The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 4 June – 4 December 2014

EUROPEAN UNION SELECT COMMITTEE

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ADOPTING THE LIST OF THE OTHER PERSONS WHOM THE COUNCIL PROPOSES FOR APPOINTMENT AS MEMBERS OF THE COMMISSION (12777/14, 14163/14)

Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

These documents and their explanatory memoranda were considered by the EU Select Committee at its meeting on 21 October 2014.

On the substance of the nominations, there is little we can say now that the Decisions have been adopted. We welcome the commitment of President-elect Juncker and his Commissioners to establishing a new relationship with national parliaments. We also look forward to working closely with President Juncker, First Vice-President Timmermans, Lord Hill of Oareford and the rest of the College in pursuance of the recommendations made in our report on the role of national parliaments in the EU.

On process, we are concerned that there was no opportunity to consider the appointment of the remaining members of the Commission ahead of the adoption of the first Council Decision on 5 September, given that the EM was not received until 25 September. Following the replacement of the Slovenian nomination for Commissioner, the second Council Decision was adopted on 15 October; the EM was received on 17 October. We were thus not able to scrutinise either Decision. We are aware that there is likely to be a third Council Decision this Friday (24 October) endorsing the Commissioners, along with their assigned portfolios. We would like to know whether you have any plans to enable us to scrutinise the latest proposed Decision ahead of the Council meeting?

While we acknowledge that the Council’s consideration of the Decisions in question may have been substantially formal, the documents themselves remain subject to the normal scrutiny process, and Cabinet Office Guidance is clear that the Government should be flexible to ensure that the spirit of the scrutiny reserve resolution is respected (see paragraph 1.4). The Guidance also specifies that an EM can be sent to the scrutiny Committees where a document cannot be deposited (paragraph 1.5), which is what should have happened here. Yet, despite considerable notice of the deadline for the appointment of the new Commission, nothing was done to keep the Committee informed prior to adoption. We find it surprising that there is no reflection, let alone consideration, of this fact in your EMs.

We look forward to your response.

22 October 2014

Letter from David Lidington MP to the Chairman

Thank you for your letter dated 22 October 2014. I regret to read that the Committee were dissatisfied with the FCO’s approach to scrutiny of the two Council Decisions in question, and take note of the Committee’s concerns. As the Committee knows, I place great importance on effective parliamentary scrutiny of EU business.

The nature of these decisions meant that the time between the issuing of a depositable document and its adoption at Council was unusually tight. My officials contacted your Clerks on 5 September to discuss handling and to seek a scrutiny waiver for the first Council Decision, given both Houses were in recess and the tight timetable for adoption. That request was declined in this instance.

Therefore, an Explanatory Memorandum was submitted to Parliament as soon as possible. Although an Explanatory Memorandum could have been provided in advance of 5 September, detailing the names of some Member States’ nominated Commissioners, the full list of names was not publically available until 4 September, one day before the publication of the Council Decision.
Moreover, the list of allocated portfolios was not available until 10 September. As the Committee will be aware, the internal organisation of the Commission is a matter for the President-elect of the Commission and not for the Council. If an Explanatory Memorandum had been submitted prior to 5 September, I would not have been able to offer any useful comment on the likely portfolios of the proposed Commissioners. I hope that the Committee found my comments on portfolio allocation in the Explanatory Memorandum produced on the first Decision helpful.

With the second amending Decision, the timetable was again very tight with the Decision being adopted on the same day as its publication. As my officials had received no indication, at this stage, that the approach taken with the first Council Decision was unsatisfactory, an Explanatory Memorandum was again quickly submitted to Parliament. In this case it was also not possible to submit a useful Explanatory Memorandum in advance of 15 October because -- given the process in the European Parliament -- the name of the new Slovenian Commission nominee was only confirmed the day before the Decision’s publication.

On 24 October, the European Council adopted the Council Decision, as amended, relating to the list of Commissioners, following the 22 October European Parliament vote on the Commission. This appointed the Commission to start office on 1 November.

Finally, I wish to reiterate my regret that the Committee was dissatisfied with this approach. I have instructed my officials to discuss with your Clerks how this process can be improved ahead of the appointment of the next Commission.

30 October 2014

Letter from the Chairman to David Lidington MP

Thank you for your letter, dated 30 October. This was considered at our meeting on 11 November.

We have noted your regret at the course of events and we understand that it is difficult to provide detailed Explanatory Memoranda when events are moving swiftly. Nevertheless, the Government is still obliged to do so. If national parliaments are to have a role in the EU, the Government needs to offer timely information – particularly in relation to changes as significant as these. Before we draw this correspondence to a close, we would like to reiterate that our work would have benefited if you had given us insight into the negotiations surrounding the appointment of the Commission.

In particular, we would have been grateful for your views on the Political Guidelines for the new European Commission that (then) President-Elect Juncker presented to the European Parliament on 15 July, and for the Government’s views of them. Given that President Juncker described them as akin to a political contract with the European Parliament, they are of considerable significance – yet neither of your EMs referred to them.

Alongside this, we would have appreciated your views on the proposed reforms within the College of Commissioners, with groupings of Commissioners being led by Vice-Presidents (again, the EMs were silent on them).

We remain of the view that this information could have been provided in good time before the final appointment of the Commission by the European Council. Even though that appointment has now taken effect, we would be grateful for your comments on these issues.

I hope these comments will be helpful to your officials in understanding how to handle similar institutional change in the future.

We look forward to your response within the usual 10 days.

17 November 2014

BALANCE OF COMPETENCES REVIEW (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

I am writing to update you on progress of the Balance of Competences Review. This follows my update to you on 22 May. I am pleased to inform you that the reports for semester three – covering Agriculture, Cohesion Policy, Competition and Consumer Policy, Energy, EU Budget, Fisheries, Fundamental Rights, Single Market: Financial Services and Free Movement of Capital, Single Market: Free Movement of Services, Social and Employment Policy, and Single Market: Free Movement of
Persons - have today been published at https://www.gov.uk/review-of-the-balance-of-competences. The reports were written by departments leading on these particular policy areas.

As with previous semesters, calls for evidence for semester three reports were open for three months from October 2013. We saw a high level of interest and received over 800 contributions, including from business groups, professional bodies, the Devolved Administrations, Crown Dependencies, Members of Parliament, Members of the European Parliament, think tanks and academics.

The reports have undergone rigorous internal challenge to ensure they are balanced, robust and evidence-based. Evidence submitted (subject to the provisions of the Data Protection Act) has been published alongside the reports on the gov.uk website to ensure transparency. With publication of the third semester, 25 of the 32 reports are now complete. By bringing all the evidence together in one place, the review enables people to judge for themselves how the current arrangements are working, as well as providing a valuable contribution to the wider debate on EU reform.

The call for evidence period for semester four reports closed in July 2014. Reports in this semester cover: Economic and Monetary Policy; Education, Vocational Training and Youth; Enlargement; Information Rights; Police and Criminal Justice; Subsidiarity and Proportionality; and Voting, Consular and Statistics. The final reports are expected to be published by the end of 2014.

I would like to thank you again for your continued interest in the Review and for submitting the European Union Select Committee’s previous relevant work as evidence, which we encouraged departments to draw on. I would also like to thank you for the separate piece of evidence the Committee has submitted on the fourth semester Subsidiarity and Proportionality report. If you would like to receive further updates or to discuss the published reports, I can arrange an informal briefing by officials.

22 July 2014

Letter from the Chairman to David Lidington MP

Thank you for your letter of 22 July 2014 regarding the publication of the third semester reports under the Balance of Competences Review.

In our letters to you of 10 September 2013 and 7 May 2014, we set out some observations on the first and second semester reports respectively. With regard to the third semester reports, which we have now had a chance to consider, we would like to make the following observations:

— Our overall impression was that the reports offered useful background to a series of very complex policies. Specific issues to be covered by each report were, generally, clear from the outset.

— As with earlier reports, we found those produced for the third semester to be largely balanced and evidence-based. We sensed a greater tendency, though, for the Government position or particular Government negotiation achievements to be highlighted. This was particularly noticeable in the reports on Energy, Budget, Agriculture, Free Movement of Persons and Competition and Consumer Policy.

— In previous correspondence with you on the Review, we have expressed some frustration at the inconsistent reference to our own work. Regrettably, this inconsistency is a feature of the third semester reports. On the one hand, the Fundamental Rights report included a variety of references, including nine references to our Report “The Treaty of Lisbon: an impact assessment” (2008). On the other hand, two very obviously salient Reports were not mentioned in the respective reports: “Re-launching the Single Market” (2011) and “The Progress of the Common Fisheries Policy” (2008). Somewhat surprisingly, our 2013 inquiry into EU Energy Policy was only referenced once in the Energy report. Evidence to our inquiry on the Consumer Rights Directive (2009) was cited in the Competition and Consumer report, but the Report itself was not. In that same report, the work of the House of Commons on the Common European Sales Law was referenced, but our own substantial scrutiny was not mentioned.

— Each report acknowledged a wide range of stakeholder input, reflecting for the most part the balance of the debate. References within the narrative, though, were not in all instances as balanced. In the Fisheries report, for
example, undue reliance was placed on the recommendations of a 2005 Green Paper by the Conservative Party. Similarly, while the range of stakeholders who submitted evidence to the Free Movement of Persons report was impressive, there was significant reference in Chapter 3 to evidence submitted by Demos and Open Europe, evidence which was closely aligned with the position of the UK Government. This is particularly surprising in the light of your explanation to us that one reason for the severe delay in publishing the report was the need to gather a stronger, more up-to-date, evidence base. We were struck by the paucity of academic contribution to the Fisheries and Agriculture reports, including the lack of any apparent reference in the Fisheries report to the views of experts on the international law of the seas. Finally, we considered that the positions of industry were given disproportionate attention in the Energy report.

We would be grateful if these comments could be taken into account during the preparation of the fourth semester reports, the publication of which we await with interest.

22 October 2014

Letter from David Lidington MP to the Chairman

Thank you for your letter of 22 October regarding the third semester reports of the Balance of Competences Review.

Once again I am grateful for the Committee’s observations on this set of reports. I agree that the reports offer useful background to a number of complex policies. As you know the Review is the most extensive ever undertaken on the impact of EU membership on the UK and therefore provides a wealth of information to enable people to judge for themselves what works well and where there is room for improvement. I am pleased that various organisations are drawing on the reports and evidence to inform their own analysis.

I am sorry to hear that you felt references to the Committee’s work by the respective lead Departments in the third semester reports were inconsistent. Throughout the Review, my officials have been encouraging the Departments responsible for drafting reports to take the Committee’s evidence into account appropriately. This includes the list of reports you provided most recently for the fourth semester, for which I am grateful. My officials have circulated your letter to officials in the appropriate Departments.

I am glad to hear that you felt the stakeholder input reflected for the most part the balance of the debate. As you are aware, every report goes through a rigorous scrutiny process to ensure it reflects the full range of views in the debate and the evidence received. The call for evidence process is designed to ensure that this evidence is collected in a fair and transparent manner, whilst publication of the evidence alongside the reports allows those who are interested to consult the submissions underpinning the analysis. Again, I will ensure my officials share your comments with the appropriate lead Departments and they would be happy to put your Clerks in touch with report leads if you would like them to discuss these further.

Departments are on track with the remaining fourth semester reports and these will be published shortly. These cover Economic and Monetary Policy, Education, Vocational Training and Youth, Enlargement, Information Rights, Police and Criminal Justice, Subsidiarity and Proportionality and Voting, Consular and Statistics. I hope you will find them of interest. I would like to thank the Committee again for submitting its list of reports and for the written submission you contributed to the Subsidiarity and Proportionality report in particular.

4 December 2014

CROATIA’S ACCESSION (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

Following my letter of 7 January 2014 I am writing to provide a further update on progress concerning the technical adaptations to EU agreements, regulations and decisions and to the EU’s Third Country Agreements required by Croatia’s accession to the EU on 1 July 2013. In our previous correspondence, you agreed to a scrutiny waiver as a practical means to deal with the large number
of technical adaptations expected. I undertook to update you with the details of adaptations that had been concluded under the terms of this waiver. I also committed to ensure that any adaptations that represented more than a purely technical change would be subject to normal scrutiny procedures and the submission of an Explanatory Memorandum.

I have set out in Annex A [not printed] the agreements that have been amended under the terms of the scrutiny waiver since 1 January 2014. Negotiations on the outstanding agreements will continue into 2015.

In my January letter, I informed you of five proposals for minor technical adaptations to amend EU Acts regarding Croatia’s EU accession. This was necessary for Acts that were adopted by the EU since 1 September 2012 which, when agreed, had not anticipated Croatia’s accession. I am pleased to say that the European Commission have confirmed that no further adaptations will be necessary.

I also explained in my January letter, that I envisaged updating Parliament in June on items subject to the waiver. However, due to the relatively slow progress of the amendments (fewer than half of the 120 agreements expected to be amended have been completed) by the EU, I concluded that the Committee would prefer a more substantial return, such as this, later in the year. Since 1 January 2014, 31 amendments have fallen within the remit of the waiver. I hope you share my view that the scrutiny waiver is playing a valuable role in preventing Explanatory Memoranda on routine technical changes from taking up the Committee’s valuable time and resources.

We can expect to see the remaining adaptations made gradually over at least the next 12 months. I would like to propose that items subject to this scrutiny waiver are added to the lists of those documents not deposited due to exemption arrangements which are sent regularly by the Cabinet Office to the clerks of your Committee. The Cabinet Office would make clear within that return where items had been exempted due to this scrutiny waiver. I hope you agree this alternative will be a more efficient and less bureaucratic process and I would be grateful if you could confirm whether the Committee would consent to this proposal.

It would of course remain the case that before agreeing to amend an Act or Third Country Agreement, Government Departments would continue to ensure that a separate Explanatory Memorandum is submitted to your Committee, as per the normal scrutiny process, should any changes beyond purely technical adaptations to reflect Croatia’s accession be identified.

21 November 2014

DELAYS TO RECENT EXPLANATORY MEMOS FROM THE CABINET OFFICE (12642/14, 12859/14, 13257/14 & 13281/14)

Letter from Francis Maude MP, Minister for the Cabinet Office, Paymaster General, to the Chairman

I would like to apologise for the very late submission of 4 Cabinet Office EMs on procurements issues (12642/14, 13257/14, 13281/14 and 12859/14). I appreciate that the delay falls well short of Committee expectations. Unfortunately three of the proposals were adopted before you could examine the EMs and will therefore be recorded as scrutiny overrides.

Unfortunately, my office did not receive the EMs for clearance until after the deadline set by the Committee. When they were received, the advice accompanying them did not flag up that they were overdue, which resulted in a further avoidable delay. My office have spoken to the team involved, and understand that the delay on their side was in part due to a clutch of Commission proposals arriving at once, with the 10 day deadline attached. Due to that, and the fact that the team had not previously seen the details of the paper, it took them longer than usual to assess and summarise these in a way that would be useful to the Committee.

Please accept my assurances that there will be no reoccurrence of this incident on any future EMs associated with my Department. The team concerned has instigated a lessons learned review to ensure that we better manage this process in future and prevent these sort of delays from happening again. My office has also reviewed the management of scrutiny business and my Parliamentary-business manager will act as a focal point within my office to keep track of Cabinet Office scrutiny business. All Cabinet Office outstanding business recorded in Commons Remaining Business and Lords Progress of Scrutiny documents is being reviewed with heads of policy teams with a view to ensuring updates are provided where required. My officials will also be holding a workshop on procedure to ensure better handling in the future.
On further examination since submitting the EMs, I am advised that the decisions in documents 13257/14 and 13281/14, regarding the accession of New Zealand and Montenegro to the Government Procurement Agreement were agreed in Council on 13 October. And the Decision in document 12589/14 was adopted on 21 October.

Whilst the Commission proposals for New Zealand and Montenegro were released on 16 September 2014, while Parliament was in recess and the decisions were taken by the Council on the day that Parliament returned from its summer break my EMs failed to note this and nor was I asked to account for the Scrutiny overrides until now.

Officials have advised me that there was little prospect of these decisions being postponed to a later Council, (and if it had been possible would have caused knock-on delay to the progress to GPA accession of New Zealand and Montenegro). But I am concerned that the option of recording a UK abstention at the Council was not fully understood and I have asked officials to ensure that this option is one that is fully explored where possible in the future.

On the policy position the UK has consistently supported open public procurement, and the extension of the GPA. You may recall that the government submitted an Explanatory Memorandum on 7915/13 + ADD 1 and 7919/13 + ADD 1 in May 2013 concerning the proposed amendment to the Government Procurement Agreement, which both Committees cleared from scrutiny in June 2013.

That EM stated: “The UK Government agrees with the aims of the GPA in principle, [...] This stems from our policy of supporting fair and open markets, value for money, probity and transparency in public procurement, support for growth in the global economy, and in guarding against protectionism in the current economic climate. The new GPA protocol should provide a further opening of markets and new opportunities for UK firms, and is a positive step forward in the global trade agenda”

The accession of New Zealand and Montenegro is consistent with the policy position set out in that earlier EM, and the UK has encouraged the Commission to achieve a satisfactory negotiation with these states. It would therefore have appeared to be inconsistent with our wider GPA policy position, and not readily understood by other parties, if the UK had opposed or even abstained from the Council decisions on Montenegro and New Zealand.

With respect to 12859/14, in support of the EU-Japanese Free Trade negotiations, the Council adopted a position on 21 October. Officials took the view that this fell within the parameters of previously-cleared matters and in particular EMs 7915/13 & 7919/13, from May 2013, and that no separate scrutiny clearance was necessary for this decision. However, this was clearly wrong.

The final EM of the current tranche (11642/14) concerns a Commission staff working document, and is not subject to any specific Council decision.

I hope this goes some way to addressing the concerns which your Committees will rightly have about the handling of these proposals. Of course if there are any further concerns or queries I will be very happy to address them.

24 November 2014

DOUBLE MAJORITY VOTING (UNNUMBERED)

Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

Article 16 of the Treaty on the European Union has caused, as of 1 November, a change in the voting system used in the Council. As you can expect, this is of great interest to us. Now that a qualified majority is at least 55% of members of the Council, represents at least 15 Member States and at least 65% of the population of the European Union, we would welcome your views on these changes, and on the transitional arrangements in use until 31 March 2017.

What analysis have you conducted on the likely impact of this change? How it will impact the United Kingdom in the course of its negotiations and discussions in the Council?

Further to this, as the new system comes into use, we would welcome regular updates following Council meetings on how it is changing voting behaviour within the Council and how it is impacting what the UK is seeking to achieve in Europe.

17 November 2014
Letter from David Lidington MP to the Chairman

Thank you for your letter of 17 November concerning the changes to the voting system used in the Council of Ministers under Article 16 of the Treaty of the European Union.

As you note, on 1 November the previous system of weighted votes in the Council was replaced by a new double majority voting system. Under a standard proposal from the Commission or High Representative, a qualified majority now requires at least 55% of the members of the Council (i.e. 16 out of 28), and that these member states represent at least 65% of the EU's total population. This compares to the previous system of weighted votes where a qualified majority required 260 out of 352 votes from a majority of the member states (at least 15 out of 28), and that those member states represented at least 62% of the EU's population.

The new rules are simpler and more transparent than the previous arrangements and will generally benefit the UK. The UK's share of votes in the Council will increase, as will the voting power of all the larger member states. Germany, France and the UK now amount to 41.52% of the EU population, compared to 24.72% of the weighted votes under the previous system. The value of the UK finding agreement with other large member states will therefore rise. The new arrangements also make it slightly more difficult to achieve a qualified majority (requiring one additional member state and 3% more of the EU's population) and therefore easier to achieve a blocking minority.

Transitional arrangements remain in place until 31 March 2017 allowing a member state to request use of the previous voting procedure if they prefer. The Treaty requires that “in that case” the old rules will apply. It remains to be seen how frequently the transitional arrangements will be requested by other member states. It is possible that, at least at the beginning of the interim period, most member states will not routinely invoke the transitional arrangements. The Government will consider closely the implications for each dossier conscious that in general our voting power has been increased by the new arrangements.

3 December 2014

ENLARGEMENT STRATEGY AND MAIN CHALLENGES 2014-2015 (14152/14, 14153/14, 14154/14, 14155/14, 14156/14, 14157/14, 14159/14, 14159/14)

Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

Many thanks for your Explanatory Memorandum, dated 20 October 2014, covering the above documents, which was considered by the EU Select Committee on 11 November 2014.

We note that you have broadly endorsed the Commission’s assessment of recent progress towards enlargement, and are grateful for your assurance that you will keep Parliament updated in coming weeks. On this basis, we are content to clear the documents themselves from scrutiny.

At the same time, we note that the Communication does not take account of more recent developments, including President Juncker’s “Political Guidelines for the next European Commission”, which were published on 15 July. You will be aware that Mr Juncker stated: “The EU needs to take a break from enlargement so that we can consolidate what has been achieved among the 28. This is why, under my Presidency of the Commission, ongoing negotiations will continue, and notably the Western Balkans will need to keep a European perspective, but no further enlargement will take place over the next five years.”

In light of Mr Juncker’s statement, as well as other recent developments, most notable of which is the continuing crisis in Ukraine, what further light can you shed on the UK’s goals ahead of discussion of the enlargement package at the December General Affairs Council? Has the Commission’s policy on enlargement changed, or do you regard Mr Juncker’s words as simply a statement of fact? What is your assessment of the political impact of this change in emphasis upon enlargement countries, particularly given recent events in Ukraine, and concerns over the reluctance of some enlargement countries to align themselves with EU actions in respect of Russia? The Serbian government has set a target date of 2020 for EU membership: do you regard this as realistic?

We maintain our support for the second Instrument for Pre-Accession Assistance (IPA II) being launched. How is the €11.7 billion funding being aligned with the three ‘pillars’ of public administration reform; economic governance and competitiveness; and the rule of law and fundamental rights that are identified as challenges to the enlargement agenda?
In our 2013 report on The Future of EU Enlargement we warned of the “the risk of Turkey’s enlargement process stagnating owing to accession fatigue and a lack of EU-leverage in order to promote further reform and rebuild momentum”. It could be suggested that this is now a risk for all enlargement countries. What steps are you taking, with the Commission and other Member States, to ensure that, in the very least, the existing momentum towards accession is maintained, and that the progress that has already been made is not wasted?

I look forward to your response within 10 working days.

17 November 2014

Letter from David Lidington MP to the Chairman

Thank you for your letter of 17 November responding to my Explanatory Memorandum of 20 October on the above Communication and Documents. You raised a number of important points.

You note that the Annual Enlargement Package does not explicitly take into account Commission President Juncker’s statement that the EU will “take a break from enlargement” to consolidate achievements and that “no further enlargement will take place over the next five years”. The Government regards Mr Juncker’s words as a statement of fact, not a shift in policy. Experience of previous enlargements suggests that it is very unlikely that the frontrunners, Montenegro and Serbia, would be ready to accede before the early 2020s.

Major challenges remain in enlargement countries, notably around the rule of law, tackling organised crime and corruption, and improving economic governance. The Government is committed to upholding conditionality very strictly and will carefully consider progress towards the Copenhagen Criteria and implementing the acquis.

This is in line with the added rigour with which the EU is assessing aspirant countries, notably under the “New Approach” to rule of law conditionality. The Government is ready to wait as long as necessary for enlargement countries to demonstrate a sufficient track record of reform.

The accession process is long and arduous, and we should recognise that many aspirant countries embark on their EU path from a lower starting point compared with countries from previous enlargement rounds. It is therefore also important to provide these countries with every available assistance through our own UK technical assistance programmes and through the EU’s Instrument for Pre-Accession. We believe it will be important for aspirant countries and their citizens to be able to see visible progress along the way, to ensure support for EU accession is maintained during difficult reforms. Looking ahead, there may also be scope to make the enlargement process more objective, more consistent, and more transparent – and we know Sweden has undertaken useful research in this regard. The Balance of Competences report on EU Enlargement, which I look forward to sharing with the Committee in the near future, may be of interest to you in respect of future challenges in the accession process.

You asked how recent events in Ukraine are impacting, or will impact UK enlargement goals. There has been no change in the Government’s policy. We have consistently made clear our position that any European country that meets the criteria should be able to apply for EU membership; this includes Ukraine, if that is what the people of Ukraine want. Some aspirant countries, for instance Montenegro, have aligned their foreign policy with the EU’s Common Foreign and Security Policy in respect of Russia better than others. The alignment of Serbia, for instance, has been disappointing in recent times and we continue to raise this with Serbia on a regular basis.

In terms of current steps the Government is taking to ensure that the existing momentum towards accession is maintained by enlargement countries, I will address this country-by-country.

With regard to Albania, we will be pressing for the Council to reiterate the need for judicial reform and action against Organised Crime threats. In Bosnia and Herzegovina (BiH), the UK has launched, jointly with Germany, an initiative aimed at galvanising the currently stalled accession process, which focuses attention on desperately-needed socio-economic and institutional reform. In Kosovo, now that the formation of a government in Pristina appears to be imminent, we will be pressing for increased momentum towards signature of Kosovo’s Stabilisation and Association Agreement (SAA), in particular on the EU-facilitated Kosovo-Serbia dialogue. In Macedonia, although we support the Commission’s sixth recommendation to begin discussions on a negotiating framework, we will be pressing for progress to tackle the lack of political dialogue, politicisation of institutions and concerns about media freedom. The Government is continuing to work closely with Montenegro to offer encouragement as well as practical advice and support, particularly on rule of law reforms. I was delighted that Deputy Prime Minister Markovic visited the UK on 10 November to sign a bilateral
MoU focused on cooperation against organised crime and corruption. This is a welcome sign of Montenegro’s commitment to make progress in this area.

The UK is also working closely with Serbia on rule of law issues and enjoying a good level of cooperation. We provide significant UK support, including FCO-funded projects supporting reform of the Judicial Academy and Prosecutor’s Office. We are also continuing to stress the importance of progress on normalisation of Serbia’s relationship with Kosovo. On Turkey, we are pressing EU partners to support the Commission’s call to update and communicate to Turkey the opening benchmarks for the rule-of-law negotiation chapters 23 and 24 as a modest and technical measure to give impetus to EU-Turkey dialogue on governance and fundamental rights.

Lastly, Instrument for Pre-Accession (IPA II) assistance will be provided in line with the enlargement policy framework which is guided by the Commission’s Enlargement Strategy. We welcome the fact that this reflects the ‘fundamentals first’ approach adopted by the Commission, closely linked to the Copenhagen Criteria and the conditionality of the Stabilisation and Association Process. There will also be a stronger reinforced link between financial assistance and policy priorities, with country strategies guiding programme activity and with an emphasis on good governance, the rule of law and the fight against organised crime and corruption.

I look forward to updating you further in due course.

2 December 2014

EU ENLARGEMENT: ALBANIA (UNNUMBERED)

Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

Thank you for your letter of 27 June 2014. We are pleased that the decision to support Albania’s candidate status was taken by the Government in the General Affairs Council. The report from the Commission to the Council and the European Parliament on Albania’s Progress in the Fight Against Corruption and Organised Crime and in the Judicial Reform (Document 10582/14) and the accompanying explanatory memorandum were cleared for information at the Chairman’s sift on 23 June.

We support the position of clear conditionality on future negotiations, in line with the recommendations of our report on The Future of EU enlargement, published in March 2013. We also reiterate the conclusion that the EU must resist watering down of criteria, and should apply them rigorously in negotiating future enlargement.

We note that although it could be considered that candidate status is in part also a symbolic step, it triggers increased access to EU institutions, certain Council meetings and further access to funds for achieving reforms under the Investment for Pre-Accession Assistance funds.

We emphasise that the provision of timely information is crucial to our continuing scrutiny of the Government and of enlargement decisions. We look forward to receiving regular updates as negotiations progress. We would ask that the recommendations of our report are considered ahead of the annual enlargement discussions in December.

8 July 2014

EU JUSTICE AND HOME AFFAIRS MEASURES (PROTOCOL 36)

Letter from the Chairman to Baroness Stowell, Leader of the House of Lords

The European Union Select Committee, at its meeting on 11 November, discussed the Government’s proposals for a debate on its decision to opt back into 35 EU Justice and Home Affairs measures. On behalf of the Committee I am writing to express our dismay at the way this has been handled, and at the same time to explain why we have tabled an amendment, in my name, to the Government’s motion.

You will be aware that the Government has made repeated undertakings that both Houses will be given an opportunity to vote on the final list of measures which the UK will opt back into. On 15 October 2012 the Home Secretary made this statement to the House of Commons:
“I hope that today I have conveyed to the House the Government’s full commitment not only to holding a vote in this House and the other place on the 2014 decision but on the importance we will be according to Parliament in the process leading up to that vote.”

In May 2014 this undertaking was repeated by Lord Faulks, during a debate in the House of Lords:

“The Government have been clear throughout this process that Parliament will be given a vote on the final list of measures that the Government apply to rejoin, and I am happy to repeat that commitment today.”

It is clear to us that the motion debated in the House of Commons on 10 November, confined as it was to approval of the draft Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014, was inconsistent with these undertakings. This was confirmed by the Speaker’s ruling that a vote on the draft Regulations was not a vote on the European Arrest Warrant (or indeed the other important measure not covered by the draft Regulations, including the Europol and Eurojust Decisions). We were therefore astonished when, on 10 November, an essentially identical approval motion was tabled in this House.

The revised motion, tabled late on 11 November, is of course an improvement, in that it includes explicit reference to the full package of 35 measures. We welcome this change.

At the same time, I should emphasise that the revised motion is fundamentally illogical: it suggests that a major decision (endorsing the decision to opt in to all 35 measures), is somehow implicit in a lesser decision (to approve Regulations transposing just 10 of those measures into domestic law). This is a profoundly unsatisfactory approach to parliamentary scrutiny and oversight.

While we are deeply disappointed by the way the Government has handled this issue, we of course support the decision to opt back into the 35 measures. Indeed, we are confident that the House, if given a proper opportunity for an informed debate, would have listened to the overwhelming arguments in support of the opt-in and would have voted to support the Government’s position. But that debate should have been held openly and with due warning. What has been proposed instead falls far short of what was promised and what is needed, and the Committee has accordingly agreed that I should table a non-fatal amendment expressing regret at the Government’s actions.

12 November 2014

Letter from Baroness Stowell to the Chairman

Thank you for your letter of 12 November.

The Government is committed to parliamentary scrutiny of our decision to opt back into 35 EU Justice and Home Affairs measures and has been clear throughout that Parliament should play a full and active role in the process. Today’s debate will be the third such debate on a Government motion in the House of Lords this year (following those held on 8 May and 17 July).

You will be aware, of course, that our intention to seek to rejoin almost all of the measures in question – including the European Arrest Warrant – has already been endorsed by the House, in the debate and decision that took place on 23 July 2013.

On 17 July this year, the House debated the full package of measures, set out in Command Paper 8897, that has now been agreed ‘in principle’ with the European Commission and other Member States. This debate was on an amendable and divisible motion.

We have nonetheless committed to further scrutiny of this matter before formally seeking to rejoin measures. We had hoped to consider this matter much earlier in the year, but this was not in the end possible until political agreement had been reached with all other Member States. Spain – the one remaining Member State blocking the deal – has only now formally lifted its reservation in Brussels and we have very little time remaining to complete arrangements in Brussels and ensure that we can transpose those measures which are not yet fully transposed in our domestic law on 1 December. That is why we deem it important that both Houses complete the necessary legislative steps as soon as possible, and why we are now asking the House to approve the draft Criminal Justice and Data Protection (Protocol 36) Regulations 2014 and endorse the final package of 35 measures that the Government will seek to rejoin.

On this occasion, we have amended the normal motion for approving affirmative instruments – an option not available to us in the House of Commons – to make specific reference to the package of 35 measures that the Government will seek to rejoin, so as to put beyond doubt that the Government see tonight’s debate and decision as a debate and decision on the whole package of 35 Justice and Home Affairs measures, as the Home Secretary and the Justice Secretary made clear in the House of Commons last week.
We have agreed a package of 35 measures that operate together coherently. The deal reached is a single, intertwined decision that cannot be unpicked. As a result we are asking Parliament to consider this as a package and take a single decision. That is why the motion before the House takes the form it does.

I hope that the explicit reference to the full package of 35 measures in the motion will be welcomed by the House, as it has been by your Committee.

I hope also that this letter helps to clarify our position, which Ministers will set out in the House this evening, and that you will consider further the need for your amendment to the Government’s motion.

17 November 2014

Letter from the Chairman to Baroness Stowell

Many thanks for your letter of 17 November, providing further explanation of the Government’s handling of parliamentary scrutiny of the UK opt-in to 35 Justice and Home Affairs measures.

I am not persuaded by the arguments in your letter, for reasons which I touched on briefly in my speech last night. But the substantive issue has now, thankfully, been settled, at least so far as the House of Lords is concerned, and I see no need to rake over the deficiencies of the process any further.

The level of dissatisfaction across the House with the Home Office’s handling of parliamentary scrutiny of the opt-in decision was very evident in last night’s debate. I trust this point has been taken on board, and that we can now move forward on the basis of open and constructive dialogue between committees and Government departments.

In light of the remarks of Lord Faulks in winding up the debate, I am copying this letter to all participants.

18 November 2014

EUROPEAN COUNCIL DECISION PROPOSING TO THE EUROPEAN PARLIAMENT A CANDIDATE FOR PRESIDENT OF THE EUROPEAN COMMISSION (EUCO 131/14)

Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

This document and your EM were considered by the Select Committee at its meeting on 9 September 2014.

We note the Government’s reasons, as set out in the EM, for voting against Mr Jean-Claude Juncker’s nomination as President of the European Commission. This is now a matter of history, and we see no reason either to hold the document under scrutiny or to push for further explanation of the Government’s clearly stated position. We accordingly agree to clear the document from scrutiny.

We also note paragraph 27 of the European Council conclusions, which refers to UK concerns over “the future development of the EU”. The paragraph continues as follows: “Once the new European Commission is effectively in place, the European Council will consider the process for the appointment of the President of the European Commission for the future, respecting the European Treaties.”

We would be grateful for an explanation of the thinking behind this commitment. In particular, what form do you expect this consideration to take, and how quickly do you expect it to be completed? What outcome will the UK Government seek from the process, and, if the process for appointing the President of the Commission is to be changed, do you expect this to be by means of political agreement within the European Council, or will amendment to the Treaty on European Union be required?

We look forward to a reply from this letter within the usual 10 working days.

10 September 2014
Letter from David Lidington MP to the Chairman

As the Committee will be aware, the Government, along with Hungary, raised concerns about the principles behind the so-called Spitzenkandidaten process by which nominees for the position of President of the European Commission were put forward. Following the European Council meeting in June, Member States agreed by unanimity that the process of appointment should be reviewed to ensure that processes to nominate the Commission President are in line with the Treaties.

The form for this consideration is yet to be determined and, as agreed by the European Council, this will not occur until after the new Commission is in place. This, along with the timeframe, will need to be determined by Member States and the new President of the European Council.

The outcome that the UK will seek from this consideration will of course depend on the scope set for the review by Member States. However, our position is clear, the Government believes that, in line with the Treaties, it is for the European Council to propose the President of the European Commission to the European Parliament. Furthermore, we believe that the European Council should be able to choose from a wide selection of qualified, experienced and diverse candidates.

Because the Government position is rooted firmly in the current Treaties, we believe that an outcome can be reached by political agreement, without further treaty change.

7 October 2014

EUROPEAN CITIZENS' INITIATIVE: WATER AND SANITATION (8177/14)

Letter from the Chairman to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 2 July 2014.

In light of the Commission's Communication and the European Citizens' Initiative’s call for Member States to ensure that all inhabitants enjoy the right to water and sanitation, we welcome the steps that you have already taken to recognise the rights associated with these most basic of necessities and would urge you to continue to work in this area. We also welcome the Commission’s commitment to press for universal access to safe drinking water and sanitation as a priority area for future Sustainable Development Goals.

Given that this is the first ECI to have merited a response from the Commission, and that it reflects a clear desire for greater action on the part of citizens from across the EU, we would welcome your views on the general principle of the ECI and whether you consider that in this case it has fulfilled its aims. Moreover, we would welcome your views on whether you consider the Initiative and the associated processes to be accessible and easily understandable to the citizens at whom it is aimed.

You do not comment directly on the statements by the Commission in the Communication setting out its analysis of the acknowledgment in international law of a right to safe drinking water and sanitation. The implication of the section of your EM headed “Fundamental Rights Analysis” is that you do not agree with the Commission’s view. We note your argument that the rights covered by the Communication are neither free-standing rights nor rights under customary international law, but we would welcome a clearer explanation from you as to the precise status of these rights. In particular, we would be interested in your views on the statements quoted by the Commission from (i) UN Resolution 64/292 and, (ii) at European level, from the Parliamentary Assembly of the Council of Europe, to the effect “that access to water must be recognised as a fundamental human right because it is essential to life on earth and is a resource that must be shared by mankind”.

In light of the Commission’s non-legislative commitments we would be interested to hear your views on how innovative approaches for development assistance are to be stimulated in practice and whether you have any plans to promote the sharing of best practices with other Member States and in doing so to identify new opportunities for cooperation.

We will retain the communication under scrutiny and look forward to your response within 10 working days.

7 July 2014
Letter from Dan Rogerson MP to the Chairman

Thank you for your letter of 7 July in response to the Explanatory Memorandum (EM), regarding this European Citizens’ initiative (ECI). I welcome your interest in this initiative.

On the general principle of the ECI, we believe that when citizens request action from national and European institutions, it is a positive sign of a healthy democratic process. We welcome this example of citizens directly holding the EU to account. The European Commission responded to the “Right2Water” initiative in its March 2014 Communication¹. As the Commission progresses with actions proposed in section three of its Communication, we will want to be sure it respects subsidiarity, so that action is taken at EU level only where it could not be more effectively achieved at national or sub-national level.

On the question of accessibility and clarity of the process, the European Commission has made available a “Guide to the European Citizens’ Initiative”² that outlines the process. Their website³ also provides information on which stage each initiative is currently in as well as guidance for those wishing to start a new initiative. Information on which initiatives were refused and why can also be found on the European Commission’s website.

You requested an explanation of our position on the right to safe drinking water and sanitation. Our legal position, in line with the statement by the Attorney General in 2012, is that we recognise the right to water and sanitation as a component of the Right to an Adequate Standard of Living, Article 11 of the International Covenant on Economic, Social and Cultural Rights. We do not recognise it as a freestanding right and seek to avoid the development of customary international legal rights or the expansion of existing Covenant rights.

Several innovative approaches for development assistance are being taken. The UK government is committed to supporting the achievement of the Millennium Development Goals (MDGs). As part of our efforts to help meet the water and sanitation goals we have pledged to support 60 million people to gain access to sustainable Water Supply, Sanitation and Hygiene (WASH) by the end of 2015 and we are on-track to meet this commitment. The Department for International Development (DFID) places a strong emphasis on using robust evidence to inform our policy and programming. By better understanding the evidence base we can make innovations that lead to better impacts. For example, the DFID funded Cochrane Review Interventions to improve water quality and supply, sanitation and hygiene practices, and their effects on the nutritional status of children⁴, work carried out by the London School of Hygiene and Tropical Medicine, showed for the first time a statistically significant link between WASH interventions and under nutrition. Several high impact DFID nutrition interventions, notably in Yemen, Nigeria and Zambia, now include a strong focus on hand washing with soap and water particularly by child-carers at critical times. Given the importance of inter-sectoral linkages, we support the Commission’s proposal, in the Communication, to move towards more integrated programming in their 2014-2020 financial framework (pg. 11).

In terms of international fora for sharing innovation and best practice, the Sanitation and Water for All (SWA) Partnership, launched in 2010, brings together developing countries, donors, multilateral agencies, civil society and other development partners to work towards universal access to sanitation and water, through coordinated action at the global and national levels. The UK is an active member of SWA, as are a number of other EU Member States. DFID also shares best practice with the European Commission and other Member States through the EU Water Experts’ Group and the EU Water Initiative, which is designed to mobilise and coordinate all available EU resources (human & financial) to achieve the water-related MDGs in partner countries. The greatest innovation, of course, takes place at country level where suppliers and public authorities can respond to WASH needs in their particular context. As donors we need to consistently consider how we can financially support innovative approaches and work with national and local governments to improve the enabling environment for sustainable WASH provision. The Commission allude to this in their Communication.

17 July 2014

¹ http://ec.europa.eu/transparency/com_r2w_en.pdf
Letter from the Chairman to Dan Rogerson MP

Your letter of 17 July 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 10 September 2014.

We welcome your support for the general principle of the European Citizens’ Initiative (ECI) and share your view that direct methods of holding the EU to account are to be applauded. We consider your resolve that the Commission respects the principle of subsidiarity in enacting its response as sensible. We view the European Commission’s publication “Guide to the European Citizens’ Initiative” as a positive step in opening up the process and we would be interested to know the lengths that you are going to in publicising and encouraging UK citizens to take part. If the Initiative is to fulfil its aims, we are of the opinion that Member States should take a leading role in its promotion.

We are grateful for your clarification on the precise status of the right to safe drinking water and sanitation and note that you consider it as a component of the Right to an Adequate Standard of Living, Article 11 of the International Covenant on Economic, Social and Cultural Rights.

The examples you provide of DFID’s inter-sectoral approach to overseas nutrition interventions is encouraging and we would urge you to continue placing an emphasis on improving access to clean water and sanitation in development projects wherever appropriate, whilst remembering that the Initiative urges action both within the European Union and through overseas development projects.

We are encouraged by the numerous ways in which innovation and best practice is being shared at an international level and welcome your acknowledgement that the greatest innovation takes place at a country level when suppliers and public authorities are given the resources to work together.

We will retain the communication under scrutiny and look forward to your response by 6 October 2014.

10 September 2014

Letter from Dan Rogerson MP to the Chairman

Thank you for your further letter of 10 September on this Explanatory Memorandum regarding this European Citizens’ Initiative.

The Committee asked what measures the UK is taking to encourage UK citizens to take part in European Citizens’ Initiatives. The Government warmly welcomes the Committee’s support for encouraging citizens to hold the EU institutions to account: this is as important at the European level as it is at the national, regional and local level, if our democracy is to function effectively. The Government provides all the necessary infrastructure to enable citizens to engage with Initiatives when they are started, including ensuring that any differences between the way Initiatives are administered here and in the rest of the EU do not hamper UK citizens from participating.

Our commitment to reform the EU so that it is more democratically accountable is also reflected in other proposals we are advocating to our European partners. National parliaments are the institutions with which people identify and it is through them that voices of people across the EU can be heard. Enhancing the role played in EU decision making by national parliaments, as well as national governments, is an effective way of tackling the sense of distance that people feel about the European Union, and what it does. A growing number of other Member States agree with our position, which we will continue to champion.

I remain grateful for your interest in this initiative.

1 October 2014

Letter from the Chairman to Dan Rogerson MP

Your letter of 1 October 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 15 October 2014.

We are pleased to hear that you consider the active participation of European citizens in holding EU institutions to account as positive. In our letter of 10 September we asked what measures you are taking to encourage UK citizens to take part in the various European Citizens’ Initiatives (ECIs). It is good to hear that you provide the “necessary infrastructure” to enable citizens to engage with the Initiatives and we would welcome a clearer articulation of what this entails. Moreover, we would welcome further details on specific measures that are being taken to publicise the ECI programme more widely so that UK citizens are aware of their ability to petition the Commission to initiate legislation.
Your comments concerning the role of national parliaments are encouraging. As you will recall, in our report on the Role of National Parliaments which was published earlier this year, we recommended that the Commission recognise a “Green Card” style agreement which would allow national parliaments to come together on areas of interest and petition the Commission to initiate legislation. The agreement would operate along the same lines as the ECI which binds the Commission to respond positively with a legislative proposal or negatively with an accompanying explanation. The existing ECI structure has the potential to increase public engagement with EU Institutions further; your role in publicising this structure is of the utmost importance.

We will retain the communication under scrutiny and look forward to your response within 10 working days.

16 October 2014

Letter from Dan Rogerson MP to the Chairman

Thank you for your letter dated 16 October 2014 with further points on the above document.

You asked for further details about what is meant by the ‘necessary infrastructure’ to enable citizens to engage with European Citizens’ Initiatives (ECIs). The Government provides all the resource necessary to meet the requirements of Regulation No 211/2011, this primarily entails providing staff resource to verify signatures collected in the UK and to liaise with the European Commission and ECI organisers.

You also asked for further details about specific measures being taken to publicise the ECI programme more widely. The European Commission leads on promoting the ECI and the Government informs organisations with an interest in the ECI in the most cost effective way, by directing them to the European Commission website. This has a wide range of information about how to start an initiative, as well as how to support initiatives started by others. The European Commission will be reviewing the effectiveness of the ECI regulation and member states will be asked to feed into this in the first quarter of 2015. This will be an opportunity to consider whether we would want to change the way we publicise the ECI process to UK citizens in future.

Like the Committee, the Government is clear that ability for citizens to hold to account the institutions that govern them is vital for democracy to function transparently and effectively. This is especially important at the European level today: the low turnout at the last European Parliament elections clearly highlights the disengagement that many voters feel from the EU and what it does. As this is the first ECI to have triggered a Commission response, it is not yet clear whether the ECI is an appropriate channel to address disengagement. What the Government is clear about, however, is how much national parliaments have the potential to tackle this challenge. Voters understand more clearly the way that they have influence over their national parliaments including through the ballot box, constituency surgeries and corresponding with their MPs. These are readily understood democratic levers for many citizens. Involving national parliaments more in EU decision-making works with the grain of what people are already familiar with and are essential to ensure respect for the principle of subsidiarity. It is likely to make a greater, faster and more resource-efficient contribution to tackling the problem of democratic accountability at the EU level. That is why the Government will continue to focus its efforts on the role of national parliaments in the EU, more than other initiatives.

We have already made good progress in this area. Firstly, we are arguing for a strengthening of the existing powers of national parliaments over EU affairs. We welcome your recommendations that changes should be made to the Yellow and Orange card system, which might include lowering the number of parliaments needed to trigger a yellow or orange card process, lengthening the deadlines within which parliaments must register concern that could lead to a card process being started, or extending the scope to proportionality as well as subsidiarity. Secondly, a majority of national parliaments in the EU has recently requested Jean-Claude Juncker to set up a working group to consider how to strengthen the role of national parliaments in EU decision making. Some Member States advocate instituting a Green Card (the right for groups of national parliaments to petition the Commission to initiate or repeal legislation), while others, including this coalition government, have argued for a Red Card - the right for groups of national parliaments to block legislation. We believe that the working group should be set up, and that these sorts of new powers, as well as the strengthening of existing mechanisms, should be agreed in that group.

I trust that I have now addressed all of your points on this document sufficiently.

29 October 2014
Letter from the Chairman to David Lidington MP

I am writing to you in response to a letter of 29 October 2014 received from Dan Rogerson MP, Parliamentary Under Secretary of State for Water, Forestry, Rural Affairs and Resource Management, on the above dossier. I copy this letter to him, and thank him for his responses to my earlier letters.

The general issues that were raised around the European Citizens’ Initiative were considered by the European Union Select Committee at its meeting of 25 November 2014 and it is clear that these issues are best addressed now to you.

We note that support for the European Citizens’ Initiative in earlier exchanges has been expressed, but it appears from the latest letter that the Government has done only the bare minimum required by Regulation No 211/2011 to promote the ECI. This contrasts with the Government’s strong support for domestic e-petitions, as set out in the 2010 Coalition Agreement. The Government facilitates such e-petitions by means of the website http://epetitions.direct.gov.uk/. Have you considered using this site to promote the ECI? If not, why not?

We note also that a review will be undertaken by the Commission in early 2015. Do you intend to contribute to this review? If so, what issues will the Government’s submission cover?

Finally, we note the comments on the democratic deficit and your suggestion that the solution lies with national parliaments. While we welcome the fact that “the Government will continue to focus its efforts on the role of national parliaments in the EU”—an agenda this Committee continues to pursue very actively—we suggest that there is no single means of rectifying the perceived democratic deficit in the EU. We urge you not to rule out a more nuanced and multi-faceted approach, in which the ECI may play a part.

Given that Mr Rogerson has addressed the substantive policy issues raised in the Communication, we are satisfied that this item can now be cleared from scrutiny.

At the same time, we look forward to your response to the more general questions raised above in the usual 10 working days.

26 November 2014

EUROPEAN UNION COMMITTEE REPORT ON 2013 – 14 (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

Thank you for sending me a copy of the European Union Committee’s report on its work in 2013-14. I am pleased to note the recognition of an improvement in the Government’s performance on scrutiny, for example on overrides, as a result of the positive engagement between Departments and your secretariat.

I also welcome the fact that the report will be debated tomorrow, with Lord Wallace of Saltaire representing the Government – this is an excellent opportunity to highlight the important work that your Committee does. I look forward to reflecting on the debate and will write further with my observations on the report in due course.

22 July 2014

FOREIGN AFFAIRS COUNCIL, DEFENCE FOREIGN AFFAIRS COUNCIL AND GENERAL AFFAIRS COUNCIL: 17- 19 NOVEMBER 2014 (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

I am writing to inform you about the Foreign Affairs, Defence Foreign Affairs and General Affairs Councils to be held on 17-19 November. The Foreign Secretary will attend the Foreign Affairs Council (FAC) on 17 November and the Minister for Reserves, Mr Julian Brazier MP, will attend the Defence Foreign Affairs Council and the European Defence Agency Steering Board on 18 November. The General Affairs Council (GAC) will be held on 18 November. The Minister for Communities and Local Governments, the Lord Ahmad of Wimbledon, will attend the GAC Cohesion discussion on 19 November.
The FAC and Defence FAC will be chaired by the High Representative of the European Union for Foreign Affairs and Security Policy, Federica Mogherini, and the GAC will be chaired by the Italian Presidency.

**FOREIGN AFFAIRS COUNCIL**

**UKRAINE**

Ukraine will be the main topic for discussion at the Foreign Affairs Council. Ministers will discuss how best to respond to recent developments, and in particular continued provocative action by Russia, including recent troop movements near the border, Russia’s refusal to disavow the illegitimate separatist “elections” on 2 November, and continued despatch of “humanitarian” convoys into Ukraine in violation of Ukraine’s sovereignty.

The Foreign Secretary will make clear that Russian actions are unacceptable, that Russia must contribute to the de-escalation of tensions and fulfil its commitments made in the Minsk Agreements and elsewhere. He will stress to partners the importance of Russia facing consequences for its actions. We expect Ministers to agree robust Council Conclusions making clear that the EU will continue to respond to actions that escalate tensions, signal that the EU and Member States have not forgotten Crimea and to send messages to the Government of Ukraine on the importance of accelerating the pace of reform and communicating a clear vision of the future, particularly to those in the east. The Conclusions should reaffirm our commitment to supporting Ukraine, whilst making clear that such support remains conditional upon progress against reform. We also want Conclusions to reaffirm the EU and Member State’s commitment to the Association Agreements with Georgia and Moldova in addition to Ukraine.

**BOSNIA AND HERZEGOVINA**

Over lunch, Ministers will discuss Bosnia and Herzegovina (BiH). The Foreign Secretary and German Foreign Minister Steinmeier will brief EU partners on the new BiH initiative that they launched on 5 November at the Aspen Institute Conference in Berlin and discuss next steps on the implementation of the initiative.

**EBOLA**

The new EU Ebola Coordinator, Commissioner Christos Stylianides, is likely to update Ministers following his visit to the region. The UK welcomes his appointment, and is clear that there remains an urgent need for a rapidly increased response across all the affected countries. We expect the new Coordinator to encourage all Member States to deliver on the commitments made at the October European Council.

**MIDDLE EAST PEACE PROCESS/GAZA**

The UK is deeply concerned at the rising tensions in Jerusalem, recent settlement announcements, and the lack of progress towards a sustainable ceasefire in Gaza. The FAC will be an important opportunity to urge the parties to work together to deescalate the situation, to express the EU’s deep concern at the settlement announcements, and to urge the parties to reach a deal that addresses the underlying causes of the Gaza conflict.

**Defence Foreign Affairs Council**

The FAC will be followed the next day by the European Defence Agency Steering Board and a meeting in Defence Ministers format. Ministers will discuss the European Defence Agency Budget for 2015, Military CSDP operations, the security situation in the broader European Neighbourhood and the outlook for CSDP with a focus on the June 2015 European Council. Ministers will also discuss what further contribution the EU can make towards a lasting political settlement.

**GENERAL AFFAIRS COUNCIL**

The General Affairs Council (GAC) on 18 November is expected to focus on: the European Council on 18 and 19 December 2014; the Rule of Law initiative; the follow-up to the Strategic Agenda for the EU agreed at the June European Council; and strengthening inter-institutional annual and multiannual programming. Under Any Other Business, the GAC will receive an update of the Friends of the Presidency group on the Better Functioning of the EU.
PREPARATION OF THE DECEMBER EUROPEAN COUNCIL

The GAC will have an initial discussion of the 18 and 19 December European Council, which the Prime Minister will attend. A draft annotated agenda for the European Council has just been circulated. At this stage the meeting looks likely to cover: further efforts to foster growth, jobs and European competitiveness; and external relations issues.

RULE OF LAW

The GAC will hold an exchange of views on whether there is a need for, and the possible shape of, measures to better protect the rule of law within the EU. This will be based on an Italian Presidency discussion paper.

FOLLOW-UP TO THE JUNE EUROPEAN COUNCIL

The GAC will hold its third discussion of the implementation of the ‘Strategic Agenda for the Union in times of change’ as agreed by Leaders at the June European Council this year. The focus at this GAC will be the chapter on energy union and climate policy.

STRENGTHENING INTER-INSTITUTIONAL ANNUAL AND MULTI-ANNUAL PROGRAMMING

The Italian Presidency will hold discussions on suggestions for ways the Council could improve its working with the Commission and European Parliament on inter-institutional annual and multi-annual programming for 2015 and future years.

POSSIBLE ITEM ON PROTOCOL 36 TO THE TREATIES

The UK will update the GAC on the progress of the UK’s parliamentary procedures.

ANY OTHER BUSINESS

The Presidency will debrief the Council on the third meeting of the Friends of the Presidency Group on improving the functioning of the EU which took place on 7 November 2014.

GAC COHESION DISCUSSION

On 19 November the General Affairs Council will consider cohesion policy. The Council will adopt Conclusions on the Sixth Report on economic, social and territorial cohesion (the ‘Sixth Cohesion Report’), with which the UK is content. The Cohesion Reports are prepared triennially by the Commission in accordance with Article 175 of the Treaty.

There will be a policy discussion on cohesion policy and the mid-term review of the Europe 2020 strategy. This is part of a broader exercise by the Italian Presidency, seeking views on the contributions of a wide range of policy areas to the Europe 2020 goals. Cohesion policy can play a role in improving the business environment and catalysing structural reforms, especially through the full application of macro-economic conditionalities in line with the Regulations.

Under AOB there will be a discussion of the treatment of operational programmes not adopted by the end of 2014.

14 November 2014

INTERIM COMMISSIONER (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

I am writing to inform you of the appointment by the Council of four interim Commissioners for the remainder of this Commission’s term. Following May’s European Parliamentary elections, four of the Commissioners who were elected as MEPs decided to take up their seats in the European Parliament at the end of June.
In compliance with the Code of Conduct for Commissioners, these four Commissioners had to resign as Commissioners upon taking up their role as MEPs. Their relevant national governments then nominated four interim candidates to take their place.

These are:

— Mr Jyrki Katainen (Finland) – who will take on Mr Olli Rehn’s Economic and Monetary Affairs and the Euro portfolio;

— Mr Jacek Dominik (Poland) - who will take on Mr Janusz Lewandowski’s Financial Programming and the Budget portfolio;

— Mr Ferdinando Nelli Feroci (Italy) – who will take on Mr Antonio Tajani’s Industry and Entrepreneurship portfolio; and

— Ms Martine Reicherts (Luxembourg) – who will take on Ms Viviane Reding’s Justice, Fundamental Rights and Citizenship portfolio.

In line with the EU Treaties, the European Parliament was consulted about the interim Commissioners. The four candidates had individual EP committee hearings. On 16 July the European Parliament voted 421 in favour, with 170 against and 21 abstaining, for the Council to appoint the interim Commissioners. The UK supported this decision to ensure that there were no gaps in these key portfolios, and to help ensure a smooth transition from this Commission to the next.

25 July 2014

ITALIAN EU PRESIDENCY 1 JULY TO 31 DECEMBER 2014 (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

In line with our commitment to proper scrutiny of EU business, the Government has promised to keep Parliament informed on issues relating to each EU Presidency programme.

I attach [not printed] a summary of the Italian priorities for their Presidency of the Council of the European Union, as well as a provisional calendar of Ministerial meetings and key events. I have also placed a copy of the summary in the library of the House, in the interest of informing all members. As always, I very much look forward to hearing your views and engaging with you on the key issues.

The Italians have set out three broad areas for their Presidency: Growth, Migration and Mediterranean (encompassing foreign policy). There is a good degree of alignment between the UK’s priorities and those of the Italian Presidency, particularly on policies aimed at promoting growth. The Italians will seek to promote initiatives to boost growth and investment, including support for SMEs. Other priorities that we share include deepening the Single Market and Better Regulation. The Italians will also want to make significant progress on TTIP negotiations, an ambition that we support.

Under the migration agenda, we expect the Italians to push for a more coordinated EU response to the large influx of migrants from the Near East and Africa that are crossing the Mediterranean Sea. They are keen to increase financial support for search and rescue operations and discuss options for burden sharing. We will continue to stress to them the importance of practical cooperation and action in countries of origin and transit.

On foreign policy, the Italians are likely to focus on the Mediterranean neighbourhood, particularly on Syria, Libya and Egypt. Like us, they are pro-EU Enlargement, and strong supporters of Albania and Serbia. We would also expect them to take a leading role on Ukraine should the crisis deepen. We will support the Italians across the full range of our shared Western Balkans policy priorities.

I will of course be happy to provide your Committee with more information on any of these issues or the Presidency priorities, and I and my officials stand by to assist with an informal briefing session.

24 June 2014
Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

In the light of the recent public debate on the potential leadership of the next European Commission, and ahead of the Committee’s session with you on Monday afternoon, I wanted to bring to your attention comments made at the LI COSAC in Athens on 15-17 June 2014.

On 16 June the Chairpersons of the European Affairs Committees from of national parliaments negotiated the conclusions and contributions of the conference. I attach [not printed] a copy of the final versions of both for your reference.

One point of debate was a discussion of the experience of the Spitzenkandidaten. The revised draft contributions of the LI COSAC, circulated by the Presidency only on the morning of 16 June, incorporated an amendment by the European Parliament, to the effect that “the experience of ‘Spitzenkandidaten’ to address European issues during the election campaign was successful”.

Both Sir William Cash and I recognised that was a matter of some debate, and we tabled a joint amendment to replace the new text with the following neutral wording: “there were ‘Spitzenkandidaten’ to address European issues during the election campaign”.

A range of views were expressed during discussion of our amendment, which was eventually agreed without a vote, as a fair and factually accurate compromise. However, I would like to emphasise that the LI COSAC, in agreeing this amendment, did not express a view on the success or otherwise of the Spitzenkandidaten experience—despite the exchanges during Prime Minister’s Question Time on Wednesday, I would not wish you to be under the impression that the national parliamentary delegations present at COSAC agreed that the experience was unsuccessful or unacceptable.

20 June 2014

Letter from David Lidington MP to the Chairman

Thank you for sharing with me the final version of the negotiated conclusions and contributions of the recent COSAC meeting in Athens.

I am grateful for the interventions that you and Sir William Cash made in those discussions to amend the text of the conclusions on Spitzenkandidaten.

Across the continent, voters have stayed at home, or voted in record numbers for populist, anti-EU parties. The argument that you could increase engagement by asserting that the political group whose parties won the most seats should choose the Commission president was manifestly wrong.

Moreover, the so-called Spitzenkandidaten process has no clear basis in EU law. The Treaties are clear that it is the accountable, elected heads of government in the European Council that propose who runs the European Commission, taking into account the European Parliament elections.

26 June 2014

PRE-COUNCIL EVIDENCE SESSIONS (UNNUMBERED)

Letter from the Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

I am writing to thank you for your attendance at Monday’s Pre-Council evidence session with the European Union Committee of the House of Lords.

We found this pre-Council meeting rewarding and useful, notwithstanding the current uncertainty over some of the issues under discussion. We would like therefore to invite you to speak to us ahead of future Council meetings, should the parliamentary calendar permit, and I would be grateful if you could confirm that you are content for Committee staff to plan accordingly.

Along with the above invitation, I would ask that you write to the Committee following this week’s Council meetings, to inform them of the progress of negotiations and to share your views on how
their input has informed the negotiations of various dossiers and issues. Your view on each of the
agreements reached would also be welcomed by the Committee.

26 June 2014

Letter from the Chairman to David Lidington MP

As you know, the Committee’s report on The Role of National Parliaments in the EU recommended the
introduction of pre-European Council meeting with the Minister for Europe. We accordingly planned
to meet you today (21 October) to discuss the forthcoming European Council on 23/24 October.
This request was first passed on to your officials in July, and was expressly repeated in early
September.

We are therefore displeased to learn that your office contacted the clerks a month later, on 10
October, to tell them that your diary would not allow us to hold a pre-Council meeting with you. In
the circumstances, I decided to cancel our scheduled meeting last week (15 October) in order to give
the Committee an opportunity to discuss this apparent disregard for our work. I did not take this
decision lightly.

We have now discussed this issue. We are clear that pre-Council evidence sessions will contribute far
more to our scrutiny work than post-Council sessions, particularly given that Her Majesty’s
Government is in any case required to report back to Parliament following a European Council. If a
political dialogue is to take place between national parliaments and the EU institutions, a genuine
political dialogue with Government Ministers is equally important. Your response to our report on
The Role of National Parliaments in the EU paid lip-service to the importance of upstream engagement
by national parliaments; if that engagement is to mean anything, the Government itself must play its
part.

Member State Governments sometimes claim that legislation has been imposed upon them during
Council meetings. We seek to avoid this situation by airing the issues to be discussed in the Council,
ahead of time, publicly. Failure to embrace such openness risks playing into the hands of those who
would present the EU as an alien and secretive institution.

I also remind you that many other national governments and parliaments appear willing to discuss
European Council meetings in public and in advance. As the evidence in our report on The Role of
National Parliaments states, your counterpart in France regularly debates the European Council with
our equivalent committee, and professes to find it useful that he is able to negotiate with the support
of his parliament. We hope this would be the case for you.

Elsewhere, the Oireachtas, and the national parliaments in Austria, Belgium, Denmark, Germany,
Estonia, Finland, Slovakia, Slovenia, Sweden, Netherlands and Lithuania all focus their efforts on Pre-
Council Scrutiny.

In no sense do we seek to mandate Ministers’ actions in the Council. Rather, we seek to promote the
transparency and accountability of EU decision-making, by means of a continuing frank and honest
dialogue.

In pursuit of these aims, I formally invite you to appear before the Committee on 11 November,
ahead of the General Affairs Council, and on 16 December, ahead of the European Council, both at
4pm. I hope this advance notice will give your office sufficient time to coordinate your diary with the
committee clerks.

I look forward to your response within 10 working days.

22 October 2014

Letter from David Lidington MP to the Chairman

Thank you for your letter of 22 October on this topic. Firstly, I want to apologise for the delay in the
resolution of this matter. As you know, I place great value on my relationship with you and your
Committee and so I want to give such requests the consideration that they deserve. Also, I note that
officials were in regular contact with the Committee’s Clerks in the intervening period.

In the week leading up to a European Council there are intensive negotiations in a number of different
fora. As I mentioned in response to the Committee’s questions about Ukraine in June, at the very
time I was with the Committee the then Foreign Secretary was in Brussels at the Foreign Affairs
Council (FAC). In the course of a typical pre-Council week negotiations are ongoing at Councils,
perhaps the General Affairs Council (GAC), the FAC, and ECOFIN. There are also official level
negotiations amongst Permanent Representatives at COREPER, between Leaders’ Sherpas and bilaterally. The shape and likely outcome of those negotiations can shift considerably over the course of a week, and of course at the European Council itself.

It is often not clear a week in advance what might be the key issues at any Council meeting. I judge that the information I would be able to give the Committee would be at best partial. In addition, I would need to avoid giving any information that prejudiced our national negotiating positions.

I welcome the intention behind this request - to better engage with Government on the EU – and I value the expertise and experience that your Committee brings to bear on European issues. As you know, I am a firm believer that national parliaments should have closer involvement in EU decision-making. My officials are working hard on this and I know they have had productive discussions with your Clerks about where there are opportunities to work together.

To this end, I would suggest that we schedule two meetings between now and May 2015 as an experiment on which we might take stock after the General Elections: one in early December during which in addition to looking ahead to the GAC/European Council we might discuss any other topics of interest to the Committee such as next steps on strengthening the role of national parliaments; and a second in early March.

I am afraid that it would simply not be possible to hold evidence sessions in advance of every General Affairs Council/European Council.

4 November 2014

Letter from David Lidington MP to the Chairman

I write further to my letter of 4 November and subsequent correspondence between the Committee Clerks and my office.

I am pleased to confirm that I can accept your invitation to meet the Committee on 9 December at 4pm and on 10 March at 4pm. I regret that I am unable to attend a meeting with the Committee on 11 November due to diary commitments. In any case, and as we discussed, the agenda for the November GAC is not currently extensive and consideration of the December European Council agenda is likely to be cursory at this stage.

6 November 2014

SCRUTINY RESERVE OVERRIDES: JULY-DECEMBER 2013 (UNNUMBERED)

Letter from Tom Scholar, the Prime Minister’s Adviser on European and Global Issues, to the Chairman

I enclose [not printed] the latest list of scrutiny overrides as agreed between our offices. I hope the commentary on each override is helpful. Of the 20 items listed, 18 were overrides in the House of Lords, continuing the overall downward trend in scrutiny overrides during the last three years. Our observations on the overrides are summarised below.

— CFSP Restrictive Measures: There were 15 such overrides on this occasion, including 7 addressed to Iran.

— A political decision to support a negotiated text:

— Directive on rules governing actions for damages under national law for infringements of competition law. This was an override where Jo Swinson MP, PUS for Employment Relations and Consumer Affairs, BIS to a position reached by COREPER on 18 October, supported a general approach in the absence of clearance arguing that to have abstained would have created a blocking minority for a measure the UK supported. Whilst appreciating that the proposal had been fast-moving the Committee observed that it might have been possible to have written earlier to avoid an override but did not pursue the circumstances of the override further with the Minister.

— Internal handling error: Where there were two overrides:

— Regulation on Investor-State Dispute Settlement Tribunals. The Committee interpreted the Government's support in the Council to the position
reached in COREPER, and the willingness of the Council to work with the EP to reach an early agreement, as political agreement and therefore an override. Lord Green, Minister of State for Trade and Investment, BIS, took the opposing view. However, he did acknowledge that the Committee should have been updated ahead of the Council on the direction of travel in negotiations and accepted that the Committee would record an override in this case.

Decision relating to the Rules of Procedure of a Committee set up under the EU/Moldova Agreement. This proposal, which resulted in the DEFRA override, was deposited in error by the Cabinet Office as it was a proposal in a category the Committee has previously exempted from automatic scrutiny, and where practice has shown that, when consulted on handling of similar previous proposals, your Clerk has usually supported non-deposit. David Heath MP, Minister of State for Agriculture and Food, sent a letter to the Committee about the need for a decision which coincided with the summer recess period. The proposal was cleared by the Committee without any follow-up.

I hope this information continues to be helpful to the Committee.

8 July 2014

THE UK’S OPT-IN AND INTERNATIONAL AGREEMENTS (UNNUMBERED)

Letter from the Chairman to Chris Grayling MP, Lord Chancellor and Secretary of State for Justice, Ministry of Justice and Theresa May MP, Secretary of State, Home Office

As you will be aware, on 28 July the Justice, Institutions and Consumer Protection Sub-Committee of the European Union Committee launched an inquiry into the Government’s policy on the application of the UK’s opt-in arrangements with regard to International Agreements. The call for evidence closed on 30 September, but so far, despite repeated invitations, the Government has failed to submit any evidence to the inquiry.

A month has now passed since the call for evidence closed, but your officials have been unable to provide any indication of when any evidence will be forthcoming. Instead we have been informed that the evidence cannot be produced until the Government has considered the ramifications of the Philippines judgment (case C-377/12). Judgment in the case was given on 11 June, almost two months before our inquiry was launched, and we cannot understand why consideration of the judgment is still being used, a further three months later, as an excuse for the Government’s failure to provide written evidence to a parliamentary inquiry. It is unacceptable that Select Committee work should be impeded in this way.

We have now begun taking oral evidence, in the absence of any Government evidence, and you have been invited to appear at the Sub-Committee’s meeting on 10 December. I invite you to confirm that you will be able to appear on this date, and also to receiving an assurance that the Government’s written evidence will be available in good time before your appearance. It would be most unfortunate if we were to be obliged to report that the Government had failed to co-operate with a parliamentary inquiry into this important issue.

I look forward to your reply within 5 working days.

30 October 2014

Letter from the Chairman to Chris Grayling MP and Theresa May MP

I am writing to you, following my letter of 30 October.

We asked for a response within 5 working days. Since then, almost a full calendar month has passed and we have not had a reply and have had no evidence submitted by the Government.

At our meeting on Tuesday (25 November), we had a constructive conversation in which you both acknowledged the importance of providing this evidence. The Committee will be considering this issue on Wednesday 3 December and I ask that a response to the letter of 30 October is given by then. The Committee will also expect to hold an oral evidence session with you both on 10 December, as outlined in my previous letter.

24
THE UK’S 2014 OPT-OUT DECISION (UNNUMBERED)

Letter from the Chairman to Karen Bradley MP, Minister for Modern Slavery and Organised Crime, Home Office

Thank you for your letter of 4 December, in which you declined the Committee’s request for an oral statement on the scrutiny override that occurred on 1 December.

Paragraph 6.2.12 of the Cabinet Office’s scrutiny guidance for departments states: “The Scrutiny Committee(s) may request the Minister to make either an oral or written statement to the House. The Minister’s letter should therefore offer such a statement.” Paragraph 6.4 states: “Subject to any wishes expressed by the Committee, statements may be either written or oral but are usually written” (my underlining).

It is therefore clear that the decision on whether a statement regarding a scrutiny override should be oral or written rests with the Committee, not the Government. The Committee does not seek an oral statement lightly—indeed, we are not aware of any previous occasion on which the House of Lords EU Committee has made such a request. I therefore urge you to reconsider your position and to confirm that an oral statement will be made to the House at the earliest possible opportunity.

I expect a reply to this letter no later than 12noon on Monday 8 December.

The Select Committee will meet to consider your reply, and any further steps that are required, on Tuesday 9 December.

4 December 2014