



House of Commons
European Scrutiny Committee

**Seventh Report of
Session 2008–09**

Documents considered by the Committee on 4 February 2009

Report, together with formal minutes

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Notes

Numbering of documents

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

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

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

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

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

Abbreviations used in the headnotes and footnotes

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

Euros

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

Further information

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

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

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1 Freight transport

(30304) 17324/08 + ADD 6 COM(08) 852	Draft Regulation concerning a European rail network for competitive freight
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<i>Legal base</i>	Article 71(1) EC; co-decision; QMV
<i>Document originated</i>	11 December 2008
<i>Deposited in Parliament</i>	9 January 2009
<i>Department</i>	Transport
<i>Basis of consideration</i>	EM of 26 January 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Possibly 11–12 June 2009
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Not cleared; further information awaited

Background

1.1 In October 2007 the Commission published a Communication *Towards a rail network giving priority to freight*, as part of a “freight package”. The package was debated in European Committee in February 2008.¹

The document

1.2 This draft Regulation is concerned with the selection of trans-European routes to be designated as international rail freight corridors and their governance. It provides for:

- Member States to select routes for designation as such corridors;
- all Member States to participate in at least one, two or three international rail freight corridors (dependant on the volume of the Member State’s annual rail freight tonnage) at most three years after entry into force of the Regulation;
- criteria for the selection of such corridors, which includes that corridors should be part of the Trans-European Transport Network;
- infrastructure managers of Member States along corridors to form themselves into a governance body, with independent legal status, to have a steering role in relation to the implementation, investment planning and organisation of the corridor;
- the governance body to set up a “one-stop shop” to provide a single point at which applicants can request train paths along its freight corridor;

¹ (29039) 14277/07 + ADDs 1–2 (29017) 14165/07 + ADD 3 (29019) 14175/07 ADDs 1–2 (29035) 14266/07 + ADDs 1–2; see HC 16–iv (2007–08), chapters 4,5,6 and 7 (28 November 2007) and *Stg Co Deb*, European Committee, 4 February 2008, cols. 3–28.

- the introduction of at least two categories of freight traffic for each corridor, one of which must be “priority freight” for goods requiring efficient transport time and guaranteed punctuality;
- train paths allocated to priority freight not to be cancelled, reallocated or modified with less than three months notice without the consent of the path holder, except in cases of *force majeure*; and
- the Commission, assisted by a comitology² committee, to decide on Member States’ applications for a derogation from the provisions of the Regulation.

1.3 The draft Regulation is accompanied by the Commission’s summary impact assessment (the impact assessment itself and its four annexes have been published in French only).

The Government’s view

1.4 The Minister of State, Department for Transport (Lord Adonis), says, in his Explanatory Memorandum of 26 January 2009, that:

- the Government’s assessment of the measures proposed and its position with regard to them remains subject to further analysis and clarification to be provided by the Commission;
- we will be sent a more advanced evaluation as soon as possible; and
- there will be also a full impact assessment with a robust evaluation of options, costs, benefits and the wider effects of the proposals as soon as possible.

1.5 Meanwhile the Minister tells us that:

- the Government is already developing a Strategic Freight Network, which will provide a core network of trunk freight routes, capable of accommodating more and longer freight trains, with a selective ability to handle wagons with higher axle loads and greater loading gauge, integrated with and complementing the UK’s existing mixed traffic network;
- the draft Regulation’s objectives are consistent with the aspiration in the Strategic Freight Network to develop a European gauge cleared rail freight route through the Channel Tunnel via the Channel Tunnel Rail Link to the Midlands or beyond;
- the exact scope and extent of the proposed powers of the governance bodies proposed in the draft Regulation is not clear;

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

- however, the Government considers that governance bodies making joint investment and funding decisions, and with executive powers affecting the UK network, would be unacceptable as this would go against Government policy and mechanisms for rail infrastructure funding and corridor management;
- if governance bodies did have some form of executive powers over the operations of individual members, that is the relevant infrastructure managers of the designated freight corridors, for example the powers to direct how they should allocate train paths or target investment, then this would raise the issue of compatibility of such powers with members proprietary rights and their freedom to conduct their businesses and their freedom of contract and how far it would be legitimate to restrict those rights;
- the Commission's concept of priority freight must balance the interests of such freight flows with those of domestic and international passenger traffic — stakeholders will be consulted on this issue;
- as the UK moves around 20 billion tonne-kilometres of rail freight each year it would have to participate in at least one international rail freight corridor within three years of entry into force of the Regulation;
- in relation to the possibility of derogation from the Regulation, the Commission would take into consideration a Member State's geographical situation and its development of rail freight transport services when making a decision on derogation;
- in relation to the requirement that rail freight corridors be set up in a manner consistent with the Trans-European Transport Network and for integration into that network and to provision of Trans-European Transport Network funding for development of corridors (including rail), it is likely that a Commission Green Paper on the Trans-European Transport Network, expected in February 2009, will seek to identify new corridors;
- therefore it is important that the objectives of this proposal and the Trans-European Transport Network are consistent in order to maximise the benefits of Community intervention.

1.6 In relation to assessing the impact and the financial implications of the proposal the Minister says that:

- it is not possible yet to comment on the Commission's impact assessment on the methodology or robustness of the appraisal;
- the summary of the impact assessment covers the net present value (the sum of the benefits minus the costs over the appraisal period) for the whole of the European Rail Infrastructure Master Plan network;³

³ The plan established by the International Union of Railways (UIC): see <http://www.uic.asso.fr/infra/ERIM,73.html> and http://www.uic.asso.fr/infra/IMG/jpg/erim_corridors.jpg.

- the total net present value of the chosen option at the societal level, for example including environmental and economic impacts, across the European Rail Infrastructure Master Plan network is given as €547,471 million (£521,416 million). Most of this consists of environmental impacts of €541,886 million (£516,128 million) of which the majority result from reduced congestion;
- there are also net benefits arising from technical harmonisation of infrastructure (reduced waiting times at borders and a reduction in the cost of rail freight), rules for allocating train paths and managing traffic (additional capacity and reduced journey times for freight, although with some increase to passenger journey times) and changes to terminals (including reduced waiting and transfer times);
- the Government anticipates that the major benefits to the UK would derive from decreased journey times and greater journey time reliability for rail freight, greater efficiencies through the co-ordination of the freight corridor and fewer distortions to competition through reduced “border penalties”. This would reduce the cost of rail freight making it more attractive relative to road and, all other things being equal, encourage modal shift of freight from road to rail, along with its environmental and road congestion benefits;
- the costs to the UK would be the necessary investment in infrastructure, for example extending sidings and transfer tracks, and a possible increase in passenger journey times resulting from a network which gives greater priority to freight. The magnitude of these costs and benefits would depend on which corridors were designated in the UK and the nature of existing and future traffic on them.

1.7 On consultation the Minister tells us that:

- the Government previously sought the views of rail industry stakeholders on the Commission Communication *Towards a rail network giving priority to freight*;
- a stakeholder consultation on the draft Regulation will be launched as soon as possible to help inform the Government’s policy stance; and
- it is likely that the Government may need to shorten the length of the consultation (usually three months) to ensure stakeholders’ views can be sufficiently taken into account during Council negotiations.

Conclusion

1.8 Although enhancing freight transport by rail may be a laudable objective, the Minister’s preliminary comments show that this draft Regulation may need significant amendment. So before we consider the matter further we will await the promised fuller evaluation and impact assessment. We will also wish to see, in due course, the outcome of the consultation with stakeholders.

1.9 Meanwhile the document remains under scrutiny.

2 Free movement of workers in the EU

(30210) 16162/08 COM(08) 765	Commission Communication — <i>The impact of free movement of workers in the context of EU enlargement</i> — Report on the transitional arrangements set out in the Accession Treaties of 2003 and 2005
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<i>Legal base</i>	—
<i>Document originated</i>	18 November 2008
<i>Deposited in Parliament</i>	25 November 2008
<i>Department</i>	Home Office
<i>Basis of consideration</i>	EM of 26 January 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>	Not cleared: oral evidence requested from Government Ministers

Background

2.1 Article 39 of the EC Treaty establishes the right of EU nationals to move freely to another Member State to take up employment.

2.2 A Treaty of 2003 provided for the accession to the EU of ten countries on 1 May 2004.⁴ It also gave the 15 existing Member States discretion to place temporary restrictions on access to their labour markets by workers from the new Member States with the exception of those from Cyprus and Malta. A Treaty of 2005 provided for the accession to the EU of Bulgaria and Romania and included discretion for the 25 existing Member States to place temporary restrictions on the access of Bulgarian and Romanian workers to their labour markets.

2.3 Both Treaties limited the total length of the transitional period to seven years, made up of three phases:

- Member States could restrict access for an initial two years;
- Member States could extend their restrictions for up to a further three years; and
- restrictions should, in principle, cease at the end of the second phase but a Member State might, in the event of actual or potential serious disturbances to its labour market, extend the restrictions until the end of the seven years since accession.

2.4 The Commission's Communication and this report use the following abbreviations:

- *the EU-15* — the 15 Member States which comprised the EU before 1 May 2004;

4 Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

- *the EU-10* — the new Member States which joined the EU on 1 May 2004;
- *the EU-8* — the Member States which joined in May 2004 and to which the transitional arrangements apply for restricting access to the labour markets of the EU-15 (that is, the EU-10 minus Cyprus and Malta);
- *the EU-25* — the Member States which comprised the EU before 1 January 2007;
- *the EU-2* — Bulgaria and Romania after their accession to the EU on 1 January 2007; and
- *the EU-27* — the current members of the EU.

2.5 Eleven of the EU 15 have opened their labour markets to workers from the EU-8. The remaining four apply various restrictions.

2.6 Ten of the EU-25 have opened their labour markets to workers from the EU-2; and 15 Member States restrict access to workers from those countries.

The document

2.7 The Commission's Communication is intended to provide a basis for the Council of Ministers to review the first two years of the transitional arrangements for workers who are nationals of the EU-2 and a further review of the application of the transitional arrangements to the EU-8. The document provides extensive statistical information about, for example, the nationality of workers who have moved to other Member States, the main countries of destination, and the distribution of mobile workers between economic sectors such as agriculture and construction. For example:

- Polish nationals comprise about 25% of the EU nationals who have moved to other Member States in the last four years; Romanian nationals account for about 19% of the total; United Kingdom nationals account for 6%; and Bulgarians for about 4%.
- The UK was the destination of 59% of Polish nationals who were resident in another Member State for four years or less;
- France was the destination for 39% of the UK nationals who were resident in another Member State for four years or less;
- in 2003, 900,000 nationals of the EU-10 were resident in the EU-15; the current number is about 2 million;
- 5% of Ireland's population of working-age comes from the EU-10 — a higher proportion than in any other Member State. In the UK, EU-10 nationals comprise 1.2% of the population of working age;
- in all but two Member States, the number of recent arrivals from non-EU countries exceeds the number from other Member States (the exceptions are Ireland and Luxembourg); and

- most of the recent arrivals from the EU-10 have found work in manufacturing, construction, hotels and restaurants, business-related services and private households.

2.8 Commenting on the effect of labour mobility on wages and employment, the Commission says that:

“Practically all available research finds little impact of post-enlargement labour mobility on wages and employment of local workers and no indication of serious labour market imbalances through intra-EU mobility, even in those Member States with the biggest inflows.

“For example, one study finds that wages in the EU-15 are on average only 0.08% lower in the short run than they would have been without additional mobility from the EU-8, with no impact at all in the long run. The short-run impact on unemployment is also found to be marginal, with an estimated increase of the average EU-15 unemployment rate of only 0.04 percentage points in the short run and a neutral effect in the longer run due to the inflow of EU-8 workers and a similar moderate effect concerning EU-2 mobility.”⁵

2.9 The Commission’s concludes, among other things, that:

- workers from Bulgaria, Romania and the EU-10 have helped to meet higher demand for labour in the receiving countries and have, therefore, made a significant contribution to sustained economic growth;
- there are signs that mobility flows from the EU-2 and EU-8 may have peaked and that much of the recent mobility of workers between Member States has been temporary;
- the volume and direction of mobility flows are driven by the general demand for and supply of labour rather than by restrictions on access to the labour market;
- restrictions may delay labour market adjustment and increase undeclared work;
- the overall impact of post-enlargement mobility has been positive; and
- experience suggests that cross-border mobility tends to decline in times of economic downturn.

The Commission calls on Member States to consider whether they need to continue restricting access to their labour markets by workers from the new Member States.

The Government’s view

2.10 In his Explanatory Memorandum of 26 January 2009, the Minister of State at the Home Office (Mr Phil Woolas) tells us that nationals of the countries which joined the EU on 1 May 2004 are currently required to register under the Worker Registration Scheme if

5 Commission Communication, section 4.3, pages 12–13, first and second paragraphs.

they get a job in the UK. The Government has not yet decided whether the requirement should continue after 1 May 2009.

2.11 He says, however, that the Government has decided that the restrictions on access to the UK labour market by Romanian and Bulgarian workers should continue in 2009 but that the quota for the number of workers admitted under the Seasonal Agricultural Workers Scheme should be increased from 16,250 to 21,250 for this year; and that the quota of 3,500 places under the Sector Based Scheme should remain unchanged but may be opened to a wider range of occupations within the sector. The Government will review these arrangements before the end of 2009.

2.12 The Minister says that:

“The Government consulted the Migration and Advisory Committee on the likely labour market impacts of lifting these restrictions. Its principal recommendation was that the existing restrictions should not be lifted given the uncertainty as to how far other Member States will open their labour markets and given the current economic downturn which increases the risk that opening up labour market access may result in the displacement of UK workers. In addition to the MAC’s assessment of the labour market position, the Government believes that it remains sensible to continue to take a gradual approach to opening up labour market access for Bulgarians and Romanians in order to avoid undue pressure on public services and social cohesion. While the number of nationals of the Member States that joined the EU in 2004 coming here to work has started to diminish, it is less clear how the current economic downturn will impact on the stock of Accession workers already present in the United Kingdom, both in terms of numbers and in terms of any additional demands they may place on public services and the benefits system.”⁶

Conclusion

2.13 In our view, the Commission’s Communication contains much useful information and analysis about an issue of major political importance. We are minded, therefore, to recommend the document for debate in European Committee B. First, however, there are some matters on which we believe it would be useful to receive oral evidence from the Minister and from the Secretary of State for Business, Enterprise and Regulatory Reform. Meanwhile, we shall keep the document under scrutiny.

6 Minister’s Explanatory Memorandum of 26 January 2009, paragraph 16.

3 Bilateral Agreements

(30333) 5146/09 COM(08) 894	Draft Council Regulation for the Negotiation and Conclusion of Bilateral Agreements Between Member States and Third Countries concerning rules governing jurisdiction, recognition and enforcement of judgments and decision in matrimonial matters, parental responsibility and maintenance obligations, and applicable law in matters relating to maintenance obligations
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<i>Legal base</i>	Articles 61, 65 and 67(5) EC Treaty; unanimity; consultation.
<i>Document originated</i>	19 December 2008
<i>Deposited in Parliament</i>	14 January 2009
<i>Department</i>	Ministry of Justice
<i>Basis of consideration</i>	EM of 22 January 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	No date fixed
<i>Committee's assessment</i>	Legally and politically important
<i>Committee's decision</i>	Not cleared. Further information requested

Background

3.1 The external competence of the Community is its capacity to act separately from its Member States internationally, in particular to negotiate and conclude binding international agreements and to belong to, and participate in, international organisations. The Community's external competence may be either exclusive or shared. Where the Community has exclusive external competence, Member States have no further power to act internationally in respect of that subject-matter. The European Court of Justice has determined that the Community's external competence will normally be exclusive if, an agreement falls into an area of law which, internally, is already largely covered by Community rather than national law, or if the effectiveness or purpose of the Community's internal rules may be adversely affected or undermined by an international agreement concluded by Member States. The Community's external competence may thus be exclusive in areas of law where it only has shared internal competence.

The document

3.2 The purpose of this document is to establish a procedure to enable Member States in future to negotiate and conclude bilateral agreements with third countries in various international family law areas. This procedure would, on certain conditions being satisfied, enable the Commission to authorise such negotiations and their conclusion.

3.3 These subject areas are now covered by Community legislation, in particular by:

- EC Regulation No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, and
- EC Regulation No. 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

The consequence of this Community legislation which now largely covers the areas of conflict of laws in matrimonial law, is in principle to establish external Community competence in these areas. This has had the result that Member States are generally prevented from entering into bilateral agreements which deal with topics that fall within the scope of this legislation. The proposed regulation would establish shared external competence between the Community and its Members in this field, and ensure that Member States may continue to negotiate bilateral agreements with third countries in an area of law where the Community has in recent years largely ‘occupied the legislative field.’

The Government’s view

3.4 In his Explanatory Memorandum of 22 January 2009 the Parliamentary Under-Secretary at the Ministry of Justice (Lord Bach) outlines the Government’s position in the following terms:

“The Government is in principle supportive of the underlying aim of this proposal which is to introduce some degree of flexibility into the rigidity of the doctrine of external Community competence. The effect of this doctrine is generally to prevent individual Member States from entering into bilateral agreements with third countries in those areas that are subject to such competence. For the reason given in paragraph 10 above this proposal may be of limited practical value for the United Kingdom.

“Article 4 lays down the conditions under which the Commission may authorise a Member State to pursue negotiations with a third country. One of these conditions is likely to be of particular importance. This is the requirement under Article 4(2)(b) that the proposed agreement should be ‘of *limited* impact on the uniform and consistent application of the Community rules in place and on the proper functioning of the system established by those rules’. The Government will seek clarification of the meaning of ‘limited’ in this context. If what is meant here is any impact that is of more than minimal significance then that would be likely to diminish significantly the utility of this proposal. On the other hand, if it is intended that only agreements which would clearly have a significant impact on the *acquis communautaire* should be excluded from the proposed procedure, then the utility of the proposal would be correspondingly increased.

“The Government will also seek a further technical legal amendment to this proposal. This reflects the fact that the proposal is drafted on the basis that, in relation to the United Kingdom, there is external Community competence as regards applicable law in the area of maintenance. The Government considers that there is no such competence. This is because the United Kingdom will not, pursuant to its

Protocol on Title IV measures, be participating in any future Council Decision to ratify the Protocol to the Hague Maintenance Convention which contains uniform choice of law rules in this area. The Government will seek an appropriate clarification in the text on this point.”

3.5 The Minister also addresses the likely impact of the proposal on United Kingdom law, which he evaluates as follows:

“This proposal would have no direct impact on UK law.

“In terms of the proposal’s longer term consequential impact on UK law, there are the following important international agreements in this field:

- the 1970 Hague Convention on the recognition of divorces and legal separations;
- the 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children; and
- the 2007 Hague Convention on the international recovery of child support and other forms of family maintenance.

“In overall terms these multilateral agreements are satisfactory. In the light of this it is not expected that in general there will be a significant need in future for the UK to enter into bilateral agreements with third countries in the areas covered by these conventions. It should generally be for third countries to become parties to these conventions. In the light of this it is not expected that this proposal will be likely to have a significant future impact on the law in the United Kingdom. However there may be some third countries which are not members of the Hague Conference and which are not willing to become parties to the above conventions. In relation to these countries there may be a national interest in the UK concluding bilateral agreements in the area of family law. In these circumstances this proposal may be of value.”

Conclusion

3.6 We thank the Minister for his detailed comments. We broadly welcome the underlying aim of the proposal, which would ensure Member States may continue to conclude certain bilateral agreements governing applicable law, jurisdiction and enforcement of maintenance obligations.

3.7 We note the Minister’s view that there is at present no external Community competence regarding applicable law in the area of maintenance payments, at least regarding the United Kingdom. We encourage the Minister to seek clarification of this point and, if his view is confirmed, to secure appropriate amendments to the proposal.

3.8 We share the Minister’s concern about the vague description of some of the conditions attached to the exercise of Member State competence in this area. We in particular urge the Government to seek an appropriate clarification of the meaning of “limited” in Art 4(2)(b) which seeks to ensure compatibility of any bilateral agreement

with the functioning of the intra-EU and EEA conflict of laws rules. We shall hold the document under scrutiny until the publication of a new revised proposal or until we have had further word from the Minister.

4 Moveable assets: Cape Town Convention and Protocol on aircraft equipment

(29920) 12135/08 COM(08) 508	Amended Draft Council Decision on the conclusion by the European Community of the Convention on International Interests in Mobile Equipment and its Protocol on matters specific to aircraft equipment, adopted jointly in Cape Town on 16 November 2001
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<i>Legal base</i>	Articles 61(c) and 300(2)EC; co-decision; QMV
<i>Department</i>	Business, Enterprise and Regulatory Reform
<i>Basis of consideration</i>	Minister's letter of 29 January 2009
<i>Previous Committee Report</i>	HC 16–xxx (2007–08), chapter 1 (8 October 2008)
<i>To be discussed in Council</i>	26–27 February 2009
<i>Committee's assessment</i>	Legally and politically important
<i>Committee's decision</i>	Cleared

Background

4.1 Those providing asset-based finance for high-value internationally mobile equipment are reliant on the national laws of the territories through which such equipment passes, but those laws differ in the extent to which a security interest is recognised, thus creating risks for the financier. The 2001 Cape Town Convention on International Interests in Mobile Equipment provides a new uniform international legal order for the creation, registration and enforcement of security and similar interests in such equipment (including insolvency proceedings and the remedies available in the event of default by a debtor). The general regime of the Convention is applied to different high-value mobile equipment by equipment-specific protocols, and the Aircraft Protocol applies to equipment, such as airframes, engines and helicopters above a certain size (other than that used for military, customs or police purposes).

4.2 For some aspects, the Convention and the Aircraft Protocol are within the competence of Member States,⁷ but, in so far as the Community has competence, two earlier draft Decisions⁸ would have allowed it to sign and conclude the Convention and the Aircraft Protocol. However, the UK and a number of other Member States argued that there was

⁷ Four of which — France, the UK, Italy and Germany — have signed both the Convention and Protocol

⁸ (24357) 15904/02: see HC 63–xix (2002–03), chapter 2 (30 April 2003), HC 34–xxi (2005–06), chapter 8 (8 March 2006) and HC 16–xxx (2007–08), chapter 1 (8 October 2008).

Member State, rather than Community, competence in relation to the insolvency aspects, and that, until this had been resolved, the draft Decisions should not be carried forward. A draft declaration confirming that Member States retain their competence in respect of the substantive rules of insolvency was subsequently agreed, but further progress was then prevented by an unresolved disagreement between the UK and Spain over the position of Gibraltar in relation to mixed agreements.

4.3 Although that dispute was subsequently resolved, the situation had in the meantime been altered by the accession of the new Member States, and by the fact that the Convention and Protocol were no longer open to signature. The Commission therefore put forward in August 2008 this new proposal, which replaces the earlier proposals, and simply addresses the Community's conclusion of the Convention and the Protocol, but not its signature. However, the Convention and the Protocol require a regional organisation, such as the Community, to indicate at the time of its accession the matters which fall within its jurisdiction. The proposal therefore had annexed to it a declaration highlighting the Community's locus in relation to jurisdiction and the recognition and enforcement of judgements in civil and commercial matters, insolvency proceedings, the law applicable to contractual obligations, and indicating its approach to certain Articles in the Protocol (notably those governing insolvency). This was accompanied by a second declaration describing the way in which the Community intended to its legislation so far as interim relief is concerned.

4.4 As we noted in our Report of 8 October 2008, those interested parties in the UK consulted by the Government generally support the UK's signature, but that there were still two outstanding issues. First, the Commission maintained that Member States should not make declarations relating to remedies on insolvency, whereas the UK and some other Member States would like to be free to do so, Secondly, the Commission said that the elements of Community competence bind all Member States, and that the Community should accede first to the Convention and Protocol, followed by the Member States, whereas the UK and other Member States consider that they should be able to choose whether to ratify. In view of this, we decided to hold the document under scrutiny, pending confirmation that these issues had been resolved to the Government's satisfaction.

Minister's letter of 29 January 2009

4.5 We have now received from the Minister for Trade and Investment at the Department for Business, Enterprise and Regulatory Reform (Lord Davies) a letter of 29 January 2009 confirming that it has now been established that the competence of Member States concerning the rules of the substantive law of insolvency is not affected. He adds that the document is currently on the agenda for the Justice and Home Affairs Council on 26–27 February, but that it is likely to be placed on the agenda of an earlier Council, if the UK is able to lift its Parliamentary scrutiny reserve before then.

Conclusion

4.6 We have noted what the Minister has said, and we also understand that the point over ratification has been resolved to the Government's satisfaction. We are therefore clearing the document.

5 Global monitoring for environment and security

(30166) Commission Communication: *Global Monitoring for Environment
14906/08 and Security (GMES): we care for a safer planet*
COM(08) 748
+ ADDS 1–2

<i>Legal base</i>	—
<i>Document originated</i>	12 November 2008
<i>Deposited in Parliament</i>	18 November 2008
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 21 January 2009
<i>Previous Committee Report</i>	None, but see footnotes 1 and 2
<i>Discussed in Council</i>	2 December 2008
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared

Background

5.1 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 policies. This was also 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.

5.2 This led to a Communication from the Commission in February 2004,⁹ 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 with the intention of supporting the Community’s environmental commitments; other policy 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. That Communication also envisaged the gradual development of a GMES “core capacity”, based on four components — services for users; observations from space; observations from land-based sensors and those in the sea, water or atmosphere; and the capacity to manage and integrate data.

5.3 In clearing the document on 10 March 2004, our predecessors recognised the potential contribution which GMES could make, but they noted (and shared) the Government’s concern that the Commission’s approach might encroach on defence and foreign policy matters which are the responsibility of Member States. They also commented that the development of GMES after 2006 would, to some extent, be in competition with other priorities for expenditure.

9 (25344) 6094/04; see HC 42–xii (2003–04), chapter 20 (10 March 2004).

5.4 This was followed in November 2005 by a further Communication¹⁰ suggesting how the objectives for GMES can be achieved in practice. This identified three fast track services — reinforcing the Community’s capacity to respond to emergencies created by natural and man-made disasters, monitoring land use changes, and monitoring the state of the marine environment — to be developed by the end of 2008 through the introduction of pilot projects. This would be followed by the progressive introduction of further pilots covering areas such as atmospheric monitoring, external border surveillance and crisis prevention.

5.5 The Commission suggested that the arrangements should in the short term draw on existing capabilities, but that, in the longer term, investment would be needed in new capacity. It also envisaged GMES being allocated a “substantial” proportion of the funding for space available under the Seventh Framework Programme for Research, Technological Development and Demonstration (FP7), with the expectation that, over time, an increasing proportion of the expenditure in this area would be met by the Community.

5.6 As we noted in our Report of 23 November 2005, the Government intended to keep a close watch on any suggestion that military synergies should be pursued to ensure a better use of resources, but believed that GMES has the potential to improve Community environment and security policy, and to mitigate the impact of global climate change. It was therefore broadly supportive of the project, and saw the Communication as providing helpful clarification on its development. It added that the third joint EU/European Space Agency Space Council was expected to agree a set of orientations on the GMES broadly in line with UK views, particularly on role of the Commission in developing a programme and ensuring that the ESA’s proposals are in step with this, and on the need for a decision in 2008 on funding by ESA members. However, it also stressed the need for future Community funding to be in line with the principle of budget discipline and to make sure that any developments on its security theme remain in the civil area.

The current document

5.7 The present document is another Communication on this subject, which points out that GMES has now entered its pre-operational phase, and that it will be technically feasible for it to become operational in 2011. It also notes that, in September 2008, the Council reaffirmed the need to implement GMES rapidly, and requested it to draw up an action plan, and to propose arrangements for financing, operational infrastructure and effective management.

5.8 The Commission has accordingly responded under the following headings:

State of play and future shape

The Commission identifies the three main components of GMES — space observation; *in situ* (land based) infrastructure; and services in such areas as marine and atmosphere, and land, emergency and security (though the Commission says that it will also propose a GMES contribution to climate change monitoring). However, it adds that further investment is needed, not least in such areas as space

10 (27016) 14443/05: see HC 34–xi (2005–06), chapter 12 (23 November 2005).

infrastructure, to guarantee the long-term sustainability and reliability of GMES services, and that it will be necessary to ensure the proper representation of Community Member States and members of the ESA.

Public investment

The Commission notes that, whilst GMES is expected to remain primarily a public driven programme, it is also creating opportunities for increased private sector use, and that, as particular activities become mature, public investment will be gradually reduced or re-directed to less mature sectors depending on policy priorities. It also comments that, subject to security considerations, GMES services should be fully and openly accessible, so as to help promote the widest possible use and sharing of Earth observation data.

International cooperation

The Commission observes that, although European autonomy for GMES services is essential, international cooperation remains imperative to fulfil the need for information at a global level and to develop a cost effective system, adding that a coordinated approach is necessary to counter global environmental threats, such as climate change. It therefore proposes to establish an international cooperation strategy for GMES, building on existing schemes developed by national bodies and intergovernmental organisations with their international counterparts: it also expects GMES to be the main European contribution to the implementation plan for the Global Earth Observation System of Systems (GEOSS).

Financing GMES

The Commission says that, although the financing of GMES is expected to be mainly public, the current European budget does not have the capacity to develop it to the requisite potential, meaning that every possible expansion or evolution of its services will 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. It adds that there needs to be a smooth transition between the demonstration, pre-operational, and operational stages, and that there will be co-funding at European, intergovernmental and national levels, meaning that cost-sharing principles need to be defined. The Commission says that it will make a legislative proposal for defining the Community contribution to the operational phase of GMES for 2011–13, and comments that, subject to a budgetary and financial evaluation, and the availability of the necessary funds and infrastructure, the Community contribution beyond 2014 should sustain the operations of GMES.

Governance

The Commission points out that a large number of players¹¹ will contribute to the implementation of GMES, and that its success depends on the establishment of partnerships between them, under Community leadership, which would integrate existing and new elements and ensure that decision-making is based on a clear division of responsibilities and accountability for expenditure. More specifically, it suggests that technical implementation should be entrusted mainly to European entities, such as the ESA in the case of the space component, the European Environment Agency in relation to in situ activities, and a network of technical centres for the development of operational services. The Commission envisages that it would itself be responsible for the overall coordination of GMES, assisted by a Partners Board (comprising representatives of contributing Member States) and a Programme Committee, and that the process for establishing user needs should now be formalised with the establishment of the GMES programme.

The Government's view

5.9 In his Explanatory Memorandum of 21 January 2009, the Minister for Sustainable Development, Climate Change Adaptation and Air Quality at the Department for Environment, Food and Rural Affairs (Lord Hunt) says that, insofar as the resources required go beyond the means of individual Member States, the UK supports the principle of acting on a European level through GMES to deliver environmental and civil security observations, monitoring, information and evidence. It is particularly working to ensure that requirements related to climate change are given a high priority, and it also places considerable importance on GMES meeting consumer needs relating to policy development, implementation and monitoring, a key challenge being to understand the requirements of a diverse range of users.

5.10 The Minister also observes that the UK has supported the development of the GMES space component, and has recently committed €87 million to the ESA's relevant component programme and €15 million to its GMES-related climate change initiative. He adds that, whilst appreciating the need for European autonomy, the UK also believes that international cooperation is needed to meet GMES user requirements, and that it is considering how existing Member State infrastructure can contribute and interact with GMES. He notes that, subject to security considerations, GMES services are intended to be fully and openly accessible, and that it will be necessary to evaluate the consistency of this with Government policy on the accessibility of, and charging mechanisms for, public sector information; and he stresses that GMES is a civil system, the Government being clear that its infrastructure and use should be under civil control and defined by civil requirements. Finally, he says that the UK will consider any Commission proposals for the funding of pre-operational activities for 2011–13, as well as for a fully operational programme from 2014, on the basis of its priorities for Community expenditure during these periods.

11 These include intergovernmental organisations (such as the ESA), national and regional organisations, environmental agencies, civil protection services, space agencies, industry and user communities.

Conclusion

5.11 This is the latest in a series of Communications from the Commission on the various stages in the development of the GMES, relating in this instance to the period before it is scheduled to become operational in 2011. As such, it pursues further a number of different areas dealing with the coverage of the system, and to its financing and governance, but does not appear to raise any major new issues, bearing in mind that the Commission will be putting forward in due course a legislative proposal on the funding arrangements. We are therefore content to clear the document, noting also that the Competitiveness Council on 2 December 2008 has welcomed the Communication, and invited the Commission to take forward work in this area.

6 Ship dismantling

(30216) Commission Communication: *An EU strategy for better ship
16220/08 dismantling*
+ ADDs 1–2
COM(08) 767

<i>Legal base</i>	—
<i>Document originated</i>	19 November 2008
<i>Deposited in Parliament</i>	28 November 2008
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 26 January 2009
<i>Previous Committee Report</i>	None, but see footnotes 12 and 13
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

6.1 According to the Commission, the dismantling of ships — much of which takes place on the Indian sub-continent — is a matter of concern from a health and environmental point of view, and its Green Paper on Maritime Policy in June 2006¹² emphasized the need to support initiatives at international level to achieve minimum binding standards on ship recycling.

6.2 A further Green Paper¹³ in May 2007 sought to prepare the ground for future action, noting that the tonnage dismantled world-wide each year was expected to peak in 2010

12 (27686) 11510/06: see HC 34–xxxix (2005–06), chapter 2 (25 October 2006). *Stg Co Deb*, European Standing Committee, 19 March 2007.

13 (28671) 10224/07: see HC41–xxvii (2006–07), chapter 4 (27 June 2007).

with the phasing-out of single hull tankers. It pointed out that, between 2001 and 2003, 32% of ships going for scrapping flew the flags of current or future Member States, and that about 100 warships and other Government vessels flying Community flags were expected to be decommissioned in the next 10 years. It highlighted the fact that none of the sites used on the Indian sub-continent had facilities to prevent pollution or receive waste, with the treatment of waste rarely conforming to even minimum environmental standards. On the other hand, it acknowledged the importance of ship breaking as a source of raw materials in south Asia, and stressed that the aim should be to maintain activity levels there, whilst ensuring that minimum standards are met.

6.3 The Green Paper went on to identify the current legal and institutional framework, pointing out that, in accordance with the Basel Protocol, the export from the Community to non-OECD countries of vessels containing considerable quantities of hazardous materials is banned by the Waste Shipment Regulation, and that the International Maritime Organisation (IMO) had started work on an international convention, whilst some maritime countries (including the UK) were developing national strategies. It also commented that, although returns from dismantling were currently high, a study had concluded that it would be extremely difficult for the activity to be economically viable within the Community due to competition from low-wage areas. As a result, dismantling capacity in the Community had been reduced to a “marginal” level, capable of handling warships and other state-owned vessels, but only a minor part of the merchant fleet.

6.4 The remainder of the Green Paper considered options for improving European management of ship dismantling. These included better enforcement of Community waste shipment law (for example, by targeting vessels above a certain age, or where there are indications that dismantling is intended); international solutions (notably the swift conclusion of the proposed IMO convention, and its transposition into Community law); strengthening Community ship dismantling capacity; technical assistance and technology transfer to encourage the upgrading of dismantling facilities in other countries; encouraging voluntary action by ship-owners (supported, where possible, by incentives); and the establishment of a ship dismantling fund, similar to that covering oil pollution under the MARPOL Convention, for which owners would take full responsibility. It also suggested a range of other options, including Community legislation (for example, attaching conditions to the dismantling of single hull tankers, or preventing the use of hazardous materials in the construction of new ships); linking any state aids for maritime transport to the use of clean and safe dismantling facilities; establishing a European certification system for clean ship dismantling; and intensifying international research on ship dismantling.

6.5 In our Report of 27 June 2007, we noted that the Government saw the Commission’s initiative as being generally consistent with the UK’s Ship Recycling Strategy, published in February 2007, and that it strongly supported an international solution through the IMO. It also said that the UK would continue to seek appropriate solutions — including giving serious consideration to proposals for any regional strategy within Europe — to ensure that shipping at a European and global level has access to safe and environmentally sound recycling facilities, and that ships dealt with are subject to a level of control equivalent to that provided by the Basel Convention.

The current document

6.6 This latest document takes into account the results of consultation on the earlier Green Paper and of other developments since then. On the one hand, it notes that there remains a strong economic incentive for ship owners to choose recycling facilities of a low social and environmental standard; that enforcement of the existing law on waste shipments is poor, particularly as regards movements outside European waters; and that, although an unexpected rise in freight rates has led to a slowing in the rate of dismantling, this is likely to lead to an increased backlog in a few years' time, with a peak still likely to arise from the phasing out of single hull tankers. On the other hand, a diplomatic conference in May 2009 is expected to result in the adoption of an International Convention on the Safe and Environmentally Sound Recycling of Ships, providing a comprehensive system of control and management, relying on the survey and certification of ships and the authorisation of recycling facilities. The Commission adds that it is working with Member States to ensure that this Convention provides a level of control equivalent to that under the Basel Convention.

6.7 The Commission says that the general objective of Community policy in this area should be to ensure that, wherever those ships with a strong link to it are dismantled, this should take place only in safe and environmentally sound facilities, and it goes on to identify a number of actions need to achieve this.

Early implementation of the Ship Recycling Convention

6.8 The Commission notes that, allowing for signature and ratification, the new Convention is unlikely to become effective until about 2015, and that its full impact will not be felt until even later. However, it notes that action by the Community to comply with its provisions is likely to prompt other countries to speed up ratification, particularly if the Community makes its provisions binding on all ships within European waters. The Commission therefore proposes to start preparing the establishment of key elements of the Convention as soon as it is adopted.

Dismantling of warships and other Government vessels

6.9 The Commission notes that the Convention will not apply to warships and other vessels used only by government on non-commercial services, to ships of less than 500 GT, or to those operating only within domestic waters. It sees no need to address these last two issues at present, since the ships in question are not normally dismantled in Asian facilities, but it suggests that one way of making more effective arrangements for state-owned ships would be to impose conditions on their sale to third states or private companies before they become waste.

Action by industry in the interim period

6.10 The Commission suggests that an attempt should be made to persuade ship recyclers to improve their environmental and safety standards voluntarily, and for ship owners to encourage this by paying the requisite rates. It comments that this should not impose an excessive financial burden, and that such action could be encouraged by a Community-

wide public campaign coupled with high-level negotiations with those concerned. It adds that, although subsidies out of public funds cannot be justified, public funding to third countries could play a limited role, provided there was sufficient willingness by the relevant governments and industries to cooperate.

Better enforcement of waste shipment rules

6.11 The Commission comments that, even if a new Convention is agreed, the Basel Convention and Community waste shipment legislation will continue to apply for the time being, and that it is therefore important to consider how these could be better enforced. It suggests that this could be achieved through the provision of further guidance, increased cooperation between authorities in the Community and those in countries of transit and destination, and the establishment of a list of ships which are ready for scrapping.

Auditing and certification of dismantling facilities

6.12 The Commission notes that provisions on the auditing and certification of dismantling facilities under the Convention are still under consideration, but says that, subject to the outcome, it will examine how to ensure that ships operating in Europe go to certified and audited dismantling facilities.

Ensuring sustainable funding

6.13 The Commission points out that the proposed Convention assumes that, together with market forces, its provisions will be sufficient to make ship dismantling a safe and environmentally sound activity, and that the shipping industry has argued that the ship dismantling funds referred to in the Green Paper would create unnecessary burdens. However, the Commission also suggests that there is a risk that a lack of clarity on recycling standards, and inadequate compliance mechanisms will allow poor practices to continue and create a disincentive to investment. It therefore suggests that, if this turns out to be so, the option of creating such a fund on the “polluter pays” principle should be reconsidered, preferably within the IMO, but on a Community-wide basis, if necessary.

The Government’s view

6.14 In her Explanatory Memorandum of 26 January 2009, the Minister of State (Farming and the Environment) at the Department for Environment, Food and Rural Affairs (Jane Kennedy) says that the UK welcomes this initiative by the Commission, adding that it acknowledges the serious concern over environmental standards at many current recycling facilities world wide and strongly supports an international solution to this challenge through the IMO.

6.15 The Minister says that the UK will continue to seek appropriate solutions to ensure that shipping at a European and global level has access to safe recycling facilities, and is subject to a level of control equivalent to that provided by the Basel Convention. In addition to the early entry into force of the new Convention, and interim measures, it will give consideration to proposals for a regional strategy within Europe, and will be reviewing the proposals in this Communication in order to contribute to further discussion. She also

comments that some of these — notably the dismantling of warships and other government vessels, a mandatory international funding system, and a certification and audit scheme — will require particularly careful consideration.

Conclusion

6.16 This Communication provides a useful follow-up to the Green Paper which the Commission produced in May 2007 on the environmental, economic and social issues which arise from the dismantling in southern Asia of ships flying the flag of Community Member States. We are therefore drawing it to the attention of the House, but, since it does not raise any major new issues, we are clearing it.

7 Water scarcity and droughts

(30319)
17586/08
+ ADD 1
COM(08) 875

Follow-up Report to the Commission Communication on water scarcity and droughts in the European Union

<i>Legal base</i>	—
<i>Document originated</i>	19 December 2008
<i>Deposited in Parliament</i>	13 January 2009
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 27 January 2009
<i>Previous Committee Report</i>	None, but see footnote 14
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

7.1 According to the Commission, water scarcity (where demand exceeds exploitable resources under sustainable conditions) and droughts (arising from a temporary decrease in water availability) have now emerged as a major challenge for the Community, affecting both households and industries, and are likely to be exacerbated by climate change. It therefore put forward in July 2007 a Communication¹⁴ setting out an initial set of policy options at European, national and regional levels.

7.2 This identified a number of specific challenges, including the full implementation of the Water Framework Directive (2000/60/EC); ineffective water pricing policies; inadequate

¹⁴ (28827) 12052/07: see HC 41–xxxv (2006–07), chapter 7 (17 October 2007).

land use planning; realising the potential for water saving, and identifying priorities for water use; integrating water-related concerns into relevant sectoral policies; and the provision of high quality knowledge and information on the extent of the challenge. The Communication went on to highlight a number of future policy orientations, notably putting the right price tag on water; the efficient allocation of water and water-related funding (through improved land-use planning and financing water efficiency); improved drought risk management (through the development of management plans and of an early warning system, together with use of the Solidarity Fund and the European Mechanism for Civil Protection); additional water supply infrastructure; fostering water efficient technologies and practices; fostering a water-saving culture in Europe; and improved knowledge and data collection (involving a European water scarcity and drought information system, and research and technological development).

7.3 In our Report of 17 October 2007, we noted that that the UK broadly supported the objectives of the Communication, and already had a well developed policy framework for water supply, based on demand management and the development of sustainable resources. It also supported action on land use planning, and the removal of Community subsidies which encourage water intensive crops; would be fully implementing the Water Framework Directive on the required time-scale; and supported in principle the Commission's proposals for fostering water performance technologies and practices, and a water-saving culture (adding that the costs and benefits of any specific proposals needed to be explored further).

7.4 On the other hand, the Government believed that the Communication was in some respects too firmly against the development of new water resources, and that an overly rigid approach might not make it possible to bring on new sources of supply to the required timescales. Likewise, it believed that the development of a European Drought Observatory would need a robust cost benefit analysis, and that the Commission should explore the potential for using existing organisations instead. The Government also summarised the water charging arrangements already in place in the various parts of the UK.

The current document

7.5 The current document is a follow-up report summarising developments since the earlier Communication, and does so under the following policy headings which were highlighted in it:

Putting the right price tag on water

The Commission notes that Member States have a commitment to deliver by 2010 water pricing policies providing adequate incentives to use water resources efficiently, and it comments on the action taken to implement greater levels of metering and to set tariffs consistent with the level of scarcity at local level, the season and/or levels of consumption. It also assesses the effectiveness of different types of tariff in water stress areas, noting the UK's approach in the south-east of England.

Efficient allocation of water and water-related funding

Improved land-use planning

The Commission notes the proposal, is part of the “health check” of the Common Agricultural Policy to add a water quantity test to cross-compliance by means of the Good Agricultural and Environmental Conditions regime, and says that it will assess which water quality related obligations will result from the Water Framework Directive as part of the post-2013 discussions on the CAP. It also says that specific sustainability criteria for the development of biofuel crops, including the use of water, are being discussed by the Council, adding that its proposal for a new Directive on Renewable Energy contains an incentive to develop biofuels based on waste residues and other non-agricultural feedstock, thus reducing the pressure for water; that Member States most affected in the past by water scarcity and droughts have made efforts to identify those river basins facing quasi-permanent or permanent scarcity, commenting on the UK’s review of abstraction authorisations; and that, although there are a few examples of good practice, there is overall a lack of evidence that Member States are fully integrating land use challenges into their water management decisions.

Financing water efficiency

The Commission notes that proposals for improving the financing of water efficiency have been made within the CAP “health check”, the climate and renewable energy package, the Green Paper on adapting to climate change, and the possible revision of the Community’s strategic guidelines on cohesion 2007–13, noting that the budget review and discussion on future financial perspectives will provide additional opportunities to address water supply issues. It also comments on actions by Member States to develop fiscal incentives for the promotion of water efficient devices and practices, and refers to the UK’s scheme to enable businesses to claim enhanced capital allowances for investment in water efficient technologies and equipment.

Improving drought risk management

Developing drought risk management plans

The Report comments on recommendations by a European network of experts on the need to develop operational drought management plans in order to efficiently prevent and mitigate drought impacts, with the UK being cited as an example of where this is already in place.

Developing an observatory and early warning system on droughts

The Report provides an update on the development of the Commission’s Joint Research Centre’s observatory and early warning system, noting that a first prototype is currently being tested, and that from 2009–10 it should be possible to enable an annual European assessment of the incidence of drought to be made.

Additional water supply infrastructures

The Commission suggests that, in regions where all cost-effective prevention measures have been implemented, and where demand still exceeds availability, additional water supply infrastructure can be identified as a possible way of mitigating the impacts of severe drought, with the selection of the most appropriate option being based on a full impact assessment. However, it also notes that many supply options would increase energy consumption.

Fostering water efficient technologies and practices

The Commission says that it is launching a study to assess the scope for developing specific standards for water-using devices, including farm equipment, and it refers to the work which the UK is doing to review its regulations on minimum performance requirements and maximum levels of water use for water-using appliances and fittings. It also notes the action plan on Sustainable Consumption and Production and Sustainable Industrial Production, including the proposal to widen the Ecodesign Directive to cover all energy-related products, such as water using devices whose consumption influences the energy needed for heating; and it points out that, on the basis of the experience gained with the Directive on Energy Performance of Buildings, it is launching a study to consider the need for a similar measure on the water performance of buildings.

Fostering a water-saving culture in Europe

The Report notes the crucial role of civil society in developing a water-saving and efficiency culture, and comments on a European level initiative on the development of European water awareness and water stewardship programmes.

Improved knowledge and data collection.

European water scarcity and drought information system

The Report refers to a Community initiative within the Global Monitoring for Environment and Security (GMES) land services for showing areas under water scarcity pressure, as well as changes over time.

The Government's view

7.6 In his Explanatory Memorandum of 27 January 2009, the Minister for the Natural and Marine Environment, Wildlife and Rural Affairs at the Department for Environment, Food and Rural Affairs (Mr Huw Irranca-Davies) says that the UK broadly supports the objectives of the earlier Communication and in this follow-up report in providing a framework for action by Member States, identifying threats to water supplies from both long term and short term impacts in Europe, and requiring Member States to address the problems within their borders.

Conclusion

7.7 The earlier Communication sought to identify ways of tackling at both Community and national levels a problem which seems likely to increase over time, and, whilst we were content to clear it, we thought it right to draw it to the attention of the House. We are adopting a similar approach to this follow-up report.

8 Economic Partnership Agreement between the European Community and its Member States and the East and Southern Africa partner states

(a) (30301) 17476/08 + ADDs 1–48 COM(08) 863	Draft Council Decision on the signature and provisional application of the Economic Partnership Agreement between the European Community and its Member States and the East and Southern Africa (ESA) Partner States
(b) (30350) 5112/09 + ADDs 1–48 COM(08) 861	Draft Council Decision concluding the interim agreement establishing a framework for an Economic Partnership Agreement between Eastern and Southern Africa States and the European Community and its Member States

<i>Legal base</i>	Articles 133, 181 and 300 EC; QMV
<i>Documents originated</i>	(a) 16 December 2008 (b) 16 December 2008
<i>Deposited in Parliament</i>	(a) 8 January 2009 (b) 20 January 2009
<i>Department</i>	International Development
<i>Basis of consideration</i>	EM of 29 January 2009
<i>Previous Committee Report</i>	None; but see HC 16–xxxvi (2007–8), chapter 13 (26 November 2008); HC 16–xxxv (2007–8), chapter 9 (12 November 2008); HC 16–xxxii (2007–8), chapter 10 (15 October 2008); HC 16–xxix (2007–8), chapter 10 (10 September 2008); HC 16–xxi (2007–08), chapters 13 and 14 (14 May 2008); HC 16–iv (2007–08), chapter 3 (28 November 2007); and HC16–i (2007–08), chapter 1 (7 November 2007)
<i>To be discussed in Council</i>	To be determined
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared; relevant to any debate on EU economic relations with the ACP states

Background

8.1 The Economic Partnership Agreement (EPA) negotiations with the African, Caribbean and Pacific (ACP) group of countries, which began in 2002, aimed at redefining the trade regime between the two groups of countries, thereby replacing the long-standing Lomé system of preferential access to the European market for the ACP from 2008. The EPAs are intended to be in conformity with WTO rules, which require that barriers to trade be dismantled on both sides, introducing an element of reciprocity into trade relations between the EU and the ACP states for the first time. This gave rise to concern that extensive opening of the markets in these countries to the EU could create strong adjustment pressures, while European suppliers would be only marginally affected by free market access for ACP goods and services. The deadline for negotiation was 31 December 2007.

8.2 The Commission's aim was always "full" EPAs — which include provisions on trade-related areas, trade-related rules and trade in services and include appropriate links to development cooperation, as well as trade in goods — in accordance with what is outlined in the Cotonou Agreement and the Commission's negotiating mandate. But not all of the six ACP negotiating regions were likely to conclude a full EPA by the set deadline; so, for these regions, the Commission decided to pursue basic "trade in goods agreements", which provide for duty free/quota free access and simplified Rules of Origin.

8.3 A problem arose in relation to those non-LDCs not in a position to conclude even a "trade in goods" agreement by 31 December. They would be offered, as an interim measure, the Union's generalised scheme of preference, or GSP, which is less favourable than Cotonou preferences or EPA arrangements.

8.4 Last autumn, the Commission produced, first, a Communication on EPAs and then a Regulation, based upon Article 133 EC and therefore subject to QMV. At our meeting on 7 November 2007 we recommended the Communication for debate in the European Standing Committee. Then, on 28 November 2007, we considered the draft Council Regulation, which set out what the Minister (Mr Gareth Thomas) said was the minimum necessary structure to establish a goods-only trade regime as an interim measure until "full" EPAs were established — when a participating ACP country had brought forward a WTO-compatible market access offer to the EU, it would receive all the necessary provisions to apply for the EPA market access offer (market access regime, safeguards, institutional arrangements, administrative cooperation, and Rules of Origin), which it would benefit from on 1 January 2008. However, the Minister explained, the Regulation was tied to the signing and provisional application of an EPA; if negotiations on goods were not concluded, the ACP country concerned would revert to the Generalised System of Preferences (GSP), which is less favourable than Cotonou preferences or EPA arrangements, and would not receive the duty-free, quota-free market access offered in the Regulation. The UK position had, he said, long been that ACP regions should not receive worse market access than that which they received under Cotonou preferences, and should not be offered GSP as an alternative to EPAs. Against this background, we recommended that the Regulation be debated along with the Communication. That debate took place on 3 December 2007.

8.5 In chapter 13 of our Report of 14 May 2008, and the earlier Reports referred to therein,¹⁵ we set out our consideration of the process in greater detail, concluding with a letter from the Parliamentary Under-Secretary of State at the Departments for International Development and Business, Enterprise and Regulatory Reform (Mr Gareth Thomas) outlining the general situation as of the end of April 2008.

8.6 In chapter 14 of that same report, we cleared a Council Decision authorising the signature and the provisional application, by the Community, of an EPA between the EC and its Member States and the CARIFORUM states;¹⁶ and a Council Decision authorising the conclusion of the EPA between the EC and its Member States and the CARIFORUM states.

8.7 On 10 September we also cleared Council Decisions authorising the signature and the provisional application, by the Community, and authorising the conclusion of an EPA between the EC, Member States and Ghana.¹⁷

8.8 On 15 October, we then cleared Council Decisions authorising the signature and the provisional application, by the Community, and authorising the conclusion of a “stepping stone” EPA between the EC and its Member States and Central Africa, which for the time being includes only Cameroon.¹⁸

8.9 On 12 November 2008, we also cleared the Council Decision authorising the signature, on behalf of the Community, and provisional application of a further “stepping stone” EPA between the EC and its Member States on the one hand, and Côte d’Ivoire on the other.¹⁹

8.10 Most recently, on 4 December 2008, we cleared Council Decisions authorising the signature and the provisional application, by the Community, and authorising the conclusion, of a “stepping stone” EPA between the EC and its Member States and the East African Community States.²⁰

The Council Decisions

8.11 As with these previous EPAs, these Council Decisions concern the formalities necessary to agree formally and give effect to the same international agreement, establishing a “stepping stone”, or Interim EPA (IEPA); the two step process is not unusual, since the EC Treaty expressly allows the Community to apply international agreements provisionally prior to their formal conclusion, as formal conclusion can be a lengthy process.

8.12 The EPA is a “mixed” competence international agreement. The Community common commercial policy is a matter of exclusive competence, the trade aspects fall

15 See headnote: HC 16–xxi, chapter 13 (14 May 2008), HC 16–iv (2007–08), chapter 3 (28 November 2007) and HC16–i (2007–08), chapter 1 (7 November 2007).

16 The CARIFORUM states are Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago. See HC 16–xxi (2007–08), chapter 14 (14 May 2008).

17 See headnote: HC 16–xxix (2007–8), chapter 10 (10 September 2008).

18 See headnote: HC 16–xxxi (2007–8), chapter 10 (15 October 2008)

19 See headnote: HC 16–xxxv (2007–8), chapter 9 (12 November 2008)

20 See headnote: HC 16–xl (2007–8), chapter 13 (4 December 2008).

within exclusive Community competence and some elements are within shared Member State and Community competence (development assistance.) The mixed nature of the agreement requires action by both the Community and Member States. Community signature, provisional application and conclusion of the EPA are provided for by these Proposals. Member States will separately sign and ratify the EPA themselves. In the United Kingdom, therefore, there will subsequently be separate consideration of the EPA for the purpose of UK ratification, which will require an affirmative Statutory Instrument.

The Government's view

8.13 In his Explanatory Memorandum of 29 January 2009, the Minister of State at the Department for International Development (Mr Gareth Thomas) explains that the IEPA establishes “a World Trade Organisation compliant Free Trade Area (FTA) which will replace the Cotonou Agreement that expired in 2007 [which] ensures that ESA countries have duty-free, quota-free access (DFQF) to the EU market on a secure legal basis for all products barring rice and sugar, where current provisions will be gradually phased out.”

8.14 The Minister also notes that the proposed Council Decision on signature and provisional application of the EPA is based on Articles 133 and 181 EC (these legal bases reflect the trade and development content of the EPA respectively) and Article 300(2) EC (which authorises provisional application of international agreements).

8.15 Though he does not do so on this occasion, the Minister had also previously noted that in addition to Article 133 and 181, the proposed Council Decision on the conclusion of the Agreement is based on Article 300(3), which provides for the conclusion of international agreements.

8.16 The Minister then (as previously) goes on to note that, although neither co-decision nor cooperation procedures is applicable, the assent of the European Parliament will, however, be sought in the context of the Council Decision formally concluding the EPA (the Minister having on previous occasions explained that this is a procedural requirement for conclusion of international agreements having an impact on the EU budget under Article 300(3) EC).

8.17 Finally, the Minister says, although adoption in the Council is subject to Qualified Majority Voting, he understands that (as with the previous EPAs) the matter is likely to proceed on the basis of consensus, given that the EPA is a mixed agreement that the Member States are also required to ratify in their own right before it can take effect.

8.18 The Minister recalls the UK position — that EPAs should help provide a framework for long term development, economic growth and poverty reduction for Africa, the Caribbean and Pacific — and continues as follows:

“We are generally content with the market access provisions in the Agreement. However, we have some concerns that the scope of Zimbabwe’s liberalisation may be ambitious given the prevailing economic situation and uncertainty over future political developments. The Commission have highlighted the difficulties of providing support to Zimbabwe in the current political circumstances, but we will urge them to show flexibility as and when these change/improve. The UK has no

trade sanctions in place against Zimbabwe. The UK subscribes to EU targeted measures directed against those individuals and organisations in Zimbabwe that have been responsible for the worst excesses of the current regime.

“The coverage of the IEPA as a ‘goods only’ agreement is appropriate for the region, given that Zambia and Comoros are LDCs. The UK supports the progression to a comprehensive EPA, which covers services and other trade related issues, at a pace and scope acceptable to ACP countries. Although the ESA Agreement alludes to a 31 December 2008 date for negotiating a comprehensive EPA framework, this is not binding. Negotiations towards a regional agreement are ongoing and relatively advanced.

“The Rules of Origin (ROOs) under the ESA IEPA are more liberal than under the Cotonou Agreement in relation to textiles and clothing. ESA countries wishing to produce clothing can now source cloth from anywhere in the world. There is also a derogation on tuna which allows Mauritius and Seychelles to source up to 10000 processed tons from outside their territorial waters.

“The Agreement allows ESA States to use safeguards when there is a legitimate threat of disruption to the domestic market which could harm vulnerable sectors. There is also a specific agricultural safeguard that addresses the region’s widespread concerns over food security. EPA safeguards are easier to trigger than current WTO safeguards enabling ACP countries to reduce adverse effects associated with opening trade.

“The ESA Agreement is not a precondition for accessing aid for trade. The Agreement is distinct from others in the scope of its ambitions, as the development cooperation is underpinned by an extensive ESA Development Cooperation Strategy.

“The ESA region do have certain concerns relating to the IEPA, these include the stringency of ROOs regarding fisheries, export taxes and the Most Favoured Nation Clause, however all parties have agreed to sign the IEPA and revisit these concerns in the transition towards a regional EPA. We support this position, but will be watching the progress closely of these discussions.”

8.19 As part of the process of concluding this Agreement, the Minister says that his Department has consulted with the Department for Business, Enterprise and Regulatory Reform, the Foreign and Commonwealth Office, HM Revenue and Customs and the Department for the Environment Food and Rural Affairs; the UK’s representatives in Brussels; ESA states’ officials; and British NGOs.

8.20 Finally, the Minister says that, following translation into all the EU languages, the EPA will be discussed in Council and “and processed with a view to ensuring signature and provisional application of the EPA by all parties during 2009.”

Conclusion

8.21 No issues arise from the Council Decisions, which, as the Minister explains, are the standard procedure for agreements of this nature. We accordingly now clear the documents.

8.22 We are, however, drawing them to the attention of the House because of the widespread interest in the EPA process.

8.23 We are also, as on previous occasions, drawing them to the attention of the International Development Committee.

8.24 We also consider the document relevant to any debate on EU economic relations with the ACP states.

9 Economic Partnership Agreement between the European Community and its Member States and the Pacific Partner states

(a) (30337) 17573/08 + ADDs 1–14 COM(08) 858	Draft Council Decision on the signature and provisional application of the Interim Partnership Agreement between the European Community, and the Pacific States
(b) (30302) 5001/09 + ADDs 1–14 COM(08) 857	Draft Council Decision concluding the Interim Partnership Agreement between the European Community and the Pacific States

<i>Legal base</i>	Articles 133 and 300 EC; QMV
<i>Documents originated</i>	(a) 16 December 2008 (b) 16 December 2008
<i>Deposited in Parliament</i>	(a) 14 January 2009 (b) 9 January 2009
<i>Department</i>	International Development
<i>Basis of consideration</i>	EM of 29 January 2009
<i>Previous Committee Report</i>	None; but see HC 16–xxxvi (2007–8), chapter 13 (26 November 2008); HC 16–xxxv (2007–8), chapter 9 (12 November 2008); HC 16–xxxii (2007–8), chapter 10 (15 October 2008); HC 16–xxix (2007–8), chapter 10 (10 September 2008); HC 16–xxi (2007–08), chapters 13 and 14 (14 May 2008); HC 16–iv (2007–08), chapter 3 (28 November 2007); and HC 16–i (2007–08), chapter 1 (7 November 2007)
<i>To be discussed in Council</i>	To be determined
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared

Background

9.1 The Economic Partnership Agreement (EPA) negotiations with the African, Caribbean and Pacific (ACP) group of countries, which began in 2002, aimed at redefining the trade regime between the two groups of countries, thereby replacing the long-standing Lomé system of preferential access to the European market for the ACP from 2008. The EPAs are intended to be in conformity with WTO rules, which require that barriers to trade be dismantled on both sides, introducing an element of reciprocity into trade relations between the EU and the ACP states for the first time. This gave rise to concern that extensive opening of the markets in these countries to the EU could create strong

adjustment pressures, while European suppliers would be only marginally affected by free market access for ACP goods and services. The deadline for negotiation was 31 December 2007.

9.2 The Commission’s aim was always “full” EPAs — which include provisions on trade-related areas, trade-related rules and trade in services and include appropriate links to development cooperation, as well as trade in goods — in accordance with what is outlined in the Cotonou Agreement and the Commission’s negotiating mandate. But not all of the six ACP negotiating regions were likely to conclude a full EPA by the set deadline; so, for these regions, the Commission decided to pursue basic “trade in goods agreements”, which provide for duty free/quota free access and simplified Rules of Origin.

9.3 The difficulty arose in relation to those non-LDCs not in a position to conclude even a “trade in goods” agreement by 31 December. They would be offered, as an interim measure, the Union’s generalised scheme of preference, or GSP, which is less favourable than Cotonou preferences or EPA arrangements.

9.4 Last autumn, the Commission produced, first, a Communication on EPAs and then a Regulation, based upon Article 133 EC and therefore subject to QMV. At our meeting on 7 November 2007 we recommended the Communication for debate in the European Standing Committee. Then, on 28 November 2007, we considered the draft Council Regulation, which set out what the Minister (Mr Gareth Thomas) said was the minimum necessary structure to establish a goods-only trade regime as an interim measure until “full” EPAs were established — when a participating ACP country had brought forward a WTO-compatible market access offer to the EU, it would receive all the necessary provisions to apply for the EPA market access offer (market access regime, safeguards, institutional arrangements, administrative cooperation, and Rules of Origin), which it would benefit from on 1 January 2008. However, the Minister explained, the Regulation was tied to the signing and provisional application of an EPA; if negotiations on goods were not concluded, the ACP country concerned would revert to the Generalised System of Preferences (GSP), which is less favourable than Cotonou preferences or EPA arrangements, and not receive the duty-free, quota-free market access offered in the Regulation. The UK position had, he said, long been that ACP regions should not receive worse market access than that which they received under Cotonou preferences, and should not be offered GSP as an alternative to EPAs. Against this background, we recommended that the Regulation be debated along with the Communication. That debate took place on 3 December 2007.

9.5 In chapter 13 of our Report of 14 May 2008, and the earlier Reports referred to therein,²¹ we set out our consideration of the process in greater detail, concluding with a letter from the Parliamentary Under-Secretary of State at the Departments for International Development and Business, Enterprise and Regulatory Reform (Mr Gareth Thomas) outlining the general situation as of the end of April 2008.

9.6 In chapter 14 of that same report, we cleared a Council Decision authorising the signature and the provisional application, by the Community, of an EPA between the EC

²¹ See headnote: HC 16–xxi, chapter 13 (14 May 2008), HC 16–iv (2007–08), chapter 3 (28 November 2007) and HC16–i (2007–08), chapter 1 (7 November 2007).

and its Member States and the CARIFORUM states;²² and a Council Decision authorising the conclusion of the EPA between the EC and its Member States and the CARIFORUM states.

9.7 On 10 September we also cleared Council Decisions authorising the signature and the provisional application, by the Community, and authorising the conclusion of an EPA between the EC, Member States and Ghana.²³

9.8 On 15 October, we then cleared Council Decisions authorising the signature and the provisional application, by the Community, and authorising the conclusion of a “stepping stone” EPA between the EC and its Member States and Central Africa, which for the time being includes only Cameroon.²⁴

9.9 On 12 November 2008, we also cleared the Council Decision authorising the signature, on behalf of the Community, and provisional application of a further “stepping stone” EPA between the EC and its Member States on the one hand, and Côte d’Ivoire on the other.²⁵

9.10 Most recently, on 4 December 2008, we cleared Council Decisions authorising the signature and the provisional application, by the Community, and authorising the conclusion, of a “stepping stone” EPA between the EC and its Member States and the East African Community States.²⁶

9.11 At this meeting, we also consider a similar Interim EPA with the East and Southern Africa Partner States.²⁷

The Council Decisions

9.12 As with these previous EPAs, these Council Decisions concern the procedures necessary to agree formally and give effect to the same international agreement; the two step process is not unusual, since the EC Treaty expressly allows the Community to apply international agreements provisionally prior to their formal conclusion, as formal conclusion can be a lengthy process. The Pacific Partner States concerned by this agreement consist of the Republic of Fiji and Papua New Guinea. They and the European Commission and initialled the interim EPA on 23 November 2007.

The Government’s view

9.13 In his Explanatory Memorandum of 29 January 2009, the Minister of State at the Department for International Development (Mr Gareth Thomas) explains that this agreement differs from previous EPAs in that it is “a goods only agreement and references to development are limited at the request of the Pacific states.” He goes on to explain that

22 The CARIFORUM states are Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago. See HC 16–xxi (2007–08), chapter 14 (14 May 2008).

23 See headnote: HC 16–xxix (2007–8), chapter 10 (10 September 2008).

24 See headnote: HC 16–xxxi (2007–8), chapter 10 (15 October 2008)

25 See headnote: HC 16–xxxv (2007–8), chapter 9 (12 November 2008)

26 See headnote: HC 16–xxxvi (2007–8), chapter 13 (26 November 2008).

27 See (30301) 17476/08 and (30350) 5112/09 at chapter 8 of this Report.

the EPA establishes a Free Trade Area compatible with WTO rules and will make permanent the trade preferences granted to Pacific EPA states under the Market Access Regulation (“except for rice and sugar exports which are subject to short transition periods”). The agreement also “commits the Pacific states to open gradually their markets to EU imports.”

9.14 The Minister also notes that:

- Rules of Origin (ROOs) are included in the Agreement and determine which exports qualify as originating from Pacific states and are therefore eligible to EU preferences offered under the EPA;
- the Agreement enables both parties to take measures to protect their national markets in particular circumstances;
- these measures include a safeguard clause which allows both parties (EC and Pacific states) to raise duties or impose quotas for those sectors and industries that are threatened; and
- this includes safeguard provisions for infant industries.

9.15 In addition to the aspects outlined in paragraph 9.12 above, the Minister explains that, in this instance, the agreement falls within the exclusive competence of the Community, is therefore being signed on behalf of the Community alone, and will take effect in UK law automatically.

9.16 He further explains that, unlike the others, this EPA “contains very minor elements relating to development assistance and therefore it is not necessary to include a legal base of Article 181 EC.”

9.17 Otherwise, the proposed Council Decision on signature and provisional application of the EPA is based on Articles 133 (reflecting the trade content of the EPA) and Article 300(2) EC (which authorises provisional application of international agreements); and the proposed Council Decision on the conclusion of the Agreement is based on Article 300(3), which provides for the conclusion of international agreements.

9.18 The Minister also notes that, although neither co-decision nor cooperation procedures is applicable, the European Parliament will be consulted in the context of the Council Decision formally concluding the EPA (the Minister having on previous occasions explained that this is a procedural requirement for conclusion of international agreements having an impact on the EU budget under Article 300(3) EC).

9.19 Finally, the Minister notes that adoption in the Council will be Qualified Majority Voting (with the other EPAs, the Minister noted that the matter was likely to proceed on the basis of consensus, given that those EPAs are mixed agreements that the Member States are also required to ratify in their own right before they can take effect).

9.20 The Minister recalls that the Government’s policy on EPAs has centred on a number of key principles, set out in the DFID/DTI Position Paper of 2005, to promote the development benefits of EPAs, and continues thus:

“This Agreement broadly aligns with these principles; however there are limited references to development. As this was at the request of the Pacific States we are content with the position and the commitment of both parties to move toward a regional EPA that fully incorporates development issues.

“The agreement states that the parties of the EPA commit to concluding negotiations for the comprehensive EPA by 31 December 2008. We are aware that this date has passed but Commission negotiators confirmed that this deadline was a political, not a legal commitment. We encourage the Commission and the Pacific states to move towards a comprehensive agreement that includes development aspects, at a pace acceptable to the Pacific States. In the meantime, this interim agreement will ensure WTO compatibility.

“In terms of market access, the Pacific offer is more ambitious than others where the standard expectation is for ACP countries to liberalise trade across 80% of the value of imports within 15 years. Papua New Guinea will eliminate tariffs across 88% of the value of imports from the EU before 2022 and Fiji will remove tariffs across 87% of the value of EU imports by this date. Papua New Guinea and Fiji are excluding between 12 and 13% respectively of goods from liberalisation in order to safeguard sensitive sectors.

“Fiji and Papua New Guinea chose to agree a ‘goods only’ interim EPA. Other Pacific states have smaller volumes of trade with the EU and therefore had less incentive to sign up at this stage. However, the region as a whole is interested in negotiating a comprehensive EPA including services, investments and other trade related and development issues. There is particular interest in Mode 4 which allows for the temporary migration of workers to EU member states. We will be working with other Member States to lobby the Commission to ensure that ACP states are provided with sufficient time to negotiate an effective agreement that supports regional integration and development aspirations of the region.

“We welcome the fact that this agreement includes Rules of Origin (ROOs) that are more liberal than that offered under the Cotonou Agreement to export to Europe, particularly in relation to clothing and fisheries.

“The Agreement contains protective measures such as safeguards, which will enable Pacific EPA states to apply or raise duties or quotas on imports if faced with a surge of imports from the EU. We are pleased that it specifically allows the use of safeguard measures to protect infant industries. The agreement also makes certain provisions where either party is at the threat of, or is experiencing, serious balance of payment issues and external financial difficulties. We welcome this provision considering the current economic challenges faced by countries.

“The Agreement, like other EPAs, includes provisions that are not strictly required for WTO compatibility but are common in free trade agreements, including the Standstill Clause and a ban on new export taxes (except in exceptional circumstances). The Most Favoured Nation clause is also included. We are not aware of any concerns that have been raised in connection with the inclusion of these clauses into the agreement.”

9.21 As part of the process of concluding this Agreement, the Minister says that his Department has consulted with the Department for Business, Enterprise and Regulatory Reform, the Foreign and Commonwealth Office, HM Revenue and Customs and the Department for the Environment Food and Rural Affairs; the UK's representatives in Brussels; Pacific states' officials; and British NGOs.

9.22 Finally, the Minister says that, following translation into all the EU languages, the EPA will be discussed in Council and “and processed with a view to ensuring signature and provisional application of the EPA by the Commission in May 2009.”

Conclusion

9.23 **No issues arise from the Council Decisions, which, as the Minister explains, are the standard procedure for agreements of this nature. We accordingly now clear the documents.**

9.24 **We are, however, drawing them to the attention of the House because of the widespread interest in the EPA process.**

9.25 **We are also, as on previous occasions, drawing them to the attention of the International Development Committee.**

10 Open Method of Coordination for social protection and social inclusion

(29821) 11560/08 COM(08) 418	Commission Communication: <i>A renewed commitment to social Europe: reinforcing the Open Method of Coordination for social protection and social inclusion</i>
+ ADDs 1–2	Commission staff working documents: impact assessment and summary of assessment
+ ADD 3	Commission staff working document: efficiency and effectiveness of social spending
+ ADD 4	Commission staff working document: biennial report on social services of general interest

<i>Legal base</i>	—
<i>Department</i>	Work and Pensions
<i>Basis of consideration</i>	Minister's letters of 3 December 2008 and 26 January 2009
<i>Previous Committee Report</i>	HC 16–xxix (2007–08), chapter 5 (10 September 2008)
<i>Discussed in Council</i>	17 December 2008
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Legal base for Community action

10.1 Three Articles of the EC Treaty provide the legal base for Community action on social policy:

- Article 136 requires the Community and Member States to have as their objective (among other things) the promotion of employment, the improvement of living conditions, proper social protection and combating social exclusion.
- Article 137 requires the Community to support and complement the activities of Member States on (among other things) social security, the social protection of workers, the integration of people excluded from the labour market and the modernisation of social protection systems.
- Article 140 requires the Commission to encourage cooperation between Member States and to facilitate the coordination of their action in all fields of social policy.

10.2 In addition, Article 144 of the EC Treaty requires the Council to establish the Social Protection Committee to promote cooperation between Member States on social protection policy, monitor social conditions, encourage the exchange of information and good practice, give advice and do work at the request of the Council or Commission. The

members of the Social Protection Committee are officials of the Member States and the Commission.

The development of the Open Method of Coordination

10.3 The European Council defined the Open Method of Coordination (OMC) in 2000 when approving the Lisbon Strategy. The main ingredients of the OMC are as follows:

- Member States voluntarily agree EU-wide objectives and goals;
- they also define a set of common indicators to measure progress towards the achievement of the objectives;
- each Member State translates the common objectives into national policies; and
- progress is assessed jointly by the Commission and Member States.

10.4 This general framework has been applied to a variety of EC policy areas, including social policy and there is now a single OMC for social protection and social inclusion (“the Social OMC”).

10.5 The Council has agreed both general and specific objectives for the Social OMC. The general objectives are to promote:

“(a) social cohesion, equality between men and women and equal opportunities for all through adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies;

“(b) effective and mutual interaction between the Lisbon objectives of greater economic growth, more and better jobs and greater social cohesion, and with the EU’s Sustainable Development Strategy;

“(c) good governance, transparency and the involvement of stakeholders in the design, implementation and monitoring of policy.”

The specific objectives include, for example, ensuring that everyone has access to a retirement income which enables them to maintain, to a reasonable degree, their standard of living after retirement. Member States have also agreed 14 EU-wide indicators to monitor progress towards the objectives. Member States produce national action plans once every three years. Each plan reports on the Member State’s progress towards achieving the OMC’s objectives and its intentions for further action. The national plans provide the basis for a Joint Report by the Commission and Council to the European Council.

Previous scrutiny of the document

10.6 In September 2008, we considered this Communication from the Commission.²⁸ It takes account of the views of the Member States, the Social Protection Committee, regional and local authorities, service providers, academics and others who responded to the

28 (29821) 11560/08: see HC 16–xxix (2007–08), chapter 5 (10 September 2008).

Commission's public consultations about the strengths and weaknesses of the Social OMC. Their general assessment was largely positive. But the Commission had concluded that there are some important weaknesses in the Social OMC and it needs strengthening.

10.7 The Commission suggests, for example, that:

- each Member State might define and publicise its own national quantified targets for such things as minimum retirement pensions, the reduction of poverty, increases in life expectancy and reductions in infant mortality;
- Member States with similar problems might wish to work together in sub-groups, under the umbrella of the OMC;
- the Commission will make Recommendations for common principles to be used in monitoring and peer reviews;
- improvements are needed in the collection and analysis of statistics relevant to social policy; and
- there should be better and more extensive use of peer review.

10.8 The then Parliamentary Under-Secretary of State at the Department for Work and Pensions (Mr James Plaskitt) told us that the Government would be carefully considering each of the detailed proposals in the Communication.

10.9 In our report on the Communication, we said that, on the one hand, the EC Treaty provides a legal base for the Community to provide support for the social policies of the Member States. And Article 140 of the Treaty gives the Commission responsibility for encouraging cooperation between Member States and facilitating the coordination of their action on social policy. On the other hand, there is no specific Treaty provision for the Open Method of Coordination. Cooperation between the Member States on social policy is voluntary; and it is the Member States — not the Commission or the Community — who make the policies and have the responsibility for implementing them. We concluded, therefore, that constant vigilance is required to ensure both that the Commission does not exceed the functions given to it by the EC Treaty and that the Council, after discussion with the Commission, determines how the OMC operates. We asked the Minister to tell us the outcome of the Government's detailed consideration of the proposals. Meanwhile, we kept the document under scrutiny.

The Minister's letter of 3 December 2008

10.10 In his letter of 3 December, the Parliamentary Under-Secretary of State at the Department for Work and Pensions (Mr Jonathan Shaw) told us that the Government:

- had obtained an assurance that the Commission that was only encouraging Member States to set their own targets as a matter of good practice; it was not advocating the creation of common EU-wide targets;

- DWP and Treasury officials were considering whether the UK’s current national targets should be widened; and, in particular, whether to recommend targets for UK pensions;
- the Government agreed with the Commission that there can be an advantage in those Member States with a shared interest in a subject coming together in a sub-group of the OMC;
- the Government also agreed with the Commission about the need for better collection and analysis of social statistics but will examine each proposal for additional collections to see if it would entail disproportionate cost or administrative work;
- the Social Protection Committee (comprised of senior officials from the Member States) had produced an Opinion on the Communication. It reflected the Government’s priorities for the OMC, stating for example that setting quantified national targets is a core responsibility of the Member States; and
- the Minister expected the Employment and Social Policy Council to approve the Opinion at its meeting on 17 December.

10.11 We thanked the Minister for his helpful letter and asked him to tell us about the outcome of the Employment and Social Policy Council’s discussion.

The Minister’s letter of 26 January 2009

10.12 The Minister tells us that, because of the need to discuss responses to the economic down-turn and the European Parliament’s proposed amendments to the Working Time Directive, the Council did not have time for a substantive discussion of the Communication at its meeting on 17 December. But the Council unanimously adopted the Social Policy Committee’s Opinion.

10.13 The Minister says that:

“This successful outcome for the UK is already being reflected in early follow-up. For example, discussion of the draft Joint Report for Social Protection and Social Inclusion, at the [meeting of the Social Protection Committee on] 15 January ... confirmed that the Commission is promoting the use of national targets as a potentially useful tool — consistent with the sharing of information and good practice under the Open Method of Coordination — but accepts that this is a matter for member states.”

The Minister adds that the Government has good support from other Member States on the need to respect national competence and that it will continue to take a positive part on the OMC as a valuable means for Member States to learn from each other.

Conclusion

10.14 **We are grateful to the Minister for the information in his letters of 3 December and 26 January. It seems to us clear that the Government is well aware of the need to**

resist any move by the Commission to intrude on Member States' responsibilities for social policy and that it wants the OMC to remain a flexible means for voluntary cooperation. We welcome the Opinion of the Social Protection Committee and the Council's adoption of it on 17 December.

10.15 We have no further questions to put to the Minister and we are now content to clear the document from scrutiny.

11 Globalisation Adjustment Fund

(30321) 5005/09 COM(08) 867	Draft Regulation amending Regulation (EC) No. 1927/2006 on establishing the European Globalisation Fund
+ ADDs 1–2	Commission staff working documents: impact assessment and summary of assessment

<i>Legal base</i>	Article 159 EC; co-decision; QMV
<i>Document originated</i>	16 December 2008
<i>Deposited in Parliament</i>	13 January 2009
<i>Department</i>	Work and Pensions
<i>Basis of consideration</i>	EM of 22 January 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	March 2009
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

11.1 Article 158 of the EC Treaty requires the Community to strengthen its economic and social cohesion. Article 159 provides that the Council may adopt legislation if it is necessary to achieve the objectives of Article 158 and if those objectives cannot be attained through the Structural and Cohesion Funds.

11.2 In 2006, with the aim of stimulating economic growth and creating more jobs in the EU, the Council adopted a Regulation to establish the European Globalisation Adjustment Fund. Its purpose is to enable the Community to provide support to people who are made redundant because of major structural changes in world trade patterns due to globalisation.²⁹ The Fund has a maximum annual budget of €500 million for the period 2007–13. It may be used to provide up to 50% of the cost of action by a Member State to re-integrate redundant people into the labour market by providing, for example, training,

²⁹ Regulation No. 1927/2006: OJ No. L 406, 30.12.06, p.1.

occupational guidance and allowances to help people search for jobs or re-locate to find work.

11.3 A Member State may apply for support from the Fund if, as a result of major structural changes in trade patterns, there is a substantial increase in imports to the EU, or a rapid decline in the EU's market share, which causes an enterprise and its suppliers to make at least 1000 people redundant in the Member State over a 4-month period. The Commission is responsible for assessing the application and, where appropriate, seeking the approval of the Council and European Parliament to make a contribution from the Fund. The Member State must use the contribution within 12 months of applying for it.

11.4 During 2007 and the first half of 2008, the Commission received 12 applications from eight Member States. By December 2008, six applications had been decided, resulting in payments from the Fund of €18.6 million in 2007 and €3.1 million in 2008.

11.5 In July 2008, the Commission published a report on the way the Fund was working.³⁰ It outlined changes to the Regulation which the Commission was considering so as to improve take-up of support from the Fund.

11.6 In its European Economic Recovery Plan of 28 November 2008, the Commission announced its intention to revise the rules of the Fund to make it a more effective means to respond to the financial crisis in the EU.³¹ That is the main purpose of the draft Regulation.

The document

11.7 The draft Regulation provides for the rules of the European Globalisation Adjustment Fund to be amended. The main proposals are to:

- widen the scope of the Fund until the end of 2010 so that the Community may support workers made redundant as a result of the current global financial and economic crisis as well as people made redundant because of changes in world trading patterns due to globalisation;
- reduce the required number of redundancies from at least 1000 to at least 500;
- widen eligibility for support to include workers who are made redundant before or after the beginning of the 4-month reference period so long as their redundancy can be linked to the same cause as the redundancies made within the four months;
- increase the maximum contribution from the Fund to 75% of the cost of the action by the Member State to help redundant workers obtain work (at present, the maximum is 50%); and
- allow Member States two years in which to use the contribution (at present, it must be used within a year).

30 (29820) 11554/08 Commission Communication—Solidarity in the face of change: the European Globalisation Fund in 2007 — review and prospects.

31 (30213) 16097/08: HC 19-i (2008–09), chapter 4 (10 December 2008).

The Government's view

11.8 The Parliamentary Under-Secretary of State at the Department for Work and Pensions (Jonathan Shaw) tells us that the Government believes that some of the proposed amendments — and, in particular, those to reduce the required number of redundancies from 1000 to 500 and to increase the maximum rate of contribution from 50% to 75% — are not compatible with the original aims of the Fund. Moreover, the Government does not believe it is necessary expressly to widen the scope of the Fund because Article 1 of the Regulation is already wide enough to enable the Community to respond to redundancies caused by the current global financial and economic crisis.

11.9 The Minister adds, however, that there is broad support for the proposals among other Member States.

Conclusion

11.10 It seems to us to be a matter of opinion whether the amendments proposed by the Commission are consistent with the original aims of the European Global Adjustment Fund, whether the original aims should be changed and whether the existing Regulation is sufficiently wide to enable the Community to use the Fund to respond to redundancies arising from the acute economic difficulties some Member States are currently experiencing. We do not find it surprising or a cause for concern that Member States are not all of one mind about the answers to these questions. Nor does it appear to us that the differences of opinion are a sufficient or necessary reason for us to keep the draft Regulation under scrutiny. In our view, the legal base for the measure is appropriate and the proposals are consistent with the principles of subsidiarity and proportionality. We have decided, therefore, to clear the document from scrutiny and draw it to the attention of the House by this Report.

12 The EU and Central Asia

(30174)	Council Joint Action amending the mandate of the Special Representative of the European Union for Central Asia
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<i>Legal base</i>	Articles 14, 18.5, and 23.2 EU; QMV
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	Minister’s letter of 15 January 2009
<i>Previous Committee Report</i>	HC 16–xxxvi (2007–08), chapter 19 (26 November 2008); (28873) —: HC 41–xxxiii (2006–07), chapter 18 (2 October 2007); and (28674) —: HC 41–xxv (2006–07) chapter 12 (13 June 2007)
<i>Discussed in Council</i>	2 December 2008 Economic and Financial Affairs Council
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared, (decision reported on 26 November 2008); further information now provided

Background

12.1 EU Special Representatives (EUSRs) are appointed to represent Common Foreign and Security Policy where the Council agrees that an additional EU presence on the ground is needed to deliver the political objectives of the Union. They were established under Article 18 of the 1997 Amsterdam Treaty and are appointed by the Council. The aim of the EUSRs is to represent the EU in troubled regions and countries and to play an active part in promoting the interests and the policies of the EU.

12.2 An EUSR is appointed by Council by a Joint Action under the EU Treaty. The substance of his or her mandate depends on the political context of the deployment. Some provide a political backing to an ESDP operation, others focus on carrying out or contribute to developing an EU policy. All EUSRs carry out their duties under the authority and operational direction of the High Representative (Javier Solana). Each is financed out of the CFSP budget implemented by the Commission. Member States also contribute directly for example through staff secondment to the EUSR’s office.

The EU Strategy for Central Asia

12.3 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.

12.4 The EU Strategy for Central Asia — Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan — sets out the EU’s approach to promoting democracy, human rights, good governance and sustainable development, counter-terrorism, counter-narcotics and energy security in Central Asia. It lays out how it intends to work within

existing instruments, such as the Partnership and Co-operation Agreements and other cooperation frameworks, to enhance cooperation.

12.5 We considered it on 13 June 2007 on the basis of a 6 June 2007 Explanatory Memorandum from the then Minister for Europe at the Foreign and Commonwealth Office (Mr Geoffrey Hoon). He explained that:

- the December 2006 European Council mandated the incoming German Presidency to prepare the Strategy for adoption at the European Council in June 2007;
- the Strategy would serve as the general framework for enhancing EU cooperation with the Central Asian states over the next 5–10 years;
- it was not a legislative document, but would sit alongside the European Commission’s 2007–2013 Assistance Strategy for Central Asia, which provides the resources to support the strengthening of political dialogue with the Central Asian states; and
- it was based on “a clear sense, both within the EU and the Central Asia region, that the EU’s profile in the region was low, and fell some way behind that of Russia, China and the United States”.

12.6 The EU interest in security and stability as well as in adherence to human rights and the rule of law in Central Asian States derived from:

- strategic, political and economic developments as well as increasing trans-regional challenges in Central Asia impacting directly or indirectly on EU interests;
- with EU enlargement, the inclusion of the Southern Caucasus into the European Neighbourhood Policy and the Black Sea Synergy Initiative; and
- significant energy resources in Central Asia and the region’s aim to diversify trade partners and supply routes helping to meet EU energy security and supply needs.

12.7 Security questions and regional economic development also required close EU cooperation with each Central Asian state, taking into account their geographical location — in particular with respect to Afghanistan, Pakistan and Iran — in the areas of border management, migration, the fight against organised crime and international terrorism, as well as human, drugs, and arms trafficking. EU dependency on external energy sources and the need for a diversified energy supply policy in order to increase energy security opened further perspectives for cooperation, to strengthen local energy markets, improve investment conditions, increase energy production and efficiency and diversify energy supply and distribution in the region. Priorities for cooperation with each Central Asian state would be according to its specific needs, requirements and performance, including human rights, good governance, democracy and social development. In order to address issues of particular importance, the EU would within the framework of this Strategy:

- establish a regular regional political dialogue at Foreign Ministerial level;
- start a “European Education Initiative” and support Central Asian countries in the development of an “e-silk-highway”;

- start an “EU Rule of Law Initiative”;
- establish a regular, results-oriented “Human Rights Dialogue” with each of the Central Asian States;
- conduct a regular energy dialogue.

12.8 As well as making full use of the potential of Partnership and Co-operation Agreements, Commission and Member States’ programmes, the EU would make greater use of cooperation frameworks such as the Baku Initiative. Co-operation with the UN, OSCE, the Council of Europe, NATO, international financial institutions and with other regional organisations and fora would be enhanced.

12.9 The EUSR would monitor the implementation process, make recommendations and report to relevant Council bodies on a regular basis.

12.10 Use would be made of twinning and seconding staff between EU and Central Asian administrations or companies and public-private partnership initiatives. Interaction with international financial institutions would be strengthened, including the World Bank and the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB).

12.11 The paper then developed each of these broad approaches in greater detail.

12.12 The Strategy included an automatic review mechanism in June 2008 and every two years subsequently.

12.13 The then Minister said that there were no direct additional financial implications for the UK. Within the new external assistance instruments based on the EU budget for 2007–2013, the Commission had allocated €750 million for Central Asia, which would be disbursed through the European Commission Assistance Strategy for Central Asia for 2007–2013. The average annual allocation for the region would increase from €58 million in 2007 to €139 million in 2013.

12.14 We cleared the draft Strategy, prior to its agreement at the 18 June General Affairs and External Relations Council and subsequent adoption by the 21–22 June European Council.³²

The European Union Special Representative for Central Asia

12.15 The EU established a Special Representative for Central Asia in September 2005 to ensure coordination and consistency of external EU actions in the region. Jan Kubis, the former Secretary-General of the Organisation for Security and Co-operation in Europe, was appointed to this position. Mr Kubis resigned in July 2006 on his appointment as Slovak Foreign Minister and Mr Pierre Morel was appointed in September 2006.

12.16 His initial mandate was based on contributing to the strengthening of democracy, rule of law, good governance and respect for human rights and fundamental freedoms in

³² See (28674) —: HC 41–xxv (2006–07), chapter 12 (13 June 2007) for further details.

Central Asia. It also focused on enhancing EU effectiveness and visibility in the region, including through a closer coordination with other relevant partners and international organisations, such as the Organisation for Security and Co-operation in Europe. The mandate was amended to contribute to wider Common Foreign and Security Policy work on energy security, and to help develop bilateral energy cooperation with important producer and transit partners in Central Asia. We cleared the most recent amendment on 2 October 2007.³³

12.17 This was brought about by the adoption of the EU Strategy for Central Asia. As well as assigning the EUSR an enhanced role in monitoring implementation, making recommendations and reporting to relevant Council bodies on a regular basis, the EUSR was tasked with developing contacts and cooperation with relevant regional and international organisations interested in Central Asia. These include the Shanghai Co-operation Organisation (SCO), the Collective Security Treaty Organisation (CSTO) and the Central Asian Regional Information and Co-ordination Centre (CARICC) — a UN led project which has established a regional body dealing with co-ordination of anti-drug activities. A specific tasking was also added in relation to input on the formulation of the counter-narcotics aspects of Common Foreign and Security Policy. The EUSR was to be instrumental in drawing up the individual country action plans envisaged as the first step towards implementation. The formalisation of ad hoc contacts and cooperation with the other major regional players as developed over the previous year was expected to lead to better access and greater understanding of other regional organisations.

12.18 The then Minister said that since his appointment Mr Morel had travelled widely in the region; produced the initial draft of the new Strategy; and contributed to EU discussions on policy towards the region, including on energy security and counter-narcotics; more broadly, Mr Morel would “continue to provide a common focus for delivering EU messages not just on key human rights issues, but also on the benefits of regional cooperation and on potential EU cooperation and technical assistance in helping the region to address some of its shared socio-economic difficulties”.

12.19 As well as requiring the Special Representative to play a more significant role in monitoring and reporting on the implementation of the Strategy, the then Minister noted that he would be “instrumental in drawing up the individual country action plans envisaged at the first step towards implementation” and that the amendments formalised the Special Representative’s role in developing contacts and cooperation with the other major regional players: “Whereas this has been happening on an ad hoc basis over the last year, the formalising of this role is expected to lead to better access and greater understanding of other regional organisations”.

12.20 For our part, when clearing the Strategy, we noted that it was timely, comprehensive and ambitious; and also that — thanks to UK efforts, we were told — was properly balanced, with the introduction stating that “the development and consolidation of stable, just and open societies, adhering to international norms, is essential to bring the partnership between the European Union and Central Asian States to full fruition”. We recalled that differences between the EU and the authorities in Uzbekistan over good

33 See headnote.

governance issues, and the latter's failure to respond to international concern, illustrated the extent of the challenges that would have to be overcome in at least one instance before that full fruition was attained; and that the travails that the EU-Russia relationship was undergoing also illustrated the inherent difficulties in creating the sort of partnership to which the European Union naturally aspired, but which remained elusive and problematic.

12.21 While also noting that there were no financial implications for the UK, we presumed that the UK would be involved in at least some of the bilateral programmes envisaged under the strategy, and asked the Minister, when he submitted an Explanatory Memorandum on the 2008 review, to outline what relevant UK activity there had been and how much it had cost.

12.22 We also asked that the Minister outline and assess Mr Morel's contribution at that stage, including what progress had been made in drawing up each of the Action Plans to which he referred and in resolving any of the more contentious issues with Central Asian partners.

12.23 Most recently, we cleared a Joint Action providing for Article 3(1)(i) of Joint Action 2008/107/CFSP to be replaced by the following text:

“(i) provide input to the formulation of energy security, anti-narcotics and water resource management aspects of the CFSP with respect to Central Asia.”

12.24 In her accompanying Explanatory Memorandum of 19 November 2008, the Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) said that Mr Morel had continued to travel widely in the region, contribute to EU discussions on policy towards the region, including on energy security and counter-narcotics and be effective in raising the profile of the EU in Central Asia. As well as expecting Mr Morel to continue to provide a common focus for delivering EU messages not just on key human rights issues, but also on the benefits of regional cooperation and on potential EU assistance in helping the region to address some of its shared socio-economic difficulties, the Minister welcomed this latest amendment to his mandate because it would enable him to play a more significant role in monitoring and reporting on water management issues identified in the EU Strategy for Central Asia. Promoting cooperation on water management was part of its overall objective of fostering regional security and stability, and supporting economic development — the Strategy having noted in particular how fair access to water resources will be a major challenge for the world in the 21st Century, and how most environmental issues in Central Asia are related to the allocation, use and protection of the quality of water resources. Mr Morel's revised mandate would “allow him to support steps towards a more integrated upstream & downstream water management policy in the region”.

12.25 The proposed change to Mr Morel's mandate raised no questions, and the Committee accordingly cleared the draft Joint Action. But we also noted that it was now nearly 18 months since the Strategy was launched, and that we had as yet not seen the scheduled 2008 review of progress or, the Minister's Explanatory Memorandum on it and

the points that we also asked to be covered. We therefore asked the Minister to let us know when she expected to be in a position to provide this information.³⁴

The Minister's letter of 15 January 2009

12.26 The Minister encloses the first Joint Commission/Council Progress Report on the implementation of the EU Central Asia Strategy³⁵ and begins by agreeing that, overall, progress on implementing the Strategy has been encouraging. She also shares its conclusions about the challenges ahead, in particular to maintain the political momentum through reinforced coordination between the EU institutions and Member States, greater EU visibility and involvement in the region, increased financial resources as well as active contributions from Central Asian countries themselves. She also shares the Report's view that "implementation of such an ambitious strategy is a long term endeavour that will require sustained efforts by both the EU and Central Asian states".

12.27 The Minister then highlights a few of the principal activities undertaken since the adoption of the strategy. She notes that political dialogue has intensified significantly: firstly, two meetings at Foreign Minister level between the EU Troika and Central Asia countries in June 2007 in Berlin, at the close of the German Presidency, and on April 2008 in Ashgabat, during the Slovenian Presidency; and then the first EU-Central Asia Ministerial Security Forum, which brought together for the first time Foreign Ministers from all Member States and Central Asia, with discussion focussing on terrorist threats, the fight against human and drug trafficking, and energy and environmental security. The Report also confirms the EU's continued close cooperation — principally through visits by Mr Morel — with other international partners in the region, including the UN and the OSCE, the Shanghai Co-operation Organization (SCO), the Collective Security Treaty Organization (CSTO), the Conference on Interaction and Confidence-building measures in Asia (CICA), the Central Asia Regional Environment Centre (CAREC) and the Central Asian Regional Information and Coordination Centre (CARICC) for the fight against narcotics trafficking.

12.28 Turning to the *Rule of Law Initiative* (whose main objectives are to promote legal and administrative reform, thereby safeguarding both economic interests and human rights and fundamental freedoms), the Minister recalls that the Strategy aims to achieve this by providing technical training and the exchange of international expertise, including facilitating contacts with the Council of Europe's legal experts on the Venice Commission and seconding international experts to work directly with their Central Asian counterparts. She notes that it was formally launched at a Ministerial Conference in Brussels on 27/28 November 2008, with "a lively and constructive debate between official representatives and experts from the EU and Central Asia, who agreed to share experience and explore practical measures to increase mutual understanding in the area of legal and judicial reform."

34 See headnote: HC 16–xxxvi (2007–08), chapter 19 (26 November 2008)

35 The full text of which is available at http://ec.europa.eu/external_relations/central_asia/docs/progress_report_0608_en.pdf

12.29 The Minister then notes that the *Educational Initiative*, which sets up a coordination mechanism among EU donors to support the further modernisation of the education and vocational training sectors in Central Asia, was formally launched on 17 September 2008 at the first EU-Central Asia Ministerial meeting. The Commission also briefed Central Asian countries on the EU's "Erasmus Mundus External Cooperation" programme and the design phase of a new EC-funded programme for high speed data links between the research and education sectors in Central Asia.

12.30 *Human rights dialogues* have now taken place with all five Central Asian countries:

"The second round of the *EU-Uzbekistan* human rights dialogue took place in Brussels on 5 June 2008. The EU raised a wide range of concerns, in particular freedom of expression, prison conditions and access including treatment of returned refugees, follow-up to the abolition of the death penalty, freedom of religion, development of civil society, notably the situation of NGOs and human rights defenders, and child labour[; and] also a number of individual cases

"The first round of an *EU-Turkmenistan* Human Rights dialogue took place on 24 June 2008 in Ashgabat (building on the ad hoc meeting in Brussels on 18 September 2007). The EU raised a range of concerns including freedom of association and assembly, freedom of expression and the media, freedom of thought and religion, prison conditions and freedom of movement and forced displacement.

"First round dialogues also took place with *Kazakhstan* in Astana on 15/16 October 2008, *Kyrgyzstan* in Bishkek on 28 October 2008 and with *Tajikistan* in Dushanbe on 31 October 2008. We and our EU partners continue to stress the importance of further political reform in Kazakhstan ahead of Kazakhstan's Chairmanship of the OSCE in 2010. The EU also raised human rights issues in its Cooperation Council and Committee meetings with the countries of the region, as well as in meetings in other formats where Partnership and Cooperation Agreements are not in place."

12.31 Turning to *regional and global energy security of further diversification of export routes, demand and supply structures and energy sources*, the Minister notes the importance of the INOGATE (Interstate Oil and Gas Transport to Europe) programme for EU work in this area, including an intensified dialogue under the November 2004 Baku Initiative on energy cooperation between the EU and the Littoral States of the Black and Caspian Seas and their neighbouring countries:

"Energy security featured in the Joint Declaration at the EU-Central Asia Ministerial Security Forum in Paris in September 2008. And the need for action on a trans-Caspian energy corridor was reinforced at the 6th Energy summit in Baku on 13 November 2008. The EU remains committed to this and, in particular, to the Nabucco project."

12.32 To that end, the Minister say, the UK has welcomed the Commission's Second Strategic Energy Review (which sets out the need for concrete actions on diversification, energy efficiency and infrastructure development) and its focus on the Southern Corridor as one of six priority projects. The Report also notes how, at the bilateral level, cooperation is strengthening via Memoranda of Understanding with Kazakhstan and Turkmenistan.

12.33 With regard to *the critical importance of an integrated water management policy in Central Asia*, the Report records a first high level EU-Central Asia Meeting on water management issues and the environment in Ashgabat on 3 December 2008:

“The meeting recognized the importance of regional co-operation for achieving sustainable economic and social development, as well as contributing to peace, stability and prosperity in Central Asia. Participants agreed to strengthen co-operation on transboundary environmental issues and shared use of natural resources, and to undertake a reinforced dialogue on the international legal aspects of the issue.”

12.34 In conclusion, the Minister notes that a second Joint Implementation Progress Report is due in mid-2010:

“We shall continue via our missions in the region and the UK Representation in Brussels to monitor progress. We are also contributing to an independent monitoring exercise — the European Union Central Asian Monitoring (EUCAM) project — being carried out by the Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE) and the Centre for European Policy Studies (CEPS). The main purpose of this project is to scrutinise the Strategy and its implementation and through such scrutiny help to ensure that emerging relationships are forged in accordance with the EU’s fundamental and strategic interests.”

The EU Special Representative for Central Asia

12.35 The Minister says that it is clear from the presentation by Mr Morel of his mandate implementation report on 15 December 2008 “and from contacts we have had with him throughout the year that he has carried out his responsibilities with commendable vigour and dedication.” This has included “a comprehensive programme of visits to Central Asia in pursuit of his mandate objectives”, participation in regional fora,³⁶ an active role along with EU representatives and the national strategy co-ordinators from Central Asian countries in formulating the five country-specific plans that reflect the interests of Member States, the Commission and the Central Asian countries, and significant input to the development of the initiatives on the rule of law and education, as well as the platform for water and environment cooperation. Mr Morel also helped to secure the agreement of all Central Asian governments to enter into full human rights dialogues with the EU during 2008, and used the opportunities afforded by his meetings with Central Asian representatives to raise specific concerns when appropriate.

12.36 Mr Morel also attended a number of seminars and conferences dealing with issues relevant to energy cooperation with Central Asia and maintained regular contacts with relevant US, Turkish and other third-party interlocutors promoting energy cooperation with Central Asia, including participation in the Istanbul World Economic Forum event on Central Asia on 30/31 October 2008.

³⁶ Such as the EU-Central Asia meeting in Ashgabat in April 2008, the Paris Security Forum in September 2008, the Dushanbe conference on border management and drug control on 21 October 2008, the Brussels conference on the Rule of Law in November 2008, and the OSCE Ministerial in Helsinki on 4/5 December 2008.

12.37 Finally, noting that Mr Morel’s mandate expires on 28 February 2009, the Minister says that she believes he has carried out his responsibilities energetically and effectively, and that he will build on that record of achievement if he continues as EUSR for Central Asia.³⁷

UK projects in Central Asia

12.38 The Minister says that the UK is actively engaged in a number of projects and activities that complement policy areas covered by the EU Strategy, in particular those relating to the rule of law, good governance and democratisation, human rights, the environment and water management, and regional security issues. She encloses a list of UK project activities undertaken during the course of the period in question,³⁸ and concludes her letter as follows:

“We have also maintained a full bilateral agenda on energy-related issues. We have continued to pursue a close working relationship with the Turkmen authorities, including by helping to arrange the first ever Turkmen oil conference in April 2008 in London. This will shortly be strengthened by the second energy-focused Ministerial visit to Ashgabat in two years. We have sponsored visits by Turkmen oil and gas officials to UK North Sea operations.

“Underlying this and all our energy-related activities in the region is an agreed FCO/BERR/DECC framework, articulated through a Southern Corridor Strategy that focuses resources where they can have the greatest impact. One example of Strategy implementation is an initiative to support the introduction of international maritime standards to the Caspian.

“This initiative, the first of its kind, is bringing together all the key stakeholders in Kazakhstan and Azerbaijan, including government ministries, oil owners, insurers, industry bodies, shippers and marine societies to facilitate the timely implementation of the Inter-Government Agreement between these two countries and with it IMO standards.

“In 2006 the FCO appointed a Caspian Energy Adviser whose specific role has been to liaise between UK Government departments, industry, host nations and UK Embassies and posts in the Region. The post has enabled the UK to engage on regional energy issues in a way that has put the UK in the forefront of EU initiatives. This has undoubtedly helped UK businesses who themselves are amongst the leaders in regional hydrocarbon investment. We have also reallocated resources to create a Regional Energy Officer post in Astana in 2008 to improve our ability to deliver on projects and relevant reporting. As part of the UK’s Southern Corridor Strategy, UK speakers have addressed major energy conferences in Azerbaijan, Kazakhstan, Uzbekistan and Turkmenistan. Support has also been given for visits by the Duke of York visits to Azerbaijan, Kazakhstan and Turkmenistan, in his capacity as UK Special Representative for Trade and Investment.

37 The extension of Mr Morel’s and five other EUSR mandates is dealt with separately in chapter 14 of this Report.

38 Which we reproduce at Annex 1 to this chapter of our Report.

“We have well established educational links with the region, including through the flagship Chevening Scholarships’ programme. Since 2007, 9 Chevening scholarships have been awarded to Kazakh students and between 1 and 3 annually to post-graduate students from Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. The UK also offers the Chevening Fellowship Programme to mid-career professionals. And in addition to its general in-country educational work, the British Council runs a Skills for Employability (SFE) project, which aims to support skills development in Central and Southern Asia by strengthening national reforms in technical and vocational education and training and by encouraging closer links between education and industry. The British Council is also introducing a higher education research and partnership scheme under its HE: Inspire project, which covers both Uzbekistan and Kazakhstan, and pursues work in upgrading teachers’ skills in English in both countries.

“The Department for International Development (DFID) has been developing a more strategic and regional approach to its programming in Central Asia. The central objective of DFID’s strategy is to achieve sustained and inclusive growth in the region. This plan advocates strong linkages between the EU strategy and EC development plans.

“Working as part of an integrated HMG approach, and as one of the few member states with a presence on the ground, DFID will help to ensure that the EU strategy delivers results that will benefit poor people and are supportive of countries’ own development plans.

“DFID has two bilateral programmes in Central Asia: Tajikistan and the Kyrgyz Republic. Good governance, human development and private sector development are key components of DFID’s work which will also support the delivery of the EU strategy. In country, DFID has regular dialogue with the other Member States present on the alignment of EU development support in the context of the EU strategy. As part of its strategy DFID plans to support a secondee to the World Bank in Almaty, Kazakhstan, to work specifically on regional issues, including water, energy, transport, trade and better co-ordination between regional players.

“Engagement on delivering the EU Central Asia Strategy will be an important part of this work. Details of DFID’s activities are contained in the attached list of projects.”

Conclusion

12.39 We are grateful to the Minister for this thorough response to our initial requests. It demonstrates clearly both that the Strategy has got off to a good start and that, importantly, the UK is continuing to maintain an independent programme of well-targetted assistance.

12.40 However, while not wishing to detract in any way from this good start, we note what the Minister says at the outset concerning the challenges of maintaining momentum, increasing financial resources and active contributions from Central Asian countries themselves, given the Report’s view that “implementation of such an ambitious strategy is a long term endeavour that will require sustained efforts by both

the EU and Central Asian states.” This will be all the more so now that the EU has also launched the Union for the Mediterranean and is about to launch a new Eastern Partnership, both of which will also require sustained efforts by all parties and increased resources.

12.41 The 2010 Implementation Report will thus be all the more interesting. We again ask that, when the time comes, the Minister deposits it with an Explanatory Memorandum.

Annex

Project Summaries 2007–2008

Good governance, rule of law & democratisation

[Kazakhstan]

- The British Embassy in Astana has funded via *Freedom House* a group of Kazakh NGOs to monitor progress on Kazakhstan’s record of delivery against its OSCE commitments, including in respect of elections, political parties, media, local self-governance, and freedoms of assembly and conscience (£100,465).
- *Charter for Human Rights* NGO lobbying to encourage Kazakh ratification and implementation of the Second Optional Protocol to the ICCPR on the abolition of the death penalty in Kazakhstan (£12,090 & £40,000).
- *Eurasia Foundation Central Asia* project to foster an independent and representative civil society sector in Astana (£18,233).
- Support for *UNDP* roundtable in Atyrau on promoting multi-party dialogue on transparency in extractive industries as part of wider UNDP initiative on building political culture of dialogue and negotiation, followed in October 2008 by roundtables in Astana and Ust-Kamenogorsk (£3,000).
- Support for *UNDP* technical assistance to strengthen the capacity of the Government of Kazakhstan and all relevant stakeholders to carry out an effective OSCE chairmanship in 2010 (£170,000 over FYs 2008/2010).
- *Republican Network of Independent Monitors* NGO project to contribute to changes in electoral legislation through participation in ODIHR/OSCE Human Dimension Implementation Meeting in Warsaw (£3,272) & OSCE Civil Society Forum in Helsinki (£2,000).

- *Republican Network of Independent Monitors* NGO trained 200 short term and 11 long-term observers in 11 regions of Kazakhstan, and 2000 manuals were printed for the use monitoring elections (£12,700).
- *Penal Reform International* project on strengthening the rule of law and promoting limitations on the arbitrary exercise of governmental power in Kazakhstan (**and Kyrgyzstan**) through enhancing an informed legal policy dialogue (£120,000 over FYs 2006/2008).

[Kyrgyzstan]

- *Eurasia Foundation Central Asia* in Bishkek project to improve transparency of local government by engaging civil society in the process of budgeting (£14,994).
- *Public Union “Elsen”* project to promote greater transparency in the 2007 Kyrgyz Parliamentary Elections by bringing together local NGOs to conduct election monitoring. NGO “Taza Shailoo” deployed approximately 1600 STOs to monitor, in teams of two, at more than 750 polling stations throughout the country (£9,000).
- *Coalition for Democracy and Civil Society* NGO project to promote greater transparency of voting in the 2008 Local Councils Elections in Kyrgyzstan through independent election monitoring (£3,861).
- Local NGO Association “*Taza Shoiloo*” project to improve fairness of local Council elections in Kyrgyzstan by increasing awareness of and ability to defend voter’s rights (£9,018).
- *American Bar Association* initiative in Bishkek to target prosecutor reform programmes and monitor progress towards establishing a more accountable, effective and independent prosecutor system (£25,433 over 2006/2008).

[Tajikistan]

- The British Embassy in Dushanbe has funded a number of projects to support the independent media including training for TV journalists via the *Khoma* NGO (£2,991), the provision of broadcast equipment to *Regar* TV (£3,569), equipment and intern training to *Kurgan-Tube* TV (£4,683 & £5,067), and equipment for the *Pazhvok* newspaper (£4,281).
- The British Embassy in Dushanbe co-funded with the EU the NGO *Rushd* to enhance the capacity of political parties (£8,149 over FYs 2007–09). The Embassy also funded a series of round-tables on topical issues with the participation of political parties (£3,897), the NGO *Fourth Power* to train political party officials in Sughd region (£3,183), and the *Varorud* information agency to conduct research into the participation of political parties in socio-economic life (£3,356).
- The BE in Dushanbe funded *Marifatnoki* NGO to run capacity-building seminars for civil society (£3,206) and the establishment of an internet centre in the remote Tojikobod region. (£3,032).

[Turkmenistan]

- The British Embassy in Turkmenistan has funded an education reform development project with Turkmen Supreme Council for Science and Technology: re-introducing the English Language Research post-graduate degree in Turkmenistan (£10,000).
- A study visit for the senior Turkmen prison officials to the UK to learn prison management system of the UK (£10,800).
- A study tour for Turkmenistan education policy makers and managers to the UK and France to explore the modern approaches in educational planning and management. (£3,700)
- The Embassy has also funded strategic planning training for NGOs (£2,500), a youth leadership Development Centre (£15,000) and provided a range of support to civil society organisations throughout Turkmenistan (£15,000).

Human Rights

[Kazakhstan]

- *Penal Reform International* project to establish an independent and efficient National Preventive Mechanism in Kazakhstan on combating torture (£210,000 over FYs 2008/2010).
- *UNDP* project to mainstream disability issues across public institutions and promote Kazakh ratification of the International Convention on the Right of Persons with Disabilities and its Optional Protocol (£104,000 over FYs 2008/2010).
- *Kazakhstan International Bureau for Human Rights and Rule of Law* NGO project to support the Working Group on investigation and consideration of facts of torture under the Office of the Ombudsman in Kazakhstan (£13,658).
- Project to strengthen the women's movement in Central Asia funded the participation of a Kazakhstani delegate at the Association of Women in Development (AWID) conference in South Africa in November 2008, which included a presentation on "The Women's Movement in Central Asia: Facing Together Fundamentalism and Other Challenges of the New Global Order" (£1,713).
- Contribution to National *Human Rights Commission* and *UNDP* publication on "Compliance with Human Rights in Kazakhstan in 2007" (£3,000).
- Contribution to *UNDP* project on the development of the National Human Rights Action Plan to help a more consistent and effective system of human rights protection/promotion in Kazakhstan (£3,000).
- *Adil Soz* NGO project to improve the quality of expert examinations over information disputes to defend journalists' right for free speech (£62,877 over FYs 2007/2009).

- *MediaNet* NGO project to improve the legal awareness of journalists in three regions of Kazakhstan: Kostanai, Almaty & Karaganda (£3,810).

[Kyrgyzstan]

- *Golden Goal* NGO project to promote increased awareness among women in four village administrations in Osh Province of their civic, electoral and political rights (£8,144).
- *Institute of Public Policy* NGO project to strengthen the capacity of journalism departments of Bishkek universities in providing up-to-date training on international standards of journalism (£12,080).
- *Institute for Public Policy* NGO project to strengthen the capacity of young journalism students from remote regions of Kyrgyzstan to report comprehensively on developments in their communities (£9,642).
- *Institute for Public Policy* project to strengthen Internet journalism and contribute to promotion of freedom of speech in Kyrgyzstan (£15,000).
- *Yuzhniy Vektor* NGO project to improve the quality of ethnic journalism in the region and to promote more balanced reporting in south Kyrgyzstan. 200 students were trained in the basics of ethnic-tolerant journalism (£16,000).

[Tajikistan]

- British NGO *Children's Legal Centre* to run human rights workshops for vocational schools (£7,473 over FYs 2007/09).
- CRC NGO carried out projects to train teachers on juvenile justice (£2,699) and to develop the capacity of staff at the juvenile prison (£3,105).

[Turkmenistan]

- Co-funding with the OSCE Centre in Ashgabat for visit by UK lecturer on international human rights legislation to provide lectures at the Turkmen State University (£3,000).
- Capacity building for Government bodies mandated to work on human rights issues, conforming to international standards (via organising study visits to the UK), including the possibility of introducing a system of ombudspersons (£12,000).
- Assistance to improve the system of work of the Institute of Democracy and Human Rights Citizens' Complaints Department. Funding a visit by an expert leading to a developed project (£29,000).
- Turkmen Penal Code reform project (£62,600 over FYs 2008/10).
- Media development project by BBC World Service (£130,900 over FYs 2008/10).

[Uzbekistan]

- Workshop on the development of civil society and the NGO sector learning from experience in the UK (£6,700).

- The British Embassy in Tashkent is funding a community-based project to estimate the prevalence of child labour in remote rural cotton growing areas of Uzbekistan. The project aims to prevent child labour through informal education and vocational training (£56,890 over FYs 2008/10).
- Training courses for those working in the field of social work/protection of children in Uzbekistan (£15,000).

Regional security/conflict prevention

[Kyrgyzstan]

- *Eurasia Foundation Central Asia* project to reduce the risk of conflict in the Batken region through the development of training courses to meet local skills requirements and establishing a job centre (£25,000).
- *American Bar Association/Central European and Eurasian Law Initiative* in Osh to provide ethnic Kyrgyz and Uzbek students from madrassas and secular schools in southern Kyrgyzstan with greater understanding of religious freedom, civil and human rights, the judicial system and how individual rights provide a common fundamental basis for openness and acceptance of different groups within the community (£17,853).
- *Ferghana Valley Lawyers Without Borders* project to contribute to the resolution of the statelessness problem in the south of Kyrgyzstan through 16 mobile clinics, during which 538 stateless people were provided legal help and 226 local government representatives were trained in the legalisation process (£13,600).
- *Ferghana Valley Lawyers Without Borders* project to contribute to conflict reduction in south Kyrgyzstan by raising awareness among local residents about legal ways of resolving disputes. 556 residents received legal advice in mobile clinics and local border guards and government representatives were trained in conflict prevention (£18,945).
- *UNDP* project to strengthen the capacities of authorities in Uzgen and Bazakorgon districts to address root causes of conflict. Local authority Committees were trained in the basics of negotiation processes (£28,000).
- *Eurasia Foundation Central Asia* in Osh project to strengthen the capacity of community-based NGOs in Batken Oblast, Kyrgyzstan, to resolve local and cross-border conflicts peacefully (£16,780).
- *Ferghana Valley Lawyers Without Borders* project to reduce potential conflict in the Valley by increasing respect for and application of human rights by the Border Service of the Kyrgyz Republic (£11,500).

[Tajikistan]

- Provision of video-conferencing equipment for the regional offices of the Tajik Drugs Control Agency (£6,115).

- The British Embassy in Dushanbe funded via the Vorukh Jamoat Resource Centre a summer camp for Tajik and Kyrgyz children (£3,619).
- [Turkmenistan]
- Turkmen-British Anti- Narcotics/ELT Training Centre development for Border Guards, Police, Customs and KNB (£8,500).
- UNODC workshop on Integrated Border Management, “Inter-agency and Cross-border co-operation” co-sponsored by Turkmenistan government and British Embassy (£10,000).
- Drugs detection and interdiction training for senior Turkmen anti-narcotics officers in Turkey; joint project with UNODC and Turkish government (£20,000).
- Capacity building project for Turkmen law enforcement training institutions on the drugs interdiction and detection techniques training jointly with UNODC office in Turkmenistan (£10,000).
- Opening of self-access English Language Learning Centre for Turkmen Law enforcement officers (£3,300).

Environment/Water

[Uzbekistan]

- Collaborative venture with *UND, the Government of Karakalpakstan and the Global Ecological Foundation* to encourage local communities in the conservation and sustainable use of natural resources in the Amudarya Delta of Karakalpakstan (US\$7,000).

[Tajikistan]

- The BE in Dushanbe funded the *SWORDE-Teppa* NGO to run an educational project informing young people about the problems of climate change (£8,316 over FYs 07–09), and the *Habib* NGO to plant fruit trees to prevent soil erosion caused by climate change. (£3,121)

Energy links

The British Embassy in Astana is supporting a “Caspian Sea Maritime Management” project to encourage interested stakeholders, including the governments of Kazakhstan and Azerbaijan, to identify and address issues relating to the safe transportation of oil across the Caspian in line with international standards (£50,000). The Embassy is also supporting the British Sulphur Consultancy Group to improve Kazakhstan’s capacity to manage the sulphur contained in Tengiz and thereby improve the quantity and quality of Kazakhstan’s contribution to the Baku-Tbilisi-Ceyhan. (£46,138).

DFID activity

In the **Kyrgyz Republic**, DFID’s annual support is currently worth some £7 million per year. Its programme is defined within a Joint Country Support Strategy (JCSS) which

responds to the Government's national poverty reduction plans. This had been agreed between donors and the Government and is aimed at helping to deliver against objectives set out in the OECD's 2005 Paris Declaration, to which the UK is signatory. DFID's contribution is based on its comparative advantage *vis-à-vis* other donors. The current DFID portfolio of activities focuses on institutional strengthening and improving the services provided by the Government to poor people.

Impacts to date include improved public financial management; improved access to health services and accelerated progress towards the health-related Millennium Development Goals; improved access to clean drinking water; sustainable investments in village social and economic infrastructure; and scaling up HIV/AIDS prevention services for high risk groups and securing behaviour change.

Current commitments include:

- Village Investment Programme £7 million
- Public Financial Management £4 million
- Health sector support £9.9 million
- HIV/AIDS £3.6 million
- Rural Water and Sanitation £5 million

In **Tajikistan**, DFID's annual programme is increasing from around £4 million this financial year to £7 million in 2010. DFID's programme in Tajikistan is also defined by a JCSS. The current portfolio of activities focuses on private sector and rural development, good governance and improving the performance of donors, including multilaterals. In 2008 there was also significant support to the emergency needs caused by a major winter energy and humanitarian crisis.

Impacts to date include improved public financial management, improvements in the participation of communities in local government planning processes, development of small scale businesses, reduction of water borne diseases in rural areas, introduction of legal arbitration services for poor people, scaling up HIV/AIDS prevention services for high risk groups and securing behaviour change, and reduced humanitarian suffering during the 2008 winter crisis.

Current commitments include:

- Zerafshan Community Development Initiative £4.7 million
- Public Financial Management £3 million
- Private Sector Development £0.6 million
- HIV/AIDS £1.8 million
- Government Statistical Strengthening £0.6 million
- Disaster Preparedness £0.85 million

13 The EU and the former Yugoslav Republic of Macedonia

(30369)	Council Common Position extending and amending Common
—	Position 2004/133/CFSP on restrictive measures against extremists in
—	the former Yugoslav Republic of Macedonia

<i>Legal base</i>	Article 15 EU; unanimity
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	Minister's letter of 2 February 2009
<i>Previous Committee Report</i>	HC 19–v (2008–09), chapter 9 (28 January 2009); also see (30149) 15455/08: HC 19–i (2008–09), chapter 3 (10 December 2008)
<i>To be discussed in Council</i>	10 February 2009 Economic and Finance Council
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

13.1 The Ohrid Framework Agreement is the peace agreement, brokered by NATO, which brought an end to the internal conflict in 2001.

13.2 On 10 February 2004, the Council adopted Common Position 2004/133/CFSP imposing a 12-month travel ban against extremists in the Republic of Macedonia who actively promote or take part in violent extremist activities challenging the Ohrid Framework Agreement's basic principles of stability, territorial integrity and the unitary and multi-ethnic character of the Republic of Macedonia.

13.3 The ban also applies to those who deliberately, repeatedly and illegitimately undermine and obstruct the concrete implementation of the Ohrid Framework Agreement by actions outside the democratic process.

13.4 The ban does not apply to individuals acting legitimately — for example by exercising their democratic right to criticise the Agreement in a speech or by voting against Ohrid Framework Agreement legislation in Parliament.

13.5 These provisions were subsequently renewed by the Council on 8 February 2008 (in Common Position 2008/104/CFSP).

The Common Position

13.6 This draft, which we considered on 28 January 2009, extends Common Position 2004/133/CFSP for a further 5 months and amends it by removing some of the names on the present list.

13.7 In her Explanatory Memorandum of 23 January 2009, the Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) said that the names remaining on the list reflected consultations between EU Heads of Mission in Macedonia and the EU Special Representative. The Minister noted that implementation of the Agreement was “a key condition for Macedonia’s EU and NATO accession” She continued thus:

“As Macedonia has made more progress in implementing the Agreement and has moved further along its path to EU accession, the Ohrid Framework Agreement has become more securely embedded. This has allowed the list of individuals covered by this measure to be revised downwards. In the light of this progress, the most recent extension is proposed to run for only a further 5 months, allowing a full and timely evaluation of this measure and whether it continues to be needed later in the year.”

13.8 For our part, we observed that the Minister did not explain who the remaining individuals were, nor what they had done that merited their continued inclusion on the list. Nor why the extension was for this short and rather odd period. Nor when the evaluation was to take place. With regard to the question of what the remaining individuals had done that merited their continued inclusion on the list, we referred the Minister to the original Common Position, in which the behaviour by each individual on the list that was judged to be “deliberately, repeatedly and illegitimately [seeking to] undermine and obstruct the concrete implementation of the Ohrid Framework Agreement by actions outside the democratic process” is set out.

13.9 With all this in mind, we also recalled that the 5 November 2008 Commission Communication “Enlargement Strategy and Main Challenges 2008–2009” said that “the former Yugoslav Republic of Macedonia needs to ensure the holding of free and fair elections, to improve the dialogue between major political parties and actors, and to fulfil outstanding key partnership priorities”, and that the Commission would “continue to monitor closely progress in these areas”.

13.10 Against that background, we asked the Minister to explain that which she had not done so far, including whether the five month period had anything to do with the timing of these elections, and if the evaluation would be determined by the conduct and outcome of those elections.

13.11 We also asked, with respect to future such Common Positions (new, amended or extended), that the Minister ensures that similar information is incorporated either in the text or in the accompanying Explanatory Memorandum.

13.12 In the meantime we retained the document under scrutiny.³⁹

The Minister’s letter of 2 February 2009

13.13 The Minister says that the individuals who remain on the list have a known criminal background threatening the Ohrid Framework Agreement, in line with the criteria referred to by the Committee. She continues as follows:

³⁹ See headnote: HC 19–v (2008–09), chapter 9 (28 January 2009).

“What is less clear, however, is to what extent these individuals have engaged in activities of concern recently. The credibility of the sanctions is ensured by the list being kept up-to-date and relevant. For these reasons, the UK, supported by several EU partners, argued that there should be a short extension to the Common Position, which would allow time for a fuller review of this matter. An extension period of 5 months was agreed, following a proposal by the EU Presidency. We have indicated that unless over the next months we see clear evidence of recent activity posing a threat to the Ohrid Framework Agreement, we will not agree to the measures being extended beyond July. The EU Presidency will determine exactly how the review should be taken forward, though we would expect that review to begin in good time before the expiration of the measures.”

13.14 With regard to whether evaluation of the measures would be affected by the conduct and outcome of the Presidential and local elections scheduled for 22 March, the Minister says that:

“The evaluation should only be influenced by developments around the elections if any of the individuals concerned engages in activities during this period that are aimed at undermining the Ohrid Framework Agreement.”

13.15 The Minister concludes her letter with the hope that the Committee will understand that she may have to agree to adoption of the Common Position at the 10 February meeting of the Economic and Financial Affairs Council, the scrutiny reserve notwithstanding: “If the Position were not agreed at that point, the measures would lapse, harming their effectiveness and preventing an orderly review.”

Conclusions

13.16 **In view of the Minister’s explanation we now clear the document.**

13.17 **However, we remain concerned as to how doubts about the extent to which these individuals have engaged in activities of concern recently have emerged, since our understanding was that the extension was based upon a review carried out and agreed by local EU Heads of Mission and the European Union Special Representative. If and when any further extension is put forward, we shall expect a much better explanation than was originally provided in this instance, and for it to be provided at once, and not in instalments.**

14 EU Special Representatives

(30377) — —	Council Joint Action extending the mandate of the European Union's Special Representative for the Crisis in Georgia
(30378) — —	Council Joint Action extending the mandate of the European Union Special Representative in Moldova
(30379) — —	Council Joint Action extending the mandate of the European Union Special Representative in Afghanistan
(30380) — —	Council Joint Action extending the mandate of the European Union Special Representative for the Middle East Peace Process
(30381) — —	Council Joint Action extending the mandate of the European Union Special Representative for Central Asia
(30382) — —	Council Joint Action extending the mandate of the European Union Special Representative for the South Caucasus

<i>Legal base</i>	Articles 14, 18.5, and 23.2; QMV
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	EM of 27 January 2009
<i>Previous Committee Report</i>	None; but see (30336) and (30351–4) — HC 19–iv (2008–09), chapter 2 (21 January 2009)
<i>To be discussed in Council</i>	10 February 2009 Economic and Finance Council
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared; relevant to debate in European Committee B on other mandates to be renewed (reported to the House on 21 January 2009)

Background

14.1 EU Special Representatives (EUSRs) are appointed to represent Common Foreign and Security Policy where the Council agrees that an additional EU presence on the ground is needed to deliver the political objectives of the Union. They are appointed by the Council under Article 18 EU. The aim of the EUSRs is to represent the EU in troubled regions and countries and to play an active part in promoting the interests and the policies of the EU.

14.2 An EUSR is appointed by Council under a Joint Action. The substance of his or her mandate depends on the political context of the deployment. Some provide a political

backing to an ESDP operation, others focus on carrying out or contributing to developing an EU policy. All EUSRs carry out their duties under the authority and operational direction of the High Representative (Javier Solana). Each is financed out of the CFSP budget implemented by the Commission. Member States also contribute directly, via secondment to the EUSR's staff.

14.3 In February 2006, EUSR mandates were in principle extended for 12 months rather than the previous arrangement of 6 months, so as to enable extensions to be based on a more thorough reporting cycle. EUSRs are required to prepare progress reports in mid-June and mandate implementation reports in mid-November.

14.4 The EUSRs currently in office cover the following regions: Afghanistan, the African Great Lakes Region, the African Union, Bosnia and Herzegovina, Central Asia, Kosovo, the former Yugoslav Republic of Macedonia, the Middle East, Moldova, Sudan, the South Caucasus and, most recently, the Crisis in Georgia. Some EUSRs are resident in their country or region of activity, while others work on a travelling basis from Brussels.⁴⁰

The Council Decisions

14.5 These draft Council Decisions extend the mandate of six of them — Moldova, Afghanistan, the crisis in Georgia, Central Asia, the South Caucasus and the Middle East Peace Process.

14.6 The Council is being asked to approve a twelve-month extension of unchanged mandates. The comments of the Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) in her Explanatory Memorandum of 27 January 2009 on each one are in italics beneath the summary.

The Crisis in Georgia

14.7 This Joint Action extends the mandate of the EUSR for the Crisis in Georgia, Ambassador Pierre Morel, for 12 months until 28 February 2010. The EU established a Special Representative for the Crisis in Georgia in September 2008 to ensure coordination and consistency of external EU actions in the region. Ambassador Morel also holds a concurrent mandate as EUSR for Central Asia (see paragraph 14.9 below).

14.8 The EUSR's mandate is based on the objectives established by the conclusions of the extraordinary European Council meeting in Brussels on 1 September 2008⁴¹ and the Council conclusions of 15 September on Georgia.⁴² The EUSR's role is to enhance the effectiveness and visibility of the EU in helping to resolve the conflict in Georgia.

14.9 In her Explanatory Memorandum, the Minister explains that:

40 See http://consilium.europa.eu/cms3_fo/showPage.asp?id=263&lang=EN for full information on the EU Special Representatives

41 The Council Conclusions are available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/102338.pdf

42 See page 8 of the Council Conclusions, available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/102804.pdf

“Ambassador Morel was appointed EUSR for Central Asia in 2006. The Government welcomed the additional appointment of Ambassador Morel as EUSR for the Crisis in Georgia in September 2008. We support his reappointment; he has worked well with the other EUSRs, relevant partners and international organisations (e.g. the OSCE, UNOMIG) in the region. He has promoted good governance and respect for human rights in an unpromising situation. We wish him to remain beyond February 2009 to signal the EU’s continued serious commitment to these issues. Other good work by Morel for Georgia includes the proposed incident resolution mechanism, even though it has not yet come off; his support for the Geneva Talks as a long-term process and his personal commitment to them; his good relations with Karasin (Russian Deputy Foreign Minister).

“Not renewing Morel’s mandate would risk causing uncertainty about EU commitment to Georgia at a delicate time for the Geneva process and for decisions about the international presence in Georgia.

“The Czech Presidency plans summits on the Eastern Partnership and on the Southern Corridor: these are issues where the benefits we hope will arise from Morel doing both jobs can best emerge.”

Moldova

14.10 Kalman Mizsei was appointed EU Special Representative for Moldova on 15 February 2007 succeeding Adriaan Jacobovits de Szeged. His mandate is focused on strengthening the EU’s contribution to the resolution of the Transnistria conflict in close coordination with the Organisation for Security and Co-operation in Europe (OSCE).

14.11 The EUSR also contributes to EU policy in other areas, including improving EU-Moldova relations, contributing to the strengthening of democracy and the rule of law, and assisting in the fight against trafficking of weapons, other goods and people. The role also complements the work of the European Commission’s office, which opened in Moldova in October 2005, including on implementation of the EU-Moldova European Neighbourhood Policy Action Plan 2009.

14.12 The Minister says:

“The Government supports the work of the EUSR and the extension of the mandate because we would like to see resolution of the conflict in Transnistria. Resolution would remove a barrier to Moldova’s reform and gradual integration with the EU. Resolving Transnistria, and Moldovan reform and integration would in turn promote greater stability in the region, thereby supporting our objectives in Ukraine. Since his appointment, the EU Special Representative has actively contributed to maintaining international pressure for dialogue. The EU Special Representative has also played a key role in implementing the EU’s Border Assistance Mission (EUBAM). The Mission aims to provide effective control of the Ukrainian-Moldovan border, particularly the Transnistrian segment. As the Transnistrian regime derives much of its income from smuggling across the Moldovan-Ukrainian border, the Mission has put pressure on it for the first time.

“2009 will also be an important year for Moldova as the EU negotiates a successor to the European Neighbourhood Policy (ENP) agreement.”

Afghanistan

14.13 This Joint Action extends the appointment of Ettore Sequi as the EUSR in Afghanistan for one year. His mandate encompasses support to the government of Afghanistan, in particular in the implementation of the EU-Afghanistan Joint Declaration, support to the United Nations in Afghanistan, liaison with regional countries in support of EU policy, supporting the EU’s work on human rights and coordination of EU work in Afghanistan.

14.14 The Minister says:

“The Government supports the extension of this mandate. The European Union and Afghanistan’s partnership is defined by the Strasbourg Declaration of 16 November 2005. The joint commitments made in this Declaration are kept under review by periodic meetings between the Afghan government and the EU.

“The EU (specifically, the European Commission and member states) is a major donor to Afghanistan, having disbursed or pledged \$7.5bn between 2002 and 2011, including over \$5bn of pledges in support of the Afghan National Development Strategy at the Paris conference in June 2008.

“EU member states provide approximately 16,000 troops to International Security Assistance Force. The EU launched its Police Mission to Afghanistan (EUPOL) in June 2007.

“The EU Special Representative will continue to play an important role in focusing the EU effort, and ensuring that it dovetails with the work of other bilateral and multilateral partners. The Afghan government and international partners, particularly the UN, continue to insist upon the need for greater international coordination in Afghanistan. In view of the many challenges facing the country this year, particularly the Presidential elections and the difficult security situation in the south and east of the country, the need for effective international engagement is even greater.”

Middle East Peace Process

14.15 There has been an EUSR for the Middle East Peace Process since 1996. The incumbent, Marc Otte, was appointed on 14 July 2003. His mandate is based on the EU’s policy objectives which (as the Minister puts it) include a two-state solution with Israel and a democratic, viable, peaceful and sovereign Palestinian state, living side by side within secure and recognised borders and enjoying normal relations with their neighbours, in accordance with United Nations Security Council Resolutions 242, 338, 1397, 1402, 1850, 1860 and the principles of the Madrid conference.

14.16 The EUSR offers advice and conveys the position of the EU to all parties, thereby contributing to the implementation of EU policy on the process as agreed by the Council of

Ministers. The EUSR also represents the EU in meetings of the Quartet (UN, EU, Russia and the US) at Envoy level.

14.17 The Minister says:

“The EUSR continues to play a valuable role in the EU’s support of the Middle East Peace Process, as demonstrated by his involvement on the ground during the current crisis in Gaza.

“Current focus is on the aftermath to hostilities in Gaza and to that end the mandate is clear about the importance of the EUSRs role in working towards the reopening of the crossings and facilitating cooperation on security issues.

“Longer term the focus remains on how to achieve the well established MEPP objectives, including a return to Israeli-Palestinian negotiations.

“The Government judges that the role of the EUSR remains an important tool of EU policy towards the Middle East Peace Process and therefore supports the renewal of the mandate.”

Central Asia

14.18 The EU established a Special Representative for Central Asia in September 2005 to ensure coordination and consistency of external EU actions in the region. Mr Pierre Morel was appointed in September 2006. As well as enhancing EU effectiveness and visibility in the region, the EUSR also aims to contribute to the strengthening of democracy, rule of law, good governance and respect for human rights and fundamental freedoms in Central Asia. It was amended by a Joint Action on 15 February 2007 to allow the Special Representative to contribute to wider Common Foreign and Security Policy work on energy security, and to help develop bilateral energy cooperation with important producer and transit partners in Central Asia. It was further refined in Joint Action 2007/113/CFSP of September 2007 following the adoption of a new EU Strategy for Central Asia at the June 2007 European Council. That Council assigned to the EUSR an enhanced role in monitoring the implementation of the Strategy, making recommendations and reporting to relevant Council bodies on a regular basis. It also added a specific tasking for the EUSR to contribute to the formulation of counter-narcotics aspects of the Common Foreign and Security Policy. Pierre Morel’s mandate was amended most recently by Joint Action 2008/900/CFSP of 2 December 2008, which added water management aspects to his responsibilities.

14.19 The Minister says:

“The Government welcomed the creation of an EUSR for Central Asia and the appointment of Jan Kubis in July 2005 (Joint Action 2005/588 of 28 July 2005) followed by Pierre Morel in October 2006 (2006/670/CFSP of 5 October 2006). As EU Special Representative, Mr Morel has travelled extensively and contributed to EU discussions on policy towards the region, including on energy security and counter-narcotics. He has been effective in raising the profile of the EU in Central Asia.

“We expect that the EU Special Representative to continue to provide a common focus for delivering EU messages not just on key human rights issues, but also on the benefits of regional co-operation and on potential EU assistance in helping the region to address some of its shared socio-economic difficulties. We and EU partners have every reason to believe that Pierre Morel will build on a significant record of achievement to date if he continues as EUSR for Central Asia. The Government therefore supports the extension.”

South Caucasus

14.20 Peter Semneby was appointed EUSR for the South Caucasus on 20 February 2006. He is tasked with assisting Armenia, Azerbaijan and Georgia in carrying out political and economic reforms; preventing conflicts in the region and contributing to the peaceful settlement of conflicts, including through promoting the return of refugees and internally displaced persons; engaging constructively with main interested actors concerned with the region; encouraging and supporting further cooperation between States of the region, including on economic, energy and transport issues; and enhancing the effectiveness and visibility of the EU in the region.

14.21 The Minister says:

“Working with and through the EU forms a key part of the UK’s engagement with the three South Caucasus countries, and the work of the EUSR forms an important part of this engagement. His high-level political work supports the countries’ implementation of the European Neighbourhood Policy Action Plan, which provides both a solid base for EU engagement — ensuring that we and our EU partners adopt a coherent approach to the South Caucasus — and is aligned with Government objectives in the region. The EU will review the Action Plans for each of the South Caucasus countries over the course of this year and aims to agree successor documents under the proposed Eastern Partnership

“We are also encouraging the EU to play a more substantive role in helping to prevent and resolve conflict throughout the region, including through targeted and practical funding of projects as well as maintaining high-level dialogue.

The mandate of the EUSR for the South Caucasus was amended in October 2008 to reflect the appointment of an EUSR for the Crisis in Georgia and the establishment of the EU Monitoring Mission (EUMM) to Georgia. The work of the EUSR for the South Caucasus is complementary to, and wider ranging than, the work of the EUSR for the Crisis in Georgia and EUMM. At the same time, the EUSR for the South Caucasus has provided useful guidance on the local political situation to both the EUSR for the Crisis in Georgia and the Head of the EUMM.”

Financial Implications

14.22 The costs of EU Special Representatives are met from the CFSP budget, to which the UK currently contributes approximately 17%. Information provided by the Minister on budget allocations for 1 March 2009–28 February 2010 for these five EUSRs (which is less consistent, one with the other, than we would have liked), is as follows:

EUSR	Budget Allocation	Anticipated UK Contribution (€)	Anticipated UK Contribution (£)
Georgia	€1,100,000	—	£176,800
Moldova	€1,178,000	€200,226	£180,000
Afghanistan	€2,850,000 ⁴³	€484,000	£453,000
MEPP	€1,200,000	—	£191,000
Central Asia	€1,100,000	—	£176,800
South Caucasus	€1,100,000	—	£176,800

Timetable

14.23 The Minister expects these Council Joint Actions to be agreed at the 10 February Economic and Financial Council.

Conclusion

14.24 **These mandates continue to provide a vivid illustration of the breadth and depth of CFSP, of which the EUSRs are a key component, a decade after its inception. All would appear to have a role to play; all seem to be doing a good job, within the bounds of the possible.**

14.25 **We clear the documents, which we are reporting to the House because of the wide interest in the EU’s Common Foreign and Security Policy and European Security and Defence Policy.**

14.26 **We also consider them relevant to the debate that we recommended should be held on the mandates of the EUSRs to Kosovo, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, African Great Lakes Region and Sudan at our meeting on 21 January.**⁴⁴

43 The Minister says that this compares to an overall budget of €4.05 million (£3.8m) for 2008–9, the bulk of which savings have been made following Italy’s decision to provide gratis close protection for EUSR Sequi (who, prior to this appointment, was the Ambassador of Italy in Afghanistan).

44 See headnote: HC 19–iv (2008–09), chapter 2 (21 January 2009)

15 The single market

(30316) 17569/08 SEC(08) 3074	Commission staff working document: <i>Market Monitoring: State of play and envisaged follow-up</i>
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<i>Legal base</i>	—
<i>Document originated</i>	16 December 2008
<i>Deposited in Parliament</i>	13 January 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 22 January 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	None planned
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

15.1 Amongst the recommendations in the 2007 Single Market Review⁴⁵ was developing a more systematic and integrated approach to monitoring the functioning of key goods and services markets as a contribution to evidence-based and impact driven policies to facilitate a better functioning single market.

15.2 In December 2008 the Commission adopted a package of proposals to help implement the European Economic Recovery Plan⁴⁶ and reinforce the Lisbon Strategy for Growth and Jobs. Issues covered by the package include the Community Lisbon Programme,⁴⁷ skills,⁴⁸ the Globalisation Adjustment Fund,⁴⁹ cohesion policy,⁵⁰ education and training,⁵¹ the Single Market. Review,⁵² external aspects of the Lisbon Strategy⁵³ and market monitoring, the subject of this present document.

The document

15.3 In this staff working document the Commission reports on its development and piloting of a market monitoring tool and discusses future activity. The tool is intended to identify sectors which are of most economic importance to the Community and to provide recommendations for action where there are market failures. The Commission says this

45 (29198) 15651 + ADDs 1–5: see HC 16–viii (2007–08), chapter 9 (16 January 2009).

46 (30213) 16097/08: see HC 19–i (2008–09), chapter 4 (10 December 2008) and HC Deb, 20 January 2009, cols. 626–652.

47 (30305) 17358/08: see HC 19–vi (2008–09), chapter 10 (28 January 2009).

48 (30294) 17537/08 + ADD 1: see HC 19–vi (2008–09), chapter 19 (28 January 2009).

49 (30321) 5005/09 + ADDs 1–2: see chapter 11 of this report.

50 (30318) 17582/08: see chapter 16 of this report.

51 (30310) 17535/08 + Adds 1–2: on which we expect to report shortly.

52 (30315) 17568/08: see chapter 16 of this report.

53 (30317) 17581/08: on which we expect to report shortly.

could complement existing decision-making processes concerning competition, regulation, innovation and cross-border integration policy in strategic sectors. The market monitoring exercise has two stages:

- a macro-level screening carried out across the Community to identify sectors where the expected benefits from policy intervention are high because these sectors are important for growth and adjustment and show signs of possible market malfunctioning; and
- an in depth micro analysis which looks individually at identified sectors and the causes of market malfunction, so as to then recommend appropriate reforms to address the problems.

15.4 The Commission says that the first stage screening exercise, which was initially completed in November 2007, has been updated with the most recently available figures. Twenty-four sectors representing 49% of EU-25 value-added and 52% of EU-25 employment have been identified. Almost all these sectors suffered from a lack of innovation and, to a lesser extent, inappropriate market regulation. Of the second stage the Commission says that there have been four in-depth sector investigations selected, with task forces set up to investigate the functioning of markets in the electrical engineering, retail services and pharmaceutical sectors and the food supply chain.

15.5 For the food supply chain study the Commission identified a number of issues around the degree of competition and regulation. This study has already been concluded and the Commission has presented recommendations and a roadmap for improving the functioning of the food supply chain for implementation in 2009.⁵⁴ The study on the retail services sector will:

- build on the food supply chain work but have a broader scope;
- examine the regulatory framework as well as the functioning of e-commerce;
- produce a scoping paper, expected by March 2009; and
- deliver a final report at the end of 2009.

15.6 The in-depth investigation of the electrical engineering sector focused on flat screen televisions and household refrigerators, because of the volume of sales in Community markets — the final report is expected in May 2009.

15.7 The study on the pharmaceutical sector will build on the outcome of the pharmaceutical sector inquiry carried out by the Directorate-General for Competition.⁵⁵ The study will focus on a limited number of specific pharmaceutical product markets and will cover issues such as competitiveness, research and development and innovation or productivity developments. A report is expected at the second half of 2009.

54 (30279) 17380/08 + ADDs 1–3: on which we expect to report shortly.

55 The pharmaceutical sector inquiry is being carried out by the Directorate General for Competition, as part of its competition policy — sector inquiry initiative. The inquiry is expected to publish its final report on its findings in April/May 2009.

15.8 In looking ahead the Commission also says that:

- the first stage screening exercise still needs to be refined — for example, at present the exercise primarily considers information relative to the supply side of the markets, due to lack of available data on the demand side;
- a consumer dimension — which measures the fragmentation of retail markets, the number of complaints and the degree of satisfaction — will be added as the Consumer Scoreboard develops;⁵⁶
- for the second stage it is considering what other sectors could benefit from an in-depth investigation;
- sectors identified in the first stage will be considered in combination with other relevant and more qualitative information;
- the environmental technologies, construction, and car sectors may be candidates for 2009, the first is a cross-cutting market which is important for the energy and climate change pillar of the Lisbon Strategy, the second is one of the largest sectors in terms of employment in the Community and the third has been strongly affected by the current financial crisis and was mentioned in the European Economic Recovery Plan; and
- the market monitoring approach will undergo an evaluation at the end of 2009 to confirm whether and how market monitoring should become a permanent tool of the renewed single market.

The Government's view

15.9 The Economic Secretary to the Treasury (Ian Pearson) says, in his Explanatory Memorandum of 22 January 2009, that:

- the Government supports the Commission's commitment to more evidence-based and impact-driven policies and, in particular, market monitoring as a tool to facilitate a better functioning single market;
- it believes market monitoring supports the existing policy framework such as sectoral enquiries and better regulation impact assessments;
- in the current climate, market monitoring is relevant both to the short and long-term economic reform agenda — identifying and reducing barriers to realising the full benefits of the single market so that citizens can benefit from jobs, growth and lower prices;
- market monitoring could help support Government arguments on open markets for the medium-term;

56 (29422) 5942/08 + ADD 1: see HC 16–xiv (2007–08), chapter 7 (5 March 2008).

- the Government supports the sectoral studies undertaken so far and the Commission's intention to undertake further studies in 2009;
- it continues to press the Commission to ensure the data and methodology is robust and that the sector selection process for in-depth investigations is transparent; and
- it is important for the Commission to consider incorporating the role of market monitoring recommendations more formally within the Community's decision-making process in order that, in cases where Community wide economic reform is needed and appropriate across a particular sector, actions are taken forward at the Community level.

Conclusion

15.10 Although this is only an interim report, and whilst content to clear the document, we draw it to the attention of the House, given the potential value of market monitoring for future policy-making.

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

Department for Business, Enterprise and Regulatory Reform

(30315)
17568/08
SEC(08) 3064

Commission Staff Working Document on the Single Market Review: One Year On

(30318)
17582/08
COM(08) 876

Commission Communication on Cohesion policy: Investing in the real economy.

(30367)
5502/09
COM(09) 3

Draft Council Regulation amending Annex I to Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

Department for Environment, Food and Rural Affairs

(30020)
13934/08
COM(08) 577

Commission Recommendation to authorise the Commission to open and conduct negotiations with the International Organisation of Vine and Wine (OIV) on the terms and conditions for the European Community's accession.

(30307)
17480/08
COM(08) 870

Commission Report on the selectivity in trawl fisheries for cod in the Baltic Sea.

Foreign and Commonwealth Office

(30383)
—
—

Council Common Position concerning restrictive measures against Somalia and repealing Common Position 2002/960/CFSP

Department of Health

(30180)
15832/08
+ ADD 1
COM(08) 741

Commission Communication on the European Centre for Disease Prevention and Control activities on Communicable diseases: the positive outcomes since the Centre's establishment and the planned activities and resource needs.

Home Office

- (30327)
16433/08
— Draft Agreement between the European Union and Iceland and Norway on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime and Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto: Outcome of negotiations — Draft Council Decision on the signing of the Agreement.
- (30331)
5200/09
COM(08) 885 Commission Report based on Article 14 of the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.
- (30346)
5256/09
COM(08) 891 Draft Council Regulation on laying down a uniform format for visas (codified version).

Ministry of Justice

- (30335)
5201/09
COM(08) 888 Commission Report based on Article 20 of the Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties.

Department for Transport

- (30365)
—
COM(08) 855 Commission Communication on the economic and social impact of the Agreement appended to Directive 2005/47/EC concluded on 27 January 2004 between the social partners on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector.

HM Treasury

- (30396)
—
— General Budget of the European Communities 2008. Transfers of appropriations. Fourth Quarterly Report of transfers of appropriations within the general budget for the financial year 2008.

Formal minutes

Wednesday 4 February 2009

Members present:

Michael Connarty, in the Chair

Mr Adrian Bailey

Mr William Cash

Mr James Clappison

Ms Katy Clark

Jim Dobbin

Mr Greg Hands

Mr David Heathcoat-Amory

Keith Hill

Kelvin Hopkins

Angus Robertson

Richard Younger-Ross

2. 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 1.9 read and agreed to.

Paragraph 2, Headnote read, amended and agreed to.

Paragraphs 2.1 to 2.12 read and agreed to.

Paragraph 2.13 read, amended and agreed to.

Paragraph 3.1 to 16 read and agreed to.

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

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

[Adjourned till Wednesday 11 February at 2.30pm.]

Standing order and membership

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

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Standing Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

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

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

Current membership

Michael Connarty MP (*Labour, Linlithgow and East Falkirk*) (Chairman)
 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*)