



House of Commons  
European Scrutiny Committee

---

**Twenty-fourth Report  
of Session 2008–09**

---

Documents considered by the Committee on 1 July 2009,  
including the following recommendations for debate:

Intelligent transport systems

*Report, together with formal minutes*

*Ordered by The House of Commons  
to be printed 1 July 2009*

## 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](http://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).

### Staff

The staff of the Committee are Alistair Doherty (Clerk), Laura Dance (Second Clerk), David Griffiths (Clerk Adviser), Terry Byrne (Clerk Adviser), Sir Edward Osmotherly (Clerk Adviser), Peter Harborne (Clerk Adviser), Paul Hardy (Legal Adviser) (Counsel for European Legislation), Dr Gunnar Beck (Assistant Legal Adviser), Lisa Wrobel (Senior Committee Assistant), Allen Mitchell (Committee Assistant), Mrs Keely Bishop (Committee Assistant), Dory Royle (Committee Assistant), Karuna Bowry (Committee Support Assistant), and Paula Saunderson (Office Support Assistant).

### Contacts

All correspondence should be addressed to the Clerk of the European Scrutiny Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is (020) 7219 3292/5465. The Committee's email address is [escom@parliament.uk](mailto:escom@parliament.uk)

# Contents

---

<b>Report</b>			<i>Page</i>
<b>Documents for debate</b>			
1	DFT	(30312) (30313) Intelligent transport systems	3
<b>Documents not cleared</b>			
2	FCO	(30713) European Security and Defence College	8
		Annex 1: Council General Secretariat Study of	15
3	HMT	(30624) Financial services	17
4	HMT	(30664) Statistics	21
5	MOJ	(30567) Compensation for victims of crime	24
<b>Documents cleared</b>			
6	BIS	(29986) Reporting requirements in the case of mergers and divisions	28
7	DEFRA	(30656) Global monitoring for environment and security: 2011-13	31
8	DFT	(30682) Road transport social rules	35
9	DWP	(30683) Preventing unemployment and creating jobs	39
10	FCO	(26607) (30107) (30108) EU-Russia relations	42
11	HO	(30685) Cross-border road transport of Euros	52
<b>Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House</b>			
12	List of documents		56
<b>Formal minutes</b>			58
<b>Standing order and membership</b>			59



## 1 Intelligent transport systems

(a) (30312) 17563/08 + ADDs 1–2 COM(08) 886	Commission Communication: <i>Action plan for the Deployment of Intelligent Transport Systems in Europe</i>
(b) (30313) 17564/08 + ADDs 1–2 COM(08) 887	Draft Directive laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes

<i>Legal base</i>	(a) — (b) Article 71(1) EC; co-decision; QMV
<i>Department</i>	Transport
<i>Basis of consideration</i>	Minister's letter of 1 July 2009
<i>Previous Committee Report</i>	HC 19–vii (2008–09), chapter 4 (11 February 2009), HC 19–xi (2008–09), chapter 6 (18 March 2009) and HC 19–xix (2008–09), chapter 6 (10 June 2009)
<i>To be discussed in Council</i>	Possibly 8–9 October 2009
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	(a) Cleared, but relevant to debate on document (b) (Decision reported on 11 February 2009) (b) For debate in European Committee

### Background

1.1 Intelligent transport systems are information and communications technologies used to manage traffic and inform travellers. There has been a gradual increase in the use of this technology in recent years in areas such as road safety, traffic management and tackling climate change. In this Communication of December 2008, document (a) the Commission called for a coordinated approach to intelligent transport systems across the Community and set out a 24 point action plan aimed at delivering faster deployment of technology-based systems for road transport (including interfaces with other modes of transport) throughout the Community. The plan covered actions designed to address a wide range of policy areas within three categories:

- cleaner transport;
- improving transport efficiency; and

- improving road safety and security.<sup>1</sup>

1.2 At the same time the Commission presented this draft Directive, document (b), intended to establish a framework for the coordinated deployment and use of intelligent transport systems for road transport (including interfaces with other modes of transport) and to develop the necessary specifications. In the context of its concern that recent technological developments had been too fragmented and not coordinated across Member States, the Commission considered the use of a framework Directive to be the most appropriate way to address this issue. The Commission based its proposal on an impact assessment annexed to both documents. This examined three policy options to support the action plan:

- Option A — no additional new action;
- Option B — overcoming problems by concentrating on coordination and synergy measures; and
- Option B+ — Option B extended with a Directive and comitology procedure.<sup>2</sup>

1.3 The Commission, believing that the self-regulatory approach pursued so far by industry was not sufficient and that this approach would have the greatest impact, selected Option B+. The resultant draft Directive would:

- require Member States to take measures necessary to ensure the coordinated deployment and use of interoperable intelligent transport systems applications and services within the Community;
- provide for type approval of road infrastructure related intelligent transport systems equipment and software;
- establish a comitology committee to assist the Commission in defining procedures and specifications;
- establish a “European ITS Advisory Group” to which representatives of relevant intelligent transport systems stakeholders would be invited to advise the Commission on business and technical aspects; and
- require Member States to ensure that processing of personal data be carried out in accordance with Community rules and that these data and records be protected against misuse, alteration or loss.

1.4 We first considered these documents in February 2009. Whilst noting the Government’s view that the breadth of the policy areas covered by the Commission Communication was an ineffective approach and that it was urging the Commission to

---

1 (30312) 17563/08 + ADDs 1–2: see HC 19–vii (2008–09), chapter 4 (11 February 2009) and HC 19–xi (2008–09), chapter 6 (18 March 2009).

2 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.

prioritise its proposals for 24 actions in relation to intelligent transport systems, we cleared the document. But we said that it would be relevant to a debate we might be recommending on the draft Directive. As for the draft Directive we were unsure as to what the Government's approach to the proposal would be. On the one hand we had been told why, for subsidiarity and practical reasons, the Government found the proposal for legislation inappropriate. On the other hand we had comments about the details of the proposal that implied that the Government accepted that there would be legislation based on negotiated revisions of the draft Directive. Additionally, while we understood why it was not possible yet to sensibly undertake an impact assessment of the draft Directive, we were surprised that the Government did not seem to intend a consultation on the proposal. So we kept it under scrutiny and asked for clarification as to how the Government intended to handle the draft Directive and on its intentions in regard to consultation.

1.5 We considered the matter again in March 2009 when we heard that there had been no discussion of the draft Directive but that the Transport Council of 30 March 2009 was expected to adopt Conclusions on the action plan set out in the Communication. We were also told, *inter alia*, that:

- whilst the Government supported the objectives of the Communication, it thought that, as currently set out, it underplayed the range of intelligent transport systems initiatives that were already being taken forward in a number of Community fora;
- the work of a number of existing groups was developing a clearer understanding of how intelligent transport systems applications could help to provide traveller information, improve road safety, or reduce congestion and carbon emissions;
- in the light of this work, the Government was not clear that additional legislative action was needed at this stage;
- the action plan was wide ranging and the Government did not feel the Commission had yet made a convincing case for taking all these work items forward through legislation, particularly through a framework Directive with extensive use of comitology;
- rather, the Government supported an approach using coordination and cooperation;
- early indications were that some other Member States shared the Government's concerns about moving to a regulatory framework, particularly without understanding the potential impacts for Member States;
- the Commission had yet to carry out a full impact assessment on its proposals — when questioned on the potential implications for Member States it was not able to provide any information; and
- the Commission had consulted with stakeholders through meetings and on-line during the preparation of the action plan and the Government intended to begin consultation with stakeholders in the coming weeks.

We said that we wished to hear about the outcome of the consultation the Government was now undertaking and that our further consideration would also take account of the Council Conclusions the Minister had foreshadowed.

1.6 We returned to this matter in June 2009 and heard, *inter alia*:

- that the Government remained supportive of the objectives of the action plan, but was concerned that the legislative approach proposed by the Commission was an inappropriate mechanism for deploying intelligent transport systems across Member States;
- about the Government's consultations on these matters, saying that;
- that the stakeholders shared the Government's view that the actions in the action plan are wide-ranging, complex and highly ambitious, particularly as the time frames suggested for implementation do not seem realistic;
- that the Government would continue to use stakeholder recommendations to inform negotiations in the Council Working Group, will continue to work with ITS (UK), the industry association, and would consider how best to implement its recommendation to extend the consultation to include freight and automotive sector representative bodies, as well as local authorities;
- that, as predicted, Council Conclusions on the action plan were agreed at the March 2009 Transport Council;<sup>3</sup>
- about particular concerns expressed by Member States;
- that in a Council Working Group meeting of 14 May 2009 the Commission had placed a general scrutiny reserve on the draft Directive as it believed that, as amended in Working Group discussions, it no longer represents its intentions or those of the Council Conclusions;
- there would be no further Working Group meetings on the draft Directive during the Czech Presidency and the Government anticipated that the forthcoming change in Presidency might bring about a change in approach; and
- about the European Parliament's first reading of the proposal on 22 April 2009.

We said we were now clear that it would be appropriate to recommend the draft Directive for debate in European Committee. But we would not take a final decision on that until we had a report on how the Commission intended to respond to the amended text of the draft Directive and the Swedish Presidency intended to carry the proposal forward. Meanwhile the document remained under scrutiny.<sup>4</sup>

---

3 See [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/trans/107025.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/trans/107025.pdf), pages 9–17.

4 See headnote.

## The Minister's letter

1.7 The Minister of State, Department for Transport (Mr Sadiq Khan), now tells us that the Government understands that:

- the Commission's general scrutiny reserve means that the it intends to pursue its original proposal, namely seeking a regulatory framework that covers the entire action plan (set out in the Commission Communication, document (a)); and
- the incoming Swedish Presidency will be treating the draft Directive as a priority and, following Working Group discussions, scheduled for July and September 2009, it intends to seek political agreement at the Transport Council on 8–9 October 2009.

The Minister comments that the Presidency has an ambitious timeframe, but it is possible that it will succeed in this objective.

## Conclusion

**1.8 We are grateful to the Minister for this further information. We now recommend that the draft Directive be debated in European Committee, before the Transport Council in October 2009. In the debate we suggest that Members will particularly want to address:**

- **the inutility of the proposed legislative approach as a mechanism for deploying intelligent transport systems across Member States;**
- **the preferability of an approach to intelligent transport systems deployment based on coordination and cooperation;**
- **the need for a thorough cost-benefit analysis on the impact of intelligent transport systems deployment; and**
- **the need to take account of existing deployment of intelligent transport systems and of region-specific safety issues.**

## 2 European Security and Defence College

(30713)	Council Decision establishing a European Security and Defence College (ESDC) and repealing Joint Action 2008/550/CFSP.
—	
—	

<i>Legal base</i>	Article 14 EU; unanimity
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	EM of 23 June 2009
<i>Previous Committee Report</i>	None; but see (29699) —: HC 16–xxiii (2007–08), chapter 20 (4 June 2008) and (26630) — HC 34–i (2005–06), chapter 49 (4 July 2005)
<i>Discussed in Council</i>	Sometime in July 2009
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; further information requested

### Background

2.1 The European Security and Defence College (ESDC) was originally proposed by France, Germany, Luxembourg and Belgium at the so-called “Chocolate” Summit at Tervuren in April 2003, to provide training in what was described (in his 25 June 2005 Explanatory Memorandum by the then Minister for Europe, Mr Douglas Alexander, that accompanied the original Joint Action) as “the broad range of political, institutional and operational issues which are central to ESDP [the European Security and Defence Policy], with the aim of promoting better understanding of ESDP amongst the relevant Member State civilian and military personnel”.

2.2 It has

- a *Steering Committee*, comprising one representative from each Member to, inter alia, establish the annual academic programme of the ESDC, select the Member State institutes which will host the ESDC activities, and agree the annual academic programme;
- an *Executive Academic Board* comprising senior representatives of the institutes providing training each academic year with a main role of implementing the agreed annual academic programme through the ESDC network, developing curricula, reviewing standards and preparing evaluation reports;
- an *Administrative Secretariat* of up to three staff within the Council General Secretariat (CGS) in Brussels and carrying out administrative support activities in support of the Steering Committee and the Executive Academic Board.

2.3 Member State institutions and the EU Institute for Security Studies make up the training “network”.

2.4 Member States that send personnel for training in the ESDC bear the costs incurred. Member State institutions providing training as part of the ESDC network cover the associated organisational costs. The costs of the administrative secretariat in the CGS are covered by either the existing CGS budget or by those Member States that choose to second staff to work within it.

2.5 The ESDC was to deliver two main courses:

- the High-level Course, consisting of five week-long residential courses held in five different Member State institutions, intended for senior military and civilian personnel;
- the Orientation Course, a one-week course to be held around three times a year, in Brussels, providing a broad introduction to the ESDP for military and civilian personnel.

### Previous consideration

2.6 The then Minister for Europe explained that the UK was originally sceptical, but a pilot course demonstrated that it would be “an effective means of delivering some of the key elements of ESDP training”. So the Government had “engaged with the initiative to ensure that it is based on a proper assessment of needs, and does not duplicate existing Member State training provision”, and “ensured that the ESDC will be established as a “virtual network” of existing Member State training institutions, rather than a new ‘bricks and mortar’ institution. Apart from the small administrative secretariat within the Council General Secretariat, there will be no common funding for the training provision. Member States will bear their own costs for the funding of their students”.

2.7 On 18 July 2005, the Council adopted Joint Action 2005/575/CFSP establishing the European Security and Defence College.<sup>5</sup>

2.8 It was cleared by the then Committee at its first meeting following the May 2005 General Election. In so doing, the then Committee noted that it seemed as though the UK’s success in ensuring that the ESDC would be a “virtual network” aiming to add value at minimal cost in order to improve the effectiveness of an established policy had not been achieved without a struggle; resistance had been necessary not only to proposals for common funding but also to the proposal to give the ESDC a legal personality, which would have undermined the concept of a “virtual” ESDC. Although no legal or policy questions arose, our predecessors felt that a short Report to the House was appropriate, to illustrate the constant battle that had to be fought to restrain expenditure on, and the institutionalisation of, activity which can clearly be carried out effectively at much lower cost, and in order to congratulate the Minister on the outcome.

### Amendments to the 2005 Joint Action

2.9 In a helpful and informative Explanatory Memorandum of 2 June 2008, the then Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) recalled that the 2005 Joint Action required the Steering Committee to review implementation of

---

5 OJ No. L 194, 26.07.05, p.15.

the Joint Action after two years and present a report to the Council. He noted that their report acknowledged that, with the EU's increasingly global role and the continuing development of ESDP, there was an increasing demand for the training provided by the ESDC, and accordingly made a number of recommendations aimed at improving the running of the ESDC and broadening its activities. He described the first recommendations as follows:

- “Consideration should be given to expanding the range of courses available to include the provision of training for specialists and/or on specific areas of interest, e.g. regional issues (such as Africa, Balkan issues), and high level seminars for high-ranking staff and decision makers;
- “A number of practical steps should be taken to improve the functioning of the secretariat of the college. A ‘Course Director’ should be appointed to improve the coherence and consistency of the High Level Course (made up of 5 week-long modules, each of which is organised and hosted by a different Member State). And a Head of the ESDC should be appointed in order to improve the visibility of the ESDC amongst Member States;
- “Steps should be taken to ensure the development of the internet-based ESDP Distance Learning System is pursued with priority”.

2.10 The Minister went on to explain that the Steering Committee report also made other recommendations that required further investigation, which included increasing the number of Secretariat staff, securing a long-term solution for ensuring adequate access to suitable conference facilities in Brussels, and reviewing the current financing arrangements; and that the Council had commissioned a study of these issues to report by November 2008 with a view to further revising the Joint Action as necessary.

2.11 In the meantime, the Minister explained that in order to incorporate those findings of the report that did not need such further investigation, the following revisions to the original Joint Action had been proposed:

- Article 4.2, Tasks of the ESDC — an additional type of training activity had been added so that courses for specialised audiences or with specific focus could be provided;
- Article 4.3 — various changes to broaden the ESDC's role in improving the co-ordination of ESDP training activities, including an annual networking conference and supporting exchange programmes between Member States' training institutes (should relevant individual Member States so wish);
- Article 4.4 — the ESDC to be conferred with the legal capacity to sign contracts and hold a bank account — this would facilitate development of the Internet-based Distance Learning (IDL) system by enabling the college to sign copyright agreements with and receive voluntary contributions from those Member States who wished to participate in the project;
- Article 6, Steering Committee — this had been expanded to better reflect the range of activities/tasks the committee is engaged in fulfilling its remit;

- Article 7, Executive Academic Board — this had also been expanded to better reflect the board’s range of activities/tasks;
- Article 8.3, The Secretariat — this addition created within the Secretariat a function of Head of the ESDC and Course Director for the High Level Course. It also mandated the Secretariat to take a greater role in co-ordinating the ESDC work and training programmes;
- Article 13, Review — in looking at the longer term future of the ESDC, this set out the areas that the review should address in drawing up its report for consideration by the Council in November 2008.

2.12 The Minister reaffirmed the Government’s support of the work of the ESDC — “in particular its development of an internet-based ESDP Distance Learning System” — and the proposed changes to the Joint Action, as a series of practical measures that would “allow the college to conduct a broader range of training activities of use to Member States [and] ... improve the day-to-day management of the college’s activities without the need for major changes to its current organisation.”

2.13 He noted that as the ESDC operated on a “costs lie where they fall basis”, the UK did not provide a regular contribution to support the college’s activities, but was nonetheless “actively engaged in the college’s activities”, and routinely sent officials on the ESDC’s training courses, and had provided expert speakers on a number of occasions and hosted a module of the High Level Course.

2.14 The Minister also welcomed the further review commissioned by the Council to report in November 2008, which would “look into the long-term impact that developments in ESDP will have on the college’s future activities and what steps will need to be undertaken to ensure that the college can continue to meet Member States’ requirements.”

## Our assessment

2.15 Although modest and sensible, and with no financial implications, we considered the proposed changes warranted a Report to the House for two reasons.

2.16 First, the story so far illustrated that the Government’s original approach was well-judged. Secondly, we felt the temptation might arise, in the further consideration of some of the more substantial issues raised in this review, to use another review — that of the European Security Strategy — to argue that “the long-term impact of developments in ESDP” and the alleged difficulties of ensuring adequate access to suitable conference facilities in Brussels to which the Minister referred might now necessitate common funding and giving the ESDC “legal personality”. If so, we trusted that the Minister would resist these or any other such suggestions with the same determination as had his antepredecessor.

2.17 We cleared the document, and looked forward to scrutinising the outcome of the further consideration of the review at the end of the year.<sup>6</sup>

---

6 (29699) —: HC16–xxiii (2007–08), chapter 20 (4 June 2008); see headnote.

2.18 Council Joint Action 2005/575/CFSP was replaced by Council Joint Action 2008/550/CFSP of 23 June 2008 establishing a European Security and Defence College.<sup>7</sup>

### Further proposed amendments to Joint Action 2008/550/CFSP

2.19 In addition to his Explanatory Memorandum of 23 June 2009, the Minister of State at the Foreign and Commonwealth Office (Ivan Lewis) encloses a copy of the study,<sup>8</sup> and says that the French Presidency took up “a number of these recommendations and proposed a number of changes”, including:

- housing of the college in permanent accommodation;
- an increase in the number of Secretariat staff; and
- a dedicated budget of up to €3.6m per annum.

2.20 He continues as follows:

“Following extensive negotiations in Brussels, the General Affairs and External Relations Council on 8 December 2008 endorsed a much more modest version of the Presidency proposals. The Joint Action now needs to be amended for these proposals to be implemented. The changes incorporated into the new Joint Action include:

- “Article 1.2 Establishment — inclusion of language to reflect the civilian and military focus of the College, the need for the College to establish close links with relevant EU agencies and reflecting the College’s association with the Commission.
- “Article 2 Legal Capacity — addition of a new article providing the College legal capacity to fulfil its tasks and realise its objectives.
- “Article 4 Objectives — inclusion of language to ensure, where appropriate, ESDC consistency with Community activities.
- “Article 5.3 Tasks of the ESDC — addition of (e) supporting exchange programmes in the field of ESDP, based on the Erasmus model (the UK will not be partaking in, or paying for, this voluntary initiative), (g) supporting the management of civilian crisis management training (viewed as a training priority for the UK), and (h) organising and conducting an annual conference on ESDP training.
- “Article 7.7 Steering Committee — addition of (b) tasking the Steering committee with overall guidance on the work of the Executive Academic Board and (h) making decisions regarding the functioning of the ESDC and (i) formulating orientations on the annual budget.
- “Article 8.5 The Executive Academic Board — addition of (a) tasking the Executive Academic Board with providing academic advice and recommendations to the Steering Committee, and (h) ensuring systematic evaluation of all ESDC training.

---

7 OJ No. L 176, 4.7.08, p.20.

8 The executive summary of which is at Annex 1 of this chapter of our Report.

- “Article 10 The Head of the ESDC — addition of a new article providing the Head of the ESDC responsibility for the management and administration of the ESDC’s work.
- “Article 11 Staff of the ESDC Secretariat — addition of a new article providing that ESDC Secretariat staff must be seconded from EU institutions, seconded by Member States or otherwise recruited by the ESDC as necessary.
- “Article 12 Budget — addition of a new article providing that the running of the ESDC and its particular tasks will be financed from the general budget of the European Communities. The budget is capped at EUR 3 310 000 for the four-year period after the conclusion of a financing agreement between the Commission and the ESDC.
- “Article 20 Entry into force and termination — inclusion of an expiry date for the Joint Action of four years after the date of the financing agreement.”

## The Government’s view

2.21 The Minister comments further, as follows:

“The Government supports the work of the ESDC — in particular its focus on both civilian and military training — and its potential for further development along UK policy lines, without duplicating or undermining NATO training arrangements. The ESDC maintains strong support amongst Member States and demand for ESDC courses continues to grow.

“In response to this, the French Presidency put forward a proposal to expand the college’s portfolio of courses, house it in permanent accommodation in Brussels and increase the number of Secretariat staff from 3 up to 17 at a cost of EUR 3.6m. This received wide support across Member States.

“To ensure cost effectiveness and a better deal for the UK and ESDP, the UK successfully negotiated a significantly more modest deal which will still allow the college to conduct a broader range of training activities of genuine use to Member States and will improve the day-to-day management of the College. This includes an expansion of the syllabus (including a new focus of civilian training as supported by the UK), a greater oversight role for the Head of the ESDC (which will allow improvement in ESDC courses), the granting of legal entity to the college (which will allow the ESDC to place a contract for an Internet Distance Learning (IDL) package to assist training), a modest increase in Secretariat staff from 3 to 8 (down from an initial Presidency position of a total of 17) and a dedicated budget (for additional staff costs, installing and running the IDL System, developing and producing training materials, managing an Alumni Association etc.) of EUR 850 000 for the first 12 months (down from an initial Presidency proposal of EUR 3.6m per annum).

“We shared the European Scrutiny Committee’s concerns about the use of a sizable amount of the CFSP budget to fund a large scale ESDC expansion, as originally proposed by the Secretariat. The UK therefore negotiated down significantly in the face of very strong opposition from the majority of Member States. The final

proposal will have a minimal impact on the budget (0.3% of the overall budget total). The use of the shared budget will allow the Committee to scrutinise the use of funds and will not lead to increased costs to the UK as the CFSP budget is pre-agreed.

“The UK also ensured that the capped budget agreed to under the deal is reflected in the Joint Action. This will ensure that that the ESDC shared budget will be capped until the Joint Action is renegotiated in four years time.

“The UK also initially shared the European Security Committee’s concerns over giving the College legal capacity. Giving it the necessary legal capacity to fulfil its tasks and realise its objectives will however be useful in practical ways. It will enable the College to carry out its functions because it will be able, for example, to enter into staff contracts, and contracts for equipment such as IT equipment to install its Internet-Based Advance Distance Learning System as supported by the UK and to print teaching materials. It will also be able to open a bank account.

“Giving the College the necessary legal capacity will not mean that the College can increase the size of its budget or act outside the scope of the powers given to it under the Joint Action by the Member States.”

## Conclusion

**2.22 We agree that the Minister and his predecessor have done well in holding to the Government’s original position, that the ESDC should be a “virtual network” of existing Member State training institutions, rather than a new “bricks and mortar” institution — at least for a further four years.**

**2.23 We are less pleased, however, that we have heard nothing from any Foreign and Commonwealth Office Minister concerning the recommendations emanating from the review, let alone what line the Government proposed to take. Not only does this ignore what we asked in our report of a year ago; it also illustrates precisely the sort of “upstream” scrutiny issue that we have discussed *in extenso* with the previous Minister for Europe (as summarised in our recent Report on the Council’s annual report on CFSP to the European Parliament) — which concluded with our saying that one of the things that the Committee needs to do its job properly is not to be taken by surprise when it is presented with a piece of draft legislation.<sup>9</sup> We ask the Minister to explain how this happened, and what will be done to ensure that it does not happen again.**

**2.24 We would also ask him to explain, if the ESDC is to continue as a “network”, why (under Article 2: Legal Capacity) one of the reasons given for its acquiring a legal capacity is “to acquire equipment, *including teaching equipment*” (our emphasis). Is this a stepping stone, from teaching materials to hired class rooms to a new “bricks and mortar” institution? Or is there a more innocent explanation?**

**2.25 In the meantime we shall retain the document under scrutiny.**

## **Annex 1: Council General Secretariat Study of “The Future Perspectives of the European Security and Defence College”: Executive Summary**

The European Security and Defence College has developed over the last three years into a key training actor providing Member States and EU institutions with quality training for personnel involved in ESDP. To meet a steadily growing demand on the ESDC, some improvements for its functioning were agreed in a review and revision of the Council Joint Action in spring this year. However, some difficulties remain related to future perspectives of the ESDC in general and the current situation of the ESDC Secretariat in particular.

The General Secretariat of the Council was tasked to elaborate a “Study on the future perspectives of the ESDC” in order to provide sound information for a debate on this issue at the Council in November 2008.

Based on the previous evaluation reports of the ESDC Steering Committee and relying on the experiences and lessons learnt by the ESDC Secretariat from the early start in 2005 until today, the Study elaborates possible options for a further development of the ESDC including a general assessment of the resource implications.

The starting point is the state of play of training undertaken by the ESDC with a significant grow of training activities in terms of number and variety, the further development of the IDL system and at the same time running parts of it in a transitional phase which all together can no longer be dealt with by the current 3 staff members of the Secretariat. Insufficient staff resources also prevent the ESDC from valuable participation in international co-operation activities, notably with the Geneva Centre for Security Policy and the NATO Defence College, limitations which would also apply to further developments in international co-operation.

Key is and remains thereby the current situation of the ESDC Secretariat within the Council Secretariat which does not allow the recruitment of any additional staff beyond the current three and is so identified as an obstacle to a demand-driven development of the ESDC.

The solution proposed to meet the growing demand on the ESDC is therefore the establishment of the ESDC / ESDC Secretariat as a separate entity with its own premises and its own budget.

A needs analysis with a view to the years 2009/2010 results in the need for a permanent staff of about 11 staff members, including

- a Head of the ESDC, as already foreseen by the current Council Joint Action,
- supported by a small administrative team of 2 persons managing a budget, human resources and security aspects and 1 staff for overall secretarial support of the Secretariat,
- 3 staff to run the IDL system in its transitional phase and further develop it towards full operational capability, and

- about 4 staff who are basically dealing with the programming, planning, conduct and evaluation of the training activities in support of the national institutes, and aspects related to international co-operation.

Two concrete options are identified to establish the ESDC as a separate entity, taking the establishment of the European Police College as an organisation model:

- firstly, the Quartier Panquin close to Brussels, offered by Belgium as a potential location to accommodate the ESDC and its staff, and
- secondly, the renting of offices in the centre of Brussels. The building currently occupied by the WEU Secretariat might be an option.

Furthermore, it is recommended that training activities falling under the ESDC should get financial support through the budget of the ESDC.

Consideration has been given to management and co-ordination of other training initiatives at EU level. The study comes to the conclusion that the ESDC, if established properly, could be a suitable framework for hosting and providing management support for

- training activities in the field of civilian crisis management,
- training initiatives currently undertaken by the EDA to close significant capability gaps in the intelligence area, and “Enhancing the mutual understanding of stakeholders engaged in co-operative programmes” (recommended in the study of the EU ISS).

The ESDC with these additional responsibilities would also provide the financial support to these activities through the ESDC budget.

As regards the financial implications, 4 specific cost factors are identified: the staff, the staff facilities, the development and running of the IDL system and the training activities. The overall cost estimate is elaborated on this basis and differentiates between 2 options which so far do not include costs related to a building and/or offices needed and related operational costs.<sup>10</sup>

**Option 1** is considered to be the ESDC as a separate entity with a focus on its strategic level training, with 11 staff members and financial support to the ESDC training activities (on the basis of the current academic programme with 14 activities). This would require a budget of about 1.6 million Euro. If parts of the staff would be made available by Member States as Seconded National Experts, the budget could be limited to about 1.2 Million Euro.

**Option 2** is considered to be the ESDC with additional responsibilities, with additional 6 staff members and financial support to about 50 additional training activities through the ESDC budget. This would require a budget of about 3.6 Million Euro. If parts of the permanent staff would be made available by Member States as Seconded National Experts, the budget could be limited to about 2.7 Million Euro.

---

10 “The assessment of these costs could not be finalised in time before publishing the study due to ongoing research into the two concrete possibilities. It will be finalised and circulated to delegations as soon as possible.”

Finally, among other options, the use of the CFSP budget is considered to be a feasible options for financing the ESDC as a separate entity.

### 3 Financial services

(30624) 9494/09 + ADDs 1–2 COM(09) 207	Draft Directive on Alternative Investment Fund Managers and amending Directives 2004/39/EC and 2009/.../EC
---	--

<i>Legal base</i>	Article 47(2) EC; co-decision; QMV
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	Minister’s letter of 26 June 2009
<i>Previous Committee Report</i>	HC 19–xviii (2008–09), chapter 9 (3 June 2009)
<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 In its Communication *Driving European Recovery* the Commission said “To deliver responsible and reliable financial markets for the future, the Commission will propose an ambitious new reform programme, with five key objectives.” The second objective was “To fill gaps where European or national regulation is insufficient or incomplete, based on a ‘safety first’ approach.” Amongst the proposals in this connection that the Commission said it would make was “A comprehensive legislative instrument establishing regulatory and supervisory standards for hedge funds, private equity and other systemically important market players.”<sup>11</sup>

3.2 In this document the Commission has proposed an Alternative Investment Fund Managers Directive which would harmonise Community regulation of managers of hedge funds, private equity funds and any other form of investment fund, apart from pension funds and the already harmonised UCITS (Undertakings for Collective Investments in Transferable Securities) funds (in the UCITS Directive currently being recast).<sup>12</sup> The Commission presented the draft Directive as part of a programme to extend appropriate regulation and oversight to all actors and activities that embed significant risks and noted

11 (30474) 7084/09 + ADD 1: see HC 19–xii (2008–09), chapter 1 (25 March 2009) and *Stg Co Debs* European Committee B, 29 June 2009, cols. 3–24.

12 (29873) 12149/08 + ADDs 1–2: see HC 16–xxxii (2007–08), chapter 4 (22 October 2008), HC 16–xxxv (2007–08), chapter 1 (12 November 2008) and *Stg Co Deb*, European Committee B, 25 November 2008, cols. 3–24.

calls for closer regulatory engagement in the sector from the European Parliament<sup>13</sup> and in the de Larosière Report.<sup>14</sup>

3.3 When we considered this document early last month we heard that the Government supported the principle of harmonising regulation of Alternative Investment Fund Managers across the Community, but that it planned to seek important improvements to the draft Directive to ensure that it avoided imposing unnecessary burdens on the industry while at the same time delivering the necessary improvement in regulatory standards. We noted particularly that:

- on non-Community firms and funds, the Government planned to argue for a more open approach to funds, managers and service providers from outside the Community;
- on private equity disclosure, the UK private equity industry had already taken voluntary action in this area through the Walker guidelines<sup>15</sup> — the Government believed stakeholders were broadly content with the level of disclosure provided by these guidelines and therefore intended to oppose the imposition of new regulatory requirements which could, in any case, only apply to Community-managed private equity funds and not to other forms of private ownership, for example non-Community private equity funds or family ownership;
- on greater supervisory discretion, the Government agreed that greater oversight of the potential systemic risks posed by Alternative Investment Fund Managers was necessary — it believed, however, that to do this effectively supervisors would have to exercise judgement over which data to collect and the Government intended to argue for this approach to be permitted under the Directive;
- the Government was establishing a number of stakeholder groups to give affected firms an opportunity to share views on the draft Directive, Council Working Group discussion of which was likely to continue at least until the end of 2009, and to gain a more developed understanding of the cost impacts of the proposal;
- the Commission impact assessment did not include a specific estimate of administrative costs — it argued that they would depend on existing national legislation — and the Government would seek further information on the likely impacts on affected sectors from UK firms.

3.4 We said that the draft Directive clearly could have a significant affect on Alternative Investment Fund Managers and that it was likely that in due course we would wish to recommend it for debate. But before considering that possibility further we asked to hear about:

13 See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0425&language=EN&ring=A6-2008-0338> and <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0426&language=EN&ring=A6-2008-0296>.

14 See [http://ec.europa.eu/commission\\_barroso/president/pdf/statement\\_20090225\\_en.pdf](http://ec.europa.eu/commission_barroso/president/pdf/statement_20090225_en.pdf), seventh recommendation, page 25.

15 The Walker Guidelines set standards for public disclosure by private equity portfolio companies — see [www.walker-gmg.co.uk](http://www.walker-gmg.co.uk).

- the outcome of the Government’s consultations on the matter, including information on possible impacts; and
- progress in negotiations on the Government’s aspirations in relation to non-Community firms and funds, private equity disclosure and greater supervisory discretion.

We also said that whilst the document remained under scrutiny, it was relevant to the debate we had recommended on the Commission Communication *Driving European Recovery*<sup>16</sup> for European Committee.<sup>17</sup>

### The Minister’s letter

3.5 The Financial Services Secretary to the Treasury (Lord Myners) now reports developments on both the Government’s discussions with affected firms and progress in negotiations in relation to non-Community firms and funds, private equity disclosure and greater supervisory discretion. The Minister tells us that there have been group meetings at official level with managers of hedge funds, private equity funds and traditional or long-only funds,<sup>18</sup> involving around one hundred firms and trade bodies in total, and a number of ministerial meetings with senior industry representatives. He says that:

- the Government has drawn the conclusion from these discussions that the proposed Directive would indeed impose significant new burdens and constraints on affected firms if implemented as drafted;
- some of these are justified by the additional regulatory protections they would offer, particularly the provision for enhanced data collection from managers to monitor systemic risk; and
- many affected managers have indicated their support for such provisions.

3.6 The Minister continues that other proposals, however, appear to impose unnecessary burdens, saying that:

- hedge fund managers are concerned at the proposal to impose leverage caps on the funds they manage, arguing that this could force them to liquidate assets at times of market stress, since leverage generally rises following a fall in the value of a fund’s assets;
- they also argue that leverage is not a good proxy for risk, since this depends to a considerable extent on the volatility and structure of a fund’s assets;
- the Government agrees with the Commission that excessive leverage in hedge funds and other vehicles can contribute to systemic risk — it believes, however, that the best way to deal with this risk is for supervisors to monitor leverage across

---

16 See footnote 11.

17 See headnote.

18 A long-only fund is not allowed to take short positions, that is bet on the price of investments falling. Because short selling is used much more widely in newer fund management styles, for example, hedge funds, long-only is also used partly as a descriptor of the traditional fund management industry (unit trust managers, etc).

significant market sectors and to intervene in exceptional circumstances where necessary, to prevent unsustainable degrees of leverage developing on an aggregate basis;

- leverage caps which are set on a fund-by-fund basis risk being counterproductive in this process since the Government would expect any systemic risks to stem from the combined behaviour and leverage of a number of funds rather than any one fund on its own;
- for private equity firms the proposals for stringent disclosure requirements on portfolio companies are a major concern — managers argue that this would put the firms in which their funds have invested at a competitive disadvantage to competitors, which are held in other forms of private ownership, for example family ownership;
- the Government agrees with the concern expressed and is pushing in negotiations for substantial rewriting of the relevant aspects of the draft Directive;
- for traditional or long-only managers the requirement for the fund's assets to be valued by an external valuer would pose significant difficulties and differs from the model prescribed in the UCITS Directive;
- the Government will argue for a more proportionate approach in this area, emphasising that an internal valuation subject to appropriate external oversight and audit can deliver the necessary checks and balances;
- for closed ended funds (those which do not create or redeem shares on demand) there are a number of significant practical issues stemming from the fact that the Directive seems to have been drafted mainly with the open ended sector in mind — for example, liquidity requirements on the fund or controls on marketing of shares in the fund by the manager are not generally relevant to this sector; and
- the Government believes that as far as possible existing Community rules, including the Prospectus Directive and the Transparency Directive, should continue to govern this sector and will push for this approach.

The Minister concludes on consultations that the Government will continue to engage with affected firms to help in developing solutions to the various defects in the draft Directive.

3.7 Turning to progress in negotiations the Minister tells us that so far there have been two meetings of the Council Working Group and it has considered only the early articles of the Directive, so it is difficult to give a complete overview. However he comments that:

- based on those meetings and bilateral discussions with other Member States, the Government believes that there is widespread acceptance that the Commission's proposal is technically deficient in a number of areas and that the Council should work pragmatically to develop appropriate remedies; and
- the Government therefore believes it likely that the negotiations will deliver significant improvements in the quality of the draft Directive and reductions in unjustified cost impacts.

## Conclusion

3.8 We are grateful to the Minister for this account of where matters stand on this draft Directive and we note the Government’s optimism about the likelihood of obtaining significant improvements to the drafting of the proposal in the continuing negotiations. We are now clear that we wish to recommend this document for debate. But before doing so we would like to hear again about the continuing Working Group negotiations, particularly as to progress on obtaining more certainty on the significant improvements in the drafting, which the Government is hopeful of.

3.9 Meanwhile the document will remain under scrutiny.

## 4 Statistics

(30664) 10343/09 COM(09)238	Draft Council Decision on the allocation of financial intermediation services indirectly measured (FISIM) for the establishment of the gross national income (GNI) used for the purposes of the European Communities’ budget and its own resources
-----------------------------------	--

<i>Legal base</i>	Article 269 EC; consultation; unanimity
<i>Document originated</i>	26 May 2009
<i>Deposited in Parliament</i>	1 June 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 21 June 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

4.1 “Financial intermediation services indirectly measured” (FISIM) is an estimate of the value of the services provided by financial intermediaries, typically banks, for which no explicit price is charged — rather these services are paid for as part of the margin between rates applied to savers and borrowers. The allocation of FISIM within the Community system of national and regional accounts (the European System of Accounts 1995, ESA 95) in order to establish gross national income (GNI) was defined in Council Regulation (EC) No. 448/98 and was implemented from 1 January 2005 by Commission Regulation (EC)

No. 1889/2002. However, for the purposes of the Communities budget and own resources<sup>19</sup> the allocation of FISIM is not automatically applied, instead:

- adoption of a Council Decision modifying ESA 95 is required under Article 8(1) of Council Regulation (EC) No. 448/98; and
- if it is established that the allocation of FISIM constitutes a significant change in GNI, the Council shall decide, under Article 2(7) of the Own Resources Decisions (ORDs) of 29 September 2000 and 7 June 2007, that such modifications apply for the purposes of both the ORDs.

## The document

4.2 In presenting this draft Decision the Commission:

- considers that allocation of FISIM in establishing GNI used for the purposes of the Communities budget and own resources would have a significant impact on Member States' estimated own resources contributions and would also modify the ceilings for payments and commitments as established under the ORDs;
- notes that Commission Regulation (EC) No. 1889/2002 required Member States to allocate FISIM in their annual ESA 95 data transmissions and that this requirement was not fully complied with until the transmission of ESA data in September or October 2008; and
- as the requirement has now been complied with, the Commission is able to put forward this proposal.

4.3 The draft Decision is intended to allocate FISIM for establishing GNI used for the purposes of own resources by modifying ESA 95 in accordance with Council Regulation (EC) No. 448/98 and apply the modification in accordance with the ORDs. The proposal would enter into effect retrospectively to 1 January 2005, in line with the entry into effect of Commission Regulation (EC) No. 1889/2002 (and so affect own resource calculations made under the first ORD).

## The Government's view

4.4 The Economic Secretary to the Treasury (Ian Pearson) tells us that:

- the Office for National Statistics has incorporated the allocated FISIM methodology into the UK National Accounts, in line with Council Regulation (EC) No. 448/98;
- in that sense, it now produces the estimates required for compliance with the Regulation; and

---

<sup>19</sup> There are four sources of Community revenue, or "own resources" — customs duties including those on agricultural products, sugar levies, contributions based on VAT and GNI-based contributions.

- the UK would be able to meet the proposal for the inclusion of FISIM in the calculation of the fourth resource, that is the GNI contribution.

4.5 The Minister continues that the Government has, however, some concerns about whether this is the right time to make such a change, saying that:

- some doubts remain about the timing of the inclusion of FISIM in GNI given that the legislation requires Member States to have a long enough history of collecting source data to the required quality and that the method is proved to be robust and reliable, replicating economic reality as closely as possible;
- in particular, for budgetary purposes, the data span should be at least five years — the Office for National Statistics data span is only just over five years, so some caution is urged about the robustness of the estimates;
- developments of financial markets in the last eighteen months suggest that the allocated FISIM method has some difficulties when there are significant changes to the interest rates and that in the UK there may be only three and a half years to four years for which stable data are available, possibly too short a period to satisfactorily prove the robustness of the data source and the methodology;
- Eurostat has expressed concerns about the methodology and has proposed that a task force be established to consider this, and recent issues, further and to have a closer look at the details;
- this task force is likely to convene later this year, with its results likely to impact on ESA 2012;<sup>20</sup>
- there are other proposals regarding GNI which could, along with FISIM, be dealt with as part of a package in the context of the current review of the Community Budget and the next, post-2013, Financial Perspective and as part of ESA 2012; and
- if the proposal is adopted now it is almost certain that estimates will require revision and that such revisions could be significant.

The Minister says that these concerns will be raised during forthcoming discussions about the draft Decision and the Government will be looking to ensure the adoption of a cautious approach.

4.6 On the financial implications of the draft Decision the Minister tells us that:

- inclusion of FISIM in GNI is likely to increase Member States' GNI-bases used for the purposes of the calculation of own resources;
- the Government does not yet know the impact of this on the UK's contributions;
- the retrospective impact, back to 2005, is likely to be two-fold, with Member States first having to adjust the GNI-based contributions they made in these years, in a one-off exercise, and, since the level of expenditure from the Budget will not have

---

<sup>20</sup> ESA 2012 is the planned replacement for ESA 95.

changed, the Commission then having to propose an Amending Budget to reduce Member States GNI-based contributions to offset the excess revenue accruing from the one-off exercise;

- the impact on the contributions of the EU27 as a whole will be zero, although there will be fluctuations in the contributions of individual Member States; and
- the UK and other Member States need more information on this point.

## Conclusion

**4.7 Clearly “financial intermediation services indirectly measured” will have to be taken into account in calculating Gross National Income for the purposes of assessing the own resources liabilities of Member States. However we note the Government’s seemingly well-founded caution on the timing of this proposal. So before considering the draft Decision further we should like to hear the outcome of the Government’s attempt to secure a cautious approach to the matter. We should also like to hear about the clarification being sought of the possible financial impact of the proposal.**

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

## 5 Compensation for victims of crime

(30567) 9062/09 COM(09) 170	Commission Report on the application of Council Directive 2004/80/EC relating to compensation to crime victims
+ ADD 1	Commission Staff Working Document: accompanying document to the Report on the application of Council Directive 2004/80/EC relating to compensation to crime victims

<i>Legal base</i>	—
<i>Document originated</i>	20 April 2009
<i>Deposited in Parliament</i>	29 April 2009
<i>Department</i>	Justice
<i>Basis of consideration</i>	EM of 13 June 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Not planned
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; further information awaited

## Background

5.1 Article 19 of Council Directive 2004/80/EC on compensation to crime victims requires the Commission to present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of the Directive by 1 January 2009.

5.2 The purpose of the Directive is to set up a system for cooperation to facilitate cross-border access to compensation for victims of crime. The system operates on the basis of existing national schemes for compensation for victims of crime that has been committed in the respective territories of the Member States. The Directive provides that, where a “violent intentional crime” has been committed in a Member State other than the Member State where the victim is resident, the victim has the right to submit an application for compensation to the relevant authority in the Member State where he or she is resident. This application is then transmitted to the relevant authority in the Member State in which the crime was committed. It is this latter authority which retains the responsibility for paying compensation under its national procedures.

5.3 The Commission requested an external study to review the application of the Directive. The main objective of the study was to assess the current stage of implementation of the Directive in all Member States. Central Contact Points appointed by Member States also discussed the application of the Directive in a meeting in October 2008, which was organised within the framework of the European judicial network in Civil and Commercial Matters.

5.4 The Commission’s report, based on the study, concludes that despite insufficient data there appears to be a substantial degree of compliance with the Directive across Member States. However, it also finds that claimants were much less positive than authorities were about the process of applying for compensation. It highlights that many find the process of applying complicated and time-consuming and consider that language barriers — and communication in general — constitute a major obstacle.

5.5 To improve the functioning of the Directive the Commission’s report recommends that Member States:

- Seek to collect data on the application of the Directive in order to be able to better assess the effectiveness of the process.
- Ensure — as far as possible — that more information on the Directive and on national compensation schemes is provided to citizens since too few potential claimants seem to be aware of their rights.
- Ensure that the language requirements of the Directive are respected in order to ensure the most efficient processes for claimants.
- Ensure clarity and transparency in key elements of national compensation schemes, particularly which offences are included in the schemes and which injuries are covered by them.

5.6 The Commission concludes that the implementation of the Directive can be improved on the basis of the current provisions and therefore does not propose amendments to the Directive itself. But it states that it “will use its powers under the Treaty to urge the Member States to complete the possible deficient measures” — in other words bring infringement proceedings if necessary.

### **The Minister’s Explanatory Memorandum of 13 May**

5.7 The Criminal Injuries Compensation Scheme (CICS) falls under the responsibility of the Ministry of Justice. The Parliamentary Under-Secretary of State at the Ministry of Justice (Lord Bach) states in his Explanatory Memorandum of 13 May that the United Kingdom has well established criminal injuries compensation schemes which fully meet the requirement of the Directive to provide “fair and appropriate compensation”. The 2008 Scheme (Great Britain) and the 2009 Scheme (Northern Ireland) provide payment at public expense to any person (of any nationality or domicile) who has sustained a criminal injury as a result of a crime of violence within Great Britain and Northern Ireland respectively. The Minister describes the Great Britain scheme as always having been “in the forefront of compensation for victims of violent crime around the world and remains the most generous scheme in Europe”.

5.8 The Victims of Violent Intentional Crime (Arrangements for Compensation) (European Communities) Regulations 2005 transpose the Directive into domestic law and came into effect on 1 January 2006. In order to comply with the Directive and the Regulations, the Criminal Injuries Compensation Authority (CICA) set up the EU Compensation Assistance Team (EUCAT) on 4 January 2006 to help potential applicants gain access to information about compensation in the country in which they were injured. In particular, the Minister says, EUCAT can help with the following: access to information about the system of compensation in the country where the injury occurred; providing the appropriate application form; providing guidance on any supporting documentation that an applicant might have to supply; forwarding the completed application to the relevant authority in the EU country where the injury occurred; and providing advice on how to respond to requests for further information. In order for EUCAT to assist, however, the following criteria must be met: the injuries must have occurred on or after 1 July 2005; the injuries must have occurred in an EU country other than the UK; the victim must be resident in the UK; and the injuries must have been sustained as a result of a crime of violence. Requests for information and application forms transmitted to CICA should normally be expressed in English. But in order to comply with Article 11 of the Directive, requests for information or application forms can also be accepted in French and German.

5.9 The Minister comments that, to date, EUCAT has forwarded around 140 applications to other EU countries operating a compensation scheme.<sup>21</sup> Cooperation between Member States is generally good however language difficulties and time taken to translate documents can cause delays. CICA does not, however, keep records on applicants’ nationality and cannot therefore identify which applications were submitted by cross-border applicants.

---

<sup>21</sup> This number is many times higher than reported by other Member States — see paragraph 3.3 of the Commission’s report.

5.10 In conclusion the Minister states that CICA has carefully considered the study and subsequent report by the Commission. How information on cross-border applications is compiled in the future will be re-considered in light of it. But in response to the study's conclusion that the UK has not fully complied with the Directive, the Minister states that this conclusion appears to be based on a number of inaccuracies. The main inaccuracies relate to the time eligibility for criminal injuries compensation to be paid; implementation of Articles regarding assistance with applications and the transmission of documentation to the appropriate authorities; and review and appeal processes. CICA has recently written to the Commission in relation to these inaccuracies, stating that they do not properly reflect the response provided to the authors of the study by CICA. A response has not yet been received. The Minister concludes that he is "confident that the UK is fully compliant and has dealt with applications received speedily and without delay".

## Conclusion

5.11 **We thank the Minister for his Explanatory Memorandum of 13 May.**

5.12 **We note that the study commissioned by the Commission reported that the UK was not fully compliant with Directive 2004/80/EC on compensation to crime victims, but that the Minister states that the UK is fully compliant and the study's conclusion is based on a number of inaccuracies, which have been reported by the Criminal Injuries Compensation Authority to the Commission (CICA).**

5.13 **We would be grateful for sight of the study on the implementation of the Directive.**

5.14 **We would also be grateful to know the Commission's response to CICA, and whether the Commission reassesses the conclusion in the study that the UK is not fully compliant with the Directive.**

5.15 **In the meantime, we keep the Commission's report under scrutiny.**

## 6 Reporting requirements in the case of mergers and divisions

(29986) 13548/08 + ADDs 1–2 COM(08) 576	Draft Directive amending Council Directives 77/91/EEC, 78/855/EEC and 82/891/EEC and Directive 2005/56/EC as regards reporting and documentation requirements in the case of merger and divisions
--	---

<i>Legal base</i>	Article 44(2) EC; co–decision; QMV
<i>Department</i>	Business Innovation and Skills
<i>Basis of consideration</i>	Minister’s letter of 24 June 2009
<i>Previous Committee Report</i>	HC 16–xxxii (2007–08), chapter 6 (22 October 2008)
<i>To be discussed in Council</i>	Unknown
<i>Committee’s assessment</i>	Legally and politically important
<i>Committee’s decision</i>	Cleared (decision reported on 22 October 2008)

### Background

6.1 In 2006 the Commission launched a broad simplification programme with a view to measuring administrative costs and reducing administrative burdens on companies in the areas of company law, accounting and auditing. This initiative is a key part of the better regulation agenda aimed at removing burdens that unnecessarily hamper economic activity within the EU. The programme, which aims to reduce administrative burdens in the three areas mentioned by 25% by the year 2012, was formally endorsed by the spring European Council in March 2007. In 2007 the Commission adopted a Communication setting out proposals for simplifying regulation in these areas. The simplification measures set out in the proposed Directive were identified during consultations on the July 2007 Communication.

### The document

6.2 This proposal for an amending Directive contains measures designed to simplify or reduce reporting requirements in the case of company mergers and de-mergers/divisions. They would amend the third company law Directive on company mergers (78/855/EEC) and the sixth company law Directive on company divisions (82/891/EEC). These Directives currently contain a number of detailed reporting requirements that companies involved in mergers and de-mergers/divisions have to comply with and which impose considerable costs and administrative burdens. Furthermore, the means provided for in the Directives to inform shareholders about the details of the transaction were designed 30 years ago and do not take account of technological change. Finally, changes in Directives over time have led to inconsistencies and the proposed Directive tries to address some of these inconsistencies. The proposal is an important part of the first stage of the EU simplification programme.

6.3 The proposed Directive focuses on the reports required in the case of a company merger or division: a management report, an independent expert's report and a supplementary accounting statement. In some cases it relaxes the requirement for these reports and it also aligns reporting requirements (where this is not already the case) between relevant provisions in the Capital Maintenance and Cross-Border Mergers Directives. Specific measures for reducing administrative burdens in the proposed Directive include:

- Abolition of the requirement for a management report explaining the terms of the merger and a supplementary accounting statement if all shareholders agree they are unnecessary, and abolition of the requirement for companies to draw up a supplementary accounting statement in cases where an issuer of listed securities publishes half-yearly financial statements, in accordance with the rules of the Transparency Directive.
- Simplification of reporting requirements in the case of mergers and divisions between parent and subsidiary companies.
- An option for companies to use their websites for the publication of the draft terms of mergers and divisions and of other documents that have to be made available to shareholders and creditors in the process.
- For the purposes of consistency the application of standardised creditor protection requirements in the second company law Directive in the case of a merger or division.
- To exempt companies from the requirement in the second company law Directive for an independent expert's report — in cases where an independent expert's report has been produced for a merger or division — or to provide that both reports may be drawn up by the same expert.

6.4 In his original Explanatory Memorandum on the proposal the then Minister for Business (Mr Ian Pearson) emphasised that the Directives to be amended by the proposal, had limited application in the United Kingdom which preferred to take the alternative takeover route to merger clearance via the Takeover Panel. Its limited likely impact notwithstanding, the Minister welcomed this simplification proposal on the grounds that it reduced administrative and financial burdens without compromising the substance of existing accountability requirements. We agreed with the Government's assessment and accordingly cleared the document from scrutiny in October of last year.

### **The Minister's Letter**

6.5 The new Minister for Business and Regulatory Reform (Mr Ian Lucas) has now written to update us on the progress of the proposed amending measure. In his letter of 24 June 2009 he writes as follows:

“The proposals stem from the Commission's simplification programme adopted in 2006 to help reduce the administrative burdens that can hamper the economic activities of European business. They relax some reporting requirements in the case of company mergers and divisions, and aligns them where this is not already the case

with relevant provisions in the 2nd (Capital maintenance) and Cross-Border Mergers Directives.

“When the plenary voted on the proposals on 22 April 2009 it adopted 30 amendments to the proposal for a directive. Although large in number the amendments contain a lot of repetition as they amend 4 company law directives covering domestic mergers and divisions, cross border mergers and capital maintenance. A number are technical nature clarifying the use of terminology and timing of reports. The changes cover:

- a Member State option to designate internet sites (other than central platforms) such as a trade association or chamber of commerce for publication of information regarding company mergers and divisions
- proposals to enable Member States to put in place arrangements for shareholders of companies being acquired during a merger to sell their shares to the acquiring company at a fair market price
- Confirmation that member states should adopt appropriate measures to ensure security of internet sites and authenticity of documents published, and for companies to make copies of reports available at the registered office
- alignment of requirements for a draft terms of merger in the case of a domestic and cross border merger
- confirmation that modifications are intended to be implemented without prejudice to systems of protection of the interests of creditors, employees and public authorities e.g. tax authorities
- clarity on timing of reports
- a requirement for member states to provide transposition details

“The department for Business Innovation and Skills (BIS) has been involved in discussions concerning the amendments are content that the changes add clarity and flexibility and do not impose additional burdens on business.

“The amendments adopted correspond to what was agreed between the European Parliament, Council and Commission and ought therefore to be acceptable to the Council. Consequently once the legal linguists have scrutinised the text on 25<sup>th</sup> June 2009, the Council should be in a position to adopt the legislative act. ...”

## Conclusion

**6.6 We thank the Minister for his update on this simplification proposal by the Commission. Like the Government we regard the proposed amendments as essentially technical in nature. We see no need for further questions to the Minister.**

## 7 Global monitoring for environment and security: 2011–13

(30656) 10285/09 + ADDs 1–2 COM(09) 223	Draft Regulation on the European Earth observation programme (GMES) and its initial operations (2011–2013)
--	--

<i>Legal base</i>	Article 157(3)EC; co-decision; QMV
<i>Document originated</i>	20 May 2009
<i>Deposited in Parliament</i>	27 May 2009
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 17 June 2009
<i>Previous Committee Report</i>	None, but see footnotes 23–25
<i>Discussed in Council</i>	No date set
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared

### Background

7.1 In 2001, the Commission called for the establishment by 2008 of an independent European capacity for global monitoring for environment and security (GMES) to gather, interpret and use information in support of sustainable development, and other,<sup>22</sup> policies. This was endorsed by the Council of Ministers and the Council of the European Space Agency (ESA), and, between 2001 and 2003 (“the initial phase”), the Commission and the ESA collaborated on some initial studies with a view to the full operation of GMES from 2008.

7.2 We (and our predecessors) have since reported to the House from time to time — most recently on 4 February 2009 — on subsequent developments. The first of these was a Communication from the Commission in February 2004,<sup>23</sup> which, for the period up to 2008 (the “development and implementation phase”), presented an action plan aimed at making GMES fully operational from that date, and developing a “core capacity. It was followed in November 2005 by a further Communication<sup>24</sup> suggesting how the objectives for GMES could be achieved in practice, and identifying a number of fast track services to be developed by the end of 2008 through the introduction of pilot projects.

7.3 Lastly, the Commission produced in November 2008 yet another Communication,<sup>25</sup> pointing out that GMES had now entered its pre-operational phase, and that it would be technically feasible for it to become operational in 2011. It also noted that, in September

22 These include areas such as agriculture, fisheries, justice and home affairs, regional development and transport, and the Common Foreign and Security Policy and the European Security and Defence Policy.

23 (25344) 6094/04; see HC 42–xii (2003–04), chapter 20 (10 March 2004).

24 (27016) 14443/05; see HC 34–xi (2005–06), chapter 12 (23 November 2005).

25 (30166) 14906/08; see HC 19–vi (2008–09), chapter 5 (4 February 2009).

2008, the Council had reaffirmed the need to implement GMES rapidly, and had requested it to draw up an action plan, and to propose arrangements for financing, operational infrastructure and effective management. It accordingly identified the main components of GMES, as well as the need for further public and private sector investment, for international cooperation to develop a cost effective system, and to counter global environmental threats, and for any expansion of GMES services to be assessed against the principles of cost efficiency and user needs, Community policy interests, and the ability to put in place appropriate funding and organisational structures.

7.4 In particular, the Commission noted that the current European budget does not have the capacity to develop GMES to the requisite potential, and that there needed to be a smooth transition between the demonstration, pre-operational and operational stages. It said that it would make a legislative proposal for defining the Community contribution to the operational phase of GMES for 2011–13, and commented that, subject to a budgetary and financial evaluation, and the availability of the necessary funds and infrastructure, the Community contribution beyond 2014 should be capable of sustaining the operations of GMES.

### The current document

7.5 The Commission confirms that, whilst substantial funding has been provided for GMES at the developmental and pre-operational stages under the Sixth and Seventh Framework Programmes, there is now a need to complement this in order to launch services on an operational basis. It has therefore put forward this draft Regulation establishing a legal basis for the GMES and its operations for the period 2011–13, and specifying that the programme should cover a service component ensuring access to information in a number of thematic areas (land monitoring, emergency management, security, monitoring of the marine environment, atmospheric monitoring, and climate change adaptation and mitigation); a space component ensuring sustainable space-borne observations for these areas; and an *in situ* component, ensuring such observations through airborne, seaborne and ground-based installations.

7.6 The proposal also specifies that the observations for the period in question should relate to emergency response and land monitoring services, together with related activities, such as measures to support take-up of services by users, data access (including support to *in situ* data collection), and the GMES space component. In addition, it would require the Commission to coordinate the programme with activities at national, Community and international level; oblige Member States to ensure the implementation of GMES at national level and the achievement of potential synergies with relevant national, Community and international initiatives; and entrust the ESA with the implementation of the GMES space component. It also provides for participation by countries which are parties to the European Economic Area (EEA) Agreement, by candidate (and potential candidate) countries, and by third countries and international organisations.

7.7 Whilst there would be a continuing provision during this three year period of some €43 million under the Seventh Framework Programme for the further development of marine and atmosphere services, the main effect of the proposal would be to make available Community funding of €115.5 million in the form of grants and public procurement

contracts (of which €107 million would be for operational expenditure and €8.5 million for administrative costs), the aim being to ensure continuity of GMES services after 2011 until longer-term programme funding can be agreed under the next financial perspective. Of the €107 million operational expenditure, €12 million would be for an emergency response service, €26 million for a land monitoring service, €5 million for measures to support the take-up of services, €40 million for the GMES space component, and €24 million for access to earth observation and *in situ* data. The Commission also says that a fully fledged GMES programme is expected to be in place in the course of the next multi-annual financial framework from 2014.

## The Government's view

7.8 In his Explanatory Memorandum of 17 June 2009, the Minister for Rural Affairs and Environment at the Department for Environment, Food & Rural Affairs (Dan Norris) says that GMES will provide services which the UK can use to capture the evidence it needs at a local, national or international scale, adding that the evidence used in environmental policy formulation or monitoring needs to be consistent with the geographic scale of the issues involved. He says that the UK recognises the benefits of acting at a European level on GMES, and that the costs and scale of the activities in question require resources beyond the means of individual member states. He also says that it supports the overall aims and objective of the proposal that operational GMES services should be funded from operational Community budgets, and not via the Seventh Framework Programme or subscriptions to the ESA.

7.9 The Minister adds that the proposal is in line with Government's wish to see more streamlined and formal governance for GMES, and that it seeks to achieve this in two ways — by making it explicit that the Commission takes overall responsibility both for managing its own contributions to GMES and for coordinating the activities of GMES partners, and by establishing a GMES Committee to provide a formal mechanism for Member States to influence the content and evolution of the programme. However, he says that the Government does have some concerns about the detailed distribution of the operational funds, and he notes that establishing this programme would give a strong signal that the Community would be expected to fund GMES for the foreseeable future, albeit any longer term funding decisions would be subject to negotiations on the next financial perspective, and agreement on a new legislative proposal from the Commission.

7.10 The Minister also points out:

- that the proposal intends GMES services to be fully and openly accessible except where security concerns would prevent this, and comments that the Government will need to evaluate the consistency of this approach with its policy on the accessibility of, and charging mechanisms for, public sector information;
- that the obligation on Member States to take the necessary steps to ensure the implementation of GMES at national level is a potentially open-ended commitment which could have particular implications for organisations in the UK collecting *in situ* data of all types, particularly given the access policy described above, and that it will be necessary to analyse the implications of this further and to

seek to restrict commitments to those which are strictly necessary to the efficient provision of GMES services;

- that atmosphere and marine services would be funded under the Seventh Framework Programme rather than the proposed operational programme, and must be given equal priority in development, with the Commission ensuring a level playing field in the funding mechanisms available to providers of the different services;
- that, although it is not included in the funding for initial operations, the proposal does establish that the GMES programme includes provision of information covering the domain of security: and, whilst the Ministry of Defence is interested in the security aspect of GMES and a number of GMES services may have some military use particularly for maritime and border surveillance, the UK maintains that GMES is a “civil system under civil control” and does not wish any such services to be designed by military requirements.

## Conclusion

**7.11 As we have indicated, the development of a European capacity for global monitoring for environment and security (GMES) has been endorsed by the Council, most recently in 2008, and over the last few years has been the subject of a number of Commission Communications which have been drawn to the attention of the House. We note that, during this essentially developmental period, the main source of Community funding has been through the Sixth and Seventh Framework Programmes, but that, as the Commission has observed, this is increasingly no longer appropriate as the programme reaches its operational phase.**

**7.12 The main aim of this proposal would be to make an alternative financial provision for the programme in the period from 2011–13, but, as we have also noted, it would be an essentially interim measure to maintain the necessary momentum, pending the formulation of longer term provisions under the new financial perspective. In view of this, we are content to clear the current document, bearing in mind that any funding for the period from 2014 would be the subject of further evaluation and new Commission proposals in due course.**

## 8 Road transport social rules

(30682) 10883/09 COM(09) 225	Commission Report: <i>Analysing the penalties for serious infringements against the social rules in road transport, as provided for in the legislation of the Member States</i>
------------------------------------	---

<i>Legal base</i>	—
<i>Document originated</i>	15 May 2009
<i>Deposited in Parliament</i>	9 June 2009
<i>Department</i>	Transport
<i>Basis of consideration</i>	EM of 23 June 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Not planned
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

### Background

8.1 Directive 2006/22/EC governs standard checking procedures for drivers' hours. Its replacement of earlier legislation was intended to raise the quantity and quality of enforcement checks, to encourage greater cooperation between enforcement authorities and to harmonise certain sanctions. The Directive required the Commission to report, by 1 May 2009, on the penalties imposed by Member States for serious infringements against the Community rules on drivers' hours and tachographs, that is Regulation (EC) No 561/2006, which prescribes maximum limits on driving time and minimum requirements for breaks and rest periods for most drivers of large commercial vehicles, and Regulation (EEC) No 3821/85, which provides for the instalment and use of tachographs.

8.2 Regulation (EC) No 561/2006 requires Member States to set rules on penalties applicable to infringements of both Regulations and that these penalties be effective, proportionate, dissuasive and non-discriminatory. There are no rules on what these penalties should be or how they should be determined and there is no definition of what should be considered a serious infringement. However, a new Annex III to Directive 2006/22/EC, as provided by Commission Directive 2009/5/EC,<sup>26</sup> does provide guidelines on the categorisation of infringements.

### The document

8.3 This Commission Report is as required by Directive 2006/22/EC. In the Report the Commission:

26 For the new annex see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:029:0045:0050:EN:PDF>.

- finds that levels of penalties differ widely across Member States — all include financial penalties, although maximum fines vary considerably from €58.23 to over €5,000;
- indicates that this can, in part, be explained by the socio-economic differences between Member States, although this is not true in all cases, for example in respect of the relatively high penalties applied in Spain and Hungary;
- asserts that the variation in financial penalties could encourage some hauliers to deliberately pay a penalty in one country where the fine is lower to avoid having to risk paying a higher fine for the same infringement in another country (using extra-territoriality provisions provided in Regulation (EC) No 561/2006);
- shows that not all Member States have implemented immobilisation provisions despite a recital in Regulation (EC) No 561/2006, which says that Member States may do so where there is a danger to road safety;
- finds that several Member States (including the UK) provide for imprisonment and the temporary withdrawal of a driving licence or card;
- indicates that several Member States apply more severe penalties in cases of repeated or recurrent infringements;
- shows that, in the majority of Member States, penalties for infringements by undertakings are higher or more severe than those for drivers;
- notes that only a few Member States specify in legislation the requirement that all participants in the supply chain, for example, freight forwarders, tour operators or subcontractors, must ensure that contractually agreed transport time schedules observe the drivers' hours rules;
- raises concerns at the lack of analysis as to how this provision is applied in practice;
- observes that most Member States apply different levels of penalties to different infringements, with in some instances different specific levels of fines for the same infringement, depending on the extent to which the rules are breached, but that some Member States (including the UK) simply set maximum and sometimes minimum levels of penalties for infringements;
- concludes that those Member States which do differentiate between infringements are fairly consistent in what is regarded as more serious for infringements against Regulation (EC) No 561/2006; and
- finds, however, that for infringements of Regulation (EEC) No 3821/85 there is significant difference both in the way infringements are categorised and the level of fines.

#### 8.4 In its conclusion to the document the Commission:

- summarises its significant findings;

- says that a clear message on the seriousness of infringements of the Regulations is not being sent to drivers and undertakings engaged in international transport, given the different penalties imposed by each Member State; and
- emphasises that it considers this situation unsatisfactory and wishes to encourage Member States, through dialogue between Member States and the greater use of the new Annex III, to take the necessary steps to provide for more harmonised application of penalties.

## The Government's view

8.5 The Parliamentary Under-Secretary of State, Department for Transport (Paul Clark) says that:

- the Report itself has no policy implications;
- the Commission, however, will continue to work on trying to harmonise the penalties for serious infringements against the social rules in road transport across all Member States; and
- the UK is not bound by the guidelines on the severity of infringements as set out in Annex III of Council Directive 2006/22/EC, but the Government will continue to keep a close eye on developments in this area.

8.6 The Minister also points out that the Report makes two mistakes regarding the UK position, which will be brought to the attention of the Commission, namely:

- the UK does not specifically apply higher or more severe penalties in cases of repeated or recurrent infringements as the Report suggests, rather there are maximum levels of fines, which the courts can then impose taking into account, amongst other factors, repeat offences; and
- UK legislation does refer to the entire supply chain, in Section 96(11C) of the Transport Act 1968.

8.7 The Minister further elaborates that:

- UK legislation sets maximum levels of penalties and does not specifically differentiate between serious and non serious infringements;
- a fine of up to £2,500 can be imposed for failure to observe driving time, break or rest period rules and for failure to take all reasonable steps to ensure contractually agreed transport time schedules respect the rules;
- a fine of up to £5,000 can be imposed for failure to install or use a tachograph, or for failure to hand over records relating to recording equipment as requested by an enforcement officer;
- false entry or alteration of records with the intent to deceive can result in either a fine of up to £5,000 or two years' imprisonment (on indictment);

- in April 2009 the Graduated Fixed Penalty, Financial Penalty Deposit and Immobilisation Scheme (GFP/DS) was launched in Great Britain;
- this scheme enables both police constables and Vehicle and Operator Services Agency examiners to issue fixed penalties, request immediate financial deposits from non-UK-resident offenders (equivalent to an on-the-spot fine) and immobilise vehicles where a driver declines to pay the requested deposit;
- the fixed penalties range from £30 to £200 with some offences, notably drivers hours and overloading offences, being subject to graduated penalties, where the penalty payable depends on the gravity and circumstances of the infringement;
- financial penalty deposits are equivalent to the level of fixed penalty or, for cases to be prosecuted in court, are set at £300; and
- details of this scheme were not reflected in the Report, which was compiled before it came into effect.

## Conclusion

**8.8 Although this Commission Report does not foreshadow further legislation, in clearing the document we draw it to the attention of the House, not only because of the information it gives about enforcement of the drivers' hours legislation throughout the Community, but because of the additional information from the Minister about enforcement in the UK.**

## 9 Preventing unemployment and creating jobs

(30683) 10628/09 COM(09) 257	Commission Communication: <i>A shared commitment for employment</i>
+ ADD 1	Annexes to the Communication: (1) recent employment measures by Member States; (2) promoting temporary short-term work; and (3) better use of the European Social Fund

<i>Legal base</i>	—
<i>Document originated</i>	3 June 2009
<i>Deposited in Parliament</i>	9 June 2009
<i>Department</i>	Work and Pensions
<i>Basis of consideration</i>	EM of 22 June 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

### The Communication

9.1 The Communication notes that the Prague Employment Summit of 7 May 2009 identified the following three priorities:

- maintain employment, create jobs and promote the mobility of workers;
- upgrade people's skills to meet the changing needs of the labour market; and
- increase access to employment .

The Communication calls for a shared commitment by Member States, the European Parliament, the Commission and the social partners to cooperate with each other to give effect to these priorities. The Commission goes on to propose the action that will be required.

9.2 To give effect to the first priority — maintain employment, create jobs and promote labour mobility — the Commission proposals include:

- developing schemes (with financial support from the European Social Fund) for “temporary short-time work”. Some Member States have already introduced time-limited schemes which provide compensation from public funds for workers whose working hours have been reduced or where production has been suspended temporarily;

- the social partners and local authorities making agreements to help workers who are facing redundancy to find a new job through training and help with the search for employment;
- ensuring that workers have the information they need so as to apply for job vacancies in other Member States; and
- creating a friendly environment for entrepreneurship, innovation and self-employment through tax breaks, better regulation and grants for R&D.

9.3 In order to give effect to the second priority — upgrade skills and match labour market needs — the Commission’s proposals include:

- action by Member States to ensure that at least 5 million young people can enrol in high quality apprenticeships up to the end of 2010;
- work by the Commission leading to the publication of sectoral analyses of the skills required by the labour market; and
- urgent action by Member States to find ways to cut the number of young people who leave school prematurely and to ensure that all unemployed young people receive an early opportunity of training or a job.

9.4 The Commission’s proposals in support of the third priority — increase access to employment — include action by Member States:

- to ensure that, within three months of registering as unemployed, adults are found a job, or offered training or helped to obtain an apprenticeship; and
- to provide time-limited tax breaks or reductions in social security contributions to encourage employers to recruit people who have been unemployed for a long time.

9.5 The Commission says that the action it proposes should be supported through EC spending programmes such as the European Social Fund and the European Regional Development Fund. The Commission will, for example:

- introduce a fast-track procedure to reduce to one month the time taken to process an application for grant from the European Social Fund;
- propose an amendment to the European Structural Funds Regulation to give Member States the option of a “holiday” from co-funding for projects in 2009 and 2010; and
- propose “a new EU microfinance facility for employment, to develop micro-enterprises and the social economy”.<sup>27</sup>

9.6 Finally, the Commission invites the European Council to approve the three priorities, endorse the action proposed in the Communication and take note that the Commission intends to monitor the implementation of its proposals and make a progress report to the meeting of the European Council in Spring 2010.

---

<sup>27</sup> Commission Communication, page 11, ante-penultimate and penultimate lines.

## The view of the European Council

9.7 At its meeting on 18–19 June 2009, the European Council concluded that:

“The fight against unemployment remains a major priority. Whilst action in this field is first and foremost a matter for the Member States, the European Union has an important role to play in providing and improving the common framework required to ensure that measures taken are coordinated, mutually supporting and in line with single market rules. In this effort we need to safeguard and further strengthen social protection, social cohesion and the rights of workers.”<sup>28</sup>

9.8 The Presidency Conclusions make no reference to the Commission’s Communication but refer approvingly to the three priorities identified at the Prague Employment Summit.

## The Government’s view

9.9 In her Explanatory Memorandum of 22 June 2009, the Minister of State at the Department for Work and Pensions (Angela Eagle) tells us that the Government supports the three priorities. She says that:

“The Government is strongly in favour of helping people back into work to avoid the scars of long term unemployment through active labour market policies and policies to maintain or increase labour demand, in particular through supporting disadvantaged and vulnerable groups through social protection policies, linked to employment measures.”<sup>29</sup>

## Conclusion

**9.10 We draw the document to the attention of the House because of the importance of its subject. The Commission’ proposals are not binding. There are no questions about the Communication that we need put to the Minister and we are content to clear the Communication from scrutiny.**

---

28 Brussels European Council, 18–19 June 2009, Presidency Conclusions, paragraph 25.

29 Paragraph 21 of the Minister’s Explanatory Memorandum.

## 10 EU-Russia relations

(a) (26607) 8799/05 + ADD 1 —	EU-Russia: Road Maps for the Common Economic Space, the Common Space of Freedom, Security and Justice, the Common Space of External Security and the Common Space on Research, Education and Culture
(b) (30107) 15299/08 COM(08) 740	Commission Communication: <i>Review of EU-Russia Relations</i>
(c) (30108) 15300/08 SEC(08) 2786	Commission Staff Working Document accompanying the Commission Communication <i>Review of EU-Russia Relations</i>

<i>Legal base</i>	—
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	Minister's letter of 17 June 2009
<i>Previous Committee Report</i>	(a) HC16–iv (2007–08), chapter 27 ( 28 November 2007); HC 41–xxxiii (2006–07), chapter 8 (25 July 2007); HC 41–xxv (2006–07), chapter 9 (13 June 2007); HC 41–v (2006–07), chapter 12 (10 January 2007); HC 34–xxxiii (2005–06), chapter 15 (28 June 2006); HC 34–i (2005–06), chapter 6 (4 July 2005) (b) and (c) HC 19–i (2008–09), chapter 2 (10 December 2008); and see (29944) —: HC16–xxx (2007–08), chapter 18 (8 October 2008)
<i>To be discussed in Council</i>	—
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	(a) Debated in European Standing Committee 20 October 2005 (b) and (c) Debated on the Floor of the House on 20 January 2009

### Background

10.1 The Common Strategy instrument was created by the Amsterdam Treaty, as the means of setting out the objectives, overall policy guidelines, organisation and duration of the EU's external policies towards geographic or thematic areas. The EU's Common Strategy on Russia — its first — was adopted at the June 1999 Cologne European Council, for a period of four years. It had four objectives:

- encouraging the democratic reform process in Russia;

- encouraging economic reform;
- promoting regional and global stability and security; and
- promoting cooperation with Russia on areas of common concern such as international crime and environmental questions.

## The Four Common Spaces

10.2 In July 2004, our predecessors considered a Council Report on the main lines of a proposed successor. The Common Strategy — described by the then Minister for Europe as “long and diffuse” — had never enjoyed any “buy-in” from Russia and had been overtaken by developments elsewhere in the EU-Russia relationship. The May 2003 St Petersburg EU-Russia summit had now envisaged the development of relations taking place within an Action Plan embracing Four Common Spaces — a common economic space (building on the notion of a Common European Economic Space); a common space of freedom, security and justice; a space of cooperation in the field of external security; and a space of research and education. Work accordingly proceeded on this proposal, within the framework of the existing Partnership and Co-operation Agreement.

10.3 The history of the Committee’s consideration of these issues is set out in the Report of our meeting on 4 July 2005.<sup>30</sup> The then Minister for Europe said that the challenge was to press ahead with implementation and deliver practical, mutual benefits. As “political documents [and] not legally binding agreements”, the Road Maps would not be put formally to the Council for approval, but submitted for the Council to take note. The confidentiality of the negotiations had left him unable to share any of the contents of the Road Maps with the Committee earlier.

10.4 Our predecessors felt that, though it might no longer be called a Common Strategy, any “framework for the EU’s relations with Russia” was self-evidently of immense importance. The Common Strategy was judged to have failed because it did not set priorities and lacked political commitment. Our predecessors felt that the relationship should arguably aspire to somewhat more than “practical benefits”, and that the challenge was likely to be in making progress in those areas that tend to be grouped under the notion of “shared values” and which revolved around “good governance”, but which nonetheless had a real bearing on the attainment of long-term practical benefits. Although our predecessors did not wish the Minister to hold up agreement in the Council, they nonetheless recommended that the Four Common Spaces “Road Maps” be debated in European Standing Committee B, ahead of the 4 October 2005 EU-Russia Summit. The debate did not in fact take place until 20 October 2005, when European Standing Committee B agreed that the Road Maps provided “a valuable framework for the EU to achieve its objectives in its relations with Russia in the medium term”.<sup>31</sup>

10.5 The Minister also agreed to update the Committee after each bi-annual Summit. One of the Committee’s concerns has been that, since these post-Summit reports were, in a sense, a substitute for the transparency lost in the change from a Common Strategy (which

30 See headnote: (26607) 8799/05: HC 34-i (2005–06), chapter 6 (4 July 2005).

31 *Stg Co Deb*, European Standing Committee, 20 October 2005, cols. 1–28.

requires regular assessments) to the “Four Spaces” approach, they should be more than a recital of the topics discussed; rather, what we wanted to know was what was said, and how each party responded to the other, and what the Government thought of the outcome, the challenges for ensuing Presidencies and how best to approach them.

10.6 In 2008, we received no report on the EU-Russia Summit under the Slovenia Presidency. However, on 10 September we cleared a Joint Action to establish an EU Monitoring Mission in Georgia, in the aftermath of the crisis emanating from the invasion of Georgia by Russian forces in August, which was subsequently adopted at the 15 September GAERC. In a letter of 12 September 2008 accompanying his Explanatory Memorandum, the then Minister for Europe (Mr Jim Murphy) updated the Committee “on events over the summer in Georgia [and] set out the UK’s role.” Lengthy as it was, the Committee thought that it was of sufficient breadth and importance for it, and the annex to it, to be set out in full at the Annex to that chapter of the Committee’s Report.

10.7 In that letter, the Minister said that, at the Extraordinary European Council meeting on 1 September, “in response to Russian actions, the Council decided to conduct a comprehensive review of EU-Russia relations.” This evaluation would continue up to the EU-Russia Summit in Nice on 14 November 2008. The EU had also suspended negotiations with Russia on the new EU Partnership and Co-operation Agreement (PCA). The review would “allow us to take a considered decision about the future of EU-Russia relations.” Then, in his customary post-GAERC letter to the Committee, the Minister also noted that, during the discussion on Georgia, “the Foreign Secretary intervened to reinforce the need for a thorough audit of the EU’s relationship with Russia, in the run up to the 14 November EU-Russia Summit.” Given the Committee’s continuing interest in these Summits and their impact on endeavours to take the present PCA/Four Spaces framework forward, the Committee asked him to write before the summit with a summary of the audit and his views on its implications. As well as reporting these developments to the House, we also forwarded this chapter of our Report to the Foreign Affairs Select Committee.<sup>32</sup>

## The Commission Communication

10.8 The Communication and the accompanying Commission Staff Working Document provided a summary and detailed description of the state of the EU-Russia relationship between the, following the Georgia-Russia conflict. The Communication also offered a short assessment of why the Commission believed that the PCA negotiations, suspended since the Russia-Georgia conflict, should continue, namely that a PCA with Russia provides a framework for unified EU negotiations. The report did not draw any conclusions about how the EU should engage with Russia.

10.9 The Communication was submitted to the Council on 5 November. The re-opening of negotiations was subsequently agreed at the 10 November General Affairs and External Relations Council.

---

32 See headnote: 29944 —: HC16–xxx (2007–08), chapter 18 (8 October 2008).

10.10 In her Explanatory Memorandum of 14 November 2008, the then Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) noted that, although the Communication drew no conclusions, it did, however, consider the future areas of cooperation that a PCA would need to cover, including “a substantial section on energy, enshrining the principles of the Energy Charter Treaty”, which was “consistent with the expectation that a new EU-Russia agreement would provide a comprehensive, legally binding, framework to cover all main areas of the relationship.” She also said that the Communication would “inform discussions on how the EU should be engaging with Russia, including on the process of negotiations towards a successor to the Partnership and Co-operation Agreement (PCA)”. She continued thus:

“The Council on 1 September noted Russian withdrawal from the zones adjacent to South Ossetia and Abkhazia as an essential step in the implementation of the peace agreements. Russia has not fully withdrawn to pre-7 August positions in line with these conclusions. On 10 November EU Foreign Ministers reinforced EU support for Georgia’s independence, sovereignty and territorial integrity. They made clear that Russia unilateral action cast a shadow over the EU/Russia relationship. However, while the current PCA includes no mention of the territorial integrity of Georgia, the mandate for the PCA negotiations states clearly that the Council and the Commission will pursue a settlement of the frozen conflicts in the Republic of Moldova and Georgia, respecting the principle of territorial integrity. That means that the PCA gives us the chance to take forward those principles. We, and the overwhelming majority of EU Member States, also believe that pursuing negotiation of a new PCA with Russia is the best way to pursue UK and EU interests across a range of other important issues, binding Russia into a rules-based framework and aiming to safeguard energy security.

“The Presidency statement on 10 November made it clear that the resumption of PCA negotiations is put in the context of the EU review of engagement with Russia and that this is not a return to business as usual. This Communication provides the EU with a clear basis for resuming the negotiations. This is not a return to business as usual or a turning of the page on Georgia. We will continue to work with EU partners to ensure that the EU takes a hard headed approach to Russia relations and sticks to the tough mandate agreed for the negotiations.

“The review is the beginning of the process of determining the future shape of EU-Russia relations. It provides a baseline to inform further examination and discussion by Member States of whether specific areas of engagement should continue.”

### **The then Minister for Europe’s letter of 26 November 2008**

10.11 The then Minister for Europe (Caroline Flint) reported that the Nice EU-Russia Summit of 14 November had focused mainly on *Georgia, pan-European security* and the *international financial crisis*:

## Georgia

The EU had noted that Russia “had fulfilled a large part of its commitments: endurance of the ceasefire, withdrawal from most parts of the buffer zones, the deployment of EU observers, and the beginning of international talks in Geneva.” The then Minister noted that events in Georgia had nonetheless “had a significant impact on the EU-Russia relationship, casting a serious shadow over it.” The EU had used the Summit to continue calling for full implementation of the ceasefire agreements, and especially for Russian commitment to the Geneva process.

10.12 The French Presidency website also noted that:

“the European Union saluted the Russian initiatives towards peace in the Nagorno-Karabakh and encouraged the Russian Federation to draw inspiration from this positive action in dealing with the issue of Abkhazia and Ossetia. President Medvedev thanked the Europeans and the French President in particular for their participation in finding solutions for resolving the conflict.”<sup>33</sup>

10.13 Referring to the resumption of negotiations on the new PCA announced at the Summit, the Minister said “hard headed engagement and not isolation” was “the way forward in the EU’s relationship with Russia”. The PCA provided “a mechanism for the EU to engage Russia in a more coherent and united way”. The mandate was “ambitious and comprehensive”, covering a range of important issues such as Climate and Energy Security, Trade, Human Rights etc. Negotiations on the PCA would “also provide further opportunities for the EU to press the Russians on the need to work to resolve frozen conflicts.” But the then Minister was “clear that this does not mean a return to a “business as usual” relationship between the EU and Russia”; the government would “continue to insist on full Russian implementation of the ceasefire agreements and their cooperation in the Geneva talks.” The then Minister also welcomed “the earlier EU commitment to ensure that the EU-Russia audit will inform negotiations on a possible successor to the PCA.”

## Pan-European security

10.14 The EU had expressed its concern about President Medvedev’s speech in Berlin and his statements on the potential deployment of Russian missiles, stating that no missiles should be deployed until the new geopolitical conditions of pan-European security had been discussed.<sup>34</sup> President Medvedev had in turn reiterated Russian views that current European security mechanisms were “imperfect” and pressed for a discussion on their proposals for a new “European Security Architecture”. President Sarkozy proposed holding a meeting in mid-2009, in the framework of the OSCE, to discuss these proposals.

10.15 With regard to this proposal, the then Minister said that the government was “open to this suggestion” and would coordinate with Allies how to move forward. Though it was

33 See [http://www.eu-un.europa.eu/articles/en/article\\_8307\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_8307_en.htm) for the full statement.

34 Presumably a reference to the speech by President Medvedev made in Berlin on 5 June, on his first trip to Europe after his inauguration, when he said military expansion led by America and Nato “worried” Moscow and could destroy relations between East and West “in a radical way, for a long time”, warned against American plans to build a ballistic missile shield involving radar installations in Poland and the Czech Republic and called for a “regional pact” to replace current security arrangements. Also see President Medvedev’s speech of 15 July 2008 to the diplomatic corps in Moscow, summarised at <http://www.dw-world.de/dw/article/0,2144,3486571,00.html>

too early to say what would be on the agenda for such a conference or where the most appropriate forum for discussion would be, the then Minister was “absolutely clear that any discussion on European security should include transatlantic allies.”

### *The economic dimension*

10.16 Both the Presidency and the then Minister regarded the Russian proposals to address the international financial as of high technical, financial and economic quality and a good basis for further cooperation, and had agreed to stay in close touch.

10.17 The European Commission’s support for Russia’s entry into the World Trade Organisation had been recalled, and the Commission President had also emphasised the importance of intensifying dialogue on energy.

### **Our assessment**

10.18 We noted that, given what we had asked successive Ministers for Europe to provide (paragraph 10.5 above), this latest letter is no improvement on its predecessors. By way of substance, it contained little that was not available directly from the Presidency, and then not all of that — failing to mention, for example, the major associated gathering of EU and Russian business leaders, along with French and Russian ministers, as well as EU commissioners, which we thought had all the appearances of “business as usual”.

10.19 Talk of a new “European Security Architecture” raised profound questions, particularly about Russia’s objectives (did Russia have a strategy of confronting the West? Did she have a strategy at all?) and how Member States should respond (which we felt would no doubt depend on how the new US administration acted, and which at least raised the question of whether proposals to tie countries like Ukraine, Georgia and Azerbaijan more closely to the West were not dangerously premature, until the US, Russia and Europe had first worked out the basis of their own relationship). We noted that the Minister made no mention of the critical remarks by President Sarkozy, made at the Summit, about proposals for the deployment of anti-ballistic missile defence systems in Poland and the Czech Republic, notwithstanding the apparent lack of any mandate for the Presidency so doing. Nor of the possible implications of the recently-enunciated principles of Russian foreign policy — compliance with international law; a multi-polar world; full and friendly relations with all countries; the “unquestionable priority” of “protecting the lives and dignity of Russian citizens, wherever they may be”; a right to give “special attention” to particular regions in which Russia has “privileged interests” — which, as experienced observers had pointed out, were contradictory and contained no mention at all to the maintenance of international security.

10.20 We looked to the Minister to ensure that the Committee was kept informed about the possible developments to which she referred. In the meantime, the last Standing Committee debate on EU-Russia relations having over three years ago and in view of what had happened since then, and the serious issues dealt with in the Communication and the

Minister’s letter, we recommended that the document be debated in on the Floor of the House.<sup>35</sup> That debate took place on 20 January 2009.<sup>36</sup>

### The Minister’s letter of 17 June 2008

10.21 In his letter, the Parliamentary Under-Secretary of State at the Foreign and Commonwealth Office (Chris Bryant) provides an update on the EU-Russia Summit that took place in Khabarovsk, in the Russian Federation, on 22 May, hosted by President Medvedev. The Minister says that the European Union delegation was led by Czech President Dr Klaus in his capacity as President of the European Council, assisted by the Secretary-General/High Representative, Dr Javier Solana, and by the President of the European Commission, Mr Jose Manuel Barroso.

10.22 He says that the Summit discussed the *state of play in EU-Russia relations*, including progress in *negotiations on the New EU-Russia Agreement* the *economic and financial crisis*, *energy security*, *Georgia*, *climate change* and various international issues including *MEPP*, *Iran* and *Afghanistan*. He continues thus under the following headings:

#### ***Economic and financial crisis***

“Both sides agreed to continue co-ordinating efforts to tackle the financial crisis. In general, Russia was satisfied with the implementation and coordination of the anti-crisis measures. The Russian economy had been severely hit, and suffered because of a high degree of export dependence. President Medvedev said that Russia would continue its efforts at export diversification. At the same time, Russia had implemented ambitious anti-crisis measures, and had succeeded in stabilising its banking system, saving a number of banks. This had also had a stabilising effect on the Russian currency.

“The EU side said they appreciated the Russian anti-crisis efforts and were pleased with the outcome of the recent G20 meeting, and welcomed Russia’s role there. Both sides agreed that avoiding protectionism was crucial. Fair burden sharing within the IMF was important; emerging economies, particularly those with large currency reserves, also had to take their responsibility. The EU was committed to advancing the conclusion of the next regular IMF quote review from 2013 to 2011. The EU welcomed Russia’s participation in the newly created Financial Stability Board.

#### ***Energy security***

“President Medvedev said that, on the whole, Russia was satisfied with the cooperation between the EU and Russia on energy: the EU would remain Russia’s main customer for energy, and Russia was and would remain a reliable supplier of energy to the EU. President Medvedev once again highlighted new Russian proposals

35 See headnote: (30107) 15299/08 and (30108) 15300/08 HC 19-i (2008–09), chapter 2 (10 December 2008).

36 See [http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090120/debtext/90120-0012.htm#column\\_680](http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090120/debtext/90120-0012.htm#column_680) for the record of that debate.

on energy which he said should be seen as a reaction to recent events, and were aimed at providing instruments for dealing with crises.

“President Medvedev reiterated Russia’s position in respect of the Energy Charter Treaty (ECT), namely that it was not up to date; did not provide solutions to existing problems; and that Russia would not be ratifying it. Russia thought a new treaty, which should incorporate all the best elements of the existing ECT, while taking into account the interests of producer countries was necessary. President Medvedev said that the current ECT did not take Russian interests fully into account and is therefore unacceptable to Russia, although if Russian proposals were taken into account, Russia might accept a revised ECT in the future.

“The gas crisis between Russia and Ukraine was also discussed. President Medvedev raised concerns about Ukraine’s ability to pay for the gas that it would need to fill the storage on its territory before the winter. He said that a “credit pool” to help Ukraine should be created; otherwise there was a risk of a repetition of the January gas crisis. Russia was interested in investing in technology to raise energy efficiency, and would appreciate closer cooperation with the EU on this.

“The EU side said that events at the beginning of the year had shown the importance of a stable, predictable and mutually beneficial energy relationship. All the elements to create such a relationship already existed. In the short term, the most important thing was to rebuild confidence and predictability, and ensure uninterrupted supply. Enhancing the Early Warning Mechanism, and shoring up the Ukrainian gas transport system were key in this regard. Furthermore, there was a need for political assurances that a repetition of the January gas cut-off would not be allowed to happen.

“In respect of President Medvedev’s recent energy proposals, while the EU side said they had many questions, they appreciated Russian constructiveness and the proposal will be considered in detail. The EU side felt that most of the principles in the Russian proposals were already covered to a greater or lesser extent in other frameworks, such as the ECT. The EU stood by its commitment to the ECT and was not going to move away from it. The EU side thought Russia should put forward its proposals in the context of the ECT revision process.

### ***EU-Russia relations***

“The EU side noted that negotiations on the New EU-Russia Agreement were moving forward well, on the basis of a shared understanding that both sides strive for a comprehensive, ambitious and innovative agreement, covering all areas of the relationship. The normative basis for the agreement should be commitments made under the OSCE, the Council of Europe, and the UN, including in terms of democracy, human rights and the rule of law. The EU side recalled that the EU’s basic assumption for the negotiations was that by the time the New Agreement entered into force, Russia would be a member of the WTO. The new agreement should contain ambitious provisions on energy which should enshrine the principles of transparency, non-discrimination, fairness, reciprocity, and market economy. The

EU side said more progress was needed, particularly in the trade and economics field.

“President Medvedev remarked that the EU was Russia’s most important economic and political partner and that generally, Russia was satisfied with the dialogue. In the Russian view, the new agreement should be universal but have the character of a framework agreement, to be complemented by sectoral agreements.

“Russia highlighted its three major objectives in its cooperation with the EU. The first was to create an ‘energy union’ comprising the EU and Russia, to ensure energy security and promote energy efficiency. The second objective was ‘visa freedom’. Third, Russia wanted to create a body that would give the EU and Russia possibilities of taking decisions on foreign policy issues, and of reacting to crises. On these issues, the Russian side felt that the dialogue could be more intensive. Russia thought that the fight against piracy off Somalia was a good opportunity to develop EU-Russia cooperation. President Medvedev suggested working together on the issue of how to assign responsibility to pirates that had been apprehended by naval vessels.

“On the issue of WTO membership, Russia’s objective of joining had ‘practically not changed’: Russia wanted to join as soon as possible, on non-discriminatory conditions and hoped for continued constructive EU support.

### ***Eastern Partnership (EaP)***<sup>37</sup>

“President Medvedev said that while he understood the concept was important to the EU, it was important that the EaP should not be seen as an ‘antithesis’ to Russia’s cooperation with its neighbours. President Medvedev suggested that it was the responsibility of the EU to see to it that Georgia and Ukraine did not consider the EaP as an encouragement of their ‘anti-Russian policies’.

“The EU side referred to the recent EaP Summit in Prague, underlining that the initiative was designed to promote stability and prosperity, and was not aimed against anybody.

### ***Euro-Atlantic Security***

“President Medvedev said that the conflicts that had taken place in Europe lately demonstrated the weaknesses of existing security structures. This was why he had proposed a new, legally-binding treaty on European security. President Medvedev thought the key principles of such a Treaty should be non-use of force, respect for territorial integrity, and equality of all states, with a special mechanism for conflict prevention, and conflict resolution. President Medvedev said that the objective was not to replace NATO.

---

37 Considered on several occasions by the Committee and recommended for debate in the European Committee: see (30240) 16941/09: HC 19–xi (2008–09), chapter 1 (18 March 2009). That debate took place on 27 April 2009: see <http://www.publications.parliament.uk/pa/cm200809/cmgeneral/euro/090427/90427s01.htm> for the record.

“The EU side noted that the issue was not being discussed for the first time. At the last EU-Russia Summit in Nice, the EU had already made a commitment to engage in a discussion. The Russian side was well aware of the EU position, including where it differed from the Russian one. The EU side said they felt comfortable in existing security structures. The EU side noted that the Russian proposals had been discussed at the OSCE Ministerial Council in Helsinki in December last year, and that an OSCE informal ministerial meeting was planned to take place in Corfu, at the end of June. The EU side repeated the basic principles of its position on this issue: notably that discussion should take place in the OSCE framework and that the comprehensive approach to security, as set out in the Helsinki Final act and the Charter of Paris, should be retained. Russia should be more specific about what it wanted and put substance on the table. The EU side also made the point that there was a need for confidence building; working together to resolve the conflicts in the common neighbourhood would be very useful in that regard: the Russian position on the mandate for the OSCE mission in Georgia was particularly frustrating.

“On international and regional issues there was broad agreement on MEPP, Iran and Afghanistan. Georgia was raised with particular focus on the Geneva process as well as the OSCE and the EUMM missions. The EU side asked Russia to assist in ensuring the continuation of the Geneva process and underlined the importance of ensuring access for humanitarian aid. The EU side expressed its disappointment at the Russian opposition to a new mandate for the OSCE mission in Georgia. In responding, President Medvedev said that Russia was committed to the Geneva process, underlining that this was about discussions not negotiations. As for the EUMM, Russia thought it ought to accept realities after August 2008 and not pretend that events then had not taken place.

“You will be aware that since the Summit, the situation regarding the observer missions in Georgia has changed. On 15 June, Russia blocked the new mandate for the United Nations Observer Mission in Georgia, which was deeply disappointing. We continue to believe that the UN mission was carrying out valuable work in defusing tensions and maintaining security in Georgia. We made a considerable effort to negotiate a Resolution that was acceptable to all, and were prepared to put through a technical rollover to allow more time to negotiate. However, Russia decided to turn its back on language agreed by the Security Council as recently as February 2009. Russia’s insistence that Georgia’s territorial integrity could not be recognised in any text was a clear attempt to coerce the Security Council into abandoning its attachment to the territorial integrity of a Member State. This is clearly unacceptable to the UK and the wider Council. Russia exercised its veto on the rollover resolution despite its isolation on the Council.

“The UK, along with the whole international community except Russia and one other country, continues to recognise the sovereignty and territorial integrity of Georgia.”

## Conclusion

10.23 The Minister’s disappointment will no doubt not have been allayed by the news that, on the eve of President Obama’s first visit to Russia, the Russian authorities have increased tensions, viz., the launching of “Caucasus 2009” — a military exercise close to the border with Georgia and involving both Russian troops in Abkhazia and South Ossetia and naval and air forces, whose aim according to a Russian military spokesman is “to establish the state of battle readiness and troop mobilisation deployed in Russia’s southwest region” — and the Russian Ambassador to NATO, a day after the alliance resumed military ties with Russia, frozen since the war, seemingly threatening Georgia with the loss of more territory by reportedly calling on Georgia to “abstain from military operations” against South Ossetia and Abkhazia and reportedly saying that “each time Georgia takes this step, it runs the risk of shrinking in size.”<sup>38</sup>

10.24 Moreover, though it is now summer time, there is little comfort in the report of this Summit for those who suffered during the recent winter from the failure of Russian gas to be delivered to EU markets, or in Russian endeavours to “divide and rule” in the construction of pipeline and storage networks, which show little sign — on the contrary — of a real desire to “create an “energy union” comprising the EU and Russia, to ensure energy security and promote energy efficiency.”

10.25 Given the high interest in the House on EU-Russia relations, we again draw the Minister’s report to the attention of the House.

## 11 Cross-border road transport of Euros

(30685) 10875/09 COM(09) 214	Commission White Paper on professional cross-border transportation of Euro cash by road between Member States in the Euro area
------------------------------------	--

<i>Legal base</i>	—
<i>Document originated</i>	18 May 2009
<i>Deposited in Parliament</i>	9 June 2009
<i>Department</i>	Home Office
<i>Basis of consideration</i>	EM of 25 June 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	No date set
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared

38 See *The Times* of 30 June 2009.

## Background

11.1 In England, Scotland and Wales, a contractor who wishes to transport cash or valuables, using specially manufactured or adapted vehicles and operating under a contract for services with another person or body, must first obtain a licence from the Security Industry Authority. The licensing scheme is to be extended to Northern Ireland later this year. There are few firms in the UK which provide such “cash-in-transit” (CIT) services; the three largest are G4S, the Post Office and Loomis

## The White paper

11.2 In the Introduction to the White Paper, the Commission says that there are wide differences in Member States’ requirements for CIT. The differences affect whether firearms may be carried and on what conditions, training requirements, the design and protection of transit vehicles, the provision of information to the police and so on. As a result, the CIT market is currently divided along national lines and it is very difficult to transport euro notes and coins by road between Member States which have adopted the Euro (“participating Member States”).

11.3 According to the Commission, it is:

“inherent in the logic of the single currency that euro banknotes and coins should be able to circulate and be transported as freely as possible within the euro area.”<sup>39</sup>

The Commission notes that:

“The European Central Bank, the banking sector and the large retail sector have repeatedly called for the launch of an initiative aimed at lifting the obstacles to the professional cross-border transportation by road of euro cash in Europe.”<sup>40</sup>

11.4 During 2008, the Commission chaired a working group to consider how the cross-border transport of the euro notes and coins might be made both easy and safe. The group included representatives of the European Insurance and Reinsurance Federation, the Confederation of European Security Services, the European Banking Federation, the European Payments Council, the European Security Transport Association, the European Intelligent Cash Protection Association, EuroCommerce and Europol.

11.5 The working group considered three main options:

- a uniform set of rules for all transport of the euro, both within Member States and across the borders between them (“full harmonisation”);
- a system in which authorisation of an operator in one Member State would be valid in all Member States (“mutual recognition”); and
- uniform rules applying only to cross-border transport and national rules for transport within participating States (“the mixed option”).

---

<sup>39</sup> White Paper, page 2, paragraph 2.

<sup>40</sup> *Ibid*, page 2, final paragraph.

The group thought that it would be extremely difficult to reach agreement on full harmonisation or mutual recognition. The group's clear preference was for the mixed option. There were, however, differences of opinion about whether the mixed option should apply only to Member States which had adopted the euro or to all 27 Member States and about whether the rules should apply only to the transport of euros or to other currencies and valuables, as well.

11.6 The White Paper notes that first leg of a CIT cross-border journey would be subject to the labour law and health and safety requirements of the country of origin and the second to the requirements of the country of destination. This could lead to practical problems. Similarly, there could be practical difficulties in applying the Directive on the posting of workers to cross-border cash transport.<sup>41</sup>

11.7 Attached to the White Paper is a draft of the common rules. The Commission emphasises that they are tentative. The rules would, for example:

- apply only to cross-border transport between participating Member States (and so would not apply to the UK);
- apply only to euro notes and cash;
- require the cross-border round trip to be completed on the same day;
- require a company which wants to transport euro cash across national borders to apply for a specific cross-border licence, valid for three years, from the Member State in whose area the journey will start; and
- require the applicant company to comply with common rules about the staff employed for transit ( for example, no criminal record, 200 hours of training, proficiency in the language of the country of destination); the vehicles to be used (for example, they should be fitted with a global positioning system and communication equipment for contact at any time with the company's control centre and the licensing authority); and the circumstances in which staff could carry firearms.

11.8 The Commission invites views on the White Paper by 30 June. In the light of the responses and discussion of the draft rules with representatives of the Member States, the Commission will decide whether to propose a new legislation on cross-border transport of euro note and cash.

## The Government's view

11.9 In his Explanatory Memorandum of 25 June, the Minister of State at the Home Office (Mr Phil Woolas) notes that the White Paper proposes that the common rules should not apply to Member States, such as the UK, which have not adopted the euro. He says that if there were scope for the UK to opt in, Home Office Ministers would recommend against exercising it.

---

41 Directive 96/71 concerning the posting of workers in the framework of the provision of services: OJ No. L 18, 21.1.97, p.1.

11.10 The Government believes that the proposals are complex, would be difficult to implement and would add to the costs of the industry and the police (the additional costs have not yet been quantified). At present, CIT staff are prohibited from carrying firearms in the UK; the Government would be concerned if firearms were brought into the country as a result of the EC legislation the Commission has in mind.

11.11 The Minister tells us that the British Security Industry Association (BSIA) has sent his Department both the Association's own response to a questionnaire issued by the European Banking Federation last year and a copy of the views the European Security Transport Association (ESTA) sent to the Commission. He says that the BSIA believes that the proposals would:

- “have minimal positive impact while being very disruptive to the day-to-day conduct of CIT activities;
- be very costly;
- create new problems for the industry and undermine existing arrangements for working with its partners, particularly the police;
- create new opportunities for criminals; and
- additional risk to the public;
- raise increased risks through new rules to allow the carriage of weapons in states where they are not legal; and
- raise new difficulties of enforcement through national judicial systems.”

11.12 ESTA expressed additional concerns. For example, it suggested that having different sets of rules — Europe-wide for cross-border transport and the Member State's rules for transport within its area — could be exploited by criminals.

## Conclusion

**11.13 We draw the White Paper to the attention of the House because of its political importance.**

**11.14 The Minister's Explanatory Memorandum explains clearly why the British and European associations which represent the security industry are opposed to the Commission's proposals and why the Government shares their reservations. It is difficult to weigh those objections against the practical benefits of the proposals because, in our view, it is not apparent from the White Paper what they might be.**

**11.15 The Commission will decide whether to present a draft Regulation after it has considered the responses to the White Paper and discussed the draft rules with Member States. If it decides to propose legislation, the draft will come to us for detailed scrutiny. We see no need, therefore, to keep the White Paper under scrutiny.**

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

### Cabinet Office

(30679)  
10601/09  
COM(09) 247

Commission Communication: Final evaluation of the implementation of the IDABC programme.

### Department for Environment, Food and Rural Affairs

(30665)  
10378/09  
COM(09) 208

Commission Report pursuant to Article 16 of Regulation (EC) No. 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, concerning the biodegradation of main non-surfactant organic detergent ingredients.

(30680)  
10613/09  
—

Special Report No. 3/2009 concerning the effectiveness of Structural measures spending on waste water treatment for the 1994–1999 and 2000–2006 programme periods.

(30681)  
10663/09  
COM(09) 230

Commission Report pursuant to Article 16 of Regulation (EC) No. 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, concerning anaerobic biodegradation.

### Home Office

(30684)  
10699/09  
COM(09) 255

Draft Council Decision on the signing, on behalf of the Community, of the Arrangement between the European Community and the Swiss Confederation and the Principality of Liechtenstein on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

Draft Council Decision on the conclusion, on behalf of the Community, of the Arrangement between the European Community and the Swiss Confederation and the Principality of Liechtenstein on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

(30696)  
10972/09  
COM(09) 266

Commission Communication on the tracking method for monitoring the implementation of the European Pact on Immigration and Asylum.

## HM Treasury

(30699)  
11032/09  
COM(09) 259

Draft Council Decision authorising Portugal to apply reduced rates of excise duty in the autonomous region of Madeira on locally produced and consumed rum and liqueurs and in the autonomous region of the Azores on locally produced and consumed liqueurs and eaux-de-vie.

(30700)  
11043/09  
+ ADD 1  
COM(09) 258

Commission Report — Annual report from the Commission on the Guarantee Fund and the management thereof in 2008

# Formal minutes

---

**Wednesday 1 July 2009**

Members present:

Michael Connarty, in the Chair

Mr Adrian Bailey  
Mr David S Borrow  
Jim Dobbin

Keith Hill  
Kelvin Hopkins  
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.

Paragraphs 1.1 to 11 read and agreed to.

Paragraph 12 read, amended, and agreed to.

*Resolved*, That the Report, as amended, be the Twenty-fourth Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

[Adjourned till Thursday 2 July at 10.20 am.]

## 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](http://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*)