



House of Commons
European Scrutiny Committee

**Thirty-second Report
of Session 2008–09**

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

Measures to stabilise the dairy market

Financial services

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 Measures to stabilise the dairy market

(31002) 14270/09 COM(09) 539	Draft Council Regulation amending Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products ("Single CMO" Regulation)
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<i>Legal base</i>	Article 37EC; consultation; QMV
<i>Document originated</i>	9 October 2009
<i>Deposited in Parliament</i>	14 October 2009
<i>Department</i>	Environment, Food and Rural Affairs
<i>Basis of consideration</i>	EM of 29 October 2009
<i>Previous Committee Report</i>	None, but see footnotes 1 and 2
<i>To be discussed in Council</i>	See para 1.9 below
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	For debate in European Committee A (together with the debate already recommended on a Communication on the dairy market situation)

Background

1.1 Since 2007, milk prices have dropped significantly, and the Commission was invited by the European Council in June 2009 to present an in-depth analysis, including possible options for stabilising the market.

1.2 As we first noted in our Report of 14 October 2009, it accordingly put forward in July 2009 two documents, one being a Communication,¹ describing the reform process, providing an analysis of the market situation, summarising Community support measures, and outlining options for further action and discussion, whilst the other was a draft Council Regulation,² which sought to give effect to one of the measures identified in the Communication (to extend the period within which intervention buying may take place). In that Report, we also noted that some of the measures proposed in the Communication had already been agreed in Management Committees, but that an initial discussion on other possible measures was due to take place at the Agriculture Council on 7 September. We therefore decided on 10 September to await the outcome of that meeting before reporting these documents to the House.

1.3 We were subsequently told that there had been a substantial discussion, with all Member States sharing the Commission's analysis, and many (led by France and Germany) wishing to see more done to provide support, but with the UK and some other Member States urging caution. However, as we understood that further discussion was due to take

1 (30825) 12289/09: see HC 19–xxvii (2008–09), chapter 6 (14 October 2009) and HC 19–xxix (2008–09), chapter 1 (28 October 2009).

2 (30790) 11905/09: see HC 19–xxvii (2008–09), chapter 6 (14 October 2009) and HC 19–xxix (2008–09), chapter 1 (28 October 2009).

place at the Council on 19–20 October, we decided to draw the documents to the attention of the House, but to hold them under scrutiny, pending further information.

1.4 As we noted in our Report of 28 October 2009, we next received a letter from the Minister of State for Food, Farming and Environment at the Department for Environment, Food and Rural Affairs (Jim Fitzpatrick), which said that the proposal on intervention had been formally adopted, and that, as regards the dairy market situation, the Commission had told Member States that it had raised several ideas with the European Parliament for tackling the immediate situation. In addition, it had proposed the creation of a High Level Group to discuss medium term options.

1.5 The Minister added that the Council on 19 October had considered a note by 21 Member States calling for various immediate steps including a further use of market measures, an extension of products available under the school milk scheme, caution in selling intervention stocks, and the establishment of a new €300 million milk fund, and that, although other Member States had queried the relevance of these proposals, the Commission had indicated a willingness to propose a new €280 million fund for the dairy sector in 2010. He added that there had also been a full discussion of a new Commission proposal amending Article 186 of the Single Common Market Organisation (CMO) Regulation 1234/2007,³ and providing new flexibilities as regards the super levy.

1.6 We concluded that, whilst we would wish to consider the Explanatory Memorandum the Government was due to provide on these new proposals, it seemed to us in any case that last summer's Communication raised a number of important issues in relation to the underlying situation in the dairy sector, and the measures (and funding) available to tackle them, which the House should consider further. We therefore recommended that document for debate in European Committee A.

The current proposal

1.7 The new Commission proposal referred to above is set out in the current document, and, as indicated, has two elements. The first relates to the super levy, which is payable if a Member State exceeds its quota. At present, a Member State can “buy” quota from its farmers, and put this into a national reserve for reallocation as necessary, and that reserve counts as part of its total quota for determining whether super levy is payable. The change now proposed would exclude temporarily any bought-up quota in the national reserve from that calculation, thus reducing the level of production at which the super levy would become payable, and the sum raised by the purchase of any such quota could then be used by the Member State to finance restructuring measures in its dairy sector. The second element relates to Article 186 of Council Regulation No. 1234/2007, which allows the Commission to take measures needed when the Community market is likely to be disturbed by significant price changes for certain commodities: this proposal would extend the provisions in question to include dairy products.

3 OJ No. L 299, 16.11.07, p.1.

The Government's view

1.8 In his Explanatory Memorandum of 29 October 2009, the Minister says the Government supports the proposal on quota, although it has no plans to use it in the UK, but that it has concerns over the proposed use of Article 186 of Council Regulation No. 1234/2007. In particular, it is unsure how the Commission intends to use these powers, and is unconvinced that they are necessary, given the steps taken in the summer to extend intervention under existing provisions. It is also concerned about the budgetary implications if these new powers were to be used to activate emergency measures having significant implications for Community and national budgets.

1.9 The Minister adds that the proposal will be discussed by senior officials in Brussels on 9 November, and that it is hoped it will be adopted as an A point (ie. without discussion) at the Council next month.

Conclusion

1.10 **These proposals were foreshadowed in our Report of 28 October on the Commission's Communication on the dairy market situation, and clearly stem from the various discussions which the Council has had on the measures needed to stabilise that market within the Community. In view of this, it would be logical if they were to be considered by the House at the same time as that Communication, and we are therefore recommending that this document should be debated in European Committee A alongside it.**

2 Financial services

(a) (30950) 13648/09 COM(09) 499	Draft Regulation on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Board
(b) (30951) 13645/09 COM(09) 500	Draft Council Decision entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board
(c) (30952) 13652/09 COM(09) 501	Draft Regulation establishing a European Banking Authority
(d) (30953) 13653/09 COM(09) 502	Draft Regulation establishing a European Insurance and Occupational Pensions Authority

(e) (30954) 13654/09 COM(09) 503	Draft Regulation establishing a European Securities and Markets Authority
(f) (30955) 13656/09 SEC(09) 1233	Commission Staff Working Document: accompanying document to the Draft Regulation establishing a European Banking Authority, the Draft Regulation establishing a European Insurance and Occupational Pensions Authority and the Draft Regulation establishing a European Securities and Markets Authority: Possible amendments to Financial Services legislation
(g) (30956) 13657/09 SEC(09) 1234	Commission Staff Working Document: accompanying document to the Draft Regulation on Community macro prudential oversight of the financial system and establishing a European System Risk Board, the Draft Council Decision entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board, the Draft Regulation establishing a European Banking Authority, the Draft Regulation establishing a European Insurance and Occupational Pensions Authority and the Draft Regulation establishing a European Securities and Markets Authority: Impact Assessment
(h) (30957) 13658/09 SEC(09) 1235	Commission Staff Working Document: summary of the impact assessment

<i>Legal base</i>	(a) and (c)-(e) Article 95 EC; co-decision; QMV (b) Article 105(6); assent; unanimity (f)-(h) —
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	Minister's letter of 26 October 2009
<i>Previous Committee Report</i>	HC 19–xxviii (2008–09), chapter 6 (21 October 2009)
<i>To be discussed in Council</i>	2 December 2009 (ECOFIN Council) and 10–11 December 2009 (European Council)
<i>Committee's assessment</i>	Politically and legally important
<i>Committee's decision</i>	For debate on the Floor of the House

Background

2.1 Following the financial and economic crisis the Commission has, at the behest of the European Council, been examining the need for and presenting various proposals relating to the financial services sector. In May 2009 the Commission published its ideas about

legislation needed for Community regulation and supervision of financial services in its Communication *European financial supervision*.⁴

2.2 In June 2009 the European Council called on the Commission to bring forward legislative proposals by early autumn 2009, covering the establishment of:

- three European Supervisory Authorities with binding mediation powers, rulemaking powers, the power to directly supervise credit rating agencies and to undertake enforcement and peer review; and
- a new European Systemic Risk Board to warn of risks.

2.3 On 15 July 2009 the City of London Corporation⁵ published its response to the Commission Communication.⁶

2.4 These documents are the Commission's response to the European Council's request. The draft Regulation, document (a), would establish a European Systemic Risk Board. The Board would be responsible for the macro-prudential oversight of the financial system within the Community. It is intended to prevent or mitigate systemic risks within the financial system so as to avoid episodes of widespread financial distress and contribute to a smooth functioning of the internal market. The Board's recommendations would not be legally binding and it would not have any power to impose measures on Member States or national authorities. It would have a General Board, a Steering Committee, an Advisory Technical Committee and a Secretariat. The draft Council Decision, document (b), would require the European Central Bank to provide the Secretariat for the European Systemic Risk Board.

2.5 The draft Regulations, documents (c)-(e) would establish three new European Supervisory Authorities — respectively a European Banking Authority, a European Insurance and Occupational Pensions Authority, and a European Securities and Markets Authority. The proposals include significant detail of how the new bodies would operate, be staffed and be funded, and of their powers and roles. The key proposed powers and roles are:

- rulemaking — the authorities would develop technical standards in all sectors (with current legislation being amended to set out where they can make rules);
- enforcement — the authorities would have powers to ensure consistent application of Community rules, in a process similar to the current infraction process, except that it would be the authority finding a Member State or supervisor in non-compliance with the law;

4 (30660) 10511/09 + ADDs 1–2: see HC 19–xviii (2008–09), chapter 3 (3 June 2009) and *Gen Co Deb* European Committee, 29 June 2009, cols 3–24.

5 The Corporation says of itself "The City of London aims to promote and reinforce the competitiveness of the Square Mile and in particular UK-based international financial services. The City of London works closely with practitioners, trade associations and other stakeholders in order to shape the future direction of financial services policy. It focuses on issues created by EU economic, legislative, fiscal and regulatory developments which may impact or threaten to impact on the open, efficient and competitive environment for doing business in the City."

6 See http://www.cityoflondon.gov.uk/NR/rdonlyres/5D0D4E41-A9E4-4B12-9DE0-4185B68ED143/0/BC_PR_CityresponsetoCommissionCommunicationFINAL.pdf.

- emergency powers — the authorities would have powers over firms and supervisors in emergency situations;
- direct supervisory powers — the authorities would have powers to directly supervise cross-border institutions where provided for in Community legislation;
- settlement of disagreements — the authorities would have powers to mediate in disputes between supervisory authorities, being able to settle disputes and decide on an appropriate outcome;
- peer review — the authorities would be required to conduct peer review of supervisors and ensure a common supervisory culture;
- other — the authorities would maintain a database of supervisory information, take part in colleges of supervisors, have an international role and provide information to the European Systemic Risk Board; and
- safeguard clause — the mediation and emergency powers would be subject to a safeguard clause, whereby a Member State could opt-out of an authority decision if it believed the decision impinged on its fiscal responsibilities, but subject to approval by a qualified majority vote in the Council.

The authorities would take over the role of the Lamfalussy Level 3 Committees.⁷ The three authorities would have, jointly, a Board of Appeal, to consider appeals against their decisions.

2.6 The legislation proposed in documents (a)-(e) would apply to the European Economic Area.

2.7 In the Commission Staff Working Document, document (f), the Commission considers possible amendments to financial services legislation to sit alongside creation of the three European Supervisory Authorities. The amendments outlined, which it was expected the Commission would propose at the end of October 2009, are divided into four broad categories:

- technical standards — where the Commission will propose that the new authorities have powers to develop technical standards in specific areas of the legislation;
- direct supervision of credit rating agencies — where the Commission will propose that the Regulation on Credit Rating Agencies gives the new European Securities

⁷ The Lamfalussy processes are a four-level approach to regulation of the European financial services industry. At the first level the European Parliament and Council adopt legislation, setting framework principles and the Commission's implementing powers, on the basis of Commission proposals on which it is advised by sector-specific committees of high-level representatives of Member States chaired by the Commission. At the second level sector-specific committees of national regulators prepare and advise on implementing measures to be adopted by the Commission. At this level the committees of high-level representatives perform a "comitology" role (comitology procedures regulate exercise by the Commission of implementing powers conferred on it by the Council and the European Parliament and are essentially intended for detailed measures to implement Community legislation) of voting on the Commission's implementing measures before their adoption. At the third level the committees of national regulators work on strengthening co-ordination of regulation, for instance by establishing common interpretations of legislation and peer group review of regulatory practice. At the fourth level the Commission strengthens compliance with and enforcement of EU rules.

and Markets Authority general competence in matters relating to registration and on-going supervision of these agencies;

- settlement of disagreements — where the Commission will propose that the new authorities have a role in settling supervisory disputes where the legislation requires cooperation, coordination or joint decision making; and
- general amendments — where the Commission will propose ensuring the legislation accurately refers to the new authorities instead of the Lamfalussy Level 3 Committees they will replace, so as to ensure they receive information, to give them roles in interacting with third countries and to require them to keep registers and lists of financial institutions and actors in the Community.

The annex to the working document is an indicative list of possible amendments where the new authorities could be given a role in developing technical standards.

2.8 The Commission Staff Working Documents, documents (g)-(h), are the Commission's impact assessment for its five legislative proposals, documents (a)-(e), and its summary of that assessment.

2.9 When we considered these documents, last month, we heard, amongst other matters, first that the Government supports the broad objective of the legislative proposals, documents (a)-(e), — that is, to raise the quality and consistency of national supervision, to improve rulemaking and enforcement in the Community and to better identify risks in the financial system and that it strongly supports, in particular, measures to improve supervision and regulation in the Community by establishing a single rulebook. Secondly we learned that, in relation to document (f), the Commission Staff Working Document on possible amendments to financial services legislation, that:

- the Government supports the European Supervisory Authorities' having a wide-ranging role in developing technical standards and in providing a home Member State/host Member State dispute resolution mechanism;
- it supports the Authorities' having a role in supervising credit rating agencies; and
- although the document is not a formal legislative proposal, it usefully gives an indication of where and how the proposed European Supervisory Authorities' roles will take effect.

2.10 Thirdly, we were told that:

- the legislative proposals were to be discussed at ECOFIN Council meetings on 20 October and 2 December 2009 and European Council meetings on 28–29 October and 10–11 December 2009;
- the Swedish Presidency was looking for Council agreement on the proposed legislation by the end of the year;
- the European Parliament process will take longer, we understood being unlikely to start before the first quarter of 2010; and

- agreement of the package between the Council and the European Parliament “is likely to be by Easter 2010.”

2.11 We commented that:

- the proposals in documents (a)-(e) and the probable proposals in document (f) were likely to lead to important changes to the regulatory and supervisory regime for the Community’s financial services sector;
- although, however, the need for an emergency response to the immediate consequences of the financial, and wider economic, crisis had been well understood, we were concerned at what appeared to be a precipitate rush to finalise the proposed legislation;
- rushed legislation proved all too often to be poor legislation and we expected the Government to insist that these proposals be properly negotiated to a sensible timetable; and
- such a timetable would allow, amongst other matters, proper national parliamentary scrutiny. We, for instance, were likely to recommend these documents for debate, once we had elucidation from the Government on a number of points.

2.12 These matters on which we wished to have further information from the Government were:

- the issue of subsidiarity was addressed in its Explanatory Memorandum of 15 October 2009, but was the Government convinced of the proportionality of the proposed measures;
- was the Government satisfied, particularly in the light of the importance of the financial services sector for the UK economy, that the architecture of the proposed new bodies, including their membership, particularly of the Steering Committee of the European Systemic Risk Board, members’ voting weights and the relationship of the European Court of Justice to these bodies were acceptable;
- did the use of the qualification “where practicable”, in the Explanatory Memorandum, in relation to bringing the present proposals into line with what had been agreed by the European Council in June 2009, mean that the Government was planning to concede points previously won;
- what was the purport of the comment in the Explanatory Memorandum about ensuring “the new bodies operate in a legal way” — what might be illegal about the operations proposed;
- were members of the European Economic Area content to be subjected to bodies on which they have no representation;
- to what extent did the Government agree with the “clarifications” in the City of London Corporation’s response to the Commission Communication *European*

financial supervision and to what extent had these points been met in the proposals; and

- did the proposals fit in with what was being established at the international level and in third countries with significant financial services sectors?

2.13 We also said that the debate we were likely to recommend should take place, not only in the light of our report of the responses to the points we were raising, but with the benefit of the views of the Treasury Committee on the proposals. Ideally, if the timetable allowed, as it should, these views might flow from a formal inquiry, but we asked for whatever Opinion the Treasury Committee was able to offer.⁸ (The Treasury Committee is now undertaking a formal inquiry, which we hope would allow an Opinion to be completed by Prorogation.)⁹

The Minister's letter

2.14 The Financial Services Secretary to the Treasury (Lord Myners) now writes in response to our request for further information. He says first, in relation to whether the Government is convinced of the proportionality of the proposed measures, that:

- the financial crisis has demonstrated the need to raise Community supervisory standards and address home-host issues, such as those concerning branches; and
- the Government believes that the new supervisory system would, for example, improve enforcement of rules and raise standards through peer review, and therefore improve the financial stability framework.

2.15 In relation to the architecture of the proposed new bodies the Minister comments that:

- the Government is satisfied with the composition of the European Systemic Risk Board;
- in particular, the Government has ensured a balanced representation of eurozone and non-eurozone representatives on the Board's Steering Committee;
- the Government is content with the "improved threshold limits" for Board voting; and
- on voting in the European Supervisory Authorities there are wide-ranging views amongst Member States and the Government is exploring potential voting mechanisms.

2.16 Turning to the phrase "where practicable", in relation to bringing the present proposals into line with what has been agreed by the European Council the Minister tells us that:

8 See headnote.

9 See http://www.parliament.uk/parliamentary_committees/treasury_committee/tc0809pressnotice64.cfm.

- it is not the Government’s intention to go back on the conclusions that Finance Ministers and Heads of Government agreed in June 2009;
- parts of the conclusions, however, do not cover key issues for the UK and do not constitute “points won”;
- moreover, arrangements that are workable in practice, and within existing legal constraints, may diverge slightly [from those conclusions];
- the Government does not want a situation where the new bodies are not workable in practice and cannot fulfil the tasks entrusted to them — this would be especially damaging for the European financial services industry;
- it does remain a priority, however, for the Government to stick to the spirit of the conclusions; and
- most importantly, the Government is clear that the final agreement on the package should go no further than what was mandated by the European Council in June 2009.

2.17 On the comment about ensuring “the new bodies operate in a legal way” the Minister , noting that there are wide-ranging roles proposed for the new bodies, says that:

- these are legally complex and there is significant case law on how Community agencies should operate;
- the Government needs to ensure that the bodies do not have too wide a discretion or undermine the roles of the courts; and
- the Government is working with Council Legal Service and other Member States to ensure that the bodies are on a very sound legal footing.

2.18 On the question of whether members of the European Economic Area are content to be subjected to bodies on which they have no representation the Minister says “EEA Members are already subject to EU law and are not consulted on this.”

2.19 As for the “clarifications” sought by the City of London Corporation the Minister tells us that:

- the Government has long stressed the distinction between regulation and supervision;
- it remains clear to the Government, as was also stated in the ECOFIN Council and European Council conclusions in June 2009, that day-to-day supervision should remain at the national level, where national authorities are best placed to supervise individual institutions, and to respect national fiscal responsibilities;
- the Government agrees with the City, however, that “supervisors need to converge their supervisory practices and ensure that like firms are treated similarly”;
- the European Supervisory Authorities would play a key role in this and the Government needs to ensure that the legislation fulfils this aim;

- the Government believes the Community would benefit from more harmonised and better quality rules, in which connection it proposed a single rule book in March 2009;
- the Government supports, therefore, a strong rulemaking role for the European Supervisory Authorities, which would be composed of experts in the fields of banking, securities, insurance and pensions.;
- on a specification of what sort of “diverging opinions” are covered in the case of “disagreement between national supervisors”, the Government is listening to the views of other Member States and is working to clarify the areas in which the European Supervisory Authorities would be able to settle disagreements;
- on the scope of “Full supervisory powers for some specific entities”, this would only apply where the sectoral legislation empowers the authorities to have direct supervisory responsibility over an entity and this would therefore have to be agreed by the Council and the European Parliament on a case-by-case basis in the relevant legislation;
- on the concept of “binding cooperation” between the European Systemic Risk Board and the European Supervisory Authorities, it will be important that the authorities’ expertise feeds into the Board’s risk assessments and that the Board has access to all the relevant information it needs to fulfil its tasks; and
- in relation to the European Supervisory Authorities’ access to information, including in supervisory colleges, it is right for them to have access to appropriate information about firms, so that they can properly fulfil their duties.

2.20 Turning to our question, as to whether the proposals fit in with what is being established at the international level and in third countries with significant financial services sectors, the Minister comments that:

- the work of the European Systemic Risk Board would be closely integrated with the global early warning system under the International Monetary Fund and the Financial Stability Board — the proposed legislation would specify that the Board should “coordinate with international institutions, particularly the International Monetary Fund and the Financial Stability Board, as well as the relevant bodies in third countries on matters related to macro-prudential oversight”; and
- more harmonised regulation and higher quality standards were agreed by the G20 and it is only right that the community ensures it plays its role in that process.

2.21 The Minister also reports discussion of the proposals at the 20 October 2009 ECOFIN Council, telling us that:

- the Swedish Presidency had originally proposed that the Council agree general approaches to the draft Regulation establishing the European Systemic Risk Board and the draft Council Decision entrusting the European Central Bank with specific tasks concerning the functioning of the Board, documents (a) and (b);
- the Government has maintained a scrutiny reserve in the negotiations;

- at the meeting the Government made it clear to the Presidency and the Council that it could not agree to general approaches, that insufficient time had been given for parliamentary scrutiny and that it would not negotiate on this point,
- agreement to general approaches is therefore not recorded in the Council conclusions, instead they read that “without prejudice to ongoing national parliamentary procedures, there is broad agreement on the substance” of the proposals;
- the Presidency was invited to begin negotiations with the European Parliament on the draft Regulation and to take the necessary steps to initiate the process with the European Parliament on the Council Decision; and
- the conclusions make clear that final agreement on the complete supervisory package will go to the ECOFIN Council and European Council in December 2009.

Conclusion

2.22 We are grateful to the Minister for this account of where matters stand on these proposals. But we are disappointed that Member States, in the ECOFIN Council and in the European Council, intend to continue to press on precipitately with this legislation and that the Government seems content to acquiesce in this haste. As we have already said, rushed legislation proves all too often to be poor legislation and we would expect the Government to insist that these proposals are properly negotiated to a sensible timetable.

2.23 However, given the timetable that unfortunately now seems probable, we recommend that a debate on documents (a)-(h) should take place on the Floor of the House. Such a debate should take place before the ECOFIN Council on 2 December 2009, but after publication of the Opinion we have requested from the Treasury Committee. And given the importance and complexity of the legislative proposals we recommend also that the debate should be, exceptionally, for three hours.

2.24 There are a number of matters on which we should like further comment from the Minister in time for the debate:

- we are unclear as to the Minister’s assertion that “the Government has ensured a balanced representation of eurozone and non-eurozone representatives” on the European Systemic Risk Board’s Steering Committee. The wording of Article 11 of the draft Regulation, document (a), does not suggest any such balance. If the Minister means a redraft of the provision does provide a balance, we should like sufficient detail to form a view;
- similarly, we should like to know what the Minister means by “improved threshold limits” in relation to European Systemic Risk Board voting;
- we note the Minister’s somewhat insouciant comment about the European Economic Area. We are, of course, very well aware that this sort of legislation applies automatically to the European Economic Area. However what we asked was whether members of the European Economic Area were content to be

subjected to [these proposed] bodies on which they have no representation. We should be grateful for an answer to this point;

- similarly, the Minister’s comment about access by the European Supervisory Authorities to information, including in supervisory colleges, does not appear to address the City of London Corporation’s query as to the appropriateness of representatives of the European Supervisory Authorities being on the colleges. We should be grateful for clarification of this point; and
- legal concerns that have become apparent on further examination of the proposals, particularly in relation to delegation of powers, to legal bases and to proportionality. In this connection we annex a Memorandum on the legal aspects of the drafts, and invite the Minister’s comments on it.

2.25 Amongst the matters Members might wish to explore in the debate are:

- why such haste in adopting legislation, which is presumably intended to be appropriate for many years, is necessary;
- any points arising from the matters we have raised in the preceding paragraph; and
- any further concerns that might be raised by the Treasury Committee.

Annex: European Financial Supervision — delegating power to Community agencies and legal bases for doing so

General context

1. The Treaty on the European Community (EC Treaty) does not provide for the creation of Community agencies. This is significant because, under the ‘principle of conferral’, the Community is only empowered to act where power to do so has been conferred on it by its Member States under the EC Treaty. The principle of conferral underpins Community law.

2. So the question of delegating power to a subordinate agency is necessarily delicate because the Member States have not conferred power on the Community to do so. It is also delicate because of the inherent risk that the Community will give more power to a subordinate agency than it has itself, thereby extending the Community’s field of activity further than conferred on it by the Member States.

3. That said, it is understandable that over the years the European Commission, responsible for overseeing the implementation of ever-expanding Community policy, has considered it necessary to delegate certain tasks to subordinate agencies. This has usually been because it is lacking either resources or expertise, or both, to ensure that a complex area of policy is correctly implemented.

4. To date agencies have been created to help implement very specific technical, scientific or managerial aspects of policy, where specialist skills are required. Examples include the

Community Plant Variety Office, the European Aviation Safety Agency, European Centre for Disease Prevention and Control, the European Chemicals Agency, the European Environment Agency, the European Food Safety Authority, the European Maritime Safety Agency and the European Medicines Agency.

Specific rules on the lawful delegation of power

5. In the absence of Treaty provisions, the European Court of Justice (ECJ) has been called upon to define the circumstances in which the Community can lawfully delegate power to a subordinate agency. The *Meroni* doctrine, arising from a 1958 case¹⁰ brought against the High Authority of the Coal and Steel Community (replaced in 1967 by the European Commission), established the following rules:

- the delegating authority can only delegate to an agency powers that it possesses itself under the EC Treaty;
- the exercise of power by the agency must be subject to the same rules as would apply if the delegating authority were exercising the power (e.g. duty to state reasons, right to be heard, right to appeal);
- the delegating authority has to take an express decision transferring the powers;
- any procedure for assessment by an agency on its own authority must be subject to precise objective criteria so as to exclude arbitrary decision-making and to make judicial review possible;
- delegation of power can only relate to *clearly defined executive powers*, the use of which must be entirely subject to the supervision of the High Authority;
- consequently, it was not permissible to delegate *broad discretionary powers* that gave the agency a wide margin of appreciation.

6. The ECJ has considered the question of delegation in a number of subsequent judgements but has been reluctant to refer specifically to the *Meroni* judgement. One of the issues at stake in 1970 in *Köster*¹¹ was the role of a “management committee” established by the Council to assist the Commission when implementing the common organisation of the market in cereals. As explained by the Council and later confirmed by the Commission, “... the detailed rules of the management committee procedure do not have the effect of putting the powers conferred on the Commission in issue: they introduce, it is true, the deliberations of a committee but in the exercise of the powers conferred on it the Commission remains the master of its own decision: it is never obliged to follow the opinion of the Committee...” Concluding therefore that the function of the committee was only such as to ensure permanent consultation in order to guide the Commission, the Court found no reason to interfere.

10 Case C -9/56 and 10/56, *Meroni v High Authority* [1957/1958] ECR 133.

11 ECJ, C-25/70, 1970, 2 ECR 1161, *Einfuhr- und Vorratsstelle für Getreide und Futtermittel v. Köster, Berodt & Co.* See also ECJ Opinion 1/76, 2007.

7. *Romano*,¹² decided in 1980, concerned the power of the Administrative Commission for the Social Security of Migrant Workers, an auxiliary body of the Commission, to lay down certain criteria which national authorities would have to take into account. The duties of the Administrative Commission included comprehensive law-making competences, *inter alia* dealing with all questions of interpretation arising from a Community Regulation. Here, the Court held that “... it follows both from Article 155 of the Treaty and the judicial system created by the Treaty, and in particular by Articles 173 and 177 thereof, that a body such as the Administrative Commission may not be empowered by the Council to adopt acts having force of law ...”

8. In 2005, the ECJ gave a clear signal that the distinctions outlined in the *Meroni* doctrine still apply. Referring directly to *Meroni*, the Court upheld the conferral of power to one of the organs of the European Central Bank.¹³

“With regard to the conditions to be complied with in the context of such delegations of powers, it should be recalled that, as the Court held in *Meroni*, first, a delegating authority cannot confer upon the authority to which the powers are delegated powers different from those which it has itself received. Secondly, the exercise of the powers entrusted to the body to which the powers are delegated must be subject to the same conditions as those to which it would be subject if the delegating authority exercised them directly, particularly as regards the requirements to state reasons and to publish. Finally, even when entitled to delegate its powers, the delegating authority must take an express decision transferring them and the delegation can relate only to clearly defined executive power.”

9. A delegating act which fails to respect the principles outlined above would be liable to an action before the ECJ for annulment of the entirety of the act on grounds of illegality (*ultra vires*).

Have the specific rules on the lawful delegation of power being respected in the draft Regulations¹⁴ establishing the European Supervision Authorities (ESAs)?

(Given the time constraints the observations below are necessarily preliminary.)

Delegation of power to ESAs in Article 11 and 9 of the draft Regulations

10. At the very least there must be a concern whether Article 11 of the draft ESA Regulations — *Settlement of disagreements between competent authorities* — respects the rules on delegation of power. Paragraph 3 permits the ESAs to require national competent authorities to “take specific action to refrain from action in order to settle the matter in compliance with Community law”. Paragraph 4 empowers the ESA “to adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law, including the cessation of any practice.” There is

12 Case C-98/80, *Romano v Institut National d'Assurance Maladie Invalidité* [1981] ECR 1241, para 20.

13 Case C-301/02 P, *Tralli v. ECB* [2005] ECR I-4071, para. 43.

14 Based on drafts dated 23.9.2009.

little or no oversight by the Commission. In view of the rules which apply to delegation, these extensive powers risk:

- going further than the powers the Commission would have if it acting in place of the ESA (which EC Treaty provisions would apply?);
- delegating broad discretionary powers that give the ESAs too wide a margin of appreciation in the interpretation and application of Community law (akin to an “act having the force of law” as stated in *Romano*). This could interfere with the EU’s Treaty-based institutional balance;
- applying a procedure for assessment which is not subject to precise objective criteria so as to permit arbitrary decision-making and to make judicial review impossible (on the face of the Regulations the reference to “in compliance with/obligations under Community law” is insufficiently precise).

11. Unless these concerns are fully considered, there is a risk that the Regulations establishing the ESAs could be annulled on the grounds of illegality once finally adopted. For example, an individual financial institution or national competent authority to which a decision is addressed under Article 11 could apply to have the relevant ESA Regulation annulled on one or several of the grounds above.

12. Parallel concerns arise with respect to some of the enforcement measures in Article 9, *Consistent application of Community rules*, and in Article 10, *Action in emergency situations*. In Article 9(6) the ESAs are given the power “to adopt an individual decision addressed to a financial institution requiring the necessary action to comply with its obligations under Community law, including the cessation of any practice.” The same power exists in Article 10(3).

Legal base

13. The question of legal base is relevant to the scope of power that can be delegated under the EC Treaty. The fifth recital of the preamble of the draft ESA Regulations encapsulates the policy justification for using Article 95 EC — approximation of laws in the internal market — as the legal base, with the legal justification (citing an ECJ case which the UK lost) encapsulated in the tenth recital. The nineteenth recital of the preamble of draft Regulation setting up the European Systemic Risk Board (ESRB) similarly explains why this measure will “contribute directly to achieving the objectives of the internal market”.

14. It will be very important for Member States to satisfy themselves that “it is actually and objectively apparent from the legal act that its purpose is *to improve the conditions for the establishment and functioning of the internal market*¹⁵”? (In this regard it is noteworthy that the Minister (Lord Myners) in his Explanatory Memorandum of 15 October states that “although the legal base of the regulations is Article 95, their principal objectives relate to the right of establishment and free movement of services.”) If an internal market aim is not

¹⁵ Case C-217/04, *UK v European Parliament and Council of the European Union*, [2004]. But see AG Kokott’s opinion on the extent of Article 95 EC, which was not followed by the Court.

sufficiently apparent, the Regulations will be liable to an action before the ECJ for annulment of the entirety of the act on grounds of illegality (*ultra vires*).

15. Article 308 EC could possibly be relied upon as a replacement legal base if the purpose of the ESAs and the ESRB is considered to be consistent with “attain[ing] ... one of the objectives of the Community” but where no precise legal base exists in the EC Treaty. In contrast to Article 95 EC, where decisions are taken by QMV, decisions under Article 308 EC are taken on the basis of unanimity, with each Member State therefore having a veto. Nine Community agencies have been set up on the basis of Article 308 EC, or its predecessor Article 235 EC, including the European Agency for Safety and Health at Work, the European Centre for the Development of Vocational Training, the European Training Foundation and, most recently, the European Agency for Fundamental Rights.

16. In assessing the appropriateness of the legal base, the following types of question arise. Are the ESAs being established to “preserve and improve the conditions for the establishment of a fully integrated and functioning internal market in the field of financial services”, as averred in the fifth recital? Or is it more a case of overseeing “the orderly functioning and integrity of the financial system” (Article 9(6))? If it is primarily the latter, is Article 95 the appropriate legal base?¹⁶ In short, the Government should satisfy itself that the propositions made in the fifth and nineteenth recitals of the respective draft Regulations are both economically coherent — i.e. linking the management of risk with the regulation of the internal market — and reflected in the contents of the Articles of the Regulations. On the face of the drafts, there is a counter argument to say that these Regulations primarily address the management of general risk and stability in financial services. The connection between that and the “improvement of the conditions of the conditions for the establishment and functioning of the internal market”¹⁷ is far from clear cut.

17. By contrast, the correctness of the legal base of the Council Decision on the role of the ECB in the functioning of the ESRB is clearer. Article 105(6) gives the Council power to confer on the ECB “specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings”. Any concerns about the substance of the ECB’s role beyond providing a secretariat should be reflected in amendments to the Articles, not the legal base.

Proportionality

18. Finally, there may also be the separate but related ground for challenging the draft Regulations, namely whether the powers given to the ESAs and ESRB are proportionate to the legislative aim. In other words, are the powers set out in Articles 9, 10 and 11 really necessary to meet the claimed objective of the functioning of the internal market under Article 95 EC. The Government should have assessed the proportionality of the draft Regulations, but the Minister’s Explanatory Memorandum of 15 October is silent on it, and

16 The ECJ has interpreted the residual power to act under Article 95 EC fairly widely, but that is not to say these Regulations stretch that interpretation too far.

17 See 5 above

the Minister’s letter of 26 October does not address this point in adequate detail. (The principle of proportionality is set out in the final paragraph of Article 5 of the EC Treaty.)

3 Investing in the development of low carbon technologies

<p>(30998) 14230/09 + ADDs 1–4 COM(09) 519</p>	<p>Commission Communication: <i>Investing in the development of low carbon technologies (SET Plan)</i></p>
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<i>Legal base</i>	—
<i>Document originated</i>	7 October 2009
<i>Deposited in Parliament</i>	13 October 2009
<i>Department</i>	Energy and Climate Change
<i>Basis of consideration</i>	EM of 21 October 2009
<i>Previous Committee Report</i>	None, but see footnotes 18 and 19
<i>To be discussed in Council</i>	See para 3.18 below
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared, but relevant to the debate recommended on international climate finance

Background

3.1 As we have noted from time to time, the Commission has long believed that the Community needs to act quickly to increase the use of low-carbon energy technologies (including renewable energy), and it put forward in November 2007 a European Strategic Energy Technology (SET) Plan.¹⁸ The aim of this would be to match the most appropriate set of policy instruments to the needs of different technologies at their different stages of development, and to identify those beyond the capacity of any single country, where the Community as a whole needs to find a way of mobilising resources, and public intervention is necessary since there is neither a natural market nor a short-term business benefit in supporting energy innovation.

3.2 The Commission went on to identify a number of measures which are either in place, or in the pipeline, as well as certain new long-term technologies, and to suggest that the Community should evolve a “new model of focussed cooperation”, with the private sector at the forefront, but with Member States taking the action needed to increase investment, provide clear market signals, and strengthen the research base, and with the Community enabling the pooling of resources and sharing of risks, facilitating strategic planning,

¹⁸ (29194) 15458/07: see HC 16–vii (2007–08), chapter 12 (9 January 2008).

bringing about a better gathering and sharing of information, and addressing common problems and non-technological barriers. It also noted that the challenges arising require a global effort, and suggested that the Community has a significant role in fostering international cooperation.

3.3 The Plan then explored ways of achieving joint strategic planning (through the creation of new initiatives, such as a SET Plan Steering Group, a European Energy Research Alliance, a SET Plan Information System, and a number of private sector led European Industrial Initiatives); international cooperation; and the resources needed, adding in the latter case that the Commission intended to produce a further Communication on low-carbon technologies.

The current document

3.4 The current document seeks to fulfil that remit, and reiterates both the role which technology and the efficient use of resources can play and the need to act now to accelerate the development of those technologies with the greatest potential. It also says that a European approach is essential in order to provide the necessary scale and financial leverage, though it stresses that the figures it has produced should not be seen as a formal proposal for funding from the Community budget, but rather as an indication of orders of magnitude, with the bulk of the funds required having to come from the private sector and Member States.

EU carbon technology road-map for 2010–20

3.5 The Commission says that investments over the next 10 years will have profound consequences for energy security and climate change in Europe, and that it has drawn up Technology Roadmaps for this period, which prioritise the different needs of the various technologies, depending upon their stage of development, but which will be subject to periodic review and amendment as necessary.

European Industrial Initiatives

3.6 The Commission says that these aim to turn into reality the opportunity to develop clean and efficient energy technologies, and will be accompanied by detailed implementation plans. It then highlights the position in a number of areas, as follows:

— European wind initiative

The Commission says that wind energy has to accelerate the reduction of costs, move increasingly offshore and resolve associated grid integration issues if it is to fulfil its “huge” potential, and it suggests that there is a need to develop a better picture of wind resources in Europe, to build five to ten testing facilities for new turbine components, up to ten demonstration projects of next generation turbines, at least five prototypes of new offshore substructures tested in different environments, demonstrate new manufacturing processes, and test the viability of new techniques in remote and often hostile environments. It also suggests that these steps should be underpinned by a comprehensive research programme to improve the conversion efficiency of turbines.

It estimates that the total public and private investment needed in Europe over the next ten years is €6 billion, and it says that the return would be fully competitive wind generation capable of contributing up to 20% of Community electricity by 2020 (and 33% by 2030).

— *The solar Europe initiative*

The Commission says that solar energy, including photovoltaics and concentrated solar power, has to become more competitive and gain mass market appeal, and to resolve problems arising from its distributed and variable nature. It suggests that this requires a long-term research programme focussed on advanced photovoltaic concepts and systems, up to five pilot projects for automated mass production, and a portfolio of demonstration projects for both decentralised and centralised photovoltaic production. As regards concentrated solar power, it sees the overriding need as being industrial scaling up of demonstrated technologies, supported by a research programme to reduce costs and improve efficiency, particularly through heat storage.

It says that this will require an estimated €16 billion of public and private investment in Europe over the next ten years, and that 15% of Community electricity could be generated by solar power in 2020 as a result.

— *European electricity grid initiative*

The Commission says that electricity networks have to respond to three inter-related challenges — the creation of a real internal market, integrating a massive increase of intermittent energy sources, and managing complex interactions between suppliers and customers. It believes that this requires a strongly integrated research and development programme to develop new technologies to monitor, control and operate networks, as well as optimal strategies and market designs to provide the incentives needed to increase the overall efficiency and cost-effectiveness of the supply chain, with up to 20 large scale demonstration projects across Europe.

It says that the total public and private investment needed over the next ten years is estimated at €2 billion, the goal being the seamless integration of renewables in 50% of networks by 2020.

— *The sustainable bio-energy Europe initiative*

The Commission says that bio-energy has to bring to commercial maturity the most promising technologies, but notes that different pathways are at various stages of maturity, with the most pressing need for many being the demonstration of the technology at an appropriate scale. It suggests that up to 30 such plants will be needed to take full account of differing geographical and climate conditions and logistical constraints, and that a longer term research programme should support the development of a sustainable bio-energy industry beyond 2020.

It estimates that the total public and private investment needed over the next ten years is €9 billion, and that the contribution of cost-competitive sustainable bio-energy to the Community's energy mix could be 14% by 2020.

— *The European carbon dioxide capture, transport and storage initiative*

The Commission says that these technologies have to be widely commercialised if the Community is to achieve almost zero carbon power generation by 2050 and the continued use of coal is not to exacerbate climate change. It suggests that there is a pressing need to demonstrate the full carbon capture and storage chain for a different range of options, in addition to which a comprehensive research programme will deliver improved components, integrated systems and processes to make carbon capture and storage commercially feasible in fossil fuel power plants.

It estimates that some €13 billion public and private investment will be needed over the next ten years, with a target of reducing by 2020 the cost to €30–50 per tonne of carbon dioxide abated, making it cost-effective within the carbon pricing environment.

— *The sustainable nuclear fission initiative*

The Commission says that nuclear fission has to move towards long-term sustainability with a new Generation-IV reactor type, designed to maximise inherent safety, increase efficiency, produce less radioactive waste, and minimise proliferation risks. It adds that commercial deployment of these reactors is envisaged for 2040, but that this requires work to start now. It also says that the bulk of the programme up to 2020 will comprise design and construction of prototypes, fuel fabrication workshops and experimental facilities, and the development of new materials and components.

It estimates that the total public and private investment needed over the next ten years is €7 billion, and that the first Generation-IV prototypes should be in operation by 2020.

— *Fuel cells and hydrogen*

The Commission notes that the Joint Technology Initiative (JTI) on fuel cells and hydrogen was established for 2008–13 with €470 million of Community funding, to be at least matched by industry. It says that the JTI has the minimum critical mass needed to develop efficient and cost-competitive technologies for the various applications, but that meeting market entry targets will require substantial additional effort, notably large-scale demonstrations and pre-commercial deployment activities. Also, long-term research and technology development is required to build up a competitive fuel cell chain and sustainable hydrogen infrastructure.

It says the additional public and private funding needed is currently put at €5 billion for the period 2013–20.

Energy efficiency — Smart Cities Initiative

3.7 The Commission says that energy efficiency is the simplest and cheapest way to secure carbon dioxide reductions, and that this new initiative aims to support ambitious pioneer cities to transform their buildings, energy networks and transport systems. Participating cities and regions will be expected to test and demonstrate the feasibility of going beyond

current Community energy and climate objectives, involving a 40% reduction of greenhouse gas emissions by 2020. It says that this is likely to require €11 billion public and private investment over the next ten years, with the initiative putting 25 to 30 European cities at the forefront of the transition to a low carbon future, leading to the wider development of smart networks.

European Energy Research Alliance

3.8 The Commission says that this Alliance is elevating cooperation between national research institutes to a new level, involving the collective devising and implementation of joint programmes, but that there is a need to build on this momentum in order to accelerate the development of new generations of low carbon technologies, and to shorten the time between ideas being taken out of the laboratory and adopted by industry. It says that over the next two years the Alliance will launch and implement joint programmes addressing key challenges with concrete technological objectives, developing strong links with Industrial Initiatives. It suggests that the Alliance could expand its activities to manage an additional public investment of €5 billion over ten years.

Complementary activities and initiatives

3.9 The Commission says that it is examining other avenues with great potential, such as alternative sources of offshore renewable energy, energy storage and renewable heating and cooling; and it suggests that the two key challenges for the nuclear sector are the life time extension of facilities and the disposal of waste. It also identifies *fusion* as a promising long-term energy source; draws attention to the “chronic” under-funding in the Community of *breakthrough science* in areas such as motor fuels from sunlight and battery storage, compared with the US; and stresses the need, in addition to the Energy Research Alliance, to *activate other areas of science and research* on energy and climate-related challenges, such as the European Space Agency and the proposed Knowledge and Innovation Communities. It also highlights the importance of *international cooperation* in stimulating investment in low carbon technologies and energy efficiency and providing support for such projects in developing countries, drawing attention to the potential role of the EU Strategic Forum for International Scientific and Technical Cooperation, and to the EU-China Near Zero Emissions Coal Project.

Sharing risks and pooling resources

3.10 The Commission believes that investment in the Community needs to increase from the current €3 billion a year to around €8 billion, representing an additional public and private investment of €50 billion over the next ten years, and it says that there is a need for a risk-sharing approach, with public support being justified where there are market failures, but with the private sector otherwise having to cope on its own. It adds that industry must be ready to accelerate the development and roll out of new technologies, and that banks and private investors will have to finance companies which will drive the transition to a low carbon economy (though it recognises that this represents a major challenge in the current financial crisis, requiring public authorities to offer appropriate incentives and policy signals). It points out that 70% of non-nuclear energy research in 2007 was financed privately, and that policy requirements call for a significant rise in the

public share to a more equal level of commitment: it also says that 80% of public investment in this area has been at national level, and that an increase in the proportion of public investment at Community level may need to be explored in the budget review, with the level of funding required depending upon the interest of Member States in co-financing initiatives.

Possible sources of public funding

3.11 The Commission suggests that as from 2013 the new Emissions Trading Scheme will enable revenues from the auctioning of allowances to be reinvested at national level for the development of more efficient and lower cost clean technologies, with at least 50% having to be used for activities related to climate change. It adds that allowances set aside from the New Entrants Reserve will be used to support carbon capture and storage and innovative renewables, and will be made available through Member States to fund demonstration projects selected on criteria defined at Community level, subject to the proviso that this only facilitates the commercialisation of existing technologies, and does not cover technological risks. The Commission also says that current Community programmes, such as the Research Framework Programme, the Intelligent Energy-Europe Programme and the European Energy Programme for Recovery, are the natural instruments for this purpose, but that current resources are not sufficient to address all the actions envisaged.

Improving coherence and mobilising the financial community

3.12 The Commission stresses the need for any public funding to be spent well, by maximising the incentive and leverage effect and ensuring the highest possible returns to society, and notes that the tools available include research and innovation programmes at national and Community level; debt based financing; venture capital funds; infrastructure funds; and market-based instruments. It also says that insufficient resources, fragmentation and lack of cross-fertilisation are a problem, but that the more coherent partnership approach now envisaged should help to address this.

3.13 In particular, it says that it will focus on the implementation phase, moving progressively towards co-investing in programmes rather than individual projects, and creating public-private partnerships with industry, striking the right balance between control and risk. However, it says that it will at the same time look for new ways to combine resources to finance large-scale demonstrations, and that the European Investment Bank (EIB) could play a pivotal role in mobilising and leveraging other public and private sector resources. It notes that, in response to the economic crisis, the EIB has increased its target in the energy field from €6.5 billion in 2008 to €9.5 billion in 2009 and €10.25 billion in 2010, and it says that it will be working with the EIB on a number of initiatives to achieve increased funding to finance the Plan. These include reinforcing the Risk Sharing Finance Facility; significantly increasing the resources of the 2020 European Fund for Energy, Climate Change and Infrastructure; developing a dedicated joint energy efficiency and renewable energy instrument to finance initial take-up of low carbon technologies; increasing Community support for venture capital markets, under the Competitiveness and Innovation Programme to encourage increased investment in such technologies; assessing the optimal financial packages for large demonstration or market

replication projects; and establishing stronger links between the EIB and the European Community Group on Strategic Energy Technologies.

The Government's view

3.14 In his Explanatory Memorandum of 21 October 2009, the Parliamentary Under Secretary of State at the Department for Energy and Climate Change (David Kidney) says that the UK agrees with the Commission's analysis that more investment will be needed over the next ten years and beyond, in order to deliver the significant energy technology development that will be needed to meet SET Plan objectives, and that a collaborative approach between Member States has the best chance of success. He adds that the scale of the challenge, the investment needed, and the source of funding are matters requiring continued debate and consideration, and he welcomes the Commission's suggestions that more investment can be delivered in partnership with the European Investment Bank and through strategically redirecting resources from current EU programmes towards SET Plan activity. He also notes the non-binding nature of the Communication's recommendations on additional Member State national spending, and says that the UK looks forward to continuing discussion of the ideas in the Communication and active participation in the SET Plan more generally.

3.15 However, the Minister is disappointed that the Commission has been unable to identify significant central EU funding, and says that this will need to be addressed urgently. In the meantime, he regards the expectation of significant additional national and private sector spending in the current financial climate as impractical, and points out that the call for significant increases in Member States' public expenditure would pose major challenges for many of them under the current financial situation. However, he notes that the Communication's recommendations on such increases are not binding, and suggests that the effect of the Communication is therefore likely to concentrate wider debate within the Community and in individual Member States on priorities, rather than to create immediate policy issues or budget difficulties.

3.16 The Minister says that there is no specific timetable attached to this Communication as its recommendations are non-binding. However, the underlying structures which will guide and support the additional spending it proposes, are due to be set-up by the end of 2010, and the increasing investment and activity is due to take place over the next ten years, in line with the technology roadmaps produced to support the Communication. With that in mind, engagement with the EIB has already started, as has the redirection of the Framework Programme Energy budget spending towards SET activity. Also, additional funding has been allocated from the European Economic Recovery Plan, leaving any additional central EU budget allocations still to be negotiated, along with any Member State national spending increases which remain a matter of national sovereignty.

Conclusion

3.17 This is an important document, which fulfils the Commission's intention of following up its earlier Communication on the Strategic Energy Technology Plan with an indication of the resources needed to develop low-carbon technologies over the next ten years to the extent necessary to contribute towards the Community's climate

change objectives. As such, it covers a good deal of ground, but it also makes it clear that the figures quoted do not constitute a formal proposal, and are essentially an attempt to provide a broad order of magnitude of the levels of finance required.

3.18 Consequently, whilst we are drawing the document to the attention of the House, we are content to clear it, but we do regard it as relevant to debate in European Committee A which we recommended recently on a Commission Communication¹⁹ on international climate finance.

4 Climate Change and Development

(31044) 14967/09 SEC(09) 1426	Joint Presidency/Commission Paper: <i>Climate Change and Development</i>
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<i>Legal base</i>	—
<i>Document originated</i>	20 October 2009
<i>Deposited in Parliament</i>	27 October 2009
<i>Department</i>	International Development
<i>Basis of consideration</i>	EM of 29 October 2009
<i>Previous Committee Report</i>	None; but see (30910) 13183/09: HC 19–xxviii (2008–09), chapter 1 (21 October 2009)
<i>To be discussed in Council</i>	15–16 November 2009 “development” General Affairs and External Relations Council
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared, but relevant to the debate to be held in the European Committee on international climate finance (reported to the House on 21 October 2009)

Background

4.1 This joint paper from the Swedish EU Presidency and the European Commission begins by noting that it follows from the work of the International Commission on Climate Change and Development and its report “Closing the Gaps” and the recent Commission Communication, *Stepping up international climate finance: A European blueprint for the Copenhagen deal*.

¹⁹ (30910) 13183/09: see HC 19–xxviii (2008–09), chapter 1 (21 October 2009).

The Presidency/Commission Paper

4.2 The paper takes a mid-term and long-term perspective, beyond the forthcoming Copenhagen Summit in December this year and aims to highlight the importance of developing policies and strategies to cope with the climate change challenge in developing countries most vulnerable to climate change.

4.3 With this aim in mind, the paper seeks to provide guidance on how the EU can best respond to the challenges of adaptation and mitigation in those developing countries and improve its development cooperation approaches and practices. Adaptation to climate change and the move towards low-carbon growth “will require rethinking development strategies”; the paper accordingly “draws attention of policy makers to the principles, objectives and modalities as well as the required additional finance for encouraging donors and partner countries to invest effectively and sustainably in adapting to climate change, while moving towards low-carbon development.”

4.4 Effective adaptation, the paper says, includes increased adaptive capacity among humans and societies, investments in technical adaptive measures, and building resilience:

“Effective adaptation is context specific and must start at the local level. But adapting to climate change will entail adjustments and changes at every level — from local to national, regional, and international. Strong institutions, tailored to needs, at all levels, are important in this regard.”

4.5 The paper draws attention to the additional burden that climate change imposes on developing countries:

“The EU Member States should respect their individual ODA commitments and the EU should reach its collective ODA commitment of 0.7 % of GNI by 2015. The EU and its Member States should contribute their fair share of public financing for adaptation and mitigation and should contribute to fast-start financing for the first three years following an ambitious agreement in Copenhagen.”

4.6 The paper includes “key recommendations to guide EU support”, which it summarises as follows:

“Successful adaptation will depend on enhanced knowledge of climate impact, design of appropriate response measures and integration of these measures in each country’s sector policies and strategies. It will also depend on the ability of each country to access the additional financial resources required and on effective delivery. **The EU should support partner countries’ efforts to fully integrate climate concerns in their development strategies and budgets.** The EU Member States and the Commission should use their programming and review processes to further enhance the integration of climate change issues in their country and regional cooperation strategies.

“The EU should provide fast-start international public support, which is important in the context of a comprehensive, balanced and ambitious Copenhagen agreement. It should particularly target capacity building, including for designing Low-Carbon Growth Plans (LCGPs), readiness for mitigation, pilot projects, and immediate

adaptation concerns. **EU support should be provided in particular for LDCs/LICs and SIDS²⁰** before 2013.

“The EU should commit to apply the established principles on aid effectiveness to all climate support. This implies that the EU will align and harmonize its support especially at country level, avoiding duplication and parallel channels of financing;

“To maximise the impact of available finance, the EU should encourage developing countries to develop strategic and programmatic approaches to adaptation which go beyond traditional project-based approaches. To be successful they should be people centred and should integrate local, national and regional levels of intervention. They will include the full integration of disaster risk reduction in adaptation plans supporting the implementation of the Hyogo Framework for Action.²¹

“For the credibility of donor commitments, tracking of financial allocations for adaptation and mitigation is of particular importance. The EU should inter alia contribute to the work of OECD/DAC on a marker for adaptation finance, in addition to the existing one on mitigation. It should support work at country level to quantify finance needs for adaptation and low-carbon development and report on financing flows, in particular through development of bottom-up approaches. It should also support further work on guidance on indicators measuring progress in adaptation efforts.

“To maximise efficiency, foster division of labour and exploit synergies at country level, between EU Member States and the Commission, the EU should establish and regularly update through ad hoc reporting, a mapping of its ongoing and planned climate interventions at country level in developing countries.

“It is important that poor developing countries most vulnerable to climate change, in particular LDCs and SIDS, can take better advantage from the global carbon market. In this respect, the EU should support measures for a more effective participation of these countries in the carbon market. The EU should also promote early action to assist developing countries in reducing emissions from deforestation and degradation, while stressing the importance of improving forest governance.”

The Government's view

4.7 In his Explanatory Memorandum of 29 October 2009, the Minister of State at the Department for International Development (Mr Gareth Thomas) comments as follows:

“**Finance.** The UK welcomes the references to the need to respect ODA commitments and the inclusion of the Bali Action Plan²² language on new and

20 Small Island Developing States.

21 The World Conference on Disaster Reduction was held from 18 to 22 January 2005 in Kobe, Hyogo, Japan, and adopted the present Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters. See <http://www.unisdr.org/eng/hfa/hfa.htm> for further information.

22 Adopted at the UNFCCC Conference of the Parties in 2007. For full information on the United Nations Framework Convention on Climate Change, see <http://unfccc.int/2860.php>.

additional finance. Additionality is essential for ensuring new money for the Copenhagen deal, for securing the deal with the G77, and in the longer term to ensure there is minimal diversion from MDG spending.

“The UK supports the proposal for financing to be provided before the Copenhagen deal is implemented in 2012, though this should recognise existing contributions such as the Climate Investment Funds.²³ It is important this initiative does not distract from the bigger issue of an agreement on longer-term post-2012 finance.

Adaptation to Climate Change impacts. The UK agrees that the most effective way for countries to adapt to climate change is through integration of climate resilience into their development planning. International support to adaptation should promote this approach. We also agree that there should be closer links between climate change adaptation programmes and those aimed at disaster risk reduction, and that finance should be focused on the poorest and most vulnerable countries.

Carbon Markets. The UK recognises that the CDM²⁴ has been dominated by a handful of advanced developing countries, while many others have seen little benefit. We support reforms to the CDM to encourage greater participation by least developed countries, and are keen to see advanced developing countries move to mechanisms that work on a larger scale than the CDM.

Forestry. The UK supports the recommendations to include REDD+ (Reducing Emissions from Deforestation and Forest Degradation — Plus)²⁵ into a Copenhagen deal and for action on REDD+ to be significantly scaled up in the immediate term. We also want to see major investment in the sustainable management of forests, intensification of agriculture, and other activities that will provide sustainable livelihoods for poor people and also help to reduce the pressure on forests. The Forest Investment Programme under the Climate Investment Funds aims to pilot this.

Governance. The UK agrees that we should apply established principles of aid effectiveness to climate support. We should be making effective use of institutions that have significant experience in delivering support, reformed as necessary.”

4.8 Finally, the Minister notes that:

23 On July 1, 2008, the World Bank formally approved the creation of the Climate Investment Funds (CIF). On September 26, 2008 donors pledged over US\$6.1 billion. The CIFs are managed by the World Bank and implemented jointly with the Regional Development Banks (the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank). See <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/ENVIRONMENT/EXTCC/0,,contentMDK:21713769~menuPK:4860081~pagePK:210058~piPK:210062~theSitePK:407864,00.html> for further information.

24 Countries with commitments under the Kyoto Protocol to limit or reduce greenhouse gas emissions must meet their targets primarily through national measures. As an additional means of meeting these targets, the Kyoto Protocol introduced three market-based mechanisms, thereby creating what is now known as the “carbon market”: Emissions Trading; the Clean Development Mechanism (CDM); and the Joint Implementation (JI). JI enables industrialized countries to carry out joint implementation projects with other developed countries, while the CDM involves investment in sustainable development projects that reduce emissions in developing countries. For further information on the CDM, see http://unfccc.int/kyoto_protocol/mechanisms/clean_development_mechanism/items/2718.php.

25 REDD+ is here defined as in the Bali Action Plan (2/CP.13) to include reduced emissions from deforestation and forest degradation, conservation, sustainable management of forests and enhancement of forest carbon stocks.

- his department works closely on Climate Change with DECC, HMT and the FCO;
- the recommendations in the Presidency/Commission paper are non-binding;
- discussions on financing for climate change are led for the UK by HM Treasury; and
- the paper will be considered at the General Relations and External Relations Council on 16–17 November 2009.

Conclusion

4.9 The Joint Paper raises profound questions. But these are for others to discuss and, we hope, resolve.

4.10 In the meantime, we are reporting this Joint Paper to the house because of its inherent importance, and, while we clear it from scrutiny, we consider it relevant to the debate on the Commission Communication *Stepping up international climate finance: A European blueprint for the Copenhagen deal*, which we recommended for debate in the European Committee at our meeting on 21 October.²⁶

5 Equal treatment of men and women who are self-employed and assisting spouses

(30021) 13981/08 COM(08) 636	Draft Directive on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Directive 86/613/EEC
+ ADDs 1–2	Commission staff working documents: impact assessment and summary of assessment

<i>Legal base</i>	Article 141(3) EC; co-decision; QMV
<i>Departments</i>	Work and Pensions
<i>Basis of consideration</i>	Minister's letter of 27 October 2009
<i>Previous Committee Report</i>	HC 19–i (2008–09), chapter 7 (10 December 2008)
<i>To be discussed in Council</i>	30 November 2009
<i>Committee's assessment</i>	Legally and politically important
<i>Committee's decision</i>	Cleared; further information requested

²⁶ See headnote: (30910) 13183/09: HC 19–xxviii (2008–09), chapter 1 (21 October 2009).

Previous scrutiny of the document

5.1 When we considered this document in December 2008,²⁷ we noted that, in 1986, the Council had adopted a Directive on the application of the principle of equal treatment between men and women to self-employed workers and the spouses who assist them but not as partners in the business or employees of it.²⁸ Among other things, the 1986 Directive requires Member States to:

- take the action necessary to ensure the elimination of all national provisions which are contrary to the principle of equal treatment of men and women in self-employment;
- enable spouses of self-employed workers to join a contributory social security scheme;
- consider whether self-employed women and the wives of self-employed men should be entitled to receive social security benefits because of pregnancy or motherhood; and
- enable the people to whom the Directive applies to seek redress if they consider that they have not been treated fairly because of their gender.

5.2 In December 2007, the Council asked the Commission to consider revising the Directive. So the Commission held extensive consultations with Member States, European organisations representing management and labour, the Advisory Committee on Equal Opportunities for Men and Women and others. Some respondents argued for revision; others thought it unnecessary.

5.3 The Commission concluded that the 1986 Directive should be repealed and replaced by this draft Directive. The Commission proposed that it should:

- apply to self-employed workers and assisting spouses;
- define “assisting spouses” as the spouses, or life-partners, of self-employed workers, who take part in the activities of the self-employed worker but not as a business partner or employee;
- prohibit sexual harassment and discrimination on grounds of sex ;
- allow Member States to maintain or introduce measures to prevent, or compensate for, disadvantages linked to gender;
- require Member States to ensure that assisting spouses can, on request, have at least the same level of social protection as self-employed workers;

²⁷ See headnote.

²⁸ Directive 86/613/EEC: OJ No. L 359, 19.12.86, p. 56–58.

- require Member States to ensure that self-employed women and assisting spouses can obtain, if they ask for it, the same period of maternity leave and maternity pay as other workers under the Pregnant Workers Directive;²⁹ and
- require Member States to ensure that self-employed workers and assisting spouses can seek compensation or reparation for loss or damages if they claim that they have not been treated equally on grounds of gender.

5.4 A year ago, the Government told us that it had some concerns about the Commission's proposals. For example, Article 6 of the draft Directive would require Member States to give assisting spouses, on request, social protection which at least equals the protection available to self-employed workers. The Government said that the Article was not in line with Member States' competence to decide their own social security systems, including who is insured under national legislation, what benefits are to be granted and under what conditions. Moreover, while the UK currently provides self-employed women with the Maternity Allowance for 39 weeks to help them take time-off at the end of pregnancy and after the birth, it does not provide statutory maternity leave for them because they are able to make their own working arrangements.

5.5 Because the Council working group's negotiations on the draft Directive had only just begun and the Government was concerned about some of the provisions, we asked the Government for progress reports on the negotiations and kept the document under scrutiny.

The Minister's letter of 27 October 2009

5.6 In her letter of 27 October, the Minister of State for Pensions and the Ageing Society at the Department for Work and Pensions (Angela Eagle) tells us that the negotiations made little progress until Sweden took up the Presidency of the Council in July. The Presidency's aim is to complete the negotiations in time for the Employment Council to reach a political agreement on a revised draft of the Directive at its meeting on 30 November.

5.7 The Minister encloses with her letter an amended text which Presidency has recently produced. It takes account of the changes proposed by the European Parliament at first reading in May and the negotiations in the Council working group so far. The main points of the Minister's letter are as follows:

- the Government is satisfied that Article 141(3) of the EC Treaty provides an appropriate legal base for the draft Directive (the reasons are given in an annex to the letter);
- existing UK tax and insurance legislation encourages family businesses to organise themselves in such a way that the spouse of a self-employed worker is either an employee or a business partner of the worker and, as a result, would be insured and would, therefore, be outside the scope of the draft Directive;

29 Directive 92/85/EEC.

- the UK already complies with the social protection provisions of Article 6 of the Presidency's text;
- the UK also complies with the provisions of Article 7 on maternity benefits (the Government is considering whether any drafting amendments might be desirable to recognise the UK's approach);
- some Member States, including the UK, question whether some of the provisions of the draft Directive fully recognise the competence of Member States for the organisation and financing of their social protection systems;
- the Government is not persuaded that there is evidence in the UK of the need for the new Directive but it is clear that many other Member States do see a need for it.

There will be further negotiations with the aim of issuing a final draft of the Directive in time for the Council to reach a political agreement on it at its meeting on 30 November. The Minister will provide us with the final draft as soon as possible.

Conclusion

5.8 We fully support the principle of equal treatment for men and women. The Commission's draft of the draft Directive has, in effect, been superseded by the Presidency's text. The Presidency's text is clearer and omits most of the features of the Commission's draft which were of concern to the Government. The UK's existing arrangements are thought to comply with the provisions on social security and maternity benefits in the Presidency's draft. It may be the case that the UK has little, if any, need for the new Directive but that is not, in our view, a sufficient reason to stand in the way of other Member States which do see a need for it in the light of their own circumstances.

5.9 We have decided, therefore, to clear the Commission's draft of the Directive from scrutiny and to ask the Minister to deposit the final text as soon as it is available and provide us with her comments on it.

6 European Security and Defence Policy and Guinea-Bissau

(31072)	Council Joint Action amending and extending Council Joint Action 2008/112/CFSP on the European Union mission in support of security sector reform in the Republic of Guinea-Bissau (EUSSR GUINEA-BISSAU)
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<i>Legal base</i>	Article 14 EU; unanimity
<i>Department</i>	Foreign and Commonwealth Office
<i>Basis of consideration</i>	EM of 2 November 2009
<i>Previous Committee Report</i>	None; but see (30551) — HC 19–xv (2008–09), chapter 12 (29 April 2009); and (29349) — : HC 16–ix (2007–08), chapter 12 (23 January 2008)
<i>To be discussed in Council</i>	10 November 2009 Economic and Financial Affairs Council
<i>Committee’s assessment</i>	Politically important
<i>Committee’s decision</i>	Cleared, but further information requested

Background

6.1 The Foreign and Commonwealth Office website paints a troubled and unhappy picture of Guinea-Bissau’s move to independence, via a protracted guerrilla war and then Portugal’s own 1974 “carnation revolution”: firstly, one-party rule, then a coup in 1980 which “began a pattern of military coups and instability, which has persisted until quite recently”. That coup was led by Joao Bernardo “Nino” Vieira, who became the first directly-elected President in 1994, after the acceptance of multi-party democracy in 1991 (a presidential democracy which allows for multiparty politics and an elected national assembly).

6.2 The period from 1998 to 2004 was notable for a further coup attempt; protracted stalemate between loyalist and rebel forces; the intervention of troops from neighbouring Senegal and Guinea, as well as from the regional peacekeeping force, ECOMOG; elections in December 1999 and January 2000; and the eventual election of opposition leader Kumba Yala in February 2000.

6.3 The first half of this present decade then consisted of further manifestations of unresolved tensions between the government and the military hierarchy: a further attempted military rebellion; subsequent rule by President Yala “characterised by chronic political instability”; his eventual deposition in a bloodless coup in September 2003 supported by all political parties, including Yala’s own; the installation of a businessman as interim President; and legislative elections in March 2004 in which no party came out with an overall majority.

6.4 A further period of political turmoil followed the June 2005 presidential elections, following which ex-President Vieira eventually emerged as the winner in a close finish, and

was sworn in as President on 1 October; including ex-president Yala's return from exile in late 2006; and culminating in the collapse of the government coalition in March 2007. After a stand-off the opposition leader Martinho N'Dafa Kabi became Prime Minister in April, and the political situation in the country steadied. The mandate of the legislature ended on April 21st 2008. The President then passed a temporary constitutional amendment allowing the continuation of the legislature until further elections could take place. These occurred on 16 November 2008 and resulted in a new Prime Minister, Carlos Gomez Junior, being appointed in January 2009.

6.5 It then notes that, following the March 2009 assassination of President Viera, the interim Head of State is the parliamentary speaker Raimundo Pereira; and that elections were due to occur in June 2009. The entry (which was last reviewed on 4 June 2009) closes as follows:

“In recent months several media reports have brought to public attention a growing problem of drug trafficking via Guinea-Bissau. Drugs coming from Latin America are being smuggled to Europe via the country, taking advantage of the mangrove swamps and jagged coastline, and the poor capacity of the government to deal with the problem.”³⁰

Joint Action 2008/112/CFSP

6.6 The preamble set out the context for the proposal therein:

- the promotion of peace, security and stability in Africa and Europe is a key strategic priority of the Joint Africa-EU Strategy adopted by the EU-Africa Summit on 9 December 2007;
- security sector reform (SSR) in Guinea-Bissau is essential for the stability and sustainable development of the country;
- in November 2006, the Government of Guinea-Bissau presented a National Security Strategy underlining its commitment to implement security sector reform;
- the Council and the Commission carried out an initial joint information gathering mission in May 2007 in Guinea-Bissau, in cooperation with the Bissauan authorities, to develop an overall EU approach to support for the national security sector reform process;
- an Action Plan for the Restructuring and Modernisation of the Security and Defence Sectors was presented by the Government of Guinea-Bissau in September 2007, and the institutional framework for the implementation of this Action Plan was established;
- in order to combat the increasing threat posed by organised criminal networks operating in the country, the Government of Guinea-Bissau, with the assistance of the United Nations Office on Drugs and Crime (UNODC), also announced an Emergency Plan to Fight Drug Trafficking in September 2007;

³⁰ See FCO Country Profile at <http://www.fco.gov.uk/en/about-the-fco/country-profiles/sub-saharan-africa/guinea-bissau?profile=politics&pg=7>

- a report by the UN Secretary-General of 28 September 2007(S/2007/576), whilst commending the Government of Guinea-Bissau for the positive measures taken so far to implement the security sector reform programme, also underlined the country's inability to combat drug trafficking by itself and called for technical and financial support from regional and international partners;
- on 19 November 2007, the Council considered that an ESDP action in the field of security sector reform in Guinea-Bissau would be appropriate, in coherence with and complementary to European Development Fund and other Community activity; and
- following a second EU fact-finding mission deployed in October 2007, the Council approved on 10 December 2007 the General Concept for potential ESDP action in support of Guinea-Bissau Security Sector Reform.

6.7 In his Explanatory Memorandum of 17 January 2008, the then Minister for Europe at the Foreign and Commonwealth Office (Mr Jim Murphy) explained that the Joint Action — to establish a European Security and Defence Policy (ESDP) security sector reform (SSR) Mission in Guinea-Bissau (EUSSR Guinea-Bissau) — followed a visit in 2007 by the Ministry of Defence's Security Sector Defence Advisory Team, and would provide advice and assistance to the local authorities in Guinea-Bissau on reform of the security sector, within the initial framework of the National Security Sector Reform Strategy, which now needed to be implemented. The Mission's tasks would include:

- advising and contributing to the development of detailed resizing/restructuring plans for the armed forces;
- assisting in the development of an underpinning doctrine for employment of the Armed Forces, including the areas of command, control and logistic support, and mainstreaming the counter narcotics effort;
- supporting the development of detailed plans for the restructuring of police bodies into four services;
- advising on the planning and development of an effective criminal investigations capacity.

6.8 The Mission was to comprise approximately 15 experts in the various fields of the security sector; consist of a preparatory phase beginning in mid February, and an implementation phase beginning no later than 1 May 2008; and last for 12 months, with a review six months after the beginning of the implementation phase. Funding for common costs (in-country transport, office equipment etc) would be met from the Common Foreign and Security Policy Budget, to which the UK currently contributed approximately 17%; with an estimated cost of €5.75 million, the cost to the UK would be approximately £739,000.

6.9 The Minister explained that, with the country still dealing with the aftermath of civil war, and in the lead up to November 2008 elections, there was now a good opportunity to assist SSR in Guinea-Bissau, and help to address its use as a transit point for drugs being trafficked from Latin America to Europe; there was strong support for the EU's proposals from the authorities, who lacked the capacity and structures to deal with the problems

caused directly and indirectly by the influx of drugs and organised crime to the country, and from all political parties in the country, which meant that the outcome of the elections should not affect the reform process. He said that, although Guinea-Bissau's problems were large, the country was small,³¹ and enough political will existed to instigate reform.

6.10 We felt that the justification was clear, the Mission had been well-prepared and the costs were relatively modest, and accordingly cleared the document at our meeting on 23 January 2008; the Joint Action was then agreed at the 28 January General Affairs and External Relations Council.

6.11 We also said that only time would tell if, as we all wished, the Minister's hopes came to fruition. We noted that the mission was due to last for a year; that there would be a mid-point review; and that moves were afoot within the Council to develop formal assessment mechanisms for such ESDP missions. We therefore asked, when the mission ended, that the Minister let us have either the mission assessment and his views thereon or, if it had not yet been formally assessed, his own assessment of its outcomes and effectiveness (to include the conclusions of the mid-point review and steps taken to address them).

6.12 On 29 April 2009 we considered an extension of the current mandate for a further 6 months until 30 November 2009.

6.13 In her Explanatory Memorandum of 22 April 2009, the then Minister for Europe at the Foreign and Commonwealth Office (Caroline Flint) said that the EUSSR Mission had, so far, carried out important work under difficult circumstances, in particular in the police and prosecution services. However, overall progress on SSR had been slower than expected and the Mission had not yet accomplished its mandate. Political instability in the country had hampered the mission's progress; the high profile assassination of Guinea-Bissau's Chief of the Armed Forces, General Tagme, along with President Vieira in March, combined with the difficulties involved by working with three different governments since June 2008 and the staging of legislative elections last November, had all distracted attention from the SSR process. Guinea-Bissau's limited access to SSR expertise and basic infrastructure, such as office space and equipment, had also contributed to delays.

6.14 However, the then Minister said, there was no doubt that Guinea-Bissau continued to depend on international assistance to succeed in their SSR process and EUSSR Guinea-Bissau was a crucial part in creating stability. Despite the recent assassinations and resulting political fragility, the new government continued "to provide a window of opportunity to implement meaningful reform, expressing a clear request for continued ESDP engagement beyond 31 May 2009 and underlining its commitment to the reform process"; this had been demonstrated by their appointment of a Special Counselor for the Prime Minister for SSR and the fight against drug trafficking, and their re-animation of the national SSR structures.

6.15 The then Minister also noted that other partners from the International Community, including the United Nations, ECOWAS and the European Commission, "also continued to express their willingness to step up their SSR related activities in Guinea Bissau and to

31 Area: 36,120 sq km; Population: 1.5 million (2005 United Nations estimate).

cooperate with the ESDP mission”, and were considering “transferring its various actors in Bissau, including SSR work streams into a single ‘integrated mission’ from June 2009.”

6.16 For now, the then Minister then explained that this would be a “no cost extension”: the Mission would use money left unspent from the €5.65 million allocation under the existing mandate to pay for mission activities until 30 November 2009; it would provide the Mission a further six months to fully accomplish its current mandate, and an opportunity “to test the commitment and capability of the new Government of Guinea Bissau to implement SSR, particularly in light of the Presidential elections planned for June.”

Our assessment

6.17 We cleared the document, again reporting it to the House because of the widespread interest in European Security and Defence Policy and its growing involvement in security sector reform in troubled areas of Africa.

6.18 In so doing, we drew the Minister’s attention to our request of her predecessor (see paragraph 6.11 above). We noted that what the then Minister described as “Other partners from the International Community”, including the United Nations, ECOWAS and the European Commission, had expressed willingness to step up their SSR-related activities in Guinea-Bissau and to cooperate with the ESDP mission, and asked her to ensure that the review included an assessment of the extent to which this happened and of its overall effectiveness.³²

The draft Joint Action

6.19 The draft Joint Action extends the current mandate for a further six months until 31 May 2010, with the majority of the costs covered by outstanding funding from the mission’s budget for the period up to 30 November 2009.

The Government’s view

6.20 In his Explanatory Memorandum of 2 November 2009, the Minister for Europe at the Foreign and Commonwealth Office (Chris Bryant) comments in much the same terms as his ante-predecessor six months ago:

“The overall progress on SSR in Guinea Bissau has been slower than expected over the past six months due to the assassinations of the President and Chief of Defence in March 2009 and Minister of Defence and a former President in June 2009 which distracted the Guinea Bissau government’s attention away from the SSR process. Guinea Bissau officials were often unavailable to attend pre planned meetings with the Mission to discuss SSR and there were a number of delays with getting Government approval for the proposed restructuring plans for the Armed Forces. Therefore, the Mission has therefore not been able to fully achieve its mandate.”

32 See headnote: (30551) — HC 19–xv (2008–09), chapter 12 (29 April 2009).

6.21 The Minister then notes that a new President, Malam Bacai Sanha, was recently elected and sworn in on 8 September 2009, and says that:

“The new government of Guinea Bissau has since expressed its intent to re-engage in the SSR process through a letter sent from the Prime Minister to the Secretary General of the EU on 9 October 2009. We take this letter as a sign that the Mission will receive the necessary political support over the next six months to complete the tasks set out in its current mandate.”

6.22 The Minister then goes on to say that:

“... as part of any extension there will be a strategic review on the future of EU engagement in Guinea Bissau that will be submitted to the Political and Security Committee (PSC) by the end of January 2010. The review will focus on where, amongst other International Community interventions, the EU can add most value to stabilisation efforts in Guinea Bissau in the future. This review will then form the basis for making an informed judgement about any subsequent EU engagement in Guinea Bissau after the end of the mandate of the Mission.”

6.23 Turning to the review recent six-month extension, the Minister says that the report recommended that the Mission was extended for six months in order to:

- “Reach a better understanding of plans by the wider International Community (notably the Economic Community of West African States and the UN) to increase their presence in Guinea Bissau;
- “To conclude the mission’s existing work; and
- “To build bridges towards further implementation in the future.”

6.24 Finally, on the Financial Implications, the Minister says that:

“Due to the political instability in Guinea Bissau over the previous eight months and slow progress on SSR so far the UK has pushed hard for any extension to be of minimal cost and would not support another extension of the Mission, in its current form, beyond the end of the proposed six month period. The extension should be used by the Mission to complete the tasks of its current mandate (without taking on any additional ones) and to prepare the conditions for engagement by another SSR actor in the future.”

6.25 The Minister explains that the proposed budget for the six month extension is €1.53 million:

“The estimated amount that will be left unspent from the current Mission budget at the end of November is €1.192 million. Therefore the net cost to the EU for extending the mission is estimated to be €338,000. This total includes €290,000 to fund the costs of terminating the Mission should it close in six months time. The additional funding provided for the Mission’s running costs is €48,000.

“The UK contributes 17% to the CFSP budget meaning that the total cost to the UK for the proposed extension, including termination costs, will be €57,460/£52,250.”

Conclusion

6.26 We draw this latest extension to the attention of the House for the same reasons as hitherto.

6.27 Three years after the first commitment by the then Guinea-Bissau government to security sector reform, there is a strong sense of disillusionment running through the Minister's comments, and of this being the last chance for the latest President and government. But the EU has yet to lose patience with an ESDP mission and cut its losses.

6.28 We now clear the document. In so doing, however, we ask the Minister to write with information about the outcome of the review and the PSC's assessment and recommendations, ahead of any final determination about what form any further EU involvement may or may not take.

7 European Globalisation Adjustment Fund

(30979) 13873/09 COM(09) 515	Draft Decision on the mobilisation of the European Globalisation Fund
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<i>Legal base</i>	Article 159 EC; co-decision; QMV
<i>Document originated</i>	30 September 2009
<i>Deposited in Parliament</i>	7 October 2009
<i>Department</i>	HM Treasury
<i>Basis of consideration</i>	EM of 18 October 2009
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	Not known
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

Background

7.1 Regulation (EC) No 1927/2006 established a European Globalisation Adjustment Fund (EGF) designed to counterbalance negative impacts of globalisation. Calls on the fund by Member States can be made where major structural changes in world trade patterns lead to serious economic disruption, notably a substantial increase of imports into the Community or a rapid decline in Community market share in a given sector or a delocalisation to third countries. Applications must meet a number of criteria related to demonstrating a link between world trade patterns and redundancies, to the number, location and impact of redundancies and to avoidance of undermining existing national policies or overlapping with other Community funding streams. Regulation (EC) No 546/2009 of June 2009

extended the scope to include negative impacts from the current economic downturn and to lower, in certain circumstances, the threshold for applications. The new criteria apply to applications received after 1 May 2009.

The document

7.2 This draft Decision is to approve two applications from Belgium and one from Ireland for assistance from the EGF. The first, Belgian, application is in relation to workers in textiles enterprises made redundant in the period 31 May 2008 to 28 February 2009 in East and West Flanders and concerns 1,568 redundancies in 39 enterprises. The second, also Belgian, is in relation to workers in textiles enterprises made redundant in the period 1 August 2008 to 31 March 2009 in Limburg and concerns 631 redundancies in seven enterprises. Both applications were received on 5 May 2009.

7.3 The link made between these redundancies and major structural changes in world trade patterns, based on the evidence supplied by the Belgian authorities, is that there is an increasing trend of textile imports from lower cost third countries, in part because of better quotas for China and Turkey and higher import duties in, for example, India and Brazil. Also the troubled UK real estate market has led to a drop in UK imports of Belgian textiles. The impact on the regional economies concerned is also outlined — between 2005 and 2007 12.5% of jobs in the textiles sector, which is particularly concentrated in the regions concerned, were lost compared with 0.7% in the manufacturing sector as a whole.

7.4 The third, Irish, application is in relation to workers in the computer manufacturing industry made redundant in Co. Limerick, Co. Clare and Co. North Tipperary and concerns 2,840 redundancies, of which 1,135 occurred in the period 3 February 2009 to 2 June 2009. The application was received on 29 June 2009.

7.5 The Irish application argues that the current crisis has exacerbated changes already occurring in world trade patterns and Dell Products (Manufacturing) Limited has decided to outsource production to Asia, a decision driven by cost competition from Asia, the growth of mobile personal computer sales and the use of retail channels and the growth of markets in Brazil, Russia, India and China. In Ireland's Mid West Region Dell employs 10.6% of the 30,700 in the manufacturing sector, that is 1.7% of total employment in the region in 2008. Additionally the Irish authorities cite a Dell study which shows that about 170 jobs were dependent on every 100 permanent fulltime Dell employees in 2007.

7.6 In all three cases the assistance requested would be used to provide support for a coordinated package of eligible personalised services. The applications state that such assistance would not replace measures that are the responsibility of companies and no assistance will be received from other Community financial instruments for the same purpose.

7.7 The Commission declares itself content with the evidence provided and proposes contributions to East and West Flanders of €7,519,625 (£6,837,595), to Limburg of €1,679,249 (£1,526,941) and to Ireland of €14,831,050 (£13,485,874).

The Government's view

7.8 The Economic Secretary to the Treasury (Ian Pearson) says that the Government is working, as it does with all EGF applications, to ensure that careful consideration is given to whether the criteria for approving such grants have been met. The Minister also tells us that, if the applications are approved, they would be financed by drawing on unspent funds in the 2009 appropriations for the European Social Fund and in total the net cost to the UK in 2009 and 2010 would be around €1,016,035 (£923,881).

Conclusion

7.9 **Whilst there are no questions we wish to ask on it, in clearing this document we draw it to the attention of the House as examples of how the EGF is being used.**

8 Civil Judicial Cooperation

(30842)
12265/09
COM(09) 373

Draft Council Decision on the Conclusion by the European Community of the Convention on the International Recovery of Child Support and other forms of Family Maintenance

Legal base	Articles 61(c), 300(2), 300(3).EC; unanimity; consultation.
Department	Ministry of Justice
Basis of consideration	Minister's letter of 24 October 2009
Previous Committee Report	HC 19–xxvii (2008–09), chapter 11 (14 October 2009)
To be discussed in Council	November 2009
Committee's assessment	Legally and Politically Important
Committee's decision	Cleared

Background

8.1 The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance was agreed on 23 November 2007. The objective of the Convention is to provide an effective procedure for the recovery of child support and other types of family maintenance between Contracting States. It seeks to achieve this aim by establishing common international rules for the recognition and enforcement of maintenance obligations, for administrative cooperation between the various relevant agencies in different jurisdictions and for translation and other procedural requirements connected with the cross-border recovery of child support and other claims. None of the Member States of the EU has acceded to the Convention so far, which was negotiated collectively by them under the aegis of the Community. Many of the matters contained in the Convention are covered on an EU-wide basis by Regulation (EC) No 4/2009 (the

Maintenance Regulation). The United Kingdom has chosen to ‘opt in’ to the Regulation but decided not to participate in the separate Decision at Community level to participate in the Protocol on applicable law which is part of the Hague Convention regime.

8.2 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 conventions 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 established that the Community’s external competence will normally be exclusive if, *inter alia*, 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 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

8.3 The document is a proposal for a Council Decision to allow the European Community to become a signatory to the Hague Convention.

8.4 The Commission argues that, in accordance with the case law of the European Court of Justice, the Community has exclusive external competence in the fields covered by Regulation (EC) No 4/2009 (the Maintenance Regulation). This Regulation covers all the areas of law included in the Convention. In addition to external competence for recognition and enforcement, the Commission maintains that the Community also enjoys external competence in the areas of administrative cooperation and legal aid as the rules in these areas exist only for the purpose of obtaining and enforcing maintenance decisions and they affect similar rules in the Regulation. Article 59 of the Convention allows the European Community, as a regional economic integration organisation, to become a party.

8.5 The Commission proposes that the Community should not make any reservations which would limit the scope of the Convention under Article 2(2), nor in order to restrict the bases for recognition and enforcement under Articles 20(2) and 30(8). It also proposes that all Central Authorities should accept communications other than applications for maintenance in any of the languages under Article 44(3) and says that no reservation is yet required under Article 55(3) with respect to the amendment of forms.

8.6 The Commission proposes a number of declarations. Under Article 59(3) the European Community should declare that it exercises competence over the matters governed by the Convention for all Member States. The Commission also suggests that the scope of the Convention under Article 2(3) should be extended to all maintenance obligations arising from a family relationship, parentage, marriage or affinity. This would align the scope with that of the Maintenance Regulation. Again, for consistency with the Regulation, the Commission suggests there should be no declaration that legal aid should be subject to the means test of a child (Article 16(1)); the alternative procedure for recognition and enforcement under Article 24(1) should not be applied; and there should be no limitation

to Central Authorities of applications for recognition and enforcement under Article 30(7). As the Convention will apply in all Member States the Commission suggests that there is no need for a declaration under Article 61(1) where a State may say whether the Convention will extend to all its territorial units.

8.7 Member States will be able to decide whether under Article 11(1)(g) they wish to receive additional information or documents to process applications other than those for recognition, or recognition and enforcement of a maintenance decision; and also under Article 44 in which language other than the official language of their State they are prepared to accept applications. Such information should be provided to the Commission by 18 September 2010, by which date Member States should also provide details of their Central Authorities under Article 4(3) and information on national laws, procedures and services under Article 57.

8.8 When we originally looked this proposal, we said we shared the Government's general support for this measure. We particularly welcomed the proposal as the grounds that it would bring Community rules into line with international agreements of wider geographical scope. However, we noted the Government's one remaining concern about the nature and extent of the Community's external competence and asked the Minister both to explain the legal position regarding the scope of the Community's competence and indicate clearly whether Government intends to 'opt in.'

The Government's view

8.9 The Minister (Lord Bach) has now replied and in his letter of 24 October 2009 comments as follows:

“When your Committee considered this proposal on 14 October a number of questions were raised on the issue of exclusive competence.

“The Government has doubts about one aspect of this proposed Decision. This relates to whether the Community has exclusive competence in this area. If that competence rests solely on the impact that the Convention rules will have on the Community rules contained in Regulation EC 4/2009, then such competence seems doubtful on the basis that any such impact is unlikely to be more than minimal. However the Government accepts that this issue is not clear cut.

“When considering the issue of exclusive competence, an analysis must turn principally on the interpretation of the opinion of the European Court of Justice in Opinion 1/03 regarding the Community's competence to conclude the Lugano Convention. Under this opinion, there are essentially two elements to exclusive competence: (a) whether the areas of law in question in the international agreement under consideration are covered to a large extent by Community rules; and (b) whether the rules in the international agreement are capable of undermining the consistent and uniform application of the Community rules and the system they establish.

“In the light of the reference in Opinion 1/03 (in paragraph 126) to the future development of Community law, and not merely its current state, the Government

acknowledges the possibility that it is the ‘coverage’ part of the Court of Justice’s test which predominates over the ‘effect’ element. It considers that, were the matter to return to the Court of Justice, it cannot be guaranteed that a more expansive development of the test (in terms of the extent of exclusive Community competence) would not emerge.

“There appears to be little appetite for a reference to the Court of Justice on this matter from other Member States, not only because of the risk that the Court could expand the concept of exclusive Community competence but also because this would result in a significant and unwelcome delay in an area where all Member States are very supportive of early conclusion of the Convention.

“Whether the removal of the reference to ‘exclusive’ competence in recital 3 of the draft Council Decision can be agreed will be considered again at the Council Working Group in early November. The Government hopes that conclusion of the Convention by the Member States in pursuance of their duty of loyal co-operation under Article 10 TEC will be an acceptable and pragmatic way forward. Indeed, specific reference is made to this duty in Opinion 1/03 itself, at paragraph 119.

“Regarding the second question, the Government intends to opt in to this proposal in accordance with our Protocol on Title IV measures. The opt in must be notified to the Council by 1st November 2009 and so, in order to protect the position of the United Kingdom on this matter, must be exercised before the outcome of the discussions regarding the reference to ‘exclusive’ competence is known. In the event that no agreement is reached to remove this reference, the opt in letter sent will simply have no effect.

“The action taken on the opt in in the peculiar circumstances of the conclusion of this international agreement does not represent a departure from the Government’s well established practice on the exercise of the current Title IV opt in — i.e. that the opt in applies to instruments where there is shared competence but not to instruments where the Community’s competence is exclusive. Our approach in this matter simply reflects the need to protect the United Kingdom’s position where the issue of exclusivity cannot be settled before the deadline for the opt in expires.

“Depending on the outcome of the Working Group meeting it is possible that the Presidency will want to agree these proposals at the Justice and Home Affairs Council at the end of November. I would be grateful for scrutiny clearance in time for the Council if that is possible.”

Conclusion

8.10 We thank the Minister for his very helpful reply. We agree with the Government that there is no clear answer to the question of whether the Community’s external competence in this area is shared or exclusive. On this basis and in view of our support for the Government’s position that a Community instrument would enhance existing international arrangements for the recovery of maintenance debts, we agree with the Government’s preference for an early opt-in which we think would underline the UK’s

position that there might not be exclusive external competence in this area. We clear the document from scrutiny.

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

Department for Environment, Food and Rural Affairs

(30997) Draft Council Regulation amending Regulation (EC) No. 247/2006
14156/09 laying down specific measures for agriculture in the outermost
COM(09) 510 regions of the Union.

Foreign and Commonwealth Office

(30867) Special Report No. 9/2009 concerning the efficiency and effectiveness
12727/09 of the personnel selection activities carried out by the European
— Personnel Selection Office.

(31009) Draft Decision on the Community position within the Stabilisation
14474/09 and Association Council on the transition to the second stage of the
COM(09) 280 Association between the European Communities and their Member
States and the former Yugoslav Republic of Macedonia, pursuant to
article 5 of the Stabilisation and Association Agreement.

(31062) Council Joint Action amending Joint Action 2005/889/CFSP on
— establishing a European Union Border Assistance Mission for the
— Rafah Crossing Point (EU BAM Rafah).

Home Office

(31007) Draft Council Decision on the conclusion, on behalf of the European
14400/09 Community, of an Agreement between the European Community
COM(09) 525 and the Republic of Iceland, the Kingdom of Norway, the Swiss
Confederation and the Principality of Liechtenstein on supplementary
rules in relation to the External Borders Fund for the period 2007 to
2013.

(31006) Draft Council Decision on the signing, on behalf of the European
14399/09 Community, and provisional application of an Agreement between
COM(09) 524 the European Community and the Republic of Iceland, the Kingdom
of Norway, the Swiss Confederation and the Principality of
Liechtenstein on supplementary rules in relation to the External
Borders Fund for the period 2007 to 2013.

(31041) Special Report No. 12/2009 on the effectiveness of the Commission's
14845/09 projects in the area of Justice and Home Affairs for the Western
— Balkans.

Formal minutes

Wednesday 4 November 2009

Members present:

Michael Connarty, in the Chair

Mr Adrian Bailey

Mr David S Borrow

Mr James Clappison

Jim Dobbin

Angus Robertson

1. Scrutiny of Documents

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

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

Paragraphs 1.1 to 1.10 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.

Paragraphs 2.14 to 2.22 read and agreed to.

Paragraph 2.23 read, amended and agreed to.

Paragraphs 2.24 to 2.25 read and agreed to.

Annex amended and agreed to.

Paragraphs 3 to 9 read and agreed to.

Resolved, That the Report be the Thirty-second Report of the Committee to the House.

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

[Adjourned till Wednesday 11 November at 10.30 am.]

Standing order and membership

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

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

The expression “European Union document” covers —

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

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

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

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*)