



House of Commons
European Scrutiny Committee

**Tenth Report of
Session 2008–09**

Documents considered by the Committee on 4 March 2009,
including the following recommendations for debate:

Climate change agreement

The European Commission External Service

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

Euros

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

Further information

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

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

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1 Climate change agreement

(30412) 5892/09 + ADDs 1–3 COM(09) 39	Commission Communication: <i>Towards a comprehensive climate change agreement in Copenhagen</i>
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<i>Legal base</i>	—
<i>Document originated</i>	28 January 2009
<i>Deposited in Parliament</i>	5 February 2009
<i>Department</i>	Energy and Climate Change
<i>Basis of consideration</i>	EM of 16 February 2009
<i>Previous Committee Report</i>	None, but see footnote 1
<i>To be discussed in Council</i>	2 March 2009
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	For debate in European Committee A

Background

1.1 The Commission says that the successful conclusion of the international climate change negotiations at Copenhagen at the end of 2009 is a key Community priority, and that, now it has adopted its own climate and energy package, it must step up its contacts with third countries, both in the UN context and beyond. It has therefore sought in this Communication to set out concrete proposals for achieving this goal.

The current document

1.2 The Commission recalls that the Community's agreed objective is to limit the average global temperature increase to less than 2°C compared with pre-industrial levels;¹ it notes that, if current emission trends continue, that threshold may already be crossed in 2050 and that staying below it will require significant adaptation. It therefore says that it is imperative to secure an ambitious outcome in Copenhagen which leaves the door open for a lower stabilisation level, and it comments that there is also now an opportunity to address climate change, energy security and the current economic recession together.

1.3 In the meantime, it notes that the 2007 Bali Action Plan started the process needed to conclude a new international climate agreement in Copenhagen for the period after 2012, which it says will need to set concrete new targets and actions to reduce greenhouse gas emissions, and that full negotiations have begun following a UN conference in Poznan in December 2008. It also notes that both developed and developing countries are stepping up their domestic action, with targets being set and carbon markets being established, not least by the Community itself through its climate change and energy package, incorporating an

1 (28275) 5422/07: see HC 41–x (2006–07), chapter 1 (21 February 2007).

independent target of reducing emissions to 20% below 1990 levels by 2020.² At the same time, it observes that the new US administration has made tackling climate change a major priority, and that Australia has announced mid-term climate change commitments, with a strong focus on emissions trading.

Targets and action

1.4 The Commission says that, to have a reasonable chance of staying below the 2°C threshold, global greenhouse gas emissions must, by 2050, be reduced to less than 50% of 1990 levels, and will need to peak before 2020. It points out that, whilst developed countries have to take the lead in meeting this goal, and demonstrate that a low-carbon economy is feasible, developing countries must also make a significant contribution, particularly where they are economically more advanced, as many of them are becoming important emitters. It says that the Copenhagen agreement should set further emission reduction targets for developed countries, and that, having set an ambitious autonomous commitment to a 20% reduction by 2020, the Community should now be willing to go further, and sign up to a 30% reduction in the context of a comprehensive international agreement, if there are comparable reductions by other developed countries, and appropriate contributions by the economically more advanced developing countries, based on their responsibilities and capabilities.

Developed countries

1.5 More specifically, it proposes that developed countries should, as a group, reduce their emissions by an amount consistent with the 2°C objective, requiring reductions of 24–40% by 2020 and 80–95% by 2050, which it adds could be achieved in part through domestic action and in part by using credits resulting from emission reductions in developing countries. It also says that their overall target should be distributed in a fair and comparable manner, based on GDP per capita (reflecting the capability to pay); greenhouse gas emissions per unit of GDP (reflecting emission reduction potential); trends in greenhouse gas emissions between 1990 and 2005 (recognising action already taken); and population trends over this same period (linking emission levels to population size).

1.6 It adds that the base year accepted under the Kyoto Protocol (1990) should be used as the reference point when determining further contributions to the global emissions reduction effort after 2012, with the total effort for developed countries amounting to 30% below 1990 levels in 2020, and that binding commitments should not be limited to countries which have targets under Kyoto, but should apply as well to all countries listed in Annex I to the UNFCCC,³ all OECD members, all current Community Member States, candidate countries and potential candidates.

Developing countries

1.7 The Commission notes that, since the impact of climate change on developing countries is likely to be serious, they have an interest in contributing to the 2°C objective,

2 (28276) 5282/07: see HC 41–x (2006–07), chapter 2 (21 February 2007).

3 United Nations Framework Convention on Climate Change.

and that, since their greenhouse gas emissions are increasingly rapidly, these will outweigh the efforts of developed countries, if they are not addressed. It adds that these countries will need to limit the rise in their emissions by 2020 to 15–20% below the “business as usual” baseline (excluding the impact of reductions which result in a transfer of carbon credits to developed countries), and that a rapid decrease in emissions from tropical deforestation should be included (with deforestation itself being reduced by at least 50% compared with present levels). The Commission also suggests that different national circumstances and stages of development require differentiated actions and levels of ambition, which can be achieved by building on national climate change strategies, and with all developing countries (except the least developed) committing themselves under the Copenhagen agreement to adopting low-carbon strategies by the end of 2011. These strategies would have to set out a credible pathway to limit emissions through actions covering all key emitting sectors, and should identify the support required to cover costs which cannot be sustained by the country itself.

International aviation, maritime transport and fluorinated gases

1.8 The Commission notes that international aviation and maritime transport are large and rapidly growing sources of greenhouse gas emissions, but have so far been outside the international climate change framework. It believes that these emissions should now be included, and that, as part of the Copenhagen agreement, the UNFCCC should set targets for reducing the impacts of these sectors below 2005 levels by 2020, and significantly below these by 2050. It adds that, due to the global nature of these sectors, global solutions are needed, with the International Civil Aviation Organisation and the International Maritime Organisation having a responsibility to facilitate the development and adoption of an agreement by the end of 2010, with the caveat that, if this cannot be achieved, these emissions should be counted towards national totals under the Copenhagen agreement.

1.9 As regards fluorinated gases, the Commission notes that the accelerated phase-out of hydrochlorofluorocarbons (HCFCs) under the Montreal Protocol may lead to a rapid increase in emissions of hydrofluorocarbons (HFCs), many of which are very potent greenhouse gases. In view of this, it suggests that part of the Copenhagen agreement should include an international emission reduction arrangement for HFCs.

Financing low-carbon development and adaptation

1.10 The Commission says that any agreement must be underpinned by adequate financial resources for its implementation, and ensure that climate change goals are delivered cost-effectively. It adds that an effective global carbon market can greatly reduce costs, but that there is a need to scale up, redirect and optimise finance and investment, with spending priorities focussing on effective mitigation action. It considers that potential sources of financing should include private and public funding, and the use of grants and loans under international, bilateral and multilateral efforts, with EU contributions at both Community and Member State levels.

Financing the reduction of emissions

1.11 The Commission suggests that the reduction of global emissions will require year-on-year rises in investments, with net global incremental investments of around €175 billion by 2020. It says that more than half would have to be in developing countries (including the forestry sector), where it says that national low-carbon strategies will have to provide an estimate of additional net investment costs for mitigation, and the viable financing and mitigation policy options to leverage these investments. It sees this funding as including both domestic and external sources.

Financing adaptation to climate change

1.12 The Commission says that the Copenhagen agreement should provide a framework for adaptation action, which would extend to the most vulnerable and poorest, involve a commitment to integrate adaptation into national strategies systematically, and improve the design and implementation of national strategies. It recommends pooling experience by means of a technical panel under the UNFCCC, with all countries being required to draft comprehensive national adaptation strategies. It believes that the costs for the most vulnerable countries⁴ could, to a large extent, be covered by the existing Adaptation Fund, but that this will be insufficient to support adaptation in all developing countries, requiring innovative sources of funds to be utilised. It also suggests that a multilateral insurance pool to cover disaster losses should be explored to complement existing funding mechanisms.

Financing global research, technology development and demonstration

1.13 The Commission believes that a major boost must be given to research, development and demonstration of low-carbon and adaptation technologies in all economic sectors, and that this should build upon the needs identified in national low-carbon development strategies. It adds that additional public funding will be required for all these activities, and that it would be desirable globally to at least double energy-related research by 2012, and increase it to four times the present level by 2020, accompanied by a significant shift towards low-carbon technologies, especially renewable energy sources, and with research on impacts and other mitigation options being strengthened at the international level. In particular, it believes that a commitment to this should form an integral part of the Copenhagen agreement, noting the part which the Community's own Strategic Energy Technology Plan can play.

Innovative international funding sources

1.14 The Commission says that developed countries will contribute via public funding and the use of carbon crediting mechanisms, with these contributions being comparable, based on the polluter-pays principle, and each country's economic capability, and forming an integral part of any negotiated Copenhagen agreement. It notes that two principal options have been identified — one determining contributions on the basis of an agreed formula, and the other setting aside a certain percentage of the allowed emissions for each developed country (which would increase progressively in line with per capita income, and be

4 Estimated by the UNFCCC Secretariat as between €23–54 billion a year in 2030 in all developing countries.

auctioned to governments at the international level). It says that the first approach would provide certainty as to the amount involved, but require a robust and transparent monitoring, reporting and verification system, whilst the second would not necessarily generate predictable funding levels, and would require an auctioning process to be established at UN level (though it adds that significant additional revenue will be generated within the Community by means of its Emissions Trading Scheme, some of which could be used to honour any wider international financial obligation).

Funding early action

1.15 The Commission says that, since early action makes adaptation towards a low-carbon economy smoother, the Community should explore the possibility of developing a front-loading mechanism to deliver funding rapidly to the most vulnerable and poorest developing countries, as a bridging initiative between 2010 and the full-scale implementation of the new financial arrangements agreed in Copenhagen. It suggests that around €1 billion a year could be raised for the period 2010–14, provided Member States make appropriate pledges.

Governance of international financial flows for climate change

1.16 The Commission says that, as there are likely to be multiple sources of funding for adaptation and mitigation, coordination will need to be improved, with a high-level forum bringing key decision makers from the public and private sectors and international financial institutions to review regularly the availability of funding and expenditure.

Mitigating emissions and raising revenue on a global carbon market

Domestic cap and trade systems

1.17 The Commission says that domestic cap and trade systems are one of the most promising instruments at the disposal of countries to reduce greenhouse gas emissions, particularly in sectors with relatively large emitters, ensuring that systems are environmentally effective and cost efficient. It adds that domestic carbon markets can, and should, be linked to build an effective global market, reducing the cost of mitigation, and that the Copenhagen agreement can support the emerging carbon market by global and country target setting. It points out that the Community has experience in this area with its Emissions Trading Scheme being the world's largest cap and trade system, and that, in the light of the interest shown by a number of other developed countries, it should, in parallel with the UN negotiations, promote the creation of a robust OECD-wide carbon market by 2015, to be further extended to economically more advanced developing countries by 2020. At the same time, it says that the Community should actively engage with the new US administration, and that it will seek to put in place an EC-US working group on the design of carbon markets: it also believes that developing countries should over time adopt and implement domestic cap-and-trade systems, and that the Community should help them gain experience in this area.

Improving UN-based offsetting mechanisms

1.18 The Commission points out that the Clean Development Mechanism (CDM) under the Kyoto Protocol is an offset mechanism in which developing countries can sell credits which represent emission reductions achieved by a specified project. These credits can then be bought by a developed country in order to comply with its national reduction target, in the process providing finance for clean technology in the developing country concerned. In order to ensure that a large part of the reduction in Community emissions is achieved domestically, the Emissions Trading Scheme limits the use of CDM credits, and the Commission says that the CDM should be reformed, crediting only those projects which deliver real additional reductions, and suggests that, for advanced developing countries and highly competitive economic sectors, the project-based CDM should be phased out in favour of a sectoral carbon crediting mechanism.

1.19 Finally, the Commission says that the Community should aim to ensure that the Copenhagen agreement provide the basis for a long-term international framework, and that a periodic review of progress should form an integral part of the agreement, including a comprehensive review in 2016.

The Government's view

1.20 In his Explanatory Memorandum of 16 February 2009, the Secretary of State for Energy and Climate Change (Mr Ed Miliband) says that the UK:

- supports the approach of signalling to other developed countries the criteria which the Community believes are relevant to assessing comparability, and is content with those put forward by the Commission (although it also believes that the Community could remain open to other parameters, such as income distribution, mitigation costs, emissions per capita, or trends in emissions intensity);
- welcomes the message that developing countries must play their part in meeting global emissions reduction targets, with the Community needing to consider how best to send the right signals, particularly to the economically more advanced developing countries;
- supports the Commission's position that the global agreement in Copenhagen should include emissions from international aviation, with levels of reduction effort consistent with keeping the 2°C objective within reach, and would be happy for this target to be set by the UNFCCC;
- does not want at this stage to prescribe who should set the targets for shipping, it being more important that targets are set;
- is concerned that, since emissions from international aviation and maritime activities are global by nature, their inclusion in national totals will only lead to competitive distortion and carbon leakage, and therefore supports their inclusion in a global sectoral agreement;
- is pleased that the Commission identified some concrete proposals for financing, its own starting point being that credible options for predictable and reliable

sources of new public finance must be demanding of other developed countries, and provide an incentive to contributions from developing countries as well;

- is interested in setting aside a percentage of annual emissions, since this would leverage significant levels of funding, and would allow a country to decide whether to further reduce emissions or access the market, representing a significant step towards a global carbon market;
- believes nevertheless that an annual financial commitment calculated on an agreed formula is an interesting proposal on which it would be possible to build, but would be opposed to any compliance mechanism or penalties;
- is continuing to work up its position on finance sources, including the idea of setting aside a percentage of annual emissions, and is open to other innovative proposals;
- notes with interest the Commission's ideas on delivery and governance, having itself proposed an approach whereby countries would produce and endorse development plans which integrate their mitigation and adaptation ambitions;
- has reservations over the Commission's suggestion on the creation of new institutions, believing that the Community is not yet in a position to make such proposals, and should focus instead on identifying and agreeing the necessary international institutional functions, before reviewing the existing international architecture with a view to strengthening institutions that are working well but establishing new ones only where there are gaps to be filled;
- was encouraged by the call for the Copenhagen agreement to provide a framework for action on adaptation, agreeing that this is needed in all countries, and that support needs to be provided to the poorest and most vulnerable;
- considers that, when discussing the role of the Adaptation Fund, the Community needs to be careful to avoid referring to this as the future channel for most adaptation finance, because the Fund has not yet shown its capability to handle funding of this scale;
- agrees with the Commission that the carbon market has a key role to play in achieving climate change goals, believing that a global carbon market will provide the best way of addressing greenhouse gas emissions for key sectors;
- supports the implementation of an enhanced and reformed CDM, adding that key sectors in some advanced developing countries should be removed from the CDM and addressed by alternative measures financed either domestically or internationally;
- welcomes the proposed OECD-wide carbon market by 2015, but adds that, although this is a very positive step, the UK would want to be more ambitious by extending the market to link cap and trade systems in advanced developing countries by 2020; and

- welcomes the proposed EU-US working group to discuss how to build a transatlantic carbon market as a useful and constructive initiative at a time when the US is considering the shape and extent of its domestic cap and trade programme.

Conclusion

1.21 For obvious reasons, we have recently reported on a number of documents relating to climate change, either from a general standpoint, or in relation to specific issues, such as the Emissions Trading Scheme. To that extent, this latest Communication covers some ground which is familiar, notably as regards the commitments entered into by the Community on reductions in emissions of greenhouse gases by 2020. However, this document goes a good deal further, not only in setting out what the Community's position should be in relation to emissions by both developed and developing countries, but also in a number of other important areas, such as the financing of low carbon development, problems of adaptation, mitigating emissions and raising revenue on the global carbon market. As such, they deal with matters which are important in their own right, but which have now assumed a greater significance in the light of the pressure to reach an international agreement in Copenhagen at the end of this year on the measures to follow on from the Kyoto Protocol. For that reason, we are recommending the document for debate in European Committee A.

2 The European Commission External Service

(30340) 5289/09 COM(08) 879	Commission Communication: <i>The Development and Consolidation of the External Service: Implementation of measures for 2008</i>
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<i>Legal base</i>	—
<i>Document originated</i>	23 December 2008
<i>Deposited in Parliament</i>	15 January 2009
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	EM of 26 February 2009
<i>Previous Committee Report</i>	None; but see (28684) —: HC 41–xxvii (2006–07), chapter 9 (27 June 2007)
<i>To be discussed in Council</i>	To be determined
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Not cleared; for debate in European Committee B

Background

2.1 The size and scope of the Commission’s external activity is set out on the DG External Relations website.⁵

2.2 The first fifty years of the Commission’s external service is detailed in “Taking Europe to the World — 50 years of External Service”, which was published by the Commission in 2003.⁶

2.3 The European Commission’s External Relations website⁷ notes that:

- “the European Union today faces global responsibilities and challenges;
- “The EU is the largest trading block in the world, the largest donor of humanitarian and development assistance and a constant point of reference for others on stability, democracy and human rights;
- “The European Commission plays a key role in the implementation of the EU’s foreign and other policies and in this it relies heavily on its over 130 Delegations and Offices around the World, which act not only as the eyes and ears of the Commission in their host countries but also as its mouthpiece vis-à-vis the authorities and the general population.”

2.4 On 27 June 2007, we considered the predecessor to this present document, Commission Communication COM (07) 206, on “The Development and Consolidation of the External Service: 2007–08”. At that time, the External Service website anticipated the signature of the new Constitutional Treaty, and the EU starting work on the design of the future European External Action Service. It foresaw “huge potential for the future European Union delegations to represent EU external policy in bilateral relations with third countries”. There were then 118 Delegations in third countries and 5 Delegations (in Geneva, New York, Paris, Rome and Vienna) at centres of international organisations (OECD, OSCE, UN and WTO):

- presenting, explaining and implementing EU policy;
- analysing and reporting on the policies and developments of the countries to which they are accredited; and
- and conducting negotiations in accordance with a given mandate.

2.5 The Commission said that this meant that the Delegations exercised powers conferred by the treaty on the European Community, in third countries, by promoting the Community’s interests as embodied in the common policies, chiefly the common commercial policy, but also many others, including agricultural, fisheries, environmental, transport, and health and safety policies. It also meant involvement in areas such as Justice and Home Affairs, in which the European Community does not have exclusive powers.

5 See http://ec.europa.eu/external_relations/index_en.htm.

6 See http://ec.europa.eu/external_relations/delegations/docs/50_years_brochure_en.pdf.

7 See http://ec.europa.eu/external_relations/delegations/index_en.htm.

2.6 In addition, the Commission said the Delegations played a key role in the implementation of external assistance — a role greatly expanded as a consequence of the devolution policy carried out in stages over the period 2001–2004 in order to provide EU external assistance more rapidly and more efficiently. Increasingly, not only would Delegations be closely involved in programming, but would manage projects directly from start to finish, in close contact with the EuropeAid Co-Operation Office and host country authorities, within the framework of rules set in Brussels. They were also tasked, in concert with the EU Presidency, with taking the lead in on-the-spot coordination of the implementation of all EU assistance, multi-lateral and bi-lateral, to increase synergy and EU visibility.

2.7 Delegations also played an increasing role in the conduct of the Common Foreign and Security Policy (CFSP), providing regular political analysis, conducting evaluations jointly with Member State Embassies and contributing to the policy making process.

2.8 Finally, Delegations provided support and assistance as necessary to the other institutions and actors of the EU, including:

- the High Representative for CFSP/Secretary General of the EU Council, who is able to rely on their logistical support when on mission and to whom all their policy reports are copied;
- the European Parliament, by helping to arrange programmes for and accompanying visiting delegations and Committees where necessary and — in agreement with Commission headquarters — reporting on recent developments in their host countries and the development of EU policy and programmes to the Foreign Affairs Committee and other Committees of the Parliament, when they are back at headquarters; and
- the EU Presidency, with Heads of Delegation regularly taking part in Troika démarches, and assisting the Presidency in other ways.

2.9 In Brussels, the main partners in the Commission are the Directorates General most involved in foreign affairs; DG External Relations, DG Development, DG Enlargement, DG Trade, EuropeAid Co-Operation Office, and the European Community Humanitarian Office (ECHO). However, the Commission then said, the Delegations served “the whole institution and not just the so-called RELEX family”.⁸

2.10 Against this background, the Commission proposed to expand the External Service by opening Delegations in Switzerland, East Timor, Azerbaijan, Montenegro and the African Union in 2007, together with the upgrading of “regionalised” Delegations in Armenia and Cape Verde. In 2008 it envisaged the opening of a Delegation in Uzbekistan and a permanent representation at the Council of Europe, as well as the upgrading of “regionalised” Delegations in Kyrgyzstan, Tajikistan, Yemen, Nepal, Togo, Djibouti and Liberia. In each case, the Communication cited local operational reasons for establishing or enhancing the EU’s presence.

8 See (28684) —: HC 41–xxvii (2006–07), chapter 9 (27 June 2007).

2.11 The then Minister for Europe noted that the Communication contained no legislative recommendations, required no new resources, and was within the scope of existing Treaties; he therefore welcomed the Communication, saying that the total cost (until 2013) would be €55.482 million, to be funded from a variety of existing budget lines.

2.12 Whilst clearing the document, we noted that it was plain from the DG External Relations website at that time that the outcome of the referendums in 2005 in the Netherlands and France did not seem to have given the Commission pause for thought. What gave these proposals their immediate political importance was, we said, the outcome of the 21–22 June 2007 European Council, and the draft mandate for an IGC tasked with drawing up a treaty amending the existing Treaties with a view, of “enhancing the coherence of its external action”, including the creation of the new office of “High Representative for the Union for Foreign Affairs and Security Policy”, General Provisions on the Union’s external action and specific Provisions on the Common Foreign and Security Policy, “as amended in the 2004 IGC (including the European External Action Service and its permanent structured cooperation in the field of defence”).⁹ Against this background, we judged that these latest proposals for what would be the backbone of the proposed European External Action Service warranted reporting to the House.

2.13 We also noted that the Commission said that “the question of requirements arising from the stepping-up of consular tasks performed by the delegations, as requested by the Member States ... will be the subject of a more detailed analysis once the extent of the tasks and their consequences have become more apparent”; for our part, we recalled the Commission’s Green Paper on “Consular and diplomatic protection of Union citizens in third countries”, which we considered on 28 March 2007¹⁰ and which was debated in the European Standing Committee on 15 May 2007.¹¹

The Commission Communication

2.14 This Communication has been prepared to update the Council and European Parliament on how the External Service has been developed and consolidated since the previous Communication on this issue.

2.15 In her Explanatory Memorandum of 26 February 2009, the Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) confirms that, as envisaged in the previous Communication, the Commission will, in 2009, upgrade several of its existing delegations and open two new delegations:

“There will be a new permanent representation to the Council of Europe in Strasbourg and a new delegation in Uzbekistan. The existing regional delegations in Kyrgyzstan, Tajikistan, Nepal, Togo, Liberia, Djibouti and Yemen will be upgraded to become fully-fledged delegations. In addition, there will be new administrative arrangements for places where there is a Commission presence distinct from its delegations (these are in Belize, Comoros, Congo, Mongolia, Burma, Panama and Samoa)”.

9 See http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/94932.pdf, pages 15–19.

10 See (28304) 6192/07: HC 41–xvi (2006–07), chapter 2 (28 March 2007).

11 See *Gen Co Deb*, European Scrutiny Committee, cols. 3–15.

2.16 The Minister agrees with the Commission that there is scope for “closer economic and political relations with the countries and organisations in question”, and therefore supports the developments to the External Service outlined in this Communication. These developments will, the Minister says, “help the Commission to operate more effectively in Africa, Central America, Central Asia and South East Asia, in carrying out its activities as mandated by the Council.” The Minister continues as follows:

“In each case, the Communication cites local operational reasons, and the need for more work on EU initiatives that have already been agreed by the Council, as reasons for these readjustments. An enhanced EU presence will extend the UK’s reach in areas where we have important development and security priorities. For instance, the new arrangements for the Goma delegation will help maintain the EU’s role in observing progress on the Goma and Nairobi processes for peace in this region. The EU is also helping member states to carry out important work in Uzbekistan, Burma and Yemen, where new or upgraded delegations will soon be opened.”

2.17 The Minister notes that the paper contains no legislative recommendations, is within the scope of existing Treaties, and that the Commission and its offices are bound by the terms of existing EU Common Positions, including for Burma and Uzbekistan. She then says:

“If the Lisbon Treaty were to come into force, these existing Commission Delegations could become renamed Union delegations and placed under the responsibility of the High Representative for Foreign Affairs and Security Policy. The Government considers that this would be a sensible reform of the existing structures, which would help to ensure that the existing overseas network of Commission Delegations are more effectively brigaded with the Union’s other external policy resources and made more accountable to the Member States through the High Representative. British missions would continue to work closely with the Union delegations to ensure that, where we have an agreed EU policy, the resources of the Union are effectively deployed to ensure its implementation in third countries and at international organisations.”

2.18 Returning to the *status quo*, the Minister explains that:

- the Commission will reconfigure its delegations by hiring new staff and by redeploying its existing staff, and that this will be funded from existing lines within the current EU Budget, with 34 new jobs being created; and
- the Commission will implement, monitor and evaluate these changes, with all positions within its delegations being subject to controls within the framework of visits from the inspection of the delegations Unit and by the Internal Control unit of the External Service.

2.19 With regard to funding, the Minister says these changes will be funded from resources which will be made available in 2009, from the following existing EU budget lines:

- expenditure related to staff in active employment of Commission delegations;
- external staff of Commission delegations;

- other management expenditure of Commission delegations;
- buildings and related expenditure of Commission delegations;
- Development Cooperation and Economic Cooperation Instrument:¹² expenditure on administrative management; and
- European Development Fund — expenditure on administrative management.

2.20 Looking ahead, the Minister says that the External Service will cost €87.89 million (£79.10 million) to run in 2009, and €82.86 million (£74.57 million) to run for each year from 2010 to 2013.

2.21 Finally, the Minister notes that, although the Communication has been transmitted to both the Council and the European Parliament, no date has been set for Council discussion.

Conclusion

2.22 **In other circumstances these relatively modest proposals might not excite great interest. However, it is notable that, unlike in 2007, the DG External Relations website says nothing about how it sees its future, if and when the Lisbon Treaty is finally adopted. That treaty says of the External Action Service, that the High Representative “shall be assisted” by it and that its “organisation and functioning ... shall be established by a Decision of the Council”.¹³ The Minister essays some tentative and limited views. But large questions remain open.**

2.23 **Within the Communication itself, the Commission rationalises several of the proposed changes, at least in part, in terms of monitoring political processes and political relations between the EU and the country concerned, notwithstanding the existence of a network of EU Special Representatives who are similarly tasked and, in some cases, even also on the same ground — and whose future role is unconsidered. Nor is it entirely clear what the Minister has in mind when she talks of the “brigading” of existing Commission Delegations with the Union’s other external policy resources leading to greater effectiveness and more accountability to the Member States through the High Representative — whose relationship with the Member States is, of course, complicated by virtue of his being also a Vice-President of the Commission (to say nothing of the additional uncertainties of how he or she might relate to other relevant Commissioners, the Commission President and the “permanent” President of the European Council).**

2.24 **Neither the Commission nor the Minister says anything about what the EAS’ role might be in relation to the provision of consular services.**

2.25 **Moreover, when the Minister talks of British missions continuing to work closely with Union delegations to ensure that “where we have an agreed EU policy, the resources of the Union are effectively deployed to ensure its implementation in third**

12 COM(04) 628: see http://ec.europa.eu/external_relations/reform/document/com04_629_en.pdf

13 See the Treaty on European Union, article 27.

countries and at international organisations”, she says nothing of who would coordinate whom.¹⁴

2.26 Though, were the Lisbon Treaty to be finally adopted, all of this would be covered in the Council Decision referred to in the Treaty, we think that it would be right for these issues to be ventilated in European Committee B now, so that the House may be given an opportunity to question the Minister, and hear her views, in greater depth. We so recommend.

3 Financial services and accounting and audit standards

(30397) 5783/09 + ADD 1 COM(09) 14	Draft Decision establishing a Community programme to support specific activities in the field of financial services, financial reporting and auditing
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<i>Legal base</i>	Article 95 EC; co-decision; QMV
<i>Document originated</i>	23 January 2009
<i>Deposited in Parliament</i>	3 February 2009
<i>Department</i>	Business, Enterprise and Regulatory Reform
<i>Basis of consideration</i>	EM of 20 February 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Not known
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; further information requested

Background

3.1 Any company with its securities listed on a regulated market in the Community must publish its consolidated financial accounts in accordance with International Financial Reporting Standards issued by the International Accounting Standards Board and with related interpretations by the International Financial Reporting Interpretations Committee. These are two bodies of the International Accounting Standards Committee Foundation, which is a not-for-profit corporation incorporated in Delaware, USA.¹⁵

3.2 The European Financial Reporting Advisory Group was set up in 2001 by organisations representing issuers of securities, investors and the accountancy profession involved in the financial reporting process. It assists the Commission in the endorsement of international accounting standards by providing advice on the technical quality of these standards and is

¹⁴ Article 24 of the Lisbon Treaty says that “Member States shall support the Union’s external and security policy unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union’s actions in this area”

¹⁵ See <http://www.iasb.org/About+Us/About+the+IASB+Foundation/About+the+IASB+Foundation.htm>.

used by stakeholders to provide technical input to the development of draft international accounting standards.¹⁶

3.3 The Public Interest Oversight Board¹⁷ was created in 2005 to increase the confidence of investors and others that the public interest activities, including the setting of standards by independent boards operating under its auspices, of the International Federation of Accountants, a global private body representing the accounting profession,¹⁸ are properly responsive to the public interest. A key role of the Board is to ensure that International Standards on Auditing are developed and adopted by the International Auditing and Assurance Standards Board,¹⁹ a board of the International Federation of Accountants, with due process, public oversight and transparency.

3.4 The Lamfalussy Level 3 committees²⁰ are the Committee of European Securities Regulators,²¹ the Committee of European Banking Supervisors²² and the Committee of European Insurance and Occupational Pensions Supervisors.²³ They were set up by the Commission between 2001 and 2004 in order to provide for stronger cooperation between national supervisory authorities and the convergence of supervisory practices. They are made up of representatives from national supervisory authorities competent in the fields of securities, banking and insurance in each Member State. The committees do not receive any funding from the Community budget — they are funded by annual contributions from their members, based on the number of votes held in the Council by the Member State concerned.

The document

3.5 With this draft Decision and the annexed staff working document the Commission proposes a programme of Community budget funding over four years, totalling €36.20 million (£32.50 million); for the International Accounting Standards Committee Foundation (€15.00 million (£13.47 million)), the European Financial Reporting Advisory Group (€12.00 million (£10.77 million)) the Public Interest Oversight Board (€1.20 million (£1.08 million)) and the three Lamfalussy Level 3 committees (€8.00 million (£7.18 million)). Additionally the Commission proposes that €7.13 million (£6.40 million) over

16 See <http://www.efrag.org/content/default.asp?id=4103>.

17 See <http://www.ipiob.org/index.php>.

18 See <http://www.ifac.org/>.

19 See <http://www.ifac.org/IAASB/>.

20 The Lamfalussy process is a four-level approach to regulation of the Community's financial services industry. At the first level the European Parliament and the Council adopt legislation, setting framework principles and the Commission's implementing powers, on the basis of Commission proposals on which it is advised by sector-specific committees of high-level representatives of Member States chaired by the Commission. At the second level sector-specific committees of national regulators prepare and advise on implementing measures to be adopted by the Commission. At this level the committees of high-level representatives perform a "comitology" role (comitology procedures regulate exercise by the Commission of implementing powers conferred on it by the Council and the European Parliament and are essentially intended for detailed measures to implement Community legislation) of voting on the Commission's implementing measures before their adoption. At the third level the committees of national regulators work on strengthening coordination of regulation, for instance by establishing common interpretations of legislation and peer group review of regulatory practice. At the fourth level the Commission strengthens compliance with and enforcement of EU rules.

21 See <http://www.cesr-eu.org/index.php?page=cesrinshort&mac=0&id=>

22 See <http://www.c-ebis.org/Aboutus.aspx>.

23 See <http://www.ceiops.eu/content/view/2/2/>.

four years will be needed to provide extra staff for its Internal Markets and Services Directorate to manage the proposed funding.

3.6 In support of funding for the International Accounting Standards Committee Foundation the Commission says that:

- ECOFIN Council conclusions in each of the last three years have highlighted the need to secure appropriate funding for the Foundation;
- its current budget of target contributions is £16 million for 2008;
- it is dependent on the voluntary contributions of four major international accountancy and audit firms, the “big four”,²⁴ for about 22% of its funding;
- around 26% of the funding comes from countries within the Community, currently arranged at Member State level, and funds raised in the USA and Japan account for 26% and 10% respectively;
- national funding schemes have been established in only eight Member States, either through privately arranged voluntary funding schemes or via statutory levies on companies with listed securities;
- the Commission assesses that no significant progress can be expected towards establishing national funding schemes in all Member States in the foreseeable future;
- the Commission is concerned that the standard setting process needs to be independent of undue influence from parties, such as auditors and listed companies, with a stake in its outcome, that the continuity of the International Accounting Standards Board’s operations is threatened by the existing voluntary nature of so much of its funding and about the lack of fairness in only eight Member States contributing;
- its legal service has concluded that there is no basis in Community law to require Member States to fund the Foundation or to impose a mandatory levy on Community listed companies;
- even if a legal basis for such a levy could be found on the basis of Article 308 EC, adoption of such legislation would require unanimity in the Council and political reasons make this unlikely to be achieved; and
- the Commission, therefore, proposes that the Community contributes to the funding of the International Accounting Standards Committee Foundation.

3.7 In relation to the European Financial Reporting Advisory Group the Commission says that:

24 Deloitte, Ernst and Young, KPMG and PriceWaterhouseCoopers.

- the Group’s role of providing technical input to the development of draft international accounting standards is constrained by lack of resources;
- in 2007 its budget was €3.25 million (£2.8 million);
- around half the budget is in cash and the other half represents a contribution “in kind” by the provision of technical experts from national standard setters, the accounting and audit profession, users, and academic institutions;
- the Group is currently funded by its member organisations and interested parties (such as auditors);
- this makes its funding non-diversified, precarious and voluntary;
- the additional financing proposed would be partly used to put some current experts on the Group’s payroll and partly to increase the number of staff;
- as with the International Accounting Standards Committee Foundation, there is no legal basis for a requirement to set up national funding schemes; and
- no material increase in funding can be expected from existing funders.

3.8 On the Public Interest Oversight Board the Commission says that:

- the Community has a direct interest in the development process of international accounting standards as the 2006 Statutory Audit Directive provides for them to be adopted into Community law;
- the purpose of Community funding would be to reduce the current dependence of Board on the International Federation of Accountants for 93% of its funding, which is felt to be inappropriate given the role in providing independent oversight of key Federation work; and
- the Community would provide, under the proposal, 30% of the Board’s funding.

3.9 In discussing the Lamfalussy Level 3 committees the Commission says that:

- they are inadequately equipped with the financial means to carry out certain strategic projects which significantly exceed the current funding arrangements
- it proposes, therefore, co-financing the committees for specific tasks — in particular, information technology projects and projects relating to staff training and secondments — through awarding grants;
- the committees have estimated the funding needs for the development of staff training and secondment projects and a number of information technology at €16.61 million (£14.90 million) over five years; and
- it proposes to finance 48% of these estimated costs, providing the committees’ supporting structures (their legal personalities) with €2.00 million (£1.8 million) each year for the 2010–13 period, totalling €8.00 million (£7.20 million).

The Government's view

3.10 In his Explanatory Memorandum of 20 February, the Parliamentary Under-Secretary of State, Department for Business, Enterprise and Regulatory Reform (Ian Pearson), says, in relation to the International Accounting Standards Committee Foundation, the European Financial Reporting Advisory Group and the Public Interest Oversight Board that the Government agrees with the aim of the Commission to ensure stable, diversified, sound and adequate funding to enable these bodies to carry out their Community related or Community public interest mission in an independent, efficient and satisfactory way. But it is as yet unconvinced that the Commission's proposals will achieve this aim. The Minister also says that the Government supports the provision of funding for these bodies on condition that it comes out of a reallocation of the existing Community budget and does not cause an increase in that budget.

3.11 On the International Accounting Standards Committee Foundation the Minister comments that:

- it is unclear whether the funding proposed is additional or replacement funding, and if new what it is for, or if a replacement what it replaces;
- it is most likely that it is designed to replace the current Member State schemes of funding — if this is the case the proposal meets few of the Commission's stated objectives and will not meet the most important objective at all;
- that is, it is unlikely to replace funding by the “big four” accountancy and audit firms, but even if it did it would not reduce influence by auditors and other knowledgeable parties because they constitute the knowledge base for accounting and audit regulation and staff many of the posts in the Foundation bodies;
- the UK is one of the approximately eight Member States that contribute funding from the Community to the Foundation — but the Government is not only unperturbed by the bias in funding provided, it is also unaware of any concerns among other Member States who also contribute;
- the voluntary nature of the Foundation's funding has not caused any serious practical issues in its continuity or operation;
- the USA has, however, raised the voluntary nature of the funding as a governance obstacle in the way of its acceptance of International Financial Reporting Standards and a compulsory funding model would relieve fund-raising burdens on the Foundation's Trustees;
- the Commission suggests the funding the Community should provide would be 25% of the Foundation's budget allowing elimination of the contribution of the “big four”;
- but as that contribution is £4.00 million and that of the eight Member States is also £4.00 million the Community contribution would have to be €13.40 million (£12.00 million) more than that proposed by the Commission; and
- this aspect needs to be clarified in the negotiations on the draft Decision.

3.12 In relation to the stronger European Financial Reporting Advisory Group proposed by the Commission the Minister says that this would appear a useful outcome for all Community stakeholders and that the sums involved are probably not unreasonable.

3.13 The Minister tells us that the Government supports the principle of funding the Lamfalussy Level 3 committees from the Community budget for specific projects asked of them by the Community or, for example, projects to raise supervisory standards, share best practice and enhance supervisory convergence. He comments further that:

- the Government would support proposals to fund, for example, staff training, secondment opportunities and specific Community-wide information technology projects;
- it does not, however, support funding the general functions of the committees, for example, in their role in providing guidance to national supervisors on Community legislation, as this might undermine their independence;
- the proposal does not change the national accountability or role of national supervisors; and
- the proposal would appear to be aligned with the Government's objectives — restricting the criteria of eligible projects, primarily to staffing and information technology projects, and excluding activities that are included in the committees' mandates. The Government will seek to further clarify this in the negotiations.

3.14 The Minister also says that the Government will:

- seek clarification on how the proposed funding appropriations were determined;
- seek clarification on a provision in the draft Decision allowing the Commission to add, through the comitology procedure, other eligible beneficiaries to the funding programme; and
- ask the Commission to justify the proposed administration costs and to consider options for sharing and reducing these cost implications.

Conclusion

3.15 Clearly enhancement of these various bodies may make for better regulation of accounting and audit practices and for better supervision of financial services. But we note the various reservations the Government has about the draft Decision and before considering the document further we wish to hear from the Government about the clarifications it is seeking in the negotiations on the proposal.

3.16 Meanwhile the document remains under scrutiny.

4 Value added taxation

(a) (30406) 5985/09 COM(09) 21	Draft Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing
(b) (30407) 5991/09 COM(09) 20	Commission Communication on the technological developments in the field of e-invoicing and measures aimed at further simplifying, modernising and harmonising the VAT invoicing rules

<i>Legal base</i>	(a) Article 93 EC; consultation; unanimity (b) —
<i>Documents originated</i>	28 January 2009
<i>Deposited in Parliament</i>	4 February 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 16 February 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Not known
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Document (b) cleared. Document (a) not cleared; further information requested

Background

4.1 Council Directive 2001/115/EC, the Invoicing Directive, introduced common Community rules on VAT invoices, thought necessary for the single market to function properly. The Invoicing Directive has been incorporated into Council Directive 2006/112/EC, the VAT Directive. Article 237 of this says that “the Commission shall present, at the latest on 31 December 2008, a report and, if appropriate, a proposal amending the conditions applicable to electronic invoicing in order to take account of future technological developments in that field”.

The documents

4.2 With its Communication (document (b)) the Commission fulfils the requirement to report on e-invoicing (electronic invoicing). But it takes the opportunity to discuss wider issues perceived as weaknesses in VAT legislation. Thus the Commission discusses not only technological developments in e-invoicing and VAT obstacles to promoting e-invoicing but also:

- measures to further simplify, modernise and harmonise VAT invoicing rules, covering issue of an invoice, invoice details and storage of invoices;

- measures to help tackle VAT fraud, covering chargeability of tax on intra-Community supplies and right of deduction; and
- other simplification measures, covering cash accounting.

4.3 On the basis of the Communication the Commission suggests the need for further legislation, as proposed in the draft Directive (document (a)). The draft Directive would:

- address the varied application of the VAT rules on e-invoicing across the Community, a current deterrent to its widespread acceptability to and use by businesses. This is to be achieved by allowing businesses to send electronic invoices under the same conditions as they would send paper invoices and, in particular, by removing from Member States the option to require use of an advanced electronic signature or electronic data interchange;
- address variations in application of the current invoicing rules across Member States, in order to simplify matters for businesses and to enable them to take advantage of options such as self-billing and summary invoices. The provisions concern mainly the conditions for issuing an invoice, the content of VAT invoices and the storage of invoices;
- enhance anti-fraud measures by complementing provisions in a draft Directive and draft Regulation,²⁵ primarily concerned with the shortening of the timeframe for recapitulative statements.²⁶ The proposal would create a single date on which tax becomes chargeable, being the date of the chargeable event as determined by the time of the supply. By requiring an invoice to be issued by the 15th day of the month following the chargeable event, the invoice would remain the principal document evidencing intra-Community supply;
- enhance anti-fraud measures by requiring the customer to hold an invoice in order to exercise the right to deduct input tax in all cases where the supplier is required to issue an invoice — at present in certain cases, such as reverse charge transactions, the customer is not obliged to hold a valid invoice in order to exercise the right to deduct. But the proposal would not prevent Member States from allowing a right of deduction, subject to other evidence, when a valid invoice is not available; and
- enable all Member States to offer the cash accounting scheme²⁷ as an option to SMEs with a turnover falling below a threshold, to be determined by them but no higher than €2.00 million (£1.80 million) — the UK and some other Member States currently operate this scheme by way of derogation.²⁸

25 (29570) 7688/08: see HC 16–xx (2007–08), chapter 5 (30 April 2008), HC 16–xxviii (2007–08), chapter 5 (22 July 2008) and HC 16–xxxii (2007–08), chapter 11 (15 October 2008).

26 Suppliers provide information in recapitulative statements about what they have supplied to whom in other Member States. In the UK they are known as EC Sales Lists.

27 The scheme enables SMEs to account for VAT on the basis of cash payments made or received, rather than on an invoice date basis.

28 (28040) 16810/06: see HC 41–ii (2006–07), chapter 17 (29 November 2006).

The Government's view

4.4 The Financial Secretary to the Treasury (Mr Stephen Timms) comments first on the proposal relating to the VAT rules on e-invoicing saying that the Government views it as a positive step. He continues that:

- the proposal will be welcomed by businesses across the Community;
- UK and other Community businesses already benefit to an extent from a more relaxed regime permissible under existing rules, which the Government currently applies to UK domestic transactions and incoming cross-border transactions; and
- the main potential benefit for UK businesses will be to those involved in cross-border trade within the Community.

4.5 The Minister comments that the picture is less clear with regard to the more general measures on the VAT invoicing rules, saying:

- in its Explanatory Memorandum the Commission has highlighted the benefits of e-invoicing but has not provided evidence or data on the potential impacts on the other VAT invoicing elements;
- the Commission says that a full impact assessment has not been possible bearing in mind the deadline imposed on it by Article 237 of the VAT Directive; and
- the Government considers it important therefore that its officials engage with UK businesses on all the key elements to ensure it fully understands any potential impacts.

4.6 The Minister says that the Government also remains to be convinced of the arguments for including anti-fraud measures within this draft Directive, which is primarily intended for the benefit of business. He adds that the Government will need to see how these fit with the overall balance of the draft Directive, which will depend in part on the outcome of any deliberations and engagement with UK business.

4.7 On the SME simplification measure, related to the cash accounting scheme, the Minister says that the Government supports this element of the draft Directive. Noting the UK's existing derogation to apply this scheme and that the existing threshold in the UK is below the proposed level, he comments that the proposal would negate the need for the Government to have the derogation renewed on a regular basis and would provide greater flexibility and legal certainty for the future.

4.8 Turning to the financial implications of the draft Directive the Minister says:

- the proposal on e-invoicing has the potential to save businesses across the Community considerable revenue, with the Commission suggesting this could be as much as €18.00 billion (around £16.20 billion), whilst acknowledging, given that there are other reasons why businesses may not take up e-invoicing, the actual amounts will be less;

- the main beneficiaries in the UK will be businesses involved in cross-border trade within the Community;
- the proposal on cash accounting will not impact on the UK, unless the Government takes advantage of the higher threshold;
- the implications of the other elements of the draft Directive are mixed — there may be potential winners and losers on an individual basis, though overall the Government would expect there to be a benefit to UK business; and
- however, as the Commission has not produced an impact assessment covering these elements, and until the Government has more information from UK businesses about the possible consequences, this can only be a tentative assessment.

The Minister tells us that the Government's impact assessment will follow in due course.

Conclusion

4.9 We clear the Commission Communication, document (b).

4.10 As for the draft Directive, document (a), we note both the Government's positive view of the e-invoicing and cash accounting aspects of the proposal and its caution about the proposed anti-fraud and more general invoicing measures. Before we consider this document further we should like to have information about:

- **the outcome of the Government's discussions with UK business about the proposed measures;**
- **the Government's impact assessment; and**
- **in due course, developments in negotiation of the proposed legislation.**

Meanwhile this document remains under scrutiny.

5 Taxation

(a) (30419) 6035/09 COM(09) 29	Draft Council Directive on administrative cooperation in the field of taxation
(b) (30424) 6147/09 COM(09) 28	Draft Council Directive concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures

<i>Legal base</i>	Articles 93 and 94 EC; consultation; unanimity
<i>Documents originated</i>	2 February 2009
<i>Deposited in Parliament</i>	6 February 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	(a) EM of 25 February 2009 (b) EM of 26 February 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	June 2009
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Not cleared; further information requested

Background

5.1 Since 1977 there has been a Directive, the Mutual Assistance Directive, 77/799/EEC, as amended, providing for cooperation between Member States in relation to the administration of taxation. Similarly there has been since 1976 a Directive, the Recovery Directive, codified as 2008/55/EC, providing for mutual assistance between Member States in the recovery of tax debts and similar levies.

The documents

5.2 The draft Directive, document (a), would replace the present Mutual Assistance Directive in order to extend the scope and improve the effectiveness of exchange of information and mutual assistance, as part of the Community drive to tackle cross-border tax evasion and other forms of non-compliance or avoidance. The new Directive would:

- unlike the existing Directive, which is limited to direct taxes and taxes on insurance premiums, extend to all types of taxes, other than VAT and excises, which are covered by separate legislation, and social security (national insurance) contributions;
- provide for exchange of information between Member States, on request, for tax assessment or compliance purposes and for procedures for such exchanges, including time limits for meeting requests;

- provide for spontaneous exchange of information;
- allow automatic exchanges of information between all Member States on specific categories of income and capital to be established through a comitology procedure;²⁹
- set out, more fully than at present, arrangements for the presence and participation of officials of one Member State in enquiries in another Member State and provide for simultaneous enquiries and checks and service of documents;
- require feedback on cases and strengthen provisions on sharing best practice;
- introduce OECD standards of access to bank information and abolish the ability of Member States to refuse information requests on the grounds of bank secrecy;
- introduce standard forms and formats for information exchange, so as to improve efficiency and effectiveness;
- enable all Member States to benefit equally from information received or obtainable from third countries; and
- extend the present disclosure rules to allow sharing of information received with other authorities within the Member State, in so far as national law permits.

5.3 The draft Directive, document (b), would replace the present Recovery Directive in order to extend the scope and improve mutual assistance between Member States in recovery of tax debts and similar levies. The new Directive would:

- like the existing Directive, cover all types of national taxes (direct and indirect), but extend the scope to local taxes and social security (national insurance) contributions;
- clarify and simplify arrangements for the exchange of information in connection with recovery assistance;
- introduce, in addition to exchange of information on request, a requirement for spontaneous provision of information concerning tax refunds made to residents of another Member State;
- provide for the presence and participation of officials of one Member State in enquiries in another Member State, on condition that they act in accordance with the laws and administrative provisions of the receiving Member State;
- simplify procedures for the service of documents relevant to claims;

²⁹ Comitology is the system of committees which oversees the exercise by the Commission of 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. So-called "Regulatory with Scrutiny", introduced in July 2006, gives a scrutiny role to the European Parliament in most applications of comitology.

- introduce a uniform enforcement instrument, to accompany information requests, in order to speed up the recovery process and avoid the need for translation of national instruments;
- link the uniform enforcement instrument closely to provisions on “precautionary measures”, which build on those in the existing Directive, to facilitate requests for recovery of a claim at an early stage, before the debt has been notified formally to the debtor in order, for example, to prevent the debtor from disposing of his assets;
- extend the disclosure provisions of the existing Directive to allow the sharing of information received with other authorities within the Member State, as far as national law permits, and to allow onward transmission of that information to a third Member State without prior agreement, but in accordance with the rules laid down in the Directive; and
- set out more extensively than the existing Directive provisions for the recovery of costs.

The Government’s view

5.4 The Financial Secretary to the Treasury (Stephen Timms) says that the Government welcomes the draft Directive, document (a), which would replace the Mutual Assistance Directive, which supports Government objectives in tackling tax evasion and avoidance. The Minister comments further that:

- the proposed Directive should enhance cooperation between Member States and strengthen the Community’s contribution to tackling this global problem;
- the Government particularly welcomes the inclusion of OECD standards of transparency and access to bank information;
- it will wish to consider some aspects of the proposal further, such as the role of the Commission and the comitology procedure, to ensure that the Directive achieves its objective of improved cooperation while protecting national sovereignty in tax matters; and
- it will wish to explore carefully the proposed extension of automatic exchange of information in order to understand whether this would introduce new reporting burdens on industry.

5.5 The Minister tells us that the Government also welcomes the draft Directive, document (b), which would replace the Recovery Directive, and which also supports Government objectives in tackling tax evasion and avoidance. The Minister comments further that:

- the proposed Directive should also enhance cooperation between Member States and strengthen the Community’s contribution to tackling this global problem; and
- the Government will wish to consider some aspects of the proposal further, such as possible overlap with other Community existing and proposed legislation, the extension to local authority taxes and the impact of the provisions on

precautionary measures in the context of the UK legal and administrative framework.

5.6 As for the financial implications of both proposals the Minister says that there do not appear to be any significant financial implications for the Community or the UK, although there may be some information technology and administrative costs. There should be revenue benefits from improved exchange of information and recovery of tax debts.

Conclusion

5.7 **These proposed Directives appear to offer improved intra-Community cooperation against tax evasion and avoidance and we note the Government’s welcome for them. However, before considering the documents further, we should like to hear the outcome of the Government’s examination of aspects of the draft Directives the Minister has drawn to our attention. Meanwhile both documents remain under scrutiny.**

6 Repeal of anti-dumping duties on imports of Norwegian farmed salmon

(29770) 11083/08 COM(08) 385	Draft Council Regulation repealing the anti-dumping duties imposed by Council Regulation (EC) No. 85/2006 on imports of farmed salmon originating in Norway
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<i>Legal base</i>	Article 133EC; simple majority
<i>Department</i>	Business, Enterprise and Regulatory Reform
<i>Basis of consideration</i>	Minister’s letter of 25 February 2009
<i>Previous Committee Report</i>	HC 19–i (2008–09), chapter 6 (10 December 2008).
<i>Discussed in Council</i>	17 July 2008
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared

Background

6.1 Council Regulation (EC) No 384/96³⁰ allows the Community to take action where industry within the Community has suffered injury as a result of imported products having been dumped,³¹ and from time to time the Commission puts forward proposals for the imposition or removal of anti-dumping duties applied against a variety of products from a range of different countries. In the main, we are able to clear these without a substantive

30 OJ No. L 56, 6.3.96, p.1.

31 Dumping is held to have occurred where the export price to the Community is less than a comparable price for a like product within the exporting country.

Report to the House, as for example we did in February 2006 when the Commission proposed the imposition of an anti-dumping duty on a imports of farmed salmon originating in Norway.³²

6.2 That proposal was eventually adopted as Council Regulation (EC) No 85/2006,³³ and sets a minimum import price below which imports attract an additional anti-dumping duty. However, following a request for a review by a number of Member States, the Commission put forward in June 2008 this further proposal, which would have repealed that Regulation. In doing so, it said that its investigation had revealed no dumping during the period of the review, and that there was no reason to believe that the production volume in Norway would increase above the traditional growth rate and thus lead to significantly greater export volumes to the Community. Consequently, it saw little risk of a significant decrease in Norwegian export prices to dumped levels in the foreseeable future. It also pointed out that the extent of Norwegian-owned production within the Community, with a vested interest in maintaining market prices there, again made it unlikely that dumping would occur in the future. However, given the unpredictability of market conditions, the Commission recommended that the situation should be monitored closely, and kept under review. In the meantime, the proposal in question was adopted as Council Regulation (EC) No 685/2008.³⁴

6.3 As we noted in our Report of 10 December 2008, we were told that the Government had consistently defended the need for these measures, and that the UK and Ireland had opposed their repeal. However, since we felt that this particular proposal was one which we should report to the House, our Chairman wrote on 16 July 2008 asking for a quantitative indication of the size and distribution of the farmed salmon sector in the UK and the relative significance of imports of this product from Norway. He also asked whether the UK's defence of the existing anti-dumping measures had been essentially based on political grounds, or whether there were aspects of the Commission's analysis with which it took issue (and, if so, on what grounds).

6.4 We received a letter of 4 December 2008 from the Minister for Trade, Investment and Consumer Affairs (Mr Gareth Thomas), providing the factual information we had requested. He also said that the UK's major disagreement with the Commission related to the likely occurrence of dumping, where the industry had said that costs had not stabilised at the levels reported by the Commission, and that it expected production levels in Norway to be much higher. In addition, he pointed out that the absence of information and analysis on Norwegian production costs made it impossible to validate Commission claims. However, he noted that the Commission had undertaken to monitor import prices and trends and to report back to Member States on a regular basis.

6.5 We commented that it was clear that there were a number of detailed considerations involved on both of the argument but that, now the measures had been repealed, it would presumably be possible to establish which of these two opposing views had been borne out in practice. We also noted that the Commission had undertaken to monitor events, and to

32 (27277) 5087/06: see HC 34–xix (2005–06), chapter 15 (15 February 2006).

33 OJ No. L 15, 20.1.06, p.1.

34 OJ No. L 192, 19.7.08, p.5.

report back to Member States on a regular basis. We therefore asked whether there was yet any information on the impact which Council Regulation (EC) No 685/2008 had had in the UK since it had come into force. In the meantime, we decided to hold the document under scrutiny.

Minister's letter of 25 February 2009

6.6 We have now received from the Minister a letter of 25 February 2009, enclosing the first monitoring report from the Commission. He notes that, in the three or four months following the adoption of the Regulation, import prices into the Community (and the UK) of Norwegian salmon had remained stable and above the repealed minimum import price; that, compared with the same period in 2007, the volume of imports into the Community as a whole had increased by 2%, whilst those to the UK had decreased by 4%; and that the Commission had proposed to hold regular meeting with the Community industry — in practice, that in the UK and Ireland — to exchange market-related information.

Conclusion

6.7 **We are grateful to the Minister for this further information, in the light of which we see no need to continue to hold the document under scrutiny. We are therefore now clearing it.**

7 Food prices in Europe

(30279) Commission Communication: *Food prices in Europe*
 17380/08
 + ADDS 1–3
 COM(08) 821

<i>Legal base</i>	—
<i>Document originated</i>	9 December 2008
<i>Deposited in Parliament</i>	18 December 2008
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 18 February 2008
<i>Previous Committee Report</i>	None, but see footnotes 35 and 36
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

7.1 In June 2008, we drew to the attention of the House a Communication³⁵ which the Commission had produced in response to the major increase which had recently taken place in food prices, in which it sought to analyse the causes, assess the impact (both within the Community, and at global level), and outline a Community response. The latter included better monitoring of developments, analysing the effect of speculation on agricultural and commodity prices, and investigating the functioning of the food chain. The European Council, in June 2008, asked the Commission to report further on these issues before the end of the year, this latest Communication has been produced in response to that request.

The current document

Developments in agricultural commodity and food prices

7.2 The Commission recalls that the surge last year in the prices of agricultural products was due to a number of structural factors (notably global population growth, rising incomes in developing countries, the development of new market outlets, and increased production costs, following the increase in energy prices), compounded by more temporary considerations (such as adverse weather conditions, trade restrictions, and currency fluctuations). However, it notes that commodity prices have declined in recent months, and are now back at level similar to, or even below, those before last year's increase, due in part to the swift increase in production in response to the high prices, and to other factors, such as more favourable weather conditions, the fall in energy prices, and the lifting of a number of export restrictions.

7.3 The Commission then examines the impact of food prices on consumer prices. It says that, as agricultural commodities make up only a small proportion of overall food production costs, the latter have risen more slowly, but were nevertheless subject to significant increases in the summer of 2007 and early 2008. It adds that, together with the increase in oil prices, this has had a major impact on inflation in the Community over the last year, equivalent to one percentage point, due in the main to price developments for processed food. However, it also notes that the impact of food price inflation has varied as between Member States, being more pronounced in those which joined most recently.

7.4 As regards the outlook for agricultural markets and food prices, the Commission suggests that the fall in commodity prices is likely to lead to a significant decline in the contribution of food prices to headline inflation (to about 0.6 percentage points in 2009, and 0.5 in 2010). However, it also believes that the continuing increase in population, together with a decline in the growth of productivity, will result in prices holding up in the medium term, providing incentives to production, including that in developing countries, but that, because stock levels are low, there are expected to be greater fluctuations than in the past. It adds that the steps taken as part of the CAP "Health Check" to increase market orientation — through the abolition of arable set-aside, the phasing out of dairy quotas,

35 (29708) 9923/08: see HC 16–xxv (2007–08), chapter 2 (25 June 2008)

and the conversion of intervention into a genuine safety net — will help Community producers respond to these more volatile conditions.

7.5 The Commission goes on to note the importance of an open trade policy in re-balancing global supply and demand, commenting that the export restrictions imposed by some countries last year did more harm than good, because they cut producers off from market signals. It observes that the Doha Round of WTO trade talks promises to open up agricultural markets to developing countries, and that the Community remains committed to reaching agreement on an ambitious and balanced outcome. It also points out that, in order to increase production in developing countries, it is essential to improve the business environment for farmers, and investments in rural infrastructure and land management, and it says that Community development assistance will support such efforts, and generate a positive supply response. In particular, it notes that it has recently proposed the establishment of €1 billion rapid response facility³⁶ relating to food prices in developing countries.

The role of speculation in food commodity prices

7.6 The Commission says that, over the past decade, there has been an unprecedented growth in the financial markets for agricultural commodities, coupled with the use of a wider range of commodity trading strategies and the development of new derivative products. It suggests that there are two distinct types of participant — commercial operators involved in the purchase and sale of physical positions, and financial investors — and that the considerable increase in the activities of the latter in recent years has increased the risk of speculative bubbles. In particular, it notes that, since the beginning of 2006, there has been a surge of investment into these markets, as well as a substantial increase in the (less transparent) over the counter market. It suggests that this inflow may have reflected investor withdrawal from other markets, and that a recent sharp outflow probably reflects the need for investors to secure greater liquidity in the face of the current financial crisis— though it comments that the timescales involved are too short to draw any firm conclusions.

Functioning of the food supply chain

7.7 The Commission says that, although global supply and demand have been one of the main factors determining food prices, problems in the functioning of the food chain have also played an important part, making it necessary to analyse how this might be improved. It notes that three economically important sectors are involved — agriculture, food processing and distribution — accounting for 6% of Community added value and 12% of employment, and says that, given the various inter-actions between them, any problems can have significant repercussions. It also notes that the increases in agricultural commodity and energy prices have been absorbed differently between Member States, indicating that the Community market for food products is still fragmented: in particular, the transmission of food price increases to consumer prices has been faster in the new Member States, suggesting that competitive pressures in the retail sector of the euro area

36 (29865) 11983/08: see HC 16–xxix (2007–08), chapter 4 (10 September 2008), HC 16–xxxiv (2007–08), chapter 5 (5 November 2008) and HC 19–i (2008–09), chapter 13 (10 December 2008).

have absorbed some of the increase. Other factors include differences in the regulatory framework (for example, as regards opening hours) and the competitive environment, including notably the bargaining power of the different sectors.

7.8 The Commission notes that the weak bargaining power of the agricultural sector has put pressure on producer margins, leading to such measures as the formation of producer groups and cooperatives and the development of high value added products. It also comments on the consolidation taking place throughout the food supply chain, and observes that, although this can lead to efficiency gains, competition authorities must ensure that the process does not create problems further up or down the supply chain, adding that a closer look needs to be taken at such operations as cartels, “buying alliances”, resale price maintenance, single branding obligations, and exclusive supply agreements.

7.9 The Communication concludes by setting out a roadmap to improve the functioning of the food supply chain, saying that a joint effort is needed at Community, national and local levels. The roadmap has the following main components:

Promoting competitiveness

The Commission believes that a pro-active competitiveness policy would help to improve efficiency, and says that recommendations from a High Level Group are expected in early 2009, which should help the food chain improve its overall competitiveness.

Vigorous enforcement of competition and consumer protection rules

The Commission says that it will continue a “sustained” dialogue with national authorities, targeting those activities which have the highest potential to distort competition to the detriment of consumers. It identifies a particular need, at a time of fluctuating prices, to tackle misleading price increases, for example through changes in pack sizes and contents, and for authorities to pay particular attention to unit pricing.

Review of regulations identified as problematic for the food supply chain

These include regulations which restrict the entry of new companies, those which restrict the ability of a business to compete on price, and practices which distort the relationship between suppliers and retailers.

Permanent European monitoring of food prices and the supply chain

The Commission sees this as addressing the lack of price transparency, and identifying market fragmentation, and says that a current pilot project by Eurostat and national statistical offices to collect detailed consumer price data should be evaluated and developed. In addition, the Commission itself is reviewing regulations which affect the functioning of retail markets.

Discouraging speculation detrimental to commercial operators

The Commission believes that the degree of volatility in recent months benefits neither consumers nor producers, and that there is a need to avoid the effects of excessive speculation on food prices. It will therefore examine what measures might be taken to reduce volatility, and will take into account the results of an ongoing review of the supervisory and regulatory framework applied to all significant financial market actors.

The Government's view

7.10 In her Explanatory Memorandum of 18 February 2009, the Minister of State (Farming and the Environment) at the Department for Environment, Food and Rural Affairs (Jane Kennedy) notes that this is a non-legislative document, which could however lead to new policy in relation to competitiveness and speculation in agricultural commodity markets. On the first of these, she says that it is too early to draw rigorous conclusions about the efficiency of price transmission within the Community, given how quickly commodity prices have risen and fallen, and that the Government would therefore caution against hasty and premature judgements on the degree of competition both within and between Member States. It would like to see further economic modelling, with a particular focus on recent price reductions and on the impact of exchange rate changes. Likewise, she says that, until there is sufficient evidence linking speculation by non-commercial financial investors to excessive volatility, and a clear proposal on how to address this, it is difficult to assess what policy implications the Communication would have within the UK. Finally, she notes that, to the extent that the Commission's roadmap involves a review of the regulations which have been identified as causing potential problems for the food supply chain, there needs to be full and thorough Impact Assessments, in line with better regulation principles and the Commission's revised Impact Assessment Guidelines.

7.11 The Minister says that no specific consultation is planned within the UK on this Communication, but that the Government is undertaking a number of initiatives in relation to food policy. These include consultations on the development of a vision for a sustainable food system (as recommended in last summer's report *Food Matters*), and on the risks to UK food security following her department's discussion paper *Ensuring the UK's Food Security in a Changing World*. She also notes that the groceries market in the UK has recently undergone a two year market investigation by the Competition Commission, following a referral by the Office of Fair Trading. This found that competition in the sector is generally effective, but that several retailers had strong positions in a number of local markets, and that the transfer of excessive risk and unexpected costs by retailers to their suppliers through a variety of supply chain practices would, if unchecked, have an adverse on investment and innovation (and ultimately on consumers).

Conclusion

7.12 **This document deals with a subject of obvious political and economic significance, and, for that reason, we are drawing it to the attention of the House. However, as we have already noted, it follows on from an earlier Communication last summer on the same subject, which moreover had been produced at a time when food prices had risen**

very sharply, whereas the current document indicates that prices have now fallen to levels similar to, or even below, those which applied last year.

7.13 In view of this, and the very general nature of the measures it recommends to improve the functioning of the food chain, we do not believe that this document requires any further consideration by the House, bearing in mind also that the whole issue of food prices received a good airing when the earlier Communication was debated in European Committee A on 20 October 2008. We are therefore clearing it.

8 Conservation of sharks

(30426)
6158/09
+ ADDs 1–3
COM(09) 40

Commission Communication: *Community Action Plan for the Conservation and Management of Sharks*

<i>Legal base</i>	—
<i>Document originated</i>	5 February 2009
<i>Deposited in Parliament</i>	10 February 2009
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 23 February 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	April 2009
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

8.1 According to the Commission, sharks are biologically a very vulnerable species because their low reproductive potential and low capacity for population increase mean that they have a limited capacity to recover from over-fishing. It therefore says that, in the light of the increase in catches since the mid-1980s, driven by demand for shark products particularly in the Asian market, there is a need for a stable and effective framework for their management in order to ensure a sustainable level of exploitation. However, it also notes that, although efforts have been made to achieve this at an international level, notably through the FAO, there is as yet no comprehensive management framework at Community level, despite the importance of shark fisheries for Member States' fleets. It has therefore sought in this Communication to set out an Action Plan.

The current document

8.2 The Commission begins by outlining the current situation. It notes that the Community shark fisheries encompass the North Atlantic (which is a major area of activity,

but also problematic because the mixed nature of many fisheries makes it difficult to target action to protect sharks without severe consequences for other species); the Central and Southern Atlantic; the Indian Ocean; and the Pacific. As regards the shark market within the Community, it comments that dogfish are covered by the common market organisation of the market for fisheries, and are thus eligible for withdrawal measures, and that there was also a limited trade in these and other sharks. It then summarises the relevant legislative framework, noting that sharks are a living aquatic resource, and thus come under the Common Fisheries Policy. It points out that there is already Community legislation, covering such issues as technical measures, control, fleet policy and trade policy, which could be effective, and that sharks are covered specifically by the Council Regulation fixing every two years fishing opportunities for certain deep-sea stocks. In addition, Council Regulation (EC) No 1185/2003 bans the practice of “finning” (where fins are removed, and the remainder of the shark discarded at sea): and it notes that the action taken internationally to regulate trade in sharks and shark products includes the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Convention on Migratory Species.

8.3 The remainder of the Communication sets out the proposed Community Action Plan, which would cover directed commercial, by-catch commercial, directed recreational, and by-catch recreational fishing within Community waters, as well as fisheries covered by partnership agreements with third countries, on the high seas, or managed by regional fisheries management organisations. The Plan would build upon the work already undertaken within the FAO, and would pursue three specific objectives:

- to broaden the knowledge both on shark fisheries, and shark species and their role in the ecosystem;
- to ensure that directed fisheries for sharks are sustainable, and that by-catches of sharks resulting from other fisheries are properly regulated;
- to encourage a coherent approach between internal and external Community policy for sharks.

8.4 The Commission then sets out a number of guiding principles and actions. The first is to adopt a strategy based on sound scientific evidence. It says that, as a general rule sharks should be managed in the same way as other fisheries, but that, in view of their specific biological characteristics, a more cautious approach is called for, based upon the precautionary principle. It adds that a working group of the International Council for the Exploration of the Seas (ICES) on sharks will issue stock assessments through 2007–09 as a basis for future action, but suggests that, as a growing amount of data is coming to light, it seems wise to take a gradual approach. It does, however, advocate strengthening and clarifying the provisions on “finning”.

8.5 Secondly, the Commission places considerable emphasis on regional cooperation, noting that several species of sharks are wide-ranging and highly migratory, meaning that responsibility for their management should rest primarily with regional fisheries organisations. It therefore says that their work in this area should be strengthened, and new organisations established in areas where they are not already present.

8.6 Thirdly, the Commission advocates an integrated framework of actions, structured in accordance with the approach adopted by the FAO, and including measures to improve data collection and scientific advice, management and technical measures, and a further strengthening of control over the shark finning ban.

The Government's view

8.7 In his Explanatory Memorandum of 23 February 2009, the Minister for the Natural and Marine Environment, Wildlife and Rural Affairs at the Department for Environment, Food and Rural Affairs (Mr Huw Irranca-Davies) says that the Government welcomes the publication of this Plan, and shares the Commission's commitment to protect vulnerable sharks and to rebuild depleted stocks. He adds that it is at this stage broadly content with the thrust of the Plan, but that this is a complex area, and requires careful assessment, as well as clarification in some cases of what the Commission intends to achieve, before an agreed UK position covering the devolved administrations can be formed. However, the Minister says that the Government's initial view is to support a tightening up of the measures on shark finning, which he describes as wasteful; that it agrees on the need to improve data collection and verification, adding that it is important to ensure that existing information is put to best use; that, although the UK does not disagree in principle with a proposal for observer coverage of individual vessels, it is necessary to be clear what the benefits would be, and whether they could be achieved more cost effectively by other means; that it would need to be clear that any effort measures in areas sensitive to vulnerable shark species did not have a disproportionate impact on those fishermen for whom sharks are only a low-value by-catch species; and that it would be necessary to ensure that any measures taken on discards are consistent with wider Commission initiatives in this area.

8.8 In the meantime, the Minister points out that, at this stage, Member States will not be asked to agree to the many measures within the Plan. Instead, they are likely to be asked to agree Council Conclusions of a general nature, signalling support for the protection of vulnerable sharks and an intention to take action, which will be followed by the Commission putting forward legislative and voluntary proposals at a later date.

Conclusion

8.9 This document provides a timely reminder of the vulnerability of certain shark stock, and of the need for the Community (and others) to take concerted action to ensure that these are exploited at a sustainable level. However, as the Government has pointed out, Member States will at this stage be asked simply to signal their general support for the underlying aim of the Communication, and will not be required to agree detailed measures, which will be the subject of further proposals in due course. Consequently, whilst we are drawing the document to the attention of the House, we are content to clear it.

9 EU pre-accession funding

(30435) 6380/09 —	Special Report No. 12/2008 on the Instrument for Structural Policy for Pre-accession (ISPA) in 2000–2006, together with the Commission's replies
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<i>Legal base</i>	Article 248(4) EC; —
<i>Deposited in Parliament</i>	16 February 2009
<i>Department</i>	International Development
<i>Basis of consideration</i>	EM of 27 February 2009
<i>Previous Committee Report</i>	None; but see (30162) 15620/08 and (30303) 17210/07: HC 19–vii (2008–09), chapter 1 (11 February 2009)
<i>To be discussed in Council</i>	To be determined
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared; relevant to the debate to be held in European Committee B on 23 March 2009 on the Commission Communication on the IPA Multi-annual Indicative Financial Framework for 2010–12 and the associated Commission Report on the IPA.

Background

9.1 Article 248(4) EC empowers the Court of Auditors to submit observations, particularly in the form of special reports, on specific questions.

9.2 ISPA (Instrument for Structural Policies for Pre-Accession) finances major infrastructure projects in the transport and environment sectors. It is part of a trio of pre-accession support programmes, the other principal ones being:

- PHARE (Poland/Hungary Assistance for Reconstruction of Economy; originally created in 1989 to assist Poland and Hungary, but expanded to incorporate all the former EU candidate countries), which provided assistance in adopting the *acquis communautaire* (the entire body of European laws, including treaties, regulations and directives) through improving administrative capacity and supporting related investment; and
- SAPARD (Special Accession Programme for Agriculture and Rural Development), which finances agricultural and rural development.

9.3 Both ISPA and SAPARD are designed to lay the groundwork for the countries concerned to be able properly to implement structural and cohesion funds upon accession.

9.4 From 2007, the Instrument for Pre-Accession replaced these and the other similar existing instruments (Turkey’s pre-accession instrument and CARDS).³⁷ The IPA will provide a total amount of €11.468 billion over the 2007–13 Financial Perspective.

9.5 Decentralisation is the process for devolving management of EU funds to candidate countries. ISPA (and PHARE) is implemented by the Decentralised Implementation System (DIS) under which EC Delegations must endorse procurement documents before tenders are launched or contracts signed.³⁸

9.6 Having been awarded Candidate Country status in June 2004, Croatia has benefited from ISPA as of 1 January 2005. Croatia thus followed the previous ISPA beneficiary countries which received ISPA assistance from when the instrument was launched in 2000.³⁹

The Court of Auditors Report

9.7 The Court of Auditors’ Report recalls that the total allocation for ISPA in the period 2000–2006 was €7,280 million (£6,536 million), with a total of 336 projects being approved, of which 201 were in the environment sector, 78 in the transport sector and 87 concerned technical assistance.

9.8 The report focuses on three questions:

- whether there was a coherent strategy and adequate preparation to support ISPA actions;
- whether projects were implemented according to planning; and
- whether projects contributed to beneficiary countries’ compliance with the EU environmental directives and to the improvement of the Trans-European Network for Transport (TEN-T).

9.9 The report concludes that:

- there was a coherent strategy, but projects were not always adequately prepared;
- projects were not implemented according to planning because of significant delays and changes in the financing plans; and
- the specific projects audited by the Court did demonstrate an increase in compliance with EU standards or an improvement in links to the TEN-T.

37 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.

38 SAPARD is implemented in a fully decentralised manner under the Extended Decentralised Implementation System (EDIS) which involves administrations in candidate countries fully managing EU pre-accession funds.

39 On 1 January 2007, Bulgaria and Romania became members of the European Union and ceased being beneficiaries of pre accession funding, including ISPA.

9.10 In its response, the Commission notes that most of the Court’s sample was selected from among the older ISPA projects approved in the first or early years of use of the instrument, with some having been prepared even earlier. The Commission says that “the poor preparation of some projects was due to a large extent to a lack of capacity and the short timeframe in which projects had to be developed.” Guidance was given through the detailed application forms and existing explanations of procurement procedures. Delays and changes in planning which occurred in many of the early projects were hard to avoid given the lack of experience in managing major infrastructure projects and the need for *ex ante* control of tendering procedures. The Commission agrees with the Court’s recommendation and will continue to monitor ex-ISPA projects, some of which will be evaluated in the 2000–2006 *ex post* evaluation exercise, paying particular attention to cost overruns and delays. Its experience with ISPA has already led to steps to offer greater assistance with project preparation, and the Commission will “continue and intensify such technical assistance under the new pre-accession instrument IPA.”

The Government’s view

9.11 In his Explanatory Memorandum of 27 February 2009, the Parliamentary Secretary at the Department for International Development (Mr Michael Foster) highlights the recommendation that the Commission should learn the lessons from ISPA, and seek to avoid delays in future when implementing a similar instrument — in particular, that the Commission should make guidance documents available before Candidate countries start preparing their projects, and should devote greater attention to reducing the time needed to complete procedures. He continues as follows:

“The UK is working closely with the Commission, in the region and in Brussels, to ensure that the Instrument for Pre Accession (the successor to ISPA) avoids the same pitfalls, and builds on ISPA’s successes. DFID offices are supporting national governments in their efforts to co-ordinate donors and to improve aid. Unfortunately there have been some delays to IPA funding for some countries, but these have mostly been caused by specific political or structural questions in beneficiary countries, and they have now been resolved.”

Conclusion

9.12 **It remains to be seen whether or not the lessons learned will produce a more effective new IPA.**

9.13 **In the meantime, at our meeting on 11 February 2009 we recommended that the Commission Communication on the IPA Multi-annual Indicative Financial Framework for 2101–12 and the associated Commission Report on the IPA be debated in European Committee B.⁴⁰ Here, as there, the Minister highlighted the role of DFID offices in the region in ensuring improved effectiveness in implementing the IPA during this financial perspective. But neither here nor there does he make it clear if those offices will be there for the duration.**

40 See headnote: (30162) 15620/08 and (30303) 17210/07: HC 19–vii (2008–09), chapter 1 (11 February 2009).

9.14 This is one of the questions that might usefully be explored during that debate, which is now to take place on 23 March 2009. We consider that this document, which we now clear, is relevant to that debate.

10 The Africa-EU Partnership

(30069) 14632/08 + ADD 1 COM(08) 617	Commission Communication: <i>One Year after Lisbon: The Africa-EU Partnership at Work</i>
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<i>Legal base</i>	—
<i>Document originated</i>	17 October 2008
<i>Deposited in Parliament</i>	24 October 2008
<i>Department</i>	International Development
<i>Basis of consideration</i>	Ministers’ letter of 5 February 2009
<i>Previous Committee Report</i>	HC 16–xxxvi (2007–08), chapter 14 (26 November 2008); also see (28780) 11362/07: HC 16–viii (2007–08), chapter 16 (16 January 2008), HC 41–xxxv (2006–07), chapter 1 (17 October 2007) and HC 41–xxxiii (2006–07), chapter 2 (2 October 2007)
<i>Discussed in Council</i>	10 November 2008 “development” General Affairs and External Relations Council
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared (decision reported on 26 November 2008); further information now provided

Background

10.1 The Commission Communication 11362/07 — “From Cairo to Lisbon: the EU-Africa Strategic Partnership” — proposed a partnership of equals going beyond traditional development cooperation and the EU’s 2005 Africa Strategy, with the December 2007 Lisbon Summit (the second, after Cairo in 2000) making “strong action-oriented political commitments on current key international issues, notably climate change, migration, sustainable energy, governance and security”, Heads of State and Government signing a Lisbon Declaration, and the first of a series of Action Plans being agreed, lasting for 2 years, until the next proposed Summit. Four jointly-agreed objectives were proposed:

- reinforcing and elevating the EU-Africa political partnership;
- continuing to promote peace and security, governance and human rights, trade and regional and continental integration in Africa, and other key development issues;

- jointly addressing global challenges and efforts to mitigate the negative impact of the EU’s recruitment of skilled health workers from Africa; and
- facilitating and promoting a broad based and wide ranging people-centred partnership for all people in Africa and Europe.

10.2 Discussions during the autumn of 2007 led to the following framework:

- the EU Africa Partnership on Peace and Security;
- a Partnership on Democratic Governance and Human Rights;
- the EU Africa Partnership on Trade and Regional Integration;
- an EU Africa Partnership on the Millennium Development Goals;
- the EU Africa Partnership on Energy;
- the EU Africa partnership on Climate Change;
- an EU Africa Partnership on Migration, Mobility and Employment; and
- an EU Africa Partnership on Science, Information Society and Space.

10.3 The Committee’s subsequent consideration of that Communication, from 2 October, 2007 onwards, is set out in our previous Reports.⁴¹

10.4 Given the depth and complexity of the issues raised, and the central role of UK development thinking, practice and funding, both bilaterally and via the European Development Fund, in this Partnership, we also drew the latest of those Reports to the attention of our colleagues on the International Development Committee.

The Commission Communication

10.5 This later Commission Communication — *One Year after Lisbon: The Africa-EU Partnership at Work* — sets out progress made on implementation of the Africa-EU Strategic Partnership since it was agreed at the Africa-EU Summit in Lisbon in December 2007. It outlines the Commission’s view of some of the main challenges ahead and makes recommendations on how to move forward; and is intended to provide input for the joint progress report to be produced by the European Commission, the Secretariat of the Council and the African Union Commission in advance of the planned EU-AU Ministerial Troika on 20–21 November.

10.6 The Commission Staff Working Document accompanying the Communication gives an overview of the contribution the Commission proposes to make to the implementation of the Strategic Partnership, outlining short and medium term “deliverables” for each of the eight thematic partnerships.

⁴¹ See headnote: (28780) 11362/07: HC 16–viii (2007–08), chapter 16 (16 January 2008), HC 41–xxxv (2006–07), chapter 1 (17 October 2007) and HC 41–xxxiii (2006–07), chapter 2 (2 October 2007).

The Commission Communication

10.7 The latest Commission Communication — *One Year after Lisbon: The Africa-EU Partnership at Work* — recalls that the Strategic Partnership is intended to take the Africa-EU relationship “beyond development”, “beyond Africa”, and “beyond institutions”. The Commission reports that this has begun to happen, but that more needs to be done in each of these areas to build a mature partnership with both sides on an equal footing. The Communication goes on to outline priorities for each of the eight thematic partnerships, highlighting milestones that have been achieved so far, and next steps which need to be taken. It highlights in particular, with regard to the Partnership on the Millennium Development Goals (MDGs), the “Agenda for Action”, adopted by the June 2008 European Council and described as an ambitious political commitment which sets out how increased ODA promised by the EU can be used to help accelerate progress on the MDGs. Food security and agriculture are also identified as potential areas for early progress. The Communication notes that Peace and Security is one of the priorities for Africa-EU cooperation and within that mentions the importance of building AU capacity. It also highlights the importance of achieving a sustainable funding mechanism for Africa-led peace and security operations. The Commission’s recommendations⁴² focus on accelerating progress on implementation, and broadening and consolidating the progress that has been made. Communication is identified as a key priority for all eight Partnerships and there are specific recommendations on consulting non-governmental “actors” (civil society, academia and the private sector), organising a structured dialogue with the European and Pan-African Parliaments, and enhancing cooperation with the UN and other international bodies. Bilateral policies and legal and financial frameworks should be adapted to deliver the Partnership objectives, by improving coordination across national governments to reflect the cross cutting nature of the Partnership and integrating the principles and priorities of the Partnership into programming decisions. The Commission calls on the EU to reaffirm its political and financial commitments to Africa, and urges Africa to ensure the effective delivery of its commitments.

10.8 All of this was commented upon extensively by the Parliamentary Secretary at Department for International Development (Mr Ivan Lewis) and the Minister of State at the Foreign and Commonwealth Office with responsibility for Africa (Lord Malloch-Brown) in both their Explanatory Memorandum of 5 November 2008 and a joint letter of 6 November 2008. While there had been “some significant achievements”, progress overall had been “perhaps more limited than we might have hoped, due in part to the lack of capacity on the part of the African Union Commission”. However, they expected in the next few weeks to see “the start of face to face dialogue with AU counterparts on each of the eight Partnerships [which] ... engagement lies at the heart of the Strategy” and hoped that this would be “the start of fruitful discussions across the broad scope of the Action Plan.” They agreed “broadly with the spirit of the recommendations”, though recommendation (1) — that “members of the Implementation Teams on both sides needed to underpin their political commitment to the process with concrete contributions, including human and financial resources and technical expertise — in Brussels, Addis Ababa, and at national level” — would require further discussion by the relevant Council working groups. They

42 Which are reproduced at Annex 1 of this chapter of our previous Report.

also reported on the first of the EU-Africa Ministerial Troika meetings (delayed until September at AU request) and anticipated a further report on the second meeting this month.⁴³ Finally, the Ministers looked forward to being able to update the Committee further following the next ministerial troika.

10.9 For our part, we noted that these were plainly early days; the interlinked questions of resources, capacity and commitment, on both sides, were, unsurprisingly, all too evident.. A further, related Communication on the EU, Africa and China, which we considered elsewhere in that Report,⁴⁴ also illustrated that the world was now more complex than that encompassed by any one Partnership. While looking forward to the Minister's promised further report on the next ministerial troika, we reported this information to the House because of the widespread interest in the EU's relation with Africa (and, for the same reasons as before, also forwarded that chapter of our Report to our colleagues on the International Development Committee), and cleared the document.⁴⁵

The Ministers' letter of 5 February 2009

10.10 In their latest letter, the Ministers provide an update on implementation of the Joint Africa EU Strategic Partnership, following the joint AU- EU ministerial troika which took place in Addis Ababa on 20–21 November 2008. Though not long since their previous letter, the Ministers say that there have been important steps taken in the implementation process in the last two months, which they outline as follows:

“Each of the eight thematic Partnerships which make up the First Action Plan for the Strategy held its first Joint Experts Group (JEG) meeting between African and European partners in November (with the exception of the Energy Partnership which took place in October). The Joint Strategic Partnership places great emphasis on the importance of strengthened dialogue between the two continents, built on a process bringing together experts from both sides to discuss issues of mutual concern. We are therefore very pleased to be able to report that this dialogue has now begun in earnest.

“The JEG meetings have also begun to produce tangible results, although it is still very early days for the Groups and for the most part the first meetings were exploratory discussions. The proposed joint Africa EU Declaration on Climate Change to which we referred in our last letter was announced by Jean Ping, Chairman of the African Union Commission, and European Commissioner for Development and Humanitarian Aid Louis Michel, at the UN Conference on Financing for Development in Doha on 1 December, having been prepared through the JEG process. The Declaration outlines Africa and the EU's common concerns for global warming and their shared interest in an ambitious post-Kyoto international agreement. It demonstrates the intention of the EU and Africa to work together towards common climate change approaches, and underlines their joint commitment to the objectives and principles of the United Nations Framework

43 See paragraphs 14.12 to 14.19 of our previous report.

44 (30072) 14634/08 + ADD 1: see HC 16–xxxvi (2007–08), chapter 15 (26 November 2008).

45 See HC 16–xxxvi (2007–08), chapter 14 (26 November 2008)

Convention on Climate Change (UNFCCC) and its Kyoto Protocol. The Declaration was further discussed at the UN Climate Change Conference in Poznan in December, where both sides agreed to identify future cooperative activities.

“Within other Partnerships, European and African partners agreed fruitful possible areas for joint work on Governance and Human Rights, including Election Observation, the Charter on Democracy and Elections, and the Africa Peer Review Mechanism. The first joint meeting of the Migration Partnership made a strong commitment to the transparent exchange of information, and agreed to establish smaller working groups on specific priorities, including remittances, work with the African Diaspora, and employment issues.

“Following a productive Peace and Security JEG meeting, Peace and Security issues were considered at the highest level at the AU-EU ministerial troika in November, which was attended by Defence Ministers for the first time.

“Forthcoming key events on Peace and Security include the AMANI Contributor’s Conference on 6 February. The ongoing programme of AMANI exercises is designed to lead to the operationalisation of the Africa Standby Force by the target date of 2010. The UK has pledged £400,000 for 2008–2010. We continue to support this process and to encourage partners to do so, to ensure it keeps to schedule.

“A workshop on the EU-sponsored Training Centres project is planned for the first quarter of 2009. This will identify needs, and match these with possible EU assistance.

MDG Partnership

“A number of key events have happened since we last wrote in November with regard to the priority actions of the MDG Partnership:

- Ensure the finance and policy base for achieving the MDGs;
- Accelerate the achievement of the food security targets of the MDGs;
- Accelerate the achievement of the health targets of the MDGs;
- Accelerate the achievement of the education targets of the MDGs.

“The Doha Conference on Financing for Development on 28 Nov-2 Dec 2008 was an important milestone in terms of securing the finance and policy base for achieving the MDGs. UN member states adopted the Doha Declaration on Financing for Development, reaffirming the Monterrey Consensus, and recommitting themselves to pledges made on increasing ODA, despite the current global financial crisis. They also called for a United Nations Conference at the highest level to examine the impact of the world financial and economic crisis on development.

“In Doha, donors took the opportunity to make a statement in support of the Comprehensive African Agricultural Development Programme (CAADP) to increase inclusive agricultural growth. The donor community also undertook to

make special efforts to strengthen policies and strategies on food security through Global Partnership for Agriculture and Food (GPAF) activities to support CAADP.

The Network of African Parliamentarians on Health and Gender Development and Financing was launched at the Abuja Conference of African Finance and Health Ministers in November 2008. This will help ensure quicker parliamentary awareness of, and policy and budget support for implementation of continental and global health frameworks.

“I (Ivan Lewis) met with other European Ministers at the High Level Group Meeting on Education on 16–18 December 2008 in Oslo. We agreed a Declaration reaffirming the centrality of education for development, and focusing on equity, governance and the need for increased financing targeting the most in need. The Declaration outlined new commitments to integrate health, nutrition and education programmes, coordinate advocacy, and encourage innovative financing mechanisms. The meeting also agreed an Action Plan for recruiting, training, deploying and retaining teachers; and agreed to establish an international Task Force on ‘Teachers for Education for All’.

“The Partnership will carry out its role in the context of, and in coordination with, the wider actions being taken to achieve the MDGs in Africa.

First Joint Experts Group

“As the European lead for the MDG Partnership, the UK worked with the European and AU Commissions to prepare for the first JEG meeting. Tunisia is taking a lead on implementation for the African side, and the first joint meeting was co-chaired by His Excellency Hatem Atallah, Tunisian Ambassador to Ethiopia, and Mark Mallalieu, Head of Africa Directorate, DFID. In addition to the UK and Tunisia, the meeting was attended by representatives of eight African member states and four European member states, as well as the European and African Union Commissions. This first stage in the dialogue process laid the foundations for constructive cooperation on the priority actions.

“The meeting formally acknowledged a number of initiatives undertaken in 2008 which contributed to the achievement of the MDGs in Africa and globally, and to the four priority actions of the MDG Partnership. In particular Co-Chairs highlighted the UN High Level Events in September, the Accra High Level Forum on Aid Effectiveness, and the EU Agenda for Action (which we highlighted in our last letter to the Committee).

“African partners presented a list of projects where the Partnership process could usefully contribute, and outlined the process they had undertaken to identify these possible focus areas. The projects proposed covered the three thematic priority actions, and included: Expanding area under sustainable land management and water control irrigation systems; Programme to address the niche aspects of the Africa human resources for health crisis; and ‘Open and Distance learning for teachers training and development programme’. These projects will be considered in more detail and focus areas identified as the Partnership process moves forward.

“The UK Chair informed the meeting of the mapping exercise the UK has led to create a shared point of reference covering the wealth of existing work at the regional/continental level aimed at achieving the MDGs in Africa. This mapping will provide a basis for identifying gaps which might be addressed by the Partnership. The meeting agreed that this mapping should be completed and kept up to date, and would be useful in informing discussions at the next JEG meeting. Action related to Disability is one gap which stands out based on work so far. The UK will start a five year cross cutting research programme in January 2009 to increase the availability of robust data clearly demonstrating the links between disability and poverty in developing countries.

“The next JEG meeting will be held in March 2009. It was agreed that three sub-groups of African and European experts on the priority actions will meet in advance of the full meeting, to consider possible focus areas. The full JEG will consider input from the sub groups and agree follow up actions.

“We were encouraged by the shared understanding among participants about the approach to implementation of the Strategy. All partners were agreed that the Partnership must not establish parallel processes or additional projects that do not add value to existing work. Instead it must be a mechanism for strengthening dialogue among a wide range of actors, in order to better achieve our common objectives; and it must concentrate on areas where it can have the greatest impact, focusing on current gaps or blockages in implementation. The first discussion laid a good foundation for doing this in the future.”

10.11 The Ministers end their letter by looking forward to being able to provide a further update following the next ministerial troika on 28 April 2009, by which time, they say, the next round of JEG meetings will have taken place.

Conclusion

10.12 **Though no questions arise, we are again reporting these developments because of the widespread interest in the House in development and Africa.**

10.13 **Having scrutinised both framework-setting Communications, the process has now moved into questions of detailed implementation. We therefore suggest that such letters should also now be sent to the International Development Committee, as well as to ourselves.**

10.14 **We are accordingly, as before, forwarding this chapter of our Report to them.**

Annex 1: Commission recommendations

“(1) The partnership relies on collective efforts. Therefore, members of the Implementation Teams on both sides need to ***underpin their political commitment to the process with concrete contributions***, including human and financial resources and technical expertise — in Brussels, Addis Ababa, and at national level.

“(2) The EU Implementation Teams should ***finalize the comprehensive mappings*** of cooperation initiatives and available resources, and ***develop an implementation roadmap*** including priorities and early deliverables. The African side should ***promote African ownership of the Joint Strategy and proactive involvement*** in its implementation, and should speedily set up effective internal working arrangements. Experts from both sides should then ***jointly kick-start the implementation of the Action Plan, including agreed priority projects, before the next Ministerial Troika*** in November 2008.

“(3) Before November 2008, first ***consultative discussions should be held with key noninstitutional actors***, including civil society, academia and the private sector, to enable them to play an active role in the implementation and monitoring of the Joint Strategy.

“(4) Both sides should ***pursue efforts to “treat Africa as one”*** and to gradually adapt relevant policies and legal and financial frameworks to the needs and objectives of the partnership with a view to foster continent-wide projects as well as cooperation between Northern and Sub-Saharan Africa. In addition, institutional setups such as the Africa-related working arrangements of the Council, should be further rationalized to reflect this principle.

“(5) The Joint Strategy and its Action Plan were adopted by the Heads of State and Government, and must be collectively owned as whole-of-government commitments. Coordination should be improved to ***reflect the Joint Strategy as a cross-cutting priority for all ministries*** and departments, in political as well as in financial terms.

“(6) European and African actors should ***integrate the principles, objectives and priorities of the Joint Strategy into the programming of financial and technical cooperation***, as well as into their political dialogue and meetings with third parties.

“(7) European and African actors should also live up to their commitments to ***enhance contacts, coordination and cooperation in UN and other international bodies*** and multilateral negotiations, and set up efficient consultative and coordination structures.

“(8) The ***EU should reaffirm its political and financial commitments to Africa***. Despite the current difficult economic situation, the EU needs to provide half of its pledged additional ODA for 2010 and 2015 to Africa.

“(9) The ***African side, too, needs to provide the necessary leadership in, and responsibility for, the effective delivery of its commitments*** and pledged contributions to the implementation of the Strategy and Action Plan.

“(10) Organize a ***structured dialogue with the European Parliament and the Pan-African Parliament***, including regular hearings on the progress of the Strategic Partnership.

“Finally, as an overarching common element that should be integrated in all the 8 partnerships, *more emphasis should be placed on communication* — a successful and people-centred partnership requires transparency on both the achievements and challenges of the process. Process and progress should be presented in simple and accessible language on paper, through television and radio, and online.”

11 The EU and Serbia

(a) (29213) 15616/07 + ADDs 1–2 COM(07) 743	Draft Council Decisions on the signing and on the conclusion of the Stabilisation and Association Agreement between the European Communities and its Member States and the Republic of Serbia
(b) (29214) 15690/07 + ADDs 1–2 COM(07) 744	Draft Council Decision concerning the signing and conclusion of the Interim Agreement on trade and trade-related matters between the European Community and the Republic of Serbia
(c) (29427) — —	Interim Political Agreement on Co-operation between the European Union and its Member States and the Republic of Serbia

<i>Legal base</i>	(a) and (b) Articles 300 and 310 EC; unanimity (c) —
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	Minister's letter of 16 February 2009
<i>Previous Committee Reports</i>	HC 19–v (2008–09), chapter 16 (28 January 2009); HC 19–i (2008–09), chapter 17 (10 December 2008); HC16–xxiv (2007–08), chapter 15 (18 June 2008), HC16–xxi (2007–08), chapter 17 (14 May 2008), HC16–xii (2007–08), chapter 1 (20 February 2008) HC16–x (2007–08), chapter 4 (30 January 2008) and HC16–viii (2007–08), chapter 5 (16 January 2008); also see (26575) 8884/05: HC 34–i (2005–06), chapter 48 (4 July 2005); and (29103): 14999/07; (29104):15001/07; (29100):14995/07; (29099): 14993/07; (29101):14996/07; (29102):14997/07: HC 16–v (2007–08), chapter 1 (5 December 2007)
<i>Discussed in Council</i>	29 April 2008 General Affairs and External Relations Council
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared (debate on 29 April 2008); further information provided and requested

Background

11.1 The Stabilisation and Association Process is the process devised by the EU to bring the countries of the Western Balkans closer to the EU and to help prepare them for eventual membership. The Stabilisation and Association Agreement (SAA) is a key step on the path

to EU membership. It establishes a far-reaching legal relationship between the EU and the country concerned, entailing mutual rights and obligations; the gradual implementation of a free trade area; reforms designed to achieve the adoption of EU standards in areas such as justice, freedom and security, accompanied by formalised political dialogue; enhanced regional cooperation; and a Stabilisation and Association Council to supervise implementation.

11.2 The Commission completed negotiations for an SAA with Serbia on 10 September 2007. On 7 November 2007 Serbia and the Commission initialled the text of the Agreement.

The Council Decisions

11.3 The purpose of the first Council Decision is to obtain Council approval to the text of the Stabilisation and Association Agreement and “to engage the procedures for the signature and final conclusion” of the Agreement.

11.4 The purpose of the second Council Decision is to authorise signature of an Interim Agreement (IA), comprising the Community competence elements (trade, agriculture, industrial and competition provisions of the SAA) at the same time as the SAA, to come into force as soon as possible after signature, to take account of the fact that ratification of the SAA may take up to a year following signature.

Previous consideration

11.5 Our previous consideration is detailed in our previous Reports. In brief, the Committee has been engaged in prolonged discussion with successive Ministers for Europe since January 2008 about signature of these Council Decisions and, given differences then obtaining among Member States on the signing of the Interim Agreement, an Interim Political Agreement. In the event, they were resolved among Member States in such a way that the GAERC of 29 April 2008 approved the Council Decisions, whereupon the two agreements were signed. On the same day, European Committee B debated these documents and a collection of annual progress reports on the Western Balkan EU aspirants.⁴⁶

11.6 As we have noted, we have had no concerns over the nature of the SAA or of its conclusion with Serbia *per se*: on the contrary; however, what had bedevilled this process all along was the behaviour of the Serbian authorities with respect to the International Criminal Tribunal for (former) Yugoslavia (ICTY). Although the ICTY had been prepared to indicate to the Commission and Council that cooperation had improved sufficiently to warrant continued negotiation and, latterly, initialling of a text, it was plainly not yet able to certify that “full cooperation” obtained. The Committee’s concern has thus revolved around this associated ICTY Conditionality.

11.7 Implementation of the Interim Agreement involves a further Council Decision. Reporting upon a letter of 30 May 2008 from the then Minister, the Committee noted that:

⁴⁶ See <http://www.publications.parliament.uk/pa/cm200708/cmgeneral/euro/080429/80429s01.htm> for the record of that debate.

- Serbia needed to be “fully co-operating with ICTY” before implementation of the IA and ratification of the SAA could take place;
- even though the then Minister was silent on the role of the ICTY Chief Prosecutor in determining the level of cooperation at this juncture, his views were to be very important in the Council reaching that decision; and
- though not answering directly the Committee’s earlier question relating to the extent to which the Council’s determination would include the location and transfer to The Hague of Ratko Mladic and Radovan Karadzic, he did say that the factors to be taken into account would include “locating and transferring the remaining indictees”.

11.8 In her letter of 4 December 2008, the Minister for Europe wrote in anticipation of a consensus on implementation being reached at the 8 December 2008 GAERC, which would mean that she might need to override scrutiny. The Minister also indicated that (notwithstanding the April GAERC determination that “implementation of the IA and ratification of the SAA will take place only once the Council has decided unanimously that Serbia is fully co-operating with ICTY”) the “Government’s existing policy is that the UK is content to implement the IA on the basis of significantly improved cooperation”, and that full (the Minister’s underlining) cooperation would only be required to secure ratification of the SAA agreement as a whole (which is, effectively, to implement the political component, for which the currently-in-limbo Interim Political Agreement was intended to substitute in the meantime). The Government’s position thus appeared to have shifted once again — first abandoning the requirement for full cooperation prior to signature of the SAA, and now abandoning it prior to implementation of the IA. So the Committee asked the Minister to:

- explain when and why this has happened;
- how the Council of 8 December could know the views of the ICTY Chief Prosecutor ahead of his the next Report, to the UN, on 12 December;
- having reiterated her predecessor’s yardsticks, to illustrate under each of them the “significantly improved co-operation” that Serbia had been demonstrating since September; and
- how she saw the Interim Political Agreement now being handled.

11.9 The Minister’s response is set out in our most recent Report. While finding that it contained much interesting information about Serbia’s improved performance, the Committee was still concerned about two aspects of her response. First, we could not understand why her predecessor had not written after the September 2008 GAERC to say what had been discussed then and confirming the change in the Government’s position: we said that we did not consider pre Council “signalling” and a subsequent evidence session with our counterparts in the Lords’ EU Committee as an adequate basis for informing this House, and that we would expect the Minister to respond to this when she gave evidence to us on 4 February.

11.10 Secondly, the Minister had said that the 8 December GAERC did not, in the event, discuss “this issue” — presumably, implementation of the IA. However, the Council did discuss Serbia, ICTY and progress towards the EU, including candidate status,⁴⁷ viz:

“The Council welcomes Serbia’s reaffirmation of its commitment to Europe. It recognises the progress achieved in terms of cooperation with the ICTY, but points out, however, that Serbia must complement this positive development by full cooperation. It also stresses the importance of tangible progress in priority areas such as strengthening of the rule of law, economic reform, and the fight against corruption and organised crime. It emphasises the importance of a constructive attitude towards regional cooperation. The Council restates its view that Serbia, with its strong administrative capacity, can accelerate its progress towards the EU, including candidate status, as soon as all necessary conditions are met.”

11.11 We looked forward to hearing further from the Minister, as and when there were any further developments, and in the meantime reported this latest exchange to the House and considered it relevant to the debate on the EU enlargement strategy that was to take place in European Committee B on 2 February,⁴⁸ which was to be centred on the Government and the Union’s overall approach to Conditionality.⁴⁹

The Minister’s letters of 16 and 18 February 2009

11.12 The Minister begins her first letter by noting that there was insufficient time during the 4 February evidence session for her to respond to these concerns. With regard to why her predecessor did not write after the September 2008 GAERC to say what had been discussed there and to confirm any change in the Government’s position regarding implementation of Serbia’s Interim Agreement (IA), the Minister says:

“I would like to first of all to underline that the Government has endeavoured to keep Parliament consistently informed on this issue; and to confirm my firm intention that this should continue to be the case. However, I understand the concern that has prompted the Committee’s question.

“My predecessor’s pre GAERC letter to the European Scrutiny Committee of 12 September 2008 made clear that ‘if this [ICTY Chief Prosecutor Brammertz] visit [to Serbia] confirms that Serbia’s co-operation with the ICTY has significantly improved, the Government will be willing to look at ways in which the EU can acknowledge that movement, while maintaining full ICTY co-operation as a requirement for Serbia’s EU accession process’. In the event, despite Brammertz’s confirmation of significantly improved co-operation, there was no consensus at the September GAERC to implement Serbia’s Interim Agreement.

“However, I acknowledge that when I confirmed to the Lords Select Committee in their Evidence Session of 16 October last year that HMG, for its part, would be ready

47 See page 8 of the Council Conclusions at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/104616.pdf.

48 For the record of that debate, see <http://www.publications.parliament.uk/pa/cm200809/cmgeneral/euro/090202/90202s01.htm>.

49 See head note: HC 19–v (2008–09), chapter 16 (28 January 2009).

to implement Serbia's Interim Agreement on the basis of significantly improved, rather than full, co-operation with ICTY (with ratification of Serbia's Stabilisation and Association Agreement remaining conditional on full co-operation), I should have confirmed this also to the Commons European Scrutiny Committee. I did, as you are aware, write to the European Scrutiny Committee on 4 December, prior to the December GAERC (the next possible EU discussion of Serbia's Interim Agreement since the September GAERC) confirming HMG's position on this issue."

11.13 Concerning whether the GAERC of 8 December 2008 discussed Serbia, the Minister says there was no discussion of Serbia's cooperation with ICTY, or of the related issue of implementation of Serbia's Interim Agreement with the EU; however, with regard to the Conclusions "agreed and recommended by the EU Political and Security Committee in response to the Commission's November 2008 progress report on Serbia's progress under the EU's Stabilisation and Association Process", the Minister notes that "the Council recognises the progress achieved in terms of co-operation with ICTY, but points out, however, that Serbia must complement this positive development by full co-operation."

11.14 The Minister then says that Serbia may be discussed at the GAERC of 23 February 2009 as part of a broader discussion of the Western Balkans, but does not expect any discussion to lead to a change in the EU's position on either the issue of the implementation of the IA or on the ratification of the SAA.

11.15 In a further letter to the Committee of 18 February outlining the agenda items for that meeting, the Minister says:

"On Serbia, we would be ready for the EU to recognise Serbia's significantly improved cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, including by allowing entry into force of Serbia's 'Interim Agreement' with the EU. However, full cooperation with ICTY remains the condition set by the EU for ratification of Serbia's Stabilisation and Association Agreement."

11.16 Following the GAERC meeting, the Minister has said that:

"There was an inconclusive discussion on the possibility of implementing Serbia's 'Interim Agreement' with the EU. I confirmed that, while the UK would be ready for the EU to recognise Serbia's significantly improved co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague by allowing entry into force of Serbia's 'Interim Agreement', full co-operation with ICTY remains the condition set by the EU for ratification of Serbia's Stabilisation and Association Agreement with the EU."

Conclusion

11.17 The Government's position on this matter is now clear. We look forward to hearing more from the Minister as and when the situation changes — either within the confines of the Council or in the degree of cooperation by the Serbian authorities.

11.18 In the meantime, given the degree of interest in the House in the western Balkans and in the degree of cooperation with the ICTY on the part of both prospective and aspiring Candidate countries there, we are making this further Report to the House.

12 Economic recovery

(30408) 6006/09 COM(09) 36	Commission Communication: <i>Investing today for tomorrow's Europe</i>
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<i>Legal base</i>	—
<i>Document originated</i>	28 January 2009
<i>Deposited in Parliament</i>	4 February 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 23 February 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	European Council of 19–20 March 2009
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

12.1 In December 2008 the Commission's European Economic Recovery Plan⁵⁰ was endorsed by the European Council.⁵¹ The Plan suggested a range of initiatives including Community and national expenditure on new or expanded programmes.

The document

12.2 In this Communication the Commission outlines the proposals it has published separately to revise the Financial Framework for 2007–2013 and to stimulate the Community economy. These follow on from the European Economic Recovery Plan and in the light of what the Commission describes as the increasingly clear need to proceed with new expenditure. The proposal to alter the Financial Framework would allow a €5.00 billion (£4.49 billion) increase to the Heading 1a (Competitiveness for Growth and Employment) framework ceiling for 2009 and 2010, with a corresponding €5.00 billion (£4.49 billion) reduction to the Heading 2 (Preservation and Management of Natural Resources) ceiling for 2008 and 2009.⁵²

50 (30213) 16097/08: see HC 19–i (2008–09), chapter 4 (10 December 2008) and *HC Debs*, 20 January 2009, cols. 626–53.

51 See http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/104692.pdf.

52 (30280) 17606/1/08: see HC 19–iii (2008–09), chapter 7 (14 January 2009) and HC 19–viii (2008–09), chapter 7 (25 February 2009).

12.3 The stimuli the Commission has proposed are:

- a programme of Community financial assistance to projects in the field of energy, with €3.5 billion (£3.14 billion) to fund energy infrastructure projects, focused on strategic energy interconnection, investment in offshore wind supply and carbon capture and storage demonstration, and complementary to the Community's Strategic Energy Technology Plan and the European Industrial Initiatives;⁵³ and
- an increase of €1.5 billion (£1.35 billion) in the European Agricultural Fund for Rural Development for broadband infrastructure and new challenges, identified in the November 2008 assessment of the 2003 midterm reform of the Common Agricultural Policy, the “Health Check”, — climate change, renewable energies, water management, biodiversity and dairy restructuring.⁵⁴

The Government's view

12.4 The Economic Secretary to the Treasury (Ian Pearson) reminds us that the Government broadly supports the Commission's European Economic Recovery Plan. It considers this an appropriate and wide-ranging framework that includes specific proposals to guide Member States and the Community in making coordinated responses to the crisis that deal both with the immediate impact on the real economy and promote potential growth in the long-term. He reminds us also that the Government's views on the energy and rural development proposals have been set out in detail in the Government's relevant Explanatory Memoranda.⁵⁵

12.5 On the proposed revision of the Financial Framework the Minister tells us again:

- of the Government's concerns with the proposed financing method of the stimulus package which would make use of the 2008 budget margins;
- that a number of Member States, including France, Germany and the Netherlands, share these concerns; and
- that the Government is working with like-minded Member States to ensure that the Commission explores all other possibilities for additional resources to be met from within the existing Financial Framework, through, in the first instance, redeployment and re-profiling.⁵⁶

Conclusion

12.6 Although this document, which we clear, recapitulates proposals which have been or are being scrutinised separately, we draw it to the attention of the House because of the Government's continued laudable attempts to maintain the budgetary discipline of the Financial Framework.

53 (30405) 5972/09: see HC 19–viii (2008–09), chapter 4 (25 February 2009).

54 (30402) 5883/09: see HC 19–viii (2008–09), chapter 16 (25 February 2009).

55 See the two preceding footnotes.

56 See footnote 52.

13 Financial management

(30423) 6145/09 COM(09) 43	Commission Communication: <i>Impact Report on the Commission action plan towards an integrated internal control framework</i>
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<i>Legal base</i>	—
<i>Document originated</i>	4 February 2009
<i>Deposited in Parliament</i>	6 February 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 23 February 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Not known
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

13.1 In January 2006 the Commission adopted an *Action plan towards an integrated internal control framework*. In response to the situation that, for many years the European Court of Auditors had been unable to give a positive statement of assurance (frequently referred to as a DAS, from the French “*déclaration d’assurance*”) on the Community budget the Commission publicised its plan to remedy this situation with a programme of 16 actions summarised under four headings:

- simplification and common control principles;
- management declarations and audit assurance;
- single audit approach — sharing results and prioritising cost-benefit; and
- sector-specific gaps.⁵⁷

13.2 In its second progress report on the action plan, in February 2008, the Commission reported that seven out of the 16 original actions had been completed, six were substantively complete and three could not be completed or were being taken forward in other ways.⁵⁸

The document

13.3 This Commission Communication is the next report on the *Action plan towards an integrated internal control framework*, described as an impact report. The Commission first describes what it means by impact and how this can be measured saying that, whilst the

57 (27230) 5509/06 + ADD 1: see HC 34–xix (2005–06), chapter 14 (15 February 2006).

58 (29510) 7207/08 + ADD 1: see HC 16–xx (2007–08), chapter 16 (30 April 2008).

relevance of the action plan to activities shared with Member States is limited, the plan is assessed using both quantitative and qualitative indicators including error rates, evidence from audit opinions and data collected from Commission services.

13.4 The Commission then discusses recent implementation of the action plan under the four headings, saying:

Simplification and common control principles

- in relation to Action 1, concerned with simplification of legislative drafts in the period 2007–13 legislation, such simplification has occurred through the introduction of the Single Payment Scheme,⁵⁹ the Common Agricultural Policy “health check”,⁶⁰ the use of flat rates for overheads in structural funds and amendments to Council Regulations. The key indicator for this action is the increase in the percentage of the budget executed through a simplified approach — the percentage of funds executed through decoupled direct aids has risen from 47% of total direct payments in the agricultural sector in 2005 to 83% in 2008, with a targeted increase to 93% by 2013 and beyond, so that around 25% of the Community budget is executed through the simplified approach;
- Action 2, concerned with common internal control principles, is not covered by the report as it has been cancelled;
- Action 3, concerned with control strategies and evidence of reasonable assurance, is complete as indicated by an improved evaluation by the European Court of Auditors of the quality of Annual Activity Reports — in its 2007 annual report the Court noted improvements in the Annual Activity Reports for agriculture and cohesion. A peer review process supports this view;
- Action 4 on tolerable risk is reported under “the single audit approach”, along with the related issue of costs and benefits of control;

Management declarations and audit assurance

- Action 5, about national management declarations, has been completed — all except one of the annual summaries met the minimum requirements and the Commission has revised its guidance to improve the quality of subsequent summaries. The European Court of Auditors considers that the Commission has adequately supervised the process of introducing annual summaries. Additionally, all *ex-ante* declarations of assurance in education and culture were received and the Commission supports voluntary declarations of some Member States, which provide additional information on internal control systems;
- Action 6, concerned with the utility of management declarations, is not covered by the report as it has been cancelled;

59 See http://ec.europa.eu/agriculture/capreform/infosheets/pay_en.pdf.

60 See http://ec.europa.eu/agriculture/healthcheck/index_en.htm.

- Action 7, concerned with increasing the cost-benefit of audits, has been completed as indicated by the improved quality of reporting by external auditors. In relation to external aid an initial assessment indicates that agreed procedures increase the consistency and reliability of reports, although the quality and consistency could be enhanced, and in relation to research it is too early to assess the improvement;
- Actions 8 and 8N,⁶¹ concerned with additional assurance from Supreme Audit Institutions (SAIs), are complete as indicated by the number of SAIs in dialogue with the Commission — five SAIs have requested additional information and analysis from the Commission and ten have made an overarching report on Community financial management;

Single audit approach: sharing results and prioritising cost-benefit

- Actions 3N and 11N, concerning improved assurance through sanctions and recoveries, are considered complete as the European Court of Auditors noted improvements in data on 2007 recoveries and the Commission has improved its follow up of DAS errors. The Court however remarks that “the notes to the financial statements do not yet contain complete and reliable information on the financial correction activities made by the Member States”;
- Action 9, concerned with sharing audit results, is complete as 5,000 audits have been recorded allowing better coordination of audits and procedures are in place to ensure the systematic exchange of results between the Structural Fund Directorates Generals;
- Actions 4, 10 and 11, concerned with tolerable risk and cost-benefit analysis of controls, are completed as the Commission produced a Communication on this topic to stimulate discussions on tolerable risk in the Council, the European Parliament and the European Court of Auditors;⁶²

Sector-specific gaps

- Actions 12 and 12N, concerned with gaps identified by participating Commission services, have been completed as Directorates-General are implementing the actions in line with the “gap assessment” which asks for clear descriptions of the control approach, coordinated audit and control according to agreed standards. Completion of these actions is evidenced by the European Court of Auditors’ conclusion in its 2007 DAS that none of the supervisory and control systems are ineffective;⁶³
- Action 13, concerned with analysis of controls under shared management at regional level and the value of existing statements, has been completed as the Commission has improved reporting in Annual Activity Reports and better control

61 “N” indicates a refinement of the original action.

62 (30320) 17592/08 + ADD 1: see HC 19–viii (2008–09), chapter 8 (25 February 2009).

63 All comments by the European Court of Auditors cited by the Commission are from the 2007 annual report — (30203): see HC 19–iii (2008–09), chapter 3 (14 January 2009).

arrangements are included in the 2007–13 legislation. This action is supported by assessments of the quality of Member States’ control systems as shown in the Structural Funds Action Plan;⁶⁴

- Action 14, concerned with greater guidance for structural funds on managing the risk of error, is complete as in 2008 the Commission published new guidance for managing and certifying authorities and developed a tool to facilitate managing authorities’ self-assessments against regulatory benchmarks. The tool has been modified following two pilot studies and its impact is thus not yet discernible;
- Action 15, concerned with promoting “Contracts of Confidence” for structural funds, is complete as seven contracts have been signed and another two should be signed by the end of February 2009. In addition, the concept of relying on the work of National Audit Institutions has been included in 2007–13 legislation and Member State systems covered by Contracts of Confidence are considered by the Commission to provide reasonable assurance on the regularity of expenditure, so that the Commission may reduce its own audit work; and
- Action 16, concerned with establishing common guidelines for policy groupings, is complete as the Commission has provided access to guidance and training on managing external auditors, sampling and compliance with legislation. In addition, the structural actions Directorates-General have developed closure guidelines for 2000–06 programs, provided training and seminars to Member States and finalised guidance for Member States for 2007–13 in the Structural Actions Audit Manual to be issued in 2009.

13.5 The Commission concludes that:

- progress in strengthening internal control systems has been accelerated by the launch of the Action Plan in 2006;
- further efforts are necessary and the Commission will continue to pursue these and to call for the support of other institutions; and
- it believes that progress in simplifying legislation, setting appropriate targets for tolerable risk and attaching to future legislative proposals a description of associated control arrangements is necessary for further improvements in internal control systems.

The Government’s view

13.6 The Economic Secretary to the Treasury (Ian Pearson) comments that the Government:

- was, during its Presidency in 2005, instrumental in the formation of the Action Plan, having taken forward the preceding *Roadmap towards an Integrated Internal Control Framework*;⁶⁵

64 (29535) 7323/08: see HC 16–xviii (2007–08), chapter 8 (2 April 2008).

- welcomes this Commission Communication as it provides a useful update of the Commission's progress on the implementation of the Action Plan;
- warmly welcomes, in particular, the Commission's support of voluntary initiatives undertaken by Member States, the ongoing communication between the European Court of Auditors and Supreme Audit Institutions, the single audit approach taken by the Commission and the emphasis the Commission places on the importance of simplification of legislation — all of these are priorities of the Government and continued progress on them is being pursued in Council discussions;
- supports the Commission's conclusion that progress in simplifying legislation is necessary to help reduce errors;
- agrees that it would be useful for future legislative proposals to describe the associated control arrangements — this should not, however, be an imposition of specific systems or structures but a statement of principles which Member States should apply;
- believes that before there are informed discussions on the appropriate levels of tolerable risk, further simplification of regulations must take place and the impact of simplification be analysed. Once this has taken place, the level of inherent risk will be clearer and a decision can then be taken on whether to continue spending in areas with high risk. At this stage a discussion on the appropriate level of tolerable risk should take place for areas with high inherent risk; and
- welcomes the impact that the Action Plan should have on strengthening internal control systems within the Commission and Member States. Strong financial management of Community funds is a key priority of the Government and action on this continues in Council discussions and in the UK through the Consolidated Statement on the use of such funds in the UK.⁶⁶

Conclusion

13.7 This report gives a useful, and mildly encouraging, summary of improvements to the Commission's financial controls, which, whilst we are content to clear, we draw to the attention of the House.

65 (26652) 10326/05: see HC 34–v (2005–06), chapter 43 (12 October 2005).

66 HC 619: see http://www.hm-treasury.gov.uk/d/statement_eufunds170708.pdf.

14 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

- (30425)
6095/09
+ ADDs 1-2
COM(09) 31
- Draft Regulation on textile names and related labelling of textile products.
- (30427)
6220/09
COM(09) 42
- Commission Communication on the Report on the implementation of the action plan to strengthen the Commission's supervisory role under shared management of structural actions.

Department for Environment, Food and Rural Affairs

- (30306)
17473/08
ADDs 1-6
COM(08) 864
- Commission Communication on a mid-term assessment of implementing the EC Biodiversity Action Plan.
- (30358)
5382/09
+ ADD 1
COM(08) 902
- Commission Annual Report on Member States' efforts during 2007 to achieve a sustainable balance between fishing capacity and fishing opportunities.
- (30403)
5902/09
COM(09) 37
- Draft Council Regulation amending Regulation (EC) No. 637/2008 as regards the national restructuring programmes for the cotton sector.
- (30436)
6396/09
COM(09) 45
- Draft Council Decision correcting Directive 2008/73/EC simplifying procedures of listing and publishing information in the veterinary and zootechnical fields and amending Directives 64/432/EEC, 77/504/EEC, 88/407/EEC, 88/661/EEC, 89/361/EEC, 89/556/EEC, 90/426/EEC, 90/427/EEC, 90/428/EEC, 90/429/EEC, 90/539/EEC, 91/68/EEC, 91/496/EEC, 92/35/EEC, 92/65/EEC, 92/66/EEC, 92/119/EEC, 94/28/EC, 2000/75/EC, Decision 2000/258/EC and Directives 2001/89/EC, 2002/60/EC and 2005/94/EC.

Foreign and Commonwealth Office

- (30224)
16311/08
+ ADDs 1-2
COM(08) 777
- Commission 25th Annual Report on monitoring the application of community law (2007).

(30338)
15610/08
— Council Decision concerning the conclusion of the Agreement on security procedures for exchanging classified information between the European Union and Israel.

(30459)
—
— Council Decision concerning the conclusion of the Agreement between the European Union and the Great Socialist people's Libyan Arab Jamal on the status of the European Union-led forces transiting through or above the territory of the Great Socialist people's Libyan Arab Jamal

Home Office

(30430)
5780/09
COM(09) 13 Commission Communication on the Annual Report to the Council and the European Parliament on the activities of the EURODAC Central Unit in 2007.

(30440)
6439/09
COM(09) 48 Draft Council Decision on the signature and provisional application of the Agreement between the European Community and the Republic of Mauritius on the short-stay visa waiver.
Draft Council Decision on the conclusion of the Agreement between the European Community and the Republic of Mauritius on the short-stay visa waiver.

(30441)
6443/09
COM(09) 50 Draft Council Decision on the signature and provisional application of the Agreement between the European Community and Barbados on the short-stay visa waiver.
Draft Council Decision on the conclusion of the Agreement between the European Community and Barbados on the short-stay visa waiver.

(30442)
6458/09
COM(09) 53 Draft Council Decision on the signature and provisional application of the Agreement between the European Community and the Federation of Saint Kitts and Nevis on the short-stay visa waiver.
Draft Council Decision on the conclusion of the Agreement between the European Community and the Federation of Saint Kitts and Nevis on the short-stay visa waiver.

(30443)
6477/09
COM(09) 49 Draft Council Decision on the signature and provisional application of the Agreement between the European Community and Antigua and Barbuda on the short-stay visa waiver.
Draft Council Decision on the conclusion of the Agreement between the European Community and Antigua and Barbuda on the short-stay visa waiver.

(30444)
6478/09
COM(09) 55 Draft Council Decision on the signature and provisional application of the Agreement between the European Community and the Commonwealth of The Bahamas on the short-stay visa waiver.

Draft Council Decision on the conclusion of the Agreement between the European Community and the Commonwealth of The Bahamas on the short-stay visa waiver.

(30445)
6498/09
COM(09) 52

Draft Council Decision on the signature and provisional application of the Agreement between the European Community and the Republic of Seychelles on the short-stay visa waiver.
Draft Council Decision on the conclusion of the Agreement between the European Community and the Republic of Seychelles on the short-stay visa waiver.

Department for International Development

(30432)
6322/09
COM(09) 46

Draft Council Decision establishing the position to be adopted on behalf of the Community within the Food Aid Committee as regards the extension of the Food Aid Convention, 1999.

Office of National Statistics

(30359)
5394/09
COM(08) 898

Commission Opinion on the Recommendation of the European Central Bank for a Council Regulation amending Regulation (EC) No. 2533/98 concerning the collection of statistical information by the European Central Bank.

Department for Transport

(30414)
5984/09
COM(09) 9

Commission Communication on monitoring the CO2 emissions from cars in the EU: Data for the years 2005, 2006 and 2007.

Formal minutes

Wednesday 4 March 2009

Members present:

Michael Connarty, in the Chair

Mr Adrian Bailey

Mr William Cash

Jim Dobbin

Mr Greg Hands

Mr David Heathcoat-Amory

Kelvin Hopkins

Mr Bob Laxton

Angus Robertson

Mr Anthony Steen

1. Scrutiny of Documents

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

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

Paragraph 1.1. to 10.13 read, amended and agreed to.

Paragraph 10.13, read, amended and agreed to.

Paragraphs 10.14-14 read and agreed to

[Adjourned till Monday 9 March at 2.00 pm

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)
 Mr Adrian Bailey MP (*Labour/Co-op, West Bromwich West*)
 Mr David S. Borrow MP (*Labour, South Ribble*)
 Mr William Cash MP (*Conservative, Stone*)
 Mr James Clappison MP (*Conservative, Hertsmere*)
 Ms Katy Clark MP (*Labour, North Ayrshire and Arran*)
 Jim Dobbin MP (*Labour, Heywood and Middleton*)
 Mr Greg Hands MP (*Conservative, Hammersmith and Fulham*)
 Mr David Heathcoat-Amory MP (*Conservative, Wells*)
 Keith Hill MP (*Labour, Streatham*)
 Kelvin Hopkins MP (*Labour, Luton North*)
 Mr Lindsay Hoyle MP (*Labour, Chorley*)
 Mr Bob Laxton MP (*Labour, Derby North*)
 Angus Robertson MP (*SNP, Moray*)
 Mr Anthony Steen MP (*Conservative, Totnes*)
 Richard Younger-Ross MP (*Liberal Democrat, Teignbridge*)