



House of Commons

European Scrutiny Committee

Thirty-seventh Report of Session 2007–08

Documents considered by the Committee on 29 October 2008,
including the following recommendation for debate:

Food distribution to deprived persons



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Report, together with formal minutes

*Ordered by The House of Commons
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Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

EC	(in " <i>Legal base</i> ") Treaty establishing the European Community
EM	Explanatory Memorandum (submitted by the Government to the Committee)
EP	European Parliament
EU	(in " <i>Legal base</i> ") Treaty on European Union
GAERC	General Affairs and External Relations Council
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
RIA	Regulatory Impact Assessment
SEM	Supplementary Explanatory Memorandum

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is in the House of Commons Vote Bundle on Mondays and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

Letters sent by Ministers to the Committee about documents are available for the public to inspect; anyone wishing to do so should contact the staff of the Committee ("Contacts" below).

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1 Food distribution to deprived persons

(29981) 13195/08 + ADDs 1–5 COM(08) 563	Draft Council Regulation amending Regulation (EC) No. 1290/2005 on the financing of the common agricultural policy and Regulation(EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community
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<i>Legal base</i>	Article 37EC; consultation; QMV
<i>Document originated</i>	17 September 2008
<i>Deposited in Parliament</i>	29 September 2008
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 19 October 2008
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Possibly before the end of 2008
<i>Committee's assessment</i>	Legally and politically important
<i>Committee's decision</i>	For debate in European Committee

Background

1.1 In order to avoid a build-up of public intervention stocks, the Common Agricultural Policy (CAP) has over the years contained provisions for the subsidised sale of produce to specified outlets, notably the school milk scheme and for the disposal of butter. In 1987, a further measure¹ was introduced, enabling produce in intervention stocks to be supplied free of charge, to designated charitable organisations in those Member States which choose to participate, for distribution to the most deprived persons in the Community (including children from poor families, the elderly and the homeless).

1.2 According to the Commission, that measure has contributed to achieving two of the objectives of the CAP in the Treaty — to stabilise markets, and to ensure that supplies reach consumers at reasonable prices — and in particular has proved to be a reliable supply of food for the most deprived. It also says that the need for such a provision has increased following successive enlargements which have substantially increased the Community's needy population,² and that the need for this kind of assistance has increased as a result of the recent rise in food prices. At the same time, however, the Commission notes that, with the various reforms of the CAP, intervention has been removed in some sectors,³ whilst for others it has now been restored to its original function as a safety net: as a result, the programme's reliance on market purchases for the provision of food — hitherto intended purely as a temporary expedient — has increased significantly. It says that this in turn has

1 Council Regulation (EEC) No 3730/87 (OJ No. L 352, 15.12.87, p.1.) This measure was subsequently repealed, and integrated into Council Regulation (EC) No 1234/2007 (OJ No. L 299, 16.11.07, p.1.) which consolidated into one instrument existing sectoral legislation under the CAP.

2 Though the numbers held to be at risk vary widely as between Member States, the Commission estimates that around 13 million people in 15 Member States benefited from the scheme in 2006.

3 Such as olive oil, sugar and maize.

led to expressions of concern in the European Parliament about the future of the programme, and that the importance of the programme was also recognised in its own Communication⁴ in May 2008 about the challenge presented by rising food prices.

The current proposal

1.3 Against this background, the Commission has proposed that the existing Community legislation in this area, notably Regulation (EC) No 1234/2007, should be amended:

- so as to allow food to be sourced either from intervention stocks or from the market: consequently, the latter would no longer be limited to situations where intervention stocks are temporarily unavailable (though priority would be given to the use of suitable intervention stocks where these are available);
- so as to enable a wider range of products to be distributed, which would no longer be confined to those to which intervention applies, and which would be chosen by Member States on the basis of nutritional criteria;
- to provide for the distribution to take place under a Community plan which would be established for three years, rather than annually at present, whilst Member States would base their requests on their national food distribution programmes; and
- to provide for co-financing, in order to “underpin the cohesion of the scheme, ensure proper planning and reinforce synergies”, with the Community making a contribution of 75% for 2010–12 and 50% for 2013–15 (85% and 75% respectively in Member States eligible for the Cohesion Fund).

The Government’s view

1.4 In her Explanatory Memorandum of 19 October 2008, the Minister of State (Farming and the Environment) at the Department for Environment, Food and Rural Affairs (Jane Kennedy) points out that the UK has not participated in this scheme since the mid-1990s because of its dwindling intervention stocks and the bureaucratic overheads associated with ensuring compliance with the scheme rules. Although the Commission maintains that food poverty is a European issue, present in every Member State, she says that the Government remains unconvinced as to the merits or appropriateness of the proposal, and considers that the Community should only act where there are clear additional benefits compared with action by Member States, either individually or in co-operation. In particular, the Government considers that social measures are a matter for Member States, and that those of the kind proposed here would be more properly and efficiently delivered through domestic social programmes⁵ which take account of the prevailing situation and available funding in individual countries.

1.5 The Minister notes that the proposal is being made under the same legal base as the existing scheme (Article 37 of the Treaty), but that, since the focus of the revised scheme is more likely to be on the purchase of products on the open market, a number of Member

4 (29708) 9923/08: see HC 16–xxv (2007–08), chapter 2 (25 June 2008).

5 Such as Healthy Start in the UK

States have questioned the appropriateness of using that Article. She says that the UK will be working with like-minded Member States to oppose an expansion of the scheme.

1.6 The Minister comments that, as the scheme is not implemented in the UK, there will be no direct impact here, but she also observes that the Commission has not considered it possible to quantify the macro-economic or environmental impacts of the options considered in its accompanying impact assessment, these having been assessed mainly for their impact on Member State national policies, charities and beneficiaries. She also draws attention to the Commission's financial statement that the scheme will have no impact on the budget for 2008 (for which a provision of €307 million has been made) or 2009, with any budgetary implications taking effect from 2010 and being determined when the first three-year food distribution programme (covering 2010–12) is drawn-up. She points out that, should the Community budget be increased as a result of the new programme, this will have financial implications for the UK through its contributions (and that, should it join the programme, it would be required to contribute 25% of any funds received under the co-financing arrangements, rising to 50% from 2013, whilst any receipts would also serve to reduce the size of the UK's budget abatement).

Conclusion

1.7 The Commission's arguments for this proposal are based on the proposition that food poverty exists in all Member States, and that, if this is to be tackled at a Community level, it is no longer feasible to rely on supplies from intervention stocks, given that these are likely to remain at relatively low levels following the recent reforms of the Common Agricultural Policy. However, we note that the Government believes that the Community should only act where this gives rise to clear additional benefits, and that it considers that social measures of the kind proposed here are a matter for Member States, and would be more properly and efficiently delivered through domestic social programmes.

1.8 To that extent, the proposal clearly raises some important issues on the future scope of the Common Agricultural Policy, and the appropriateness of Community as opposed to Member State action, particularly when viewed alongside the Commission's recent proposal for a school fruit scheme.⁶ In addition, its budgetary implications are far from clear, and questions have also been raised over the proposed legal base. In view of this, we feel that the document raises issues which the House will wish to consider further, and we are therefore recommending it for debate in European Committee.

6 (29838) 11380/08: see HC 16–xxx (2007–08), chapter 3 (8 October 2008).

2 Joint programming of research

(29864) 11935/08 COM(08) 468	Commission Communication: <i>Towards joint programming of research — working together to tackle common challenges more effectively</i>
+ ADD 1	Commission staff working document: impact assessment
+ ADD 2	Commission staff working document: summary of impact assessment

<i>Legal base</i>	—
<i>Document originated</i>	15 July 2008
<i>Deposited in Parliament</i>	23 July 2008
<i>Department</i>	Innovation, Universities and Skills
<i>Basis of consideration</i>	EM of 30 September 2008
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	December 2008
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared: Innovation, Universities, Science and Skills Committee asked for its opinion

Background

2.1 In 2007, the Competitiveness Council invited Member States to:

“encourage Research Councils and National Funding Agencies in Member States, as well as intergovernmental European Research Organisations, to expand their collaboration and to devise innovative forms of pooling together their expertise and resources on a mutual voluntary basis for joint objectives.”⁷

In March 2008, the European Council concluded that:

“particular attention should be given to further initiatives for joint programming of research”.⁸

2.2 Article 165(1) of the EC Treaty requires the Community and Member States to coordinate their research and development activities so as to ensure that national policies and Community policy are mutually consistent; it also requires the Commission, in close cooperation with Member States, to “take any useful initiative” to promote coordination.

2.3 Article 166 of the EC Treaty requires the Council to adopt a multiannual Framework Programme for Research and Development funded from the EU budget. The 7th EC Framework Programme runs from 2007 to 2013 and has a total budget of €50.5 billion.

7 2832nd meeting of the Competitiveness Council, 22–23 November 2007.

8 See 7652/08: Brussels European Council, 13–14 March 2008, Presidency Conclusions, page 5, fifth bullet-point.

The document

2.4 The Communication sets out the Commission's views on:

- why a new approach to R&D cooperation between Member States is needed;
- what joint programming of Member States' research programmes would entail and what the benefits would be;
- how joint programming would work;
- how to identify suitable subjects for joint programming; and
- the next steps.

2.5 The Commission notes that:

- 85% of public R&D in the EC is programmed and funded by Member States;
- inter-governmental organisations finance 10%; and
- the remaining 5% is financed from the EC's Framework Programme.

2.6 The Commission believes that programming of research by a Member State acting alone is legitimate where the research addresses a matter of particular national interest and where cooperation with other Member States would not bring significant advantages of scale and scope. But, in the Commission's view, the fragmented way in which publicly-funded research is currently programmed in the EC leads to sub-optimal returns because:

- national programmes sometimes unnecessarily duplicate each other;
- the differences between Member States' grant rules discourage researchers from seeking funds for cross-border projects; and
- the lack of joint programming complicates the pooling of data, scatters expertise, hinders the training and mobility of researchers and slows down the international dissemination of research results.

2.7 The Commission draws attention to the scientific successes of such inter-governmental research organisations as the European Organisation for Nuclear Research (CERN), the European Molecular Biology Laboratory and the European Space Agency. In the Commission's view, however, the impact of such initiatives could have been greater if there had been:

“more overall strategic focus, more high-level political commitment on the part of Member States, more transparency on the national research systems and less instrument rigidity [*sic*] ... Bilateral agreements between Member States as well as intergovernmental research organisations and schemes have a limited impact. While the Open Method of Coordination has allowed a fruitful exchange of ideas, it has not

resulted in concrete national research policy coordination initiatives between Member States or in common agenda setting in areas of strategic importance. ...⁹

“There is now a unique opportunity to make a leap forward in pan-European research cooperation which could be as important as the creation of the Framework Programmes. Through this Communication, the Commission is seeking to facilitate the development of a solution by launching a strategic and structured process.”¹⁰

2.8 The Communication then goes on to explain the Commission’s concept of joint programming. It would be entirely a matter for each Member State whether and to what extent it should take part in joint programming of research in a particular subject. Joint programming would entail:

“the definition, development and implementation of common strategic research agendas based on a common vision of how to address major societal challenges [such as dementia and Alzheimer’s disease]. It may involve strategic collaboration between existing national programmes or jointly planning and setting up entirely new ones. In both cases, it entails putting resources together, selecting or developing the most appropriate instrument(s), implementing and collectively monitoring and reviewing progress. It aims to increase and improve the cross-border collaboration, coordination and integration of Member States’ publicly funded research programmes in a limited number of strategic areas and thus to help Europe boost the efficiency of its public research funding so as to better address major societal challenges.”¹¹

2.9 The Commission suggests criteria for choosing subjects for joint programming. For example, the subject should concern a Europe-wide or global socio-economic or environmental challenge; publicly funded research should be central to addressing the challenge; and publicly-funded research beyond the capabilities of individual Member States is needed.

2.10 The Commission also suggests that joint programming should have three stages:

- development and political endorsement of a common vision of the programme and definition of its long-term objectives by experts in the subject;
- translation of the vision into a Strategic Research Agenda which sets specific, measurable, achievable, realistic and time-based objectives; and
- implementation of the Strategic Research Agenda, with the collaboration of all the Member States which have decided to take part in it.

9 The purpose of the Open Method of Coordination is to help Member States develop their own policies by: agreeing European guidelines and timetables for short, medium and long-term goals; and setting quantitative and qualitative indicators and benchmarks. Member States then translate the guidelines into national and regional policies. There is periodic monitoring, evaluation and peer review of outcomes.

10 Commission Communication, page 6, paragraphs 3 and 5.

11 Commission Communication, page 8, first paragraph.

2.11 The Commission emphasises that Member States would have ownership of the process and would be responsible for it. The Commission would be a facilitator and would keep the Council of Ministers informed of developments.

2.12 The Commission:

- invites the Council to approve the concept and objectives of joint programming by the end of 2008; and
- invites the Council to ask Member States to nominate representatives to identify, by the summer of 2009, subjects suitable for joint programming.

2.13 The Commission will ask the Council to adopt, by the end of 2009, a Recommendation launching joint programming in the selected subjects.

The Government's view

2.14 In his Explanatory Memorandum of 30 September, the then Minister of State for Science and Innovation at the Department for Innovation, Universities and Skills (Ian Pearson) told us that the Government:

“supports the principles underlying the Communication and will look to work with the Commission, with other Member States and with the UK research funding community on developing the mechanisms” proposed in the Communication.

Conclusion

2.15 **We note that Article 165 of the EC treaty expressly requires Member States and the Community to coordinate their R&D activities and requires the Commission to facilitate the process. It appears to us that this Communication is consistent with the requirements of the Article.**

2.16 **In our view, the Communication raises questions of political importance about the desirability and practicability of the joint programming advocated by the Commission. Accordingly, in exercise of the power given to us by paragraph 12 of Standing Order No. 143, we ask the Innovation, Universities, Science and Skills Committee for its opinion on the document. Meanwhile, we shall keep the Communication under scrutiny.**

3 Legal framework for setting up European Research Infrastructures

(29896) 12259/08 COM(08) 467	Draft Council Regulation on the Community legal framework for a European Research Infrastructure
+ ADD 1	Commission staff working document: impact assessment
+ ADD 2	Commission staff working document: summary of impact assessment

<i>Legal base</i>	Article 171 EC; — ; QMV
<i>Document originated</i>	25 July 2008
<i>Deposited in Parliament</i>	7 August 2008
<i>Department</i>	Innovation, Universities and Skills
<i>Basis of consideration</i>	EM of 30 September 2008
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	December 2008
<i>Committee's assessment</i>	Legally and politically important
<i>Committee's decision</i>	Not cleared; further information requested

Background

3.1 Some of the facilities required for advanced research and development (R&D) are beyond the financial means of one country or company; examples include, “clean rooms” for nano-electronics and irradiation facilities for materials research. Collectively, these facilities are known in the EC as “European Research Infrastructures” (ERI). The Commission says that :

“a major difficulty for setting up new European research infrastructure, apart from scarcity of resources and the complexity of technical and organisational issues, is the lack of an adequate legal framework allowing the creation of appropriate partnership with partners from different countries.”¹²

The Commission argues that neither the domestic law of the Member States nor international or Community law is sufficient. Last May, the Competitiveness Council agreed on the need to develop ERIs on the basis of an appropriate legal framework. Accordingly, the Commission proposes this draft Regulation.

The document

3.2 The main provisions of the draft Regulation are as follows:

¹² (29896) 12259/08, page 3, second paragraph.

- applications to establish an ERI must be made to the Commission;
- the Commission will adopt a decision setting up an ERI if it is satisfied that the application meets the requirements specified in the Regulation (for example, that the ERI is necessary for the efficient execution of the EC's R&D programmes);
- the application must be made by the Member States, together with any interested third countries and inter-governmental organisations, which will be the founding members of the ERI;
- an ERI must, at all times, have at least three Member States as members;
- every ERI must have a statutory seat in a Member State or a third country associated with an EC R&D programme;
- each ERI must have its own statutes which are subject to approval by the Commission;
- the statutes must make provision for the matters specified in the draft Regulation, such as the ERI's tasks and activities; the rights and obligations of members, including the obligation to make financial contributions to a balanced budget; and "basic principles covering" (among other things) scientific evaluation, intellectual property rights, procurement and employment;
- the ERI must have an assembly comprised of the members;
- it must also have an executive board of directors, appointed by the assembly;
- if the Commission concludes that an ERI is acting in serious breach of the Regulation and has not taken the remedial action it proposed, the Commission may repeal the decision establishing the ERI;
- the Commission will be assisted by an advisory committee; and
- five years after the Regulation comes into effect, the Commission must report to the Council and the European Parliament on the application of the Regulation and, if appropriate, propose amendments.

3.3 In addition, the draft Regulation provides that each ERI should have a legal personality and, in each Member State, should have the most extensive legal capacity given to legal entities by the domestic law of the Member State. The ERI would be governed by EC law, the law of the Member State in which it has its statutory seat and its statutes. The European Court of Justice would have jurisdiction over litigation between the members of an ERI, litigation between members and the ERI and litigation to which the Community is a party.

3.4 Moreover, Article 6 of the draft Regulation provides that Member States should give ERIs the most extensive exemption from taxes, such as VAT.

3.5 The Commission cites Article 171 of the EC Treaty as the legal base for the proposal. The Article authorises the Community to set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes. However, given that Article 6(3) of the draft Regulation

requires the ERI to be given the status of an international body within the meaning of Article 151(1)(6) of Directive 2006/112/EC, it seems clear that an ERI is not a Community body.

The Government's view

3.6 In his Explanatory Memorandum of 30 September, the then Minister of State for Science and Innovation at the Department for Innovation, Universities and Skills (Ian Pearson) told us that the proposed Regulation would make it easier for groups of Member States to set up and run ERIs. This would be welcome. But the draft Regulation would not overcome the more serious impediments, such as deciding where to locate the ERI and how to pay for it.

3.7 The then Minister said:

“We are also concerned about the provisions relating to VAT and excise and will be seeking to have these deleted from the final text. We regard it as inappropriate for tax issues to be included in an instrument which will be decided by qualified majority voting.”

3.8 The Minister also explained that the Regulation provides that ERIs will not be set up as Community bodies within the meaning of the Financial Regulation.

3.9 Finally, he told us that the French Presidency hopes that the Competitiveness Council will agree to a general approach on the Draft Regulation at its meeting in December.

Conclusion

3.10 We share the Government's view that establishing a legal framework along the lines proposed in the draft Regulation would be likely to help the foundation and operation of advanced facilities which are both very expensive and of great importance to the success of some R&D projects. We also share the Government's view that the provisions on VAT and excise in Article 6 of the draft Regulation should be removed. There are two reasons. First, it is not appropriate for the matter to be subject to QMV. Second, the tax treatment of Community joint undertakings for R&D is the subject of a separate proposal for an amendment to the principal VAT Directive.¹³ We note that Article 171 EC is cited as the legal base, but we ask the Minister if this is an adequate or appropriate legal base for entities (such as ERIs) which appear to be neither joint undertakings nor structures engaged in the execution of the Community's research and development programmes. We also ask the Minister if Article 171 EC is an adequate or appropriate legal base for the provisions of Article 16 on applicable law and jurisdiction, in particular for determining the choice of law rules and for conferring jurisdiction on the ECJ. Accordingly, we shall keep the draft Regulation under scrutiny pending the current Minister's reply.

¹³ (29092) 14942/07: see HC 16–vi (2007–08), chapter 3 (12 December 2007).

4 Restrictive measures against Uzbekistan

(30048)	Council Common Position amending and extending Common
—	Position 2007/734/CFSP concerning restrictive measures against
—	Uzbekistan

<i>Legal base</i>	Article 15 EU; unanimity:
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	EM of 23 October 2008
<i>Previous Committee Report</i>	None; but see (29615): HC16–xxii (2007–08), chapter 14 (30 April 2008) and HC16–xix (2007–08), chapter 3 (23 April 2008); also see (29024) HC16–i (2007–08), chapter 19 (7 November 2007), HC 16–iv (2007–08), chapter 29 (28 November 2007); (28644) HC 41–xxiii (2006–07), chapter 18 (6 June 2007); (28053) HC 41–ii (2006–07), chapter 14 (29 November 2006); and (26927) and (26928): HC 34–vii (2005–06), chapter 18 (26 October 2005)
<i>To be discussed in Council</i>	4 November Economic and Financial Council
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; evidence session requested with Minister

Background

4.1 Our previous reports have detailed the events that took place in Andizhan in Uzbekistan on 12–13 May 2005 that led to the large-scale loss of life at the hands of the Uzbek authorities. The 23 May 2005 GAERC condemned the reported excessive, disproportionate and indiscriminate use of force by the Uzbek security forces, and expressed their deep regret at the failure of the Uzbek authorities to respond adequately to the UN’s call for an independent international inquiry.

4.2 In the light of the continuing failure by the Uzbek authorities to respond to further repeated requests of the same nature, the GAERC then decided to introduce a 12 months arms embargo and a visa ban aimed at a number of listed individuals directly responsible for the excessive, indiscriminate and disproportionate use of force in Andizhan, to suspend discussions under the Partnership and Cooperation Agreement (PCA), and to review these measures in the light of any significant changes to the situation, in particular with regard to:

- the conduct and outcome of the ongoing trials of those accused of precipitating and participating in the disturbances in Andizhan;
- the situation regarding the detention and harassment of those who had questioned the Uzbek authorities’ version of events;

- Uzbek co-operation with any independent, international Rapporteur appointed to investigate the disturbances in Andizhan;
- the outcome of any independent, international inquiry; and
- any action that demonstrated the willingness of the Uzbek authorities to adhere to the principles of respect for human rights, rule of law and fundamental freedoms.

4.3 In view of the widespread concern at these events, the Committee reported its clearance of the Council Decision to the House on 26 October 2005.¹⁴

Our consideration thereafter

4.4 When the Common Position was due for renewal in November 2006, signs of differences of view began to emerge, and were maintained during the German Presidency, with the majority favouring a six month suspension of the travel ban. The then Minister for Europe said at the time that he had been opposed to this, but had agreed it because otherwise the EU's policy would have collapsed, and noted that the visa ban would automatically be re-imposed in May unless all agreed on its continued suspension. In reporting this to the House, the Committee drew attention to the October 2007 GAERC Conclusions, which stated that the Council:

“... urges Uzbekistan to implement fully its international obligations relating to human rights and fundamental freedoms as well as rule of law and, in particular, to allow full unimpeded access by relevant international bodies to prisoners; to engage effectively with the UN Special Rapporteurs to Uzbekistan; to let all NGOs, including Human Rights Watch operate without constraints in Uzbekistan; to release human rights defenders from detention and cease their harassment; to engage positively on human rights issues in the context of the forthcoming EU-Uzbekistan Cooperation Committee. The reform of judiciary, law enforcement and police law should be pursued. Progress towards these goals will be evaluated on the basis of a report by the Head of Missions, which will include an assessment of the upcoming presidential elections.”

4.5 These, the Minister said, were the objectives against which the EU would review the Uzbek authorities' progress when deciding what action to take the following May.

4.6 We thanked the Minister for these further clarifications, which showed the Uzbek authorities clearly where there would need to be significant, measurable progress between then and May 2008 if the suspension of the visa ban was to be prolonged; and noted that, without progress, it would be hard for those who were so inclined to continue to argue for further such “rewards” to the Uzbek authorities, or pressure others to join in such a consensus, for fear of the whole policy collapsing.

4.7 In his Explanatory Memorandum of 17 April 2008, the then Minister for Europe outlined revisions to the Common Position so as to renew the suspension of the travel ban for a further six months. He said that since the suspension of the travel ban in November

¹⁴ See headnote.

2007 there had been “more progress on the human rights situation than in any other six month period since the sanctions were imposed”, which he said could “arguably be attributed to the suspension of the visa ban”. He cited:

- “the release of four human rights defenders, including Saidjahon Zainabiddinov;
- the resumption of prison visits by the International Committee of the Red Cross (ICRC);
- the appointment of a new Director for Human Rights Watch in Tashkent (although he had yet to be accredited);
- the entering into force of the abolition of the death penalty; and
- the introduction of a limited form of habeas corpus.”

4.8 The then Minister also said that, during the 9–10 April EU Troika-Central Asia Foreign Ministers’ meetings in Ashgabat, the EU had “urged Uzbekistan to continue the positive trend and make further progress on human rights issues”, and that Uzbekistan had agreed to hold a further round of the EU-Uzbekistan Human Rights Dialogue under the Slovenian Presidency. He concluded as follows:

“Automatic re-imposition of the visa ban could put at risk further progress and constructive engagement by Uzbekistan, including on the Human Rights Dialogue. As such, the Government believes that in order to encourage continued constructive engagement, and in recognition of some progress over the last six months, the EU can justify the continued suspension of the visa ban.”

4.9 In a 17 April letter accompanying his Explanatory Memorandum, the Minister said that:

“The Government believes that continued suspension of the visa ban, backed up by a strong Council statement on the areas in which the EU would like to see further positive progress, is the best approach to ensure continued Uzbek co-operation on human rights issues. This approach recognises the positive progress made in the six months the visa ban has been suspended. As mentioned in my Explanatory Memorandum, this progress could arguably be attributed to the suspension of the visa ban — there has been more progress in this six month period than in any other similar period since the sanctions were first imposed.”

4.10 He then went on to say that, during discussions with fellow Member States, he had argued in favour of the continued suspension of the visa ban, subject to the Presidency using the 9–10 April meeting in Ashgabat “to encourage further progress”. At the time of writing, there was “no consensus on the visa ban... several Members States have said that they do not consider there has been enough progress from Uzbekistan and that the visa ban should be automatically re-applied”. He noted that it was therefore possible that agreement might not be reached before the 29 April General Affairs and External Relations Council meeting, in which case the visa ban as set out in Common Position 2007/734/CFSP would be re-imposed; he would write again with further information following the 29 April meeting.

4.11 For our part, we felt that even though there may have been “more progress in this six month period than in any other similar period since the sanctions were first imposed”, it was difficult to see this as significant in relation to the benchmarks set out in the October 2007 General Affairs and External Relations Council Conclusions. It did not appear to constitute “full unimpeded access by relevant international bodies to prisoners”; nor to amount to allowing all NGOs, not just Human Rights Watch, to operate without constraints in Uzbekistan; nor to constitute the release of human rights defenders from detention and the cessation of their harassment, or the authorities’ effective engagement with the UN Special Rapporteurs to Uzbekistan. Nor did the abolition of the death penalty and the introduction of a limited form of habeas corpus seem to us to contribute significantly towards “reform of judiciary, law enforcement and police law”.

4.12 We also noted that the then Minister had made no mention of the findings or conclusions of the report by EU Head of Missions that was to form the basis of the EU’s position.

4.13 All in all, we thought it more likely that, if the visa ban were re-imposed, the Uzbek authorities would not be able to sit on their hands and play off one group of Member States against the other when the Common Position next came up for review in November, but would instead have six months in which to show their commitment to the sort of significant improvements in respect for human rights, the rule of law and fundamental freedoms, and effective engagement with the UN Special Rapporteurs to Uzbekistan, that the EU has been seeking from the outset. Depending on their response, the EU would then have a much clearer indication of whether or not matters were moving in the right direction when the Common Position came up for review.

4.14 We therefore retained the draft Common Position under scrutiny, and awaited the Minister’s further report, which asked to include information about the matter referred to in paragraph 4.12 above.

The Minister’s letter of 26 April 2008

4.15 The Minister responded as follows:

- he agreed that the benchmarks set out in the October 2007 General Affairs and External Relations Council (GAERC) Conclusions had not been fully met. He felt, however, that the progress the Uzbeks have made in the past six months had been “significant”, with “positive developments in the following areas: the release of human rights defenders, access by international bodies to prisoners and the appointment of a new Director of Human Rights Watch.”
- with regard to the report by EU Heads of Mission and the assessment of the Presidential election held in December 2007, the Minister says that EU Head of Missions in January 2008 “shared the concerns expressed by the OSCE Office of Democratic Institutions and Human Rights (ODIHR) Limited Election Observation Mission that the election had generally failed to meet many OSCE commitments.” But they “noted, however, that there had been some diversification of candidates: the first ever female candidate, a non-partisan candidate and an “opposition” candidate [and] some positive changes to the election legislation which enabled groups and parties to

put forward candidates independently”, but “concluded that improvements to the election process were still needed and that OSCE/ODIHR recommendations from the 2004 election had not been introduced.”

- he further noted that in a more recent report, EU Head of Missions argued that re-imposing the visa ban now would have a detrimental effect with: “a significant risk that Uzbekistan would react negatively and turn away from co-operating with the EU on human rights issues [which] would put in jeopardy the EU-Uzbekistan seminar on media freedom and civil society in May and risk the second round of the EU-Uzbekistan Human Rights Dialogue in May/June, to which the Uzbeks have given their commitment, and therefore remove the prospect of further engagement on human rights issues.”
- in response to the Committee’s view that “if the visa ban were to be re-imposed this would give the Uzbeks six months in which to show their commitment to improvements on human rights, the rule of law and fundamental freedoms, and effective engagement with UN Special Rapporteurs to Uzbekistan”, the Minister said previous experience had shown that “taking a hard-headed approach can be counter-productive”. In his view, “the continued suspension of the visa ban for six months, backed up by clear Conclusions language on what the EU expects of Uzbekistan and including a commitment to review progress after three months, is the approach most likely to encourage further progress ahead of further consideration of the measures in October.”

4.16 The Minister concluded by noting that the Common Position was due to be adopted at the General Affairs and External Relations Council on 29 April, and with the hope that, having further outlined his position, the Committee would understand if consensus were to be reached on the Common Position before scrutiny had been completed.

Our assessment

4.17 We found the Minister’s letter as unconvincing as its predecessor, since it added nothing to his previous argumentation.

4.18 The Council Conclusions to which the Minister referred are Annex 1 of this chapter of our Report. It seemed to us that, as he put it, “clear Conclusions language on what the EU expects of Uzbekistan” was likely to have but limited effect, since in large part they reiterated the benchmarks produced last October — benchmarks which had not merely (as he put it) not been fully met, but had been missed by a considerable margin, as we had pointed out in our previous Report.

4.19 Moreover, as the EU Head of Missions reports indicated, key recommendations on the electoral process, of four years standing, had still not been introduced.

4.20 Taken as a whole, the measures now being applied seemed to us to bear little relation to the position taken by the EU in 2005; nor did the response of the Uzbek authorities begin to measure up to what was asked of them.

4.21 We noted that there was to be a progress review in 3 months time. Even then, the Council Conclusions recorded only that the Council would “present its recommendations to the Uzbek government on possible further steps to be taken in order to improve the respect of human rights and rule of law in Uzbekistan”, which was no more than the Council had been doing since 2005. We looked forward to hearing from him with details of the outcome of the review, and of the Uzbek authorities’ response.

4.22 All in all, we were deeply disappointed that the Minister should have joined in a consensus to continue suspension of the travel ban. Although we now cleared the document, we did so with reluctance.

The Government’s view

4.23 In her Explanatory Memorandum of 23 October 2008, the Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) says that this new Common Position (the unofficial translation of which she attaches) renews the arms embargo imposed on Uzbekistan under Common Position 2007/734/CFSP, whilst lifting the travel ban on eight named individuals.

4.24 The Minister comments as follows:

“The human rights situation in Uzbekistan has seen significant improvement since the suspension of the travel ban in November 2007.

“While it is true that the Uzbeks have made limited progress on the areas set by the European Council, there has been more positive progress on the human rights situation than at any time since the sanctions were imposed. This can be, at least partly, attributed to the suspension of the visa ban. The relatively positive trend has included:

- “the release of five human rights defenders, including Tojibayeva, the most egregious of the Uzbek human rights cases of concern to the EU;
- “the resumption of prison visits by the International Committee of the Red Cross (ICRC);
- “the entering into force of the abolition of the death penalty;
- “the introduction of a limited form of habeas corpus;
- “the ratification of a series of conventions combating child labour;
- “the holding of a second EU-Uzbekistan human rights dialogue on 5 June 2008; and
- “the holding of an EU-sponsored seminar on media freedom in Tashkent on 2–3 October.”

4.25 The Minister remains concerned about a number of negative developments including:

- “two current trials against human rights defenders;

- “the refusal of the Uzbek Ministry of Justice to accredit the Human Rights Watch; and
- “the lack of substantial change in the registration and operation of NGOs in Uzbekistan.”

4.26 The Minister agrees with EU Head of Missions that “isolating Uzbekistan would not be the way to promote further positive progress”, but says that:

“We should, however, continue to follow a path of critical engagement including through the EU-Uzbekistan Human Rights Dialogues. The UK supports lifting the travel ban in order to persuade the Uzbeks to work with the EU on reforms to improve human rights, democratisation and the rule of law.

“In our judgment the renewal of the travel ban could have had a negative effect in Uzbekistan and could have risked losing even the small but positive progress of the past year. The UK therefore supported the EU consensus in favour of lifting the visa ban and renewing the arms embargo for a further 12 months, backed up by strong Council Conclusions language, as the approach most likely to encourage the Uzbeks to make further progress on human rights issues.”

4.27 The Minister concludes by saying that the Council:

“... has called on Uzbekistan to fulfil its international obligations on human rights and welcomes Uzbekistan’s willingness to work with the EU on a range of human rights issues. This includes an effective, result-oriented human rights dialogue, in line with Uzbekistan’s reform programme.”¹⁵

Conclusions

4.28 **The relevant Council Conclusions (at Annex 1 and 2 of this chapter of our Report), indicate to us that there has in fact been little progress over the past six months. From what the Minister for Europe says, it is difficult to gauge the nature of “Uzbekistan’s reform programme”. All the positive features to which the Minister refers were in place in April, save for the release of Mrs Tojibayeva; and even here it seems that her continued freedom is in doubt. There may have been two meetings: but the Minister gives no indication of the extent to which, if at all, they have been either “effective” or “result-oriented”. There have certainly been no results with regard to the calls for effective investigation of the events, now 3½ years ago, that led to the imposition of these restrictions in the first place.**

4.29 **We are also concerned about the way in which this latest change to the Common Position has been handled. As noted above, we had expected to have had a report from the Minister about the mid-period progress report. Instead, we are effectively presented, not with a proposal to be scrutinised, but with a fait accompli — a decision announced in the 13 October GAERC Conclusions, followed by changes to the Common Position to give it effect.**

15 Those Conclusions are at Annex 2 of this chapter of our Report.

4.30 We therefore ask the Minister to appear before us to explain the position she has taken, as well as how these lapses in the scrutiny process came to pass and what she proposes to do to remedy them.

Annex 1: General Affairs and External Relations Council Conclusions on Uzbekistan of 29 April 2008

“1. Recalling its previous Conclusions and especially the Common Position 2007/734/CFSP of 13 November 2007, the Council welcomes the progress achieved in Uzbekistan in recent months in the promotion and protection of human rights and the rule of law, notably the abolition of the death penalty, the introduction of habeas corpus and the ratification of the ILO Convention on the Worst Forms of Child Labour. The Council looks forward to the effective implementation of these measures and stands ready to assist Uzbekistan in that regard. The Council also reiterates its willingness to strengthen cooperation with Uzbekistan in all priority areas outlined in the EU Strategy for Central Asia.

2. The Council welcomes the release by the Uzbek authorities of four human rights defenders in February 2008, namely Saidjahon Zainabitdinov, Ikhtior Khamraev, Ulugbek Kattabaev and Bobomurod Mavlanov, and the cancellation of the probation period of two other human rights defenders, Gulbahor Turaeva and Umida Niazova, who were released from prison last year.

3. The Council was also pleased that the Uzbek government has reached an agreement with the International Committee of the Red Cross (ICRC) on the resumption of visits by the ICRC to prisons in Uzbekistan. The Council will pay close attention to the effective implementation of this agreement.

4. The Council looks forward to continuing comprehensive and results-oriented dialogue with the Uzbek authorities and in that context welcomes the Uzbek agreement to conduct a second round of the EU-Uzbekistan Human Rights dialogue in May/June this year. The Council also looks forward to the holding of an EU seminar on media freedom in Uzbekistan and encourages the Uzbek authorities to take further steps to guarantee the freedom of expression and to allow further liberalisation of mass media in Uzbekistan.

5. Nevertheless, the Council remains seriously concerned about the situation of human rights and the rule of law in a number of areas in Uzbekistan and urges the authorities to fully implement their international obligations in that regard. In particular, the Council calls on the Uzbek authorities to take the following steps, as requested earlier by the EU: to ensure the early release of the imprisoned human rights defenders and to cease harassment of human rights defenders; to finalise without delay the accreditation of the new Country Director of Human Rights Watch and to allow the unhindered operation of that organisation; to cooperate fully and effectively with the UN Special Rapporteurs on Torture and on Freedom of the Media; and to revoke restrictions on the registration and operation of NGOs in Uzbekistan.

6. With a view to encouraging the Uzbek authorities to take substantive steps to improve the human rights situation and taking into account their commitments, the Council decided that the visa restrictions for individuals listed in the annex of Common Position 2007/734/CFSP would not apply for another period of six months. After three months, the Council will review the progress made by the Uzbek authorities towards meeting the conditions set out in Common Position 2007/734/CFSP and further specified in paragraph 5 of these Conclusions, and in light of any other action that demonstrates the readiness of the Uzbek authorities to adhere to the principles of respect for human rights, rule of law and fundamental freedoms. The Council will assess the outcome of this review and present its recommendations to the Uzbek government on possible further steps to be taken in order to improve the respect of human rights and rule of law in Uzbekistan. The Council will closely and continuously monitor and assess, in light of the conditions set out above, the human rights situation in Uzbekistan and may lift, amend or re-apply the visa restrictions as appropriate.”

Annex 2: General Affairs and External Relations Council Conclusions on Uzbekistan of 13 October 2008

“1. The Council recalls its Conclusions of 29 April 2008 and welcomes the progress achieved in Uzbekistan in the last year with regard to respect for the rule of law and protection of human rights. In particular, it hails the release of a number of defenders of human rights, notably that of Mrs Mukhtabar Tojibaeva. The Council welcomes the fact that she was also allowed to travel abroad for medical treatment, but hopes that she will be granted complete freedom of movement. It takes note with satisfaction of the holding of the second series of consultations on human rights on 5 June 2008 and the holding of a seminar on media freedom in Tashkent on 2 and 3 October. It also welcomes the implementation of a number of legislative and judicial reforms, in particular the abolition of the death penalty, the introduction of habeas corpus and the ratification of a series of conventions combating child labour. The Council is pleased that visits by the ICRC to prisons have resumed, and trusts that they will continue.

“2. The Council nevertheless remains seriously concerned about the situation of human rights in some domains in Uzbekistan and urges the authorities to implement their international obligations fully in that regard. It calls on the Uzbek authorities to release all imprisoned human rights defenders and to cease harassment of human rights defenders; to accept the accreditation of the new Country Director of Human Rights Watch and to allow the unhindered operation of that organisation; to cooperate fully and effectively with the UN Special Rapporteurs on torture and on freedom of expression; and to revoke restrictions on the registration and operation of NGOs in Uzbekistan. The judicial reforms and reforms relating to observance of the law must be continued and effectively enforced.

“3. The Council encourages Uzbekistan to continue progress in the direction of human rights, democratisation and the rule of law, and it is prepared to assist Uzbekistan in its reforming efforts towards that goal. The Council welcomes Uzbekistan’s commitment to

work with the EU on a range of questions relating to human rights, by means including an effective dialogue on human rights directed towards achieving practical results.

4. “ In this context, the Council has decided not to renew the travel restrictions applying to certain individuals referred to in Common Position 2007/734/CFSP, which had been suspended in accordance with the Council’s conclusions of 15–16 October 2007 and 29 April 2008. The Council has however decided to renew, for a period of 12 months, the arms embargo imposed in Common Position 2007/734/CFSP.

5. “The Council will continue, on the basis of regular reports from the Heads of Mission, to monitor and assess the human rights situation in Uzbekistan in the light of the conditions set out above and of any other action that demonstrates the readiness of the Uzbek authorities to adhere to the principles of respect for human rights, the rule of law and fundamental freedoms.”

5 EU relations with Belarus

(30076)	Council Common Position amending Common Position
—	2006/276/CFSP concerning restrictive measures against certain
—	officials of Belarus

<i>Legal base</i>	Articles 15 and 23 TEU; unanimity Articles 60 and 301 TEC; QMV
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	EM of 28 October 2008
<i>Previous Committee Report</i>	None; but see (27458) 8836/06 (27459) — : HC34– xxviii (2005–06), chapter 15 (10 May 2006)
<i>To be discussed in Council</i>	4 November Economic and Financial Council
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; evidence session requested with Minister

Background

5.1 The Belarus “Country Profile” on the Foreign and Commonwealth Office website catalogues a litany of repressive and undemocratic behaviour since Alyaksandr Lukashenko won the first Presidential elections in July 1994.¹⁶

5.2 In September 2004 the EU imposed a travel ban on four individuals implicated in the disappearances of four well-known persons in Belarus in 1999/2000 and the subsequent obstruction of justice. A further two names were added in November 2004 because of:

¹⁶ See Belarus Country Profile at <http://www.fco.gov.uk/en/about-the-fco/country-profiles/europe/belarus?profile=politics&pg=7>

(a) his role in the flawed elections and referendum held in October 2004, lifting a constitutional ban on a third term for President Lukashenko (the Chair of the Central Electoral Committee); and

(b) the severe repression of the subsequent peaceful demonstration in Minsk by the authorities and the arrest of the opposition leaders (the commander of the Minsk riot police).

5.3 It was renewed the following September, given that there had been no independent investigation into the disappearances, nor any reform of the electoral code in line with OSCE recommendations, nor any concrete action to respect human rights with respect to peaceful demonstrations: on the contrary, the situation had continued to deteriorate.

5.4 At the 7 November 2005 and 30 January 2006 General Affairs and External Relations Councils EU Foreign Ministers stated their readiness to take restrictive measures against those responsible if the Presidential election in Belarus on 19 March was not conducted in line with OSCE and other international standards. According to the preliminary conclusions of the OSCE/ODIHR International Election Observation Mission, the Belarus Presidential election failed to meet OSCE commitments for democratic elections. In addition, following the election, peaceful demonstrations in Minsk were again forcibly broken up, and demonstrators and leaders of the opposition arrested. The 24 March 2006 European Council accordingly agreed that the EU would take restrictive measures against those responsible for the violation of international electoral standards, including President Lukashenko. At the 10 April General Affairs and External Relations Council EU Foreign Ministers agreed to impose a travel ban on 31 officials (in addition to the original six), including President Lukashenko (Common Position 2006/276/CFSP, repealing Common Position 2004/661/CFSP).

5.5 On 10 May 2006, the Committee cleared amendments to Common Position 2006/276/CFSP and an accompanying proposed Regulation, which imposed an assets freeze on those individuals (plus an additional five) and on any person or entity associated with them. The amendments to the Common Position also made some technical amendments to the annexes to Common Position 2006/276/CFSP. Conditions for releasing frozen assets were set out in the instruments.

5.6 Both the travel ban and assets freeze lists included President Lukashenko. Common Position 2006/276/CFSP was renewed by Common Position 2007/173/CFSP on 19 March 2007. On 7 April 2008 the Council adopted Common Position 2008/288/CFSP extending the measures by 12 further months until 10 April 2009.

The Common Position

5.7 The second and third recitals of the draft text say:

“On 13 October 2008, the Council agreed that the restrictive measures provided for by Common Position 2006/276/CFSP should be extended for a period of 12 months. However, the Council also agreed that the residence prohibitions aimed at certain officials of Belarus, with the exception of those involved in the 1999–2000 disappearances and the President of the Central Electoral Commission, should not

apply for a reviewable period of six months, so as to encourage dialogue with the Belarus authorities and the adoption of measures to reinforce democracy and respect for human rights.

“At the end of the abovementioned six-month period, the Council will re-examine the situation in Belarus and evaluate the progress made by the Belarus authorities on reforming the Electoral Code to bring it into line with OSCE commitments and other international standards for democratic elections. The Council will also consider any other practical action to strengthen respect for democratic values, human rights and fundamental freedoms, including the freedom of expression and of the media, as well as the freedom of assembly and political association and the rule of law.”

The Government's view

5.8 In her Explanatory Memorandum of 28 October 2008, the Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) recalls that, following the 2006 Presidential elections — “described by the Organisation for Security and Co-operation in Europe (OSCE) as ‘seriously flawed’” — the Government supported the EU wide visa ban and asset freeze on key members of the regime in Belarus, and has had a ban on ministerial contact since 1997. As a result of these actions, she says, “Belarus has become increasingly isolated in the international community.” She continues thus:

“This year, we have seen some signs that Belarus might be interested in increasing its contacts with the Member States and willing to adopt a more moderate stance on other issues. Belarus released its last three internationally recognised political prisoners in late August. This meets one of the 12 conditions for engagement set out by the EU in the Commission document ‘What the EU could offer Belarus’ published in November 2006.¹⁷ Meanwhile, President Lukashenko promised that parliamentary elections on 28 September would be free and fair. Whilst the initial report by OSCE monitors does not support this (it said that the elections failed to meet OSCE standards) Belarus was significantly more co-operative in their interactions with OSCE monitors.

“This represents less progress than we would have liked. But we share the view of other EU Member States that isolating Belarus will not promote further positive progress but rather focus the leadership on strengthening their ties with Russia whilst failing to deliver on EU demands. The UK therefore supports the EU consensus in favour of suspending the visa ban for six months whilst renewing the restrictive measures for a further 12 months, backed up by a strong statement from Council Members, as the approach most likely to encourage the Belarusians to make further progress on the road toward human rights and democracy.

“We will continue to follow a path of critical engagement ensuring Belarus understands that the process begun by the General Affairs and External Relations

¹⁷ See http://ec.europa.eu/external_relations/belarus/intro/non_paper_1106.pdf for the full text of the paper.

Council (GAERC)¹⁸ must be sustained by further Belarusian steps. Whilst it is unlikely that all 12 conditions for engagement will be met over the next six months we expect to see some positive progress, particularly in the areas of freedom of the media, civil society and elections. In addition to pushing for the EU to set down clear modalities measuring progress we will continue to deliver clear and firm messages basing our demands explicitly on the EU’s ‘12 Propositions.’¹⁹

“The lifting of the visa ban will enable us to engage at senior levels and create personal incentives for senior officials in Belarus, who will be keen to ensure that the ban is not imposed again.

“The proposal gives Belarus a six month window in which to demonstrate concrete improvements in human rights and democracy. We hope that Belarus will make the most of this opportunity to rebuild the relationship with the EU. If Belarus fails to move toward the necessary reforms, it ensures that the restrictions will be automatically re-imposed at the end of that six month period. A unanimous decision will be required to extend the decision by another six months.”

Conclusion

5.9 It will be clear from our examination in chapter 4 of this Report of a similar process, and change of approach, regarding another repressive regime — in that case Uzbekistan — why we are somewhat sceptical of the notion of a “probationary period” during which progress in relation to clear benchmarks will determine whether or not a temporary suspension is made permanent.

5.10 As with the revisions to the Common Position on Uzbekistan, we are also concerned about the way in which this latest change to the Common Position has been handled. We are again effectively presented, not with a proposal to be scrutinised, but with a fait accompli — a decision announced in the 13 October GAERC Conclusions, followed by changes to the Common Position to give it effect.

5.11 As in that instance, we are also ask the Minister to appear before us to explain the position she has taken, as well as how these lapses in the scrutiny process came to pass and what she proposes to do to remedy them.

18 Presumably a reference to the Council Conclusions on Belarus, which are available at http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/gena/103299.pdf and at Annex 1 of this chapter or our Report

19 Which are set out in the Council Non-Paper to which the Minister refers, and which we reproduce at Annex 2 of this chapter of our Report.

Annex 1: Council Conclusions of 13 October 2008 on Belarus

“1. The Council notes that, despite some improvements, the parliamentary elections held on 28 September 2008 in Belarus failed to meet the democratic criteria of the OSCE. The Council calls on the Belarusian authorities to remedy the shortcomings observed and to cooperate fully to that end with the Office for Democratic Institutions and Human Rights.

“2. The Council notes with satisfaction that some progress has been made during the electoral campaign compared with previous elections, in particular as regards cooperation with the OSCE/ODIHR and broader access for the opposition to the media. It again welcomes the release of the last internationally recognised political prisoners before the elections. The Council also notes that the opposition was able to demonstrate peacefully on the evening of the elections.

“3. The European Union earnestly hopes for gradual re-engagement with Belarus and is therefore ready to develop a dialogue with the Belarusian authorities, as with all those participating in the democratic debate, with the aim of encouraging genuine progress towards strengthening democracy and respect for human rights in that country. The Council has taken note of the troika meeting with the Belarusian Minister for Foreign Affairs and, in support of these developments, has decided to restore the contacts with the Belarusian authorities which had been restricted pursuant to the Council conclusions of 22 and 23 November 2004.

“4. In order to encourage dialogue with the Belarusian authorities and the adoption of positive measures to strengthen democracy and respect for human rights, the Council — while deciding to extend, for one year from today’s date, the restrictive measures provided for by Common Position 276/2006/CFSP, as extended by Common Position 288/2008/CFSP — has decided that the travel restrictions imposed on certain leading figures in Belarus, with the exception of those involved in the disappearances which occurred in 1999 and 2000 and of the President of the Central Electoral Commission, will not apply for a period of six months which may be renewed. At the end of that period, the Council will reconsider whether the Belarusian authorities have made progress towards reforms of the Electoral Code to bring it into line with OSCE commitments and other international standards for democratic elections and other concrete actions to respect democratic values, the rule of law, human rights and fundamental freedoms, including the freedom of expression and of the media, and the freedom of assembly and political association. The Council may decide to apply travel restrictions sooner if necessary, in the light of the actions of the Belarusian authorities in the sphere of democracy and human rights.

“5. With a view to strengthening links with the administration and population, the Council supports the intensification of technical cooperation initiated by the Commission with Belarus in areas of mutual interest. The European Union will continue to provide assistance for Belarusian civil society in order to promote the development of a democratic and pluralist environment.

“6. The European Union reiterates that it remains ready to deepen its relations with Belarus and to review the restrictive measures taken against leading Belarusian figures in the light

of progress made by Belarus on the path towards democracy and human rights. The Council is ready to assist Belarus in attaining these objectives. “

Annex 2: The EU’s “12 points”

- “respect the **right** of the people of Belarus **to elect their leaders democratically** — their right to hear all views and see all election candidates; the right of opposition candidates and supporters to campaign without harassment, prosecution or imprisonment; independent observation of the elections, including by Belarusian nongovernmental organisations; their freedom to express their will and have their vote fairly counted;
- “respect the **right** of the people of Belarus **to independent information**, and to **express themselves freely** e.g. by allowing journalists to work without harassment or prosecution, not shutting down newspapers or preventing their distribution;
- “respect the **rights of non-governmental organisations** as a vital part of a healthy democracy — by no longer hindering their legal existence, harassing and prosecuting members of NGOs, and allowing them to receive international assistance;
- “**release all political prisoners** — members of democratic opposition parties, members of NGOs and ordinary citizens arrested at peaceful demonstrations or meetings;
- “properly and independently investigate or review the cases of **disappeared persons**;²⁰
- “ensure the **right** of the people of Belarus **to an independent and impartial judicial system** — with judges who are not subject to political pressure, and without arbitrary and unfounded criminal prosecution or politically-motivated judgements such as locking-up citizens who peacefully express their views;
- “end arbitrary **arrest and detention**, and ill-treatment;
- “respect the **rights and freedoms** of those Belarusian citizens who belong to **national minorities**;
- “respect the **rights** of the people of Belarus **as workers** — their right to join a trade union and the right of trade unions to work to defend the people’s rights; respect the **rights** of the people of Belarus **as entrepreneurs** to operate without excessive intervention by the authorities;
- “join the other nations of Europe in abolishing the death penalty;

“make use of the support which the OSCE, the EU and other organisations offer to Belarus to help it respect the rights of its people.”

20 Yuri Zakharenko (former Minister of the Interior, disappeared on 7 May 1999), Victor Gonchar (former Vice-President of the Parliament of Belarus, disappeared on 16 September 1999), Anatoly Krasovski (businessman disappeared with Mr Gonchar) and Dmitri Zavadski (cameraman for the Russian TV channel ORT, disappeared on 7 July 2000)

6 Internet of the future

(30001) 13737/08 COM(08) 594	Commission Communication: <i>Communication on future networks and the internet</i>
+ ADD 1	Commission staff working document: indexing broadband performance
+ ADD 2	Commission staff working document: early challenges regarding the “Internet of Things”

<i>Legal base</i>	—
<i>Document originated</i>	29 September 2008
<i>Deposited in Parliament</i>	6 October 2008
<i>Department</i>	Business, Enterprise and Regulatory Reform
<i>Basis of consideration</i>	EM of 20 October 2008
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	27 November 2008
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared

The Communication

6.1 The Communication provides a “trailer” for the action the Commission will take and the proposals it will make later this year and in 2009 on the future of the internet.

6.2 The Commission says that:

“The full breadth of the social and economic potential of the internet of the future has not yet been mapped out, but is already central to development strategies in many regions of the global economy and is beginning to take place in Europe as part of the post-Lisbon agenda. This potential includes a leap in productivity ... ; and many societal innovations which can keep the quality of life of Europeans on the rise.

“Unlocking this potential however requires responses to make sure that the internet of the future develops into a strong platform for European innovation and growth. The fundamental requirements are an internet that is high speed and ubiquitously available to all; that is internationally open and competitive; and that is secure and safe to use, with transparent and effective governance procedures. These fundamental conditions of accessibility, openness, transparency and security form the basis of the Commission’s short term agenda for the internet of the future which can be summarised in the following six action points:

“(1) The construction of high-speed internet infrastructures that are open to competition and give consumers real choices. The Commission believes that the current pro-competitive approach provides the best way to achieve these objectives.

