House of Commons
European Scrutiny Committee

First Report of Session 2007–08

Documents considered by the Committee on 7 November 2007, including the following recommendations for debate:

Economic Partnership Agreements

The Euro-Mediterranean Partnership

Report, together with formal minutes

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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 "*Legal base*") Treaty establishing the European Community
EM	Explanatory Memorandum (submitted by the Government to the Committee)
EP	European Parliament
EU	(in "*Legal base*") 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 Economic Partnership Agreements

(29043) 14498/07 COM(07) 635	Commission Communication: *Economic Partnership Agreements*

Legal base	—
Document originated	23 October 2007
Deposited in Parliament	29 October 2007
Departments	Business, Enterprise and Regulatory Reform and International Development
Basis of consideration	EM of 29 October 2007
Previous Committee Report	None
To be discussed in Council	19–20 November General Affairs and External Relations Council
Committee's assessment	Politically important
Committee's decision	For debate in the European Standing Committee

Background

1.1 The Cotonou Agreement is a treaty between the European Union and the group of African, Caribbean and Pacific states (ACP countries). It was signed in June 2000 in Cotonou, the capital of Benin, by 79 ACP countries and the then fifteen Member States of the European Union. It entered into force in 2002, was revised in 2005, and is the latest agreement in the history of ACP-EU Development Cooperation.

1.2 On 27 September 2002, the European Union and the ACP countries officially opened negotiations on Economic Partnership Agreements (EPAs). These negotiations, which are set to take place over 5 years, are aimed at redefining the trade regime between the two groups of countries, thereby replacing the longstanding Lomé system of preferential access to the European market for the ACP from 2008.

1.3 The EPAs are intended to be in conformity with WTO rules, i.e. satisfy GATT Article XXIV and GATS Article V. WTO conformity requires that barriers to trade be dismantled on both sides, introducing an element of reciprocity into trade relations between the EU and the ACP states for the first time. This has given rise to concern that extensive opening of the markets in these countries to the EU could create strong adjustment pressures, while European suppliers would be only marginally affected by free market access for ACP products.

The Commission Communication

1.4 In its introduction, the Commission says that the objectives of the EPAs are to establish new WTO-compatible trade arrangements before the current trade arrangements expire on 31 December 2007 and to support ACP regional integration and foster the smooth and gradual integration of the ACP states into the world economy, particularly by helping

create larger ACP regional markets, thereby contributing to sustainable development and poverty reduction.

1.5 This is reflected, the Commission says, in the negotiating directives adopted by the Council when authorising the Commission to open negotiations, "which foresee the Commission negotiating full EPAs with ACP regions", containing "provisions in trade-related areas, trade-related rules and trade in services" and including "appropriate links to development co-operation".

1.6 The Commission says it believes that such full agreements "are essential to meet the ultimate objective of ACP-EU economic and trade cooperation which, as expressed in Article 34(2) of the Cotonou Agreement, is to enable the ACP States to play a full part in international trade". The Commission says that its primary objective is, therefore, "to secure full regional EPAs within the deadline set by the expiry of the current trade arrangements". It believes that "this is achievable in some regions", whereas "for the other regions, this Communication sets out the approach to ensuring progress to full regional EPAs is maintained while avoiding, in so far as possible, any interruption to the trade regime for goods originating in the ACP countries."

1.7 The Communication is helpfully summarised, and commented upon, in his 29 October 2007 Explanatory Memorandum by the Parliamentary Under-Secretary of State at the Department of Business, Enterprise and Regulatory Reform and Department for International Development (Mr Gareth Thomas). He notes that the EPA negotiations must be concluded by the end of 2007 when the current trade regime, Cotonou, and the 2001 WTO waiver expires. The Minister notes that the Commission acknowledges that not all of the six ACP negotiating regions are likely to conclude a full EPA, as described above, by the set deadline and that pursuit by the Commission of "basic trade in goods agreements, providing for WTO compatibility and leaving negotiations on other areas until next year … indicates a change in strategy from the Commission who is aiming to minimise trade disruption to ACP countries." However, he notes that the Communication "makes clear the Commission's intent to ultimately conclude full EPAs with the ACP", and continues as follows:

> "The communication also signals the intention of the Commission to conclude agreements with sub-regions who are prepared to table a market access offer where the region as a whole is not. It also states that any such sub-regional agreement will be considered as a stepping stone towards a full EPA and that the EPA will be open to all the countries of the region to join when they are ready.
>
> "The communication highlights the EU's market access offer made to the ACP in April 2007 of duty free, quota free access into the EU for goods under an EPA. It also states that the EU will allow asymmetry between ACP and EU market opening and transition periods for ACP liberalisation. For those countries or regions which have not concluded negotiations on trade in goods the Community will apply the goods trade regime set out in the Generalised System of Preferences (GSP), for goods entering the EU from developing countries. GSP tariffs are higher on some goods than Cotonou was and than the EU offer for EPAs. Least Developed Countries which have not concluded negotiations on goods will continue to benefit from duty free quota free access into the EU for goods under the Everything but Arms (EBA)

scheme. For countries which do not conclude an agreement on trade in goods under the EPA and are then subject to either GSP or EBA, the communication states that the door will remain open to them to conclude a trade in goods agreement, when they will benefit from the EUs offer of duty free quota free access.

"The communication reaffirms the intention of the Commission to relax and simplify Rules of Origin with EPAs and that new EPA Rules of Origin will be reviewed after a period of time to take account of the development needs of the ACP and to streamline EPA Rules of Origin with the general reform of EU Rules of Origin.

"The communication addresses concern about the impact of EPA negotiations on the Doha Development Agenda and states that EPAs should strengthen this process by respecting WTO rules and bringing the ACP fully into the multilateral trading system.

"The communication also commits to ensuring that the cost of creation of regional markets and accompanying measures is supported through development cooperation and that available funds will be aimed primarily at supporting EPA-related needs and the adjustment costs the ACP will incur through trade liberalisation. The Commission will also work to ensure that Aid for Trade commitments are delivered with specific attention given to the ACP."

Legal and Procedural Matters

1.8 The Minister explains that Council Conclusions on this document will be agreed at the General Affairs and External Relations Council on 19–20 November, and continues as follows:

"The Commission will then produce a regulation allowing countries and regions which have concluded negotiations on trade in goods to duty free quota free access into the EU. We expect the regulation, in the form of a trade in goods agreement, to be based upon Article 133 of the EC Treaty and therefore be subject to the [Qualified] Majority Voting (QMV) procedure. Voting on the regulation is likely to take place at the General Affairs and External Relations Council on 10–11 December.

"However, if the texts of the agreements go beyond trade in goods to include wider issues such as services and investment, the QMV procedure may be affected. These other areas could subject the regulation to a unanimous vote. Legal advice cannot be certain about which way this will go until a thorough legal analysis of the texts can be undertaken. Currently the EPA texts are not available."

The Government's view

1.9 The Minister continues thus:

> "The UK has a strong position on EPAs which was laid out in the UK's Position Paper on EPAs in March 2005 (attached).[1] The Commission's position on EPAs has moved a long way in our direction and many of our policies have now been adopted by the Commission such as duty free, quota free access for ACP goods into the EU, asymmetrical reduction in ACP duties over long transition periods and simplification of Rules of Origin.
>
> "The UK agrees that as the deadline approaches it is vital for the EU to put in place trade in goods arrangements with ACP regions which avoid serious disruption to ACP exports to the EU. We therefore agree with the Commission proposal to focus on concluding trade in goods agreements by the end of 2007 and to leave negotiations on other areas until later. We also welcome the Commission's willingness to conclude EPAs with sub-regions where a full regional EPA is not possible.
>
> "It remains the UK position that it should be up to ACP regions whether they want to conclude negotiations on other trade related issues, beyond goods. Regions which want to negotiate agreements on other issues, and cannot do so by the deadline, should be able to continue those negotiations with the EU in 2008. ACP regions which do not want to conclude new trade arrangements on non-goods issues should not be obliged to do so.
>
> "The UK's position on EPAs is that ACP regions should not receive worse market access than that which they currently receive under Cotonou preferences. We do not want to see ACP regions offered GSP as an alternative to EPAs. However the communication makes clear that GSP would be offered as an interim arrangement for those countries or regions which have not been able to conclude a basic trade in goods agreement, rather than a permanent alternative. For this reason the UK will have to examine very closely any language which provides for GSP level access into the EU in the case that a reciprocal market access in goods offer is not received from the ACP by the 31st Dec 2007.
>
> "There are some EU Member States who share the UK's position on EPAs, however we expect there to be areas of disagreement during discussion on this communication and must be aware that some of our views are in the minority among all 27 EU Member States."

Conclusion

1.10 **We are grateful to the Minister for his helpful Explanatory Memorandum on this important document.**

1 And reproduced as an annex.

1.11 **Given the widespread interest in the House in the issues discussed therein, we recommend it for debate in the European Standing Committee.**

1.12 **We think that this debate would be most effective if it were to take place after the November and before the December General Affairs and External Relations Council meetings to which he refers.**

Annex : Economic Partnership Agreements : Making EPAs Deliver for Development

"EPAs must be designed to deliver long-term development, economic growth and poverty reduction in ACP countries.

"We believe that:

- In its work on EPAs with ACP regional groups, the EU should take a non-mercantilist approach and not pursue any offensive interests.
- Developing countries can benefit from liberalisation in the long run, provided they have the economic capacity and infrastructure they need to trade competitively. However, without the capacity or the right conditions, trade liberalisation can be harmful.
- Each ACP regional group should make its own decisions on the timing, pace, sequencing, and product coverage of market opening in line with individual countries' national development plans and poverty reduction strategies. Regional groups should have the flexibility to move towards more open markets along a non-linear path if necessary. We will not force trade liberalisation on developing countries either through trade negotiations or aid conditionality.

"Implementing this in practice:

- EPAs must ensure that ACP regional groups have maximum flexibility over their own market opening. The EU should therefore offer all ACP regional groups a period of 20 years or more for market opening, on an unconditional basis. Each regional group should be offered this full period.
- Within EPAs, the EU should make an upfront offer of complete duty and quota-free market access to each ACP regional group, with no strings attached. In addition, the EU should further simplify and liberalise rules of origin under EPAs.
- There should be an effective safeguard mechanism for ACP countries to use if faced with a surge of subsidised EU imports.
- EPAs should be accompanied by additional resources to enable the ACP countries to benefit from trade reforms and build their export competitiveness. The EU, in coordination with international financial institutions and other donors, must provide additional financial assistance to support the ACP countries. This assistance must support them in building the infrastructure and economic capacity they need to benefit from trade with the EU and the rest of the world, and put in

place the institutions to help manage change and protect vulnerable people, supporting poorer countries with the cost of transition.

- Investment, competition and government procurement should be removed from the negotiations, unless specifically requested by an ACP regional negotiating group. It is for ACP regional groups to judge the development benefits of any agreements on these issues and the EU should not push for them to be discussed. If included, any negotiations on government procurement should be limited to transparency.

- A review mechanism for EPAs — with full ACP regional group ownership and participation — should be introduced to ensure they are delivering the intended developmental benefits.

- The Commission should be ready to provide an alternative to an EPA at the request of any ACP country. Any alternative offered should provide no worse market access to the EU than is currently enjoyed under Cotonou preferences.

- In addition, the EU should propose within the WTO that Article XXIV of the General Agreement on Tariffs and Trade, should be reviewed as suggested by the Commission for Africa, in order to reduce the requirements for reciprocity and increase the focus on development priorities.

Implemented along these lines, Economic Partnership Agreements should provide real development benefits to the ACP countries.

March 2005”

2 The Euro-Mediterranean Partnership

(29029) — COM(07) 598	Commission Communication: *The Euro-Mediterranean Partnership: Advancing Regional Cooperation to support peace, progress and inter-cultural dialogue*

Legal base	—
Document originated	17 October 2007
Deposited in Parliament	25 October 2007
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 30 October 2007
Previous Committee Report	None; but see (26974) 13809/05 HC 34–x (2005–06), chapter 16 (16 November 2005) and HC 34–xiv (2005–06), chapter 19 (11 January 2006); and (27982) 14822/06 HC 41–i (2006–07), chapter 15 (22 November 2006) and HC 41–xvii (2006–07), chapter 12 (18 April 2007)
To be discussed in Council	To be determined
Committee's assessment	Politically important
Committee's decision	Recommended for debate in the European Standing Committee; further information requested

Background

2.1 The Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona on 27–28 November 1995, marked the starting point of the Euro-Mediterranean Partnership. Also known as the Barcelona Process, it has the aim of building "a space of dialogue, peace, security and shared prosperity". The Mediterranean Partners are Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey (Libya has observer status since 1999). The Partnership is described by the Commission as "a wide framework of political, economic and social relations between the Member States of the European Union and Partners of the Southern Mediterranean" and "a unique and ambitious initiative", which laid the foundations of a new regional relationship and represented "a turning point in Euro-Mediterranean relations".[2] The accompanying *Barcelona Declaration* established the three main objectives of the *Euro-Mediterranean Partnership*:

- The definition of a common area of peace and stability through the reinforcement of political and security dialogue (Political and Security Chapter).
- The construction of a zone of shared prosperity through an economic and financial partnership and the gradual establishment of a free-trade area (Economic and Financial Chapter).

2 http://europa.eu.int/comm/external_relations/euromed

- The rapprochement between peoples through a social, cultural and human partnership aimed at encouraging understanding between cultures and exchanges between civil societies (Social, Cultural and Human Chapter).

2.2 The Partnership is underpinned by bilateral Association Agreements that the Union negotiates with the Mediterranean Partners individually (reflecting the general principles governing the Euro-Mediterranean relationship but with characteristics specific to the relations between the EU and each Mediterranean Partner) and regional dialogue covering the political, economic and cultural fields and dealing with common problems while emphasising "national complementarities". The *MEDA programme* and the *European Investment Bank* (EIB) are the main financial support mechanisms. Since 2004 the Mediterranean Partners are also included in the *European Neighbourhood Policy (ENP)*,[3] and from 2007 will be funded via the new European Neighbourhood and Partnership Instrument (and the EIB).

2.3 Two years ago, we considered a Commission Communication in preparation for the 10th anniversary Euro-Mediterranean Summit of Heads of State and Government (in Barcelona, on 27–28 November 2005). Ten years on, the Euro-Med Partnership was judged by the then Minister for Europe to be over-institutionalised and too wide to have a meaningful impact. The Communication outlined a new five year work programme, with three key axes for improving EU-Mediterranean relations — human rights and democracy; sustainable economic growth; and education — and several supporting actions:

— launching regional negotiations on the liberalisation of agriculture, services and establishment;

— a Democracy Facility;

— a Euro-Mediterranean university scholarship scheme;

— the adoption of a timetable towards de-pollution of the Mediterranean by 2020;

— a Euro-Mediterranean conference on human rights and democratisation;

— Euro-Med Ministerial meetings on Transport; Justice and Home Affairs; and Economic and Financial Affairs; and

— a Code of Conduct on measures to fight terrorism, including its financing aspects.

2.4 We cleared the Communication and asked the Minister to write after the event with his assessment of the extent to which his aims and objectives had or had not been attained.[4]

2.5 In a letter of 15 December 2005, the then Minister for Europe said that the Government's objectives for the Summit were largely met: "an ambitious five-year Work Plan with a substantial package of concrete commitments towards political, economic and social reform in the Southern Mediterranean region"; a Code of Conduct on Countering

3 "a new policy that invites our neighbours to the East and to the South to share in the peace, stability and prosperity that we enjoy in the European Union and which aims to create a ring of friends around the borders of the new enlarged EU": http://europa.eu.int/comm/world/enp/index_en.htm.

4 (26974) 13809/05 HC 34–x (2005–06), chapter 16 (16 November 2005): see headnote.

Terrorism — "the first time ever that Europe, Israel and Arab countries have agreed to condemn terrorism in all its manifestations" — and (despite disagreements over language related to the Middle East conflict preventing agreement on a Summit declaration) a Chairman's statement, reiterating the overall political commitments of the Euro-Med Partnership:

- extending political pluralism and participation in the political process;
- a Governance Facility to help those countries which make progress on good governance, allowing them to access additional funds to spend on their priorities;
- raising elections standards, with EU technical assistance and observers;
- agreement to liberalise trade in agriculture and services: "a major step towards the agreed goal of establishing a Euromed Free Trade Area by 2010";
- education targets, including access for all children to quality education and to halving illiteracy rates by 2015, backed by more resources from the EU and the Mediterranean partners themselves; and
- cooperation on managing legal and combating illegal migration.

2.6 We concluded that these issues clearly need addressing if the pressures that lead to instability in and exodus from the region are to be relieved; that Member States had a real interest and could also play a central role; so, too, the Commission, especially in better delivery against financial commitments and improving coherence between the Union's internal and external policies and actions. But we also felt that the "Euro" side could not succeed alone. Commitments were all well and good: but delivery was what counted. The then Minister suggested that more whole-hearted commitment than hitherto would be required if the verdict in five years' time was to differ from the present one. We therefore asked the Minister to write again in two years' time, by when the extent to which Summit commitments had led to action on the ground should be clearer; depending on the response, we thought that a debate on the topic might be appropriate.[5]

2.7 A year on, we considered a further Communication — appropriately titled "*The Euro-Mediterranean Partnership: Time to Deliver*" — which was part of the preparations for the 27–28 November 2006 Euro-Med Foreign Ministers Conference. It reviewed the work undertaken since the Barcelona Summit; proposed priorities for 2007; took forward work to improve the working methods of the Partnership; and identified ten areas of action. The Minister for Europe's assessment was somewhat downbeat: it was "a useful summary and forward look by the Commission" and "a fair reflection of the range of Euro-Med activities", which "fits well with our call for a Review Mechanism to regularly review progress against the Five-Year Work Programme". Whilst welcoming the proposed seminar on standards in the conduct of elections, he would have hoped to see more work on other commitments made at Barcelona under the political and security heading, in particular on "promoting and supporting [partners'] political reforms on the basis of universal principles, shared values and the Neighbourhood Action Plans" and on "a

5 (26974) 13809/05 HC 34–x (2005–06), chapter 19 (11 January 2006): see headnote.

substantial financial Facility to support willing Mediterranean partners in carrying out their reforms". He would continue to encourage this.

2.8 Although the Communication did not say so, the sums involved are significant: approximately €3.5 billion for 2007–10. We noted that, eleven years on, it was difficult to argue that the region is significantly closer to being a "space of dialogue, peace, security and shared prosperity". If anything, concerns about security and illegal migration were stronger than ever. The rationale remained sound. But, as the Communication's title succinctly said, it was now "Time to Deliver". We cleared the Communication, but asked the Minister to write after the meeting with his assessment thereof, and again before the summer recess with his evaluation of the progress made by then.[6]

2.9 In his 24 March 2007 letter, the then Minister for Europe outlined the outcome of the Ministerial Conference, and progress made since then, under two headings:

The Tampere Conference

- "forward-looking Conclusions" were agreed by all 35 EuroMed Partners — only the second time that EuroMed Foreign Ministers had been able to adopt conclusions unanimously;
- reiteration of their shared commitment to take forward the Barcelona Summit Five-Year Work Programme and to implement the Code of Conduct on Countering Terrorism;
- agreement to undertake a wide range of activities in 2007, including:

— EuroMed Seminars on the role of the media in preventing incitement to terrorism and on ensuring respect for human rights in the fight against terrorism in accordance with international law;

— Pursuing negotiations on the progressive liberalisation of trade in services and agriculture;

— A EuroMed Ministerial Conference on Energy in 2007. Partners also agreed to increase co-operation on energy security and climate change;

— A EuroMed Ministerial Conference on Higher Education and Scientific Research in 2007. Ministers also reiterated their commitment to increase significantly funding devoted to education in the Mediterranean area;

— EuroMed Ministerial meeting on migration in 2007; and

— a EuroMed Foreign Ministers Conference at the end of each year.

6 (27982) 14822/06 HC 41–i (2006–07), chapter 15 (22 November 2006); see headnote. (27982) 14822/06 HC 41–xvii (2006–07), chapter 12 (18 April 2007).

Progress since Tampere

- Conclusions agreed by all 37 partners and a Summary of Initiatives covering the whole of 2007, rather than the usual six-month forecast by incoming presidencies, had enabled more effective and comprehensive planning of EuroMed work during the German and Portuguese Presidencies; and

- UK officials had played an active part in: planning the Energy and Migration Ministerial meetings and the seminar on the role of the media in preventing incitement to terrorism; in working with partners on the design of the proposed Governance Facility; stressing the importance of taking forward work on the proposed seminar on best practice in elections; and encouraging greater focus on climate change issues.

In conclusion, the Minister said that the Government continues "to work to ensure that the Euro-Mediterranean Partnership effectively strengthens cooperation between the EU and Southern Partners in important areas".

2.10 We reported this to the House on 18 April, along with our consideration of the latest developments in two important components of the Euro-Med partnership: the European Neighbourhood Partnership Action Plans for Egypt and Lebanon, which illustrated all too clearly the challenges that the EU and Member States will face in developing, in particular, the "good governance" aspects of the partnership and making a reality of the "shared values" to which regular reference is made.

2.11 We also recalled how our recent consideration of the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) demonstrated the extent to which the partner governments had yet to commit to the development of fully-fledged market economies.[7]

2.12 We asked for a further report before the year's end.[8] Instead, the Commission has now produced a further Communication.

The Commission Communication

2.13 It bears an equally resounding title: *Advancing Regional Cooperation to support peace, progress and inter-cultural dialogue*". In his 30 October Explanatory Memorandum, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) says that the Commission produced it on 17 October 2007, to:

— prepare the next Euro-Mediterranean Partnership Foreign Ministers' meeting in Lisbon on 5–6 November 2007;

— review progress in the implementation of the Five-Year Work Programme since the last ministerial conference in Tampere (27–28 November 2006); and

7 (27924) 13558/06: see HC 41–v (2006–07), chapter 9 (10 January 2007). The European Investment Bank's operations in the Mediterranean partner countries were brought together under the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) in October 2002. In line with the wider Europe Neighbourhood Policy, FEMIP aims to help the Mediterranean partner countries meet the challenges of economic and social modernisation and enhanced regional integration, particularly in the run-up to the creation of a customs union with the EU by 2010. For further information, see http://www.eib.org/femip.

8 (27982) 14822/06 HC 41–xvii (2006–07), chapter 12 (18 April 2007): see headnote.

— put forward proposals for EuroMed activities in 2008.

2.14 The Communication identifies five new initiatives on:

— *Intercultural dialogue*: a EuroMed Ministerial Meeting on Culture, to complement the 2008 European Year of Intercultural Dialogue and proposed 2008 EuroMed Year of Intercultural Dialogue;

— *Tourism*: a EuroMed Ministerial on Tourism to be held in Morocco;

— *Employment*: a workshop on employment to be held in December 2007 to prepare for a EuroMed Ministerial Conference on Employment in the second half of 2008;

— *Health*: a workshop on communicable diseases to prepare for a future EuroMed Ministerial Conference on Health; and

— *Partnership Building Measures*: the Commission offers to establish exchange of professional experience with Mediterranean partners, including secondment and exchange of officials and trainees.

2.15 The Communication also reviews the continuation and consolidation of existing areas of work. The Minister says that of particular note are:

— The holding of an experts' seminar on the subject of *elections*;

— Further steps to implement the *Code of Conduct on Countering Terrorism;*

— The launch in early 2008 of bilateral negotiations on *services and investment*, and ongoing work on trade liberalisation in *agriculture*;

— A EuroMed *Energy Ministerial* meeting to take place in late 2007 or early 2008;

— The forthcoming EuroMed Ministerial Conference on *Migration* on 19 November 2007;

— Creation of an expert group on *education* to take forward the objectives of the 2007 Cairo Ministerial Conference on Higher Education and Scientific Research; and

— Follow-up to the May 2007 Dublin Conference on *"The role of the Media in preventing incitement to terrorism and radicalisation"*.

The Government's view

2.16 The Minister is as downbeat as his predecessor: indeed, he uses the same phrases in describing the Communication as "a helpful summary and forward look" which, "as such, … fits well with our call for a Review Mechanism to regularly review progress against the Five-Year Work Programme". He notes "a risk of focussing on meetings rather than concrete outputs". However, "the Communication helps raise the visibility of work within the Euro-Mediterranean Partnership and to set landmarks for the coming year".

2.17 He goes on to say that the actual 2008 Work Programme will be based on the Conclusions to be agreed at the Euro-Mediterranean Foreign Ministers' Conference in

Lisbon, which have been agreed internally amongst EU partners and will be discussed with Mediterranean partners in advance of the Conference.

Conclusion

2.18 **At the outset, now all of 12 years ago, the Commission described the launch of the Barcelona Process as "a turning point in Euro-Mediterranean relations". If so, it brings to mind nothing so much as a super-tanker. Behind the rhetoric of "ambitious" work plans, commitments — both new and reiterated — key axes and supporting actions, it has become impossible to judge the extent to which the Process is merely engaging in processes, rather than achieving concrete outcomes. We think it is time to examine this more closely, and accordingly recommend the Communication for debate in the European Standing Committee.**

2.19 **Among the questions that such a debate might explore are:**

— **What are the actual concrete achievements of the past 12 years, beyond the meetings themselves?**

— **What does the Code of Conduct on Countering Terrorism amount to? What political weight does a "Code of Conduct" — a device more normally associated with professions wishing to avoid something with real teeth — carry? What actual steps have been taken to implement it?**

— **What progress has been made regarding commitments made at Barcelona under the political and security heading, in particular on "promoting and supporting [partners'] political reforms on the basis of universal principles, shared values and the Neighbourhood Action Plans" and on "a substantial financial Facility to support willing Mediterranean partners in carrying out their reforms", which his predecessor said he would "continue to encourage"?**

— **Why, even now, is there no Review Mechanism? Who is resisting it, and why?**

— **To what extent is it realistic to talk of commitments and "shared values" when, in 12 years, the EU and its Euro-Med partners have been able to agree Conclusions on only two occasions? and**

— **What does the Minister expect the Process to achieve in 2007? What "landmarks" does he have in mind?**

2.20 **Between now and then, we should be grateful if the Minister would write to us with his assessment of the Conclusions and 2008 Work Programme agreed at this week's EuroMed Ministerial meeting.**

3 Maritime civil liability

(27271) 5907/06 COM(05) 593	Draft Directive on the civil liability and financial guarantees of shipowners

Legal base	Article 80(2) EC; co-decision; QMV
Department	Transport
Basis of consideration	SEM and Minister's letter of 11 October 2007
Previous Committee Report	HC 34–xxi (2005–06), chapter 6 (8 March 2006)
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Not cleared, further information requested

Background

3.1 There are four International Maritime Organisation (IMO) conventions relating to the liability of shipowners:

- the 1996 Convention on Limitation of Liability for Maritime Claims (LLMC), to which the UK is a state party and which has the force of law in the UK;
- the 1992 International Convention on Civil Liability (CLC) for Oil Pollution Damage and its associated Fund Conventions (IOPCF), to which also the UK is a state party;
- the 1996 International Convention of 1996 on Liability and Compensation for Damage in Connection with the carriage of Hazardous and Noxious Substances by Sea (the HNS Convention), which the Government aims to ratify in 2006; and
- the 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage (the Bunkers Convention), which also the Government aims to ratify in 2006.

3.2 The LLMC sets liability limits for two types of claims — claims for loss of life or personal injury and property claims (such as damage to other ships, property or harbour works). The IMO says it provides for a virtually unbreakable system of limiting liability, allowing unlimited liability against a person only if "it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such a loss, or recklessly and with knowledge that such loss would probably result". The other conventions cover or will cover liability for the maritime transport of oil and other dangerous and polluting substances and the fuel oils of ships and require or will require shipowners to sign financial guarantees.

3.3 In 1999 the IMO adopted guidelines recommending that shipowners take out civil liability insurance. And some countries, including the UK, have established obligatory

insurance systems. (The Government is currently considering applying a compulsory insurance provision to all ships of 300 gross tonnage and over not covered by an international instrument.)

3.4 In November 2005 the Commission published this draft Directive, intended to introduce a Community-wide civil liability regime governing liability and compulsory third party insurance. It was primarily aimed at shipowners operating ships in and out of Member State ports and terminals. The proposal would:

- require Member States to ratify the LLMC;
- remove in certain cases, including cases of gross negligence, the right of owners of ships of states that are not party to this convention to limit their liability;
- require financial guarantees (such as insurance or bank or other financial institution guarantee) for both Member State ships and for third country ships entering Community waters; and
- introduce a system of mandatory state certification for all ships, placing an obligation on Member States to validate the insurance of every ship on its register and issue a certificate attesting that insurance is in place.

3.5 The proposal would not affect liability and compensation arrangements contained in the CLC and the associated IOPCF, the HNS Convention and the Bunkers Convention. But the Commission asserted that the conventions need modernising, noted that the CLC was presently undergoing revision, during which it would seek changes including removal of the ceiling on civil liability, and noted also that the other conventions would not be updated in the near future. The Commission suggested therefore that the draft Directive was a first step in a two step process. As the second step it would seek a mandate to negotiate within the IMO for a revision of the LLMC, with a review of the level at which shipowners lose their right to limit their liability.

3.6 When we considered this proposal in March 2006 we recorded a number of Government concerns:

- the possible implications for negotiating future amendments to the LLMC;
- introduction of the concept of gross negligence into the limitation of liability for ships flying the flag of third party states — such a regional measure could lead to a fragmentation of the global system of such rules;
- introduction of this concept failing to acknowledge the way in which most shipowners insure their ships through the mutuality of Protection and Indemnity (P&I) Clubs;
- it might also lead to a reduction in the amount of available compensation; and
- mandatory state certification for all ships would entail a significant administrative effort, would contribute little to the overall safety of ships calling at Member State ports and terminals and could not apply to ships transiting Member State or international waters on innocent passage.

We noted that:

- it might be some time before negotiations allowed the Government to report back to us on developments in relation to these concerns;
- equally, a Regulatory Impact Assessment might not be possible for some time; and
- the Government would in due course give us a Supplementary Explanatory Memorandum on the Commission's impact assessment, which at that time existed only in French.

3.7 Additionally, we asked the Government for further explanation of two points. First, we were puzzled as to the Government's attitude to obligatory accession to the LLMC. On the one hand the Government said the proposal was sensible, but on the other it referred to concerns about the consequent Community external competence and future negotiations on the LLMC. Did the Government have any specific fear? Secondly, on subsidiarity we were told:

> "authorising the Member States to ratify the LLMC in the interests of the Community would be justified in accordance with the principle of subsidiarity, as similar proposals have already been accepted in relation to the International Oil Pollution Compensation Fund Supplementary Fund, the HNS Convention and the Bunkers Convention".

We commented that, as to Member States being authorised to ratify the LLMC, we understood that Member States were to be obliged to do so and that the Government had not explained why the precedents cited were themselves compatible with the subsidiarity principle.

3.8 Given all these outstanding matters we kept the draft Directive under scrutiny.[9]

3.9 This proposal is part of what the Commission refers to as the "Third Maritime Safety Package". This comprises seven discrete measures which are being taken forward separately, rather than as a package, by the Council. The draft Directive has not featured as a priority for earlier Presidencies. However, the Portuguese Presidency has said that it may allocate Working Group time for discussion of the draft Directive towards the end of its Presidency.

The Supplementary Explanatory Memorandum and the Minister's letter

3.10 In his Supplementary Explanatory Memorandum and letter the Parliamentary Under-Secretary of State, Department for Transport (Jim Fitzpatrick) tells us of developments on this proposal since March 2006 and offers comments on a number of issues. First, the Minister reports that, although there has not yet been any Council consideration of the draft Directive, the European Parliament has given it a first reading. The European Parliament adopted 28 amendments, of which the most important are:

9 See headnote.

- amendment of a recital to place emphasis on the role of international conventions in compensation of third parties for damage related to maritime transport of goods in general, rather than just oil pollution;
- a new recital, the intention of which is unclear, stating that it should not be possible to apply limitation of liability under the LLMC to victims not party to the maritime transport operation, if the owner of the ship responsible for the damage has failed to act in a professional manner and should have been aware of the harmful effects of his act or omission;
- amendment of the definition of "civil liability" and introduction of a definition of "gross negligence" as meaning "conduct showing an unusual lack of due diligence and care, and a consequent disregard of what should in principle have been clear to everyone in a given situation";
- two new articles stipulating that the Member States become contracting parties to the Bunkers Convention and the HNS Convention;
- provision that, when issuing insurance certificates to shipowners, competent authorities also consider whether a financial guarantor has a business establishment in the Community;
- provision that the Member State authority issuing or certifying a certificate forward a copy of the certification file to a Community Office (see below) for inclusion in a register;
- provision that Member States monitor compliance with the rules laid down in the draft Directive and establish penalties for the infringement of these rules;
- establishment of a solidarity fund to cover damage caused by ships without a financial guarantee; and
- establishment of a Community Office to be responsible for keeping a full register of certificates issued, monitoring and updating their validity and checking the existence of financial guarantees registered by third countries.

3.11 The Minister comments on the European Parliament proposals that:

- the Government is concerned about introducing the concept of "gross negligence" for ships flying the flag of third countries. Shipping must be regulated by a framework of internationally applicable rules — introducing regional, Community, measures of the type proposed could lead to a fragmentation of the global system of such rules and a decline in the quality, safety and reliability of world shipping;
- the Government would not wish to accept any amendment that seeks to interfere with the existing test for breaking limitation under the LLMC.[10] The European

10 Under the LLMC shipowners lose the right to limit their liability if the loss resulted from the shipowner's personal act or omission, committed with the intent to cause such loss, or recklessly and with the knowledge that such loss would probably result — this is commonly referred to as the test for breaking the shipowner's limit of liability and is a well established principle of international maritime law.

Parliament's amendment would alter this test and make it more difficult for the shipowner to invoke the right to limit liability by widening the concept of recklessness;

- the Government is concerned that by seeking to apply more stringent rules than those contained in the LLMC Member States may be in breach of the treaty obligations under that Convention;
- the Government is concerned by the proposed compulsory insurance system. Member State verification of insurance would entail a significant administrative effort and contribute little, if anything at all, to the overall safety of ships calling at Community ports and terminals;
- in this regard the Government is equally concerned by the proposal that there should be a Community Office established for the purpose of checking insurance;
- the Government is opposed to including references to ratification of the HNS Convention. The HNS Convention is a complex two tier liability instrument which has not yet entered into force, due to the need to find solutions at the international level to several key issues regarding financial contributions from cargo interests;
- the Government is seeking solutions to these outstanding problems that are currently hindering ratification and would not wish to see inclusion of text in a different regional instrument that could lead to infraction proceedings at a later stage;
- certain HNS Convention provisions must be complied with at the point of ratification. At a European Maritime Safety Agency meeting in November 2006 Member States agreed that they will ratify the HNS Convention only when they have systems in place for obtaining the information necessary to comply with these provisions and other matters blocking ratification;
- the Government has other concerns about the proposals to introduce a solidarity fund financed by shipowners in addition to their insurance premiums. Such a fund could not operate without introducing complex rules and procedures governing the administration of the fund;
- at this stage, it is not clear whether the fund would be a legal entity perhaps following the model of the intergovernmental International Oil Pollution Compensation Fund, which has operated for over 25 years; and
- the Government does not know how the solidarity fund would operate, who would administer it or how claims would be assessed against set criteria or what the criteria might be. So for these practical reasons it would not wish to see the inclusion of text that seeks to introduce such a fund.

3.12 Secondly, the Minister tells us about the Commission's impact assessment. He explains that in the event the Commission did not translate the impact assessment into

English.[11] However, his department has produced its own translation and his analysis for is based on that. The Minister tells us that the Commission identifies four options for assessment:

- do nothing;
- industry self regulation;
- Community action at the IMO to remove the ceiling on liability under the LLMC and to harmonise that Convention in Community law; and
- introduce a Community instrument along the lines set out in the third option.

3.13 On the first option — do nothing — the Minister says:

- the Government believes the Commission's proposal to introduce Community legislation governing shipowner liability to be unnecessary and contrary to the better regulation agenda, except in its encouragement to Member States to ratify the LLMC, which could be achieved by a Council Decision;
- the impact assessment does not support the Commission's stated objectives — improving ships standards and ensuring victims of damage receive proper compensation. The Government does not believe that the proposal will promote or enhance shipping safety standards;
- the Government does not believe that a full and proper assessment of the effect of the proposed measure on the shipping industry and Member State administrations has been considered in sufficient depth, or that the Commission has given proper consideration to concerns about treaty law conflict;
- the impact assessment does not contain examples of Community citizens who have not received compensation for damage incurred due to the provisions of the LLMC. The LLMC is today used primarily in contract dispute cases involving cargo, collision and damage to property. Individual citizens rarely, if ever, have the need for recourse to this international treaty. Governments and local authorities may seek recovery of costs for clean up operations and or preventive measures where there is or has been a need to respond to a pollution threat which is not covered by the oil pollution conventions or where there has been damage to property (e.g. port equipment and facilities);
- it is unusual for individual citizens to be affected by the LLMC. Damage sustained by individuals is usually eligible for compensation under other conventions that deal now, or will deal, with damage to personal belongings, injury and pollution. Two of the relevant conventions are not yet in force, but over 90% of sea-going vessels do, through the P&I Club structure maintain insurance cover for third party liabilities arising from almost all types of damage attributable to the use and operation of ships;

11 The Commission's own guidelines for impact assessments specify that these can be produced in English, French or German and do not require them to be translated.

- the impact assessment refers to oil tanker incidents, but this is of limited or no relevance to the proposed measure because pollution damage caused by tankers is covered by the CLC and IOPCF to which coastal Member States are (or, if newly acceded Member States, will in due course become) party; and

- the impact assessment suggests a lack of uniformity in the application of the LLMC, but when ratifying this convention many Member States, including the UK, did so with reservations that allowed, for example, the Government to apply under domestic legislation unlimited liability for costs associated with wreck marking and removal and much higher limits to passenger carrying ships. It is not clear what the Commission proposes to do about such reservations and the assessment does not identify the effect on domestic legislation.

3.14 On the second option — industry self regulation — the Minister says the Government:

- agrees with the Commission that the legal relationships that exist between persons involved in the maritime transport sector are unsuited to self regulation;

- believes that regulation governing the global shipping industry should be developed and implemented at the international level;

- considers that the proper place for the development of such regulations is the IMO, where the UK and other Community and EEA States play a prominent role; and

- holds that regional variations of international treaties may lead to fragmentation of the international framework of rules that apply across the shipping sector leading to greater legal uncertainty and the possible introduction of different regimes based on regional requirements.

3.15 On the third option — Community action at the IMO to remove the ceiling on liability under the LLMC and to harmonise that Convention in Community law, the Commission's preferred one — the Minister says:

- the Government does not believe that the Commission's proposal to remove the current limit of shipowner liability under the LLMC to be either necessary or desirable, for the reasons related to the position of Community citizens already mentioned;

- removing the ceiling on liability could affect the global marine insurance and reinsurance markets, but the impact assessment has not identified either the potential financial impact on such markets or the consequences of what in effect amounts to the introduction of a regional regime of varying liability for certain ships;

- the LLMC already contains a mechanism to raise limits at the IMO by tacit amendment procedure and member governments of the IMO, including Member States, have the freedom to submit proposals to raise limits; and

- a shipowner's right to limit liability in international conventions is offset by a *quid pro quo*. Shipowners accept the doctrine of strict liability and their insurers accept a claimant's right of direct action. In all but the most rare cases, where liability is

contested, the combined effect of strict liability on the shipowner and the right of direct action against the insurer results in prompt payment of compensation to claimants and reduces or eliminates altogether the need for costly and time consuming legal action.

3.16 On the fourth option — introduce a Community instrument along the lines set out in the third option — the Minister says, noting that this would require all Member States to bring into force a Community instrument, that:

- the LLMC entered into force in the UK and internationally in May 2004. Its entry into force increased the limits of liability substantially compared to the relatively modest limits contained in the earlier (1976 LLMC);
- it enabled the Government to introduce higher limits in cases where a liability currently exists or where a case is proven in tort;
- the Government is concerned that the Commission has fundamentally misunderstood the purpose and general application in law of the LLMC;
- this view is supported by the lack of relevant detail in the impact assessment;
- the LLMC is not a liability instrument. Rather, it is a limitation instrument that entitles shipowners to limit the extent of their liability to a set amount calculated according to a ships tonnage;
- specific risks to passengers and the environment, for example, are governed by international liability and compensation regimes that are currently in force, or waiting to enter into force subject to meeting preceding provisions;
- together these conventions provide a cohesive framework of instruments covering almost all eventualities that could give rise to claims for compensation;
- once in force, these conventions will provide cover against pollution damage not resulting from tankers (which is already covered by the existing international convention) and third party claims, including economic loss, death and injury to passengers and their luggage and vehicles;
- in some of these conventions a shipowner's limit of liability is significantly higher than the limits specified in the LLMC;
- the impact assessment is silent about the effect of the Commission's proposal on the application of other international instruments that rely on the LLMC to set the limit of liability, for example the Bunkers Convention and the recently agreed International Convention on the Removal of Wrecks, 2007; and
- the assessment does not address a fundamental concern about Member States, which are required by Council Decision 2002/762/EC to ratify the Bunkers Convention (the UK ratified in June 2006) and which could be in breach of their treaty obligations if they are obliged, by virtue of Community legislation, to apply limits of liability that differ from the limits prescribed in international conventions.

3.17 More generally the Minister comments:

- the Government does not accept that Community citizens who have suffered damage go uncompensated because of the LLMC — the impact assessment does not provide evidence or examples to support this;

- nor is there evidence to support the Commission's assertion that removing the right to limit liability would drive up the standard of ships calling at ports of Member States;

- the way to achieve improved standards is to ensure that flag states fully discharge their international obligations, classification societies ensure that ships fully comply with internationally agreed construction and build standards[12] and port state control inspections are properly targeted and sufficiently rigorous;[13]

- the impact assessment acknowledges that the LLMC "has the advantage that it sets the ceilings for compensation at a sufficiently high level to cover most of the claims made on shipowners after an accident". So the Government questions the need to introduce Community legislation at all;

- it is concerned about the proposal to deny shipowners the right to limit liability. The assessment incorrectly presupposes that the behaviour of sub-standard vessel operators is determined by the right to limit liability. Unscrupulous shipowners do not consider their right to limit when it comes to ship maintenance, aids to navigation, safety measures or crew competence standards. If they cut corners at all they do so for other cost reasons;

- once a vessel is enrolled in an International Group P&I Club the cost of damage is first shared among the membership of the insuring club. If the cost of claims arising from an incident exceeds the insuring club's retention (currently set at $US 6 million) the cost is spread among all members of the International Group through a legally binding pooling agreement and group reinsurance. This mutuality is a proven system that works to the benefit of shipowner and claimant and covers claims up to approximately $4.5 billion worth of shipowners' risk;

- there is a minor point in the impact assessment that requires clarification, referring to discussions in progress to amend the CLC. In fact those discussions concluded in October 2005 and resulted in industry voluntarily increasing the lower limit of liability to SDR[14] 20 million (about £16.8 million) for small oil tankers and a greater sharing of financial responsibility between shipowners and receivers of crude and other persistent oils in states party to the IOPCF. Shipowners and oil receivers agreed to share increased financial burdens to meet compensation payments for

12 Classification societies are private sector organisations to which flag states, including the UK, delegate some ship inspection functions.

13 Port state control is a system of inspections carried out on foreign-flag ships visiting a country's ports to check compliance with international standards for safety, pollution prevention and shipboard living and working conditions.

14 The SDR (special drawing right) is an international reserve asset, created by the IMF to supplement the official reserves of member countries. The SDR also serves as the unit of account of the IMF and some other international organizations. Its value is based on a basket of key international currencies.

claims against the IOPCF Supplementary Fund, to which the UK became a state party in June 2006; and

- the impact assessment does not identify the potential burden on shipowners, insurers or competent authorities. A requirement to issue certificates for every vessel of 300 gross tonnage and over would impose significant burdens on industry and flag states. One P&I Club, the Shipowners Club, has approximately 25,000 vessels on its books and a requirement to issue a state certificate against each ship would be oppressive. Furthermore, P&I Clubs in the International Group already issue certificates of entry to all entered vessels which confirm that the vessel is entered in a group club and has P&I cover.

3.18 On our question in relation to the Government's attitude to obligatory accession to the LLMC the Minister reiterates that:

- the Government believes that maritime matters are best addressed within the framework of the IMO and encourages the widest possible application of the instruments developed there. For this reason the Government considers it appropriate, in the interests of promulgating a convention which applies across the Community, for all Member States to ratify the LLMC — a Council Decision requiring Member States to ratify could have achieved that; and
- the draft Directive goes much further. In seeking to amend existing international rules that underpin the principles of maritime liability conventions the Commission's proposal could threaten the way in which marine insurance is structured in the future and affect the overall quantum that is made available to claimants.

3.19 On our question about Member States being authorised to ratify the LLMC rather than being obliged to do so and why the precedents cited were themselves compatible with the subsidiarity principle the Minister explains that the original comment related to the Government's preference for a Council Decision authorising Member States to ratify the LLMC. In the cases of the precedents cited, ratification of the IOPCF Supplementary Fund, the HNS Convention and the Bunkers Convention had been authorised by Council Decisions rather than mandated by Directives. These processes seem to the Government compatible with the subsidiarity principle, whilst the draft Directive process for the LLMC does not.

3.20 The Minister also tells us that the Department for Transport is working on a partial Regulatory Impact Assessment and the impacts on industry and on the Government will be set out in that. In that connection he also tells us that the proposal has attracted widespread opposition from Member States and that the affected industries, with which the Government has consulted closely, have lobbied MEPs in an attempt to moderate some of the proposals contained in the original document.

Conclusion

3.21 **We are grateful to the Minister for this comprehensive account of where matters stand on this proposal. We note that there are still considerable issues about the**

appropriateness of the draft Directive, which are not lessened by the European Parliament's proposed amendments. In particular we note that, apart from the serious matters of substance arising from the proposal, there is a subsidiarity issue which suggests that a draft Directive should not be proceeded with at all.

3.22 **However, we are encouraged that there is widespread opposition to the proposal amongst both Member States and the affected industries and that successive Presidencies have seemed reluctant to push the proposal forward.**

3.23 **On the Minister's responses to our specific questions we now understand the point he expands on in relation to subsidiarity. However we are less clear about the explanation of Government's attitude to obligatory accession. It is now clear why the Government thinks the draft Directive goes too far and why a Council Decision would be preferable. But the Minister does not spell out the Government's fears in relation to extending external competence and the consequences for future amendment of the LLMC.**

3.24 **We should like to hear in due course more about this last point, about the planned partial Regulatory Impact Assessment and about progress, or preferably about lack of progress, on the draft Directive.**

3.25 **Meanwhile the document remains under scrutiny.**

4 Urban mobility

(28949) 13278/07 + ADD1 COM(07) 551	Green Paper: *Towards a new culture for urban mobility*

Legal base	—
Document originated	25 September 2007
Deposited in Parliament	5 October 2007
Department	Transport
Basis of consideration	EM of 23 October 2007
Previous Committee Report	None
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Not cleared, further information awaited

Background

4.1 In the Mid-Term Review of its 2001 Transport Policy White Paper the Commission announced its intention to publish a Green Paper on urban transport.[15] Since January 2007 the Commission has conducted a public consultation, involving an internet-based questionnaire and a series of conferences and workshops, on urban transport issues and possible Community action to support urban transport. The Department for Transport and a number of other UK authorities provided input into that process.

The document

4.2 The Green Paper follows that consultation and is, the Commission says, a second consultation process before developing a Community action plan on urban transport, for publication in the early autumn of 2008. In it the Commission discusses a variety of possible actions, as recommended by interested parties, grouped under five themes. The Commission also poses 19 questions or groups of questions in relation to each theme:

Free-flowing towns and cities

- Should a "labelling'" scheme be envisaged to recognise the efforts of pioneering cities to combat congestion and improve living conditions?
- What measures could be taken to promote walking and cycling as real alternatives to cars? and
- What could be done to promote a modal shift towards sustainable transport modes in cities?

Greener towns and cities

- How could the use of clean and energy efficient technologies in urban transport be further increased?
- How could joint green procurement be promoted?
- Should criteria or guidance be set out for the definition of Green Zones and their restriction measures? What is the best way to ensure their compatibility with free circulation? Is there an issue of cross border enforcement of local rules governing Green Zones? and
- How could eco-driving be further promoted?

Smarter urban transport

- Should better information services for travellers be developed and promoted?

15 (27648) 10954/06 + ADD1: see HC 34–xxxvi (2005–06), chapter 1 (19 July 2006) and *Stg Co Debs*, European Standing Committee, 30 October 2006, cols. 3–20.

- Are further actions needed to ensure standardisation of interfaces and interoperability of ITS applications in towns and cities? Which applications should take priority when action is taken? and

- Regarding ITS, how could the exchange of information and best practices between all involved parties be improved?

Accessible urban transport

- How can the quality of collective transport in European towns and cities be increased?

- Should the development of dedicated lanes for collective transport be encouraged?

- Is there a need to introduce a European Charter on rights and obligations for passengers using collective transport?

- What measures could be undertaken to better integrate passenger and freight transport in research and in urban mobility planning? and

- How can better coordination between urban and interurban transport and land use planning be achieved? What type of organisational structure could be appropriate?

Safe and secure urban transport

- What further actions should be undertaken to help cities and towns meet their road safety and personal security challenges in urban transport?

- How can operators and citizens be better informed on the potential of advanced infrastructure management and vehicle technologies for safety?

- Should automatic radar devices adapted to the urban environment be developed and should their use be promoted?

- Is video surveillance a good tool for safety and security in urban transport? and

In relation to all of these questions the Commission also asks "What could be the potential role of the EU?"

4.3 In the Green Paper the Commission also discusses "creating a new urban mobility culture" under the topics of improving knowledge and data collection. It asks "Should all stakeholders work together in developing a new mobility culture in Europe? Based on the model of the European Road Safety Observatory,[16] could a European Observatory on Urban Mobility be a useful initiative to support this cooperation?"

4.4 Finally, the Commission discusses financial resources and asks five more questions or groups of questions:

16 An internet source of information for those concerned with road safety: see http://www.erso.eu/index.html.

- How could existing financial instruments such as structural and cohesion funds be better used in a coherent way to support integrated and sustainable urban transport?
- How could economic instruments, in particular market-based instruments, support clean and energy efficient urban transport?
- How could targeted research activities help more in integrating urban constraints and urban traffic development?
- Should towns and cities be encouraged to use urban charging? Is there a need for a general framework and/or guidance for urban charging? Should the revenues be earmarked to improve collective urban transport? Should external costs be internalised? and
- What added value could, in the longer term, targeted European support for financing clean and energy efficient urban transport, bring?

In relation to these final questions the Commission asks again "What could be the potential role of the EU?"

4.5 The findings of the initial consultation are documented in a Commission staff working document accompanying the Green Paper.

4.6 The Commission asks for responses to the Green Paper by 15 March 2008.

The Government's view

4.7 The Minister of State, Department for Transport (Ms Rosie Winterton) says that in principle the Government supports the Commission's initiative and welcomes the Green paper. Community action in this field could add value and support UK cities in becoming centres for innovation and employment. She adds that, however, it is not possible to specify the implications of the material in the Green Paper at this stage — it will be necessary to seek further advice and information though formal consultation, which will provide a more detailed picture of how the Green Paper will impact on the UK. The Minister continues that two particular suggestions in the Green Paper, urban congestion charging regulation and a charter of rights and obligations for passengers, will be of specific interest to the Government as they have the potential to appreciably impact on local transport provision. The Government will be keen for consultees to consider these two particular elements and the likely impacts they might have.

4.8 The Minister says that the Government notes that Member States rather than the Community have competence for local road charging schemes and that the detailed design of such schemes should take into account local conditions and concerns. The Government will therefore emphasise to the Commission the importance of subsidiarity and ensure that the Green Paper does not result in proposals that would inhibit local authority ability to take effective action. She also says that the Government feels that Community action in the field of urban transport is best served through the exchange of best practice and cultivating the environment for research and development — the UK has a good story to tell in this

field. It will be important that the Government communicate to the Commission the experience and knowledge it has gained.

4.9 The Minister tells us that the Government plans to launch a formal consultation for UK interested parties, which will aim to pull together the UK position on the Green Paper and the impact it will have for urban transport policy — the devolved administrations will be invited to participate and provide a response.

Conclusion

4.10 **We are pleased that the Government's initial response to this Green Paper is cautious, particularly in relation to the level at which responsibility for these matters properly lies and to the desirability of concentrating on exchange of best practice and promotion of research and development.**

4.11 **We note the Government's intention to consult widely before responding to the Green Paper. We shall consider the document further once we have seen the Government's response — meanwhile the document remains under scrutiny.**

5 Communicating Europe

(28969) 13829/07 COM(07) 568 + ADDs 1–2	Commission Communication: *Communicating Europe in Partnership*
(28970) — COM(07) 569 + ADDs 1–2	Commission Working Document: *Proposal for an Inter-Institutional Agreement on Communicating Europe in Partnership*

Legal base	—
Document originated	3 October 2007
Deposited in Parliament	12 October 2007
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 26 October 2007
Previous Committee Reports	None; but see (27265) 5992/06: HC 41–xvii (2006–07), chapter 4 (18 April 2007), HC 41–v (2006–07), chapter 4 (10 January 2007), HC 34–xl (2005–06), chapter 5 (1 November 2006) and HC 34–xxii (2005–06), chapter 4 (15 March 2006)
To be discussed in Council	To be determined
Committee's assessment	Legally and politically important
Committee's decision	Not cleared, further information requested

Background

5.1 Starting from what it saw as widely recognised gap between the European Union and its citizens, the Commission first produced an Action Plan with a detailed list of specific measures "to improve the way it communicates with citizens" and then "Plan-D for democracy, dialogue and debate", which was "intended to involve citizens in a wide-ranging discussion on the European Union — what it is for, where it is going and what it should be doing".[17] But these initiatives, the Commission said, would only succeed if all "the key players" were involved — the other EU institutions and bodies; the national, regional and local authorities in the Member States; European political parties; civil society. Hence the Commission's February 2006 White Paper, which put forward a number of ideas under five main headings:

- Defining common principles of an EU Communications Policy, possibly in a framework document or charter;
- Developing tools and facilities for improved public access to information;
- More effective involvement of the media and use of new technology in communicating EU issues in the public domain;
- Improving measures to gauge public opinion; and
- Greater engagement between Member States, EU institutions and Civil Society Organisations.

5.2 In his accompanying Explanatory Memorandum, the then Minister for Europe said that the Government welcomed the approach underlying the White Paper but believed that an EU communications policy must be formulated and implemented in co-operation with Member States, respecting national circumstances, and that further discussion was needed on the detail and framework of the initiatives outlined; and that he would respond "in due course".

5.3 When we considered the White Paper on 15 March 2006, we noted that, as with the related Communication on "Plan-D", the Minister had reiterated the necessity of something the Commission had emphasised in its proposals regarding the primacy of Member States and said nothing about any of the proposals. We found this surprising, in that some were both interesting and uncontentious, e.g., the idea of broadcast discussions between Commissioners and Member State politicians and/or citizens of current or proposed Commission policies. We considered the White Paper relevant to the debate on the "Plan-D: democracy, dialogue and debate", in the hope that the Government would take the opportunity that it should have taken in its Explanatory Memorandum to explain at least its initial views, and kept it under scrutiny until the Minister let us have a considered response.[18]

17 Which we considered on 15 March 2006 (see HC34–xxii (2005–06) chapter 4) and was debated in the European Standing Committee , 23 May 2006, cols. 3–36.

18 See headnote.

5.4 He did so in a letter of 26 October 2006, which we considered and reported to the House on 1 November 2006. It was clear that the Commission's proposals were in some important respects still a work in progress. The Minister himself drew attention to key elements that he did not support or about which he was unclear and/or wanted further information, and there were various aspects about which we felt the House would be interested in learning more:

- a charter or framework document;
- proposals for joint open debates between the Commission, Parliament and the European Parliament;
- what "an over-arching European communication policy" would contribute (or, indeed, what it meant);
- a properly-costed case for an upgrade of the Commission's *Europe by Satellite* service;[19]
- the proposal for a European Programme for Training in Public Communications;
- what added value would be derived from a report on information technologies and democracy in Europe by the European Round Table for Democracy;
- how an independent observatory for public opinion would be funded, how its independence would be guaranteed and how it would co-exist with the current Eurobarometer structure; and
- how the Government would cooperate further with the Commission and European Parliament offices in the UK on communicating more effectively on the workings of the Institutions and making them more accessible and transparent.

5.5 We therefore asked the Minister to bring it up to date on each of these issues no later than the Easter recess, but in the meantime asked him to let us know more about how the "Europe Direct" concept was being developed and delivered in the UK, (e.g., how many such Centres were planned? Where would they be? What was their "mission"? How much would they cost to establish and run? How would they be financed?) and for his views, forthwith, on the idea of broadcast discussions between Commissioners, about which he continued to remain silent.

5.6 Given that the White Paper's ambition — a fundamentally new approach, moving decisively away from one-way communication to reinforced dialogue, from an institution-centred to a citizen-centred communication, from a Brussels-based to a more decentralised approach — the approaches taken, and their effectiveness were bound to continue to be highly controversial, we also considered it relevant to any future debates on European Union policy.[20]

19 The EU's TV Information service Europe by Satellite (EbS): launched in 1995 and providing TV and radio stations with EU related pictures and sound in up to 21 or more languages. The programming consists of a mix of live events, stock shots and finished programmes on EU subjects produced by various EU Institutions and Directorates as well as other broadcasters. See http://ec.europa.eu/avservices/ebs/welcome_en.cfm.

20 See headnote.

5.7 In a further letter of 15 December 2006, the then Minister for Europe reported that, since June 2005, 25 centres had opened in places such as libraries, chambers of commerce and local government offices, part-funded by the Commission (up to 50%) and part-funded by the host organisation, with the UK Commission Representation managing the administration. The operating grant for each centre varied between €2,000 and €24,000 per annum for three years (2006–09). The Minister was working closely with the European Commission "to ensure that Europe Direct is a success". The Commission were actively looking for proposals for a further 10 in 2007.

5.8 Regarding the broadcasting proposal, the Minister supported "transparency and work to promote greater public debate about the EU". But any such broadcasts should be both cost effective and use the appropriate media; the Commission themselves should fund this project; any such broadcasts should "genuinely encouraged transparency and for example, did not merely result in real negotiation and discussion being driven into the corridors".

5.9 We noted that what we had in mind was not so much staged events as participation by Commissioners, along with UK politicians and opinion formers, in current affairs programmes on radio and television. As for the Europe Direct centres, we considered that it would be important to ensure that they avoided proselytising and did indeed concentrate on providing general information and practical advice on the EU.

5.10 Since then, the then Minister and his successor, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy), have been in correspondence with the Committee to provide updates[21] — most recently a letter of 12 July 2007: in a nutshell, he and they were still awaiting the Commission's follow up to its White Paper before commenting further, which follow up work was expected in 2007.

The Commission Communication

5.11 The Commission has now produced these follow-up documents — a Communication on "Communicating Europe in Partnership" and an accompanying Commission Staff Working Document outlining a Proposal for an Inter-Institutional Agreement on Communicating Europe in Partnership.

5.12 In its introduction, the Commission says that today's Union is larger, more diverse and deals with increasingly complex issues — globalisation, energy efficiency and independence, mobility, competitiveness, migration, security and climate change — where "the EU value added is significant but not easy to communicate". A more sophisticated way of working is required: "a partnership between different actors across European society to deliver results that matter to European citizens and are adequately debated with them". The Commission says that "evidence suggests that there is an underlying conviction amongst European citizens that our societies can only tackle today's challenges by working on a European scale", which "shift in the purpose and focus … fits well with the aspirations of citizens". The debate on Europe "must be taken beyond the institutions to its citizens", as emphasised by the 2007 June European Council "which underlined the crucial importance of reinforcing communication with the European citizens, providing full and

21 See headnote.

comprehensive information on the European Union and involving them in a permanent dialogue”, particularly during the Reform Treaty ratification process and in the run-up to the 2009 European elections. Against this background, “a properly conceived and adequately resourced communication policy is an essential element in the range of EU policies”, combining “proximity to the citizens together with a reach extending across the Union and beyond its current borders to the countries aspiring to become members as well as to the rest of the world.”

5.13 The Commission then explains how the EU is currently handling communications efforts, and discusses ways in which these efforts could be improved under four broad fields:

— Coherent and Integrated Communication

— Empowering Citizens

- including “Going local” and “Active European citizenship”

— Developing a European Public Sphere

- including “The political dimension”, “The media and information services” and “Understanding European public opinion”

— Reinforcing the Partnership Approach

- including “Working together with the Member States”, “Working together with the European institutions” and an “Inter-institutional Agreement on communication”.

5.14 Specific proposals include:

— an inter-institutional agreement to provide a framework for better cooperation on the EU communication process, while respecting the autonomy of EU institutions and Member States;

— voluntary management partnerships with Member States as the main instrument of joint communication initiatives;

— development of the network of European Public Spaces in the Representations;

— identification of aspects of school education where joint action at EU level could support Member States;

— strengthening the Eurobarometer; and

— implementation of the Pilot Information Networks (PINs) to improve communication between European and national politicians and with other opinion formers.

5.15 In addition, in the coming months, the Commission will also:

— “adopt a new internet strategy to support civil society networks and private or public sector websites with an EU focus which promote contact with or between European citizens;

— adopt a new audiovisual strategy to support networks of broadcasters across Europe in producing and broadcasting EU affairs programmes;

— launch a follow-up communication to Plan D, as well as a new set of Plan D civil society projects, with the overall objective of supporting the ratification process for the Reform Treaty and increasing participation in the 2009 European Parliament elections; and

— examine the possible consolidation and extension of recent successful experiences in reinforcing the work of the Representations."

5.16 The Commission document COM (2007) 569 proposes to use the existing structure of the Inter-Institutional Group on Information[22] (IGI) as a mechanism to produce the Inter-Institutional Agreement on Communications, with the aim of building a better consensus across the EU Institutions on communications priorities by:

— defining broad guidelines for co-ordinated communication on EU issues;

— selecting the annual EU Communication priorities based on a proposal from the Commission reflecting the Annual Policy Strategy (APS);

— adopting a common annual work plan of communication activities, based on actions proposed by each institution; and

— monitoring the implementation and follow up of the annual common work plan.

5.17 The three areas proposed as communications priorities for 2008 are: Energy and Climate Change; Institutional Settlement; and Intercultural Dialogue.

The Government's view

5.18 In his 26 October 2007 Explanatory Memorandum, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) says that, so far as *Subsidiarity* is concerned, an EU communications policy must be formulated and implemented in co-operation with Member States, respecting national circumstances; he "welcomes the Commission's confirmation that Member States still have the autonomy to pursue their individual communications policies on the European Union".

5.19 He says that he will be examining the proposals in greater detail and in the meantime, welcomes "the concept of openness underlying the Commission's proposals and their efforts to provide a more systematic and coherent communications strategy on what the EU does and how it is working to deliver for citizens". He is particularly in favour of the adoption of Energy and Climate Change as EU communications priority areas for 2008.

5.20 Turning to the *Financial Implications*, the Minister notes that the estimated cost of the Commission's proposals for Communicating Europe in Partnership and for an Inter-Institutional Agreement on Communicating Europe in Partnership is approximately €88

22 The Inter-institutional Group on Information (IGI) is the existing policy structure for agreeing EU communication strategy and selecting common communication priorities for the EU institutions and Member States. It is chaired jointly by the European Parliament, the Commission and the Presidency.

million Euros; which, he says, the Commission has made clear will be met within existing Commission budgets, with no need for additional funding.

5.21 Finally, on the *Timetable*, the Minister says that the Commission's proposals have been discussed by Member States officials at the Information Working Group (IWG); that Member States were invited to provide responses at the most recent IWG meeting in October; that it is anticipated that the IWG will adopt the Council Conclusions on 18 December; and that they well then be passed to COREPER (the Council of Permanent Representatives) for discussion, and then on to a Council of Ministers meeting for adoption in 2008. From there, the Minister expects the consolidated views of Member States to be incorporated in to a future meeting of the IGI, as envisaged in Commission document COM (2007) 569; indeed, he says, the UK stated its view before a meeting of the IGI on 23 October 2007 "that the Member States should have the full opportunity to consider and feed in views on the new papers, before any Inter-Institutional Agreement is adopted at the IGI."

5.22 The Minister then continues as follows:

> "However, it should be noted that the Council's Legal Service was tasked with providing a view on the question: Would the Inter-Institutional Agreement as envisaged by the Commission be compatible with EU law? On 24 October, the Council's Legal Service published a document (reference number 14243/07) which called attention to their view that the proposed activities covered by the draft IIA do not fall within the administrative autonomy of the institutions. Furthermore the Council Legal Service gave the view that "the proposed IIA is not a matter of administrative co-operation between the institutions (and possibly the Member States), but a matter of political choice which requires a legal framework, adopted in accordance with Treaty procedures.
>
> "In view of this development, the UK is engaging with the Commission, Council and other Member States through the Information Working Group in Brussels to discuss the implications for the EU's Communications proposals. The UK is playing an active role in these ongoing discussions.
>
> "The Government plans to provide a full, written response to the Commission documents pending further discussion at the Information Working Group in Brussels. The Government will also provide its view to the Parliamentary Scrutiny Committees."

Conclusions

5.23 **There is plainly nothing remiss with the notion of integrating the communication activities of the various Commission departments as effectively and coherently as possible. Nor with the notion of Member States pursuing their own communication policies, or co-operating with the Commission as they see fit. But the implied notion of some sort of collective "vision" being pursued, with European taxpayers' funds, to the exclusion of alternative "visions", is altogether more questionable — as is, clearly, the notion that this can be put into place by administrative means.**

5.24 **We accordingly look to the Minister to address these fundamental questions in his response, along with his views on the detailed proposals.**

5.25 **We also trust that he will now finally be in a position to give us his considered views on the issues raised in the earlier White Paper, as set out in paragraph 6.4 above, all but the last of which remain unanswered.**

5.26 **In the meantime, we shall continue to retain the White Paper and both these subsequent documents under scrutiny.**

6 European Migration Network

(28858) 12481/07 COM(07) 466	Draft Decision establishing a European Migration Network
+ ADD1	Commission staff working document: evaluation of the feasibility of a European Migration Network

Legal base	Article 66 EC; consultation; QMV
Department	Home Office
Basis of consideration	Minister's letter of 25 October 2007
Previous Committee Report	HC 41–xxxiv (2006–07), chapter 7 (10 October 2007)
To be discussed in Council	December 2007
Committee's assessment	Politically important
Committee's decision	Not cleared; further information requested

Previous scrutiny of the draft Decision

6.1 The European Migration Network (EMN) was set up on an informal basis in 2002 to collect, analyse and disseminate information on asylum and migration. In 2005, the Commission published a Green Paper inviting views on possibilities for a new EMN.[23] In the light of the responses, the Commission proposed this draft Decision to give the EMN a proper legal base. It provides that the EMN's objective should be to meet the needs of the EC's institutions, Member States and the public by providing up-to-date, objective, reliable and comparable information on migration and asylum. Its tasks would include collecting, analysing and disseminating information, publishing periodic reports on the state of migration and asylum in the EC, and creating an internet-based system. The EMN would comprise the National Contact Points (NCPs) and the Commission.

23 (27071) 15240/05 (COM(05) 606).

6.2 The EMN would be guided by a Steering Board on which each Member State, the European Parliament and the Commission would have one representative (each with one vote), chaired by the Commission's representative and with decisions taken by a two-thirds majority of votes cast. The Steering Board would "participate" in the preparation of the EMN's annual work programme; review the EMN's progress and make "recommendations" for action when required; report at least once a year on the EMN's activities; identify the most appropriate bodies with which the EMN should cooperate and approve the arrangements for such cooperation; and give "advice" to the NCPs on how to improve their work when persistent shortcomings by an NCP might adversely affect the work of the EMN.

6.3 Each Member State would be required to designate a National Contact Point comprising three experts. Among other qualities, every NCP would have to be able to work and write in an official EC language other than that of the Member States in which the NCP was located. NCPs would be required to discharge the tasks of the EMN at national level, including the preparation of an annual report on the state of migration and asylum in its Member State, respond quickly to requests from other NCPs for information or analysis and establish national networks of individuals and organisations concerned with migration and asylum.

6.4 The Commission's functions would include:

- coordinating the work of the EMN and ensuring that it reflects "the political priorities of the Community in the area of migration and asylum";[24]
- chairing the Steering Board;
- appointing a "service provider" to assist the Commission with the day-to-day management of the EMN and the information system in particular;
- appointing two scientific experts to advise the Commission;
- adopting the EMN's annual work programme after consultation with the Steering Board and NCPs;
- making grants to NCPs for up to 80% of their costs;
- ensuring that the NCPs are capable of doing the work entrusted to them; and
- making reports every three years on the development of the EMN.

6.5 The information entered on the EMN's information system would normally be available to the public but access to information of "a confidential nature" could be restricted to members of the EMN.[25]

6.6 The Commission proposes that the EMN's total budget for 2007–13 should be €59.7 million.

24 Article 6(1).

25 Article 8(2).

6.7 When we considered the proposal in October, the Minister for Immigration, Citizenship and Nationality at the Home Office (Mr Liam Byrne) told us that the Government was "generally supportive" of the draft Decision.[26] There were, however, some points on which the Government has reservations or questions. The Minister also noted that, since the proposal is made under Title IV of the EC Treaty, the Decision — if adopted — would not apply to the UK unless the Government expressly opts into it. The Government is considering whether to do so.

6.8 We recognised the usefulness of the European Migration Network and welcomed the proposal to put it on a proper legal basis. But we shared the Government's reservations about some aspects of the draft Decision, In particular, we questioned whether the proposed allocation of responsibilities between the Commission and the Steering Board strikes the right balance. It is not clear to us, for example, why the Commission rather than the Board should authorise the EMN's annual work programme, So we decided to keep the document under scrutiny and asked the Minister for progress reports on the negotiations.

The Minister's letter of 25 October 2007

6.9 The Minister tells us that, in the Council Working Group's discussions, several other Member States have expressed concern about the proposed allocation of responsibilities, He explains, however, that the EU's financing rules require the approval of the annual work programme to be a responsibility of the funding body (in this case, the Commission because the payments for the EMN will come from the EU budget). But Article 6(4) of the draft Decision has been amended to ensure that "the Steering Board's oversight of the EMN annual work programme is clear". The amended Article says:

> "After consultation of the National Contact Points and approval by the Steering Board, the Commission shall, within the limits of the general objectives and tasks defined in Articles 1 and 2, adopt the EMN's annual work programme of activities".

6.10 The Minister also tells us that:

- The Working Group discussed the proposal that decisions in the Steering Group should require a two-thirds majority. It was agreed that this requirement was necessary because of the difficulty of achieving unanimity in such a large Board. A two-thirds majority would be preferable to qualified majority voting.
- The UK and other Member States expressed concern about the Commission single-handedly selecting the service provider. The issue remains unresolved.
- The Commission has explained that the two "experts" would have no voting rights in the Steering Board, The UK Government has proposed that there should be "frequent rotation of expert members of the Board, to avoid undue influence by any one country or institution".
- Although the Decision does not contain provision expressly exempting the UK from the requirement that its National Contact Point should be able to read and

26 See HC 41–xxxiv (2006–07), chapter 7 (10 October 2007).

write in another official language of the EU, the requirement is unlikely to cause difficulties in practice because English is the EMN's default language and the Home Office Immigration Research and Statistics Unit (the UK's current NCP) includes staff who can speak and write other official languages.

- The way in which the budget is to be allocated has not yet been decided.
- The Commission accepts that it is for the National Contact Points to decide if any of the information it provides is "confidential" information and should not, therefore, be made available for general release through the EMN.

Conclusion

6.11 **We are grateful to the Minister for his helpful letter. It appears that some useful progress has already been achieved in the negotiations. But much of importance remains to be settled and we remain concerned about the balance of power between the Commission and the Member States. Accordingly, we have decided to keep the draft Decision under scrutiny pending further progress reports from the Minister.**

7 Comitology

(28266) 5220/07 COM(06) 903	Draft Directive amending Directive 2006/43/EC on statutory audit of annual accounts and consolidated accounts, as regards the implementing powers conferred on the Commission

Legal base	Council Decision 2006/512/EC amending Council decision 1999/468/EC provided for the "regulatory procedure with a scrutiny"
Document originated	22 December 2006
Department	Business, Enterprise and Regulatory Reform
Basis of consideration	Minister's letter of 11 October 2007
Previous Committee Report	HC 41–xv (2006–07), chapter 7 (21 March 2007)
To be discussed in Council	n/a
Committee's assessment	Legally and politically important
Committee's decision	Cleared on 21 March 2007; further proposal expected.

Background

7.1 Council Decision 2006/512/EC created a new comitology procedure called "regulatory procedure with scrutiny". The new procedure provides for an enhanced role for the European Parliament in the comitology process and may be used for measures of general scope which seek to amend non-essential elements of the basic instrument, where this has been adopted under co-decision.

7.2 Comitology refers to the procedures under which various committees oversee the Commission's exercise of its implementing powers. These procedures allow the Member States, the Council and Parliament to exercise a measure of control over the delegation of powers to the Commission.

7.3 Following adoption of Council Decision 2006/512/EC of the European Parliament, the Council and the Commission agreed a joint statement which set out the basic principles governing the new procedure including the scope of its application. In the joint statement the institutions also agreed a list of measures to be amended and reintroduced under the new "regulatory procedure with scrutiny procedure." The list consisted of 26 proposals, all of which were previously adopted under the co-decision legislative procedure and are now adjusted to allow for the adoption of future implementing legislation by the Commission under the new regulatory procedure with scrutiny.

The document

7.4 This proposal seeks to implement amendments to Directive 2006/43/EC so that in future all comitology measures affecting the regulatory framework governing statutory audits may be adopted under the new "regulatory procedure with scrutiny", rather than the regulatory procedure. It also proposes deletion of the "Sunset" clause under which the Commission's powers to adopt comitology measures would expire in April 2008.

7.5 We originally looked at and cleared this proposal in March 2007 as part of a list of 26 measures to be adapted to the new "regulatory procedure with scrutiny".

The Minister's letter

7.6 The Minister at the Department for Business, Enterprise and Regulatory Reform (Stephen Timms) has now written to update us on the proposal's progress through the legislative process. He comments as follows:

> "I am writing to update you on developments during the summer recess on the proposed amendments to the Audit Directive. These relate to EM 5220/07.
>
> "The relevant committee of the European Parliament has now approved the Commission proposal, subject to a number of amendments. A vote by the [European] Parliament on this proposal and 25 others will follow. Assuming it is approved, I have indicated that the UK will support these amendments when the Council meets to adopt the proposal, as have the other Member States. I now expect the Audit Directive to be amended by April 2008.
>
> "As with the proposal covered by the Explanatory Memorandum in February, this amended proposal will remove the 'Sunset' clause, which would otherwise cause the comitology powers in the Audit Directive to expire on 1 April 2008.
>
> "Following the amendments, certain comitology decisions will be taken under the regulatory procedure with scrutiny, which involves a process of consultation with the European Parliament.

> "The amendments make clear that these comitology decisions can be used to define criteria for assessing the equivalence of third country regimes for audit regulation, when compared with the EU regime."

Conclusion

7.7 **We thank the Minister for his comments on the state of play regarding the cleared proposal. We look forward to receiving the amended and updated proposal together with further comments from the Government.**

8 Free movement of products within the EU

(28374) 6313/1/07 COM(07) 36	Draft Regulation laying down procedures relating to the application of certain technical rules to products lawfully marketed in another Member State and repealing Decision 3052/95/EC
+ ADD 1	Commission staff working document: Impact Assessment of the proposal
+ ADD 2	Executive summary of the Impact Assessment

Legal base	Articles 37 and 95 EC; co-decision; QMV
Department	Business, Enterprise and Regulatory Reform
Basis of consideration	Minister's letter of 23 October 2007
Previous Committee Report	HC 41–xi (2006–07), chapter 4 (28 February 2007); and HC 41–xxii (2006–07), chapter 3 (16 May 2007)
To be discussed in Council	22–23 November 2007
Committee's assessment	Politically important
Committee's decision	Cleared

The present position

8.1 There is EC legislation which requires Member States to comply with common requirements ("harmonised rules") for certain products, such as animal and human food and railway rolling stock. But most products are not subject to harmonised rules and each Member State is free to have its own "technical rules" about, for example, the weight, size, composition, labelling and packaging of products manufactured in its area. However, under "the principle of mutual recognition", unless there are exceptional reasons, a Member State ("the State of destination") may not forbid the sale of a product in its territory, even if it is manufactured according to technical rules that differ from those of the State of destination, if the product:

- is lawfully marketed in one or more other Member States; and

- is not subject to EC legislation creating harmonised rules.

Exceptionally, the State of destination may prohibit the import if it can show that restrictions on the sale are justified on the grounds specified in Article 30 of the EC Treaty (such as the protection of human health) or there are overriding requirements of general public importance recognised by the case law of the European Court of Justice (such as the prevention of tax evasion or the protection of the environment).

8.2 In the Commission's view, there are fundamental weaknesses in the Community's present arrangements because:

- many businesses and national authorities are unaware of the principle of mutual recognition;
- there is legal uncertainty about the products to which mutual recognition applies;
- there is widespread uncertainty about the burden of proof — businesses and national authorities often believe that the onus is on the producer to show that the imported product affords a level of protection equal to that required for an equivalent domestic product, whereas the onus is on the national authority to prove that the restriction on the import is justified; and
- it is difficult for businesses to find out in advance whether the national authority of another Member State will apply the principle of mutual recognition to a product.

So the Commission has proposed this draft Regulation.

Previous scrutiny of the draft Regulation

8.3 When we considered the proposal in February,[27] we noted that the draft Regulation:

- Would apply where the national authority of a Member State decides, on the basis of a "technical rule", to prohibit the sale, or require the modification, of products which are lawfully marketed in another Member State.
- Require a national authority to send the producer a notice specifying the technical rule on which its decision intends to prohibit or require the modification of an imported product would be based and explain why the intended decision is proportionate and justified. The producer would have 20 days to comment. The national authority would then be required to send the producer notice of a firm decision to prohibit or require modification of the product and tell the producer how to appeal against the decision.
- Require Member States to designate one or more "Product Contact Points", which would, on request, supply information about, for example, national technical rules and available remedies in the event of a dispute between producers and the national authorities.

27 HC 41–xi (2006–07), chapter 4 (28 February 2007).

8.4 The Commission estimates that the Regulation would not add to the costs of producers or distributors and would increase the economic growth of the EC. Compliance with the Regulation would increase the administrative costs of Member States by an unquantified amount.

8.5 The then Minister for Trade, Investment and Foreign Affairs at the Department of Trade and Industry (Mr Ian McCartney) told us that the Government supported the principles behind the draft Regulation. But it was important to understand how the provisions would interact with UK law. The Government would, therefore, be consulting interested organisations about the proposal.

8.6 We recognised the benefits of reducing uncertainty about the application of the principle of mutual recognition and removing unjustified obstacles to the free movement of goods within the internal market. We understood, therefore, why the Government supports the proposal in principle. We welcomed the Government's intention of obtaining the views of businesses, consumers' organisations and others before it reaches conclusions. Accordingly, we kept the draft Regulation under scrutiny pending information from the Minister on the results of the public consultations and reports on the progress of the negotiations.

8.7 In his letter of 9 May, the Minister told us that the negotiations had moved extremely swiftly.

> "The German Presidency has signalled its firm intention to reach agreement on a General Approach for the text of the proposal at the May 21 Competitiveness Council. The UK has expressed concern over the speed at which the text has been negotiated, due to concern that potential benefits may be missed and potential problems not fully addressed. However … almost all Member States have given their support to the Regulation."

8.8 The Minister also told us that the Government was concerned about the interaction between the draft Regulation and national laws on the hallmarking of precious metals; the safety of goods; and bans and prohibitions on certain products (such as flick-knives). The Minister added that the Government was working with the Presidency and the Commission to ensure that the final text of the draft Regulation would fully address all of the UK's concerns.

8.9 When we considered the Minister's letter,[28] we could not see a sufficient reason for the Presidency to push for an agreement at the Council meeting on 21 May. We were not satisfied that Member States had had enough time to consult on the draft Regulation and negotiate the details. We decided, therefore, to keep the document under scrutiny pending further progress reports.

The Minister's letter of 23 October 2007

8.10 In his letter of 23 October, the Parliamentary Under-Secretary of State for Trade and Consumer Affairs at the Department for Business, Enterprise and Regulatory Reform (Mr

28 See HC 41–xxii (2006–07), chapter 3 (16 May 2007).

Gareth Thomas) tells us that the German Presidency did not succeed in obtaining a political agreement on the draft Regulation at the Council meeting on 21 May.

8.11 He says that:

> "The proposed Regulation is an important single market tool and can bring great benefits to UK/EU business. The principle is particularly important for SMEs, as these companies do not have the means to research and comply with up to 30 sets of national rules (including EEA countries). In their Impact Assessment, the Commission estimates that national technical rules prevent EU companies from marketing their goods in other Member States effectively reducing trade in goods within the EU by up to 10% — or €150 million in 2000. The benefits far outweigh the likely costs that were outlined in the letter of 9 May 2007; namely, an additional cost of some £1 million to the Local Authority Coordinators of Regulatory Services (LACORS) and a cost of establishing a product contact point of some £1 million with some £400K in annual costs."

8.12 The Minister tells us that the Government has completed the consultations and took the responses into account in framing its negotiating objectives. Only two of those objectives remain to be achieved:

- to ensure that any Member State may remove a product from the market immediately if it poses a threat to the health and safety of third parties as well as the users; and
- to ensure that the Regulation does not affect Member States' prior authorisation schemes (for example, the requirement for precious metals to be hallmarked before they are put on the market).

The Minister says that :

> "The Commission and the Presidency are sympathetic to our outstanding issues and we continue to work closely with them to resolve them."

Conclusion

8.13 **We share the Minister's view about the potential benefits of the proposal. We also welcome the progress that has been made in the negotiation of the draft Regulation. We are content, therefore, to clear the document from scrutiny on the understanding that the UK's two outstanding concerns are settled to the Government's satisfaction before or at the Council meeting on 22–23 November.**

9 A European agenda for culture

(28632) 9496/07 COM(07) 242	Commission Communication on a European agenda for culture in a globalizing world
+ ADD 1	Commission staff working paper: inventory of Community actions in the field of culture

Legal base	—
Department	Culture, Media and Sport
Basis of consideration	Minister's letter of 24 October 2007
Previous Committee Report	HC 41–xxv (2006–07), chapter 3 (13 June 2007)
To be discussed in Council	16 November 2007
Committee's assessment	Politically important
Committee's decision	Cleared

Previous scrutiny

9.1 We previously considered this Communication in June 2007.[29] It has three main sections. They are about:

- what the Community is currently doing through, for example, the Culture, Education, Youth and Cohesion programmes and through the EU's relations with third countries and organisations such as the Council of Europe and UNESCO;
- the objectives of a European agenda for culture; and
- new partnerships and working methods.

9.2 The proposed objectives are to:

- *promote cultural diversity and intercultural dialogue* (through, for example, supporting cross-border mobility of artists and works of art; and by helping people learn foreign languages and improve cultural awareness through lifelong learning);
- *promote culture as a catalyst for creativity and innovation as part of the Lisbon strategy for economic growth and jobs* (through, for example, training people from cultural industries in entrepreneurship, management and finance; and encouraging partnerships between the cultural sector and bodies concerned with research, tourism and information and communication technologies); and
- *promote culture as a vital element of the EU's international relations with third countries and international organisations* (through both support for specific events

29 See headnote.

and the systematic integration of a cultural element into all external and development policies).

9.3 In the Commission's view, the delivery of the proposed cultural agenda will depend on:

- developing the Commission's relations with the cultural sector by, for example, setting up a "Cultural Forum" to consult interested public authorities, charities, foundations and businesses;
- extending the open method of coordination (OMC) to the cultural sector;[30] and
- strengthening the arrangements to ensure that culture is taken into account in all relevant policies within the EC, with third countries and international organisations.

9.4 The Communication invited the Council of Ministers to endorse the objectives and approve arrangements for reporting progress on them.

9.5 In June, the then Minister for Culture at the Department of Culture, Media and Sport (Mr David Lammy) told us that the Government supports the three broad objectives proposed by the Commission. The Government would hold public consultations on the proposals for new partnerships and methods. The responses would be known by September, in time for discussion of the Communication by the Council in November.

9.6 We concluded that the objectives proposed by the Commission are so broad that it is difficult to judge whether they amount to anything new or are, in effect, a re-statement of the principles which under-pin the European Community's existing policies and programmes relevant to culture. We did not doubt that the Commission could play a useful part in assisting exchanges of information between those concerned with cultural activities and could help identify and disseminate good practice. But culture is primarily the responsibility of the Member States. We considered, therefore, that clarification was needed of the proposal for the application of the open method of coordination and that clear limits were needed to ensure proper observance of the principle of subsidiarity. We asked the Minister to tell us the results of his Department's consultations about the Communication.

The Minister's letter of 24 October 2007

9.7 The Minister for Culture, Creative Industries and Tourism at the Department of Culture, Media and Sport (Margaret Hodge) tells us that there were only 19 responses to the consultations. The respondents were broadly content with the Communication.

9.8 She also tells us that the Communication was discussed at an informal meeting of Ministers of Culture on 28 September. The discussion led to the preparation of a draft Council Resolution which:

30 In March 2000, the European Council defined the open method of coordination as a means to help Member States develop their policies. It involves: agreeing non-binding European guidelines and timetables for short-, medium- and long-term goals; establishing quantitative and qualitative performance indicators and benchmarks; translating the European guidelines into national and regional policies; and monitoring and evaluating the results.

- welcomes the Commission's Communication;
- endorses the three strategic objectives;
- agrees with the Commission's proposals about the ways in which the objectives would be achieved; and
- sets the priorities for action between 2008–10.[31]

9.9 Those priorities would be to:

i) improve conditions for the mobility of artists and members of other cultural professions;

ii) promote the cultural heritage through, in particular, digitisation, art education and greater mobility of art collections;

iii) define comparable data and methods of collecting and analysing statistics on cultural matters;

iv) maximise the potential of the cultural and creative industries and of SMEs, in particular; and

v) promote and implement the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

9.10 The Minister draws special attention to Articles 9 and 10 of the draft Resolution which, she believes, succeed in meeting the UK's concern about how the OMC would be applied. Article 9 says expressly that the OMC would provide:

> "a flexible and non-binding framework for structuring cooperation around the strategic objectives of the European Agenda for Culture and fostering exchanges of best practices".

And Article 10 provides that:

> "a) the OMC will be applied with a flexible approach suited to the cultural field, while fully respecting Member States' competences, including those of their regional and local authorities and in accordance with the principle of subsidiarity. Participation of Member States will be voluntary;
>
> b) when implementing the OMC special attention shall be paid to the need to minimise financial and administrative burdens upon the different actors, in accordance with the principle of proportionality, as set out in the EC Treaty;
>
> c) the objectives of the European Agenda for Culture will be implemented through triennial work plans setting a limited number of priority actions, which the Council determines as suitable to the OMC framework, as it is set out in the present Resolution."

31 Council Resolutions are not binding and cannot be enforced through the courts.

9.11 The Council will consider the draft Resolution on 16 November.

Conclusion

9.12 **We are grateful to the Minister for her helpful letter. In the light of what she has now told us and, in particular, of the terms of Articles 9 and 10 of the draft Resolution, we are content to clear the Commission's Communication from scrutiny.**

10 Assistance to candidate and pre-accession countries: the CARDS programme

(28980) 13811/07 —	Court of Auditors' Special Report No 5/2007 on the Commission's management of the CARDS Programme

Legal base	Article 248(4) EC
Deposited in Parliament	15 October 2007
Department	International Development
Basis of consideration	EM of 25 October 2007
Previous Committee Report	None
To be discussed in Council	To be determined
Committee's assessment	Politically important
Committee's decision	Cleared, but further information requested

Background

10.1 The Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme supported Western Balkans countries (Albania, Bosnia and Herzegovina, Croatia, Macedonia, and the then Federal Republic of Yugoslavia) to make progress on post-conflict stabilisation and accession to EU membership, as part of the Stabilisation and Association Process. €5.13 billion (£3.50 billion) has been provided under CARDS between 2000 and 2006.

10.2 CARDS was one of a number of programmes of assistance that, during the previous financial perspective, applied to acceding and candidate countries. The others were:

— the Phare programme, principally involving institution-building measures (with accompanying investment) as well as measures designed to promote economic and social cohesion;

— the ISPA programme dealt with large-scale environment and transport investment support; and

— the SAPARD programme supported agricultural and rural development.[32]

10.3 All these instruments have now been replaced by the new single, focussed Instrument for Pre-accession Assistance (IPA). Existing projects under these former programmes will continue, but all new pre-accession actions will now come under the new IPA, which came into force on 1 January 2007.

10.4 IPA covers the countries with candidate status (currently Croatia, the former Yugoslav Republic of Macedonia, Turkey) and potential candidate status (Albania, Bosnia and Herzegovina, Montenegro, Serbia including Kosovo according to UNSCR 1244). It has five components: transition assistance and institution building measures (with accompanying investment); cross-border cooperation; regional development; human resources development; and rural development. The latter three are for candidate countries and are designed to mirror structural funds, thus necessitating the relevant management structures to be in place. Potential candidates can benefit from similar measures implemented through the component for transition assistance and institution building.

10.5 IPA component I entails national and multi-beneficiary projects, and comes under the responsibility of the Directorate-General for Enlargement, which is also jointly responsible for component II — cross-border cooperation — with DG Regions. DG Enlargement is responsible for overall co-ordination.[33]

10.6 The IPA budget is €10.2 billion over the 2007–13 financial perspective, with €1.19 billion forecast for 2007.

The Court of Auditors Report

10.7 The Court of Auditors report reviews the Commission's management of CARDS, including a review of strategy and planning documents, guidelines and reports, as well as the examination of a sample of CARDS projects over the period 2002–2005.

10.8 The Court concludes that the assistance was largely successful in contributing to stabilisation and reconstruction, but was less effective in improving administrative capacities, due to initially low concentration on institution building and insufficient recipient capability to absorb the assistance provided.

10.9 The report makes four recommendations to improve future assistance:

— improve strategic guidance for the new Instrument for Pre-Accession assistance (IPA);

— ensure that implementation speed takes full account of beneficiaries' absorption capacities;

— establish an effective strategy for ensuring recipient country ownership; and

— extend best practice in monitoring and evaluation.

32 Turkey has in the past received pre-accession assistance via similar but different instruments, budget lines and procedures.

33 For full details, see http://ec.europa.eu/enlargement/financial_assistance/index_en.htm.

10.10 The Report also includes the Commission's response to the Court of Auditors. On the specific recommendations, the Commission says.

— *Improve strategic guidance*: Under the IPA, strategic guidance is given by country-specific multi-annual indicative planning documents, which include a consolidated assessment of the priorities for assistance, which should allow the IPA to be used to take a much more strategic approach;

— *Recipient country ownership and capacity*: Recipient country ownership and capacity has increased significantly between 2000 and 2006. The IPA regulation provides for progressive decentralisation in accordance with the capacity of beneficiary countries. The IPA will place significant emphasis on ownership by beneficiary countries. For example, national programmes will be adopted by the Commission on the basis of project proposals submitted by the beneficiary countries;

— *Monitoring and evaluation:* The Commission has provided a Guide on Self Evaluation for Delegations, including guidance on lesson learning and result dissemination. A system will also be put in place for a systematic follow-up of evaluation recommendations.

The Government's view

10.11 In his 25 October 2007 Explanatory Memorandum, the Parliamentary Under-Secretary of State at the Department for International Development (Mr Gareth Thomas) says that he "strongly supports the Stabilisation and Association process, and recognises the important role that the European Commission's financial and political involvement in the region has played in stabilising the region". He also strongly supports the Western Balkans' European perspective and the efforts that they are making to prepare for EU membership: "There remains much work to be done to prepare these countries for accession, and CARDS and IPA assistance has a vital role to play in supporting their reform efforts".

10.12 He also welcomes the Court of Auditors' report, "which makes a valuable contribution to improving the management of these substantial programmes of assistance. In particular, we welcome the strong emphasis on supporting recipient country ownership and building their capacity to make good use of the assistance".

10.13 Turning to the improvements that the Commission has made in response to the issues raised by the Court, the Minister says that while IPA programming is still at an early stage, he will work with the Commission and the IPA Management Committee; and makes the following comments on specific recommendations:

- *"Improve strategic guidance*: The design of the Annual Programmes and Multi-Annual Indicative Planning Documents has been improved under the IPA, notably placing more emphasis on links to the EU's overall strategy for the country, lessons learned from previous assistance and complementarity to the assistance of other donors. The Commission has also set up a Quality Support Group to improve the effectiveness of IPA programming and promote lesson-learning. A key role of this group is to assess the extent to which the strategic

choices for assistance are underpinned by an assessment of needs and priorities, including sectoral strategies and the European/Accession Partnerships and Multi-Annual Indicative Planning Documents.

- *"Implementation speed and absorption capacity:* We share the European Commission's assessment that absorption capacity is growing. The IPA Regulation sets out detailed procedures for decentralisation of management. While capacity in recipient countries varies, they are all making progress towards decentralised management. The UK has also provided targeted bilateral assistance to build the capacity of some governments in the region to manage EU and other assistance, for example supporting the creation of a Donor Assistance Coordination Unit in the Serbian government. The Quality Support Group assesses projects' readiness for implementation, level of ambition, and the appropriateness of the chosen assistance method.

- *"Recipient country ownership:* We welcome the Commission's commitment to national ownership, and the steps that have been taken, for example through increasing the involvement of beneficiary countries in preparing the IPA Annual Programmes for 2007. However, the UK continues to press the Commission to do more to promote effective national ownership and increase absorption capacity.

- *"Monitoring and evaluation:* We also welcome the strengthened references to monitoring and evaluation in the Commission Regulation — at the IPA Management Committee the UK strongly supported the need for these changes. The Quality Support Group will scrutinise the level of detail in … proposed projects, ensure that objectives are defined in terms of expected results and that plans for monitoring and evaluation are in place. However, we do have some concerns about the level of detail in project plans, and are working with the European Commission to ensure that project documentation provides sufficient detail to allow effective monitoring and evaluation."

10.14 Finally, he says that he expects the Court of Auditors' report to be adopted at a Council in the autumn.

Conclusion

10.15 **So far, the Commission has given the appropriate responses. But the proof of the pudding will, as ever, be in the eating — effective monitoring and evaluation, and making appropriate and timely changes where necessary — especially given that the sums involved in the new Instrument for Pre-Accession assistance are double those in the CARDS programme.**

10.16 **The Minister draws attention to the creation of a Quality Support Group in the Commission, which is tasked with the issues highlighted by the Court of Auditors: improving the effectiveness of IPA programming and promoting lesson-learning; assessing the extent to which the strategic choices for assistance are underpinned by an assessment of needs and priorities; assessing projects' readiness for implementation, level of ambition, and the appropriateness of the chosen assistance method;**

scrutinising the level of detail in proposed projects; and ensuring that objectives are defined in terms of expected results and that plans for monitoring and evaluation are in place.

10.17 **So far, so good. But he also notes his concern as to whether the Commission is doing sufficient to promote effective national ownership and increase absorption capacity, and whether the level of detail in the Commission project plans and documentation provides sufficient detail to allow effective monitoring and evaluation.**

10.18 **We have no questions to raise on the report itself, which we now clear.**

10.19 **But we do not want to wait another seven years for a similar report on the IPA. We should accordingly be grateful if the Minister would let us know how the IPA's effectiveness, and the Commission's central role in it, will be evaluated during the next seven years, and how these evaluations will be scrutinised by the House.**

11 European Development Fund in 2007 and 2008 and forecasts of commitments and payments for 2009-12

(28985) 13846/07 COM(07) 599	Commission Communication: *Estimate of commitments and payments and of contributions to be paid by the Member States for 2007 and 2008 and forecast of commitments and payments for 2009 to 2012*

Legal base	Article 8 of the Financial Regulation of 27 March 2003 on the 9th European Development Fund
Document originated	5 October 2007
Deposited in Parliament	16 October 2007
Department	International Development
Basis of consideration	EM of 29 October 2007
Previous Committee Report	None
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	Cleared

Background

11.1 The 2003 Cotonou Agreement (successor to the Lomé Agreement) is the latest development assistance agreement between the EC and the ACP (African, Caribbean and Pacific) countries. It seeks to create a more favourable context for sustainable development and poverty reduction, and to reverse the processes of social, economic and technological marginalisation in the ACP States. Political dialogue between the Community and each of the partner States (or regions) plays a key role in determining the nature and objectives of

the assistance provided, and is based on respect for human rights, democratic principles and the rule of law, and on good governance. There are special consultation procedures and appropriate sanctions for dealing with human rights violations and serious corruption. It seeks to encourage greater participation by civil society, the private sector and trade unions, with a view to advancing democratic processes and transparency and ensuring that cooperation projects prove more effective than in the past. Revisions agreed in 2005 strengthened the political dimension (by adding commitments regarding Weapons of Mass Destruction, counter-terrorism and cooperation with the International Criminal Court), introduced greater focus on the so-called "poverty diseases" and the UN Millennium Development Goals, and improved implementation procedures.

The Commission Communication

11.2 This Communication is produced annually under Article 8 of the Financial Regulation applicable to the 9th EDF.[34] It provides financial information to Member States regarding commitments and payments in the current year, justification for the extent of calls for contributions for the next EC financial year (2008), and estimates of the total annual expenditure in each of the following four years (2009–2012). The UK's share of the current EDF is 12.69%.

11.3 The Commission notes that, since the entry into force of the 9th EDF in 2003, the Member States have made direct contributions to the European Investment Bank (EIB) for the instruments it manages (the Investment Facility and interest-rate subsidies), while contributions for the old instruments managed by the EIB (risk capital and interest-rate subsidies) still go through the Commission. The Communication "therefore draws a clear distinction between EIB payments under the 9th EDF and Commission payments (including payments under old instruments managed by the EIB)".

11.4 In line with the joint statement made by the Council and Commission when the 9th EDF Financial Regulation was adopted, the Communication consists mainly of tables "accompanied by a few explanations to help interpretation". These include:

— A graph that "clearly illustrates the upward structural trend in payments since 2000";

— Commitments estimated for 2007 and 2008;

— Payments estimated for 2007 and 2008;

— Financial Situation estimated for 2007 and 2008;

— 2007 EDF Contributions by Member States;

— 2008 EDF Contributions by Member States.

34 OJ No. L 83, 1.4.03, p1.

Commitments and Payments estimated for 2007 and 2008

11.5 The Commission says that it and the EIB have updated their forecasts of commitments and payments for 2007 and 2008 for each of the ACP countries (and Overseas Colonies and Territories), the payment forecasts in particular having been compiled "with great care with the aim of helping the Member States to earmark amounts that are as accurate as possible in their national budgets while ensuring that sufficient financial resources are available for the EDF to avoid liquidity problems". Annexes 1 and 2 show the new estimates for commitments and payments for 2007 and 2008 by region and for the Peace Facility and Water Facility and for the Highly Indebted Poor Countries initiative (HIPC).

11.6 The Commission says that the volume of commitments for 2007 (€3,450 million) reflects the Commission's pledge to use up all the funds made available by the 9th EDF (including the balances remaining from previous EDFs). For 2008, the Commission notes that "it is very difficult for the Commission and the EIB to fix an amount, since the volume of commitments will depend on when the 10th EDF enters into force. For this reason, the Commission and the EIB have not included an amount in this document."

11.7 The Commission notes that the figures for payments in 2007 are "slightly lower than estimated", which is "primarily attributable to the situation in the Democratic Republic of the Congo, which has delayed the payment of the second tranche of €100 million for the Highly Indebted Poor Countries initiative (HIPC), and the carrying-over of certain less urgent expenditure in order to reduce the third tranche of 2007 contributions as much as possible". As with commitments, the Commission and the EIB have yet to include figures for the 10th EDF for 2008.

Calls for contributions in 2007 and 2008

11.8 Annex 3 gives an overview of the financial situation for 2006 and 2007 and Annex 4 and 5 show the annual contributions payable into the EDF by the Member States in 2007 and 2008. The total sum anticipated to be required from Member States for 2008 is €3,225 million (£2,247 million) of which the UK will contribute €410 million (£285 million). This is an increase from €3,000 million for 2007 (UK contribution of €381 million or £265 million).

11.9 In 2008 the EC expects to make payments of €3,400 million (£2,369 million). In his 29 October 2007 Explanatory Memorandum, the Parliamentary Under-Secretary at the Department for International Development (Mr Gareth Thomas) notes that this is above €3 billion for the third year running, "continuing improved EDF performance and effectiveness". He notes that this figure does not include provisions for the 10th EDF as it has not yet been ratified.

The Future (2009–2012)

11.10 The Commission's forecasts for the following four years are set out in the table below:

	Forecast EDF commitments and payments 2009–2012 (€million)*			
	2009	**2010**	**2011**	**2012**
Commitments				
Commission	3750	3750	3750	3750
EIB	500	530	600	650
Total	**4250**	**4280**	**4350**	**4400**
Payments				
Commission	3075	3325	3450	3500
EIB	430	470	500	510
Total	**3505**	**3795**	**3950**	**4010**

* including the 10th EDF

11.11 The UK's share of EDF10 is 14.82%.

The Government's view

11.12 The Minister notes that the Communication contains no new financial implications, these being sums to which the UK is already committed under the ACP-EC Partnership Agreement.

11.13 He also notes the continued upward trend in the level of real and expected expenditure, against a background in which the UK and other Member States have in the past criticised the slow disbursement of funds from the EDF and the main EC Budget. He continues as follows:

> "Improved levels of disbursements are a direct result of the reforms begun by the Commission in 2000. Deconcentration of programme implementation to the field has played an important role in achieving this. It has also helped improve the accuracy of Commission forecasts and so assist budget management by Member States' treasuries. We will continue to press the EIB to improve its forecasting and timely implementation of projects."

11.14 Regarding the Commission and EIB undertaking to commit all the funds available from EDF9 by the end of 2007, the Minister says that they then have to be spent by the end of 2010; any unspent funds would be subject to a future Council Decision, and therefore to parliamentary scrutiny at that time. He notes that the Commission has recently issued a draft proposal to alter the commitment deadline for EDF9 (from end of 2007) for specific activities, which will also be subject to parliamentary scrutiny, and regarding which he will provide an Explanatory Memorandum shortly.

11.15 On the *Timetable*, he says that the Presidency will submit the Communication to the Council before the end of the year.

Conclusion

11.16 **It is gratifying to note the continued benefits of the reforms begun in 2000 though, as the Minister rightly notes, there always remains room for improvement.**

11.17 **We look forward to scrutinising the immediate proposal to which the Minister refers, and those relating to any unspent funds in due course.**

11.18 **In the meantime, we clear this document.**

12 Future vehicle design

(28959) 13922/07 COM(07) 541	Commission Communication: *Towards Europe-wide safer, cleaner and efficient mobility: the first Intelligent Car report*

Legal base	—
Document originated	17 September 2007
Deposited in Parliament	5 October 2007
Department	Transport
Basis of consideration	EM of 18 October 2007
Previous Committee Report	None
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Cleared, but further information awaited

Background

12.1 The Commission launched the i2010 Strategy in June 2005. It is its strategic framework laying out broad policy guidelines for the information society and the media — "a new, integrated policy is to encourage knowledge and innovation with a view to boosting growth and creating more better-quality jobs". It forms part of the revised Lisbon Strategy.[35] In the Mid-Term Review of its 2001 Transport Policy White Paper the Commission committed itself to a "launch of a major programme to bring intelligent road transport systems to market and to prepare infrastructure for cooperative systems" in 2008.[36] The Intelligent Car Initiative was launched in 2006 as part of the i2010 Strategy.[37] The Initiative's objective is to accelerate the development and implementation of

35 (28521) 8108/07: see HC 41–xxii (2006–07), chapter 13 (16 May 2007).

36 (27648) 10954/06 + ADD1: see HC 34–xxxvi (2005–06), chapter 1 (19 July 2006) and *Stg Co Debs*, European Standing Committee, 30 October 2006, cols. 3–20.

37 (27313) 6550/06: see HC 34–xxiii (2005–06), chapter 18 (29 March 2006).

information and communications technology (ICT) based intelligent transport systems (ITS) in Europe.

The document

12.2 In this Communication the Commission summarises progress, and the rationale for Community action to ensure further development, in what it sees as three key areas: safer vehicles, cleaner vehicles and smarter vehicles. The Commission notes that it has identified ITS, which use ICT, as a key contributor to developing safer, cleaner and smarter vehicles. It suggests that ITS deployment has previously been too limited and says that it aims to publish, in the summer of 2008, a roadmap for such deployment, integrating intelligent infrastructure and intelligent vehicles. This will draw on a consultation with interested parties, planned to start in the autumn of this year. The Communication reports on progress, proposes new measures and seeks further support from Member States and industry for prompt implementation.

Safer vehicles

12.3 The Commission discusses a number of projects concerning safer vehicles. First is a pan-European emergency call system, "eCall", developed as part of the Intelligent Car Initiative, which manually or automatically generates a call from a vehicle in the event of an accident, establishing a voice link to the nearest emergency service and transmitting data giving vehicle details and location.[38] This potentially reduces the emergency services' response time and can save lives. The Commission says eCall has the potential to save up to 2,500 lives annually across the Community and:

- calls for national governments to act to enable a full-scale roll-out of pan-European eCall by 2010;
- notes that nine [now twelve] Member States have signed the eCall Memorandum of Understanding (MoU)[39] and calls on the remaining Member States to take immediate steps to do so by the end of 2007. The MoU is not legally binding, but it is identified in the Communication as "a clear commitment and support to the timely implementation of eCall". The UK has not signed the eCall MoU;
- calls on Member States to carry out pilot tests of eCall during 2007–2008 and to upgrade emergency service infrastructures to handle eCalls by 2010;
- notes the requirement for eCall standardisation and recognises that progress in European Telecommunications Standards Institute (ETSI) to achieve this has been very slow. The Commission therefore sees a need to push forward eCall activity to achieve its planned implementation date of 2010;

38 (26852) 12383/05 and (28122) 15932/06: see HC 34–ix (2005–06), chapter 6 (9 November 2005) and HC 41–ix (2006–07), chapter 3 (7 February 2007).

39 The European Memorandum of Understanding for Realisation of Interoperable In-Vehicle eCall MoU "is to secure the realisation of" eCall. It is not legally binding "rather, it is an expression of the individual and collective commitment of the signatories to work in partnership in order to realise a shared objective to the benefit of everyone". It "creates a framework for the introduction of in-vehicle emergency call at all levels in the emergency call chain". See http://europa.eu.int/information_society/activities/esafety/doc/esafety_library/mou/invehicle_ecall_mou.pdf .

- calls for the European standardisation organisations to complete the standards required by mid-2008 and for Member States and industry to work together to achieve these standards. The Commission will begin negotiations with European, Japanese and Korean car manufacturers on the voluntary inclusion of eCall as standard in all new vehicles from 2010; and
- notes that new regulatory actions on the implementation of eCall may be considered in 2008, depending on progress.

12.4 Secondly, the Commission considers Electronic Stability Control (ESC), a vehicle safety technology which can help to prevent crashes by reducing the danger of skidding. According to Euro NCAP[40] ESC could save 4,000 lives each year on the Community's roads. The Commission notes that the availability of this technology is still low and varies greatly from market to market. It is therefore looking to take steps to improve this availability through launching a consultation in 2007. This will include examining the option of making ESC mandatory equipment.

12.5 The Commission then considers Advanced Driver Assistance Systems (ADAS), which help the driver to avoid accidents. It says a number of studies have shown the potential for these systems to have significant safety benefits. The European Code of Practice for the development and testing of ADAS was published in 2007 to assist manufacturers in the development of these systems and address their concerns about legal liability. Demonstrations of the performance of ADAS systems have so far been carried out on a limited scale.

12.6 Results from the eSafety Forum[41] indicate that, without action to encourage the take-up of ADAS, the penetration rates will be low compared to their potential to reduce accidents and casualties. This is due partly to the manufacturers' concerns over the legal liability for systems that have the potential to take over control of the vehicle. The Commission also identifies a lack of consumer demand despite the potential benefits of ADAS. It is therefore looking to support the adoption of ADAS in vehicles. The Commission suggests that Field Operational Tests offer the opportunity to study driver behaviour and the functional performance of these systems in the real environment over a period of time that should give statistically useful data.

12.7 More generally, on safer vehicles the Commission says it will produce a set of guidelines on incentives for intelligent vehicle systems by mid-2008, including exploring the possibility for Member States to introduce associated tax schemes, and Field Operational Tests of ADAS will begin by mid-2008. The Commission will set up further campaigns to promote awareness of intelligent car systems.

40 European New Car Assessment Programme — "Euro NCAP's aim is to provide motoring consumers — both drivers and the automotive industry — with a realistic and independent assessment of the safety performance of some of the most popular cars sold in Europe." — see http://www.euroncap.com/home.aspx .

41 http://www.esafetysupport.org/en/esafety_activities/esafety_forum

Cleaner Vehicles

12.8 The Commission notes that, although emissions have declined in the last few years, cars still produce a large amount of greenhouse gases and transport is a major energy consumer. In February 2007 the Commission published a Communication[42] outlining its plans for car fuel efficiencies so as to achieve average carbon dioxide emissions from new cars equivalent to 120g/km by 2012. It has proposed legislation to require the average new car fleet to reduce to 130g/km, which would be made up of improvements to the main part of the car, with another 10g/km equivalent saving being made from other means — "complementary measures".[43] Amongst such means the Commission identifies low resistance tyres, tyre pressure monitoring and gear shift indicators.

12.9 The Commission wishes to maximise any benefit that the use of ICT can bring. The new eSafety Forum working group on "ICT for clean and efficient mobility" will work with the Commission to identify the potential benefits of the use of ICT systems to improve transport efficiencies and consequently to reduce carbon dioxide emissions. This work will help the Commission to suggest the best way to implement ICT based low- carbon dioxide technologies for vehicles and the transport infrastructure.

Smarter Vehicles

12.10 The Commission notes that in recent years there has been a significant increase in the number of navigation devices and other information systems installed or used in vehicles. The market in personal navigation devices has grown from 3.8 million devices in 2005 to over 9 million in 2006. The Commission recognises the potential positive benefits these devices can provide. However there are concerns over the safe use and safe fitting of devices in the vehicle and how they interface with other in-vehicle systems. In December 2006 the Commission adopted an updated European Statement of Principles on in-vehicle information and communication systems, which provides guidelines for the design and installation of these devices with respect to improving the "human-machine interaction (HMI)".[44]

12.11 The Commission is committed to monitoring the implementation of these principles between 2006 and 2008 and will work closely with stakeholders to improve the safety performance of these devices. It will also work with the relevant stakeholders to address existing safety concerns. The results of these activities will be used to inform future actions as part of the 2008 ITS deployment roadmap.

12.12 The Commission says cooperative systems, based on the concept of vehicle-to-vehicle and vehicle-to-infrastructure communication, have the potential to bring about significant road safety and network efficiency benefits. Cooperative systems require further research and development and the Commission is keen to support this. The Commission's objective is to develop an interoperable systems architecture, a common communications architecture and an adequate radio spectrum.

42 (28368) 5746/07 + ADDS 1–2: see HC 41–xviii (2006–07), chapter 13 (25 April 2007).

43 (28366) 6204/07: see HC 41–xvi (2006–07), chapter 10 (28 March 2007).

44 See Commission Recommendation 2007/78/EC, OJ No. L 32, 6.2.07, p.200.

12.13 The Commission is supporting further research and development into cooperative systems and calls on interested parties to work towards an open, standardised system. It will also continue to work with the Radio Spectrum Committee to solve any issues around the allocation of a spectrum for co-operative systems in the frequency range 5.9 GHz.

The Government's view

12.14 The Minister of State, Department for Transport (Ms Rosie Winterton) comments first on the Safer Vehicles section of the Communication, saying that it is one of the Government's objectives to improve road safety and it supports in principle any action that would bring real benefit in this area. She adds, however, that each initiative needs to be considered on its merits and the relative costs and benefits measured. Commenting then on the specific suggestions in this section the Minister turns first to the Commission's proposals for action on eCall.

"Member States should sign the MoU by the end of 2007"

12.15 The Minister says that, whilst the MoU is not legally binding, signing it is increasingly being seen by the Commission as a commitment to implement eCall. Deployment of eCall would have an impact on industry stakeholders (car manufacturers and mobile network operators) as well as Government. Following consultation with stakeholders, the Government feels that a number of issues need further consideration:

- Community research had concluded there would be a strong benefit-cost ratio for implementing eCall across Europe, but it was not clear whether this business case would transfer to the UK;

- the Department for Transport commissioned research to examine the impact of eCall in the UK, including predicted costs and benefits. The findings of this study highlighted a number of issues for UK businesses that need careful consideration. The costs and benefits for the UK are being examined and will be a key element on reaching a decision on whether to sign the MoU. In the meantime, the government's position is not to sign the MoU; and

- uncertainty also remains around eCall functionality and the technical specification — this has prevented the completion of a full impact analysis.

"Member States should carry out pilot tests of eCall during 2007–2008 and upgrade emergency rescue infrastructures to handle eCalls by 2010"

12.16 The Minister comments that a decision on signing the MoU will have a bearing on whether pilot tests will be an appropriate step. In any case, discussion with the Commission will be necessary to resolve uncertainties surrounding the eCall functionality and specification, if any pilot tests are to be effective. The suggested timings appear ambitious. She continues that the Government has already implemented the requirements to support the European emergency number (112) and, in the case of mobile calls, the mobile network operators provide the required location information. The impact of eCall on the emergency services requires further examination, which would be addressed in any

implementation plan. The Government is also seeking clarification on suggested call handling protocols.

"New regulatory actions on the implementation of eCall may be envisaged in 2008"

12.17 The Minister says the Government does not support Community-level regulation on this issue because of the different levels of emergency service cover across Member States and the lack of a full impact assessment to recommend this. It is for national governments to decide on solutions for their citizens, although it remains important for any system to be interoperable across Europe — any specific proposals will be examined in detail and will form part of further discussion with the Commission. She adds that the Government supports the work of the European standardisation organisations ETSI and CEN (European Committee for Standardisation) to complete the standards required for pan-European eCall, although the target date of mid-2008 is ambitious — it is important that this work takes into consideration the needs of all Member States and key stakeholders.

12.18 Turning then to ESC the Minister tells us that a study by the Department for Transport concluded that, if ESC had been fitted to all passenger cars, about 380 fatal accidents could have been prevented in 2005. This equates to a 25% reduction in the risk of being involved in such an accident. The benefit of ESC is even greater in adverse road conditions such as rain and snow. She says, therefore, that the Government welcomes the Commission's commitment to increase the availability of ESC on a wide range of vehicles. To this end the Government has supported the work of the eSafetyAware! platform and, in particular, the ChooseESC! Campaign[45] launched earlier this year. It considers that improving consumer awareness of ESC is an important way of encouraging wider uptake of the technology. In the short term, the Department for Transport is planning to place advice about ESC on the Direct Gov website.

12.19 The Minister concludes that in the long term the Government believes that ESC should be required on all vehicles, as it is only by doing this that ESC will fully penetrate the vehicle fleet and be fitted on the full range of vehicles, rather than solely on more expensive models. Introducing a mandatory requirement should be possible by the end of 2008, once technical requirements for the assessment and approval of ESC have been agreed in the United Nations Economic Commission for Europe.

12.20 On ADAS the Minister says that the Government supported the development of the European Code of Practice for the development and testing of ADAS and the Department for Transport is setting up a workshop with manufacturers to explore its implementation. In principle the Government has offered its support to the Field Operational Tests planned for 2008 and is currently in discussions with UK organisations proposing to carry out this work, to ensure that any tests meet its needs.

45 "eSafetyAware! seeks to accelerate the market introduction of … life-saving technologies by organising information campaigns and dedicated events aimed at creating awareness of eSafety benefits among policy-makers and end-users." See http://www.esafetyaware.eu/en/about_esafetyaware/about_esafetyaware.htm and http://www.chooseesc.eu/ .

12.21 Finally on this section the Minister tells us that the Government does not support financial incentives for Intelligent Vehicle Systems and any guidelines the Commission produces will need to be examined with care. The Government will need to consider the potential impact on the UK of any incentive schemes that may be recommended by the Commission in 2008.

12.22 On the section of the Communication dealing with Cleaner Vehicles the Minister says the Government supports in principle the Commission's intention to legislate on car fuel effectiveness. The Government is carrying out analysis on likely impacts according to different possible structures of implementation — so it is too early to speculate accurately on costs and other impacts. An aspect that the Government wishes to see ensured is that the eventual proposals should take into account the current diversity of the car market (and manufacturing industry) in the Community. She comments further:

- how manufacturers reach their contribution to the 130g/km carbon dioxide target would be their decision — it is not possible to say what contribution intelligent systems would make;
- however, the Commission is likely to be more prescriptive over "complementary measures";
- the Government thinks it essential that the Commission clarifies whether the list proposed will be an exhaustive one, and how it proposes to allocate emissions savings to each measure;
- vehicle manufacturers have in the past argued for the list to be kept "open" — so long as emissions savings from novel measures could be documented — and it is likely that the additional measures would have included some that involved intelligent systems;
- a factor affecting the ability of vehicle manufacturers to achieve lower-emitting vehicles is the inclusion of safety features in cars. Manufacturers claim that their progress towards reducing g/km emissions has been constrained by a simultaneously ongoing legislative or normative push for improved car safety — many of the features being required or expected, for example airbags, adding to the weight, and therefore fuel consumption, of the vehicle; and
- the safety features most recently proposed may not be of this nature, but achieving concurrence between "safer" and "efficient" is not straightforward.

12.23 In relation to the Communication's section on Smarter Vehicles the Minister says the Government was closely involved in the development of the European Statement of Principles and therefore welcomes any moves to encourage their implementation. She continues that the Department for Transport is reviewing its existing licensing scheme for navigation systems that have a dynamic element, that is those that can receive information on the current traffic situation and plan an alternative route for the driver in real time — to ensure there is no conflict in the future the results of this review should be used to influence any ITS deployment roadmap developed by the Commission.

12.24 Turning to cooperative systems the Minister says the Government recognises their potential benefit for road safety and supports the Commission's work in enabling further research and development and in achieving common standards in this area. The Government continues to explore the legal, administrative, technical, institutional, implementation and public acceptance issues so that a balanced view is reached. It also supports the Commission's discussions with the Radio Spectrum Committee to agree a suitable frequency band for cooperative systems. However it considers it important for any cooperative system not to infringe neighbouring bands, such as 5.8GHz which is used for European tolling. The use of frequencies close to this range will need to be carefully monitored.

12.25 The Minister says the Communication has financial implications for the UK:

- the eCall MoU raises the possibility of fiscal incentives and the document suggests the Commission will produce guidelines on incentives for intelligent vehicle systems aimed at examining the possibility of tax incentives;

- any eventual implementation of eCall will bring associated costs, most notably for the in-vehicle equipment, which is likely to fall to consumers; and

- there would also be costs to the mobile network operators, and to the Public Service Answering Points.

She says these implications are under review as part of the consideration of whether the Government should sign the MoU and will be the subject of updated information to us in the near future. But, as the precise technical solution for eCall has not yet been finalised, a full Regulatory Impact Assessment is not possible at this time.

12.26 Finally, the Minister tells us about the Government's consultations. She reminds us, as mentioned earlier that eCall is already a subject of discussion between a wide range of interested stakeholders. Interested parties have raised a number of concerns which have informed consideration of whether to sign the MoU. These concerns will need to be addressed and further discussions held if the Government decides to sign the MoU. The Minister says also that the Government undertook a mini-consultation last year on future options to address car carbon dioxide emissions. It also meets stakeholders, formally and informally, and generally solicits input on the possible shape of future Community legislation on this subject. The Government intends to consult formally next year on the Commission's legislative proposals, once published.

Conclusion

12.27 **This Commission Communication usefully draws together the latest information on the Intelligent Car Initiative. It does not of itself raise any immediate issues and we clear the document.**

12.28 **However we remind the Minister that:**

- **we will expect to see in the usual way any legislative or financial proposals which may emerge in the future; and**

- **whilst we accept that it is not possible yet to prepare a full Regulatory Impact Assessment on eCall, we still await the partial one her predecessor promised us in December 2006.**[46]

13 Vehicle type approval

(28996) 13927/07 + ADDs 1–2 COM(07) 593	Draft Regulation on type approval of hydrogen powered motor vehicles and amending Directive 2007/46/EC

Legal base	Article 95 EC; co-decision; QMV
Document originated	10 October 2007
Deposited in Parliament	17 October 2007
Department	Transport
Basis of consideration	EM of 31 October 2007
Previous Committee Report	None
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Cleared

Background

13.1 New motor vehicles are subject to construction standards harmonised across the Community under a system of type approval. Type approval requires vehicles and vehicle components or systems to be tested against standards by a government or third party test laboratory before going on sale. The safety of petrol and diesel fuel systems fitted to new vehicles has been regulated for many years and in recent years safety standards have been adopted as well for alternative fuels, such as liquefied petroleum gas and compressed natural gas.

13.2 There is increasing interest the use of hydrogen as a fuel, whether by burning it in an internal combustion engine or by using it in a fuel cell. Hydrogen is one of a number of fuels with the potential to reduce greenhouse gas emissions.

The document

13.3 This draft Regulation would introduce rules for new motor vehicles which use hydrogen as a fuel. It would set clear requirements for manufacturers throughout the Community and ensure Member States do not set different requirements, so as to avoid

46 See footnote 38.

risking fragmentation of the market and delaying the uptake of hydrogen vehicles. The draft Regulation sets out the proposal's scope and timing, the various components, such as valves, tanks and pipes, of a hydrogen fuel system which must be tested and the kinds of tests required. The full specifications of tests are to be established in a Commission Regulation[47] to be adopted under comitology procedures.[48]

The Government's view

13.4 The Parliamentary Under-Secretary of State, Department for Transport (Jim Fitzpatrick) says the Government welcomes the proposal as it would:

- assist early development and testing of hydrogen fuel technology, which has the potential to contribute to Government targets for reductions in greenhouse gases;
- assure the safety of hydrogen vehicles, in order to help meet Government casualty reduction targets; and
- by introducing common standards, bring some certainty, which would be welcomed by the industry.

13.5 The Minister adds that:

- the department has been contacted by a few companies planning to produce prototype hydrogen vehicles to request information on safety standards; and
- mass production of hydrogen vehicles is thought to be up to 20 years away.

Conclusion

13.6 **This draft Regulation deals with a potentially important development and so we draw it to the attention of the House. However, the proposal seems otherwise unexceptionable and we clear the document.**

47 The proposal is following the "split level approach" which is aimed at reducing the complexity of co-decision legislation on technical subjects such as vehicle type approval by providing for fundamental framework provisions and for subordinate Commission legislation on details in the co-decided legislation.

48 Comitology is the system of committees which oversees the exercise by the Commission of legislative powers delegated to it by the Council and the European Parliament. Comitology committees are made up of representatives of the Member States and chaired by the Commission. There are three types of procedure (advisory, management and regulatory), an important difference between which is the degree of involvement and power of Member States' representatives. Regulatory with Scrutiny, introduced in July 2006, gives a scrutiny role to the European Parliament in most applications of comitology.

14 Improving the acquisition and preservation of supplementary pension rights

(28993) 13857/1/07 COM(07) 603	Amended Draft Directive on minimum requirements for enhancing worker mobility by improving the acquisition and preservation of supplementary pension rights

Legal base	Articles 42 and 94 EC; co-decision; unanimity
Document originated	12 October 2007
Deposited in Parliament	17 October 2007
Department	Work and Pensions
Basis of consideration	EM of 30 October 2007
Previous Committee Report	None; but see (26962) 13686/05: HC 34–xii (2005–06), chapter 5 (30 November 2005); and HC 41–xxi (2006–07), chapter 14 (9 May 2007)
To be discussed in Council	5–6 December 2007
Committee's assessment	Politically important
Committee's decision	Cleared

Legal background

14.1 Article 39 of the Treaty establishing the European Community (the EC Treaty) declares that "freedom of movement for workers shall be secured within the Community". Article 42 requires the Council to adopt such social security measures as are necessary to provide freedom of movement.

14.2 Article 94 of the EC Treaty authorises the Council to adopt Directives for the approximation of the laws, regulations and administrative procedures of the Member States which affect the establishment or functioning of the common market.

The present position

14.3 Since 1971 there has been extensive Community legislation on the protection of the statutory rights to social security of workers who move between Member States.[49] But EC legislation on supplementary pension schemes is confined to a Directive which requires Member States to ensure that the treatment of the supplementary pension rights of a worker who moves to another Member State is not less favourable than the treatment they would have received if the worker had moved within the Member State where the pension rights were accrued.[50]

14.4 At present, people may be deterred from moving from one employment to another if, for example, there is a waiting period before they can join the company's occupational

49 Council Regulation (EEC) No. 1408/71, OJ No. L 149, 5.7.71, p.1.

50 Council Directive 98/49/EC, OJ No. L 209, 25.7.98, p.46.

pension scheme or they have to be a member of the scheme (and make contributions to it) for several years before their pension entitlements are triggered. In the Commission's view, such requirements are contrary to the provisions of the EC Treaty on free movement of workers and they impede the achievement of the Lisbon goals for 2010.

The Commission's original proposal

14.5 Accordingly, in 2005 the Commission proposed the first draft of a Directive[51] to facilitate the exercise of the right of workers to freedom of movement within the European Community by requiring Member States to ensure that:

- there are common minimum standards for the acquisition of supplementary pension rights (*acquisition*);
- pension rights left in pension schemes after the employee has left are not penalised compared to the rights of active members (*preservation of dormant rights*); and
- workers have access to the information they need in order to make an informed choice about the effect that a move would have on their pension rights (*information*).

Employers would not be required to provide supplementary pension schemes; but if they choose to do so, their schemes would have had to be compatible with the requirements of the Directive.

14.6 When we considered the first draft of the Directive in November 2005,[52] the Government told us that the proposal was largely in line with existing UK legislation. It was possible, therefore, that no significant changes would be needed to UK supplementary pension schemes. In that event, it was unlikely that there would be any significant new costs or benefits. But if the Directive were to require changes to the UK schemes, there could be additional costs and benefits. The negotiations on the proposal were at such an early stage that it was not possible to know what the impact would be.

14.7 We could see no objection, in principle, to the draft Directive. It seemed likely that the negotiations would be long and detailed, leading to the preparation of revised texts. So we asked the Government to send us progress reports and decided to keep the document under scrutiny meanwhile.

The Presidency's revised draft

14.8 In May 2007, the Parliamentary Under-Secretary of State at the Department for Work and Pensions (Mr James Plaskitt) sent us the German Presidency's revised draft of the Directive and a commentary on it. The revised draft contained a large number of amendments. Most of them clarified or elaborated on the provisions of the Commission's original proposal. But some were substantial; for example, the Article in the original draft about the transferability of accrued rights had been omitted.

51 (26962) 13686/05.

52 See HC 34–xii (2005–06), chapter 5 (30 November 2005).

14.9 The Minister told us that the Government was content with the Presidency's draft subject to a few points, none of which was particularly contentious. He added that the Presidency intended to seek a political agreement on the draft Directive at the Council meeting on 30 May. The Government wished to give the Presidency its full support.

14.10 We shared the Minister's view that the Presidency's text was to be preferred to the original draft. We noted that there were only a few minor points on which the Government aimed for further amendments and we had no other points to raise. We decided, therefore, to clear the deposited document from scrutiny. We also saw no objection to the Government taking part in a political agreement on the Presidency's draft of the Directive at the Council meeting on 30 May.

14.11 In the event, Member States were unable to achieve unanimity and the meeting in May did not reach a political agreement.

The Commission's amended draft of the Directive

14.12 The Commission has now produced a further draft of the Directive. It take account of the amendments included in the Presidency's text and of the amendments adopted by the European Parliament on 20 June 2007 at its first reading of the Commission's original draft.

14.13 The Commission considers that most of the European Parliament's 34 amendments are acceptable in full, in principle or in part. Most of them do not affect the substance of the proposal. But some do. For example: the latest draft:

- defines "supplementary pension scheme" as "any occupational retirement pension scheme established in conformity with national legislation and practice and linked to an employment relationship, intended to provide a supplementary pension for employed persons" (Article 3(b));
- defines "vesting period" as "the period of active membership of a scheme, required under national law or the rules of the supplementary pension scheme, in order to trigger entitlement to a supplementary pension" (Article 3(da));
- provides that where active membership of a scheme is made conditional on a period of employment ("a waiting period"), the period is not to exceed one year (Article 4(a)) — the original draft contained nothing about waiting periods ;
- provides that where a "vesting period" is required, it is not to be more than one year for active members aged more than 25 and, for active members of less than 25, not more than five years (Article 4(c)) — the original draft proposed a maximum period of 2 years at any age; and
- the revised Article 6 would give active members of supplementary pension schemes the right to obtain more extensive information about their pension entitlements and the conditions attached to such rights.

The Government's view of the Commission's amended draft

14.14 The Minister tells us that the Government has two reservations about the latest draft of the Directive:

- there is no UK legislation on waiting periods and the Government does not accept the proposal to set a maximum waiting period of one year; and
- the UK's policy is that the vesting period — that is, the period of membership if a scheme before pension entitlements are triggered — should not exceed two years for anyone aged 21 or over.

The Government expects that it will be able to negotiate, with the support of other Member States, acceptable amendments on both points. If satisfactory changes can be achieved, the Government plans to support the agreement of the Commission's revised draft at the Council's meeting on 5–6 December.

14.15 The Minister has also sent us his Department's revised Impact Assessment. It says that the principal costs arising from the proposed Directive would be the additional administrative costs incurred by pension schemes and employers and increased contributions to pension schemes by employers. The main benefits would accrue to the UK and the EC generally through the reduction in obstacles to the free movement of workers. There would also be benefits to UK subjects employed in other Member States whose pension rights are not currently protected.

14.16 According to the Impact Assessment, the proposal to set a maximum waiting period of one year would cost employers an additional £140 million a year in extra pension contributions and would cost employees about £40 million a year. The total net present value of the costs (NPV), based on a calculation for the period 2008 to 2050, would be £4.6 billion. The increase in retirement saving would be about £180 million a year and would accrue to employees who were scheme members. The NPV of the benefits is estimated to be £4.6 billion.

14.17 The Department has also estimated the costs and benefits of the proposed vesting period. The costs to employers could be between £130 million and £260 million a year; and the annual costs to employees between £45 million and £90 million. On that basis, the benefits to employees from increased retirement savings would be between £175 million and £350 million. The NPVs of both the costs and benefits would be in the range £4.6 billion to £9.2 billion (from 2008 to 2050).

Conclusion

14.18 **It remains our opinion that this draft Directive to reduce obstacles to the free movement of workers by setting common minimum requirements for supplementary pensions is desirable and proportionate. Most of the amendments incorporated in the Commission's revised draft seem to us to improve the clarity of the measure without affecting the substance of the proposal. But we understand the Government's reservations about the new provisions on waiting periods and vesting periods. On the understanding that the Government is able to negotiate acceptable changes on both points, we are content to clear the document from scrutiny.**

15 Destruction of munitions in Albania

(26087) 14522/04 —	Draft Council Decision extending and amending Decision 2003/276/CFSP implementing Joint Action 2002/589/CFSP with a view to a European Union contribution to the destruction of ammunition for small arms and light weapons in Albania

Legal base	Joint Action: Article 14 EU; unanimity Council Decision: Article 6 of the Joint Action; QMV
Department	Foreign and Commonwealth Office
Basis of consideration	Minister's letter of 30 October 2007
Previous Committee Report	HC 41–xxxiii (2006–07), chapter 7 (25 July 2007); HC 34–xiv (2005–06), chapter 17 (11 January 2006) and HC 42–xxxvi (2003–04), chapter 17 (10 November 2004)
Discussed in Council	22 November 2004 GAERC
Committee's assessment	Politically important
Committee's decision	Cleared (decision reported on 10 November 2004)

Background

15.1 The Government pledged £20 million over three years to help implement the programme of action agreed by the July 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. In Decision 2003/276/CFSP, the Council contributed EU funds to the NATO Maintenance and Supply Agency (NAMSA), for a project aimed at the consolidation and destruction of surplus Small Arms and Light Weapons (SALW) and ammunition in Albania. This Decision was based on Joint Action 2002/589/CFSP, itself based on an earlier Joint Action 1999/34/CFSP, which provided for comprehensive EU action against the uncontrolled spread of SALW in three main ways:

i) preventative measures which seek to limit those actions which cause further destabilising accumulations of small arms;

ii) reactive measures which seek to reduce existing accumulations; and

iii) assistance measures which make a "direct and identifiable contribution" to achieving (i) and (ii).

15.2 The then Committee cleared the Decision on 19 March 2003. This latest Council Decision extended it until December 2005. The EU's contribution from the CFSP budget increased from €820,000 to €1.3 million, to be used over the following 12 months to cover salaries, travel expenses, supplies and equipment necessary for the destruction process. In addition, the FCO would contribute £400,000 over two years from the Global Conflict Prevention Fund.

15.3 The then Minister explained the size of the challenge. SALW and ammunition posed a serious threat to security in South East Europe, not least in Albania. Moreover, Albanian

weapons and munitions had reportedly been found in Kosovo and as far afield as Rwanda and Liberia. In addition to ammunition recovered from the public, the Albanian army also stored large stocks of old and unstable munitions near population centres. The Albanian Ministry of Defence continued to be engaged in efforts to improve the security of stored munitions, which would generate surplus supplies that could be sold or illegally exported. Although the immediate stockpiles earmarked for destruction amounted to 11,665 tonnes over a period of 4 years (which NAMSA estimated would cost €6.4 million (£4.21 million)), he said that "we have learned that the Albanians are likely to declare surplus another 100,000 tonnes of ammunition (including heavy calibre) over the next few years". The Albanian Government was committed to addressing the problem, but lacked the necessary resources and had sought support (through the Canadian government and NAMSA) for Albania's Approved National Plan of Action for ammunition demilitarisation. The Government supported the extension and amendment of the Council Decision, "provided solid results are achieved over the next year."

15.4 The then Committee had not considered the original March 2003 Joint Action as warranting a substantive Report to the House: the programme was in its infancy, and the sums of money relatively small. Now, the increase was again not large: from €820,000 (£561,044) to €1,300,000 (£892,840), reflecting a new phase of the project as the initial start-up evolved into the destruction phase. But the matter was now more politically important, not only in terms of combating weapons and munitions "leakage" in Europe to criminals and enhancing stability, but also — as the evidence indicated — ensuring that they did not fuel conflicts in Africa. Progress would therefore be an important test of the Albanian authorities' willingness and ability to deliver results, and thereby demonstrate their commitment to European Union values. It endorsed the then Minister's caveat and, while clearing the document, asked him to report progress in a year's time, in the hope that he would be able to demonstrate that the right words had led to the right outcomes.

The then Minister's letter of 20 December 2005

15.5 The then Minister for Europe reported that the Explosive Waste Incinerator was operating, despite what seemed an unfortunate history thus far (a fire, currency and oil cost fluctuations and unforeseen (and unexplained) "global events"). But it nonetheless seemed unclear that the Albanian company concerned would be able to run it competitively in the immediate future, thus raising the real prospect of more funds being required in order to have it operating effectively and at full capacity. That being so, it was likewise not altogether clear to us why the Minister should have felt that "whether the project is extended or not, Albania will have a first rate destruction facility and a body of experience and knowledge to support it — ready to tackle the wider 100,000 tonnes of ammunition due for destruction": for us, that seemed to depend either on the successful outcome of the trial destruction process or, failing that, more funding. So we asked for further information, to include the Minister's assessment of the extent to which the project had demonstrated the Albanian authorities' willingness and ability to deliver results and, looking ahead, make full and effective use of the facility once external funding was no longer available.[53]

53 See (26087) 14522/04: HC 34–xiv (2005–06), chapter 17 (11 January 2006).

The Minister's letter of 12 July 2007

15.6 The present Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) apologised for the delay in submitting this information, which he said had been due "in the main to the slow implementation of the project and lack of timely reporting on progress by the NATO Maintenance and Supply Agency." He recalled the background to and nature of the project and the earlier letter from the then Minister for Europe, and said that visits by UK diplomatic in Tirana in 2006 and 2007 confirmed that the Albanian authorities were "proud of the facilities and the progress made so far", and had also indicated "a desire and determination to deliver results", which was exemplified by Albania's signing-up to a number of international Small Arms and Light Weapons related agreements and instruments to which other countries in the region were party. Where it could, the Albanian government had provided transport, human resources or in-kind support for this and other Small Arms and Light Weapons' related projects. It was, however, "unable to provide cash funding; and it is this that is required". He judged that full and effective use of the facility could be made if cash funding were made available: "However this is unlikely to happen without external support."

15.7 He also referred to some of the setbacks and delays the project had suffered, including accidental fire damage to the Explosive Waste Incinerator at ULP-Mjekes in March 2005, which had led to the destruction programme falling short of the stated target of 11,665 tons of munitions. Canada (in its capacity as Lead Nation) had judged in 2006 that, if the project were granted a year's extension (to the end of 2007), it would reach the goal; but several NATO Allies and EU Partners became increasingly wary of providing additional funding. He noted that, although in the autumn of 2006 both destruction facilities were working well, it had proved impossible to secure agreement on the additional €1M required to extend the project. The NATO Maintenance and Supply Agency would be able to keep the project running until mid-August 2007. The delays and his concerns about the NATO Maintenance and Supply Agency's role, namely its slow implementation of the project and lack of timely reporting on progress, contributed to his decision not to provide further UK funding for the project. Another element was that he considered weapons destruction (rather than ammunition destruction) should be a higher priority. Canada had also decided against further funding.

15.8 For our part, we said that, as we had noted 18 months ago, the Minister's ante-predecessor seemed altogether too sanguine about the project's future, which the Minister's letter confirmed. But it was as if a further paragraph or two were missing, i.e., what was his assessment of where this now left the wider problem that the project was set up to address, and had apparently failed to do? Why the change of priority from ammunition to weapons, when his ante-predecessor was confidently anticipating that, come what may, the project would be "ready to tackle the wider 100,000 tonnes of ammunition due for destruction"? Was this no longer seen as the danger that it was when the project was first conceived? And how would it now be tackled?

15.9 We asked for the Minister's views, and sooner this time if at all possible.[54]

54 See headnote.

The Minister's further letter

15.10 In his 30 October 2007 letter, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) says that, since his last letter, the project has officially come to an end. Altogether, 1.6 million anti-personnel mines, 2 million hand grenades and 8,700 tonnes of Small Arms and Light Weapons' ammunition have been destroyed — "the latter being enough to fill three and a half Olympic swimming pools, or seventy two and a half London double decker buses". The Explosive Waste Incinerator at ULP Mjekes "—only 1 of 10 in the world — has operated continually for the past two years without accident and is seen as a regional centre for excellence". He continues as follows:

> "The work of NAMSA, supported by EU and UK funding, has been instrumental in the substantial destruction of the items specified above. But more importantly, it has provided invaluable capacity building for Albania to carry out future destruction work. And while the Albanian Ministry of Defence seeks to identify funding from within the government, NAMSA are looking at alternative ways to ensure continuation of destruction efforts and use of the Albanian facility. Through our Delegation to NATO we will continue to work closely with Allies and NAMSA in this regard. In the meantime, we are confident that all identified stocks of surplus ammunition in Albania are now in secure, military controlled, storage facilities."

15.11 The Minister then turns to the current UK Small Arms Strategy . He explains that it was agreed in 2004, after initial funding was committed to this project, and:

> "is intended to address the threat posed by the uncontrolled proliferation of small arms and light weapons in the first instance, and their ammunition in the second. Although ammunition can pose a serious threat to peace and stability, it is primarily through the weapons systems themselves that ammunition becomes lethal. Removal and destruction of ammunition is an expensive, dangerous and long-term task. In contrast, removal and destruction of small arms and light weapons is relatively inexpensive and brings more immediate results. This is therefore the main focus of our limited funds. However, we do consider requests for ammunition destruction, particularly where we are concerned about possible leakage of ammunition from inadequately guarded stockpiles into the illicit market, where it might be used for crime and conflict. A secondary consideration is the threat that unstable ammunition poses to the local population. A tertiary consideration is the need to dispose of large ammunition stockpiles because their storage and maintenance are a drain on government resources. We believe these considerations are minimal in Albania."

Conclusion

15.12 **We are grateful to the Minister for this further, reassuring, clarification, which we are reporting to the House because of the widespread interest in the Balkans and in efforts to tackle weapons proliferation.**

15.13 **We have no further questions.**

16 EU-Tunisia relations

(28245) — COM(06) 776	Draft Council Decision on a Community position in the Association Council on the implementation of Article 84 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Tunisian Republic

Legal base	Art 300 EC; unanimity
Department	Foreign and Commonwealth Office
Basis of consideration	Minister's letter of 30 October 2007
Previous Committee Report	HC 41–xii (2006–07), chapter 4 (7 March 2007); also see HC 38–ii (2004–05), chapter 9 (8 December 2004), HC 41–i (2006–07), chapter 15 (22 November 2006) and HC 41–iv (2006–07), chapter 14 (14 December 2006)
To be discussed in Council	To be determined
Committee's assessment	Politically important
Committee's decision	Cleared; further information awaited

Background

16.1 The Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona on 27–28 November 1995, marked the starting point of the Euro-Mediterranean Partnership. Also known as the Barcelona Process, it has the aim of building "a space of dialogue, peace, security and shared prosperity". The Mediterranean Partners are Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey (Libya has observer status since 1999). The Partnership is described by the Commission as "a wide framework of political, economic and social relations between the Member States of the European Union and Partners of the Southern Mediterranean" and "a unique and ambitious initiative", which laid the foundations of a new regional relationship and represented "a turning point in Euro-Mediterranean relations".[55] We considered it more broadly elsewhere in this Report, on the basis of a Commission Communication "*The Euro-Mediterranean Partnership: Advancing Regional Cooperation to support peace, progress and inter-cultural dialogue*".[56]

16.2 The wider context also includes the European Neighbourhood Policy (ENP), which the Committee has considered on a number of occasions — in particular, the European Neighbourhood Policy Action Plan for Tunisia, which our predecessors considered along

55 http://europa.eu.int/comm/external_relations/euromed

56 See (29029) COM(07) 598 at Chapter 2 of this Report.

with 6 other such Action Plans with "Euromed" partners in December 2004,[57] and the Commission Communication "On strengthening the European Neighbourhood Policy".[58]

The Council Decision

16.3 We first considered this draft Council Decision on 7 March. In its introduction, the Commission noted there that Association Agreements form the legal basis for the European Union's relations with the countries participating in the Barcelona Process. It said that the increasing technical complexity of the Union's relations with the southern Mediterranean countries arising from the implementation of the Euro-Mediterranean agreements and of the ENP requires the working of the institutions of the Agreements to be brought into line with this development; and that sub-committees of the association committees had therefore been set up in the framework of the Euro-Mediterranean agreements to monitor implementation of the partnership priorities and the approximation of legislation.

16.4 The Commission recalls that the EU-Tunisia Association Agreement entered into force on 1 March 1998, with an Association Council (at ministerial level) and an Association Committee (at senior official level). Six subcommittees exist — Internal Market, Industry, Trade and Services; Transport; Environment and Energy; Research and Innovation; Agriculture and Fisheries; and Justice and Security — and a Customs Cooperation Committee and a Working Group on Social Affairs was being set up. The Commission then goes on to say that:

> "Human rights and fundamental freedoms form an integral and essential part of the framework governing relations between the European Union and its Mediterranean partners, both within the regional context of the Barcelona process/Euro-Mediterranean partnership and through the bilateral Association Agreements concluded with the Mediterranean partner countries".

16.5 Against this background and in line with the Action Plan and Neighbourhood Policy agreed between the EU and Tunisia, the Commission proposes the formal creation of a new Sub-committee on Human Rights and Democracy. It would be composed of representatives of the European Community and the Member States and of the Tunisian government, who would chair the meetings in turn. It would report to the Association Committee after each meeting, to whom it could also make proposals. The objective, the subjects covered by the sub-committee and the implementing procedures are contained in the rules of procedure and are set out in a draft annex. The preamble includes the following:

> "The Neighbourhood Policy sets itself ambitious aims based on mutually recognised attachment to shared values encompassing democracy, the rule of law, good governance and respect for human rights."

16.6 The Commission noted that the tasks and rules of procedure of the subcommittee had been "discussed informally with the Tunisian authorities"; this included the sub-committee

57 (26155–60) and (26174): see HC 38–ii (2004–05), chapter 9 (8 December 2004).

58 (28120) 16371/06: see HC 41–iv (2006–07), chapter 14 (14 December 2006).

monitoring implementation of human rights and democracy measures under the EU-Tunisia Action Plan and evaluating progress, examining problems and suggesting steps that might be taken in:

— strengthening democracy and the rule of law, the independence of the judiciary, access to justice and "the modernisation of the latter";

— ratifying and implementing the principal conventions on human rights and fundamental freedoms and progress in ratifying the optional protocols relating to the agreements to which Tunisia is party; and

— strengthening national administrative and institutional capacity.

16.7 In his 1 March 2007 Explanatory Memorandum, the then Minister for Europe explained that the EU currently had no structured means of discussing human rights and good governance with the Tunisian authorities, and that this sub-committee would provide such a framework for regular dialogue at official level. He noted that "promotion of human rights set out in international instruments" was central to the UK's foreign policy and that the Government aimed "to encourage improved standards through our bilateral relations and the EU". He supported the proposal.

16.8 He also noted that the agreement of the Tunisian Government would be required before the proposal could be put to the Council for decision; and that he was presently awaiting the Tunisian government's response to the draft.

16.9 For our part, we noted that, in considering the Euro-Mediterranean Partnership, the sums involved are significant: programme expenditure under the financial envelope for the European Neighbourhood Partnership Instrument for 2007–10 is €5.66 billion, of which approximately €3.5 billion is for the Southern partners. We also noted that, eleven years on, it was difficult to see the region as being significantly closer to a "space of dialogue, peace, security and shared prosperity" and that, in the crucial area of governance, the commitment of the "Euro-Med" Partners to taking the process forward remained uncertain.

16.10 Looking back to December 2004, our predecessors noted that the priorities for the Tunisia ENP Action Plan included consolidation of democracy and rule of law reforms; development of political dialogue on democracy and human rights; and reinforcement of political dialogue and cooperation in foreign and security policy, notably in the fight against terrorism and respect for human rights.

16.11 More generally, they also observed that the sort of relationship envisaged in the European Neighbourhood Partnership process, based on "shared common values including on issues such as human rights, democratisation, counter-proliferation and counter-terrorism", must be precisely that.

16.12 We accordingly felt that the response of the Tunisian authorities to this proposal would be an indication of what sort of reality could be made out of the rhetoric, especially in the absence of any prospect of EU membership, and not just in the case of Tunisia. We therefore asked the Minister to let us know the Tunisian authorities' response; and, when he did so, also to let us have his assessment of the extent to which commitments under the

Action Plan had been fulfilled so far; and in the meantime, retained the document under scrutiny.[59]

16.13 The present Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) wrote to us on 19 July, bringing the Committee up to date on discussions between the Commission and Presidency on the draft Council Decision and enclosing an annual progress report prepared last December by the Commission in consultation with Member States, whose 2007 counterpart was, he said, due to be discussed by Member States on 28 September (along with those of other EuroMed partner countries). We said in response that there was plainly still some way to go before the year-end Association Council meeting that, if all went well, would sign off a mutually acceptable position, along with appropriate Declarations from both parties; and that the Committee's hope was, no doubt, the same as his — that a position would by then have been reached on a mutually acceptable Council Decision, which would enable scrutiny to be lifted on the current draft proposal.

16.14 We also asked for a summary of Tunisian performance thus far, based on the 2007 report to which he referred, and his assessment thereof, along with his assessment of the prospects for the hoped-for Association Council meeting.

The Minister's letter

16.15 In his further letter of 30 October, the Minister says that "EU Member States have agreed to the terms of reference on the understanding, as confirmed by the EU in an exchange of letters with Tunisia, that possible individual cases could be brought up within all political dialogue meetings with Tunisia", in the light of which he hopes that "it will be possible for the document to clear scrutiny so that the first meeting of the subcommittee, scheduled for 12 November, can go ahead".

16.16 With regard to the request for an update on Tunisia's progress following the Commission's 2007 progress report, the Minister says that this report is not yet available, but assures us that, when it becomes available, he will forward it to the Committee, along with his assessment of progress in the EU's relations with Tunisia.

Conclusion

16.17 **Our main concern was that the work of this important new Committee should not be simply at the level of generalisation, and that the Tunisian authorities would agree to a working method that would enable the general to be informed by the specific. This, it would appear, has been achieved. So, we now clear the Council Decision from scrutiny.**

16.18 **We look forward to the promised update, which we should like to include information about what the first meeting of the Committee discussed.**

59 See headnote.

17 European Security and Defence Policy: Chad and the north-east Central African Republic

(28946) — —	Joint Action launching ESDP mission in Eastern Chad and North East Central African Republic

Legal base	Articles 14, 25(3) and 28(3) TEU; unanimity
Department	Foreign and Commonwealth Office
Basis of consideration	Minister's letter of 23 October 2007
Previous Committee Report	HC 41–xxxiv (2006–07), chapter 18 (10 October 2007)
To be discussed in Council	To be determined
Committee's assessment	Politically important
Committee's decision	Already cleared (reported to the House on 10 October). Further information requested

Background

17.1 On 31 July, the UN Security Council (UNSC) unanimously adopted resolution 1769 (2007), which authorized the deployment of a 26,000-strong joint United Nations-African Union force, in an attempt to quell the violence in Sudan's western Darfur region, where fighting between pro-Government militias and rebel guerrillas has killed more than 250,000 people since 2003. To be known as UNAMID, it will have up to 19,555 military personnel, including 360 military observers and liaison officers, a civilian component including up to 3,772 international police and 19 special police units with up to 2,660 officers.

17.2 On 10 October we considered a helpful 8 October 2007 Explanatory Memorandum from the Minister for Europe (Jim Murphy) outlining the relevant chain of events:

— the 23 July GAERC had confirmed the EU's readiness to consider provision of a bridging military operation until such a time as the UN is able to establish an operation after twelve months, if a military operation continues to be required at that point, and tasked its competent bodies to continue planning;

— a 10 August report on the situation in Chad by the UN Secretary General indicated that the humanitarian situation had shown no signs of improving since February, with more than 400,000 refugees and internally displaced persons (IDPs) as a result of the fighting, and an estimated 700,000 others in host communities also affected;

— following the 10 August report, a 27 August UNSC Presidential Statement supporting the proposed EU mission and a joint EU-UN assessment mission to the region at the end of August, the UNSC authorised the deployment of an EU force for one year through UNSCR 1778 on 25 September. The Minister said that, as well as providing protection and support for the UN mission, the EU force would provide wide-area security, which would "promote security and confidence in the Area of Operations,

helping to deliver the wider objectives of the multidimensional presence, including confidence to allow IDPs and refugees to return home."

— The UNSC decided on 25 September to establish a "multidimensional presence" in eastern Chad and north-eastern Central African Republic. UNSCR 1778 established a new UN policing-focused mission in these two areas, to be known as MINURCAT, and authorised the European Union to deploy a military force to protect and support the personnel of the UN mission.

17.3 The Joint Action (the latest draft of which he attached to his EM) was, he explained, currently still under discussion in Brussels, but was in standard format, similar to previous Joint Actions launching EU operations.

17.4 The Minister said that the UK had confirmed publicly its strong support for this operation, proposed originally by the new French Government, as a key means of contributing to regional stability and a resolution to the Darfur crisis. He went on to explain that, "in light of other heavy operational commitments", the UK would not be able to deploy ground troops or forces as part of this operation, although a small number of UK personnel were likely to participate in the mission; France was likely to provide the largest single contribution to the mission, including both the Operation (strategic/outside theatre) and Force (in-theatre) Commanders as well as the Operational Headquarters; other likely contributors included Sweden, Belgium and Poland. There would be close liaison between the EU force and the UN force in Darfur (UNAMID), as well as with the two host governments.

17.5 More broadly, he explained that a key part of the overall regional strategy was encouragement for renewed political dialogue between the Presidents of Chad and Sudan; progress was also required to address internal tensions within Chad, and "in this sense" the Government welcomed the signing on 13 August of the Political Agreement for the reinforcement of the democratic process in Chad; UNSCR 1778 encouraged continued national dialogue in Chad and Central African Republic and greater regional co-operation.

Financial Implications

17.6 The Minister said that likely costs had yet to be fully assessed, with detailed technical work ongoing. He explained that the common headquarters and infrastructure costs of the operation would be funded through the EU ATHENA mechanism,[60] and were likely to total some €99.2 million; taking into account some reallocation of the ATHENA budget, the total payable by the UK (which pays 17.5%) was then estimated at €14.21 million, or £9.9million. The Operation Commander was also likely to bid in due course for the costs of Intelligence/Surveillance assets to be met in common, which was likely to be agreed on precedent from previous operations, and might cost the UK an additional £4–5million. Other costs, unless otherwise agreed unanimously by the Council (which the Minister said was unlikely), would lie where they fall with contributing countries, according to ATHENA

60 Article 28 TEU sets the principles for financing civilian and military crisis management operations. Under that provision, CFSP expenditure shall be charged to the EC budget, except for such expenditure arising from operations having military or defence implications. For the common costs of such operations the Council established a special mechanism (ATHENA).

mechanism rules. The costs of the mission would, he said, "continue to be scrutinised carefully."

Timetable

17.7 The Minister said that the EU and UN were keen to deploy the missions as soon as possible, which would be possible once the rainy season has ended, i.e., from mid-October onwards. Although the timing of approval of the Joint Action was not yet clear, given the operational need to get preparations underway it was possible that it might be submitted for agreement under written procedure as early as the end of the week beginning 1 October.

17.8 In the circumstances, we were content to clear the Joint Action on the basis of the information currently available.

17.9 However, we were concerned at an apparent ambiguity in the mission's terms of reference: the Minister said the UN authorised the European Union to deploy a military force to protect and support the personnel of the UN mission, and at the same time also said that, as well as providing protection and support for the UN mission, the EU force would provide wide-area security. We therefore asked that he clarify its terms of reference.

17.10 There was also uncertainty about the size and composition of the force, and its costs: for the UK, between £10 million and £15 million. We therefore asked the Minister to clarify these aspects too.

The Minister's letter

17.11 In a letter of 24 October 2007, the Minister for Europe says that, with regard to the Mission's *Terms of Reference*, "within the context of the International Community's efforts in Sudan, Chad and CAR, EUFOR TCHAD/ RCA aims to contribute to the establishment of a safe and secure environment in an Area of Operations (AOO) that will cover the East of Chad and the Northeast of CAR". He then continues as follows:

> "As defined in EU military planning documents, which continue to be developed, the key functions of the mission will be:
>
> - to contribute to protecting civilians in danger;
> - to contribute to facilitating the delivery of humanitarian aid and the free movement of humanitarian personnel through improved security; and
> - to contribute to protecting UN and associated personnel.
>
> "These three key functions are those authorised by UNSCR 1778. The EU mission will therefore be multi-tasked, and prepared and resourced to meet this challenge, which potentially requires a wider area of operations than would be necessary just to contribute to protecting UN personnel. The work of the EU mission will not be the sole determinant of success in this area, as much will also depend on the political process in Chad and regionally, as well as developments in Darfur and elsewhere in

> the region. But it is right that the mission should aim to play a role in increasing local and regional confidence."

17.12 On the *financial aspects*, the Minister says that the reference amount for common costs of the mission, as agreed at the 15 October General Affairs and External Relations Council, is €99.2 million (£70 million), meaning that, under the ATHENA financing process, the UK's contribution will be up to €17.36m (£12.1m), "the exact amount being subject to agreement of the budget presented to Member States by the Operation Commander in due course". However, there is, he says, "the possibility that at least some of the costs will be offset by a reallocation of surplus ATHENA funds. This would leave the UK with a contribution of £9.9 million."

17.13 Finally, the Minister says that, while the *size and composition of the force* is still subject to a formal force generation process, EU mission plans suggest a force of between 3–4,000 troops, of which France remains likely to commit the majority share:

> "Once the force generation process has been completed it is usual for the Operation Commander to make requests for additional resources to address capability gaps. Current expectations are that the Operation Commander might seek funds to cover the costs of intelligence/surveillance assets, which could result in an estimated additional cost to the UK of between £4–5 million. Any such request for further contributions through common costs will be considered on its merits and require the agreement of all Member States."

Conclusions

17.14 **We are grateful for this further information, and have no further questions for the Minister at this stage.**

17.15 **We should, however, be grateful if he would write again at the end of the mission's one-year term with information on its final size, composition and cost, and his assessment of its effectiveness.**

18 The Stability Pact for South-Eastern Europe

(28971) 13627/07 COM(07) 563	Council Decision on the re-appointment of the Special Coordinator of the Stability Pact for South-Eastern Europe

Legal base	Article 14 TEU; unanimity
Document originated	3 October 2007
Deposited in Parliament	12 October 2007
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 31 November 2007
Previous Committee Report	None; but see (27998) 14921/06: HC 41–ii (2006–07), chapter 12 (29 November 2006)
To be discussed in Council	November 2007 or December 2007 General Affairs and External Relations Council
Committee's assessment	Politically important
Committee's decision	Cleared

Background

18.1 The Stability Pact for South-Eastern Europe was set up in 1999 following a German-led conference in Cologne. The conference identified the need for a co-ordinating body to help the countries of south-eastern Europe recognise their responsibility to work with the International Community to develop a shared strategy for stability and growth in the region and to cooperate with each other and major donors to implement this strategy. In the founding document, more than 40 partner countries and organisations undertook to strengthen the countries of South Eastern Europe "in their efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region". Euro-Atlantic integration was promised to all the countries in the region. At a summit meeting in Sarajevo on 30 July 1999, the Pact was reaffirmed.

18.2 The Stability Pact's members consist of the countries of the region (Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Moldova, Montenegro, Romania, Serbia and The Former Yugoslav Republic of Macedonia); international donor countries, including EU Member States, the European Commission, USA, Canada, Japan, Russia and Turkey; representatives of the United Nations, the United Nations High Commissioner for Refugees, the Organisation for Security and Co-operation in Europe (OSCE), NATO, OECD and the International Financial Institutions (including the World Bank, the International Monetary Fund and the European Investment Bank); and representatives of other such regional initiatives (Black Sea Economic Co-operation (BSEC), Central European Initiative (CEI), South East European Co-operative Initiative (SECI) and South East Europe Co-operation Process (SEECP))

18.3 The structure and working methods of the Stability Pact are modelled on the OSCE process. To help realise it objectives, the Stability Pact set up a Regional Table to review progress and provide appropriate guidance. The Regional Table is chaired by the Special

Co-ordinator, who is appointed by the European Union after consultation with the OSCE and other participants. The Regional Table ensures coordination through dividing its activities into three working tables which focus on:

— Working Table I: democratisation and human rights;

— Working Table II: economic reconstruction, development and cooperation; and

— Working Table III: Security issues.

A special feature is that, at the Regional and Working Tables, representatives of South Eastern European countries are, for the first time, on an equal footing with those of international organisations and financial institutions in advising on the future of their region and in setting priorities concerning the content of all three working areas.[61]

18.4 When the Special Coordinator's mandate was last renewed a year ago, the then Minister for Europe at the Foreign and Commonwealth Office recalled that the Stability Pact was always meant to be a temporary organisation; since 1999 some of its recipient countries (most recently Bulgaria and Romania) had now become donor countries and the situation in the Western Balkans had "moved towards becoming more stable". In 2005 the Stability Pact had therefore set up a Review Group to look at whether the time was right for the countries of south-eastern Europe to take the lead in promoting regional cooperation themselves and for the Stability Pact to withdraw.

18.5 In his 31 October 2007 Explanatory Memorandum, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) recalls the background and says that the Stability Pact Regional Table endorsed the Senior Review Group's conclusions and a transition plan that would transform the Stability Pact into a regionally owned Regional Co-operation Council (RCC), under the auspices of the existing political regional co-operation forum — the South East European Co-operation Process (SEECP). The Regional Co-operation Council would take over the work of the Stability Pact, but focus initiatives on six priorities identified by the countries of the region — Economic and Social Development, Infrastructure, Justice and Home Affairs, Security Co-operation, Building Human Capital and Parliamentary Co-operation. The RCC would be chaired by a Secretary General, heading a small secretariat staffed from the region (thus replacing the current Brussels-based secretariat, which is staffed by secondees from the Commission and the international community).

The Council Decision

18.6 The current Special Representative, Dr Erhard Busek (a former Vice Chancellor of Austria) has held the position since January 2002. The Council Decision would renew Dr Busek's mandate for a final period of six months, from 1 January 2008.

18.7 The Minister explains that the May 2007 Stability Pact Regional Table/SEECP Ministerial Meeting made key decisions to put this plan into practice: they appointed Hido Biscevic, currently State Secretary at Croatia's Ministry of Foreign Affairs, as the first RCC

61 See http://www.stabilitypact.org/ for full details of the Stability Pact's origins and achievements.

Secretary General, adopted a statute for the council and agreed that the secretariat would be based in Sarajevo. The secretariat will be operational early in 2008 and the RCC will formally take over from the Stability Pact in February; until June 2008, however, the Stability Pact Special Co-ordinator will work alongside the new RCC to ensure the full transfer of knowledge and functional capacity.

The Government's view

18.8 The Minister welcomes the transfer of the Stability Pact to the regionally owned Regional Co-operation Council and its integration into the South East European Co-operation Process. He believes that the time is right for this forum, which is owned and run by the countries of the region, to take greater responsibility for delivering regional co-operation initiatives. He also supports the streamlining of the Stability Pact's remaining initiatives to focus on the priorities identified by South East European Co-operation Process countries. The Regional Co-operation Council will, he says, be vital in providing the capacity to take these priorities forward; it is therefore essential that it be given the best possible start. He believes that the period of parallel working with the Stability Pact until the end of June 2008 is reasonable and will meet this need. He accordingly supports the proposal.

Conclusions

18.9 **On its website, the Stability Pact describes itself as "the first serious attempt by the international community to replace the previous, reactive crisis intervention policy in South Eastern Europe with a comprehensive, long-term conflict prevention strategy", and that it is based on experiences and lessons from worldwide international crisis management. It also notes that conflict prevention and peace building can be successful "only if they start in parallel in three key sectors: the creation of a secure environment, the promotion of sustainable democratic systems, and the promotion of economic and social well being" and that "progress in all three sectors is necessary for sustainable peace and democracy". Nowadays, this approach is widespread; witness the EU's European Neighbourhood Policy, its Euro-Med Process and its new strategic approach towards Africa.**

18.10 **Though the scale and challenges in south east Europe may now seem more manageable than in these other regions, they probably did not seem so in 1999, particularly since the Kosovo crisis had yet to erupt. The progress made is thus, in our view, encouraging, and worth drawing to the attention of the House, given its interest in enlargement and the western Balkans.**

18.11 **We now clear the document.**

19 Restrictive measures against Uzbekistan

(29024) — —	Common Position renewing certain restrictive measures against Uzbekistan

Legal base	Article 15 EU; unanimity:
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 24 October 2007
Previous Committee Report	None; but see (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)
To be discussed in Council	13 November Economic and Financial Council
Committee's assessment	Politically important
Committee's decision	Cleared, but further information requested

Background

19.1 On 12–13 May 2005 armed men attacked a number of military barracks and government buildings in the city of Andizhan in Uzbekistan. They broke into the city prison, where they freed hundreds of remand and convicted prisoners, and later occupied a regional government building on the main city square and took a number of hostages. From the early hours of 13 May, thousands of civilians — mostly unarmed and among them some who had escaped from the prison — gathered in the city square, where many spoke out to demand justice and an end to poverty. According to witnesses, there were sporadic incidents of the security forces firing indiscriminately into the crowds, killing and wounding demonstrators. In the early evening, the security forces surrounded the demonstrators and started to shoot indiscriminately at the crowd. The demonstrators attempted to flee. According to witnesses, hundreds of people — men, women and children — were killed.

19.2 The government's version of events differed significantly from that of refugees who fled to Kyrgyzstan in the direct aftermath of the events in Andizhan and to the testimonies of other eye-witnesses. The government maintained that the security forces did not kill any civilians and that all those civilians who lost their lives were killed by armed "terrorists". According to official figures, 187 people were killed in the violence. The Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) estimated that between 300 and 500 people were killed. The UN Office of the High Commissioner for Human Rights (OHCHR) reported that up to several hundred people may have been killed.[62]

62 Information obtained from the Amnesty International webite: http://web.amnesty.org/library/Index/ENGEUR620212005.

19.3 At the 23 May 2005 General Affairs and External Relations Council (GAERC), Ministers strongly condemned the reported excessive, disproportionate and indiscriminate use of force by the Uzbek security forces in Andizhan 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 into the events there. At the 13 June 2005 GAERC, Ministers again reiterated their conviction that an independent international enquiry should be held and urged the Uzbek authorities to reconsider their position by the end of June 2005. On 18 July 2005 the Council expressed its regret that the Uzbek authorities had not reconsidered their position by the given deadline of the end of June and agreed to consider measures against Uzbekistan following a visit to Uzbekistan by EU Special Representative Mr Jan Kubis on 8–10 September.

19.4 In light of the continuing refusal of the Uzbek authorities to allow an independent international inquiry into the events in Andizhan, the 3 October GAERC decided to introduce an embargo on exports to Uzbekistan of arms, military equipment and equipment which might be used for internal repression, and to implement restrictions on admission to the European Union aimed at a number of listed individuals directly responsible for the indiscriminate and disproportionate use of force in Andizhan. The Council decided to implement these measures for an initial period of one year. In the meantime, the Council would review these measures in the light of any significant changes to the current situation, in particular with regard to:

i) the conduct and outcome of then-ongoing trials of those accused of precipitating and participating in the disturbances in Andizhan;

ii) the situation regarding the detention and harassment of those who had questioned the Uzbek authorities' version of events in Andizhan;

iii) Uzbek cooperation with any independent, international Rapporteur appointed to investigate the disturbances in Andizhan;

iv) the outcome of any independent, international inquiry; and

v) 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.

19.5 We reported this background and cleared the Common Position and Council Regulation giving effect to this decision on 26 October 2005.[63]

19.6 A year ago, on the eve of the 6 November 2006 EU-Uzbekistan Co-operation Council meeting and with the sanctions due to expire, a letter and subsequent Explanatory Memorandum from the then Minister for Europe at the Foreign and Commonwealth Office revealed that the Uzbek authorities had belatedly offered to discuss Andizhan and a separate human rights dialogue; these promises had not been accompanied by any action to improve the human rights situation on the ground; and that the subsequent debate on how to renew the measures was "contentious, with wide divisions on the appropriate

63 See headnote: (26927) and (26928): HC 34–vii (2005–06), chapter 18 (26 October 2005).

steps", with agreement not being reached until Thursday 9 November. Consequently, the 13–14 November 2006 General Affairs and External Relations Council agreed:

— in the light of no progress against the October 2005 criteria and "against Uzebkistan's appalling human rights record over the past year", to extend the visa ban and arms embargo for 6 and 12 months respectively, with both to be reviewed in 3 months time; and

— in recognition of the recent offers of dialogue on the Andizhan events and on human rights, to lift the suspension of technical meetings under the Partnership and Cooperation Agreement.

19.7 The Minister said that "the UK stood firm" at the 9 November discussions, persuading Member States that extension of the visa ban and arms embargo was central to the credibility of the EU's Common Foreign and Security Policy and sanctions policy, but agreeing to lifting the suspension of technical meetings to "take forward a structured dialogue on human rights under the PCA through which to achieve substantive progress against the October 2005 criteria". He also said that "the EU will also take forward the proposal for a meeting on the Andizhan events", and "will review progress in three months time in the light of these discussions".

19.8 We accepted that, in these particular circumstances, we did not object to his having agreed the revised Common Position; endorsed the position taken by the Minister for the reasons given; and also noted that, given what the Minister called a "clear deterioration in the human rights situation", any change of heart on the part of the Uzbek authorities would have to be both genuine and significant over the next three months if any further easing of EU policy were to be warranted.[64]

19.9 With the Common Position imposing the visa ban due for renewal on 14 May 2007, the then Minister for Europe wrote on 27 April 2007 to explain that, despite his pressing, the Presidency had yet to come up with a text of a revised Common Position; the possibility existed that the draft text could emerge after 2 May; and this would unfortunately mean that there would not be enough time for us to scrutinise the document before its adoption at the 14 May GAERC. The Government felt strongly that this measure should be renewed due to Uzbekistan's failure to fulfil the two key criteria for lifting the ban: acceptance of accountability for the civilian deaths at Andizhan, and lack of concrete progress to improve the human rights situation. He therefore asked for the Committee's understanding, were he to decide to approve the renewal of the Common Position before scrutiny had been completed, and undertook, once a draft text became available, to deposit it along with an EM. In these, again, very particular circumstances, we acceded to the Minister's request, pointing out the relevance to the proposed EU Strategy on Central Asia, and asking him to deal fully with the evidence, or otherwise, of any change of heart by the Uzbek authorities when he did so.

19.10 In his EM of 4 June 2007, the then Minister confirmed the scenario outlined in his previous letter, culminating in the adoption by the 14 May GAERC of a new Common Position to extend the visa ban for six months and to remove four named individuals from

64 See headnote: (28053) HC 41–ii (2006–07), chapter 14 (29 November 2006).

the list. He reaffirmed the importance of the visa ban element of the Government's policy towards Uzbekistan and its strong support for the measures in place. He had pushed for the visa ban to be renewed on all 12 individuals for six months, but some Member States wanted to remove individuals from the list; without agreement the travel restrictions would have lapsed, and "recognising the Presidency's wish to acknowledge the engagement of the Uzbekistan government at the 8–9 May EU Uzbekistan Human Rights Dialogue and the possibility of progress in the future", the Council agreed that the restrictive travel measures should remain but that 4 individuals should be removed from the list. However, he noted that:

— There was little evidence of a change of heart by the Uzbeks on either Andizhan or human rights. Despite two rounds of talks between EU experts and the Uzbek authorities, the Uzbeks were not prepared to adequately address the EU's key concern: accountability for the killings of civilians on the afternoon of 13 May 2005;

— President Karimov's comments, that major countries accepted that they were wrong to criticise Uzbekistan over Andizhan, demonstrated that the Uzbeks had not shifted their position; and

— The human rights situation had not improved (more arrests and harassment of human rights defenders and journalists, and threats against foreign NGOs). The Uzbeks had commuted the sentence of, and conditionally released, one high profile human rights defender, Niyazova, having forced her to confess to being duped by foreign NGOs and Embassies. They promised again to resume cooperation with the ICRC, but no prison visits had taken place. At the Human Rights Dialogue the Uzbeks had taken a hard line on human rights defenders, freedom of expression, religion and civil society. In sum, there had been no concrete, substantive progress on human rights so far.

19.11 Overall, the then Minister emphasised the importance of the EU maintaining pressure on the Uzbek regime to enter into a meaningful and genuine dialogue with the relevant parties, in order to fully respect human rights, and argued that the renewal of these measures would demonstrate the European Union's commitment to keeping up such pressure.

19.12 We continued to endorse the Government's position and cleared the document. We also recalled our earlier view that the response of the Uzbek authorities would be relevant not only to what action would be appropriate in six months' time but also to Uzbekistan's place in the proposed EU-Central Asia Strategy.[65]

The draft revised Common Position

19.13 In his 30 October 2007 Explanatory Memorandum, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) explains that the revised Common Position will renew both the arms embargo and the visa ban for a further twelve months. He continues as follows:

65 See headnote: (28644) HC 41–xxiii (2006–07), chapter 18 (6 June 2007).

> "However, to encourage the Uzbek authorities to take positive steps to improve the human rights situation and taking into account the international commitments of the Uzbek government, the restrictions on admission will be suspended for a period of six months. After that period the Council will review whether the Uzbek authorities have made progress towards meeting a broad range of human rights concerns and international obligations. If the Uzbek government has made insufficient progress the visa restrictions will automatically be re-enforced."

The Government's view

19.14 The Minister begins by reiterating the Government's basic position (c.f. 19.11 above). He continues as follows:

> "The UK argued for the renewal of sanctions, whilst broadening engagement (energy, environment, economic reform, education etc.) with Uzbekistan, within the key areas of co-operation set out in the EU-Central Asia strategy. Our aim was to build confidence through constructive EU-Uzbek dialogue on the broader canvass with a view to encouraging a more positive discussion of governance and human rights issues.
>
> "EU member states recognised that there had been no concrete improvement in the human rights situation in Uzbekistan since May 2007. Some, like us, believed that the Uzbeks had not done enough to justify relaxing the sanctions. But others stressed the agreement of the Uzbek government to continue human rights discussions and new legislation which would bring abolition of the death penalty and a limited form of habeas corpus into force in Uzbekistan from January 2008. Consensus coalesced around the view that the EU should move from negative conditionality to positive conditionality on the grounds that this would be more effective in encouraging the Uzbeks to take action on human rights. The Common Position reflects the agreement reached at the General Affairs and External Relations Council (GAERC) on 15 May. This renewed the visa ban and arms embargo for twelve months, but added that the visa ban would be suspended for six months and automatically re-imposed in May 2008 if the Council concluded there had not been enough progress on human rights. In practice, the Council would need to make a unanimous decision in May 2008 to lift the visa ban. Otherwise it will remain in force until November 2008. The GAERC decision retained, therefore, a strong element of conditionality, giving the EU purchase over Uzbekistan's performance, while setting this firmly in the context of the EU Central Asia Strategy.
>
> "The alternative to this outcome would have been public disagreement among EU member states on policy towards Uzbekistan, resulting in the lapse of both visa ban and arms embargo in November 2007. This would have meant not only the collapse of EU policy on Uzbekistan, but also a serious loss of credibility, which we vigorously sought to avoid."

Conclusions

19.15 **We continue to endorse the Government's position. However, it is apparent that it is not fully shared by other partners: hence this compromise. We understand the Minister's dilemma: however, we think that there is already a danger of, as he puts it, "a serious loss of credibility" in EU policy on Uzbekistan. As revealed previously, such human rights discussions as there have been have not indicated, let alone led to, any real progress, so it is hard to see why a willingness on the part of the Uzbek authorities to continue them should be rewarded in any way. The same applies to legislation to abolish the death penalty and the prospect of "a limited form of habeas corpus". As the Minister says, there has still been no concrete improvement in the human rights situation. Nor has there been any sign of movement on what was previously described as "the EU's key concern — accountability for the killings of civilians on the afternoon of 13 May 2005."**

19.16 **Conversely, it now seems that the EU yardstick will be "progress towards meeting a broad range of human rights concerns and international obligations." This would appear to be a long way from where the Council began two years ago, but it raises the question of what "broad range of human rights concerns" and which "international obligations" are in issue, and, within those parameters, which benchmarks will be applied against which to measure progress.**

19.17 **The question is also raised of how this all sits "firmly in the context of the EU Central Asia Strategy"?**

19.18 **The Minister says that the visa ban will be automatically re-imposed in May 2008 if the Council concludes there has not been enough progress on human rights and that, "in practice, the Council would need to make a unanimous decision in May 2008 to lift the visa ban." But this depends on what conclusions the Council comes to about progress. What if, as now and previously, some see inadequate progress and others see sufficient to warrant a further suspension, or even the lifting of the visa ban? Hence the importance of the questions raised above.**

19.19 **We now clear the draft Common Position, but should be grateful if the Minister would clarify the position on where progress will need to be made and how it will be measured, so that the House may have a clearer indication than it does at present of the background against which next May's discussions will take place.**

20 European Union Police Mission in Bosnia and Herzegovina

(29049) — —	Council Joint Action on the European Union Police Mission in Bosnia and Herzegovina

Legal base	Articles 14 and 25(3) TEU; unanimity
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 31 October 2007
Previous Committee Report	None; but see (23269)(23270)(23271) —: HC 152–xx (2001–02), chapter 22 (6 March 2002) and (26965)—: HC 34–ix (2005–06), chapter 13 (9 November 2005)
To be discussed in Council	19–20 2007 November General Affairs and External Relations Council
Committee's assessment	Politically important
Committee's decision	Cleared

Background

20.1 In March 2002, the then Committee cleared two draft Joint Actions and one draft Council Decision[66] that, between them, established an EU Police Mission in Bosnia and Herzegovina (BiH) and appointed its Head of Mission/Police Commissioner, as well as the EU Special Representative (EUSR), to whom he was to report. The Special Representative was to report to the Secretary General/High Representative, Javier Solana. Lord Ashdown of Norton-Sub-Hamdon was expected to be (and duly became) the new UN High Representative in BiH. The General Affairs Council agreed that he should also be appointed EU Special Representative and the draft Joint Action on this appointment noted that the two were expected to be one and the same person. The EU Police Mission was expected to improve high-level management, develop the rule of law and, to quote the then Minister, "take the politics out of policing" in Bosnia. EU Foreign Ministers agreed the Joint Action taking the decision to launch the EU Police Mission in Bosnia and Herzegovina (EUPM) at the General Affairs and External Relations Council on 11 March 2002. It was the first European Security and Defence Policy mission.

20.2 In November 2005, the then Minister for Europe reported that the EUPM had made considerable progress in developing sustainable policing arrangements under BiH ownership and raising policy standards. This and significant improvement in its cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) over the past year had paved the way for the opening of Stabilisation and Association Agreement (SAA) negotiations, which brought BiH into line with the other countries of the region and marked a milestone on its path to EU integration. But specific challenges

66 See headnote.

remained to be addressed, including tackling organised crime and implementing police restructuring. Bosnia's state-level law enforcement agencies were not yet functioning adequately and EU troops still remained in Bosnia to maintain a safe and secure environment.

20.3 The Minister explained this in the context of a draft Joint Action that refocused the EUPM mandate, reduced its staff and (he hoped) would lower its costs (€17.4 million in 2004–05). The emphasis on co-locating at the senior levels would enable the mission to be more than halved to approximately 200 international staff, the majority of whom would be police officers, supported by 186 BiH staff. A number of UK police officers and civilian experts would be seconded to key positions.

20.4 Under the direction of the EUSR, EUPM would take the lead in coordinating the policing aspects of ESDP efforts against organised crime and advise EUFOR[67] on when local authorities might need operational support and how best this could be implemented. EUPM would also assist in planning operations and monitor local police performance during these supported operations and the resulting investigations. A regular Crime Strategy Working Group chaired by the EUSR would set priorities and strategic direction, share political advice and thus ensure that the EUPM and EUFOR mission mandates meshed effectively.

20.5 The then Minister also explained that, with recent political agreement on police reform, the EUPM would also be the key provider of technical assistance to the process of restructuring police forces. Building Bosnian law enforcement capacity would in turn facilitate the scaling down, and eventual withdrawal, of the international military presence. The new EUPM would be also an important element of a broader strategy to improve cooperation among EU actors on the ground and increase overall EU effectiveness in fighting organised crime; and act as a model for EU coordination elsewhere.

20.6 The then Minister noted that building the capacity of Bosnia's security structures was also important in the context of the planned transition in international civilian structures, now that Bosnia was more firmly on the path to EU integration. As the main international civilian presence moved from the executive Office of the High Representative to more non-executive EU-centric structures, the Bosnian authorities would increasingly need to take responsibility for maintaining security and addressing crime and corruption.

20.7 Given the level of interest in developments in the Balkans and in European Security and Defence Policy, we reported this to the House; and also cleared the draft Joint Action.[68]

The draft Joint Action

20.8 In his 31 October 2007 Explanatory Memorandum, the Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) says that, during the course of this

67 Operation EUFOR — ALTHEA took over from NATO's SFOR mission in BiH on 2 December 2004, at the same force levels as SFOR (7,000 troops) with a UN Charter Chapter VII mission to ensure continued compliance with the Dayton/Paris Agreement and to contribute to a safe and secure environment in BiH.

68 See headnote.

current mandate "the mission has made considerable progress in developing sustainable policing arrangements" by:

- "advising on the planning and conduct of major and organised crime investigations and operations, with concrete results;
- "strengthening the operational capacity of the State Investigation and Protection Agency and the Border Police;
- "strongly contributing to the work of the Directorate for the Implementation of Police Restructuring whose final report constituted the basis for political negotiations, so far unsuccessful, for an agreement on police restructuring. The mission is also playing an important advisory role in this process;
- "facilitating police co-ordination and information exchange between entities, the state and the international community; and
- "transforming police-prosecution relations, turning previously confrontational attitudes into practical arrangements to improve the quality of investigations."

20.9 Nonetheless:

> "although solid progress has been made, there is a need for the mission to continue its work on raising the standards of BiH policing, continuing to focus on enhancing local capacity to fight organised crime, and supporting the police restructuring process. Despite the recent failure of the political parties to reach an agreement on restructuring, it is vital that reform continues in order to facilitate implementation of a future agreement."

20.10 This Joint Action will extend the mission for a further and final two years until 31 December 2009. During this mandate, a joint coordination mechanism will be established to facilitate the foreseen transition to Community assistance to meet remaining police and rule of law development needs.

20.11 The Minister explains that the Joint Action also amends the command chain to bring it into line with recently-introduced civilian crisis management reforms; those management reforms foresaw the creation of a Civilian Operation Commander, so an Article has been inserted to describe his responsibilities; this in turn necessitated amendment of the Articles on the Head of Mission's responsibilities, chain of command, political control and strategic direction, and security. In addition, the amending Joint Action activates the watch-keeping capability to ensure round-the-clock links between the Mission and the Civilian Planning and Conduct Capability in Brussels.

The Government's view

20.12 The Minister says that "Police reform is the key remaining condition for Bosnia and Herzegovina to initial and sign its Stabilisation and Association Agreement with the EU, and thus to move further along its accession path". He notes the Government's full support for "the EU membership aspirations of the Western Balkans countries" and says that the mission supports this through its focus on reforming Bosnia's police structures: "Effective

police reform would therefore further the country's progress to Euro-Atlantic integration, as well as improving the capacity of the local police forces to uphold the rule of law in line with European standards."

20.13 He also says that the insertion of the Civilian Operation Commander into the chain of command means that the Head of Mission is better supported; "this has already been the case since Pieter Feith took up his appointment as interim Director of the Civilian Planning and Conduct Capability but this amending Joint Action will formalise the command chain." He notes that "this reformed command chain results from work tasked at the informal Hampton Court meeting of EU Heads of State and Government in October 2005 under the UK Presidency", when the Secretary General / High Representative "was asked to take forward work to ensure the EU's crisis management structures could meet the new demands on them."

20.14 On the *Financial Implications*, the Minister recalls that Funding for Common Costs (HQ, in-country transport, office equipment etc) is met from the CFSP budget, to which the UK contributes approximately 17%: "The budget for 2008–09 has not yet been agreed but the mission is likely to cost approximately €12 million, of which the UK will contribute an estimated €2 million (£1.4 million)."

20.15 He also notes that the UK aims to contribute between 11 and 14 personnel to the mission, which will be funded from the Whitehall Peacekeeping Budget "which is a call on the Treasury's central contingency reserve".

Conclusion

20.16 **Five and a half years ago, our predecessors said that "it was important for this mission to succeed", presumably not just because of its purpose and the post-Dayton-and-Paris Agreement context, but also because it was the first European Security and Defence Policy mission. It is gratifying that, despite continued setbacks in the political arena, real progress continues to be made on both counts, and that UK personnel are contributing to this. We agree with the Minister that, those setbacks notwithstanding, progress needs to be consolidated and taken further forward.**

20.17 **We now clear the document.**

21 Taxation

(28824) 12010/07 SEC(07) 958	Commission Recommendation to authorise the Commission to begin negotiations on the Community's participation in the work of the International Tax Dialogue

Legal base	Articles 181a(3) and 300(2) EC; —; unanimity
Department	HM Treasury
Basis of consideration	Minister's letter of 28 October 2007
Previous Committee Report	HC 41–xxxiii (2006–07), chapter 8 (2 October 2007)
To be discussed in Council	Not yet set
Committee's assessment	Politically important
Committee's decision	Cleared, but further information requested

Background

21.1 The International Tax Dialogue (ITD) is a forum between the OECD, the IMF and the World Bank. Its aims are to:

- encourage dialogue among participants on tax matters, in order to provide all countries with information to consider in their deliberations on taxation policy and administration;
- identify and share good tax practice;
- coordinate tax-related activities currently under way to avoid duplication; and
- provide useful information for technical assistance in tax matters.

The ITD has no rules of association or legal status and is governed by a written agreement between the three organisations.

21.2 The Commission has been invited to join the ITD as a fourth participating organisation representing the interests of Member States. Membership would require a contribution from the Community Budget of €130,000 (£87,272) annually for a five year period. In this document the Commission recommended that the Council authorises it to negotiate its participation in the ITD.

21.3 When we considered this document in October 2007 we noted the comment that the Government was:

> "… supportive of the ITD's activities in the area of administrative cooperation and sharing of best practice. However, [the Government] believes that the OECD, IMF and the World Bank are sufficient and suitable members for representing the UK's interests within ITD, and is not convinced that the membership of the Community as proposed in this recommendation would deliver any significant benefit and would also represent an unwelcome extension of Community competence in the field of taxation."

We said that, given that matters dealt with by the ITD were almost wholly outside Community competence and that this proposal was subject to unanimity, we presumed that the Government would ensure the possibility of Community membership and the proposed role for the Commission come to naught. We asked for confirmation that this would be the case.

The Minister's letter

21.4 The Financial Secretary to the Treasury (Jane Kennedy) now says:

- in a September 2007 meeting of the Council Tax Working Group the Government argued against the Commission proposal;
- the Government received significant support from the majority of other Member States, all strongly opposing the proposal;
- this led the Portuguese Presidency to conclude that there was no merit in further discussion of the proposal; and
- if it should come up for discussion again in the future the Government has no intention of supporting the proposal.

Conclusion

21.5 **We note that this proposal is at present stymied and are grateful to the Minister for the clear statement of the Government's opposition to the proposal. We have no further questions to ask and clear the document.**

21.6 **However, we should like the Government to inform us if there is any new attempt to carry this proposal forward.**

22 Competition policy: business insurance

(28953) 13417/07 + ADD1 COM(07) 556	Commission Communication: *Sector Inquiry under Article 17 of Regulation (EC) No 1/2003 on business insurance (Final Report)*

Legal base	—
Document originated	25 September 2007
Deposited in Parliament	5 October 2007
Department	HM Treasury
Basis of consideration	EM of 15 October 2007
Previous Committee Report	None
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Cleared

Background

22.1 Under Regulation (EC) No 1/2003 on implementation of the competition rules in Articles 81 and 82 EC the Commission may conduct an inquiry "into a particular sector of the economy or into a particular type of agreement across various sectors" if "the trend of trade between Member States, the rigidity of prices or other circumstances suggest that competition may be restricted or distorted within the common market".

22.2 The Commission decided in June 2005 to undertake a sector inquiry into the provision of insurance products and services to any type of business, irrespective of its size, organisation or legal structure on the basis of "indications that competition in this sector within the common market may be restricted or distorted". Business insurance is defined by the Commission as including property risks and business interruption, shipping, motor vehicles, general, professional and environmental liability, personal accident and credit risks. An interim report was published in January 2007.[69]

The document

22.3 This document is the Commission's final report of the inquiry. The inquiry found that:

- with the exception of large customers and risks, primary insurance markets tend to be national in scope, even when they are primarily served by international insurance groups;

69 See http://ec.europa.eu/comm/competition/sectors/financial_services/inquiries/interim_report_24012007.pdf .

- this is for a variety of reasons, including variations in Member States' legal regimes, the need for some form of local presence for distribution and for claims settlement and language issues; and
- therefore the Community business insurance market appears as "multi-domestic" and national markets tend as a consequence to be quite concentrated, especially in the major categories of risk.

22.4 The inquiry focused on the following areas:

Financial aspects

- it is suggested that profitability in business insurance at the EU-25 1eve1 has been sustained over recent years in the majority of Member States. However the Commission recognises some significant variations, in particular underwriting profitability varies significantly both by business line and by Member State;

Harmonisation of terms and conditions in coinsurance and reinsurance

- it is recognised that both coinsurance and reinsurance are important mechanisms underpinning insurability of large risks. However the Commission questions certain practices such as "Best Terms and Conditions", where the lead underwriter on a subscription risk will specify that terms and conditions are harmonised to the level most favourable to the supplier;
- it is stressed that the Commission's observations are confined only to elements of certain business practices which arise in the subscription procedure and which it believes not to be essential to the operation of that procedure or the market as a whole;

Distribution of business insurance

- the view is expressed that the need to build a distribution network may be a barrier to entry in the absence of a strong independent brokerage network available at national level;
- it is noted that there is a potential conflict of interest stemming from a broker's dual role as an adviser to the client and as a distribution channel for the insurer;
- it is noted that other potential conflicts of interest can arise in relation to broker's remuneration — including contingent commissions. Lack of spontaneous disclosure of remuneration received from insurers and other possible conflicts of interests means that in many cases business insurance clients are unable to make fully informed choices. Even where disclosure does take place, it does not always appear to be clear, complete and understandable;
- the Commission concludes that the competitive market dynamic in relation to the price of insurance of insurance mediation services offered to small and medium-sized enterprises seems limited;

Horizontal cooperation amongst insurers

- certain forms of cooperation by insurers and reinsurers are block exempted, until 31 March 2010, from Article 81(1) EC competition law prohibitions;
- it is noted that arguments have been made to the inquiry in favour of extending the block exemption. However the Commission makes a distinction between the desirability of the forms of cooperation covered by the block exemption and the desirability of the block exemption itself;
- the Commission will report on the functioning and the future of the block exemption by 31 March 2009 and interested parties are encouraged to continue consideration of the issues; and

Duration of business insurance contracts

- concerns are expressed about both the duration of contracts and certain clauses concerning renewal and extension, because of the potential detrimental impact on competition of excessively long-term contracts which might arise in terms of hindering new entrants to the market.

The Government's view

22.5 The Economic Secretary to the Treasury (Kitty Ussher) notes that the Commission's inquiry has identified three key issues that need to be followed up by the Commission and/or National Competition Authorities:

- certain practices leading to premium alignment when coinsurance and reinsurance is purchased through a two-step procedure involving a lead and following insurers or reinsurers;
- instances where a pervasive market practice of long-term contracts may lead to cumulative foreclosure; and
- indications of potential market failure in respect of insurance brokerage.

The Minister comments on premium alignment that the Commission's intention is to play a full role in a reappraisal of the relevant practices whilst observing the principle that it is for market participants themselves to assess the legality of their market practices under the applicable legal standards. She says that it does not appear that at this stage there are any direct policy implications for the Government or the UK competition authorities. The Government expects the UK insurance industry to engage fully with the Commission during this reappraisal process.

22.6 On the question of long-term contracts the Minister notes that the issue is particular to certain Member States, including Austria, Italy, the Netherlands and Slovenia and that there appear to be no direct policy implications for the UK.

22.7 On insurance brokerage and market failure the Minister says that the Commission intends to examine this issue further within the scope of the planned review of the

Insurance Mediation Directive, with which the Government will engage fully, including on the issues around conflicts of interest. The Minister continues that the Financial Services Authority is currently conducting an objective market failure analysis and a cost benefit analysis. The authority has said that it will consider whether regulatory intervention is the best way forward if, and only if, both analyses tests are met and the market has not come forward with any industry-led solutions. She adds that the authority has said that its findings will inform its thinking on the wider question of whether to require commission disclosure.

Conclusion

22.8 **This Commission Communication deals with competition matters in the important business insurance sector, and as such warrants being drawn to the attention of the House. But the Minister gives us a complete account of the relatively limited role for the Government in following up the issues. There are no further questions arising from the document and we clear it.**

23 Multiannual framework for the European Union Agency for Fundamental Rights

(28922) 13025/07 COM(07) 515	Draft Council Decision adopting a multiannual framework for the European Agency for Fundamental Rights

Legal base	Article 5(1) of Council Regulation (EC) 168/2007; consultation; simple majority
Department	Ministry of Justice
Basis of consideration	Minister's letter of 30 October 2007
Previous Committee Report	HC 41–xxxviii (2006–07), chapter 2 (24 October 2007)
To be discussed in Council	Justice and Home Affairs Council 8–9 November
Committee's assessment	Legally and politically important
Committee's decision	Cleared

Background

23.1 We considered this draft Decision on 24 October. We noted that it set out ten thematic areas of activity for the Agency, which had been established under Article 308 EC by Council Regulation (EC) No 168/2007.[70]

70 OJ No. L 53, 22.02.07, p.1.

23.2 We noted that Article 5(2) of that Council Regulation required the Council to "determine the thematic areas of the Agency's activities", which appeared to us to require some element of selection in order to determine priorities over a five year period. The Commission's proposal appeared to us to set out a catalogue of every issue which the Agency might deal with, including some whose connection with Community competence was doubtful, and asked the Minister if he agreed with this assessment.

23.3 We also noted that the "thematic areas" of the Agency's activities included the "compensation of victims, prevention of crime and related aspects relevant to the security of citizens". We agreed with the Minister's remarks that general crime prevention and the security of citizens were third pillar matters and therefore outside the scope of the Agency's work. We considered that Community involvement in this field was very limited, and that the proposed theme did not reflect those limitations. We asked the Minister if the Government would press for this theme to be restricted by excluding crime prevention altogether and by confining work on compensation for victims of crime to the cross-border situations envisaged in Council Directive 2004/80/EC.

The Minister's reply

23.4 In his letter of 30 October the Minister of State at the Ministry of Justice (Michael Wills) explains that the Multiannual Framework is determined by the Council and provides for long term planning over a period of five years, whereas the more detailed Annual Work Programme is decided by the Agency's management board and implements and sets priorities in relation to the areas covered by the five year Framework.

23.5 The Minister agrees with us that the list of thematic areas is very broad, but points out that the Annual Work Programme for 2007 details the research and surveys to be carried out and the allocation of resources required to complete the outstanding work of the EUMC (European Monitoring Agency for Racism and Xenophobia).

23.6 The Minister also agrees with us that the thematic area of "prevention of crime and related aspects relevant to the security of citizens" strays outside the Agency's Community law remit and is, in fact, a Third Pillar matter. The Minister informs us that this theme has been removed from the latest Presidency text, a copy of which the Minister supplies. The Minister recalls that the Government's aims in respect of the Multiannual Framework have been to uphold the Agency's First Pillar remit, to avoid duplication with other international human rights bodies, notably the Council of Europe and to avoid over-stretching the Agency's limited human and financial resources.

Conclusion

23.7 **We thank the Minister for his prompt and helpful letter.**

23.8 **The Minister deals with both points we raised on the document and we welcome the deletion of the reference to Third Pillar matters in the draft Framework. We have no further points to raise and now clear the document from scrutiny.**

24 Statistics

(28405) 6622/07 COM(07) 46	Draft Regulation on Community statistics on public health and health and safety at work

Legal base	Article 285 EC; co-decision; QMV
Department	Office for National Statistics
Basis of consideration	Minister's letter of 24 October 2007
Previous Committee Report	HC 41–xiv (2006–07), chapter 6 (14 March 2007)
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Cleared

Background

24.1 On the basis of informal agreements and within the context of the Community Statistical Programme for the period 2003 and 2007[71] Member States provide statistics to Eurostat on public health and health and safety in data sets covering five well developed statistical domains:

- health status and health determinants;
- health care;
- causes of death;
- accidents at work; and
- occupational diseases and other work-related health problems and illnesses.

24.2 This draft Regulation would put on a statutory footing a framework for consistent production of Community statistics on public health and health and safety through the provision by Member States to Eurostat of minimum statistical data sets covering the five domains. The proposed Regulation would establish general principles and the subjects and contents of the required data collections. Further technical details would be laid down in secondary implementing Regulations (under the comitology system "regulatory procedure with scrutiny"),[72] manuals and guidelines issued by the Commission in discussion with Member States — the Commission had already identified four sets of implementing Regulations to be developed, for adoption during the period 2009 to 2011, covering four of the five domains. The initial requirements for data collection under the draft Regulation

71 (23030) 14862/01: see HC 152–xv (2001–02), chapter 14 (30 January 2002).

72 Comitology is the system of committees which oversees the exercise by the Commission of legislative powers delegated to it by the Council and the European Parliament. Comitology committees are made up of representatives of the Member States and chaired by the Commission. There are three types of procedure (advisory, management and regulatory), an important difference between which is the degree of involvement and power of Member States' representatives. Regulatory with Scrutiny, introduced in July 2006, gives a scrutiny role to the European Parliament in most applications of comitology.

were unlikely to extend beyond the agreements already achieved or in progress on that basis, but it would give the Commission the power to specify new requirements in the future.

24.3 When we considered this proposal in March 2007 we noted that the disadvantageous impact of this measure could be significant unless the draft Regulation was modified in the ways the Government had told us it wished. We said that before considering the matter further we should like to hear about developments on:

- the subsidiarity issue — where the Government and some other Member States were taking legal advice as to the Commission's claim of exclusive competence ;
- modifying the data collection requirements — which could otherwise be extended significantly; and
- production by the Commission of a proper Regulatory Impact Assessment.

The Minister's letter

24.4 The Exchequer Secretary to the Treasury (Angela Eagle) tells us now that:

- on the subsidiarity issue the Commission has now reverted to its earlier agreement with the Council that statistics are a matter of shared competence and that, in relation to this particular proposal, the provision of health services and the regulation of health and safety at work are matters of national competence;
- a consensus has emerged on conditions which, with agreement to a full Regulatory Impact Assessment of any proposed extension and provision for it to be subjected to a full comitology procedure, limits the scope for extending data collection requirements; and
- it is now accepted that it is not feasible to quantify the impact of this framework proposal. But the Commission has agreed that a full Regulatory Impact Assessment will be carried out for any proposed implementing Regulation.

Conclusion

24.5 **We are grateful to the Minister for this account of developments, with which we note the Government seems content. We have no further questions and clear the document.**

25 Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House

Department for Business, Enterprise and Regulatory Reform

(28962) 13530/07 + ADDs 1-2 COM(07) 559	Draft Decision of the European Parliament and of the Council amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of certain dangerous substances and preparations 2-(2-methoxyethoxy)ethanol, 2-(2-butoxyethoxy)ethanol, methylenediphenyl diisocyanate, cyclohexane and ammonium nitrate (amendment of Council Directive 76/769/EEC).
(28982) 13847/07 COM(07) 585	Draft Council Regulation establishing a Community procedure for administering quantitative quotas (codified version).
(29023) 12769/07 COM(07) 513	Draft Council Regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of peroxosulphates (persulphates) originating in the United States of America, the People's Republic of China and Taiwan.

Department for Children, Schools and Families

(28907) 12772/07 + ADDS 1-2 COM(07) 498	Commission Communication: *Promoting young people's full participation in education, employment and society*.

Department for Culture, Media and Sport

(29038) 13943/07 COM(07) 636	Recommendation for a Council Decision on the European Capital of Culture event for the year 2011.

Department for Environment, Food and Rural Affairs

(28955) 13427/07 COM(07) 552	Commission Report on implementation of Decision No.1445/2000/EC on the application of aerial-survey and remote-sensing techniques to the agricultural statistics.

(28978) 13704/07 COM(07) 579	Draft Council Decision concerning the conclusion of the Agreement in the form of an Exchange of Letters on the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau for the period 16 June 2007 to 15 June 2011.
(28979) 13712/07 COM(07) 580	Draft Council Regulation on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau.
(29026) 14231/07 + ADDs 1-2 COM(07) 605	Draft Council Regulation on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears.
(29032) 14232/07 + ADD 1 COM(07) 604	Commission Communication on destructive fishing practices in the high seas and the protection of vulnerable deep sea ecosystems.

Food Standards Agency

(28866) 12618/07 + ADD1 COM(07) 469	Commission Report on existing legal provisions, systems and practices in the Member States and at Community level relating to liability in the food and feed sectors and on feasible systems for financial guarantees in the feed sector at Community level in accordance with Article 8 of Regulation (EC) No.183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene.

Foreign and Commonwealth Office

(29047) — —	Joint Action extending the mandate of a team to contribute to the preparations of the establishment of a possible International Civilian Office (ICO) in Kosovo, including a European Union Special Representative (EUSR) component.
(29048) — —	Council Joint Action amending and extending the mandate of the European Union Special Representative in Bosnia and Herzegovina Extension of Joint Action 2006/623/CFSP

Forestry Commission

(29002) 13640/07 COM(07) 597	Commission Communication concerning the European Community's participation in the fifth Ministerial Conference on the Protection of Forests in Europe (Warsaw, 5-7 November 2007).

Home Office

(28900) 12634/07 COM(07) 504	Draft Council Decisions concerning the signing and conclusions of the Agreement between the European Community and the Republic of Moldova on the readmission of persons residing without authorisation.
(28961) 12928/07 SEC(07) 1184	Annual Report on the activities of the EURODAC Central Unit in 2006.

Department for Innovation, Universities and Skills

(28983) 13567/07 SEC(07) 1284	Commission Staff Working Document — *Progress towards the Lisbon objectives in Education and Training: Indicators and Benchmarks 2007*.

Department for Transport

(28972) 12992/07 COM(07) 509	Adaptation to the regulatory procedure with scrutiny on a Draft Directive amending Directive 95/50/EC as regards the implementing powers conferred on the Commission.
(29001) 13957/01 + ADD 1 COM(07) 622	Commission Report on the implementation in 2003-2004 of Regulation (EEC) No.3820/85 on the harmonisation of certain social legislation relating to road transport (23rd report from the Commission on the implementation of the social legislation relating to road transport).
(29008) 14074/07 COM(07) 617	Fourth Annual Report from the Commission on the quality of petrol and diesel fuel used for road transport in the European Union (Reporting Year 2005).
(29009) 14047/07 COM(07) 596	Draft Council Decision on the position to be taken by the Community concerning the proposal to amend the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975).

HM Treasury

(28885) — + ADD 1 COM(07) 405	First Report on convergence between International Financial Reporting Standards (IFRS) and third country national Generally Accepted Accounting Principles (GAAPs).
(28986) 13901/07 COM(07) 587	Draft Council Directive on the structure and rates of excise duty applied to manufactured tobacco (codified version).

Department for Work and Pensions

(28987) 13902/07 COM(07) 588	Draft Directive relating to the driver-perceived noise level of wheeled agricultural or forestry tractors (Codified version).

APPENDIX

Correspondence between Members of the Committee and the Chairman relating to the Committee's meeting on 2 October 2007

E-mail from the Second Clerk of the Committee to Members of the European Scrutiny Committee

11 September 2007

Meeting to agree chairman's draft report on the Proposal for an EU Reform Treaty, and evidence session with the Minister for Europe, Jim Murphy 2 October from 10:30 am

At its meeting on 25 July, the Committee decided to meet during the recess period to consider a draft report on the Intergovernmental Conference and the draft Reform Treaty. In view of the difficulty of finding a suitable date, the Chairman has proposed that this meeting should now take place on Tuesday 2 October. This also allows for an oral evidence session with the Minister for Europe, Jim Murphy, on the IGC and Reform Treaty to take place on the same day.

Email to Michael Connarty MP from David Heathcoat-Amory MP

11 September 2007

Re: Meeting of the European Scrutiny Committee

I have received your message about the change in date from 19 September to 2 October. This new date is in the middle of the Conservative Party Conference in Blackpool and it will be extremely difficult for Conservative members of the Committee to attend. I therefore request that you either revert to the original date of 19 September or that we meet early after the House returns on 8 October.

Email to Michael Connarty MP from James Clappison MP

11 September 2007

Re: Meeting of the European Scrutiny Committee

Dear Michael

I note that you have changed the date of the meeting from the 19 September to 2 October. This falls within the period of the Conservative Party Conference; would it be possible, therefore, to either reinstate the meeting on the 19 September or for early the w/c 8 October when the House has returned.

Yours ever
James Clappison

Email to James Clappison MP from Michael Connarty MP

13 September 2007

Dear James,

Re: Meeting of the European Scrutiny Committee

I apologise if my final decision for a recall of the ESC causes you any logistical problems.

You may recall that I raised the question of the need for a recall meeting of the ESC during the ESC which I chaired on 18 July 07.

At that time there was a reluctance to confirm the need for such a meeting and it was left to the Chairman's discretion in the light of developing issues.

I was surprised to be told on my return to my office in mid August that a meeting had been pressed for under AOCB at the meeting on 25 July, which I was unable to attend. Since no vote was taken, the formal minute will show that such a meeting would be called at a date and time to be set by the Chairman. I understand a 'straw poll' was taken of those present at the meeting on the 25 July and the date of 19 September was the best date for those at that meeting.

When I first spoke with Michael Carpenter who was 'minding the store' at the ESC secretariat it was with a view to meeting on the 19th September. In our deliberations we concluded that it would allow us to make a more useful report to parliament if we could both ensure that our report clearly set out any concerns we had about the validity of the safeguards claimed by the government's for their 4 'red lines' and then put our concerns to the Minister for Europe in an evidence session. We would then be able to publish a report, attaching the evidence session which would give parliament the latest and fullest information to use in any deliberations when we returned.

I did not know I had a problem with the 19 September at that time.

As usual, contact was made with the FCO to discuss the Minister's availability. The first response was that he was not available until 2 October 2007. I did not consider the question of events outside of parliament on that date. Indeed the date discussed was in a week that I regarded traditionally as the week of the Labour Party Conference. When I contacted the FCO they confirmed that the Minister was due to be in Poland with groups of senior school students visiting Auschwitz on 19 September 2007. He had been one of the organisers of these visits and would be in Poland from 19th till 21st September in association with the Holocaust Foundations memorial visits.

I was then independently informed by my diary secretary that the 19 September was not free for myself as the Holocaust Foundation had previously booked me to take my senior pupils from my Lothian school to Auschwitz on the 19 September from Glasgow airport, then withdrawn the date as I was booked to take my senior pupils from my Falkirk schools on a date in October from Aberdeen airport. When they realised my constituency straddled both Central and what they classified as North Scotland they reconfirmed the visit for 19 September. I will be at Glasgow airport at 5 am and return from Poland at 11 pm on the 19th. One of your party members has offensively referred to this as 'an Auschwitz

junket' by the Minister but I believe the lessons from the Holocaust need to be reinforced with our young people in an increasingly divided world.

I decided that I would not wish to miss either the ESC meeting or the Auschwitz visit and I would not recall the ESC on the 19 September 2007.

I did speak to the Minister's office and eventually accepted his key role in the Auschwitz visits which necessitated him remaining in Poland on 20th and 21st September. I also held to the view that if we are to present a full package of information to Parliament from our scrutiny process it would be a major advantage to have the Minister answer to our concerns which will be informed by the high quality briefings to which we, and no other committee, have access. The indications from the FCO were that the Minister's earliest availability would be 2 October 2007 and he could respond positively if we invited him to attend to give evidence on that date.

Since I firmly believe the purpose of ESC scrutiny is to scrutinise the work of the government as the executive in the European dimension and supply reports on the outcome of that process to Parliament in a form and on a timescale that assists Parliament in its deliberations, and not to furnish briefings for the press (whether authorised or leaked) or material for press releases, or content for party political speeches I considered the 2 October as a suitable date for the recall of the ESC. I therefore instructed that the ESC be recalled on 2 October 2007 and that the Minister be formally invited to attend to give evidence on that date.

I seriously considered the points put by Members of the ESC who asked that reconsider the date. The first suggestion, that the meeting be held on 19 September I rejected for the reasons given above. I also considered the suggestion from other Members, including your good self (but excluding Greg Hands), that the meeting be postponed until 8 October 2007. Since parliament returns on 8th October 2007 we would not have a report ready to present to parliament at a crucial time in the ongoing debate on the Reform Treaty for Europe. Even holding the meeting on 2 October 2007 will place pressure on the ESC secretariat to deliver the report on time. If we were not to meet on 2 October 2007 and complete our report, and take evidence from the Minister I think we would fail to live up to the admonitions of one of your own party who remonstrated with me "Parliament is paramount".

I apologise if the recall of the ESC on 2nd October 2007 creates timetabling difficulties for you or any other Member. It is likely that some Members will not be able to attend on that date, but I am hopeful that your good self, and the majority of the committee will make the effort to be in attendance on 2nd October 2007.

Yours sincerely,
Michael Connarty
Chairman ESC

Email to Members of the ESC from Michael Connarty MP

13 September 2007

Dear Members of the ESC,

Re: Meeting of the European Scrutiny Committee

I have had E mail correspondence from some Members of the committee regarding the date of the recall meeting of the ESC. I have considered them seriously. I have set out the sequence of events that led to my decision to recall the ESC on 2 October 2007 in my reply to James Clappison. I am sending it to all Members of the ESC as my final correspondence on the recall of the committee.

The committee will meet on 2 October 2007. We may be able to shorten the time slots and finish earlier, but that will be up to the Members of the committee.

I know this will not please every Member. Can I suggest we focus on performing our task of scrutiny in the thorough way I believe can only be done by the ESC, and argue later if we must about my decision on the timing of the recall.

Yours sincerely,
Michael Connarty
Chairman ESC

Letter to Michael Connarty MP from William Cash MP

13 September 2007

Dear Michael,

I have received your email today. You received my email on September 4th in which I suggested that dates between September 20th and 30th would have been suitable for myself for the ESC meeting because the Conservative Party Conference begins on the 30th and I assumed that you would wish to exclude the 23rd to the 27th for the Labour Party Conference.

I am very disturbed at the state of play in your email as of today's date on the meeting at which we are due to discuss the draft report on the Reform Treaty. This is quite apart from any meeting we may need with the Minister for Europe which in the light of the importance of the Report would, I feel sure, have to be on another day.

I explicitly asked for this issue of the Report to be put on the agenda for the last meeting of the ESC which was done on July 25th. You say in your letter of today's date that you were surprised that a meeting had been pressed for at this last meeting on July 25 but as you will see from the Agenda the issue was specifically put on the Agenda and this was at my request. You will, of course, have had a copy of the Agenda at the time. You were away and Jim Dobbin was in the chair and there was a quorum. I put this item on the Agenda because we needed to have a report on the Treaty in good time, given its importance, our previous discussions and advice, previous hearings, the differences of legal opinion about the status and impact of the Treaty on Parliament and on the United Kingdom and our

duty to Parliament under Standing Orders. I also had in mind that the summit was taking place on October 18th and that we were about to go into recess, that a meeting would be needed during the recess and that there were party conferences at the end of September into early October. In other words, the item on the agenda on which I spoke and which we all discussed, including dates, was against this background. There was no need for a vote because the meeting agreed on a date named as the 19th September having regard to all of the factors I have set out above and which were fully discussed. I indicated at the meeting that I would call a vote but this was not necessary in the event because everybody agreed.

It then transpired that you were going to Auschwitz on September 19th and in the interests of helpfulness in my email of September 4th, I suggested that as along as the meeting took place by September 30th and before the Conservative Party Conference that I could live with that.

I have also indicated above that I assumed that you would not want the meeting to take place during the Labour Party Conference for obvious and understandable reasons. I now see from your email of today's date, which you describe as "my final correspondence on the recall of the Committee" that you have, on your own decision, called for a meeting on 2nd October in the middle of the Conservative Party Conference. This is simply unacceptable. The four Conservatives on the Committee are as much members of the Committee in our responsibilities to Parliament as any other member of the Committee, including yourself. Surely you realise that you are jeopardising your impartiality as Chairman by insisting on a date in the middle of the Conservative Party Conference and that this, given the political sensitivities and differences over the Reform Treaty and its legal importance is the way that any reasonable person would construe your action. Yesterday, in the light of what appeared to be a decision moving towards October 2nd I spoke to the Clerk of the Committee and indicated that we should revert to 19th September in all the circumstances. In the light of your reply to James Clappison on 13th September you refer to the meeting with the Minister as if the October 2nd date relates to his availability. My concern, and no doubt others, is the Report itself which given the Government's stated position on the Treaty, which is well reported, is well established.

Our vital function as an all-party Scrutiny Committee is to report to Parliament as required by Parliament's Standing Orders on the political/legal implications of this Reform Treaty and although I do not know what the draft report will say, it will certainly be extremely important both for Parliament and the electorate and for us to consider it in detail.

I told a clerk to the Committee, yesterday, that I propose that we revert to the 19th September but I await your further comments as a matter of urgency. As far as I am concerned, the decision of the Committee on July 25th relating to a specific item on the agenda which I asked for myself, and of which you were aware, still stands.

Letter to Michel Connarty MP, from Anthony Steen MP

14 September 2007

Regarding your email yesterday forgive me, I know you are trying to do your best regarding the next meeting of the European Scrutiny Committee but it is absolutely extraordinary that you have fixed a date in the middle of the Conservative Party Conference art Blackpool.

Whi1st I appreciate your personal reasons for deferring the meeting from the 19 September 2007 (which was agreed) it really is unconscionable that you should transfer it to 2 October 2007. It is not a question of timetabling difficulties; it strikes me as a blatant disregard of the principle opposition party's annual party-political gathering (some 250 miles from Westminster) and drives a coach and horses through the principle of reciprocity and consensus on which Select Committee business is based.

Surely either you or the clerk should have known that you were fixing a date that made it difficult for the principle opposition Members of Parliament to easily be present and at considerable personal and additional financial expense; or perhaps it was deliberate? I am sending a copy of this email to the Opposition Chief Whip, the Shadow Leader of the House and colleagues on the Select Committee.

I am sorry to write in such disapproving terms.

Formal Minutes

Wednesday 7 November 2007

Members present:

Mr Michael Connarty, in the Chair

Mr William Cash
Mr James Clappison
Jim Dobbin
Mr Greg Hands
Kelvin Hopkins
Angus Robertson
Mr Anthony Steen

1. Scrutiny of Documents

The Committee considered this matter.

Draft Report, proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 25 read and agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

2. Correspondence between Members of the Committee and the Chairman

In accordance with the Committee's Order of 2 October, Session 2006-07, "That the correspondence between Members of the Committee and the Chairman relating to the date and time of the Committee's meeting be published", the relevant correspondence is reproduced as an Appendix to the Report.

[Adjourned till Wednesday 14 October at 2.30pm.

Standing order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;

b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Standing Committees); and

c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression "European Union document" covers —

i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;

ii) any document which is published for submission to the European Council, the Council or the European Central Bank;

iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;

iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;

v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;

vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee's powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House's Standing Orders, which are available at www.parliament.uk.

Current membership

Michael Connarty MP (*Labour, Linlithgow and East Falkirk*) (Chairman)
David S. Borrow MP (*Labour, South Ribble*)
William Cash MP (*Conservative, Stone*)
James Clappison MP (*Conservative, Hertsmere*)
Katy Clark MP (*Labour, North Ayrshire and Arran*)
Wayne David MP (*Labour, Caerphilly*)
Jim Dobbin MP (*Labour, Heywood and Middleton*)
Nia Griffith MP (*Labour, Llanelli*)
Greg Hands MP (*Conservative, Hammersmith and Fulham*)
David Heathcoat-Amory MP (*Conservative, Wells*)
Kelvin Hopkins MP (*Labour, Luton North*)
Lindsay Hoyle MP (*Labour, Chorley*)
Bob Laxton MP (*Labour, Derby North*)
Angus Robertson MP (*SNP, Moray*)
Anthony Steen MP (*Conservative, Totnes*)
Richard Younger-Ross MP (Liberal Democrat, Teignbridge)