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 9 May 2013- 30 November 2013

EUROPEAN UNION SELECT COMMITTEE

CONTENTS

AGENDA FOR THE GENERAL AFFAIRS COUNCIL (GAC), 30 SEPTEMBER 2013 .................................................. 2
APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION TO THE CZECH REPUBLIC (UN-NUMBERED) ......................................................................................................................... 2
BALANCE OF COMPETENCES .............................................................................................................................. 3
CALLS FOR EVIDENCE AS PART OF THE REVIEW OF THE BALANCE OF COMPETENCES ........... 6
COMITOLEGY – ADAPTATION OF THE REGULATORY PROCEDURE WITH SCRUTINY (12539/13, 12730/13, 15882/13) ................................................................................................................................. 6
CROATIA: CHAPTER 23 JUDICIARY AND FUNDAMENTAL RIGHTS (UN-NUMBERED).................. 8
ENLARGEMENT- YUGOSLAV REPUBLIC OF MACEDONIA’S IMPLEMENTATION OF REFORMS (8602/13), SERBIA’S RELATIONS WITH KOSOVO (8740/13), KOSOVO- STABILISATION AND ASSOCIATION AGREEMENT (8742/13) ................................................................................................................ 8
ESTABLISHING THE COMPOSITION OF THE EUROPEAN PARLIAMENT (EUCO 110/13) .............12
EUROPEAN COUNCIL – 22 MAY .........................................................................................................................15
EU-RUSSIA SUMMIT EKATERINBURG: 3-4 JUNE 2013 ...............................................................................17
EU PRESIDENCY PRESIDENCY PRIORITIES .......................................................................................................19
IMPLEMENTATION OF ARTICLE 290 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION (S107/10) ........................................................................................................................................ 19
MULTIANNUAL FINANCIAL FRAMEWORK FOR THE YEARS 2014-2020 (11295/13, 11655/13), BUDGETARY MATTERS AND ON SOUND FINANCIAL MANAGEMENT (11298/13), DRAFT DECLARATIONS (11307/13, 11658/13, 11698/13) ........................................................................................................................................ 20
REPORT OF THE MEETING OF G6 INTERIOR MINISTERS – 12/13 SEPTEMBER 2013 ............... 22
Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

I am writing to inform you about the General Affairs Council (GAC) taking place in Brussels on Monday 30 September, which I will attend.

This GAC, chaired by the Lithuanian Presidency of the Council, will be shorter than usual. There are only two items on the agenda. The most substantive is a discussion on cohesion policy. The second issue for discussion is the October European Council agenda.

COHESION POLICY

Ministers will discuss a key issues paper prepared by the Presidency on outstanding areas of disagreement with the European Parliament on the Cohesion Policy package following the political trilogues. Though we have not yet received it, we expect that this paper will discuss the performance reserve, pre-financing, macroeconomic conditionality and co-financing rates. These issues relate to how the deal on the Multiannual Financial Framework (MFF) reached in February is implemented and transposed into law.

Our overall aim is to ensure that the February deal is honoured and that agreements made on cohesion policy rules deliver better spending of EU funds.

OCTOBER EUROPEAN COUNCIL

The General Affairs Council will discuss the draft annotated European Council agenda in preparation for the 24 and 25 October Heads of State and Government meeting. Early indications are that the agenda is likely to cover the Digital Single Market; Better Regulation, including an update from the European Commission on Regulatory Fitness (REFIT); services liberalisation; innovation; an update on latest developments on Economic and Monetary Union; and an open item for discussion on the current foreign policy at the time of the European Council.

Whilst the European Council is still over a month away, this Council agenda sits positively with the UK’s growth agenda and we welcome the constructive steps being taken to reduce the barriers faced by Small and Medium Sized Enterprises across Europe. The Government’s Business Taskforce review of EU regulation, expected to report before the Council, will also feed into the Council preparations in due course.

I will provide the usual update after the GAC has taken place.

26 September 2013

APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION TO THE CZECH REPUBLIC (UN-NUMBERED)

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

I am writing to update you on the draft Protocol to the EU Treaties put forward by the Czech Republic, including progress in Brussels. The Protocol clarifies the application of the European Union Charter of Fundamental Rights and, in essence, extends the existing Protocol 30 to which the UK and Poland are already signatories, to the Czech Republic. You will recall that your Committee cleared the draft Protocol without any concerns but that it had been delayed due to consideration by the European Parliament.

The European Parliament has now published its opinion on the Protocol and has agreed with the Council’s recommendation to dispense with the need for a convention. A European Council decision will give formal agreement to add the Protocol to the EU Treaties. The Protocol must then be signed and ratified by all Member States. We currently have no indication of when the Protocol is likely to be discussed at European Council, but I will keep you informed of progress.

In the UK, once the Protocol has been signed it will be subject to the provisions of the EU Act 2011. The Foreign Secretary will lay a statement before Parliament, under the provisions of section 5 of the
2011 Act, indicating his opinion as to whether a referendum is required before the Protocol may be ratified. The Government will also seek Parliament’s approval of the Protocol through primary legislation.

12 July 2013

BALANCE OF COMPETENCES

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

I wrote to you in October 2012 to set out the timelines for the Balance of Competences Review.

The Foreign Secretary has now issued a Written Ministerial Statement giving an update on the review and to keep the House informed of progress.

I am pleased to report that the review is progressing and on track. The six first semester reports covering a synopsis of the internal market, taxation, foreign policy, development and humanitarian cooperation, health and animal welfare and welfare and food safety are currently being drafted and will be published in early summer. We expect to launch Calls for Evidence for the nine reports in semester two this week.

Calls for Evidence for the first semester reports were published in November and were open for three months. The level of interest in and response to these calls has been positive. The evidence received has been high quality, and has provided a firm foundation to analyse the impact of EU competence in these areas. Whilst responses were mainly from interested parties in the UK, reflecting the focus on the national interest, we also received some evidence from foreign partners and international organisations. We intend to publish information on who submitted evidence alongside the final reports (subject to the provisions of the Data Protection Act).

Reports will undergo rigorous internal scrutiny to ensure they are comprehensive, robust and evidence-based. This includes scrutiny by a panel of officials and external challengers to ensure that reports are analytically robust, comprehensive and accessible. They will then be subject to Ministerial oversight before being presented to the European Affairs Committee for approval prior to being published.

The Calls for Evidence for the nine reports in semester two will be launched during this week. Lead Ministers for each report will inform the House separately when their Call for Evidence is published. As with the first semester, Government departments will consult widely, including Parliament and its committees, business, the Devolved Administrations, and civil society in order to obtain evidence to contribute to their analysis of the issues. Our EU partners and the EU institutions will also be invited to contribute evidence to the review.

As you know, I am keen that Parliament has a chance to contribute evidence in its area of expertise and interest. On that note, I would like to take the opportunity to thank the Committee for providing previous reports to inform reports in the first semester. In addition, if you would like further progress updates, I can arrange a briefing by officials.

14 May 2013

Letter from Vince Cable MP, Secretary of State for Business, Innovation and Skills, Department for Business Innovation and Skills, to the Chairman

I am writing to inform that I am today launching three Calls for Evidence as part of the Review of the Balance of Competences launched by the Foreign Secretary in July 2012, which is a commitment in the Government’s Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union.

The review of the Internal Market: Free Movement of Goods will consider the balance of competence over intra-EU trade in goods: the customs union; and the protection of intellectual property. It is being jointly led by the Department for Business, Innovation and Skills (BIS), HM Revenue and Customs (HMRC) and the Intellectual Property Office (IPO) with HMRC taking a lead co-ordinating role.
The BIS-led review of Trade and Investment will cover extra-EU trade and investment with third countries. However, given that trade in goods is a major theme for both reviews, the review teams will be co-ordinating their reviews carefully.

The BIS-led review of Research and Development will cover research, technological development and space. As innovation is closely related to research and technological development it will also be covered by this review.

Given your expertise and knowledge in these areas, I would invite you to submit evidence to these Calls for Evidence. Please find attached all the Call for Evidence documents which set out the scope of the reports and includes a series of broad questions on which we ask contributors to focus. The deadline for submissions will be 6th August 2013.

These reviews will be completed by December 2013 and the results of the reports will be comprehensive, thorough and have detailed analysis. The reports will aid our understanding of the nature of our EU membership; and provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU. We will subsequently be reviewing the remaining three Freedoms in turn in the following semesters.

My officials would be happy to arrange a meeting should you wish to discuss these reviews further. I would be grateful if your office could contact Peter Stephens, Head of the BIS Europe team, on 0207 215 3813, should you wish to do so.

I will be placing a copy of this letter and the Call for Evidence in the libraries of both Houses. I will also be tabling a Written Ministerial Statement on this matter.

17 May 2013

Letter from David Lidington MP to the Chairman

I am writing to update you on the progress of the Balance of Competences Review. This follows my letter of May 2013, on the launch of Calls for Evidence for semester two reports. The reports for semester one - covering an overview of the Single Market, Health, Development Co-operation and Humanitarian Aid, Foreign Policy, Animal Health and Welfare and Food Safety, and Taxation - have now been published at https://www.gov.uk/review-of-the-balance-of-competences. I have also placed electronic copies of the reports in the Libraries of both Houses and a set number of hard copies will be available in the Vote Office.

Calls for evidence for these reports were launched in November 2012, and were open for three months. We saw a high level of interest and received contributions from experts and interested groups right across the UK – from parliamentary committees, the Devolved Administrations, regional authorities, businesses, trade associations, think-tanks, academics, civil society groups, and professional membership associations. This gave us a wealth of real-life evidence and case studies about the impact of the EU on the UK’s national interest. You will recall that the reports are not tasked with making specific policy recommendations, but instead provide a thorough and evidence-based analysis which will broaden and deepen public understanding of the nature of our EU membership. As such they will therefore help ensure that our national debate is grounded in knowledge of facts and will be a vital aid for policy making in Government.

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.

Calls for evidence for semester two reports were launched in May 2013 and are open for three months. Reports in this semester cover: Free Movement of Goods; Free Movement of Persons; Asylum and Immigration; Trade and Investment; Environment and Climate Change; Transport; Research and Development; Tourism, Culture and Sport; and Civil Justice.

I would like to take this opportunity to thank the Select Committee on the European Union for submitting its previous work as evidence where relevant. If you would like to receive further updates or to discuss the published reports, I can arrange a briefing by officials.

22 July 2013

Letter from David Lidington MP to the Chairman

Following my letter of July 2013 on publication of the first semester reports I am writing to further update you on the progress of the Balance of Competences Review. I would also like to thank you
for your letter of 10 September with your observations on the first semester reports. I am pleased that you found the reports to be in line with the Review’s remit and recognised the level of effort invested by officials in reaching out to a wide range of parties. This has provided a sound evidence base for the final reports.

You will be pleased to hear that departments have also had a similar level of high quality evidence in response to the semester two calls for evidence. These closed in August and reports are currently being drafted by Government departments, ready for publication this winter. The evidence received is from a range of interested parties including businesses, think tanks and civil society groups, which will be analysed to inform balanced and robust reports. I’d like to thank you for sending an updated list of reports and scrutiny correspondence by way of contribution. This has been shared with Departments, and your point about consistent treatment in referencing the relevant Committee’s reports for semester 2 noted.

Following on from that, the third semester reports will launch their Calls for Evidence this week. The ten reports in this semester cover: Single Market; Services, Financial Services and the Free Movement of Capital; EU Budget; Cohesion; Social and Employment; Fundamental Rights; Agriculture; Fisheries; Competition and Consumer policy; and Energy. Calls for Evidence will be published at https://www.gov.uk/review-of-the-balance-of-competences.

As before Government departments will consult widely to ensure a robust evidence base. I am particularly keen that Parliament and its Committees use its expertise to contribute to the Review and lead ministers will inform the relevant Parliamentary select committees of their Calls for Evidence. You mentioned in your letter that the level of contribution from international partners has generally been low. We continue to discuss the review with our EU partners and departments will be writing to them again inviting them to contribute as they feel appropriate. Also with this in mind I recently provided an update on the Review to my opposite numbers at the General Affairs Council.

I would, again, like to take the opportunity to thank the EU Select Committee for the evidence provided from your reports and hope that you continue to take an interest in upcoming reports.

21 October 2013

Letter from Vince Cable MP to the Chairman

I am writing to you regarding the Review of the Balance of Competences launched by the Foreign Secretary in July 2012. As part of the commitment in the Government’s Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union, the Department for Business, Innovation and Skills (BIS) is launching three Calls for Evidence today.

The Single Market: Free Movement of Services review is being led by the Department for Business, Innovation and Skills (BIS). The review will consider the balance of competences with respect to the freedom to provide services across the European Union, and will cover public and defence procurement; company law; and issues relating to the mutual recognition of professional qualifications (MRPQ). The review will also consider the services that are covered by specific sectoral EU legislation (e.g. telecommunications, broadcasting, audiovisual), as well as those dealt with by the Services Directive (e.g. IT, construction, food and drink, hospitality and retail).

The Competition and Consumer Policy Review will cover UK Competition and Consumer policy including state aids. The competition policy elements of the Review will consider the rules governing competition between suppliers, whilst the consumer policy areas will examine the protections given to consumers when purchasing a product or a service. Rules on state aid - which are a subset of competition rules to prevent market distortions as a result of government support - will also be covered.

The Cohesion Review will focus on aspects of EU activity that support economic development. It will consider the EU’s regional policy, for which the main financial instruments are the European Regional Development Fund and the Cohesion Fund, as well as the European Social Fund. It will look at how the EU funds infrastructure projects through TransEuropean Networks and the Connecting Europe Facility and finally it will examine competence in the area of industry policy under Article 173 of the Treaty on the Functioning of the European Union.

I am writing to extend this invitation to you to present your submissions to the various Calls for Evidence. Please find attached all of the Call for Evidence documents which set out the scope of the reports and includes a series of broad questions on which we ask contributors to focus. The deadline for submissions will be 13 January 2014.
These reviews will be completed by July 2014 and the results of the reports will be comprehensive, thorough and have detailed analysis. The reports will aid our understanding of the nature of our EU membership; and provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU. We will subsequently be reviewing each of the “Three Freedoms” in turn in the following semesters.

21 October 2013

CALLS FOR EVIDENCE AS PART OF THE REVIEW OF THE BALANCE OF COMPETENCES

Letter from Simon Burns MP, Minister of State, to the Chairman

I am writing to you regarding the Review of the Balance of Competences between the United Kingdom and the European Union launched by the Foreign Secretary in July 2012. As part of the Government’s commitment in the Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union, the Department for Transport (DfT) is leading the review on transport.

The Department launched a Call for Evidence on 14 May 2013, which invites interested parties to provide evidence about the impact or effect of the exercise of competence in transport. I am writing to extend this invitation to your Committee to present your submissions to the Call for Evidence. Please find attached [not printed] the Call for Evidence document which sets out the scope of the report and includes a series of broad questions on which we ask contributors to focus. It may also be found online at: https://www.gov.uk/government/consultations/eu-balance-of-competences-review-transport-call-for-evidence. The deadline for submissions will be 6 August 2013.

The Transport Report will be completed by December 2013 and will explain how EU policies impact on transport in the UK and what this means for the national interest. The result of the report will be a comprehensive, thorough and detailed analysis of the current state of competence in respect of transport. It will aid our understanding of the nature of our EU membership; and it will provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU.

My officials would be happy to arrange a meeting with you should you wish to discuss this matter further. I would be grateful if your office could contact John Parkinson, Head of International Cooperation, on 0207 944 3920, should you wish to do so.

I will be placing a copy of the Call for Evidence in the libraries of both Houses.

14 May 2013

COMITOLGY – ADAPTATION OF THE REGULATORY PROCEDURE WITH SCRUTINY (12539/13, 12730/13, 15882/13)

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

Thank you for your Explanatory Memorandum of 5 August 2013.

Like you, the Committee does not consider that these proposals raise any subsidiarity concerns.

We also support your view that it would be better to decide on a case by case basis which is the appropriate post-Lisbon legislative procedure to be used for the adoption of subordinate legislation. This approach would also provide an opportunity to consider, in each case, whether the requirement of Article 290 of the TFEU is met, namely that that the objectives, content and scope of the delegation of power are explicitly defined in the parent legislation. If necessary the parent legislation should be amended to ensure this requirement is met.

We recall that, in its 2009 Communication on the Implementation of Article 290 of the Treaty on the Functioning of the European Union, the Commission stated its intention to systematically consult experts from the national authorities responsible for implementing proposals for delegated acts. Have the Commission in fact complied with their stated intention in respect of existing delegated legislation; and, if so, to what extent does this meet your objection that the delegated legislation procedure does not involve the obligatory consultation of national technical experts?
If, as we believe, the UK opt-in applies to the Justice proposal, the question arises whether failure to opt in would render the parent legislation inoperable, thus engaging Article 4a(2) and (3) of Protocol 2, under which the UK could be excluded from the parent legislation. In the light of this risk, we consider that the Government should give serious consideration to opting-in to this legislation before the deadline of 28 September. We should be grateful for your view on whether this provision would apply and, if so, the consequences of exclusion from the five parent measures affected by this proposal.

We would be grateful for a response to our specific questions by 30 September and further information as to the specific powers giving rise to concern, such as the increased regulatory burdens on Member States and business, in due course. In the meantime we are retaining this matter under scrutiny.

10 September 2013

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

Thank you for your letter dated 10 September 2013. I must firstly apologise for the delay in replying. Due to an administrative error it was not received by FCO officials until recently. I understand that officials and the Committee Clerk have discussed measures to ensure that this does not happen again.

Regarding the UK opt in to the Title V proposal, as I noted in my letter dated 7 October 2013 the Government will defend the UK’s right to assert its opt in robustly as negotiations progress. The decision on whether to opt in will be led by the Secretary of State for Justice. The Government recognises the concerns your Committee has raised. When deciding whether to opt in the Government will take account of the following factors:

— The best way to maximise the UK’s influence in negotiations;
— The agreed procedure (whether it is by Delegated Acts or Implementing Acts) will be used to make amendments to the standard forms that are part of these five Regulations. These forms must be aligned with the main text of the Regulation. All the changes that have been made to date under the existing procedure have been entirely technical;
— Before the Implementing Acts procedure could apply, the standard forms would need to be removed from the Regulations as they are currently Annexes and not separate measures. It will be possible, however, to argue for the forms to be decoupled from these Regulations during the negotiations;
— If all the Member States that currently apply these Regulations continue to do so there would be practical difficulties unless the same amending procedure applied to all.

The Title V proposal was discussed at the last meeting of the Council’s Civil Law Committee. A UK suggestion to consider changes to the comitology procedures of the five civil justice instruments concerned when each is reviewed, rather than in the framework of the omnibus proposal, attracted a lot of support. I will keep you informed of any developments on this point.

You raise the 2009 Communication on the Implementation of Article 290. We do not, at the moment, have a clear picture of whether the Commission has abided by its intention to consult Member State experts systematically. Nevertheless, at the first substantive meeting of the Friends of Presidency (Comitology) Group meeting on 21 October 2013, it was clear that preserving Commission consultation with expert committees on the dossiers in question is important to nearly all Member States. This is also a UK concern, along with ensuring flexibility for the co-legislators to decide whether Implementing or Delegated Acts should be used – as I outlined in the Explanatory Memorandum.

Preserving the consultation of experts is particularly important for dossiers which could potentially result in disproportionate regulatory or other burdens being imposed without the benefit of committee advice. The UK continues to take an approach in negotiations focussed on a careful case by case analysis to determine whether Implementing or Delegated Acts would be most appropriate and will push for the consultation of experts as negotiations progress.

12 November 2013
CROATIA: CHAPTER 23 JUDICIARY AND FUNDAMENTAL RIGHTS (UN-NUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office and Chris Grayling MP, Lord Chancellor and Secretary of State for Justice, Ministry of Justice, to the Chairman

We are writing today to provide the European Union Select Committee a copy of the European Commission’s monitoring table that provides detailed evidence of Croatia’s progress on Chapter 23 (Judiciary and Fundamental Rights). This information was used by the European Commission in the preparation of their 26 March Monitoring Report, on which the Minister for Europe submitted an explanatory memorandum on 9 April. This document is not made public as it is a working document between Croatia and the Commission.

We previously wrote to the Committee in December 2011, May and November 2012 enclosing copies of the Chapter 23 monitoring tables issued after publication, respectively, of the October 2011 Progress Report, the April 2012 Interim Monitoring Report for Croatia and the October 2012 Comprehensive Monitoring Report. We also wrote in July and December 2012 updating the Committee on Croatia’s cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and progress on human rights and domestic war crimes prosecutions.

The monitoring table provides the detailed evidence that underpinned the conclusions of the European Commission’s 26 March monitoring report, which the Committee cleared in the Chairman’s Sift 1502 on 16 April. The Minister for Europe will attend an evidence session called by the House of Commons European Scrutiny Committee on 18 June to review the appropriateness and efficacy of the pre-accession monitoring process.

This final monitoring table concludes that Croatia is generally meeting the commitments and requirements arising from the accession negotiations in the field of the judiciary and fundamental rights, and should be in a position to implement the acquis as of accession. The table provides evidence of continuous judicial reform. Track records are developing in corruption and organised crime cases and Croatia now needs to sustain these. There is positive evidence of continued reform under each commitment, which Croatia intends to continue beyond accession. This is demonstrated, for example, by the Judicial Reform Strategy and the Strategy for the Development of the Judiciary, which Croatia has adopted and will run until 2015 and 2018 respectively.

Judicial reform is a continuous process and the UK Government plans to maintain our justice assistance to Croatia. The latest project is an EU Commission funded project led by the UK to improve court efficiency, which started in April and will run for two years. We will also continue our political support, for example, we have a planned Ministry of Justice visit to Zagreb next month led by Lord McNally.

30 May 2013

ENLARGEMENT- YUGOSLAV REPUBLIC OF MACEDONIA’S IMPLEMENTATION OF REFORMS (8602/13), SERBIA’S RELATIONS WITH KOSOVO (8740/13), KOSOVO-STABILISATION AND ASSOCIATION AGREEMENT (8742/13)

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

The Committee considered these three documents at its meeting on 21 May and agreed to clear them from scrutiny ahead of the 25 June General Affairs Council, where the issues raised in them will be under discussion.

Ahead of this General Affairs Council, I would like to reiterate to you some of the points from our recent report on enlargement. I ask that you reply to this letter at the beginning of July providing your comments and reporting back on the outcome of the General Affairs Council and the European Council on enlargement issues. The Committee look forward to discussing some of the issues with you at our regular post-Council evidence session in July.

We would repeat our view that the ‘name issue’ between Greece and the former Yugoslav Republic of Macedonia— and other similar issues – should not be allowed any longer to impede the enlargement process. We welcome the talks taking place under UN auspices and note the 8-9 April compromise formula put forward, which we hope may enable progress to be made. But in any case, we hope that
the Government will press hard at the June Council for the opening of accession negotiations with fYRoM.

We also welcome the place that the strategic objective of EU integration held in the Memorandum of Understanding agreed on 1 March across political parties in fYRoM, which we think is also indicative of the “powerful influence” of enlargement. We would welcome your assessment of that MoU and of fYRoM’s steps to tackle the root causes of the political crisis that began on 24 December.

We are pleased that Serbia and Kosovo have made progress in the EU-facilitated dialogue under the auspices of the High Representative/Vice-President, Baroness Ashton, and that an agreement was reached on 19 April on principles to normalise the relationship between Serbia and Kosovo. It is a positive next step, allowing both countries to advance towards the goal of EU membership. However, this has been marred by the lack of success in agreeing an implementation plan. We would be grateful for an update on the talks between the two Prime Ministers, scheduled to take place on 21 May, and what progress is being made on the implementation plan, when you write to us.

We remain of the view, set out in our letter of 25 April, that Serbia should only be allowed to join the European Union when it recognises Kosovo as a sovereign state.

I look forward to a response to this letter by 7 July.

22 May 2013

Letter from David Lidington MP to the Chairman

I am writing further to my Explanatory Memorandum of 1 May on the ‘Joint Report to the European Parliament and the Council on Serbia’s progress in achieving the necessary degree of compliance with the membership criteria, notably taking steps towards a visible and sustainable improvement of relations with Kosovo’ (8740/13). In the Explanatory Memorandum I set out the Government’s position on Serbia’s progress but said that I would update the committees ahead of a decision on whether to open accession negotiations at the June European Council.

I provided further updates to the committees in response to the European Scrutiny Committee’s report of 21 May, and most recently in follow up to my appearance before the European Union Select Committee on 4 June.

In my last letter I recalled that the UK welcomed the agreement reached between Serbia and Kosovo through the EU-facilitated dialogue on 19 April but that it was not an end in itself. We have been consistently clear that on-paper agreements are not enough in themselves and that we expect to see concrete action to implement the deal and make progress towards meeting the remaining December 2012 GAC conditions. I explained that the implementation plan agreed on 22 May had committed Serbia (and Kosovo) to a number of immediate steps.

Serbia has now begun to take steps to deliver these commitments. Between 14 and 21 June liaison officers and the management team to oversee the establishment of the Association of Serb Municipalities have been appointed, police offices in Leposavic and Zvecan have been closed, and an administrative decision issued to cease payments to Interior Ministry personnel serving in the Kosovo Police. In addition, working groups have been established and are meeting regularly on police, justice, energy, telecommunications, the Association/Community and on municipal elections (with Organisation for Security and Co-operation in Europe participation). Prime Ministers Dacic and Thaci met in the EU-facilitated Dialogue on 20 June and reached agreement on the detail of how to take forward work on the judiciary and police, and on how the local elections should be conducted in northern Kosovo (a key moment in establishing legitimate interlocutors for the Government of Kosovo in the northern Kosovo Serb communities).

These are positive steps and include the sort of tough and public actions necessary to provide the solid evidence of irreversible progress which we have been clear is required, and to give us confidence of a firm Serbian commitment to the process of normalisation. Both of these are key factors in our consideration of whether we can agree to open negotiations. I should also note that, at the time of writing, not all the conditions set out in the December GAC conclusions have been met, and some implementation plan deadlines have been missed, including mid-June target dates for deals on energy and telecoms.

There is still some opportunity for them to meet more of the remaining GAC requirements in the coming days, particularly as the results of the meeting between the two Prime Ministers on Thursday 20 June are translated into action on the ground. We will therefore continue to monitor all progress up until the European Council.
Our decision on whether to agree at the European Council that the EU should open accession negotiations with Serbia is therefore a difficult one. In order to lock Serbia into its EU path and further progress in the Dialogue, the European Council will need to find the right balance between rewarding the positive action that Serbia has taken and ensuring that momentum in the process of concrete implementation is maintained through the rest of the year, including delivery against outstanding elements from last December’s GAC conclusions and from the implementation plan. One way forward might be for the European Council to take a decision to open negotiations provided that remaining commitments in the implementation plan are met. In this scenario we would insist that the decision was accompanied by a conditional date for starting accession negotiations, subject to a further review of implementation by the Council. This will be subject to discussion at the Foreign and General Affairs Councils this week. Germany takes a similarly tough line on meeting conditionality.

Should Serbia secure a positive decision on opening accession negotiations at the June European Council, this must not mean that the pressure for continued progress on normalisation of relations with Kosovo is lifted. On the contrary, it is important that conditionality in this area is hard-wired into Serbia’s negotiating framework. This will mean that Serbia will have to continue to implement all Dialogue agreements in order to move through the accession process, and that full normalisation of relations will be required before Serbia joins the EU.

I will write again to the Committee following the European Council to inform them of the outcome and share the final conclusions.

25 June 2013

Letter from David Lidington MP to the Chairman

I am writing to update you on the outcome of the June General Affairs Council and European Council discussions on enlargement. I am pleased that – as set out in the post European Council statements to the House - the European Council agreed to open accession negotiations with Serbia and that a negotiating mandate for a Stabilisation and Association Agreement (SAA) with Kosovo was adopted. I attach copies of the relevant conclusions. These decisions represent significant steps forward for Serbia and Kosovo on their respective EU paths.

As suggested in my letter of 25 June, the decision on whether to agree to open accession negotiations with Serbia was a finely balanced one. Following the 19 April agreement between Serbia and Kosovo, Baroness Ashton announced the adoption of an implementation plan for the agreement on 27 May. Serbia had begun to take positive steps to provide the solid evidence of irreversible progress which we were clear were required to give us confidence of a firm Serbian commitment to the process of normalisation with Kosovo. Following my letter, Serbia made some further progress ahead of the European Council. A third police office in northern Kosovo was closed and agreement reached on a provisional date for municipal elections throughout Kosovo.

The Government therefore took the decision shortly before the European Council that Serbia had made sufficient progress against the conditionality of a ‘visible and sustainable improvement in relations with Kosovo’ to warrant a positive decision on opening accession negotiations. As the Foreign Secretary said on 28 June, this decision reflects the determination with which Serbia has worked towards a visible and sustainable improvement in relations with Kosovo.

Nonetheless, the Government is firmly of the view that the process of normalisation of relations with Kosovo must continue throughout the accession process, with full normalisation of relations complete before Serbia can accede to the EU. The UK therefore secured GAC conclusions which agreed that steps leading to the normalisation of relations between Belgrade and Pristina will also be addressed in the negotiating framework for the accession negotiations. In line with this, Commissioner Fule outlined at the GAC three proposals: the concept of normalisation would become part of the accession conditionality; the Commission planned to open chapter 35 of the acquis (“other issues”) at the start of the negotiations and use it to allow for continual monitoring of normalisation horizontally throughout the accession process; and the negotiating framework would require “full normalisation”, possibly including a legally binding agreement between Serbia and Kosovo ensuring that neither could block the other’s accession process, before Serbia joined the EU.

Moreover, the European Council has agreed that the first Inter Governmental Conference, which will see the formal opening of accession negotiations, will be held in January 2014 at the latest. Prior to this, the negotiating framework will be adopted by the Council and confirmed by the European Council at its usual session on enlargement in December. The Commission and the High Representative will continue to report to Council on Serbia and Kosovo’s progress in implementation of the 19 April agreement; this will inform final decisions on the adoption of the negotiating
framework and on the start of accession negotiations. I therefore expect the December GAC to review the further progress Serbia has made on normalisation of relations with Kosovo, including on energy and telecoms.

On wider issues, the Commission will now begin pre-screening of chapters 23 and 24 of the acquis, which relate to Justice and Home Affairs issues. In line with the 'new approach' to enlargement, this will allow an early and continued focus on rule of law and on JHA related reforms as the pre-screening process will consider Serbia’s progress in these areas in considerable detail.

A good outcome was secured also for Kosovo, with the adoption of the negotiation mandate for the Stabilisation and Association Agreement (these documents, as set out in previous correspondence, are classified). As the first milestone on the road to EU membership, this sends an important signal that Kosovo’s future is European. As set out previously, the five EU countries which have yet to recognise Kosovo opposed the negotiating of an SAA which would require Member State signature and ratification. I very much regret that they chose to adopt this position. Whilst we respect the non-recognisers’ positions, it is evident that non-recognition complicates Kosovo’s EU track.

As the negotiating directives for the SAA are on an EU-only basis, the UK has taken a rigorous approach in ensuring that the directives are confined to areas of EU competence only and that they do not represent any shift in competence. The amendments the UK secured to the original Commission text, taken as a package and individually, are visible and strong safeguards of UK positions on matters of competence. They fortify an overarching principle of this negotiation: that an EU-only SAA is without prejudice to any future negotiations on similar agreements, or to the positions of EU institutions and Member States on competences.

On the CFSP elements of the negotiating directives, we have secured important safeguards. The scope of CFSP matters is reduced by excluding certain elements such as those relating to non-proliferation and counter-terrorism. The negotiating directives include specific CFSP legal bases (article 37 TEU and Article 31(1) TEU). Citing Article 37 makes clear that it is the High Representative (and no one else) who will be engaging on the aspects of CFSP specified in the EU-only agreement. The Council and the Commission also agreed in a statement that the adoption of the decision to authorise the EU to negotiate an SAA with Kosovo is without prejudice to the nature and scope of any similar agreements to be negotiated in the future in particular as regards matters falling within the Common Foreign and Security Policy. This is also reiterated in the recital of in the non JHA Council Decision, ‘Whereas this authorisation to negotiate an SAA with Kosovo as an EU-only Agreement is without prejudice to the nature and scope of any similar agreements to be negotiated in future, in particular as regards the Common Foreign and Security Policy.’

In the area of Title V JHA measures, we have secured a strong package of safeguards which protects our position fully, including through recognition of our opt-in rights in respect both of this negotiating mandate and of the future signature and conclusion stages of the agreement. We have secured language which makes clear that the outcome of negotiations on any JHA matters is not binding on the UK unless we choose to opt in. The safeguards we have secured are mutually reinforcing, and render explicit the distinct nature of JHA in relation to the SAA as a whole.

The Council Decision on the SAA mandate was split, allowing for a separate Council Decision on JHA areas. As stated in both Council Decisions, the UK is not bound by or subject to the application of the Council Decision insofar as it relates to the Area of Freedom, Security and Justice covered by Title V of the Treaty on the Functioning of the European Union. The SAA negotiating directives now cite a substantive legal basis on JHA, (Article 79(3) TFEU) making it clear that the opt-in applies. Moreover, to address the concern that other JHA legal bases might need to be cited consequent to the outcome of the negotiations, a recital was inserted in the non-JHA Council Decision, noting that the application of the opt-in will need to be assessed at signature and conclusion stage.

No formal start date for the SAA negotiations has been announced, but we expect they will open in the autumn. It will be important for Kosovo to keep up momentum on reform and continue to play its part in implementing the 19 April agreement with Serbia.

Whilst Macedonia was briefly mentioned at the GAC, no conclusions were agreed. We have continued to support the opening of EU accession negotiations with Macedonia and to oppose the name dispute with Greece forming a block to this. However the recent political crisis in Macedonia has changed the mood amongst Member States, and we judged therefore that a push for the opening of accession negotiations by the UK and other like-minded Member States was unlikely to bear fruit. Moreover it would have likely elicited strong criticism of Macedonia in reaction from other Member States, making it difficult to agree Council conclusions as positive as those of December 2012.
We welcome the 1 March agreement that resolved the political crisis and the elements therein which reaffirm cross-party support for Euro-Atlantic integration and the determination of Macedonia’s political parties to tackle the causes of the political crisis. To this end, we are pleased to see that the Commission of Inquiry mandated in the agreement has now been established, and encourage investigations and implementation of emerging recommendations from that Commission to proceed without delay. We are concerned that the Memorandum of Understanding between the ruling party and the opposition has yet to be signed, and urge the respective parties to do so without delay.

10 July 2013

ESTABLISHING THE COMPOSITION OF THE EUROPEAN PARLIAMENT (EUCO 110/13)

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

I am writing with regard to the draft European Council Decision seeking to establish the composition of the European Parliament for the 2014-2019 European Parliamentary term, on which an Explanatory Memorandum is being submitted for your Committee’s consideration in parallel with this letter.

The process for consideration of this draft Decision has been somewhat shortened, as several Member States need adoption at the June European Council, and no later, to ensure that they complete their own domestic processes in their Parliaments in advance of next year’s European Parliament elections. This issue is particularly acute for those Member States whose current allocation of MEPs is being revised downwards; the UK is not facing such an issue, as the proposal maintains the status quo of 73 UK MEPs. This poses problems for those Member States, such as ourselves, who need to complete Parliamentary processes before adoption; but we have already succeeded in pushing the Decision back from the May European Council, and will not be able to push it any further. (It is partly for this reason that the UK will be pushing for the text of the draft Decision itself to be amended, to include wording seeking to ensure that the question of composition of the European Parliament is addressed much earlier in future.)

In light of this, I would be grateful if, exceptionally on this occasion, the Committee could give this draft decision its earliest attention, and, ideally, early clearance. It is important that all national parliaments within the European Union are able to complete their consideration of this proposal in advance of next year’s European Parliament election, and I am keen that the UK does not prevent this from happening by delaying agreement, particularly as the proposal as it stands benefits the UK more than many other Member States. I do appreciate that your Committee has not had the early sight of this proposal that would have been desirable. I and my officials stand ready to provide any further information that may assist in your consideration of this item.

3 June 2013

Letter from David Lidington MP to the Chairman


In my Explanatory Memorandum I stated that there were two areas where the Government would like to see the draft European Council Decision amended; I can now confirm that we have been successful in negotiating amendments among Member State delegations to the draft text to address our concerns. The text of a presidency non-paper detailing these amendments is annexed [not printed] to this letter for the Committee’s consideration. This draft revised text is still subject to the UK scrutiny reserve.

Crucially delegations have agreed that Article 4 of the draft European Council Decision could be helpfully revised to read as follows: ‘This Decision shall be revised sufficiently far in advance of the beginning of the 2019 –2024 parliamentary term on the basis of an initiative of the European Parliament presented before the end of 2016 with the aim of establishing a system which in future will make it possible, before each fresh election to the European Parliament, to allocate the seats between Member States in an objective, fair, durable and transparent way, translating the principle of degressive proportionality as laid down in Article I, taking account of any change in their number and demographic trends in their population, as duly ascertained, thus respecting the overall balance of the institutional system as laid down in the Treaties.'
I have underlined the amendments to the text which address the concerns I flagged in my previous Explanatory Memorandum:

— Firstly, that the European Parliament should present a proposal for the composition of future European Parliaments, which reflects the principles outlined in the Treaties, in sufficient time before the 2019 elections – the imposition of a deadline for such a proposal should ensure there is sufficient time for consideration in future.

— Secondly, that the explicit reference to voting weights in the Council be removed. It is the Government’s view that such an explicit reference to voting weights in the Council is unhelpful; the original draft European Council Decision conflated two separate institutional issues, and arrangements, which have their own rules and parameters within the Treaties. Following discussions among delegations, the draft decision has been amended to include a more generic reference to the importance of respecting the balance of the institutional system as laid down in the Treaties.

The Committee will note that there are a number of further amendments to the draft text, which the Government is also content with. These include linguistic changes, which serve to enhance the clarity of the text, alongside the introduction of a new recital five. This new recital sets the context for this European Council Decision, reflecting on the institutional balance and accountability of the institutions detailed within Article 10 TEU, and how this sets the context for Article 14 TEU.

I hope that this further information proves helpful to the Committee in their consideration of the draft decision; as I said in my previous letter and Explanatory Memorandum, we are working to a shorter timetable on this draft decision than would be ideal, the proposal benefits the UK more than many other Member States, some of whom need agreement at the June European Council to enable them to complete their domestic parliamentary processes in advance of the European Parliament elections next year. I see national scrutiny as crucial to the EU legislative process and am keen that the UK does not prevent other national Parliaments, particularly those in Member States who stand to lose MEPs, from completing their domestic procedures for consideration. I would therefore be grateful to the Committee if they could, exceptionally, consider, and give clearance to, this draft decision to an expedited timetable.

I and my officials continue to stand ready to provide any further information that may assist in your consideration of this item.

13 June 2013

Letter from the Chairman to David Lidington MP

The draft Decision on the composition of the European Parliament, your EM, and your subsequent letter of 13 June, were considered by the Select Committee at its meeting on 18 June.

We are grateful for the clear and thorough EM that you have submitted to us, particularly its description of the current limitations on the strict application of digressive proportionality. However, we would appreciate further details of the systems considered and rejected by the AFCO Committee, what these might have entailed for the size of the UK’s delegation, and the Government’s views on how a fairer system might be achieved for the 2019-2024 Parliament in due course.

We support both the proposed amendments that your EM stated that you were seeking, and which your letter of 13 June indicates are likely to be agreed.

We have also seen the letter sent to you by Mr Keymer on behalf of the UK delegation to the EU Committee of the Regions dated 6 June, and noted his point that the UK is currently significantly under-represented in the Committee of the Regions.

We agree to clear the document from scrutiny.

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

20 June 2013

Letter from David Lidington MP to the Chairman

I write further to your letter of 20 June 2013, in which you requested some further information on the systems considered and rejected by the AFCO Committee in the course of their deliberations on
the composition of the European Parliament after 2014, what this would have meant for the UK, and
the Government’s views on how a fairer system might be achieved for the 2019-2024 Parliament.
Please accept my apologies for the delay in responding, which was due to an administrative error.

The European Parliament’s Constitutional Affairs Committee (AFCO) produced a report on the
composition of the European Parliament earlier this year, in which they proposed the distribution of
seats detailed within the draft European Council Decision considered by your Committee. In drawing
up their proposal for the distribution of seats, the AFCO committee rapporteurs reflected on the
relevant Treaty provisions, and drew on a previous European Parliament report, the Lamassoure-
Severin report, which considered what was meant by degressive proportionality. The Lamassoure-
Severin report defines degressive proportionality in terms of principles, rather than a mathematical
formula, as follows: (1) the minimum and maximum numbers set by the Treaty ‘must be fully utilised
to ensure that the allocation of seats in the European Parliament reflects as closely as possible the
range of populations of the Member States’; (2) ‘the larger the population of a country, the greater its
entitlement to a large number of seats’; and (3) ‘the larger the population of a country, the more
inhabitants are represented by each of its Members of the European Parliament’.

In coming to a recommendation, the AFCO committee rapporteurs reflected on a couple of different
options for composition which would fulfil the criteria outlined above, as follows:

— The Cambridge compromise; six seats are allocated to each Member State, with the rest being distributed proportionately to population size. This would lead to an increase in the number of UK MEPs by seven.

— The ‘parabolic’ formula; a mathematical (parabolic type) formula for adjusting the quota Member States would receive on the basis of their proportion of population size, in light of the Treaty requirements. Under the formula considered, this would lead to an increase in the number of UK MEPs by five.

The AFCO committee rapporteurs concluded that neither of the above methods of distribution were
viable in this instance, primarily because they resulted in too significant a redistribution of seats to be
politically palatable to both the European Parliament and the Council. It is true that under either
method the impact of a re-distribution of seats would be significant. Under the Cambridge Compromise twenty three Member States would see a change to their number of MEPs, with eighteen Member States losing between one and five MEPs. Under the ‘parabolic’ method, twenty two Member States would see a change to their number of MEPs, with sixteen Member States losing between one and four MEPs. The AFCO Committee rapporteurs also expressed concerns about the impact of the caps included within the Treaties on the applicability of the principle of degressive proportionality.

In light of these concerns, and the need for prompt agreement in advance of the 2014 elections, the
rapporteurs recommended that the AFCO committee adopt a proposed distribution based on a
pragmatic solution, aimed at minimising the impact on Member States, which it did. As I stated in my
earlier Explanatory Memorandum on the draft European Council Decision, the revised allocation maintains the status quo for the UK, in terms of numbers, whilst increasing our proportion of seats. In
light of this, and appreciating the political sensitivities attached to alternatives for the redistribution of
seats, which would have been very difficult to overcome in the time available, the Government was
prepared to accept the European Parliament’s proposals. However, it remains our view that in the
medium to longer term a viable solution needs to be found which better reflects the principle of
degressive proportionality, which would be in the UK’s wider interest; it was for this reason that we
pushed for the draft text to be amended to include a specific requirement for the European
Parliament to come forward with a proposal for the composition of future European Parliaments,
which reflects the principles outlined in the Treaties, well in advance of the 2019 elections. As I stated
in my letter of 13 June, we were successful in negotiating such an amendment to the original text.

The Government will, itself, be considering what a fairer distribution of seats could look like post
2019, in light of the requirements in the Treaties. This will include considering different methods for
calculating degressive proportionality with our European partners. I note the Committee’s interest in
this work, and will ensure you are kept updated as our considerations progress.

I would like to take this opportunity to thank the Committee for their timely consideration of the
draft European Council decision, which was greatly appreciated.

24 July 2013
Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

I am writing to you following my appearance before the Committee on Tuesday 4 June. There are three areas on which I agreed to provide further information: tax evasion and issues regarding fraud more widely; the mechanisms which will prevent any lethal assistance provided to Syrian opposition groups from falling into the wrong hands; and EU enlargement in relation to Serbia and Kosovo.

Looking first at the questions raised regarding the distinction between the various types of tax fraud and evasion, there is no simple distinction between tax fraud and tax evasion, and the expressions are broadly interchangeable. Both have been used as labels for acts which illegally and deliberately suppress the true amount of tax liability. As they are illegal, such acts could be criminally prosecuted, for example as fraud under the Fraud Act, as fraudulent evasion under section 144 of the Finance Act 2000 or under the common law offence of cheating the public revenue.

In a civil context, tax law has at various times described such acts as fraud or as evasion and penalised them accordingly. The Finance Act 2007 aligned these penalties for what is now described as any deliberate inaccuracy in a return. HM Revenue and Customs (HMRC) also seeks prosecution for acts which illegally seek to obtain money by deception but which do not involve a taxpayer’s affairs.

Tax avoidance, as you are aware, is the bending of the rules of the tax system to gain a tax advantage that Parliament did not intend. It often involves contrived, artificial transactions that serve little or no purpose other than to produce a tax advantage. It involves operating within the letter, but not the spirit, of the law. In terms of the additional distinction of aggressive tax avoidance, HMRC draws no distinction between types of avoidance.

Tax avoidance, it should be noted, is not the same as tax planning. Tax planning involves using tax reliefs in the way that Parliament intended when it passed the relevant legislation. While such actions may reduce the total amount of tax paid, they are not tax avoidance.

The General Anti-Abuse Rule, to be introduced this year, is targeted at abusive tax avoidance, but it does not set the boundaries of what is and is not avoidance. HMRC will continue to tackle all forms of avoidance robustly, using all the means at our disposal.

Turning to the questions around fraud, in terms of fraud against the EU Budget the Government is currently putting together a reply to the Committee’s very insightful report on “The Fight Against Fraud on the EU’s Finances” and will send this to the Committee shortly. This will set out in detail what the Government is doing on EU fraud and addresses the Committee’s other proposals and concerns.

The Government takes all fraud, including against the EU finances, extremely seriously and is committed to tackling it at both the national and EU level. In order to reduce fraud against the EU Budget, the Government strongly supports the work of the European Anti-Fraud Office (OLAF) in detecting and tackling fraud, and seeking financial redress for the EU budget when it is found. The Government believes that the Commission’s priority and that of Member States should be to reduce the level of fraud through prevention, including greater simplification of systems and regulations.

The UK has a zero tolerance approach to fraud, with robust management controls and payment systems that seek to prevent incidences of fraud occurring. The Government takes its own obligation to report irregularities and suspected fraud very seriously, and complies with its obligations through the Irregularity Management System.

All UK Paying Agencies have processes in place to monitor and report fraud, in line with current regulations. This reflects the high standard of checks in place, which they carry out robustly, and as a consequence levels of fraud against the EU Finances are relatively low in the UK.

In terms of the trade in illicit tobacco specifically, the Government is committed to tackling this in order both to protect the public finances and support health objectives. HMRC and the Border Force published the latest anti-fraud strategy in April 2011, “Tackling Tobacco Smuggling – building on our success”. The 2010 Spending Review provided an additional £25 million to HMRC over four years to increase HMRC’s capacity to target and disrupt the illicit trade and investigate those behind the fraud.

Since the first anti-fraud strategy was introduced in 2000 there has been a steady decline in the size of the illicit tobacco market. Latest estimates indicate the illicit cigarette market has more than halved -
dropping from 21% to 9% in 2010/11, and the hand-rolling tobacco illicit market has reduced from 61% to 38%.

In the last two years nearly 3.6 billion illicit cigarettes and 1,050 tonnes of hand-rolling tobacco have been seized. This has resulted in 431 tobacco prosecutions and over 1,600 assessments for duty and wrongdoing penalties being issued with a value of nearly £24 million. HMRC continues to improve its intelligence to ensure the organised criminal gangs behind the illicit tobacco trade are brought to justice.

Turning to the Foreign Affairs Council decision not to renew the arms embargo in Syria, our priority remains advancing a political transition that ends the conflict, allows refugees to return to their homes, and prevents further radicalisation in Syria. We will do all we can to ensure that the forthcoming US-Russia Geneva conference delivers that outcome.

The UK has made no decision to send arms to the National Coalition, but we now have the flexibility to respond in the future if the situation continues to deteriorate and if the Assad regime refuses to negotiate. We have said we would only provided lethal equipment in carefully controlled circumstances; and in accordance with our obligations under national and international law.

When the Foreign Affairs Council agreed to end the EU arms embargo and return decisions on arms provision to member states on 27 May, ministers also agreed a framework of safeguards to guide those member states which might decide to provide arms: arms could only be sent to the National Coalition; they should be intended for the protection of civilians; there should be safeguards to ensure delivery to the right hands; and existing obligations under the EU Common Position for arms exports (CP944) remained in place.

In terms of the question regarding EU enlargement and Serbia and Kosovo which there was insufficient time to consider, and Lord Sandwich’s additional question on this issue, the Committee is right to highlight the importance of countries meeting the conditionality before they move forward on their EU paths. This is vital for the credibility of the enlargement process and to maximise the leverage for change and reform that EU accession provides. This remains crucially important in the case of Serbia meeting the conditions regarding their relationship with Kosovo.

The pull of the EU has already delivered considerable progress in normalisation of Serbia’s relationship with Kosovo. Through the EU-facilitated dialogue important practical steps have been taken, including in regional co-operation, customs and integrated border management. The numerous meetings between Prime Ministers Dacic and Thaci that have taken place since October are in themselves symbolic of remarkable progress – and would have been unthinkable even a year ago.

As you are aware, on 19 April Serbia and Kosovo reached a deal which provides for some autonomy for Serb-majority municipalities in Kosovo and Serbian recognition of Kosovan state institutions for the first time.

The UK, like many others, welcomed the agreement reached through the EU-facilitated dialogue on 19 April as a crucial and historic step in improving relations between Serbia and Kosovo. Germany, Italy, Sweden and the US, to name but a few, were all vocal in their support. However, we are clear that it is not an unqualified success nor an end in itself. There is much to be worked through and resolved between the countries to normalise fully relations, starting with implementation of the agreements reached. We continue to believe that ongoing dialogue in the context of EU enlargement offers the best way to drive this process forward and deliver lasting peace and stability in the region.

Following the 19 April deal, the joint report from the Commission and Baroness Ashton on 22 April recommended that negotiations for accession to the EU should be opened with Serbia. The indications are that most Member States agree with this recommendation. However, the UK and Germany are aligned in reserving judgement to assess what Serbia has actually done to implement the deal. An implementation plan agreed on 22 May (and confirmed by the Serbian government on 26 May) is already a further significant step. Yet we have been consistently clear that on-paper agreements are in themselves symbolic of remarkable progress – and would have been unthinkable even a year ago. We expect to see concrete action to implement the deal and make progress towards meeting the remaining December 2012 GAC conditions if the UK is to support opening accession negotiations in June. The Foreign Secretary made this clear to Serbian leaders during his visit to Belgrade on 30 May the need for rapid implementation.

Implementing the deal will be fraught with challenges, not least the difficulties of gaining the support of the northern Kosovo Serbs. But it is encouraging that Serbia has committed, through the implementation plan, to a number of immediate steps. These should, if completed, allow us to see clear evidence of irreversible progress towards normalisation of relations ahead of the June European Council, where Member States will take a decision on whether to open accession negotiations with Serbia.
Specifically, Serbia has committed, by mid-June, to finalise agreements with Kosovo on energy and telecoms, and make tangible progress on dismantling illegal parallel structures in northern Kosovo (including starting to close Serbian security premises and doing the preparatory work which will allow integration of Serb officials into Kosovan structures). We will be monitoring progress very carefully as we come to make our decision on whether to support a decision to open accession negotiations with Serbia.

Should Serbia make sufficient progress to merit a positive decision on opening accession negotiations at the June European Council, this must not mean that the pressure for continued progress on normalisation of relations with Kosovo is lifted. On the contrary, the UK will ensure that tough Kosovo-related conditionality is hard-wired into Serbia’s negotiating framework. This will mean that Serbia will have to continue to implement all Dialogue agreements in order to move through the accession process, and that full normalisation of relations will be required before Serbia joins the EU.

18 June 2013

EU-RUSSIA SUMMIT EKATERINBURG: 3-4 JUNE 2013

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

I am writing to update you and your committee on the 31st EU-Russia Summit. The following is drawn largely from the European External Action Service debriefs in Coreper, the PSC and the reporting COREU.

President Putin was accompanied by the Russian Ministers for Foreign Affairs, Energy, Economy and Justice as well as advisors on International and economic affairs. The EU was represented by President Van Rompuy and President Barroso, High Representative Ashton and Energy Commissioner Oettinger. There were no major surprises or breakthroughs. Both sides reconfirmed their interest to re-engage in New Agreement negotiations. One document was signed: the Drug Precursors Agreement. Both sides strongly underlined their interest in deepening cooperation on many issues, and emphasized the mutual benefits of EU-Russia interaction, not least of strongly growing trade.

Looking first at future cooperation, the EU set out its priorities for discussion at the G20 Summit in St Petersburg in September. Both the EU and Russia expressed interest in concluding negotiations on a ‘New Agreement’ (NA), governing EU/Russia relations, replacing the now expired one. The Russian side was keen to conclude this by 2014 and hoped it would help the European Commission and the Eurasian Economic Commission establish contacts at College level. The Partnership for Modernisation was assessed in positive terms by both sides. President Putin emphasized the Russian wish to focus on businesses’ ‘real interests’; the EU side underlined the importance of rule of law and civil society involvement, including the EU-Russia Civil Society Forum.

The EU highlighted numerous trade issues to the Russian side. Those of key importance to us – vehicle recycling fees and Siberian overflights – drew positive responses from the Russian side. On car recycling fees, the Russians agreed to cease the practice of discriminatory fees for imported vehicles, but stopped short of taking up the EU’s expectation to cut the remaining additional domestic compensation measures. Siberian overflights drew a strong reaction from President Putin, who claimed that this issue had been discussed for far too long and should now be solved. No concrete suggestion or solution was presented in the discussion however.

The EU highlighted the concerns of member states on new legislation for provision of Passenger Name Records (PNR), urging a moratorium. President Putin claimed it would be easier for the EU to conclude a PNR agreement with Russia than with the US because Russia had ratified the Council of Europe Convention on Data Protection. The EU insisted on the need for a legal basis, otherwise data could not be transferred. Putin concluded by saying "I heard what you said; we need to find an agreement".

On energy, the Russian side highlighted Russian interests in cross-border gas infrastructure, while stating that we were close to an agreement on Baltic electricity issues. Commissioner Oettinger explained EU energy policy, reiterated EU openness to a coordination role on South Stream, and emphasised EU pragmatism on the Baltic electricity issue. On gas, he outlined global market changes and argued for more feasible gas prices and some flexibility from the Russian side. President Putin warned of the environmental dangers of shale gas. He also stressed that Russia had raised gas prices for the Baltic countries to market levels only gradually, and regretted that this was now forgotten.
There was further discussion on visas, where Russia set out the case once again for a visa facilitation agreement; judicial cooperation, where there was an overall positive assessment by both sides of ongoing cooperation and the welcoming of the signature of the Drugs Precursors cooperation agreement in the margins of the Summit; the Arctic Council, where HR/VP Ashton stressed the EU contribution to protecting the Arctic and expressed disappointment at the line Russia seemed to have taken in Kiruna regarding the possibility of the EU becoming an observer; and external security, where Foreign Minister Lavrov gave a positive assessment of ongoing cooperation on well-known issues and in particular of his cooperation with HR/VP Ashton. The EU also welcomed renewed Russian interest in counter-terrorism cooperation.

The EU raised human rights concerns in Russia, in particular on the recent widespread checks on NGOs, emphasizing the need for civil society to have space for its activities. This was an essential part of modernisation. NGOs made a useful contribution, in EU Member States and abroad. The EU also welcomed the most recent Human Rights Consultations held in Brussels in May, and suggested to have the next round in Moscow. Minister Konovalov made the usual Russian claims that NGO checks only served transparency; that no NGO had been closed; and that only two NGOs had been sued in court for not respecting the law on foreign-funded NGOs.

Foreign policy issues were discussed in detail. On Syria, President Putin was critical of the lifting of the EU arms embargo. Both sides agreed on the importance of pursuing a diplomatic track (Geneva II). Russia raised questions regarding the representation of the opposition and the participation of Iran. Lavrov further expressed Russian concerns at the mass exodus from Syria, and warned that interethnic and intercommunity tension in the Middle East was increasing.

Lavrov raised the situation in Mali, and recalled that Russia backed the French mission in Mali combating a terrorist threat. In his view, France was combating the very same people they had armed in Libya. Russia was interested in the EU Mali mission being a success and had supplied humanitarian aid and arms.

On Egypt, Russia suggested a political solution sponsored by the Muslim Brothers and the opposition. On the Middle East Peace Process, views converged. Lavrov regretted that the Quartet had not met for a year, but mentioned the recent initiatives by Secretary of State Kerry. He also underlined the importance of security for Israel, as stated in the Arab Peace Initiative. HR/VP Ashton expressed her strong confidence in the commitment and expertise of John Kerry. She reported about her recent visits to the region, including to Gaza.

On Iran, Lavrov paid compliments to the key role of HR/VP Ashton in the E3+3 efforts. HR/VP Ashton in turn thanked Russia for the solid contribution of Russian DFM Sergey Ryabkov, and she also reported her meeting on 15 May with the Iranian Chief Negotiator Mr Jalili.

HR/VP Ashton underlined to Mr Jalili the importance of building trust and explained once again the rational of the confidence building package. Lavrov considered that Iran now looked more "willing to come to an agreement". Lavrov agreed that we should await the elections, but also insisted that Iran must comply with IAEA requirements, which would help to recognize Iran's right to develop peaceful nuclear energy.

On DPRK, Lavrov's assessment was that the leadership seemed to have understood the message of constraint, including from the Chinese. He underlined that any action by the international community must be measured: some actions by the US and Japan might increase tension. He argued for resuming Six-Party Talks. President Putin stated that it was inadmissible for the Korean Peninsula to be nuclearised when it must be denuclearised if it is ever to be united.

Turning to the protracted conflicts in our Common Neighbourhood, President Van Rompuy underlined that Transnistria was a symbolic test case for our bilateral security cooperation. He called for working out a win-win formula for a mutually acceptable settlement and to continue working through the 5+2 format. Lavrov underlined that Russia was interested in working with the EU on Transnistria, and he recalled the Meseberg initiative. Once Moldova would have a new government, we could move forward, but Moldova should 'not politicize' the issues.

On Georgia, President Van Rompuy welcomed the resumption of direct contacts between Russia and Georgia; improving bilateral trade relations was welcome. Lavrov restated Russian commitment to the existing mechanisms: the Geneva process, and the incident prevention mechanism. Russia was in favour of normalizing relations, of resuming the normal course of life in the region, but Russia could not support any initiative that was aimed at delegitimizing Russia's recognition of South Ossetia and Abkhazia. Russia appreciated that the Ivanishvili government had renounced earlier 'arrogant stances', like on the issue of participation in the 2014 Sochi Olympics.
Finally, discussion on Central Asia focussed on security and drugs trafficking threats. Both the EU and Russia were committed in the long term to helping achieve stabilisation in the region. President Putin reiterated Russia’s concerns about Afghanistan and added that Central Asian countries' militaries were weak and needed training to combat the terrorist threat efficiently. He was also interested in supporting economic and infrastructure development. Russia was prepared to support this with all interested partners including the EU.

These six monthly Summits can be useful in presenting unified messages from the EU to the Russian side, in particular on trade and human rights issues. I hope we can continue to work together and build on the constructive nature of this July Summit to identify and deliver more tangible results at future summits. We will also ensure that these messages are complemented through bilateral contact.

I hope you will find this readout useful.

2 August 2013

EU PRESIDENCY PRESIDENCY PRIORITIES

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 is committed to keeping Parliament informed on issues relating to each EU Presidency programme.

I attach a summary of the Lithuanian priorities for their Presidency of the Council of the European Union, as well as a 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. I very much look forward to hearing your views and engaging with you on these issues.

You will note the high degree of convergence between the UK’s EU priorities, and those of the Lithuanian Presidency, primarily in policies aimed at promoting growth, job creation and competitiveness. In particular the Lithuanians are seeking to deepen the Single Market with emphasis on the service sector, digital agenda and better governance. They are also seeking to increase youth employment through the Youth Employment Package.

However, the Lithuanians understand that much of their Presidency agenda will be inherited from the Irish. For example they will take forward a number of financial services dossiers including Banking Union and agreeing the necessary Multi-Annual Financial Framework legislation. We will work closely with the Lithuanians on these dossiers.

The Lithuanians are keen to progress a more “Open Europe” through strengthening the Eastern Partnership, continuing enlargement, promoting Free Trade and smarter control of the EU’s external borders. The neighbourhood borders are porous and are plagued by organised crime, including cigarette and alcohol smuggling and human trafficking, much of which is to the UK. We are supportive of these initiatives.

Should your committee be interested in further information on the priorities for this Presidency I and my officials would be happy to assist with an informal briefing session on topics you may be interested to hear more about.

26 June 2013

IMPLEMENTATION OF ARTICLE 290 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION (5107/10)

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

Thank you for your Explanatory Memorandum of 5 August 2013.

Like you, the Committee does not consider that these proposals raise any subsidiarity concerns.

We also support your view that it would be better to decide on a case by case basis which is the appropriate post-Lisbon legislative procedure to be used for the adoption of subordinate legislation. This approach would also provide an opportunity to consider, in each case, whether the requirement of Article 290 of the TFEU is met, namely that that the objectives, content and scope of the
delegation of power are explicitly defined in the parent legislation. If necessary the parent legislation should be amended to ensure this requirement is met.

We recall that, in its 2009 Communication on the Implementation of Article 290 of the Treaty on the Functioning of the European Union, the Commission stated its intention to systematically consult experts from the national authorities responsible for implementing proposals for delegated acts. Have the Commission in fact complied with their stated intention in respect of existing delegated legislation; and, if so, to what extent does this meet your objection that the delegated legislation procedure does not involve the obligatory consultation of national technical experts?

If, as we believe, the UK opt-in applies to the Justice proposal, the question arises whether failure to opt in would render the parent legislation inoperable, thus engaging Article 4a(2) and (3) of Protocol 2, under which the UK could be excluded from the parent legislation. In the light of this risk, we consider that the Government should give serious consideration to opting-in to this legislation before the deadline of 28 September. We should be grateful for your view on whether this provision would apply and, if so, the consequences of exclusion from the five parent measures affected by this proposal.

We would be grateful for a response to our specific questions by 30 September and further information as to the specific powers giving rise to concern, such as the increased regulatory burdens on Member States and business, in due course. In the meantime we are retaining this matter under scrutiny.

10 September 2013

MULTIANNUAL FINANCIAL FRAMEWORK FOR THE YEARS 2014-2020 (11295/13, 11655/13), BUDGETARY MATTERS AND ON SOUND FINANCIAL MANAGEMENT (11298/13), DRAFT DECLARATIONS (11307/13, 11658/13, 11698/13)

Letter from Greg Clark MP, Financial Secretary, HM Treasury, to the Chairman

You will recall that on 27 June I sent you and your Committee an Explanatory Memorandum (EM) on Council Documents 11295/13, 11298/13 and 11307/13, relating to the 2014-2020 Multiannual Financial Framework (MFF).

The Irish Presidency issued further versions of the MFF regulation and accompanying declarations ahead of European Council on 27-28 June and a European Parliament plenary session 1-4 July, now numbered 11655/13 and 11658/13 respectively. A further draft declaration on Aid for the Deprived, 11698/13, was also issued. The interinstitutional agreement (11298/13) is unchanged. None of these documents are final versions.

Since the revised documents are very similar to the versions deposited with EMs last Thursday 27 June, I am writing to update you on their key changes.

The main changes to the draft MFF regulation are related to the flexibilities in annual payment and commitment ceiling totals. These have been extended from the previous versions of the documents, but remain within the seven-year commitment and payment ceilings agreed by the European Council in February. This flexibility now also includes an increase in the amount to be drawn forward to 2014 and 2015 for youth employment agreed to by Leaders at the European Council. The other notable change in the draft MFF regulation is the introduction of text asking the institutions to consider the most suitable duration for the MFF from 2021.

On changes to the declarations, the declaration on the duration of the MFF after 2021 has now been moved to the MFF regulation. A Commission declaration on this point has been included in the package. The new draft declaration on the Fund for European Aid to the Most Deprived says that Member States “may decide to increase their allocations spent on this programme by up to EUR 1 billion on a voluntary basis”.

You will be aware that the MFF package requires the consent of the European Parliament before it is agreed by Council of Ministers. The European Parliament voted on a resolution on the MFF on 3 July, giving political support for this package. This vote is not the formal vote on the MFF. This is not expected until after Summer.

I hope this update is useful. I will of course continue to update you as new texts appear and submit Explanatory Memorandums on the final set of texts.

11 July 2013
Letter from Greg Clark MP to the Chairman

You will recall that on 27 June I sent you and your Committee an Explanatory Memorandum (EM) on Council Documents 11295/13, 11298/13 and 11307/13, relating to the 2014-2020 Multiannual Financial Framework (MFF). Following this, I sent your Committee an update letter on 12 July, covering a further revision. In addition, on 5 August, I provided you a letter on the Draft Annual Budget 2014, which contained answers to the questions your Committee asked in its letter of 30 July, as well as those raised by the members of Sub-Committee A at the evidence session on 23 July.

The Lithuanian Presidency recently issued the latest draft of the MFF regulation and accompanying declarations, following legal examination and translation. I am attaching this latest draft of the MFF Regulation for your information and consideration. There are no substantial changes from the documents shared with you in my previous letter.

This draft has been sent to the European Parliament for their consent, after which the Council will formally vote on all documents. The European Parliament is expected to vote formally in the coming months, though of course I will continue to keep the Committee updated should that timing change.

20 August 2013

Letter from Nicky Morgan MP, Economic Secretary to the Treasury, HM Treasury, to the Chairman

The European Parliament (EP) gave its formal consent on 19 November to the expenditure side of the 2014-2020 Multiannual Financial Framework (MFF) agreed in February 2013. The financing aspects of the EU Budget (the ‘own resources’ system) remain to be finalised. There will be three pieces of EU legislation, which will underpin the own resources system:

— Council Decision on the system of own resources of the European Union. Referred to as the Own Resources Decision (ORD), this legislation will be subject to unanimity in the Council and ratification by all Member States according to their constitutional requirements. In the UK this will take the form of primary legislation. The EP will be consulted, i.e. no EP consent is required.

— Council Regulation laying down implementing measures for the system of own resources of the European Union. Referred to as the Implementing Regulation (IR), this legislation will be adopted by qualified majority voting (QMV) in the Council and will require EP consent.

— Council Regulation on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements. Referred to as the Making Available Regulation (MAR), this legislation will be adopted by qualified majority voting (QMV) in the Council, requiring an opinion from the EP.

Since the June European Council, which confirmed the February MFF deal and clarified some of the details, officials have been engaged in the process of translating the political agreements on the own resources system into legal ones. This process is still ongoing and the draft proposals are not yet final. However, the current Presidency is keen to finalise the legislative process under their Presidency; and they are working towards the adoption of the three proposals before the end of the year. This means an accelerated time frame for adoption, with the Presidency aiming to send the draft proposals to the Council in December.

The proposals are not yet subject to automatic deposit, since they remain draft Presidency proposals. Unfortunately the Presidency’s proposed timetable may not provide your Committee with sufficient time to scrutinise the final proposals fully. Therefore in order to ensure the Committee has early sight of the content of the proposals I intend to deposit proactively the Presidency’s revised proposals as soon as we receive them, and provide you with an Explanatory Memorandum to give your committee the opportunity to start scrutinising the legislative proposals.

The Presidency is currently updating its texts to reflect the latest round of comments from Member States and is expected to circulate the updated proposals shortly, which is likely to be very close to the final texts. I will, of course, inform you of any changes to the proposals. Moreover, once the Council has adopted the new ORD, this must be ratified by individual Member States. For the UK, that involves primary legislation, which will give Parliament an opportunity to debate and vote on the proposals.
As you will recall, on the financing side of the MFF, the Prime Minister protected the UK rebate and prevented any new EU taxes to finance the budget at the February European Council. Our view on the current draft legislative proposals on own resources is that they are faithful to the February deal and accurately reflect what has been agreed, including on the UK rebate.

26 November 2013

REPORT OF THE MEETING OF G6 INTERIOR MINISTERS – 12/13 SEPTEMBER 2013

Letter from Theresa May MP, Secretary of State, Home Office, to the Chairman

The Informal G6 group of Ministers of the Interior from the six largest European Union countries, including representatives of the United States of America and the European Commission, held its most recent meeting in Rome on 12 and 13 September 2013.

The summit was chaired by the Italian Interior Minister Angelino Alfano and I represented the United Kingdom. The other participating States were represented by Hans Peter Friedrich (Germany), Manuel Valls (France) and Jorge Fernandez Diaz (Spain). Poland did not participate on this occasion. Eric Holder (the US Attorney General), Rand Beers (Acting US Secretary for Homeland Security), and Stefano Manservisi (DG Home Affairs), representing the European Commission, attended the whole summit.

The first formal session was on counter-terrorism. Ministers discussed the current threat picture and security risks posed by returning foreign fighters. I emphasised the importance of having an intra EU Passenger Name Records (PNR) regime in place in order to enhance our ability to detect terrorists’ journeys within Europe. I also highlighted the need to identify and prevent individuals from travelling to Syria to become involved in the civil war, particularly those at risk of becoming radicalised having gone there for humanitarian reasons. This, among other measures, requires a better communication strategy about efforts the international community is taking to alleviate the suffering of Syrians on the ground.

The second formal session covered migration issues. I acknowledged the problem of illegal immigration faced by southern EU Member States, but I reminded delegates that 70% of asylum applications in 2012 were lodged in only five Member States, one of which was the UK. I said that this underlined the need to have a reasoned and coherent EU response to migratory pressures and improved practical cooperation aimed at building capacity in Member States under particular pressure. I also emphasised that all Member States had a duty to their neighbours to operate effective asylum and migration systems and that principles of the Dublin Regulation must be upheld. I supported continued work with third countries and emphasised the importance of including migration issues, including returns, into wider political discussions and agreements with them.

The sessions on organised crime and cybercrime were combined. States briefly discussed prevention mechanisms against criminal penetration into the public sector with close focus on the Italian CAPACI (Creation of Automated Procedures against Criminal Infiltration in Public Contracts). I said that we needed to do more to understand the nature and extent of the threat of corruption in public procurement. I welcomed in principle efforts within the EU to modernise public procurement but I also highlighted concerns over the current draft Directive on confiscation, which as drafted could pose a risk to existing non-conviction-based confiscations.

States also discussed ways of improving international cooperation and sharing best practice in tackling cybercrime. I agreed that there was a need for an effective response to cybercrime with emphasis on practical cooperation rather than new legislation. I informed other delegates that the National Cyber Crime Unit, a new unit within the infant National Crime Agency, would lead the national response to cybercrime and also act as the UK lead on cybercrime internationally.

The summit offered an excellent opportunity to hold separate bilateral meetings with other delegations. I met with French, Spanish and Italian Ministers and I also met with Eric Holder and Rand Beers who represented the USA.

The next G6 summit is expected to take place in Krakow on 11 and 12 December.

9 October 2013