area of the bill. People say that science is to the forefront and that we must make decisions on the most appropriate scientific basis, but I am not sure whether we have all the information that we require about the achievability of targets in Scotland to allow us to say with certainty that figure A or figure B is the maximum that is achievable. I seriously considered proposing an alternative percentage, as Alison McInnes did. My problem was that, with the evidence base that I have, it was difficult to say with certainty whether 42, 40 or 39 per cent is right.

An interim target of 34 per cent would be unambitious. A problem is that Governments in general—not just the Scottish Government—are almost taking an approach of saying, “We will if you will.” Everybody is waiting for somebody else to be the first person to move and I am not sure whether that is the best way to proceed.

I have difficulty with both the amendments that would change the interim target. I incline more towards the ball park in which Alison McInnes is operating, but I am not sure whether 42 per cent is the correct figure.

I would like the Scottish ministers to seek advice from the relevant body, which is defined in section 5, about the maximum contribution that is achievable through early action to reduce the net Scottish emissions account between 2010 and 2020.

Stewart Stevenson: It may be useful if I say that we plan to take precisely that approach. I hope that the member recognises that we, too, want to be ambitious and that we wish to obtain that advice at the earliest opportunity.

Des McNulty: If that advice were obtained, I would expect that body to stipulate a higher target than the minister proposes and I would want the Scottish Government to put that higher target in the legislation. I would like amendments to be lodged at stage 3 to facilitate that process.

The right place for us to be is at 38 to 40 per cent, but I want us to say absolutely robustly that the specified figure is the maximum that is achievable and is supported by a robust analysis of what is to be delivered.

My attitude to the Government's amendments and those in Alison McInnes's name is to ask whether they will take us to the right place, which is not that the committee should pick a percentage for Scotland but that we should pose to the relevant advisory body the right question—what is the most that we can do to make the bill as strong as it can be? We should make the figure that that

body provides our target. That is the approach that I would like us to take. I am interested in taking that approach on a cross-party basis and in hearing colleagues' opinions about how we would best achieve it. The target is not a subject for political point scoring; our objective in the bill should be the highest level that is consistent with what is achievable. I hope that everybody will work together constructively to achieve that end.

We need to focus on what Scotland can do. I do not think that there has been a systematic analysis of what Scotland can achieve, given its unique opportunities and potential in the development of renewables. The target that emerges from the debate should be the one that corresponds to what Scotland can achieve; we should not pinch someone else's target.

The Convener: Des McNulty was right to say that we should not pinch a target from other sources. We should be clear: the 34 per cent and 42 per cent targets are existing, not new, targets; the question is whether we should adopt one of them in Scotland's bill. It has always struck me that there seems to be a lack of rationale for the lower interim target. To adopt the lower target on the assumption that we will try to reach wider agreement to work towards the higher target would still leave us with a question: whatever target we set, what will we do to get ourselves onto an ambitious emissions reduction trajectory? If our trajectory aims at the lower interim target, even just for the first year or two, it will be vastly more difficult to achieve the higher interim target if and when we adopt it.

The only basis for taking action on climate change is the assumption that the world will come to its senses and work together to achieve ambitious reductions. It seems bizarre to set a target on an assumption that the world will not do that. I am puzzled by the suggestion that although we know what is required we should set a target of 34 per cent in the meantime. I simply do not understand that position.

Sarah Boyack (Edinburgh Central) (Lab): I agree with bits of what members have said. I think that Labour would want to go further than 34 per cent. Our difficulty with setting another target is partly to do with what the minister said about the traded sector.

It is difficult for us to say that our bill will be more radical than everyone else's and will push everyone at Copenhagen in the autumn if it is not more radical. I cut to the chase. Our problem with amendment 4 is that it assumes a target of 34 per cent but suggests that should Europe sign up to a tougher target we will increase our target to 42 per cent. Such an approach will cut across our attempts to produce a radical bill that will persuade everyone else to sign up to a tougher target.

We are not convinced that work is being done that can take us to 42 per cent, and there is a moot point about when we will be able to make the shift. We want the bill to set a tougher target and we do not think that the Scottish target should be predicated on what the rest of Europe is signing up to. That is the wrong approach.

The difficulty is that we are at stage 2, debating two targets. We want to come back to the issue. As Des McNulty said, the Labour Party wants to talk to colleagues about how much further we can go. We must ensure that we get the target right. This is a process. During consideration of previous bills in the Parliament we continued to discuss issues after stage 1 committee reports had been published. Our report on the Climate Change (Scotland) Bill at stage 1 was excellent, but the work does not stop at stage 2; stage 3 will be as important as the other stages have been. At stage 3 we will want the approach in the bill to go further than is proposed in amendment 4.

We welcome the minister's willingness to bring forward from 2030 to 2020 the year by which the interim target must be achieved, which will help to push the pace, but we are not there yet. In the early days of the Parliament, civil servants told me in a "Yes Minister" way that the renewables targets that we were setting were very ambitious. We now have a target of 50 per cent of electricity generation to come from renewables by 2020, but it took us a while to get there.

We must ensure that the target in the bill is ambitious and credible. I hope that we can come back to the issue, because we should be discussing the matter in the committee and beyond it. What currently seems too difficult to achieve will, in time, have to be delivered. The issue is to do with what we put in the bill, and that—along with the evidence that we have heard from the minister on the traded sector—is why we are reluctant to vote today for the 42 per cent target that Alison McInnes has proposed.

We can go further than the 34 per cent target, so we want to push beyond it. Des McNulty is right to say that the issue is complex. We are not happy with setting a target that says to the rest of Europe, "We will do this only if you will." We should consider what Scotland can do—we all know that it has greater renewables potential.

No one has yet mentioned the business community. We do not want to saddle businesses with a figure that is generally viewed as very difficult to achieve and that they would view as not credible, but it is clear from all the evidence that the committee has received that we should go further together. We should find some space to set a different target by the end of the bill process. I hope that committee members will not stick with

amendment 4 as it stands; it is not ambitious enough—we need to do better.

The Convener: Are there any brief additional remarks?

Stewart Stevenson: Yes—I will try not to push the boat too far on the length of time.

A key point is that the figures—34 per cent and 42 per cent—have come from expert advice. The 42 per cent target that appears in the amendment in my name would mean that our bill would be the only one in the world—as I understand it, subject to anyone telling me otherwise—with an ambition at that level, so we are setting the pace.

We can in no way control, through whatever we do in Scotland, the trajectory in relation to the 40 per cent of our carbon emissions that are within the European Union trading scheme's purview. To set a figure that takes no account of what we know will come from that traded sector, knowing that we cannot close the 4 million tonne CO₂ equivalent gap, would simply be to sign up to failure.

We must go to Europe and say, "If you sign up for 30 per cent, we will sign up for the more ambitious 42 per cent target." We will seek to be part of the team that is persuading Europe by saying we are up for that challenge and ready to accept it. Of course, it is likely, upon receiving the advice that we will seek after the bill has completed its passage, that the 34 per cent figure will be revisited. Ministers have the power to raise those percentages—although they have no power to lower them—and, based on expert advice, we will end up with the highest possible figure for the 2020 target. We would ask the committee to give us advice on a possible figure for that, based on what can be delivered. I urge members to support the amendments in my name, and I hope that we can continue our constructive dialogue on what is generally acknowledged to be a very complex area.

Alison McInnes: I stress that amendment 1 is not about point scoring, but is driven by what I believe is necessary rather than what might be comfortable for us. There are only two options on the table this afternoon.

The minister has not sought guidance directly from the UKCCC, but has relied instead on that committee's report for the UK, thereby ignoring the specific issues in relation to Scotland that could help us to deliver on a higher target. We must send the right signal to Scottish business and investors, who have told us that they want certainty in relation to what is required of them.

There is no point in waiting for others to catch up because, as the convener has said, the longer we put off the 42 per cent target, the less achievable it will be. We should not be misled by the minister's

suggestion that it is conditional on others' actions; Des McNulty's point about the "We will if you will" approach was spot on. Someone needs to take the lead: let it be Scotland. I have real doubts that a tougher target will be proposed at stage 3 if we concede the 34 per cent target today.

Amendment 1 agreed to.

14:45

Amendment 2 moved—[Stewart Stevenson].

Des McNulty: Convener, may I seek clarification from the minister on an issue?

The Convener: I will allow one brief question.

Des McNulty: When I spoke earlier, I asked the minister whether he would be agreeable to publishing, before the end of 2009, advice from the relevant body on the maximum achievable contribution towards reducing the net Scottish emissions account through early action in the period 2010 to 2020. I also asked whether he would be agreeable to putting that higher target to the Parliament in short order. Is the minister prepared to commit to that today?

Stewart Stevenson: That is an approach that commends itself to the Government.

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

AGAINST

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 2 agreed to.

The Convener: I ask members to ensure, if at all possible, that the debate is concluded before we begin voting on amendments.

Amendment 3 moved—[Alison McInnes].

The Convener: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 3 disagreed to.

Section 2, as amended, agreed to.

After section 2

Amendment 4 moved—[Stewart Stevenson]—and agreed to.

Section 3—Annual targets

The Convener: Amendment 36, in the name of Alison McInnes, is grouped with amendments 37 to 39 and 78. I refer members to the notes on pre-emption in the group, which are in the groupings list.

Alison McInnes: Amendments 36, 37 and 39 relate to the setting of annual targets. For the bill to have any real effect in fighting climate change, it is vital that the requirement for early action is built on. Delaying the introduction of 3 per cent annual targets until 2020 will mean that the required action will not be taken in the crucial first years. Every year ambitious targets are delayed, extra greenhouse gases are released into the atmosphere and preventing dangerous climate change becomes much harder.

The First Minister has said that his legislation will be more ambitious than the Labour Government's legislation in every respect, but the bill backtracks on that. It also denies Scotland the economic advantage that it could have, as we run the risk of missing out on the green jobs revolution that would come from a speedy transition to a low-carbon economy. Amendments 36, 37 and 39, which are one of the Stop Climate Chaos Coalition's big asks, reflect the wishes of a great many people throughout the country. All committee members were at the climate change rally last month, so I do not need to remind them of the strength of feeling on the issue.

I move amendment 36.

Des McNulty: Amendment 38 is an attempt to ensure that progress works out steadily, year by year, rather than starts slowly and ends with a rapid incline. There must be criteria in the bill that require ministers to ensure that they have a planned reduction of emissions over the full

period, to allow the interim target to be reached. One of the concerns has been about a lack of early action; the amendment is intended to deliver that process.

Although we have not supported the introduction of an immediate 3 per cent year-by-year reduction and will not support amendment 36, we have consistently felt that the Government needs to bring forward from 2021 the date at which the 3 per cent annual reduction will be achieved. That is part of the thinking behind amendment 38.

Robin Harper: As the afternoon has progressed, it has become increasingly clear that amendment 78 might be even more necessary than we thought.

Amendment 78 proposes that the 3 per cent annual reduction in section 3(2)(c) be changed to 4.2 per cent in the period 2020 to 2050—by which time we will find that 3 per cent is not enough.

As other amendments that call for more effective targets to be set have so far failed, I argue that setting an ambitious target for the period 2020 to 2050 now is even more necessary than before.

Stewart Stevenson: I have often spoken to the committee and Parliament to affirm our commitment to deep and full meaningful emissions cuts being implemented as soon as possible, to enable us to meet our 80 per cent goal by 2050. The key words to keep in mind are “as soon as possible.” I agree that we have to build towards achieving that level of annual reduction as soon as possible. I note Des McNulty's suggestion that we need to bring forward the date at which we move to 3 per cent annual targets. The important thing is that we do so based on the expert advice of the Committee on Climate Change. We consider that it is important that expert advice drives everything we do with regard to numbers.

Amendment 38 would increase the challenge that the Government faces, but it is nonetheless a proper amendment that we can accept. The other amendments, however, anticipate the expert advice and we cannot accept them.

We have, of course, brought forward our interim target from 2030 to 2020. We have always had the intention that targets for 2010 to 2019 will ensure that we deliver on the 2020 target. Des McNulty's amendment is consistent with that goal and helps us clarify the actions that the Government needs to take.

The Convener: I call Alison McInnes to wind up the debate and indicate whether she wishes to press the amendment.

Alison McInnes: I will press amendment 36.

The Convener: The question is, that amendment 36 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Patrick Harvie (Glasgow) (Green)
Alison McInnes (North East Scotland) (LD)

AGAINST

Rob Gibson (Highlands and Islands) (SNP)
Charlie Gordon (Glasgow Cathcart) (Lab)
Alex Johnstone (North East Scotland) (Con)
Des McNulty (Clydebank and Milngavie) (Lab)
Cathy Peattie (Falkirk East) (Lab)
Shirley-Anne Somerville (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 36 disagreed to.

Amendment 37 moved—[Alison McInnes].

The Convener: The question is, that amendment 37 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Patrick Harvie (Glasgow) (Green)
Alison McInnes (North East Scotland) (LD)

AGAINST

Rob Gibson (Highlands and Islands) (SNP)
Charlie Gordon (Glasgow Cathcart) (Lab)
Alex Johnstone (North East Scotland) (Con)
Des McNulty (Clydebank and Milngavie) (Lab)
Cathy Peattie (Falkirk East) (Lab)
Shirley-Anne Somerville (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 37 disagreed to.

Amendment 38 moved—[Des McNulty]—and agreed to.

Amendment 39 moved—[Alison McInnes].

The Convener: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Patrick Harvie (Glasgow) (Green)
Alison McInnes (North East Scotland) (LD)

AGAINST

Rob Gibson (Highlands and Islands) (SNP)
Charlie Gordon (Glasgow Cathcart) (Lab)
Alex Johnstone (North East Scotland) (Con)
Des McNulty (Clydebank and Milngavie) (Lab)
Cathy Peattie (Falkirk East) (Lab)
Shirley-Anne Somerville (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 39 disagreed to.

Amendment 78 moved—[Robin Harper].

The Convener: The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Patrick Harvie (Glasgow) (Green)

AGAINST

Rob Gibson (Highlands and Islands) (SNP)
Charlie Gordon (Glasgow Cathcart) (Lab)
Alex Johnstone (North East Scotland) (Con)
Alison McInnes (North East Scotland) (LD)
Des McNulty (Clydebank and Milngavie) (Lab)
Cathy Peattie (Falkirk East) (Lab)
Shirley-Anne Somerville (Lothians) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 78 disagreed to.

Section 3, as amended, agreed to.

Section 4—Setting annual targets

The Convener: Amendment 79, in my name, is grouped with amendments 80, 81, 83 to 86, 40, 41, 87, 42, 88, 89 and 109. I refer members to the notes on pre-emptions.

On amendment 79, I refer members to the evidence that has been given to us by the Stop Climate Chaos Coalition and the proposals that it has made with regard to the criteria that ministers must apply to the setting of annual targets.

The amendments in my name in this group have two broad aims, the first of which is to ensure that the criteria include the concept of a fair and safe cumulative emissions budget. There are several approaches to the issue of cumulative emissions, and I know that members have attempted to address the issue at various points in the bill. Considering those amendments will give us a useful opportunity to debate a number of approaches. My amendments would simply ensure that the issue of cumulative emissions would have to be considered as a criterion in the setting of annual targets. In addition to that, issues of social disadvantage and environmental considerations would be included in the target-setting criteria.

My second aim is to ensure that, as well as ministers having regard to the criteria, the relevant body would be required to report on the target-setting criteria. That is, perhaps, a secondary concern, but it is important for a Scottish cumulative emissions budget to be measured and reported on by the relevant advisory body, given the scientific basis of the work.

Amendments in this group also cover issues that relate to amendment 93 in the next group. Although the amendments are in separate groups, I hope that members will see them as achieving a coherent objective.

I move amendment 79.

15:00

Alison McInnes: Like you, convener, I am supportive of the idea of a cumulative emissions budget being enshrined in the bill. The effect of my amendment 80 would be similar to that of your amendments 79 and 84, and I would be comfortable with either outcome. The introduction of a cumulative emissions budget is vital for the success of the bill. It is not enough simply to report on emissions; we must set a proper limit on how much Scotland can safely emit in total during the period 2010 to 2050. It is important to remember that limiting the impact of climate change is a question not of percentage reductions, but of the total amount of greenhouse gases in the atmosphere.

From that limit, and knowing the concentration of greenhouse gases at present, it is possible to work out how much more can safely be emitted in the next 40 years. From that, it is possible to work out Scotland's share of emissions. We need the two things to run together.

Des McNulty: Amendment 40 would add "jobs and employment opportunities" to the other economic criteria that the bill identifies. That seemed to be an omission, as I hope the minister will be prepared to accept.

It struck me that there is an inconsistency in approach, in that there appears to be a focus on communities in some parts of the list of criteria in section 4(4), whereas in relation to poverty the focus seems to be on individuals. Climate change and the measures that we might take to tackle it could impact in a different way on poorer and deprived communities compared with their impact on other communities. Amendment 41 gives the minister an opportunity to reflect on that and, I hope, to acknowledge the possibility of including in the bill issues around poorer and deprived communities.

Amendment 42 is a testing amendment for the minister. As we have debated the matter in the committee more than once, the minister is aware of the problems of defining what is rural and not rural, as well as the intermediate degrees of rurality. All of rural Scotland should be highlighted, irrespective of whether the communities concerned are on the outskirts of Inverness or Aberdeen, or more than 60 minutes away from a town with a 10,000 population. The point is worth posing to the minister. In that context, I raise the

possibility of defining the relevant criteria not so much in terms of degrees of rurality, but based on more concrete factors such as access to the gas grid, which might define the impact of adaptation measures on particular households.

We are supportive of amendment 88, lodged by Patrick Harvie, which introduces environmental considerations, in particular the likely impact of targets on biodiversity. Patrick Harvie has not yet spoken on that amendment, but I wanted to mention it.

On the issue of having a

"fair and safe Scottish emissions budget",

we would like to hear more about that proposal from the members behind it and to hear the minister's response.

Stewart Stevenson: We find ourselves comfortable supporting a number of amendments in the group. Amendments 40 to 42, from Des McNulty, somewhat improve the bill. They provide a certain clarity and consistency that we are happy to accept. In the same spirit, the convener's amendment 88 would add a requirement to consider

"the likely impact of the targets on biodiversity",

and we agree that that is worth pursuing.

Other amendments in the group present challenges. Amendments 79, 81 and 83 seek to update the criteria that ministers must take into account in setting the new interim target. We believe that that is covered by amendments 5 and 6, on which the committee will vote later, but which were debated in group 3. Amendments 79, 81 and 83 would move the bill's reference to the interim and 2050 targets from being contained in a standalone subsection to being included among the target-setting criteria in section 4(4). That is not necessary, because the duty on the Scottish ministers to meet the interim and 2050 targets is already contained in the bill and, as such, that must influence the level at which annual targets are set.

However, the target-setting criteria are less obvious matters, which are not detailed elsewhere in the bill. Section 4(4) is designed to ensure that the criteria are in fact taken into account when decisions are taken about setting annual targets. On the ground that they are not necessary, I cannot support amendments 79, 81 or 83.

Amendments 80, 84, 89 and 109 attempt to introduce a concept that is referred to as a

"fair and safe Scottish emissions budget".

In essence, that is a cumulative emissions budget for the period 2010 to 2050. That approach does not commend itself—it might be unwise, and it is

certainly unnecessary. The bill's annual target approach contains many of the key elements that a cumulative emissions budget seeks to cover. Trying to fix an overall emissions budget lasting over 40 years is unwise at this stage, and would provide unworkable flexibility. It is worth reminding ourselves that we will have set targets up to 2027, which is basically half the period concerned, by October 2011. The bill has a great deal to say on that subject already.

I draw the committee's attention to group 23, which we will come to at a later stage, and in particular to amendment 118 in Cathy Peattie's name, which addresses the issue in what we think is a more appropriate way and in a way that, depending on what happens before we come to that amendment, we expect to be able to support. We are in the hands of the convener as far as procedure is concerned, but it appears to us that, if the committee were to agree to the amendments in the group that is now before us, amendment 118 would have to fall. We therefore direct members' attention towards amendment 118.

We will always be setting batches of annual targets for between 12 and 17 years, based on expert advice. That is how Scotland's total permissible cumulative emissions are defined. It is worth reminding ourselves that when we publish our emissions we will do so by tonnes of CO₂, not by percentages. We believe that that is the appropriate approach. The bill provides flexibility to react to the many uncertainties that will arise in the four decades to 2050. I oppose—and recommend that the committee oppose—amendments 80, 84, 89 and 109.

Amendments 85 and 86 would shorten the list of economic circumstances to which ministers must have regard in setting annual targets. I cannot support that, given that particular sectors will play a crucial role in the achievement of those targets. The inclusion of the subparagraph on "small and medium-sized enterprises" was a genuine attempt to recognise the significant difference between Scotland and England. We have a far larger proportion of SMEs, and it is important that we recognise that in the bill. I do not want to give the impression that the bill's list of target-setting criteria is untouchable, but I think that it provides the way forward.

We are not opposed to the spirit of amendment 87, but we believe it to be unnecessary as the broader theme of equalities is covered more conclusively in section 62.

In conclusion, we oppose amendments 79 to 81, 83 to 87, 89 and 109 but we would be happy for amendments 40 to 42 and 88 to be incorporated into the bill.

The Convener: I welcome the indication that the minister can be flexible and willing to accept amendments. However, I still believe that certain aspects of my proposed approach would simplify things rather than increase complexity. A clearer and simpler approach to the target-setting criteria would benefit not only ministerial decisions on targets, but parliamentary scrutiny. Moreover, on the economic aspects that the minister referred to, I think that the impact on SMEs would not cease to be a consideration and would still be a relevant wider economic issue. However, referring specifically to SMEs and therefore setting them apart from other economic factors seems to me to add an unnecessary level of complexity.

As a result, I press amendment 79 and remind members that, if it is agreed to, it will pre-empt amendments 5 and 6, which were debated earlier, and amendment 80.

The question is, that amendment 79 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 79 disagreed to.

Amendments 5 and 6 moved—[Stewart Stevenson]—and agreed to.

Amendment 80 moved—[Alison McInnes].

The Convener: The question is, that amendment 80 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0. We seem to be establishing a pattern.

Amendment 80 disagreed to.

Amendment 81 not moved.

The Convener: Amendment 82, in my name, is grouped with amendments 90 to 93, 97, 49, 106 to 108 and 110.

Amendment 82 deals with the advisory body's role in relation to annual targets. As it stands, section 21 makes it clear that sections 22 to 27 will take effect only when the Scottish Government designates an advisory body under section 19, so my comments relate to a scenario in which the Government has already made that designation.

It has been suggested that when the Government sets up an advisory body, there will still be problems with the process of proposing, advising and drafting annual targets, and amendment 82 seeks to ensure that the advisory body will be the primary driver of the targets by giving it primacy in proposing them. That has been done by lifting some wording from section 5, which requires ministers to seek

"advice of the relevant body"

on meeting a "fair and safe" cumulative emissions budget.

I apologise to members for not having all the papers with me that I should have to speak to this amendment. I might make other points when I wind up.

I move amendment 82.

15:15

Alison McInnes: Amendment 92 seeks to specify certain requirements for a report issued by "the relevant body", which might not necessarily be the advisory body. Once the annual targets are set, it is important that the appropriate body reviews them comprehensively and that the Parliament is able to reflect on them with as detailed a report as possible. The amendment seeks to correct what I think is an anomaly in which a report that is made by a subsequently appointed advisory body would have more detailed direction and requirements than would automatically fall on the relevant body.

Stewart Stevenson: At the outset, I should say that amendments 90, 97 and 49, in the name of the convener, are acceptable to us. I will say more about those and speak to amendment 108.

On amendments 82 and 91, the bill currently requires Scottish ministers to request the advice of the relevant body prior to laying a draft order in the Scottish Parliament to set annual targets. When

setting targets, ministers must also have regard to the interim 2050 targets and the specific target-setting criteria that are listed in section 4(4). Amendments 82 and 91 seek to require Scottish ministers to seek the relevant body's advice on the target-setting criteria instead of ensuring that Scottish ministers retain the duty to have regard to the criteria themselves. Ministers will and must be informed by expert advice, and when they consider it they will quite rightly need to take account of the target-setting criteria. The ultimate responsibility for making decisions on the annual targets lies with Scottish ministers, subject to Parliament's approval of the order to bring them into law. The amendments change that emphasis in the bill and potentially reduce the independent nature of the advice. Moreover, by seeking to transfer responsibilities to the UK Committee on Climate Change, they also reduce the ministers' responsibilities. I do not think that that strikes the right balance and therefore cannot support amendments 82 and 91.

On amendments 92 and 93, which seek to place duties directly on the relevant body, I point out that the relevant body will in the first instance be the UK Committee on Climate Change. The bill does not place duties on the relevant body because section 38 of the UK Climate Change Act 2008 requires that that committee must provide the Scottish ministers with advice and other assistance that they request regarding climate change targets. Instead, the bill places duties on Scottish ministers to seek that body's advice.

There are further technical flaws with the amendments. For a start, they are unnecessary, as section 22 already sets out the duties that they seek to create for any Scottish advisory body that is established under the bill. I therefore cannot support amendments 92 and 93.

Amendments 90 and 97 seek to require Scottish ministers to publish the advice that they receive from the relevant body on the setting of annual targets. Given that, in practice, I have already committed to publishing that advice, I have no difficulty in accepting the amendments.

With regard to amendment 49, section 7 requires Scottish ministers to request the advice of the relevant body prior to laying a draft order to modify any aspect of the annual targets. If the provision made by ministers is different from the advice that they are given, they must publish a statement setting out their reasons. Amendment 49 seeks to require ministers to lay that statement before Parliament. Although there is a small flaw in the amendment's drafting—the word "and" appears to be missing from the beginning of the text—I can appreciate why the provision might be useful and am content to accept the principle

behind it. If it is agreed to, we are willing to commit to rectifying the drafting flaw.

We consider that there is a flaw in amendment 106 that renders it unnecessary. The amendment creates a duty to request the advisory body's advice on the target-setting criteria. However, if a Scottish advisory body was established, that duty would be unnecessary by virtue of section 22, which requires that the advisory body explain its views on the proposed annual targets by reference to the target-setting criteria. For that reason, I cannot support amendment 106 or the consequential amendments 107 and 110.

The effect of amendment 108, in the convener's name, would be to require the advisory body to state what annual targets are appropriate rather than what it thinks of the targets that ministers propose. In practical terms, it is difficult to see how the body could comment on the appropriateness of proposed annual targets without giving a view on what targets are appropriate. Therefore, on balance, I would be relaxed were the committee to accept amendment 108, which may be considered to add some useful clarity to the bill.

We would be content to accept amendments 90, 97 and 49 with a caveat that we would correct the drafting later. We would also be quite relaxed if the committee wished to agree to amendment 108.

The Convener: I acknowledge the minister's willingness to accept some amendments. I am willing to think again about some of the technical drafting issues, particularly on amendment 93. However, the general issues that are raised in this group show that further work needs to be done to ensure that the independent and scientifically based advisory body—the UK Committee on Climate Change or a future Scottish body—is in the driving seat. It is widely recognised that our approach to the setting of targets must be scientifically, rather than politically, determined. Empowering the advisory body and, perhaps, placing further duties on it would be more likely to achieve that.

The group has been reasonably well debated. I have indicated my willingness not to move amendment 93, but I will press amendment 82. I remind members to note the pre-emptions in the group.

The question is, that amendment 82 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 82 disagreed to.

Amendment 83 not moved.

Amendment 84 moved—[Patrick Harvie].

The Convener: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 84 disagreed to.

Amendment 85 moved—[Patrick Harvie].

The Convener: The question is, that amendment 85 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0. That was even worse than the previous amendments.

Amendment 85 disagreed to.

Amendment 86 moved—[Patrick Harvie].

The Convener: The question is, that amendment 86 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 86 disagreed to.

Amendments 40 and 41 moved—[Des McNulty]—and agreed to.

Amendment 87 moved—[Patrick Harvie].

The Convener: The question is, that amendment 87 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 87 disagreed to.

Amendment 42 moved—[Des McNulty]—and agreed to.

Amendment 88 moved—[Patrick Harvie]—and agreed to.

The Convener: Well, there we are—that amendment is agreed to.

We move to the next group. Amendment 7, in the name of the minister, is the only amendment in the group.

Stewart Stevenson: Amendment 7 is designed to ensure that the Scottish ministers' duty to set annual targets for the periods that are specified in section 4(2) continues to apply if unforeseen circumstances cause any of the deadlines for setting targets to be missed. Without the amendment, the duty to set annual targets for a specified period could be considered to be lost if the relevant deadline were missed. That could leave ministers unable to fulfil one of the bill's principal objectives.

The Scottish ministers have no intention of failing to meet the deadlines in section 4; amendment 7 is simply a sensible precaution. It will not provide a licence to miss deadlines. The amendment includes the safeguard that, if a deadline is missed, ministers must set the relevant annual targets

"as soon as reasonably practicable"

thereafter.

I will give an example of circumstances that could be beyond ministers' control and which might cause one to miss a deadline. I have not worked out the exact years but, for argument's sake, if a Government fell halfway through a period at precisely the point when targets had to be set, laying the appropriate orders before Parliament might not be possible, because Parliament would not be in session. Without amendment 7, laying the appropriate orders would not be possible when Parliament resumed. That is one example of the technical reason why the amendment is important.

I move amendment 7.

The Convener: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

AGAINST

McInnes, Alison (North East Scotland) (LD)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 7 agreed to.

Amendment 89 moved—[Patrick Harvie].

The Convener: The question is, that amendment 89 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)

Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 89 disagreed to.

Section 4, as amended, agreed to.

The Convener: As we are an hour and a half into the meeting, we will have a short comfort break. If members aim to be back here about five minutes from now, that will help.

15:29

Meeting suspended.

15:35

On resuming—

The Convener: I thank everybody for getting back in their seats promptly.

Section 5—Advice before setting annual targets

Amendment 90 moved—[Patrick Harvie]—and agreed to.

Amendment 91 moved—[Patrick Harvie].

The Convener: The question is, that amendment 91 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 91 disagreed to.

Amendment 92 moved—[Alison McInnes].

The Convener: The question is, that amendment 92 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 92 agreed to.

Amendment 93 not moved.

The Convener: Amendment 94, in the name of Alison McInnes, is grouped with amendments 95, 96 and 98 to 100. Again, members should refer to the notes on pre-emption in the groupings list.

Alison McInnes: Amendments 94 to 96 and 98 to 100 will strengthen the bill by giving Parliament a proper role in the scrutiny of its implementation. Under amendment 94, the Scottish ministers would have to lay before the Parliament a report setting out information in respect of the annual targets, which will be set by order. The power to set annual targets is probably one of the most important powers that the bill will confer on ministers, so it is hugely important that the Parliament has the opportunity to question ministers on that.

Amendments 95, 96 and 98 to 100 relate to situations in which ministers disregard the advice of the relevant body or choose to amend or modify targets with disregard to the advice of the relevant body. The amendments are worth while, so I hope that members will support them.

I move amendment 94.

The Convener: Do other members want to speak?

Des McNulty: Convener, is it possible to hear the minister's response and reserve the right to comment after that?

The Convener: We will hear from the minister, and I will allow brief comments from members after that.

Stewart Stevenson: The key reason that Ms McInnes gives in support of her amendments is the need for a power to question ministers. I am not at all clear why any of the amendments would make the slightest difference in that regard, as committees and the Parliament have the power to question ministers in any event. Having a report laid before Parliament creates no additional powers in that regard.

I said during the stage 1 debate that I am willing to consider additional scrutiny and reporting duties, such as providing Parliament with an opportunity to consider proposals and policies that is similar to the 60-day scrutiny period for the

national planning framework under the Planning etc (Scotland) Act 2006. Alison McInnes's amendments would not provide anything similar to that 60-day scrutiny period. I therefore ask her to seek leave to withdraw amendment 94, to allow ministers to produce proposals at stage 3 that more closely reflect the arrangements in the 2006 act.

The Convener: Does Des McNulty want to comment at this stage?

Des McNulty: The danger with a bill of this nature is that we end up with a series of mechanisms, all of which are intended to do the same thing. Members should consider how committees scrutinise what ministers provide for them. The focus must be on ensuring that ministers keep committee conveners and clerks properly informed about matters that come under their jurisdiction.

I lodged a couple of amendments that are designed to secure just that—we will consider them later in the meeting. Like the minister, I am not entirely sure whether publishing a statement or laying a report is precisely the right mechanism. If the minister is prepared to reflect on the matter and on the need to streamline the process as far as possible, I am inclined to support his view at this stage.

Stewart Stevenson: It may be useful for me to give the assurance that the member is seeking.

The Convener: Thank you.

Alison McInnes: I thank the minister for his commitment to reconsider the issue. The process must not be streamlined to the point that it is meaningless, and the Parliament must have the opportunity to scrutinise decisions that are taken, specifically when a minister departs from advice. I hope that the minister will stick to his commitment.

I seek leave to withdraw amendment 94.

Amendment 94, by agreement, withdrawn.

Amendments 95 and 96 not moved.

Amendment 97 moved—[Patrick Harvie]—and agreed to.

Section 5, as amended, agreed to.

Section 6—Modifying annual targets etc

The Convener: Amendment 43 is grouped with amendments 44 to 48. Again, I refer members to the note on pre-emption.

Although the group contains six amendments, the outcome that they seek to achieve is fairly straightforward. Essentially, the aim is to ensure that, consistent with members' earlier comments, we recognise that the latest climate science

increasingly suggests the need to move to earlier and more ambitious action.

Amendment 43 will ensure that ministers cannot weaken targets arbitrarily in future. It allows for targets to be made more ambitious but not for them to be weakened. That is the simple purpose of the group of amendments.

I move amendment 43.

Stewart Stevenson: Amendment 43 removes the ability for the Scottish ministers to modify the figure in the bill—it is set at 3 per cent—that provides the minimum annual reduction that must apply to annual targets in the period from 2020 to 2050. Amendments 45 and 48 are consequential amendments.

Essentially, the measure would restrict all annual targets in a manner that does not provide any flexibility for ministers to react to unforeseen circumstances between now and 2030. What would happen if, for example, Scotland managed to exceed its emissions reduction trajectory by a large amount and no longer required to reduce emissions by 3 per cent in order to meet its 80 per cent target by 2050? Annual reductions might still be required, but setting them at 3 per cent might be unnecessarily expensive or difficult, given the remaining scope for emissions abatement at the time.

15:45

Indeed, amendment 43 could provide a perverse incentive. There could be a severe inhibition to making a very large step-change emissions reduction of the order of, for the sake of argument, 12 per cent any sooner than is necessary—perhaps such a reduction would be associated with the closure of a power generation plant—because it would be likely that that 12 per cent reduction in one year would be followed by fallow years thereafter. The amendment could therefore create a perverse incentive not to close that plant. Having the ability to modify the annual percentage reduction requirement by affirmative order coupled with the requirement to consult the relevant body provides a sensible degree of flexibility for any eventuality.

Amendment 44 would add a new condition to the end of section 6(1)(b) to restrict ministers to being able to modify annual targets only so that the modified amount is lower than the original target. The bill already deals with that issue in section 6(6)(b), which prevents ministers from modifying annual targets in a manner that permits their increase in comparison with that of the previous year. Although amendment 44 goes further, it is unnecessarily restrictive for the same reasons that I have outlined with respect to amendment 43. Principally, it does not allow for

any degree of flexibility to react to the unforeseen circumstances that are bound to occur between now and 2050.

Amendment 46 appears to be consequential on amendment 44. However, section 6(3), which Patrick Harvie seeks to delete, applies the test that ministers must meet before they exercise the power to modify annual targets, whether or not it is amended by amendment 44. That test is that ministers may make an order under section 6(1)(b) only if they consider that it is appropriate to do so as a result of significant changes that have occurred to the basis on which the annual target that will be modified was set. Amendment 46 would remove that important safeguard, so I cannot support it.

Amendment 47 would delete another safeguard that is built into the bill. It would remove the restriction that ministers may introduce orders to modify the date ranges for batches of annual targets or the target-setting criteria only if they consider it appropriate. That restriction requires due consideration to be given before those powers are exercised. No amendments have been proposed to the relevant parts of section 4, so removing that test would simply allow ministers to exercise those powers unfettered, which would make their lives easier but is not justifiable in this case. Therefore, I oppose amendments 43 to 48.

The Convener: It might be overly cynical to suggest that, if ministers think that they would be freed up by a group of amendments but that that does not justify their supporting them, perhaps something else is going on underneath the argument.

I do not accept the fundamental argument that has been put against the group of amendments as a whole. That argument is that it may be proved through events that reductions in one year are more achievable or more rapidly achievable than had been anticipated and that that could give an incentive not to take further action. It is clear that the bill and all Government policies that are related to reducing emissions to tackle climate change are a response to a global phenomenon. If Scotland reduces its emissions by more than expected in a particular year, that global phenomenon and the global responsibility to continue to act to reduce emissions at an ambitious pace will still exist. Just as I do not entirely approve of offsetting in its broadest sense, I do not think that we should allow the trading off of one year against another in the manner that is envisaged. I press amendment 43.

The question is, that amendment 43 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 43 disagreed to.

Amendment 44 not moved.

Amendment 98 moved—[Alison McInnes].

The Convener: The question is, that amendment 98 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 98 agreed to.

Amendments 45 and 46 not moved.

Amendment 8 moved—[Stewart Stevenson]—and agreed to.

Amendments 47 and 48 not moved.

Section 6, as amended, agreed to.

Section 7—Advice before modifying annual targets etc

Amendment 99 moved—[Alison McInnes].

The Convener: The question is, that amendment 99 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 99 agreed to.

Amendment 100 moved—[Alison McInnes].

The Convener: I point out that, if amendment 100 is agreed to, amendment 49 will be pre-empted.

The question is, that amendment 100 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 McInnes, Alison (North East Scotland) (LD)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 100 agreed to.

Section 7, as amended, agreed to.

After section 7

The Convener: Amendment 50, in the name of Des McNulty, is grouped with amendments 125, 51, 52, 10, 57, 12, 12A, 12AA, 12AB, 12C, 12D, 12B, 12E, 12F—I am looking forward to that bit—13, 14, 60, 19, 61 to 63, 65, 68 and 69. I refer members to the note on pre-emptions that has been provided.

Des McNulty: The number of amendments in the group perhaps attests to the degree of concern among people in Scotland about the need to ensure that we reduce our climate contribution predominantly from domestic sources and do not rely on international credits beyond what is strictly necessary.

Amendment 50 would set the parameters for putting a limit on the use of international credits. Amendment 125, in Robin Harper's name, addresses the same issue, although I do not necessarily accept it because it would be very difficult for the Parliament to specify so far in advance what the circumstances for the use of international credits might be. However, it is important that the Parliament sets out a clear

ceiling for their use, in line with UK legislation. The Parliament should establish its intent.

Amendment 57 is intended to ensure that international credits will not be used in the initial period between now and 2012. I do not believe that it should be necessary for international credits to be used during that period.

Amendments 12A and 12B are amendments to amendment 12, in the name of the minister, and they carry on the argument about a limit on the net amount of carbon units. Amendment 12A suggests a tightening of the minister's position.

I accept the intention behind the further modifications that Alison McInnes proposes in her amendments in this group, but there is a problem that relates to varying the period of the cycles that the minister has set out in amendment 12. The minister has set out a basket of five-year cycles. I have sought to work within the minister's framework for 2010 to 2012 and for 2013 to 2017. It will be for members of future sessions of Parliament to work out what should be done after 2017. Amendment 12 indicates that limits will have to be set by 31 December 2016, but the Parliament can return to that issue. However, we should set out our intentions for the period up to that time and we should put in place a mechanism for putting a ceiling on the use of international credits. I hope that members will be able to support that idea.

I move amendment 50.

The Convener: I welcome Brian Adam to the meeting.

I call Robin Harper to speak to amendment 125 and the other amendments in the group.

Robin Harper: I was glad to see Des McNulty's amendment 50 among the amendments in this group, but it does not go far enough. In his book "Kyoto2", Oliver Tickell sets out his concerns about whether carbon credit schemes are working as well as they should be.

As we have discussed, if the bill is to be a success it must set emissions targets at the right level and set out a framework for how best to achieve those targets. Amendment 125 addresses that point.

As introduced, the bill allows for an unlimited number of carbon credits to be purchased and credited to the net Scottish emissions account. In effect, that could mean—although I am sure it would not happen—that the targets in the bill could be met entirely through purchasing credits from overseas, which would mean that there was absolutely no incentive for emissions reductions in Scotland.

We have consistently argued that countries such as ours, which have high current emissions, high historical emissions and huge potential for the use of renewables, must take the lead. We have clearly won that argument, as colleagues in the Government and the Labour Party have lodged amendments to include some form of restriction, but neither of their approaches is anywhere near strong enough.

Amendment 125 seeks to ensure that, during the period 2010 to 2019, the proportion of carbon units bought in should be no more than 20 per cent of the net Scottish emissions account, that that figure should reduce to 10 per cent in the period from 2020 to 2039, and that during the period from 2040 to 2050 all reductions in the net Scottish emissions account should be made within Scotland—without any use of carbon units bought from elsewhere. I will be happy to address any concerns that there may be about that. Amendment 125 would also allow the percentages to be revised—but only to ensure that fewer credits are used to meet our reduction targets.

The transformation to a low-carbon economy must begin at home, and preferably now. That is a fundamental factor in how we choose to meet our current targets.

16:00

By fixing such a limit on the use of carbon units, we would not only be taking responsibility for our own actions but providing an incentive for business and industry in Scotland to adopt and develop the groundbreaking technologies that will be fundamental to the future of the world.

Businesses in Scotland that are already engaging in carbon reduction believe that it has benefited them, but there is still a feeling among businesses in general that it is a problem. It is not a problem, however, but an opportunity for them. Scotland has the potential to be a world leader in tackling climate change—but only if we commit to solving our own problems by making reductions here instead of relying on the rest of the world to do it for us. The whole world cannot pay someone else to solve the problem: someone will have to take a lead. We should stand up and ensure that Scotland lives up to the minister's rhetoric with real action.

Stewart Stevenson: I should say at the outset that we are minded to accept amendment 57, in the name of Des McNulty. I congratulate the committee, as I think I am correct in saying that this is the first time—certainly in the eight years that I have been in the Parliament—that we have had amendments to amendments to amendments. It is groundbreaking stuff, in the bill and in the committee.

I agree that the bill must focus on reducing greenhouse gas emissions in Scotland and completely understand why members of the committee are keen to have in it a mechanism to control the use of carbon credits in meeting the targets that are set in it.

The Government has lodged amendment 12 to ensure that the bill has a robust, flexible and future-proof mechanism by which each Administration can set a limit for the use of carbon credits, based on expert advice, prior to each set of annual targets coming into force. We believe that emissions reduction policy should be based on the best possible expert advice and that we must use expert advice on when and whether carbon credits should be considered.

I observe, as a small parenthetical comment, that we do not have the power to forbid the use of carbon credits in Scotland—we have it only in relation to those areas for which we have devolved responsibility. If we put in a general requirement, it could well be ruled *ultra vires*. That is particularly the case with regard to the power stations, which are covered by European legislation.

The issue is, as is the case with a range of other matters, too important for us politicians to deal with the numbers—we need the expert advisory body. Setting a fixed limit for carbon credits would be to second-guess the expert advice that we have yet to receive; who is to say what the limit should be in 2020 or on what basis we should plan to reduce emissions in 2030?

We continue to aspire to deliver the targets by reducing emissions in Scotland. As we approach the 80 per cent target, the scope for doing anything other than making our own efforts will certainly become extremely limited, but I do not have a crystal ball to enable me to be certain that the domestic targets that various members have proposed will be appropriate in decades to come. I respect the well-intentioned nature of the amendments, but we must use the expert advice that reflects Scotland's particular circumstances.

The amendments—with the exception of amendment 57—could tie the hands of successive Scottish ministers. We cannot be sure that members' alternative proposals will not lead to difficulties and incompatibilities for Scottish companies that are participating in schemes that are controlled outside Scotland, especially as 40 per cent of our emissions fall in the traded sector, the control of which is outwith the hands of the Scottish Parliament.

The point of the trading scheme is that it is a world-leading scheme that we know will lead to a downward curve of CO₂ emissions from our major industries. We cannot afford to do anything that would even tangentially put at risk that huge

reduction because, if we fail in that regard, we can be certain that we will not meet our targets.

A domestic effort target could create indirect interference with the European trading scheme because of its inflexibility, and it might force the Scottish ministers to pursue policies that require greater emissions from the traded sector than are necessary in the trading scheme. In any event, our overall emissions as recorded in our accounts are determined by what happens in the trading scheme.

Our ambitions to lead the world are important, and the trading scheme in Europe is a world-leading emissions trading scheme that will evolve over the period. I am recommending a more flexible, future-proof mechanism for establishing limits on carbon credits. Amendment 12 and its associated amendments deliver that. We believe that, essentially, we are responding to the committee's stage 1 report. We will have to set a limit on the usage of carbon credits in advance of annual targets coming into force, using expert advice. Amendment 12 is the best mechanism for doing that.

I cannot support the majority of the amendments from Mr McNulty or the amendments from Ms McInnes and Mr Harper because of the difficulties that they would present, but in the spirit of demonstrating our commitment to meeting Scottish targets through addressing Scotland's emissions, I am content to commit to not purchasing any carbon credits in the period from 2010 to 2012 as we work initially towards a 34 per cent target in 2020. On that basis, I can accept amendment 57. I am confident that we can make that commitment in the light of where we are at the moment, but I do not consider it wise to commit beyond that because we simply do not know whether Europe will commit to reducing emissions by 30 per cent. It is up to us to deploy arguments in that regard.

Amendment 10 makes it clear that the net Scottish emissions account may not be credited with an amount of carbon units that exceeds any statutory limit, which is the allowable amount set by amendment 12.

On amendment 13, it is possible that the Scottish ministers will need, on occasion, the power to modify the limit on carbon units if there is a significant change in the circumstances under which they were set. It is pragmatic and sensible to provide a power that might be required in some circumstances, but the bill as currently drafted would not permit such change. When I was speaking about other amendments, I spoke about the need to be able to respond to the presently unknown future.

Although the Committee on Climate Change has recommended to the UK Government that carbon units should not form part of a 34 per cent interim target, it recognises that they might be required for a 42 per cent target. Any order under this section will be subject to affirmative resolution, allowing the Scottish Parliament the opportunity fully to scrutinise modification proposals. Further, before any such order is laid, the Scottish ministers will be required to seek expert advice. That is where amendment 14 applies. It requires ministers to request advice from the relevant body—initially the UK Committee on Climate Change and, potentially, a Scottish body—before setting or modifying limits on the net amounts of carbon units that can be credited to the net Scottish emissions account for specified periods.

Amendment 19 requires that the advisory body must, when providing advice to the Scottish ministers on annual targets, also express a view on the extent to which the annual targets should be met by the use of carbon units, with reference to the allowable amount as set in accordance with amendment 12.

The Convener: For the record, I welcome Elaine Murray to the committee.

I call Alison McInnes to speak to amendment 12AA and other amendments in the group.

Alison McInnes: Listening to the debate, it is clear that we are all trying to achieve much the same thing, as we all want to minimise the use of international credits and maximise the effort that must be made domestically. I prefer Des McNulty's approach, which is set out in amendment 50, and therefore think that my amendments 12AA and 12 AB are not required. I will support the amendments that limit ministers' ability freely to set the cap.

The Convener: I call Des McNulty to wind up the debate and indicate whether he intends to press amendment 50.

Des McNulty: I am particularly indebted to Oxfam, Christian Aid and some of the other agencies that are involved in the Stop Climate Chaos Coalition for the work that they have done on this issue. Like other members, I have also been contacted by a wide range of constituents who have highlighted the importance of taking into account the international development dimension of climate change and of ensuring that that becomes part of the bill. Amendment 50 offers the clearest possible way forward in that regard and gives us a set of parameters that will enable us not only to set out our intentions clearly just now but establish a legal framework that we can build on in years to come.

I will press amendment 50.

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 50 agreed to.

The Convener: Does Robin Harper wish to press or withdraw amendment 125?

Robin Harper: May I ask the minister a question?

The Convener: I will allow one brief question, but I would prefer it if debates were kept within the initial debating period.

Robin Harper: Does the minister agree that the figures for domestic reductions and the figures for the purchases of carbon credits should be published separately so that we can be clear about the progress we are making?

Stewart Stevenson: I am quite content with that.

Robin Harper: As amendment 50, which has been agreed to, covers the ground that my amendment deals with, I shall not move amendment 125.

Amendment 125 not moved.

Section 8—Progress towards targets

The Convener: Amendment 9, in the name of the minister, is grouped with amendments 101, 111, 20, 112, 21, 64, 22 and 115. Again, I refer members to the notes on pre-emptions.

Stewart Stevenson: Amendments 9 and 20 to 22 are, essentially, technical amendments that are designed to permit earlier requests for reports on progress against targets and earlier responses to those requests. As a team, we are committed to early reporting on progress on annual targets wherever possible.

Officials have identified that sections 8, 23 and 24, as drafted, create unhelpful rigidity in that respect. The amendments in my name seek to remove that rigidity to permit Scottish ministers to seek reports on progress and provide responses

to those reports earlier than the timetable has indicated.

The amendments in the name of Ms McInnes seek to do a number of things. Amendments 101, 111 and 112 would change sections 8, 23 and 24 so that action would be required

“as soon as reasonably practicable”,

but they do not specify specific deadlines and could be considered to weaken the provisions in the bill. Generally, the Government amendments 9 and 20 to 22 are better drafted and permit a more specific deadline to be applied, thereby guaranteeing the point by which the actions in question must occur.

16:15

I draw the committee's attention to amendments 64 and 115 in particular. Amendment 64 would introduce unhelpful rigidity by requiring the Scottish ministers to lay a response to the advisory body's report within two months. The deadline would be tight to achieve, particularly if a holiday period was included within those two months and, as I anticipate, Cabinet approval was required for the response document. I am committed to responding to all reports as quickly as possible, but I cannot envisage being able to guarantee that the Scottish ministers could, in all circumstances, meet a two-month deadline, particularly considering the wide range of interests that such a report may cover. I am equally sure that the Scottish Parliament would prefer to receive a comprehensive, carefully considered report that might take a little longer. For that reason, I oppose amendment 64.

Amendment 115 is fundamentally flawed and adherence to it might, in some circumstances, be impossible. The amendment would require all annual target reports to be laid no later than

“the first 31 October after the data relating to the target year becomes available”.

That would be impossible in all cases where the data became available close to that calendar date. For example, if the Scottish emissions data became available on 30 October, the Scottish ministers would still be obliged to lay the annual report the following day—an impossible task, as I am sure the committee appreciates.

Amendment 115 could also be considered to weaken the provision in the bill that requires that the annual report be laid

“no later than 31 October in the second year after the target year.”

The amendment changes that to 31 January in the third year after the target year and does not clarify when the backstop date of 31 January in the third

year after the target year comes into play. That complexity makes it unclear whether the combination of a duty and two dates connected by the words “in any case” creates a free choice of when to report.

For those reasons, I oppose amendment 115 and urge all committee members to reject it.

I move amendment 9.

Alison McInnes: I accept that the minister and I are both trying to speed up the process of gaining information on annual targets. When the committee took evidence on the matter, it was clear that there was frustration about the time lag in receiving the data and an acknowledgement that, as we got better at reporting on the targets as time went on, the data would become available earlier on.

I agree that amendments 101, 111, 112, 64 and 115 are complex and might well be clumsy, but I did my best with the lawyers to find a way of expressing my aim to speed up the process and give a little extra flexibility. They stretch the process over 15 months so that we are able to get the earliest possible data.

That is what I have attempted to do with amendments 101, 111, 112, 64 and 115. Therefore, I will move them.

Des McNulty: I ask the minister to go over again his reason for opposing amendment 101.

Stewart Stevenson: Amendment 101 would delete from section 8 the wording

“In the second year following a year for which an annual target has been set ... the Scottish Ministers must request the relevant body to prepare”

and replace it with:

“The Scottish Ministers must in each year, beginning with the year 2011, request the relevant body to prepare, as soon as reasonably practicable”.

In other words, it would remove a particular date by which ministers have to do something and replace it with the statement that they must do it

“as soon as reasonably practicable”.

I would not be greatly upset if the committee were to agree to that, because it would relieve the minister of a current obligation, but I think that that would be unwise.

Alison McInnes: You will note that amendments 101 and 111 also say, “and in any case no later than”, so there would be an end-stop as well as flexibility.

Stewart Stevenson: I cannot identify the requirement to which you refer in amendment 101; I can only find the wording:

“as soon as reasonably practicable”.

Perhaps we will have to agree to differ on that.

We have had an adequate exploration of the issues. The amendments in my name create the opportunity for us to accelerate dates and do not carry with them the risks that the amendments in Ms McInnes’s name carry of relieving ministers of obligations. I ask the committee to support the amendments in my name and to reject the amendments in Ms McInnes’s name.

The Convener: I remind members about pre-emption. If amendment 9 is agreed to, I will not be able to call amendment 101.

The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

AGAINST

McInnes, Alison (North East Scotland) (LD)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 9 agreed to.

Amendment 51 moved—[Des McNulty].

The Convener: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 51 agreed to.

Amendment 52 moved—[Des McNulty].

The Convener: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 McInnes, Alison (North East Scotland) (LD)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 52 agreed to.

Section 8, as amended, agreed to.

Section 9—Greenhouse gases

The Convener: Amendment 53, in the name of Dr Elaine Murray, is grouped with amendments 102 and 54.

Elaine Murray (Dumfries) (Lab): Chlorofluorocarbons and hydrochlorofluorocarbons were used as refrigerants and blowing agents in plastic foam insulation prior to January 2004. Foam insulation is widely used in roofs, walls and as the core of insulating foam panels used in steel-clad industrial buildings. They are ozone-depleting substances, which cause depletion of the stratospheric ozone layer and are controlled under the Montreal protocol. European Community regulation 2037/2000 requires that where practical, such substances are disposed of safely and, in the case of fridges and freezers, are recovered and disposed of under rigorous conditions. Unfortunately, the same is not true of the plastic foam insulation in steel-clad buildings when such buildings are demolished, despite the size of the ODS bank in pre-2004 foam insulation being estimated as 10 to 20 times that present in fridges and freezers.

Hydrofluorocarbons and perfluorocarbons are covered under the United Nations Framework Convention on Climate Change, as they are greenhouse gases. Unfortunately, despite the prevalence of chlorofluorocarbons and hydrochlorofluorocarbons in plastic foam insulation, they are not covered by the Kyoto agreement. The gases are also significant greenhouse gases; their carbon footprint is some 300 million to 400 million times that of carbon dioxide. In the UK, 357 tonnes of those gases was recovered through the recycling of 2 million domestic refrigerators. However, as I said earlier, there is 10 to 20 times as much of those gases in plastic foam insulation, yet it is not recovered in the same way or with the same care—indeed, it tends to go into hazardous landfill.

Amendment 53 would add chlorofluorocarbons and hydrochlorofluorocarbons to the list of greenhouse gases. Amendment 54 identifies their current levels under the Montreal protocol—the baseline in section 10. The amount of these gases that will go into the atmosphere is likely to increase given the increase in the number of ODS-clad buildings reaching the end of their life and requiring to be demolished.

By recognising that these substances are also greenhouse gases and accounting for them in the targets, the bill would place Scotland ahead of the rest of the world. I appreciate that the six greenhouse gases that are specified in the bill—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride—are those that are covered by the Kyoto agreement. I also appreciate that section 9(2) enables ministers to add gases to the list and that section 11 enables them to set a baseline for additional greenhouse gases.

My aim in lodging amendments 53 and 54 was to highlight the importance of recovering these substances appropriately and recognising the significance of the materials that they contain in contributing to climate change. In the long term, we should not be content simply to monitor the Kyoto gases and ignore emissions from other climate-changing gases. We know where the gases are and how they should be processed at the end of the life of buildings. It is therefore possible to prevent emission.

Amendment 102, in the name of Patrick Harvie, requires ministers to monitor actively the effect of gases that are not included on the list and report to Parliament on whether they should be included. I am not a committee member but, having read the amendment, I have a fair amount of sympathy for the intention to enable ministers to update the list of greenhouse gases. I will listen carefully to the views of members and the minister before deciding whether to press amendment 53 and move amendment 54. I will also listen to the debate on amendment 102. I urge ministers to monitor the impact of chlorofluorocarbons and hydrochlorofluorocarbons with a view to including them on the list in future, if not at this stage.

I move amendment 53.

The Convener: Before I speak to amendment 102, I put on record my recognition of the spirit in which Elaine Murray has brought amendments 53 and 54 to the committee.

The idea of setting in stone the list of greenhouse gases that will be included in the framework is an issue, as is the potential for creating an impediment to flexibility if any change is required. Section 9 allows ministers to modify the list if, under an agreement or arrangement at

European level, a gas has been recognised as contributing to climate change. Ministers are required to lay a draft statutory instrument before the Parliament to do that.

In lodging amendment 102, I sought to make slightly more proactive the duty to monitor gases and report to Parliament from time to time on whether it is desirable for a gas to be added to the list. If the Scottish Government is contemplating undertaking that activity, either in association with the advisory body or independently, it would be helpful for the minister to indicate that.

Specifying the list in the way that the member proposes is perhaps to set too much of a binding position. Other gases may need to be included at future points. I am thinking of nitrogen trifluoride, which is a potent greenhouse gas, but which has not been included on the list because it has hardly been used in our society. However, the increasing use of plasma screens may be enough to make it a significant greenhouse gas. The issue is more to do with changes in the use of gases than with change in the science or our awareness of the climate impact of gases. All of this is not predictable, so having an approach that keeps things flexible is probably the right one to take.

The advisory body will be able to advise, and Parliament will be able to scrutinise, but amendment 102 would place some additional requirements on Government to take proactive steps to keep the issues under consideration and to report to Parliament from time to time. I hope that the minister will be able to accept the amendment.

As no other member wishes to contribute to the debate on this group of amendments, I invite the minister to respond.

16:30

Stewart Stevenson: Dr Murray has, as usual, made a well-informed contribution on a subject that might not otherwise have been debated by the committee or by Parliament. The discussion was well worth having.

Amendment 53 seeks to include CFCs and HCFCs in the list of greenhouse gases covered by the bill. However, we do not feel that that is necessary, because a legislative framework already exists. We are well ahead with CFCs and HCFCs, and further work is being undertaken in relation to the steel-clad buildings to which Dr Murray referred. There is an EU review of the disposal of material recovered from such buildings, and the Scottish Environment Protection Agency is part of that review. CFCs are no longer deployed in any new way, and HCFCs will cease to be deployed by the end of this year.

In the bill, we have deliberately followed the Kyoto protocol—not simply because it allows international comparisons but because it avoids picking up other protocols such as the Montreal protocol, which is the one that covers the gases that Dr Murray seeks to include. The bill gives ministers the power to add gases and to modify the description of gases, but it does not give ministers the power to remove gases—even ones that have been added by secondary legislation. The powers to modify are strictly circumscribed. Nitrogen trifluoride, for example, could be added if human use of the gas showed that it ought to be covered.

Amendment 102 is drawn in very general terms. Under the amendment, ministers would have to

“monitor the impact on climate change of those gases in the atmosphere not listed in subsection (1)”.

That would cover every single gas that is not listed, including gases that, in certain circumstances, have beneficial effects—such as clouds, although not necessarily water vapour. The amendment is very broadly drawn, and we would not encourage the committee to support it.

We are fully engaged in the issues that Dr Murray has raised, and we expect to introduce the necessary secondary legislation once the European framework is established. We believe that that would be a more appropriate way in which to deal with CFCs and HCFCs and with the disposal of material from buildings such as steel-clad buildings for which there currently is not a legislative environment that protects us adequately. We feel that the bill would be the wrong place in which to deal with such matters.

The Convener: I invite Elaine Murray to wind up the debate on this group and to indicate whether she wishes to press or withdraw amendment 53.

Elaine Murray: I am pleased with the progress that has been made over the past few months in acknowledging the problems with these chemicals. When I was first approached on the issue, I did not realise that they were not included among the Kyoto gases. At that time, the general awareness of the potential problems associated with the chemicals was much lower. I was pleased to hear from the minister about the actions that are being taken and the role that SEPA will play.

I note what the minister said about amendment 102, in the name of Patrick Harvie. If the amendment had referred to “greenhouse gases” instead of

“those gases in the atmosphere not listed in subsection (1)”,

the problem to do with the large number of gases that potentially should be monitored might have been avoided.

I am inclined not to press amendment 53 and not to move amendment 54. My main concern in lodging the amendments was to raise awareness of problems to do with chlorofluorocarbons and hydrochlorofluorocarbons. I am assured—to an extent—that the Government is considering the matter. I will continue to monitor the situation and ask questions about it.

Amendment 53, by agreement, withdrawn.

The Convener: Without prejudice to my ability to lodge a slightly tweaked version of amendment 102 at stage 3, I will not move amendment 102.

Amendment 102 not moved.

Section 9 agreed to.

Section 10—The baseline

Amendment 54 not moved.

Section 10 agreed to.

Section 11 agreed to.

Section 12—The net Scottish emissions account

The Convener: Amendment 126, in the name of Robin Harper, is grouped with amendments 127 to 130.

Robin Harper: I lodged amendments 126 to 130 simply to improve the clarity and focus of section 12. I will be happy if the minister accepts them and not unduly despondent if he rejects them.

I move amendment 126.

Stewart Stevenson: Amendments 126, 128 and 130 would restrict the types of carbon unit that may be credited to the net Scottish emissions account to units purchased by the Scottish ministers, which would prevent ministers from accounting for the effect of trading schemes, in particular the EU emission trading scheme. It is vital to the setting and achieving of annual targets that we should be able to account for such emissions. The Scottish installations that participate in the EU emission trading scheme account for some 40 per cent of Scottish emissions. The EU emission trading scheme allocations help to moderate the effect of annual fluctuations, which can occur year on year. The variation can be as significant as plus or minus 6 per cent.

Amendments 127 and 129 would remove the provisions that will allow the Scottish ministers to require, in regulations, that carbon units debited from the net Scottish emissions account increase the account by the equivalent amount of emissions. If Scottish installations within the EU emission trading scheme sell carbon units to emitters abroad, they are, in effect, enabling an

emission to be made. That should be reflected in the net Scottish emissions account. Amendments 127 and 129 would prevent that from happening and therefore lead us to understate our contribution to the carbon economy.

Global carbon markets are a key component of attempts to curb rising emissions, as Sir Nicolas Stern emphasised in his review of the economics of climate change. We cannot have our cake and eat it. If we reduce the net Scottish emissions account when we credit carbon units to it, we must take a fair and equitable approach and increase it when units are debited. The amendments in Robin Harper's name would not mean that there was no carbon trading; they would mean only that carbon trading would not be reflected in the account, whether the effect was positive or negative. Therefore, I ask Robin Harper not to press amendment 126 and not to move amendments 127 to 130.

Robin Harper: Without prejudice to my ability to lodge similar amendments at stage 3, I seek to withdraw amendment 126 and will not move the other amendments in the group.

Amendment 126, by agreement, withdrawn.

Amendment 127 not moved.

Amendment 10 moved—[Stewart Stevenson]—and agreed to.

Amendments 128 and 129 not moved.

The Convener: Amendment 55, in the name of Des McNulty, is grouped with amendment 56.

Des McNulty: The objective behind amendments 55 and 56 is to ensure that, in trying to achieve greenhouse gas emission reductions, we take cognisance of the impact of schemes that operate in other parts of the world. It is sensible to ensure that the Scottish ministers have regard to the impact on sustainable development in other countries when they are engaged in a process to reduce emissions. Amendment 56 would ensure that our activities do not damage, but could benefit, other countries.

I move amendment 55.

The Convener: I will add a few words of support for the proposed approach. It is clear that we have focused substantially on the extent to which international credits can be used and on the proportion of domestic effort that is to be made to reach our targets. Less attention has been paid to the quality of activity that happens outwith Scotland and its impact on developing economies in particular. It is entirely appropriate that Des McNulty has lodged amendments 55 and 56 to raise the issue of sustainable development in this context.

Stewart Stevenson: I acknowledge Des McNulty's principled and long-term engagement and interest in the development of less developed countries, and I suspect that we all associate ourselves with that. However, amendments 55 and 56 are somewhat problematic, so I offer him the opportunity to engage further to establish how we can develop the idea.

Proposed section 12(3)(b), which amendment 56 would insert, would not be able to be satisfied. Section 18(4) defines carbon units, which do not in themselves deliver reductions in greenhouse gas emissions. Carbon units represent emission allowances or reductions or removals that have already occurred. The most significant point is that proposed section 12(3)(c) would prevent ministers from crediting EU emission trading scheme units to the net Scottish emissions account. I do not think that the member intended that, which is why I offer to engage with him.

I draw members' attention again to the fact that 40 per cent of Scotland's emissions lie in the traded sector—in the EU emission trading scheme. We cannot recognise the participation of Scotland's greatest emitters in that scheme while being unable to take account of the units that form part of it. The EU ETS is the greatest policy lever that we have to drive down emissions from our most significant emitters. I therefore ask the member to seek to withdraw amendment 55 and to take up the offer of further engagement, which we are willing to have.

16:45

Des McNulty: On the basis of the minister's willingness to engage further with me on how the intention behind my amendments can be developed more effectively, I am happy to withdraw amendment 55 and return with revised amendments at stage 3.

Amendment 55, by agreement, withdrawn.

Amendment 56 not moved.

Section 12, as amended, agreed to.

After section 12

Amendment 57 moved—[Des McNulty]—and agreed to.

Section 13 agreed to.

Section 14—Scottish share of emissions from international aviation and international shipping

The Convener: Amendment 58, in my name, is grouped with amendments 11, 11A and 103.

Amendment 58 seeks to enact the committee's broad acceptance that the inclusion of aviation

and shipping emissions in the framework should be a requirement rather than merely a possibility that the Government can exercise. The Government's amendment 11 seeks to achieve a similar objective and puts a timescale on it, and it might be seen as preferable to my amendment 58. However, if we were to take seriously the Government's amendment 11, we should accept amendment 11A as an amendment to that amendment, and I urge the minister to do the same. There is little point placing a legal requirement on ministers but then positively permitting failure. One year seems a generous timescale that does not fall foul of the argument that was made in a similar group of amendments earlier. Given that the Government has already made that commitment in amendment 11, one year is an entirely achievable timescale and, in order to reject amendment 11A, there would need to be a clear reason why it could not be achieved.

With amendment 58, we arguably require immediate initiation of work on the matter. If we are to accept that amendment 11 is a preferable way of achieving the requirement, amendment 11A is a more than reasonable condition. In either case, amendment 103, which is also in the group, is clearly needed in order to implement the committee's recommendation at paragraph 132 on radiative forcing. There is little point in counting only part of aviation's contribution to climate change. Some have argued that aviation gets a raw deal sometimes and too much focus in the climate change debate, but it is clear that we should not give it too easy a ride. We should account for a full and fair assessment of the effect that aviation emissions have on climate change, and that includes the additional factor of emissions at altitude. My amendment 103 seeks to achieve that.

I move amendment 58.

Stewart Stevenson: The Scottish ministers recognise the importance of tackling emissions from international aviation and shipping. That is why we committed in the bill to including Scotland's share of those emissions in our climate change targets.

I appreciate, and I have said before, that the way in which section 14 of the bill was drafted—using the word “may” instead of “must”—caused some to fear that ministers would not act on their commitment. I take this opportunity, again, to say that that is not the case.

I have been advised that the language in the bill is a drafting necessity to ensure that ministers retain the ability to use the power in section 14 more than once. That is why I have not brought forward a Scottish Government amendment to change, as amendment 58 does, “may” to “must”, because the “must” is discharged by ministers

laying an order but does not necessarily mandate that such an order will be passed into law by Parliament. The “may” provides for the ministers successively to lay orders and leaves open that possibility.

Ministers may also require to lay further orders to adapt to future international agreements on international aviation and shipping. Our approach is intended to remove ambiguity, and our amendment 11 seeks to do that. It creates a new duty requiring a draft order to be laid no later than 2010, which gives certainty that the emissions will be included in Scotland’s annual targets from the start.

On Alison McInnes’s amendment 11A, I emphasise that the Scottish ministers have absolutely no intention of failing to meet the 2010 deadline. New section 14(2B), which amendment 11 introduces, is simply designed to ensure that, should unforeseen circumstances conspire to delay the first draft order being laid, the requirement remains and the power remains in force for that to happen. Ms McInnes’s amendment 11A would remove that safeguard, so I cannot support it.

We do not object to the principle of amendment 103, but there are drafting problems associated with it as it currently exists. It refers to the Scottish ministers “making an order”, but the Scottish ministers do not have the power to make orders. We have the power only to lay orders; it is the Scottish Parliament that makes them. As drafted, the amendment would also apply to shipping emissions—in the context of radiative forcing—which appears to be unnecessary. Nonetheless, we are happy to continue to engage on the issue to ensure that we reflect the variety of issues in the radiative forcing context, taking account not only of altitude but of matters such as the fuels that are burned and the method by which combustion takes place. I ask the committee to support amendment 11 but not to support other amendments in the group.

The Convener: I ask Alison McInnes to speak to amendment 11A and other amendments in the group.

Alison McInnes: I welcome the fact that ministers have agreed with the need to include shipping and aviation from the outset, but new section 14(2B), introduced by amendment 11, provides them with wriggle room. The minister says that it removes ambiguity; I believe that it is a get-out clause and that we need to remove it.

The Convener: As no other member wishes to contribute, I will say in winding up that the issue that I am most concerned about—the additional impact of emissions at altitude—clearly has to be addressed. I would like a requirement in the bill

that that issue be addressed by the Government in the way that it brings forward the order, but at this point I would like to consider the minister’s response and decide whether an alternative version of amendment 103 might be more appropriate at stage 3.

Stewart Stevenson: Will the convener take a brief intervention?

The Convener: Yes.

Stewart Stevenson: It would be useful to point out to the committee that, if we delete the proposed subsection (2B) introduced by amendment 11, no requirement or power to bring anything forward would exist if ministers missed the target of 1 June 2010.

The Convener: I am a bit at variance with the minister’s view that a full year is insufficient to give a confident commitment that the June 2010 deadline can be met.

In any case, I seek agreement to withdraw amendment 58.

Amendment 58, by agreement, withdrawn.

A11 moved—[Stewart Stevenson.]

A11A moved—[Alison McInnes.]

The Convener: The question is, that amendment 11A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 11A disagreed to.

Amendment 11 agreed to.

Amendment 103 not moved.

Section 14, as amended, agreed to.

Sections 15 to 17 agreed to.

Section 18—Carbon units and carbon accounting

The Convener: Amendment 104, in my name, is in a group on its own.

In lodging amendment 104, I sought to explore issues around the operation of the carbon units scheme. However, I would now like to consider the debates on previous groups of amendments in relation to carbon units and consider before stage 3 whether a different approach is necessary, so I will not move the amendment.

Amendment 104 not moved.

Des McNulty: I have a procedural point. As the meeting has been going on for almost three hours now, I suggest that we go as far as dealing with amendment 59, for which Brian Adam has been patiently waiting, then halt at that point.

The Convener: The intention is to work to the end of part 2 of the bill, so your suggestion would allow us to do that. The remaining amendments will be rolled over to next week's meeting.

Amendment 130 not moved.

Section 18 agreed to.

After section 18

Amendment 12 moved—[Stewart Stevenson.]

Amendment 12A moved—[Des McNulty.]

Amendment 12AA not moved.

Amendment 12AB moved—[Alison McInnes.]

The Convener: The question is, that amendment 12AB be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 12AB disagreed to.

The Convener: The question is, that amendment 12A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 12A agreed to.

17:00

Amendment 12C moved—[Alison McInnes].

The Convener: The question is, that amendment 12C be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 12C disagreed to.

Amendment 12D moved—[Alison McInnes].

The Convener: The question is, that amendment 12D be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Johnstone, Alex (North East Scotland) (Con)
McNulty, Des (Clydebank and Milngavie) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 12D disagreed to.

Amendment 12B moved—[Des McNulty].

The Convener: The question is, that amendment 12B be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 McInnes, Alison (North East Scotland) (LD)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 12B agreed to.

Amendment 12E moved—[Alison McInnes].

The Convener: The question is, that amendment 12E be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
 McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 12E disagreed to.

Amendment 12F moved—[Alison McInnes].

The Convener: The question is, that amendment 12F be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Harvie, Patrick (Glasgow) (Green)
 McInnes, Alison (North East Scotland) (LD)

AGAINST

Gibson, Rob (Highlands and Islands) (SNP)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Somerville, Shirley-Anne (Lothians) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 12F disagreed to.

Amendment 12, as amended, agreed to.

Amendments 13 and 14 moved—[Stewart Stevenson]—and agreed to.

The Convener: That brings us to amendment 59, in the name of the extremely patient Brian Adam, which is in a group on its own.

Brian Adam (Aberdeen North) (SNP): I thank the convener, and Des McNulty for his earlier suggestion. It is indeed all to do with patience.

The minister has indicated that there are a number of matters that lie outwith the hands of the Scottish Parliament. I refer in particular to the European emission trading scheme. The scheme is not the only thing outwith the hands of the Scottish Parliament; the challenge is not just for the minister or for us as legislators—it is a challenge for all the people. That is why I lodged amendment 59.

While I have been sitting here listening, I have heard arguments about a carrot-and-stick approach and about forcing or allowing the Government to do things, but the bill does not provide any mechanism by which the people themselves, or communities, might engage with the process. Efficiency needs to be addressed in that regard, and amendment 59 does that.

We need to engage, and we must do so with patience, persuasion and, sometimes, long suffering. Like me, a number of members will have had representations made to them by a variety of sources, some of whom say that we are moving far too slowly. We have to take the people with us, and one way of doing that is by giving them the opportunity to engage directly in the process. They can do that only if they are well informed, and if they can take action in addition to the things that statutory bodies and businesses are being compelled to do under the legislation. We must give people information, and we need to change attitudes. Many people's attitudes have changed, but not everybody's.

Amendment 59 will allow engagement to take place with a range of community interests, as well as individuals and families. It will require ministers to report annually to the Scottish Parliament on what they have done and to set out revisions to the strategy in the light of experience and what has been reported back. I commend the amendment to the committee and the minister.

I move amendment 59.

Cathy Peattie (Falkirk East) (Lab): Amendment 59 is extremely important. There has been great discussion about how important the bill is. Regardless of which amendments we agree to, members believe that the bill is extremely important, as do many of the people who lobby us. However, we find a different attitude in communities—people are suspicious and are unaware of particular issues. The Government has a responsibility to engage with communities in a format and a language that communities can

understand; a community development approach must be adopted.

To measure how successful that engagement is, the methods that are used must be evaluated. People must have an opportunity to monitor the process and to assess whether it is the best way of making progress with communities. I am clear that unless we do a hearts and minds job, it will be extremely difficult for us to move forward, particularly at community level.

Des McNulty: If we do not have a successful public engagement strategy, we will not succeed in achieving the aspirations that are set out in the bill. It is clear that although the task of reducing climate change is not for Government alone, Government must play a co-ordinating role in bringing together other agencies, such as churches, schools and businesses, and encouraging individuals and groups to take their share of the load as far as reducing climate change is concerned.

I am particularly indebted, as Brian Adam will be, to the Church of Scotland for the work that it has done in advancing the initiative through its eco-congregation movement. The Church of Scotland has reflected not only on what has been achieved, but on what remains to be achieved and its desire to have a public engagement strategy. In expanding on the original intention and providing a framework within which the process of creating a succession of public engagement strategies can be taken forward, amendment 59 is highly appropriate. I want progress on that aim to be made on a cross-party basis, and I hope that we can all support amendment 59.

The Convener: I endorse the position that has been outlined by Brian Adam and other members regarding the public engagement strategy. The process that is established must be much more profound and proactive than the usual stakeholder consultation that Government conducts—quite correctly—on a host of issues. Given the behavioural change that is necessary in the context of climate change, a much stronger focus on public engagement is needed.

However, it should be remembered that public engagement is easier said than done. What has happened in the planning system, where there was a desire to achieve much more public participation, is an example of how fine intentions are not always easily delivered. We will have to proceed with the public engagement strategy in such a way that it is empowering—rather than finger wagging or lecturing people, we want to give them the tools that they need to make the changes that are sought by Government and Parliament.

That said, I am happy to support amendment 59.

Stewart Stevenson: I welcome the nature of the preceding discussion and echo Mr McNulty's desire to see the adoption of a cross-party approach. I am slightly more sanguine than some about the current engagement process, at least with certain parts of the community. The young, in particular, are heavily engaged and are influencing adults.

Many of Scotland's churches have taken an exemplary approach, in seeking to engage communities and through their individual actions. In principle, I support amendment 59. However, there are difficulties with the drafting. I presume that it is an unintended consequence that, although the amendment would oblige the Scottish ministers to produce an engagement strategy in 2010, another one in 2011 and then every five years until 2036, after 2036, there would not be a requirement for further engagement strategies. It is absolutely clear that that is not the intention of the members who spoke in favour of the amendment.

I wish to work with members to ensure that, at the end of stage 3, the bill has provisions that address the requirement and do not have the unintended consequence that amendment 59 would have. I am in the committee's hands on the approach that should be taken. The amendment could be withdrawn and we could work together to produce a new one. Alternatively, if the committee is so minded, the provisions could be included in the bill and we could work to establish appropriate amendments. In any event, the shared objective is that, by the end of stage 3, we should have provisions that address the policy aim of amendment 59, but with drafting that is technically more fit for purpose.

Brian Adam: It is always a challenge for those who are not in the Government to produce technically sound amendments. I accept the minister's point.

We should consider how consultation is carried out. I remember that, in the early days of the Parliament, when we dealt with the removal of clause 2A or section 28, the statutory consultees included the Potato Marketing Board. I am delighted that we have moved beyond that in relation to statutory consultees, but we have not necessarily nailed down the issue. Mr Harvie said that we do not always engage people. In the previous session of Parliament, I was in charge of the Interests of Members of the Scottish Parliament Bill. I recall that we could not get 30 members of the public throughout Scotland to respond to our consultations, on a matter that was interesting for us. There might be more interest in that matter in the current political climate, but there was not much then. However, tens of thousands of

people responded on the proposal to introduce a smoking ban.

I hope that, as part of the process and when the minister engages with us—if that is the direction that the committee decides to take—we can look beyond the statutory consultees and the usual suspects. The minister has made the case for an alternative amendment that would be more appropriate technically. I seek leave to withdraw amendment 59, on the basis that further engagement along the lines that have been discussed will be entered into prior to stage 3.

Amendment 59, by agreement, withdrawn.

The Convener: That brings us to the end of our consideration of amendments for today. I thank those who have borne with my bad throat throughout the meeting, and I thank the minister and his colleagues for attending.

At our next meeting, we expect to consider the bill up to and including the end of section 47, which is on forestry. Any amendments to those sections should be lodged by noon on Thursday at the very latest—that is the deadline. Of course, to enable the clerks to do their work as efficiently as possible, it would be better to lodge amendments early than to do so at 5 minutes to 12.

As I said, that concludes today's consideration of amendments. I must go and see what the Potato Marketing Board said about section 28—

17:15

Rob Gibson (Highlands and Islands) (SNP): We have made steady, but not speedy progress. Are we content that enough time has been allocated for stage 2 consideration of the bill? Is there an alternative plan that will ensure that we can consider all the amendments in the designated time?

The Convener: I suppose that we have three broad options. First, I could allow speeches only of a certain length, so that things moved along more rapidly. Secondly, we could have longer meetings next week and the week after, given that only two more meetings at stage 2 are scheduled in the timescale that has been agreed by the Parliament. Thirdly, we could ask for more time. The serious implication of choosing the third option is—I think—that it would be impossible to reach stage 3 until September. Do members have a preference for one of those approaches? What do you think, Rob?

Rob Gibson: I will let other members give their views before I say anything.

Shirley-Anne Somerville (Lothians) (SNP): Given the importance of events that will take place in September and December, it would be

appropriate to have an act to show people by September, whatever they think about certain amendments. It would be useful to the Parliament if the committee completed its consideration of the bill before the summer recess.

Cathy Peattie: I agree, but it is important that we have the opportunity to discuss matters and do not try to rush things forward. We must not end up with a bill that is not competent or with which people are not happy.

Charlie Gordon (Glasgow Cathcart) (Lab): If we are to have late meetings, let us not pretend that we are a family-friendly Parliament.

Rob Gibson: After next week's meeting, perhaps we could consider whether it would be appropriate for us to have another meeting on a Monday.

The Convener: The option to meet on a Monday exists, as does the option to start our next two meetings earlier, rather than have meetings that run on very late. I see that the minister wants to comment, although this is really a matter for the committee.

Stewart Stevenson: I just thought that it might be helpful to say that we could plan for the possibility of the committee's sitting considerably later in the evening and make ourselves available, subject to the details. We are your servants in the matter and will not constrain your decision making.

The Convener: Thank you. Will you apply the same flexibility in the context of earlier starts as well as later conclusions to meetings?

Stewart Stevenson: Broadly, yes. We will rearrange other matters as required.

The Convener: Thank you. I think that it would be best if I discussed the matter with the clerks and e-mailed members this evening or tomorrow morning to suggest an approach. Thank you for your co-operation.

Meeting closed at 17:19.

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