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 1 November 2012 – 8 May 2013

EUROPEAN UNION SELECT COMMITTEE

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Letter from the Rt Hon. 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 26 February. There are three specific points on which I agreed to provide further information: a breakdown of national personnel contributions to AFISMA; the adequacy of equipment provision to AFISMA; and an update on the latest developments within the European Union on Israeli settlement produce.

In terms of the African-led International Support Mission to Mali (AFISMA), as we discussed during the session, this comprises forces from the West Africa region, and is now deploying into Mali to take forward stabilisation and peace-keeping operations. AFISMA has now deployed 7,860 of an expected total of approximately 9,500 personnel, including:

— Seven Infantry Battalions (approximately 800 men each, total 5,950 personnel): two from Chad, and one each from Burkina Faso, Niger, Nigeria, Senegal and Guinea, and Togo;
— One reserve force (total 850 personnel): from Sierra Leone, Côte d’Ivoire and Burundi;
— Two Sector Headquarters Units (total 150) both from Benin.

Additionally, there is one Force Headquarters Unit (total 150 personnel) from Gambia which has yet to deploy. Further contributions are expected from Mauritania and possibly others.

In terms of the equipment available to the Mission, the AFISMA Trust Fund, which is being used to pay and equip AFISMA, now stands at $16.2 million, with an additional $10.4 million pending. A further $7.8 million has been pledged, which will bring the grand total to $34.8 million. Requests for equipment from AFISMA troop contributing countries now total $25 million. $16 million worth of equipment will come from existing UN stock, and the remainder will be procured from suppliers and transported into theatre. Discussions are under way at the UN to ensure that AFISMA receives the additional equipment it needs in the most efficient way possible.

On the subject of the Israeli settlements the UK, and the EU’s, position is clear: they are illegal under international law, an obstacle to peace and make a two-state solution, with Jerusalem as a shared capital, harder to achieve.

We understand the concerns of people who do not wish to purchase goods exported from Israeli settlements in the Occupied Palestinian Territories. It was in order to enable consumers to make a more fully informed decision concerning the products they buy that, in December 2009, the UK introduced voluntary guidelines to enable produce from Israeli settlements in the Occupied Territories to be specifically labelled as such. At other partners’ request, we have shared our experience of operating this voluntary labelling scheme with interested countries. Denmark and the Netherlands have introduced similar national labelling guidelines.

The issue of settlement produce continues to be the subject of active discussion with our EU partners. EU Foreign Ministers, at their meeting on 10 December, reiterated their commitment to ensure continued, full and effective implementation of existing European Union legislation and bilateral arrangements applicable to settlement products.

Ongoing work includes measures to ensure that settlement produce does not enter the EU duty-free, under the EU-Israel Association Agreement, and steps to ensure that EU-wide guidelines are issued to make sure that settlement products are not incorrectly labelled as Israeli produce.

EU-wide guidelines would be an important step to ensure correct and coherent implementation of EU consumer protection and labelling legislation. Consumers have the right to an informed choice, and labelling guidelines help support our retailers in providing this. If European consumers have confidence that they know the origin of the goods they are purchasing, both Green Line Israeli producers and Palestinian producers would benefit.

5 April 2013
Letter from the Rt Hon. David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

As you know, the Foreign Secretary launched the Balance of Competences review in July 2012 in order to establish a clear understanding of how the European Union’s activity impacts on the UK’s national interest. In his written Statement of 23 October, he set out how the review would be taken forward, outlining that there will be 32 reports split over four semesters, each led by a specific Government Department but involving significant cross-government co-ordination.

The first semester, spanning from now until Summer 2013, will review the following areas:

- An overview of the Internal Market (Department for Business, Innovation and Skills);
- Taxation (HM Treasury);
- Animal Health and Welfare and Food safety (Department for Environment, Food and Rural Affairs);
- Health (Department for Health);
- Development (Department for International Development);
- Foreign Policy (Foreign and Commonwealth Office);

As the Foreign Secretary made clear, each department will take a rigorous approach to collecting and analysing evidence, including launching a public call for evidence. Given the wide range of Parliamentary expertise in these areas, we are keen to ensure that the Review benefits from the knowledge and experience of Parliamentarians from all sides of the House. Your Committee will have a valuable contribution to make. I have therefore encouraged departments to contact your Committee and the appropriate departmental Select Committees as they publish their calls for evidence.

The Department for Business, Innovation and Skills is likely to be the first to publish their call for evidence for the Internal Market synoptic report, expected later this week. The other lead Departments will follow shortly thereafter, with all calls expected to be published by the end of November.

15 November 2012

Letter from the Rt Hon. Justine Greening MP, Secretary of State, Department for Transport, 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 UK Government’s Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union, the Department for International Development (DFID) is leading a review of the application and effect of the EU’s policies in the field of development co-operation and humanitarian aid.

The department launched a Call for Evidence on 6 December. Interested parties are invited to provide evidence with regard to development and humanitarian aid factors relating to issues of competence. I am writing to extend this invitation to your Committee to present your submissions to the Call for Evidence. Please find attached 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. The deadline for submissions will be 1 March 2013.

The Development Co-operation and Humanitarian Aid report will be completed by June 2013. The report will be a comprehensive, thorough and detailed analysis of how the EU’s actions impact the UK and our development and humanitarian policies. 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.

I have placed a copy of the Call for Evidence in the libraries of both Houses. I have also tabled a Written Ministerial Statement [not printed].

12 December 2012
Letter from the Chairman to the Rt Hon. David Lidington MP

Thank you for your letter of 23 October 2012 regarding the Balance of Competences Review, including the proposed timetable. I was also grateful to receive your letter of 15 November regarding the first semester of the Review. I note that the six Calls for Evidence falling within this semester have now been received.

At their meeting on 11 December the Committee received a briefing from Angus Lapsley, the Director of the European and Global Issues Secretariat in the Cabinet Office, on the Review. The Committee was most grateful for his time and his helpful responses to our various questions. This session also allowed the Committee to consider further how they would like to engage with the Review.

After consideration, the Committee decided that they are not in a position to formally respond to each of the Review's individual Calls for Evidence. Instead, we would like to draw your attention to the numerous reports that we have published since session 2007-08 until the present, as well as scrutiny correspondence, which concern the majority of the competences which will be covered by the Review. I enclose an Annex which contains a list of the relevant reports and provides links to the scrutiny correspondence.

We suggest that each department should take account of the content of each of these reports with respect to each particular competence, especially during their analysis of the evidence received in response to each of their Calls for Evidence. They should also feel free to contact the Committee should they require any further information or clarification about any particular section or recommendation contained in those reports.

During subsequent scrutiny activity and inquiries conducted by this Committee, and its Sub-Committees, we will also take account of the published and forthcoming Balance of Competences Calls for Evidence when considering the substance of EU proposals. We would also suggest that each department takes account of the Committee’s subsequent reports and scrutiny correspondence accordingly.

In my last letter of 25 July I requested copies of any guidance or circulars sent to the departments regarding how the Review should be conducted. I note reference in your letter of 23 October to the preparation of such guidance and would like to repeat my request for a copy to be made available to the Committee.

In the meantime, we will continue to take an interest in the process of the Review as a whole, and we would be grateful if you could keep us informed of its progress, particularly as the first batch of reports near the publication stage, and before the second semester is due to commence. We will also take the opportunity of questioning you about the Review during your regular appearances before the Committee. If we can be of any further assistance, we will of course wish to help.

19 December 2012

Letter from the Rt Hon. David Lidington MP to the Chairman

Thank you for your letter of 19 December about the Balance of Competences review and the list of Committee reports and links to scrutiny correspondence which you enclosed to help departments prepare their reports. I have made sure that officials across Whitehall are aware of your Committee's wish that its previous reports should be treated as evidence submission in respect of the relevant reviews. We have encouraged them to contact your Committee for any further information or clarification, as you kindly offered.

I am pleased that you found the briefing by Angus Lapsley on 11 December informative and that the Committee will continue to take an interest in the Review, despite deciding at this point that it is not in a position to respond formally to each Call for Evidence. We will of course continue to keep the Committee updated on the Review’s progress.

You asked for sight of the guidance we have given to departments on the conduct of the review. This has developed and been revised and expanded as we have gone through the process of launching the review and helping departments to issue their calls for evidence for reports in the first semester. It is focused at working level to ensure consistency of approach and to resolve practical issues arising, and is evolving further as we tailor the guidance to incorporate lessons learned for those writing reports in the second semester. We understand from an informal discussion with one of the clerks to your Committee that it might therefore be most useful for you to have a summary paper setting out the general principles for the review and its governance.
I therefore enclose such a paper, with two annexes [not printed]: one setting out the departmental interests in each report; and the other setting out the process for producing reports. I hope this will meet your interest in understanding how the review is being run. Do let me know if further information would be helpful.

21 January 2013

BALANCE OF COMPETENCES REVIEW: FOREIGN POLICY REPORT

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

I am writing to inform you and your Committee that, further to the Secretary of State’s oral statement launching the Balance of Competences Review (Official Report 12 July 2012, Column 468), the Foreign and Commonwealth Office is today publishing its Call for Evidence on foreign policy.

The Foreign Policy Report will be completed by June 2013 and will provide an analysis of the balance of competences between the EU and the UK in foreign affairs, strategic defence issues and civil protection. The report will not produce specific recommendations and will not prejudge any future policy.

The Call for Evidence will be open until 28 February 2013. The Foreign and Commonwealth Office, working with other interested Departments, will take a rigorous approach to the collection and analysis of evidence. The Call for Evidence sets out the scope of the report and includes a series of questions on which contributors are asked to focus.

As you know, the shifting global context continually challenges us to look afresh at the conduct of foreign policy. It is therefore appropriate to analyse how the balance of competences between the EU and the UK affects the achievement of UK foreign policy goals. I am keen to ensure that you and your Committee are fully involved in the exercise. Our analysis will only be as good as the quality of the input we receive. I therefore encourage you and members of your Committee to submit evidence.

28 November 2012

ACCESSION OF CROATIA

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

We are writing today to update the Select Committee on the European Union on Croatia’s progress on Chapter 23 (Judiciary and Fundamental Rights), and to highlight the conclusions of the European Commission’s most recent monitoring table on that chapter. We are also depositing copies of the monitoring table in the Library of the House.

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

The Commission circulated the latest monitoring table to EU Member States on 29 October 2012. This document is not made public as it is a working document between Croatia and the Commission.

In summary, the 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. There is evidence of sustained momentum of judicial reform including, for example, the continued independent functioning of the State Judicial Council and State Prosecutorial Council; transparent judicial appointments; the continued development of a track record in the fight against corruption; and sustained efforts to support fundamental rights. However, the table also states that increased efforts are needed to continue strengthening the rule of law and in the fight against corruption. Prosecution of domestic
war crimes, respect for human rights and the protection of minorities also require continuous attention.

The State Judicial Council and State Prosecutorial Council have continued to appoint judicial officials based on transparent, uniform and objective criteria. Improvements in the implementation of the transitional system of appointments have been introduced, including greater transparency in marking interviews. The new system of appointments, exclusively through the State School for Judicial Officials, will begin in January 2013 after the first generation of officials has graduated at the end of 2012. The enrolment of the second generation took place earlier this year, following interviews conducted by both Councils. Training for the 55 selected candidates started in September 2012 and enrolment for the third generation of candidates will be published by the end of the year.

Croatia has continued to improve the efficiency of the judiciary, and in practice, this is one of the most complex benchmarks to achieve. A number of measures aimed at tackling the case backlogs have continued, including increased delegation of cases from overburdened courts and the relocation of judges. However, the monitoring table notes that continued attention needs to be paid to reducing the number of old civil cases and enforcement reform needs to be taken forward as a matter of priority. While the overall backlog of cases increased slightly during the monitoring period, during the first half of 2012, with 844,218 new cases entering the court system and 836,160 being resolved, there has been a slight reduction in respect of the backlogs of older cases. Although we accept that further work needs to be done, this indicates that Croatia has made progress reflecting the Croatian authorities’ determination to improve court efficiency. Further, we understand that the Government has planned a series of reforms and amendments to legislation to be completed by June 2013 aimed at reducing the court backlogs. These include the enforcement of the new Criminal Code in January 2013; amendments to the Land Registration Act, Misdemeanour Act and Courts Act; and changes to the Civil Procedure Code. The Commission expects the new Enforcement Act to be adopted by the end of 2012.

Improvements have been noted in the handling of domestic war crimes cases though the table notes that additional efforts are needed to speed up investigations. During October 2011 to September 2012, 87 cases overturned by the Supreme Court were automatically transferred to the specialised war crimes tribunals. Law enforcement bodies applied prosecutorial standards in an improved way as charges under priority cases were filed. Importantly, Croatia submitted a draft agreement following discussions with the Republic of Serbia on cooperation in the prosecution of war crimes cases. An Independent Sector for Support of Victims and Witnesses has been established, however, measures need to be urgently taken to facilitate the attendance of witnesses at trial. Video link testimony was used in three cases and this needs to continue where appropriate.

The table states that numerous further investigations were launched and indictments and court rulings issued in organised crime and corruption cases, including at high and local level. During January to August 2012, the Office for Combating Corruption and Organised Crime (USKOK) opened investigations against 191 persons with 257 indictments issued and 209 judgements resulting in 205 convictions. As examples of high level cases, a former Prime Minister is currently on trial with a verdict expected this month and convictions have been made against former Economy and Defence Ministers, the former now serving his sentence. This is an area where continuous efforts are required, Croatia needs to ensure that a strong system is in place to prevent corruption in state-owned companies.

This will be aided by the formation of the long-delayed Conflict of Interest Commission, which is in the process of being established. We expect this to be complete by the end of 2012. We should note that the Croatian Government has decided to be completely transparent about the appointment process and conducted interviews for each of the potential candidates. In addition, current efforts towards implementing the Police Act, which has undergone significant discussions between the Croatian Government and the Commission, will further strengthen Croatia’s ability to tackle corruption and organised crime. Croatia now needs to focus on completing the amendments to the Police Act and ensuring efficient implementation through a series of sub-laws, which should be in place over the coming months.

Croatia has continued to strengthen the protection of minorities, specifically with the training of police officers on the suppression of hate crimes. A new curriculum covering human rights is being prepared in consultation with civil society. On 31 August 2012, in the state administration bodies and professional services of the Croatian Government, 1,752 employees out of a total of 51,777 were members of national minorities. The table notes that actual recruitment of minorities remains low, largely due to the overall low level of recruitment.
The table demonstrates many positive signs of continued efforts towards refugee return including the continued implementation of the Housing Care programmes for returning refugees. According to the March 2011 plan for dealing with the approximately 2,350 remaining applications, 259 were settled and 1,305 positive approvals for housing care were made by August 2012.

The table states that Croatia needs to continue to develop a track record of implementation of anti-discrimination and hate crime legislation. We have seen a strong demonstration of commitment from the new Croatian Government to tackling these issues; the President and members of the Government visibly supported the Split Gay Pride March held in June 2012, and to the credit of the Government the event passed without the intolerance and violence that marred last year’s event.

The Commission judges that Croatia has met the commitment to cooperate fully with the ICTY. We share this judgement, in line with the Chief Prosecutor of the ICTY, who stated in his 7 June 2012 report to the UN Security Council that he was satisfied with Croatia’s continued cooperation with the Tribunal. We expect Croatia to continue this cooperation and to respect any future judgements passed by the ICTY, including on the appeal of the Croatian generals Ante Gotovina and Mladen Markac, convicted on 15 April 2011 for war crimes and crimes against humanity.

Overall, the Commission’s monitoring table reflects significant further progress and continued momentum on Chapter 23 activities. The table identifies the areas where increased focus is required over the coming months. Croatia needs to continue to ensure that long-term planning for the judiciary is secured, paying particular attention to providing sufficient resourcing to ensure effective implementation of new legislation. We are confident that the Croatian Government will respond positively to the call for action on these remaining areas as they did following the April 2012 Interim Monitoring Report with the preparation of an Action Plan to help focus their attention on the outstanding areas. The Commission’s pre-accession monitoring will continue right up until the date of accession. A further and final report and monitoring table will be published in April 2013 by the Commission, which we will be sharing with the Committees and the Library.

15 November 2012

Letter from the Rt Hon. David Lidington MP and the Rt. Hon Chris Grayling MP to the Chairman

We are writing to update you on Croatia’s cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in light of the importance that we and your Committee attach to ensuring Croatia’s continued cooperation with the ICTY, as a central part of our consideration of Croatia’s preparations for EU membership. Your Committee most recently highlighted this issue in its 24 October report responding to the FCO’s Explanatory Memorandum of 18 October on the European Commission’s Annual Enlargement Package and on Croatia’s Comprehensive Monitoring Report.

On 5 December the ICTY President presented the Tribunal’s most recent report to the UN Security Council. This report included the latest information on the Tribunal’s progress in fulfilling its completion strategy, and it is attached for your reference.

The report mirrors the European Commission’s assessment of Croatia’s cooperation with the ICTY, stating that the Prosecutor is generally satisfied with the cooperation provided by Croatia and that they continue to rely on Croatia’s cooperation efficiently to complete trials and appeals. The report notes that in the most recent reporting period, between 24 May 2012 and 15 November 2012, the Office of the Prosecutor (OTP) sent ten requests for assistance to Croatia, and that while a number of requests are still pending the Croatian authorities have given timely and adequate responses to all other requests made. Croatia has also provided access to witnesses and evidence as required.

The OTP notes that Croatia has lodged twelve requests for assistance in handling war crimes cases in the reporting period. The OTP are intensifying efforts to help countries in the former Yugoslavia more successfully handle their many remaining war crimes cases. It is welcome that Croatia is drawing on the OTP’s offices in this regard. However, the legacy of the war is a significant challenge and the report notes that the OTP remains concerned about long-standing deficiencies and continuing obstacles to successful outcomes in the tackling of domestic war crimes cases. This concern was mirrored by the European Commission in their latest Monitoring Report of 10 October. While this is not a reflection on Croatia’s cooperation with the ICTY, the handling of domestic war crimes also forms part of the Chapter 23 (Judiciary and Fundamental Rights) commitments that the Commission continues to monitor under pre-accession scrutiny. Following the Minister for Europe’s Explanatory Memorandum of 18 October on the Annual Enlargement Package that covered Croatia’s October Comprehensive Progress Report, we wrote to your committee on 15 November on Croatia’s
Chapter 23 commitments, and the Minister of Europe also wrote on 16 November to provide further
detail on Croatia’s progress more generally.

The last ICTY report stated that the proposed law (initiated by the previous Croatian administration)
declaring some legal acts (including war crimes indictments and warrants issued against Croatian
citizens) of the former Socialist Federal Republic of Yugoslavia, former Yugoslav People’s Army and
the Republic of Serbia null and void is currently under review by the Croatian Constitutional Court.
The latest report reiterates the OTP’s concerns about the law, which we share. On 16 March the
Croatian Government proposed that the Croatian Constitutional Court adopt a decision establishing
the non-constitutionality of the Law, and in that event that the Law be abolished in its entirety. We
strongly support this move, and await the decision of the Croatian Constitutional Court.

Separate to the ICTY’s recent report, you will of course be aware that the ICTY appeal judgment in
the case of Ante Gotovina and Mladen Markač was delivered on 16 November 2012, reversing all of
Gotovina’s and Markač’s convictions. It is important to ensure that the public jubilation in Croatia on
the return of these two former Generals does not undermine Croatia’s resolve to tackle the legacies
of the past and on that point the Government welcomes the measured approach taken by the
Croatian government in response to the acquittal. The UK has made clear that Croatia must now
ensure that it focuses on dealing with its backlog of domestic war crimes cases, not least so that it can
join the EU looking firmly to the future rather than the past. To reiterate this message, the UK
secured language to this effect in the EU General Affairs Council conclusions of 11 December that
state “further efforts are needed to tackle impunity for war crimes through impartial handling of
outstanding cases and through continued full cooperation with the International Criminal Tribunal for
the former Yugoslavia”.

19 December 2012

Letter from the Rt Hon. David Lidington MP to the Chairman

I am writing to you on these two separate but similar issues concerning technical adaptations to EU
agreements, regulations and decisions required by reason of Croatia’s EU accession.

I previously wrote to you on 4 October 2012 regarding the Council decision authorising the opening
of negotiations to adapt agreements that have been signed or concluded between the European
Union, or the EU and its Member States, with one or more third countries or international
organisations in view of the enlargement of the EU to include Croatia. In that correspondence I
noted that the decision was adopted at the General Affairs Council on 24 September 2012. I wrote
then that while the decision to open the negotiations for these agreements was not eligible for
scrutiny (as it was protectively marked “Limite”), each agreement once renegotiated would be subject
to parliamentary scrutiny before it could be concluded. The decision lists 120 such third country
agreements with the expectation that the majority of these adaptations will be ready to enter into
force on the date of Croatia’s accession to the EU, expected on 1 July 2013, with the remainder,
including the agreements listed in Appendix 3 of the Council Decision that have yet to be concluded
and therefore might not be ready to be signed by 1 July 2013, to follow later.

Your Committee recently cleared my Explanatory Memorandum of 1 March 2013 concerning minor
technical adaptations to EU Acts required in respect of Croatia’s accession. This Package covered
adaptations to Acts that had been published in the Official Journal before 1 September 2012. I noted
that we expected the European Commission to provide, in July 2013, detail of further technical
adaptations that will be required to ensure that the acquis is completely up to date, reflecting changes
to EU Acts since 1 September 2012.

The FCO now understands that the renegotiated third country agreements and the further technical
adaptations will not be presented to Member States as a package, as they are being negotiated
individually in different Council working groups. Without an alternative arrangement, this may require
us to submit a large number of separate but very similar Explanatory Memorandums to your
Committee over the next three months.

To deal efficiently with this large number of technical adaptations and renegotiated third country
agreements, and to avoid the need for many individual but similar Explanatory Memorandums, I
propose that a solution might be for your Committee to consider granting a blanket waiver for the
agreements and proposals where we expect no substantive changes and to which the UK is already
party. A blanket waiver on the basis of your previous scrutiny clearance would avoid an undue
burden on your Committee and enable us to agree the renegotiated agreements in Council as they
emerge from working groups.
To maintain proper Parliamentary oversight, I would then write to you again at the end of the year, once a substantial number have been concluded, updating you on all third country agreements and all proposals for changes to EU Acts post-1 September 2012 that are of a purely technical nature and that have been agreed under the scrutiny waiver. Of course, before agreeing to an Act or third country agreement, Government Departments will carefully examine the detail of each proposal. Should any substantial changes be identified beyond purely technical adaptations to reflect Croatia’s accession, we will ensure that a separate Explanatory Memorandum, as per the normal scrutiny process, is submitted to your Committee to seek scrutiny clearance before the document in question is agreed in Council.

Individual Explanatory Memorandums will be required for the third country agreements that are listed in Appendix 3 [not printed] of the Council Decision as these relate to new agreements yet to be concluded.

I hope that this offers a sensible way forward to manage this impending workload.

22 March 2013

Letter from the Chairman to the Rt Hon. David Lidington MP

Thank you for your letter, dated 22 March 2013, regarding the handling of further technical adaptations to EU agreements, regulations and decisions required by reason of Croatia’s accession to the EU, anticipated on 1 July this year.

As you know, the Committee is always very pleased to consider suggestions such as this in order to make the scrutiny system as effective and streamlined as possible while retaining Parliament’s necessary oversight on these issues. Provided that Mr Cash MP and the European Scrutiny Committee are in agreement, we are content for the documents you mention not to be deposited in Parliament – and therefore not to require any EM to be provided or scrutiny decision to be taken – where those documents involve only minor technical changes. However, we will retain the right to request that any document involving more significant changes be deposited, and therefore to receive an EM in due course. As you know, given our recent inquiry, the Committee has a keen interest in all issues relating to EU enlargement and its impact on the EU. In due course, we look forward to receiving your EMs on those third-country agreements listed in Appendix 3 of the Council Decision as you propose.

27 March 2013

DAVID LIDINGTON EVIDENCE SESSION FOLLOW-UP: SCRUTINY REFORM, EU BUDGET AND THE JHA 2014 OPT-OUT

Letter from the Rt Hon. 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 Thursday 1 November. There are three specific points on which I agreed to provide further information: scrutiny reform, the EU budget, and the JHA 2014 opt out. I cover each of these in more detail below.

On scrutiny reform, Lord Hannay suggested that disputes between departments and the Committees over whether a text should be deposited might be referred to the Cabinet Office. I would like to reassure the Committee that the Cabinet Office takes an active role in advising departments on depositing texts and provides advice and guidance to officials on the scrutiny process. The Cabinet Office is consulted by departments when considering exercising discretion in depositing texts to ensure, as far as possible, a consistent approach is taken across Whitehall. We will give further consideration as to whether the arrangements can be strengthened and made clearer as part of the wider scrutiny reform agenda.

On the EU budget, as we discussed in the session, the UK is part of a likeminded group of budget disciplinarian countries. This group consists of France, Germany, the Netherlands, Sweden, Denmark, Finland, Austria, Italy and the Czech Republic. The Committee asked about the share of EU contribution and receipts accounted for by this grouping. Those countries, according to the EU budget 2011 financial report, represent:

— 78% of total EU GNI;
— 76% of total EU contributions (own resources, including Traditional Own Resource);
— 45% of total EU Member State receipts (i.e. not including external spend, which does not go to Member States)

Lastly, I would like to clarify our ongoing ability to opt in to individual pre-Lisbon JHA measures after the 2014 deadline; that is, after the mass opt-out/in. Article 10(5) of Protocol 36 to the EU Treaties provides that the UK may notify the Council of its wish to participate in measures that have ceased to apply to the UK following a decision to opt out en masse of all pre-Lisbon police and criminal justice cooperation measures. Protocol 36 does not provide for any time limit within which the UK must make any such notification.

In terms of the kinds of costs we might have to cover under the 2014 transitional arrangements, until we hold discussions with the EU Institutions and other Member States it is impossible to say with any certainty what costs may be incurred. We anticipate that the Council, acting by qualified majority on a proposal from the Commission, may adopt a Decision determining that the UK shall bear the direct financial consequences. These are likely to be the necessary and unavoidable costs, if any, incurred as a result of the cessation of the UK’s participation in the third pillar acts. However, the Government considers this to be a high threshold to meet.

13 November 2012

EFFECTIVE PARLIAMENTARY SCRUTINY OF EU POLICY

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

On 25 July 2012, I wrote to you regarding delays in scrutiny correspondence, the provision of EMs, and responses to Committee reports. As my letter indicated, we intend to continue to conduct such reviews on a six-monthly basis, and this letter sets out our records of the same matters for July-December 2012. Attached are three annexes setting out our records on delays regarding these matters.

RESPONSES TO REPORTS

There were two significantly delayed responses during the period we reviewed. This is an unfortunate contrast to our findings during the previous review, when no responses were received substantially late. At the time of writing, one response remains outstanding that was due in November. Although this has been followed up by our staff, we would emphasise the need for an effective system within departments to allow such deadlines to be managed and met without the need for reminders from our secretariat.

Nevertheless, we would like to express our gratitude for the three responses that were received early during the second half of 2012, two of which were from the FCO. Prompt responses allow the Committee to move forward with any follow-up work it may wish to undertake and are appreciated. We hope that this will continue.

SCRUTINY CORRESPONDENCE

We note with some concern that 50 letters were received after the 10 day deadline (or agreed extension) during the second half of 2012. This decline in prompt correspondence can seriously impact the Committee’s scrutiny work, and we would again emphasise to you the importance of departments making all efforts to ensure that correspondence is handled promptly as well as thoroughly. The obligation to provide a response in 10 working days when requested is an important one for the Government to meet. Departments should bear in mind that, when a delay is anticipated, they should discuss this with the relevant clerk at the earliest opportunity to understand whether a partial response within the time limit is preferable to a complete but tardy reply.

EXPLANATORY MEMORANDA

Before addressing the question of delays in the provision of EM’s, we would like to record our serious concerns about the quality of the EM’s that are being provided to us, some of which fail to be explanatory or sufficiently comprehensive. Although many EMs are very well drafted and helpful to
our scrutiny work, the incidence of unsatisfactory EMs has increased over the last six months. We would emphasise that the provision of full and informative EMs is key to the scrutiny process running smoothly. Inadequate EMs lead to items being held under scrutiny in order to pursue issues by correspondence that should have been covered from the start. This risks scrutiny overrides. Last week, we wrote to the Parliamentary Under-Secretary of State for the Department for International Development regarding one such EM. We do not wish to single out this Department, but refer to this as a specific example, as the letter has already been copied to you with regards to our ongoing inquiry into EU enlargement.

We note little to no improvement with regard to the proportion of EMs that are being received late, either because no extension was discussed with the Committee secretariat, or because the Departments have simply failed to meet the extension deadline granted. We are concerned that departments are not carefully following the Cabinet Office’s guidance, leading to unnecessary delays. We have enclosed, for your information, a letter sent last week to the Secretary of State for Communities and Local Government regarding this issue. Again, we do not mean to single out this particular Department, and include the letter only as an example of the sorts of issues that we have been experiencing across the board.

I hope that this information is of use to you. I would be grateful if you would remind your departmental colleagues of these important points, and also that the clerks and our Progress of Scrutiny document are always available to provide information and assistance to scrutiny co-ordinators in fulfilling their scrutiny obligations.

I look forward to a response to this letter in due course

13 February 2013

Letter from the Rt Hon. David Lidington MP to the Chairman

Thank you for your letter of 13 February with your third report on Government Departments’ compliance with Parliamentary scrutiny commitments.

The overall picture appears to be similar to performance over the period the previous report covered (November 2011-June 2012). I do note that there were a number of individual cases, however, where lengthy delays in replies to correspondence led to the median delay increasing significantly. I am pleased to note that you have received some responses to inquiry reports early, but I note too your important points around the quality of EMs provided in some instances, and the lack of improvement with regard to the proportion of EMs received late. I am committed to studying carefully the six-monthly reports you produce and will act accordingly to seek to drive up performance across Departments. I have now written to Ministerial colleagues on this subject.

Some recent activity to strengthen internal processes includes:

— a Director-General level discussion of the importance of working closely with the Committees to avoid scrutiny overrides;
— a discussion amongst Whitehall EU coordinators of FCO’s subsidiarity guidance;
— the creation of a JHA opt-in Code of Practice, being prepared in consultation with your officials.

Our correspondence and my letter to Ministerial colleagues will be circulated widely to officials within all departments to help further raise awareness of the need to continually improve performance on scrutiny. Meetings of the cross-Whitehall Scrutiny Coordinators’ Network are also held regularly to discuss scrutiny issues and to reinforce key messages about working effectively with both Scrutiny Committees. I am pleased that the Clerks of both Scrutiny Committees will attend the next such meeting on 21 March; an opportunity for these important messages to be heard and best practice discussed.

18 March 2013
Letter from the Chairman to the Rt Hon. David Lidington MP, Minister for Europe, Foreign and Commonwealth Office

The Committee considered these documents at its meeting on 6 November. As you know, we are currently conducting an inquiry into EU enlargement, and so these documents are of particular interest.

These documents make it clear that each of the candidate and aspirant countries has made progress over the last twelve months, although Bosnia and Herzegovina, Serbia and Turkey have progressed more slowly than some of the other candidate and aspirant countries. We would be interested to hear whether and how the UK, and the EU, will act to ensure more rapid progress in the coming twelve months.

We note that your response to the Progress Report on Turkey calls it a “relatively balanced assessment”. Has the Commission got the balance wrong in assessing Turkey’s progress? What is the Government’s view of Turkey’s recent progress and the challenges that lie ahead, if you do not fully agree with the Commission’s assessment?

We considered the Communication regarding Croatia’s preparedness for membership with interest, and will scrutinise the final monitoring report in due course. We will also be paying close attention to the second reading and other debates to be held in the House of Commons in the forthcoming weeks. On the basis of this Communication, however, we would be interested to know whether you think that the ten steps the Commission have identified can reasonably be completed by Croatia before the next report?

In my letter dated 11 July regarding the April Monitoring Report (9170/12), I requested that you and the Lord Chancellor keep the Committee informed about Croatia’s progress in cooperating with the International Criminal Tribunal for the Former Yugoslavia and the UK Government’s efforts to support Croatia in working to resolve war crimes, to find a model of cooperation with Serbia, and to increase social tolerance and respect for human rights. I hope that you and the Lord Chancellor will continue to do so following the Commission’s latest Monitoring Report. The Committee would also appreciate being kept updated on your the results of your review of feedback on the Integrated Border Management plan.

Finally, we have noted with some concern that Serbia’s engagement with the EU-facilitated dialogue with Kosovo has been intermittent, and that there have been many postponements to both talks and the implementation of agreements. Will this limit Kosovo’s progress towards opening, or eventually concluding, negotiations on a SAA? What is the likely timetable for the necessary reforms to be completed and Kosovo to open negotiations?

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

We have cleared the seven Progress Reports from scrutiny, but will retain the three Communications (14853/12, 14854/12 and 14864/12) under scrutiny while we wait for your response.

7 November 2012

Letter from the Rt Hon. David Lidington MP to the Chairman

Thank you for your letter of 7 November following the European Union Select Committee’s consideration of the European Commission’s Annual Enlargement Package and my 18 October Explanatory Memorandum on the documents. I welcome the fact that you have cleared seven Progress Reports from the Package from scrutiny.

In your letter, you identify several important questions relating to the three Communications that you have kept under scrutiny. I would like to take each one in turn to help clarify the Government’s view.

The Committee highlights that Serbia, Turkey and Bosnia and Herzegovina have all had slower progress than we would have hoped. You ask what the UK and EU will do to ensure more rapid progress in the coming twelve months.

The accession process has been key in helping to transform Turkey. But we recognise that the process has stalled and its influence diminished. We therefore aim to strengthen the EU’s ability to be a lever for reform by reinvigorating the process. Enlargement Commissioner Stefan Füle has led the way with his “positive agenda” for EU-Turkey relations, designed to support the accession process.
and strengthen practical co-operation. In further support for the accession process, we are pushing for progress on chapters, encouraging deepening of foreign policy co-operation and supporting greater political contact between the EU and Turkey’s leaders. We are also working with Turkey on practical projects in support of human rights reform.

To provide further clarity on our response to the Commission’s Progress Report in my Explanatory Memorandum of 18 October, the Government agrees with the Commission’s factual assessment of the past year in Turkey. However, we felt that the overall tone of the report was more negative than it needed to be. The Commission were right to recognise areas of concern. We share those concerns, especially on human rights. But we also need to welcome areas where progress has been made and encourage Turkey to build on recent reforms in areas such as freedom of expression and Kurdish rights. For these reasons, we believe that the assessment in the Progress Report was “relatively balanced”.

As the Foreign Secretary said during his recent visit to Sarajevo, recent progress in Bosnia and Herzegovina has been disappointing, and Bosnia and Herzegovina risks lagging further behind her neighbours in achieving her Euro-Atlantic ambitions. As the Foreign Secretary has made clear, it is for Bosnia’s leaders and politicians to resolve outstanding difficulties themselves and to ensure they meet the commitments they agreed with the Commission in their June Road Map. To date, Bosnia and Herzegovina’s leaders have failed to establish the reforms necessary to allow their Stabilisation and Association Agreement (SAA) - the first step towards EU membership - to come into force, or to ensure the conditions necessary for a credible EU membership application. The Bosnian leaders need to reach an agreement on changing the constitution in line with a 2009 European Court of Human Rights Judgment (known as Sejdic-Finci), and establish an EU co-ordination mechanism. We are looking with EU partners at opportunities to make more use of the EU’s tools in support of progress, for example supporting the European Commission’s High Level Dialogue on the Accession Process. We will look to make full and effective use of EU tools to press Bosnia’s leaders to make progress, but ultimately they must be responsible for finding and delivering solutions.

In addition, the UK will continue to play an active bilateral role in facilitating Bosnia and Herzegovina’s progress towards EU accession, working closely on the ground with the EU Special Representative and Head of Delegation, Peter Sorensen. Our secondments of UK personnel to the EU Special Representative’s office, including as Head of Communications and Head of Rule Law, help us to support EU activity on the ground. Our bilateral assistance projects building institutional capacity and promoting justice sector reform – such as enhancing the effectiveness of the State Prosecutor’s Office and strengthening the institutional capacities of the High Judicial and Prosecutorial Council (HJPC) - are targeted specifically so as to complement the EU’s more substantial funding through the Instrument for Pre-Accession Assistance. We are also acting to ensure that the political climate remains right for progress to be made, for example providing a company of troops to the reserve (based in the UK) of the EU led peacekeeping mission, which remains an important deterrent against political adventurism.

Serbia’s achievement of EU candidate status in March 2012 was a significant step forward on the country’s EU path, which the UK fully supported. The subsequent period of elections and formation of the new government led to a slowing down of Serbia’s progress, not only in the key priority of relations with Kosovo, but also with regards to vital internal reforms and good neighbourly relations. Nevertheless, the new Serbian government has reaffirmed its commitment to Serbia’s EU aspirations. We are engaging actively with them, as well as the EU institutions and Member States, to ensure greater progress.

This was the specific purpose of the Foreign Secretary’s visit to Belgrade on 25 October. The Foreign Secretary made clear to Serbian political leaders the UK’s strong support for enlargement and to Serbia’s EU future. He restated what further steps Serbia needs to take before beginning EU accession negotiations, the key priority of taking steps towards visible and sustainable improvement in its relations with Kosovo before accession negotiations can be opened. This visible and sustainable improvement in relations means Serbia must: continue to engage in the EU-facilitated dialogue with Pristina and reach new agreements; fully implement agreements reached in the dialogue; and, crucially, take irreversible steps to address the situation in northern Kosovo, particularly tackling the Serbian parallel structures in northern Kosovo. The Foreign Secretary also stressed the need for greater progress on internal reforms, particularly with regard to rule of law and the need for Serbia to strengthen its relations with neighbours, particularly Bosnia and Herzegovina. During their joint visit to Belgrade the following week, Baroness Ashton and US Secretary of State Clinton delivered similar messages to the Serbian administration.

The UK will continue to provide targeted bilateral support to Serbia’s efforts. We are currently funding projects in a number of areas, including to promote government transparency and
accountability, the independence of institutions, judicial reform and media freedom. We also engage in EU Twinning activities in support of Serbia’s EU-related reforms.

You also asked whether the level of Serbia’s engagement in the EU-facilitated Dialogue would limit Kosovo’s progress towards opening, or eventually concluding, negotiations on a Stabilisation and Association Agreement. It is the UK’s firm belief that this should not be allowed to happen. We agree with the European Commission that an improvement in relations is needed in order to allow both countries to make progress towards the EU. That is why we welcome the 19 October and 7 November meetings between Prime Ministers Thaçi and Dačić, during which they committed to make progress on issues such as protection of religious and cultural heritage, transparent funding to Kosovo-Serb communities and implementation of the agreement on Integrated Border Management.

But we also agree with the European Commission that neither country should be able to block the other’s progress towards the EU. Each country should be able to make progress towards the EU based on its own merits. For Serbia, this means meeting the key priority of taking steps towards visible and sustainable improvement in its relations with Kosovo before accession negotiations can be opened. For Kosovo, it means further progress on the four conditions required for opening SAA negotiations, and evidence of having met the closing benchmarks necessary for concluding those negotiations. As you are aware, while the EU continues to urge both Serbia and Kosovo to engage in the EU led Dialogue in a constructive manner, the European Commission’s conditionality for SAA negotiations does not include reference to the EU led dialogue with Serbia.

It is difficult to say with any great certainty when those negotiations will commence, though I note that Kosovo’s Minister for European Integration has expressed confidence that the relevant reforms will be completed by the end of the year. That being the case, I would hope that negotiations could be opened in the first quarter of 2013.

On Croatia, I am writing to you separately, together with the Justice Secretary, on Croatia’s continued progress in meeting its Chapter 23 commitments. We endorse the Commission’s assessment that Croatia will be ready in full in time for accession. Although there is still work to be done in the months leading up to accession, this Government believes that Croatia has achieved remarkable progress, and is on track to deliver on her promises by 1 July 2013. That is why we have brought the Bill to Parliament.

The Commission’s pre-accession monitoring is a key tool to ensure that Croatia remains on target in meeting all of its remaining commitments in full, and on time. It also enables Member States and the Commission both to hold Croatia to account and to identify how we can help Croatia bilaterally and through the EU. As you have noted, the 10 October Monitoring Report highlights ten priority areas for Croatia to focus on, though it is important to note that these are not the only tasks remaining for Croatia. As they did in response to the April Interim Monitoring Report, the Croatian government has prepared an Action Plan to help them address these outstanding areas. I am attaching a copy of this new Plan to this letter [not printed]: it provides helpful additional detail on the steps that Croatia is planning to take to meet the Commission’s recommendations. However, as this is not a public document a copy will not be placed in the Parliamentary Libraries.

The Government anticipates that Croatia will be able to complete the top ten steps highlighted by the Commission by the time of accession, with most tasks completed by the time of the next report. The tasks include:

— ensuring that the Conflict of Interest Commission is established, which we expect to be complete by the Spring following the mandate given by the Croatian Constitutional Court on 7 November that the Commission be appointed fully by 7 February 2013. The Croatian government interviewed all of the candidates in late September;

— the Migration Strategy was drafted in July 2012 and is due to be finalised prior to the end of the year;

— legislation to help reduce the court backlogs is in process, including the enforcement of the new Criminal Code, which we expect to begin in January 2013;

— amendments to the Land Registration Act, Misdemeanour Act and Courts Act and changes to the Civil Procedure Code are all expected to be completed by July 2013;

— the new Enforcement Act and the Act on Amendments to the Act on the Conduct of Enforcement against Assets were adopted on 28 September
2012 and came into force on 15 October 2012 and the final amendments to the Law on Police have been approved by the European Commission and are expected to be adopted by the end of the year;

while there have been delays in delivering the necessary infrastructure and technology across all planned Border Crossing Points (BCPs) as part of the full implementation of the Integrated Border Management (IBM) programme, Croatia is making progress: for example, as of August 2012, the National Border Management Information System (NBMS) was operational at 81 Border Crossing Points (BCPs), progress from 37 BCPs in 2011.

I note, and welcome, the Committee’s continued interest and emphasis on the importance of co-operating with the International Criminal Tribunal for the former Yugoslavia (ICTY) and in making progress against the backlog of war crimes cases. The Commission’s report notes that Croatia continues to co-operate with the ICTY. As stated in my Explanatory Memorandum of 18 October, we consider this to constitute “full” cooperation. Our assessment is supported by the Prosecutor’s most recent report to the United Nations Security Council (a copy of which was made available to the Committee in my letter of 28 June 2012) [not printed]. The report stated that:

“The Office of the Prosecutor continues to rely on Croatia’s cooperation to efficiently complete trials and appeals. In the current reporting period (as at 14 May 2012), the Office sent 18 requests for assistance to Croatia. The Croatian authorities have given timely and adequate responses to the requests made and it has provided access to witnesses and evidence as required. The Office will continue to rely on Croatia’s cooperation in upcoming trials and appeals.”

Croatia’s full cooperation with ICTY was a requirement for closure of Chapter 23, and monitoring continues under the Commission’s pre-accession monitoring process so that Croatia’s cooperation will be continually assessed up until the date of accession. The Government shares the judgement of the Commission’s and the ICTY Prosecutor’s reports that Croatia continues to co-operate with the ICTY. As I stated in the debate, during his visit to Zagreb on 3 May, the Chief Prosecutor, Serge Brammertz, confirmed publicly that there were “no outstanding issues that might burden relations between Croatia and ICTY”.

On domestic war crimes, the Commission’s report and Monitoring Tables highlight that during the monitoring period 87 war crimes cases have been transferred to the specialist tribunals. The Commission’s report also states that implementation of the strategy for addressing impunity has started and a number of priority cases identified at national and regional level have been addressed. The establishment of and transfer of cases to the specialised war crimes chambers and the strategy on impunity represents an important step in Croatia’s ability to tackle this legacy. Most recently, the Kerestinec case ended on 31 October 2012 with the conviction of five Croatians for war crimes against Serbs.

However, the report also notes that further efforts are required to address the number of cases that remain outstanding and ensure that the Specialised War Crimes Chambers are appropriately resourced to handle increased numbers of cases. As I said during the second reading debate, we need to bear in mind the fact that in roughly a third of domestic war crimes cases the accused perpetrator is unknown, and that in a further third of such cases the location of the alleged perpetrator is unknown. Nevertheless, we agree with the Commission that addressing impunity remains a major challenge, and that the majority of war crimes are yet to be successfully prosecuted, and on the importance of ensuring that witness attendance is facilitated and protection provided.

The UK continues to support Croatia in bringing its war crimes cases to trial. Our Embassy in Zagreb maintains a close watch on the war crimes agenda in Croatia. Along with EU colleagues, and working closely in particular with the Dutch, we pressed strongly to ensure a follow-up to the closure of the OSCE Office in Zagreb, and have agreed to provide temporary funding, along with other EU embassies in Zagreb, to help support the work of Documenta, the leading non-governmental organisation involved in monitoring war crimes trials in Croatia. We also take every opportunity to raise the issue at Ministerial level: Lord McNally undertook a field trip to meet with victims and survivors during his February 2012 visit and I met Documenta during my visit in July this year.

Together with the Justice Secretary, I will continue to update you regularly on Croatia’s progress under Chapter 23, including following publication of the European Commission’s final Interim Monitoring Report expected in April 2013. In addition, we are working closely with the Home Office on Chapter 24 issues, including the monitoring of Croatia’s progress on implementing its Integrated Border Management plan and we will update the Committee on results in this area in due course.
Letter from the Rt Hon. David Lidington MP to the Chairman

I am pleased to submit evidence, attached to this letter [not printed], from the Foreign and Commonwealth Office in support of your Committee’s Inquiry into EU Enlargement.

On 18 October I submitted to your Committee an Explanatory Memorandum on the Commission’s Annual Enlargement Strategy and Country Progress Reports, and have subsequently written to you to update the Committee on developments ahead of the 11 December General Affairs Council discussion of enlargement.

I have therefore used the opportunity of this evidence submission to set out at a strategic level the Government’s policy and views on the wider questions of enlargement, including its scope, purpose, benefits and costs. I am sending this contribution now, in the hope that it will prove useful ahead of the Committee’s visit to Brussels on 5 December. I also look forward to presenting oral evidence to the Committee.

30 November 2012

Letter from the Chairman to the Rt Hon. David Lidington MP

As you know, the Committee is holding these three Communications under scrutiny as part of its inquiry into the EU’s enlargement policy. However, the Committee is conscious that, this week the General Affairs Council has discussed the enlargement agenda and that in the 13-14 December Council Conclusions, Member States may wish to give guidance on the progress of the enlargement process. For the avoidance of doubt, the Committee is content to waive scrutiny for the purpose of these discussions.

I do not require a response to this letter.

11 December 2012

Letter from the Rt Hon. David Lidington MP to the Chairman

Following my attendance at the evidence session on EU enlargement and the December European Council on 15 January, I am pleased to write with additional information on the points raised during the session and to provide written answers to those questions that we did not have time to cover, in further support of your Committee’s inquiry into EU Enlargement.

On 18 October I submitted to your Committee an Explanatory Memorandum on the Commission’s Annual Enlargement Strategy and Country Progress Reports, and I subsequently wrote to you to update the Committee on developments ahead of the 11 December General Affairs Council discussion of enlargement. On 30 November, I submitted written evidence from the Foreign and Commonwealth Office on EU enlargement that set out at a strategic level the Government’s policy and views on the wider questions of enlargement, including its scope, purpose, benefits and costs.

The Committee asked about EU assistance to Western Balkans countries and for details of EU assistance programmes, as well as details of other assistance from EEA and other countries. Further to my response below, detailed information on the range of assistance that the EU provides in the Western Balkans, including through IPA, can be found at:

http://europa.eu/legislation_summaries/enlargement/western_balkans/e50028_en.htm and

EU programme assistance to the Western Balkans and Turkey is funded under the Instrument for Pre-Accession Assistance (IPA) – totalling €11.47 billion from 2007-2013 (see table at Annex A for breakdown) [not printed]. IPA funds are used to support candidate and potential candidate countries to move towards EU accession. IPA funding is allocated mainly through technical assistance (including peer to peer twinning projects) and projects that support the development of the standards and systems necessary for their alignment with the EU acquis. Budget Support is only available in exceptional circumstances and has so far only been used for Serbia in July 2009 to help stabilise the economy during the economic crisis.

Twinning, a key component of IPA, enables member states to provide targeted assistance in building the institutional capacity of beneficiary countries to address specific domestic challenges relating to chapters of the acquis. The UK has carried out 22 Twinning projects since 2010 (see Annex B for a...
breakdown of this assistance by country) [not printed]. The Commission circulated 68 Twinning projects with submission deadlines in 2012, covering a wide range of chapters of the acquis.

The UK in 2012 successfully secured 7 twinning projects totalling €7.2m worth of IPA funding and 19% of all twinning projects circulated under IPA, an increase over 2011 (18%) and 2010 (10%). Twinning has proved an important tool in strengthening our bilateral relations with both member states and beneficiary countries, as well as enabling the UK to use EU funding in support of our EU enlargement objectives.

An example of technical assistance through twinning is a project in Kosovo to aid their efforts to strengthen the rule of law in carrying out their Integrated Border Management strategy and the fight against drug trafficking (€2m). The project is run by Northern Ireland Co-operation Overseas, with British expertise drawn from across UK Government Departments, including UKBA and HMRC, delivering technical assistance through a long term resident twinning advisor; workshops; study visits; on-the-job training; and short-term expert missions. The project covers a number of areas of EU law including drafting/amending appropriate legislation and combating human trafficking and illegal migration.

In 2012/13 the UK will be running and involved in a number of twinning projects across the IPA region. This includes being selected to work with Montenegro on twinning projects to strengthen the fight against money laundering (€250,000) and on penitentiary reform. This follows the UK’s successful completion of a Twinning light project to enhance the capacity of the Undercover Investigations Unit to fight organised crime in 2012. Twinning projects were also secured in Bosnia and Serbia on Market Surveillance and state capacity for auditing respectively.

The UK Government has heavily engaged in Brussels to ensure that IPA 2, the revised instrument for the next financial framework, provides a stronger strategic link between IPA funding and the delivery of enlargement priorities, with greater flexibility to meet each country’s needs, thereby also enhancing the efficiency and effectiveness of EU funding.

The Government also continues to provide strategically targeted bilateral funding in support of key political reforms through the FCO’s Reuniting Europe programme (£3.7m). Our ability to act swiftly and in a highly targeted way enables the UK to work closely with candidate countries to help ensure that the more substantial EU funds, when they come on line, are properly focused on our key priorities.

Other countries also have bilateral assistance and regional programmes in support of their objectives in the Western Balkans. EFTA countries, for example, are currently contributing €125,000 to an EU IPA project on quality infrastructure under the IPA 2011 framework, scheduled to end in February 2014. Norway contributed approximately €1.25 billion during the period 1991-2008.

The Western Balkan Investment Framework (WBIF), a joint initiative between the EU, international financial institutions, bilateral donors and governments of the region also provide financial assistance, providing €220 million of projects and grants since 2009 in support of socio-economic development and EU accession in the Western Balkans through co-ordination of finance for investment in infrastructure and energy efficiency. The UK is one of the founding partners of the WBIF. Due to the myriad of donors and project implementers in the region it is difficult to provide an accurate picture of total aid provision in the Western Balkans. However, the need for greater coherency and visibility of donor countries’ activities in the region has been recognised by the WBIF and one of their projects is to create a single platform for all donors, including the development of a database of projects. Their website includes a searchable database that can be used to identify a breakdown of aid by each donor: http://www.wbif.eu/projects. In addition, the OECD track international aid to the Western Balkans region. Their website also contains a searchable database: http://stats.oecd.org/. I have included DFID figures for total ODA received by Western Balkans countries at Annex C [not printed].

The Committee asked for detail on Turkey’s current progress in its accession negotiations and for details of aid and assistance programmes in Turkey. The Committee also asked for further information on the integration of the Turkish economy with the EU economy. Turkey currently has thirteen chapters open, and one chapter provisionally closed. Eight chapters were blocked from opening by the European Council decision of December 2006 over Turkey’s non-implementation of the Additional Ankara Protocol. In addition, France and Cyprus have imposed chapter blocks. For full details of which chapters these are, I am attaching a table at Annex D [not printed].

Turkey’s overall EU funding allocation for 2012 was €855 million, and for 2013 will be €903 million. 94% of Turkey’s allocation was spent in 2008; 30% has been committed for 2009; and 10% for 2010. The projects contribute significantly to raising Turkey towards EU standards and cover a wide range of issues including, for example, €4.8m to set up a National Food Reference Laboratory, providing a
higher quality food safety system aligned with EU Standards; €5.3m eradicating the worst forms of child labour in Turkey through education, rehabilitation and support services; €150,000 to establish a domestic violence hotline; and €2m to improve enforcement services in Prisons in Turkey, through establishing a system, and trained staff, equipped to deal with vulnerable prisoners. This is a new project, which will start in 2013, is being implemented by the UK Ministry of Justice. The UK Government currently supports over 40 projects, totalling over €1.9m on democracy and human rights, prosperity, migration, organised crime, climate change, and justice reform. The projects support key issues in our bilateral relationship and also contribute to helping Turkey meet EU standards.

The economies of the European Union and Turkey are deeply integrated through trade, investment and financial flows. The EU is Turkey’s largest import and export partner in value terms, accounting for approximately 40% of Turkey’s total trade. In 2011, Turkey’s goods and services imports from the EU were valued at €82bn, while Turkey’s total exports to EU Member States were valued at €63bn. In 2011, nearly half of all Turkish Foreign Direct Investment (€9.7bn) was located in the EU, and around three-quarters of all Foreign Direct Investment in Turkey (€81bn) was sourced from EU Member States. The latest available data suggest Turkish claims on EU banks are valued at nearly €13bn, which is approximately 60% of Turkish banks’ total foreign exposure.

On Iceland, the Committee requested clarification on how the mackerel dispute is being handled. I can confirm that discussions are indeed taking place under the auspices of the North East Atlantic Fisheries Commission. The UK supports reaching a negotiated settlement, but progress in the talks has been slow. However, we are hopeful that new science on the state of the mackerel stock due later this year might help ease the path to an agreement. The Government will be working throughout the year to contribute to the relevant scientific studies to allow for constructive talks, later in 2013, which must succeed.

At the evidence session, we ran out of time to provide oral answers to Questions 10 and 11. Please find written answers below:

Question 10: Are there any other policy areas where you think the 2004 and 2007 enlargements have had a real impact on the direction of the EU’s policies? Which policy areas are most likely to be affected by future enlargements?

During the evidence session, I highlighted examples where recent enlargements have had positive impacts on EU policy, including on the single market, less burdensome regulation and on common foreign and security policy (CFSP) and common security and defence policy (CSDP). Five of the 12 signatories of the Prime Minister’s Growth letter last year, for example, were new Member States: Estonia, Latvia, Czech Republic, Slovakia and Poland. Many of the new member states have joined our calls for better regulation in the EU: for example, Slovenia, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Poland and Slovakia signed up to our recent ‘10 point plan’ on smarter regulation (making 8 out of 13 member state signatories from the new members). The new Member States have thus helped the UK to meet its objectives, with the Commission’s new Smart Regulation Strategy of 12 December 2012 meeting a number of UK demands as set out in the letter, notably for a new REFIT programme aimed at reducing EU regulatory burdens; two-page summaries to improve the accessibility of analysis in its Impact Assessments; and wider use of Common Commencement Dates for EU legislation. Similarly, New Member States have recently been signatories along with the UK on the letter on the Digital Single Market of 23 September 2011 and, at Heads of Government level, the growth letter of 20 February 2012.

Recent enlargements are therefore helping us better to achieve the completion of the single market, where the benefit to UK growth and commercial objectives, which has been a key driver for international competitiveness of UK companies, is clear. Businesses have benefited from the opportunities provided by a larger internal market, that now represents a market of over 500 million people with a combined GDP of around £11 trillion which enables the EU to be a decisive economic player in an increasingly globalised world, for the benefit of its citizens, with benefits of better connected and cheaper transport and communication networks, access to cheap and competitive manufacturing inputs, and reduction of the administrative burden on companies operating across borders in the EU. In addition, greater competition within the Single Market has fostered innovation, the key to success in the global economy.

An enlarged EU, not least through its increased collective weight, also helps the UK to meet its international policy objectives, whether dealing with issues of security, such as in Iran, Afghanistan or Libya, or negotiating as a block in international climate change or global trade negotiations. Sanctions negotiated and imposed at an EU level are more effective than bilateral measures which would be unlikely to be replicated to the same degree by all 27 Member States. A good example is Iran, where
the EU as a whole has passed a comprehensive package of measures aimed at constraining the ability of Iran to finance and procure materials and expertise to further its nuclear ambitions. This supports the EU's political effort on Iran in the E3+3 process and provides the EU—collectively and individually—with the means to apply political pressure on Iran to engage in this process. Burma and Zimbabwe are further examples of where sanctions at EU level have effectively underpinned the EU's political calls for reform. Many new Member States are also members of NATO, including Czech Republic, Hungary, Poland, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, Slovenia, and Croatia, where many new Member States are also contributing to Afghanistan ISAF NATO missions, including Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia—as do future EU Member States Albania, Bosnia and Herzegovina, Croatia, Iceland, Montenegro, Macedonia, and Turkey. While EU enlargement and NATO enlargement are separate processes, at the EU level we have increasing numbers of allies in a range of CFSP and CDSP policy areas.

Enlargement also offers opportunities for the UK to pursue our policy objectives with the new Member States on issues that are more effectively dealt with at the EU level, for example, tackling cross-border crime, environmental issues, terrorism and illegal immigration. Enlargement has provided new opportunities to promote the energy and climate change agenda within the EU, strengthening the argument for diversification of the EU's energy sources, driving investment in infrastructure and low carbon technologies and has provided opportunities for UK collaboration (e.g. with Hungary on low carbon investment, and with Poland on nuclear and shale gas).

Enlargement provides us with opportunities to strengthen our cooperation with new Member States on a wide range of these objectives. With Bulgaria, for example, we have recently signed a Memorandum of Co-operation on labour markets, and agreed eight priority areas for working with Bulgaria that include cooperation on growth and Counter Terrorism. In addition, the UK has been helping Bulgaria to improve their absorption of EU structural funds as a key engine of infrastructure development and economic growth, including through arranging meetings between UK and Bulgarian experts on infrastructure projects: an important part of our growth agenda in the newer EU states.

Another positive impact is on the EU's perception of enlargement and the need to continue with this endeavour to areas such as the Western Balkans. The newer Member States remain among the most supportive of the continuing enlargement project. They are also more alive than some to the security and other risks that would come from continued instability in the Western Balkans, not least given their geographical proximity to the region. New member States have been instrumental in some of the EU's decision making on the Western Balkan region, such as the decision to renew the executive mandate for the EU peacekeeping force in Bosnia and Herzegovina—EUFOR Althea—last autumn. This positive trend is likely to continue. We expect Croatia, on its expected membership later this year, to be a valuable partner on the Western Balkans, bringing real expertise to EU decision-making in its Western Balkans policy.

However, as I noted in the evidence session, we have to recognise that Member States don’t act as a bloc in the EU, with each pursuing their own national interests and are a number of factors that will affect policy formation and direction at the EU level due— including external factors and events that require an EU response.

And of course, further enlargement will change the EU, just as every previous round of enlargement has done. The already diverse EU will become even more so: by the time all the Western Balkan nations join there will be more than thirty countries in it, whose peoples do and will want different things from the EU. Our view is that we should recognise and embrace that diversity.

This is particularly evident if we look to Turkey’s eventual membership, where the accession process gives us the tools to ensure that future enlargements continue to benefit the UK, ensuring that candidates meet the rules of the acquis, by which the UK is also bound, before they join. Turkey, as Europe’s 8th largest and the world’s 18th largest economy, would significantly benefit the UK and the EU, contributing to our collective prosperity and security by boosting the Single Market and by playing a major part in Europe’s long term prosperity by adding significant clout to its common external trade policy. In addition, Turkey’s position as a key transit country for oil and gas makes it central to the energy security of the EU and Turkey is also a vital foreign policy partner, crucial in building international security, for example in Afghanistan and the Western Balkans and in the Middle East. Likewise, Iceland, as world-leaders in geothermal energy, offers significant opportunities for the EU in its energy policy (one of the reasons why the UK signed a Memorandum of Understanding on energy with Iceland in May 2012).
Question 11: The 2004 enlargement dramatically narrowed the EU’s ‘shared neighbourhood’ with Russia, and the 2007 enlargement expanded the geographical borders of the EU towards Turkey. What impact have these shifts had on the EU’s relationships with its neighbours to the East, and with Turkey as a candidate country?

Following the 2004 enlargement of the EU, the EU established a European Neighbourhood Policy (ENP) to help cushion the shock of enlargement for its new neighbours. The ENP was intended to establish a zone of stability, security and prosperity around the new, larger EU. The ENP offers a privileged relationship to 16 of the EU’s neighbours in two regions; the Eastern Neighbourhood and the Southern Neighbourhood. It is primarily an EU bilateral policy tool, offering closer political and economic integration.

In the Eastern Neighbourhood, the ENP primarily operates through a mechanism called the Eastern Partnership. Under the Eastern Partnership, the EU is offering deeper economic integration as an incentive for political reforms, including a formal association agreement and deep and comprehensive free trade agreements.

The countries that border both Russia and the EU, or that are within close proximity will likely wish to pursue a balanced approach to their relations with both, given their geographical position and historical ties. We welcome, for example, recent moves to re-establish dialogue between Georgia and Russia. But we believe that all of these countries should have the opportunity freely to choose the direction of their political and economic development and we hope they can achieve a positive and productive relationship with both Russia and the EU.

Due to the nature of a shared neighbourhood, the EU and Russia occasionally have competing policies within this region. For example, Russia has offered its neighbouring countries membership of the new Eurasian Customs Union (presently comprising Russia, Belarus and Kazakhstan) which, given the different technical standards, would probably be incompatible with a Deep and Comprehensive Free Trade Agreement with the EU.

There is considerable mutual interdependence between the EU and Russia and we seek within the framework of that relationship to set out a positive approach to the Eastern Partnership Countries which respects their right freely to pursue their chosen paths to political, economic and social development.

Turkey remains a vital foreign policy partner for the EU and the 2007 enlargement round emphasised the significance of Turkey as a regional player and a candidate country. Many of those states have become strong supporters of Turkish accession. For example, in June last year the Foreign Ministers of Bulgaria, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK co-authored a joint article making the case for Turkish accession. Cyprus, of course, has its own particular relationship with Turkey. The ongoing division of the island and Turkey’s failure to fulfil its obligations under the Ankara Protocol to open its ports and airports to Cypriot ships and aircraft has created obstacles. In this context, we will continue to support efforts to reach a Cyprus settlement, hoping for progress after the February elections.

During the evidence session, the Committee also asked for an assessment of each of the Eastern Partnership countries in terms of potential future EU membership. The Foreign Secretary, in his 23 October speech in Berlin, reasserted our view that countries such as Moldova, Belarus and Ukraine are European nations whose future lies with Europe. The same is true of the three Caucasian republics, if that is the path they wish to take. The EU Treaties are clear that any European state which respects the values of the Union and is committed to promoting them can apply for membership. The EU must therefore ensure that it continues to have a compelling offer: it is up to us to promote democracy and encourage them to embrace freedom fully. It should be noted that not all the Eastern Partnership countries have EU membership aspirations but through the European Neighbourhood Policy we work closely together with all six countries offering closer political and economic integration. The UK supports an EU perspective for Eastern Partnership countries, provided they meet the necessary political and economic criteria for EU membership. Taking each in turn:

The EU and Ukraine completed negotiations on an Association Agreement (AA) with Deep and Comprehensive Free Trade Area (DCFTA) at the end of 2011; the texts were initialled in 2012. In December 2012 the Foreign Affairs Council of the EU agreed Conclusions that set out the benchmarks for progress towards signature and ratification. We support Ukraine’s EU aspirations as long as they meet the criteria set by the EU by addressing selective justice, improving the conduct of elections and carrying out real reform. Ukraine would like signature at the Vilnius Eastern Partnership Summit in November 2013. The EU will need to decide several months before then whether they have made sufficient progress.
The EU and Moldova are on track to complete negotiations on an AA/DCFTA in 2013. Moldova would also like signature at the Vilnius Eastern Partnership Summit. Formal signature will be technically difficult to achieve by then, but initialing is a realistic prospect. Moldova will need to demonstrate commitment to genuine reform for the AA/DCFTA to progress. We will continue to support their EU aspirations.

Georgia and the EU have a developing relationship and we welcome the new Government’s commitment to their Euro-Atlantic aspirations. Georgia is currently negotiating an Association Agreement (AA) and Deep and Comprehensive Trade Agreement (DCFTA) with the EU, which it hopes to have agreed before the Eastern Partnership Summit in Vilnius. The EU Monitoring Mission is the only international monitoring mission in Georgia, observing the Administrative Boundary Line between Tbilisi Administered Territory and the breakaway regions of Abkhazia and South Ossetia. It plays an invaluable role in preventing further conflict.

We welcome the strengthening of the partnership between Armenia and the EU. Armenia and the EU have opened negotiations on a DCFTA while significant progress has made towards an AA. We hope Armenia and the EU will have an AA in place before the Eastern Partnership Summit in Vilnius.

Azerbaijan and the EU are currently in negotiations on an AA with and are open to further co-operation leading towards a possible DCFTA. We hope the EU and Azerbaijan will continue to work together and encourage the necessary political and economic reforms to take this partnership to the next level.

Now that Belarus is a neighbour, opinion polls show a rise in interest in Belarus in the EU and migration. Despite a variety of approaches by the EU, the regime in Belarus remains a major obstacle to progress. The Belarus government currently only participates in the multi-lateral platform of the Eastern Partnership. We continue to call on the Belarus government to address our human rights concerns, and to release and rehabilitate all political prisoners.

28 January 2013

EVIDENCE SESSION 13 MARCH 2013 – SUPPLEMENTARY INFORMATION

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

At the evidence session of 13 March 2013, covering the Multiannual Financial Framework (MFF) negotiations, I offered to give further information on two points. I said that I would respond to the European Parliament resolution (also of that date), in particular the references to a ‘mid-term review’ of the MFF. My officials also offered to give further information on the Common Agricultural Policy (CAP), in particular the Government view on the level of reductions to the CAP that the February European Council conclusions represent. A note on this issue is attached, prepared by officials from HM Treasury and the Department for Environment, Food and Rural Affairs.

On the European Parliament resolution of 13 March, the Committee was particularly interested in ‘Paragraph 9’. This called for ‘revision of the MFF, or possibly a sunset clause; considers the revision should be legally binding’. Lord Richard asked whether this is a new position for the European Parliament.


We do not accept the European Parliament’s proposals. The Prime Minister has made it clear that, while the European Council has given some scope for flexibilities, the overall ceiling totals cannot be changed from the position agreed by the European Council in February.

25 March 2013
EXERCISE OF THE EUROPEAN PARLIAMENT’S RIGHT OF INQUIRY

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

The Select Committee considered the report together with your Explanatory Memorandum of 3 December at its meeting on 18 December.

On 12 September, the Deputy-Secretary General of the European Parliament wrote the enclosed [not printed] letter to the secretaries general of all national parliaments, which included the draft proposal for a Regulation.

Your EM states that the proposal would have to be “considerably different” for it to secure the necessary consent of the Commission and the Council. The future timetable for the proposal is of course dependent on the Parliament making further revisions to the draft and thus we accept that it is difficult to predict. Nevertheless I would be grateful for an assurance from you that the Committee will be kept informed of developments in good time for us to take a considered view on any proposals, particularly should they have implications for national parliaments.

I would also be grateful if you could set out the Government’s view of how such initiatives of the Parliament should be treated in accordance with our established scrutiny practices; in particular at what point they should be deposited in order to ensure effective parliamentary consultation and scrutiny.

Lastly, the European Parliament’s secretariat has argued that Protocol 1, but not Protocol 2, applies to this proposal because the matter comes under the exclusive competences of the Union. We would be grateful for your view, should you wish to give it, on the applicability of the subsidiarity reasoned opinion procedure in Protocol 2 to this matter.

14 January 2013

Letter from the Rt. Hon. David Lidington MP to the Chairman

I am writing further to your letter of 14th January in which you posed a number of questions about the above report and proposal; I will address each of these in turn.

INFORMING THE COMMITTEE OF PROGRESS MADE ON THIS DOSSIER

You reference my statement in the Explanatory Memorandum of 3 December that the proposal would have to be “considerably different” for it to secure the necessary consent of the Commission and the Council. This remains the case, and I welcome your acknowledgment that this therefore makes it difficult to predict what the timeframe for this proposal will look like. I understand the Committee’s concern about the potential repercussions of this uncertain timetable, and the importance of giving the Committee ample time to take a considered view. I will endeavour to keep the Committee updated on developments and, as I stated in my Explanatory Memorandum, will ensure the Committee is sighted on the final text as early as possible.

SCRUTINY OF EUROPEAN PARLIAMENT INITIATIVES

You asked for my view on how European Parliament initiatives should be treated in accordance with our established scrutiny procedures. Given that these initiatives are deemed draft legislative acts and are submitted to the Council for agreement, we would expect them to be treated in the same way as similar acts, where other institutions have the right of initiative and the Council has a legislative role in agreeing them. We would therefore view these as inter-institutional proposals as described by the Committee’s terms of reference and therefore subject to scrutiny after the proposal has been adopted by the European Parliament, and transmitted to the Council. We would also see them as falling under the Committee’s Scrutiny Reserve Resolution, given that the Council has a role to play in their adoption.

It follows, therefore, that we should treat draft proposals before their adoption by the European Parliament as not depositable, in the same way as we treat other pre-adoption draft proposals under consideration in other institutions as not formally depositable; the trigger for scrutiny would be at the point of adoption by the European Parliament, when the proposals are formally transmitted to the Council. On this occasion though, I judged it important that the Committees should be sighted on these proposals at an earlier stage, as I was conscious that these proposals would be of interest.
PROTOCOL 1 AND 2

You reference the argument the European Parliament’s secretariat has put forward that Protocol 1, but not Protocol 2, applies to this proposal because the matter comes under the exclusive competences of the Union, and you seek my view on the applicability of the subsidiarity reasoned opinion in Protocol 2 to this matter.

I consider that Article 226 TFEU provides for a function for the European Parliament rather than a substantive area of competence such as is provided for in Articles 2 to 6. The European Parliament carries out this function only to the extent that the Union has competence and thus respects the division of competence between Union and Member States. The European Parliament initiative will be a draft legislative act for the purposes of Article 3 of Protocol 2 of the Treaties, and thus in my view the provisions of Protocol 2 that apply to draft legislative acts, including Articles 2, 4 and 5, will apply to the draft regulation. This would equally be the case for legislative acts falling within the EU’s exclusive competence, albeit that the principle of subsidiarity is straightforwardly satisfied when such acts do so, as per Article 5(3) TFEU.

15 February 2013

FOREIGN AND COMMONWEALTH OFFICE: EU BUSINESS DURING THE PARLIAMENTARY EASTER RECESS

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

This letter sets out EU activity subject to scrutiny, which the FCO expects may progress to decision just ahead of, during, or shortly after the forthcoming Easter recess. For the sake of clarity, it is divided into three headings: items which I hope can be cleared before recess begins due to their urgency and importance; items which may come up for urgent decision during recess, but on which we have neither certainty on dates nor formal documents currently available for scrutiny; and items which do not require an urgent decision, but on which you may welcome an update before recess

ITEMS WHICH WE HOPE CAN BE CLEARED BEFORE RECESS BEGINS DUE TO THEIR URGENCY AND IMPORTANCE

— The Council Decision that governs the European Security and Defence College (ESDC) is currently with the Committees for consideration. The ESDC coordinates and oversees courses for personnel from EU Member States, EU institutions, and third country nationals in support of the EU Common Security and Defence Policy (CSDP), ranging from strategic leadership to specialised technical skills. This Council Decision seeks to provide a more modern, relevant and accountable framework for the ESDC to better support CSDP activity and improve the effectiveness of CSDP on the ground, a UK priority. It is hoped that the Council Decision will be adopted at the 22 April Foreign Affairs Council. We would therefore be grateful if the Committee could consider this before recess, or in the meeting taking place in the first week of your return from recess. If this cannot be agreed by the 22 April FAC, there is a risk that the UK’s positive agenda for a more efficient and operational CSDP could be undermined.

— The EU Civil Service Tribunal, established in 2005, consists of seven judges appointed for a period of six years. It is a specialised court that deals with staff disputes involving the EU civil service. As part of the appointment process to the Tribunal, a committee of experts, chosen from among former members of the Court of Justice, the General Court and lawyers of recognised competence, gives an opinion on the suitability of candidates for a judicial role. The term of the previous committee expired in November 2012, and a new committee needs to be formulated before any Tribunal judges can be replaced. This has become a pressing matter due to the unexpected retirement of one of the Tribunal judges. The decision to reappoint the committee will be discussed and agreed at the next available Council, taken by Qualified Majority Vote. The UK therefore cannot halt proceedings. Being unable to agree could however risk alienating other Member States and undermining our relationship with the Court.

— Draft Council Decision in support of physical security and stockpile management activities to reduce the risk of the illicit trade in Small Arms and Light Weapons (SALW) and their ammunition in Libya and its region. This Council Decision is complementary to the EU’s strategy on SALW. The work it outlines will be funded through the EU. The Decision is also consistent with UK priorities in Libya and the region. The draft Decision is currently at the stage of budgetary negotiations between
the Foreign Policy Instruments service and the suggested implementing agency. We expect the Decision to be agreed at a Council in April. Due to the tight deadlines, we would be most grateful if this Decision could be cleared from scrutiny as soon as possible. I would then update the Committees on the budget aspects once the Decision had been finalised.

ITEMS WHICH MAY REQUIRE AN URGENT DECISION DURING OR SHORTLY AFTER RECESS, BUT ON WHICH UNFORTUNATELY NO DOCUMENT IS YET AVAILABLE TO BE DEPOSITED FOR SCRUTINY:

— The previous Council Decision 2010/232/CFSP renewing restrictive measures against Burma will expire on 30 April 2013. A Council Decision amending Decision 2010/232/CFSP must therefore be adopted before this date to renew the EU Burma sanctions package. Following the suspension of the majority of EU sanctions on Burma in 2012, the active elements of the current sanctions regime comprise an arms embargo, and restrictions on the supply of equipment which could be used for internal repression. In April, EU Member States will review all measures, guided by the Burmese government's progress against the EU benchmarks agreed in Foreign Affairs Council Conclusions in January 2012. It is anticipated that the Decision amending Council Decision 2010/232/CFSP will need to be adopted at the Foreign Affairs Council on 22 April, in order that the 30 April deadline not be missed. There is therefore a narrow window for Parliamentary scrutiny following the Easter recess. I intend to circulate an Explanatory Memorandum in time for your Committee's first meetings in late April, but it is possible that a document might not be available by then. Officials work hard to ensure timely documents, but I may regrettably be required to agree to override scrutiny on this item.

— EU Restrictive Measures against Zimbabwe, as detailed in my letter to your Committee of 15 March, may require amendment shortly before the Easter recess. EU Ministers agreed in July 2012 that a peaceful and credible constitutional referendum in Zimbabwe should lead to the suspension of the remaining targeted measures, a decision which was set out to your committee in my Explanatory Memorandum of 27 July 2012. The referendum took place on 16 March. Should the EU Heads of Mission in Harare report that the referendum was peaceful and credible, EU Member States will seek swiftly to agree a Decision that will result in the suspension (but not the lifting) of the majority of the current targeted measures. Discussions on a draft Decision will not therefore begin in Brussels until 19 March. So it will not be possible to deposit the draft for scrutiny before the recess. As you know, the UK has led EU Zimbabwe policy, including the decision to review sanctions following the referendum. Our partners may expect us to be in a position to respond quickly to the referendum. I anticipate therefore that I will, regrettably, find myself in the position of having to agree the Decision before it has cleared parliamentary scrutiny.

— A proposal to exempt the Syrian National Coalition from further provisions of the EU's restrictive measures against Syria has been brought by an EU Member State to the Council, for adoption at the 22 April FAC. This proposal will be subject to further working group discussions. Should this proposal progress to a point where other Member States are able to support its adoption on 22 April, blocking it at the FAC would be very damaging for the UK, and would undercut our significant multilateral efforts to bring the Syria conflict to a close. I may therefore regrettably be required to agree to override scrutiny on this case.

— A Regulation implementing recent changes to the arms embargo provisions of the EU's restrictive measures on Syria is under negotiation. The primary focus of this Regulation is to implement the urgent arms embargo changes agreed on 20 February. Implementing these changes is therefore also urgent. In addition, an implementation provision for changes to the Syrian Arab Airlines sanction, negotiated in October 2012 has been incorporated in to this Regulation. It is likely that this will be approved at the next available Council; and most likely before the end of March. Since we will miss the last opportunity before recess to submit this Regulation for the consideration of your Committees I may, again, regrettably find myself in the position of having to agree the Regulation before it has cleared parliamentary scrutiny.

ITEMS WHICH DO NOT REQUIRE AN URGENT DECISION, BUT ON WHICH YOU MAY WELCOME AN UPDATE:

— Council Decision on Conclusion of the EU-Iraq Partnership and Co-operation Agreement (PCA). The aim of the PCA is to establish a framework for strengthening ties between the EU and Iraq. It provides for further engagement and co-operation across a broad range of areas such as political dialogue, trade and investment, energy, human rights, justice and education. The UK is keen to see conclusion (and hence entry into force) of the PCA, as it supports our own work to develop Iraq's stability and prosperity, and enable Iraq to play a constructive role in the region. Before the Decision on Conclusion can be adopted by the Council, the PCA must be ratified by Member States.
and Iraq, and approved by the European Parliament. As this is currently ongoing, I do not foresee that the Council will wish to discuss adoption of the Decision during recess. However, I would welcome your Committee’s consideration of this Council Decision shortly after your return.

I have tried to predict and summarise in this letter the areas in which dossiers might progress during recess to a decision, on a matter which normally requires scrutiny. However, as ever there are crisis zones around the world and sudden events may lead to a situation which may require immediate and urgent action, when an override might thus become operationally necessary. I would like to take this opportunity to reiterate that my officials and I are committed to doing our very best to avoid such overrides wherever possible, and that my officials are taking practical steps to further improve our internal processes on parliamentary scrutiny, including implementing a series of measures to increase awareness of scrutiny requirements across FCO geographic and thematic departments.

19 March 2013

IRISH PRESIDENCY

Letter from the Rt Hon. 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 Irish 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 Irish Presidency, primarily in policies aimed at promoting growth, job creation and competitiveness.

13 December 2012

MULTIANNUAL FINANCIAL FRAMEWORK 2014 – 2020: NEGOTIATING BOX

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

I write to you regarding these two documents relating to the multiannual financial framework, which the Committee considered again at its meeting on 13 November. The Committee also considered the latest revision of the negotiating box, on which the Minister for Europe gave evidence to us on 1 November.

We agreed with the Minister for Europe that further work needs to be done in order to effect reductions in the overall envelope of the MFF, and we were pleased to hear of the work that UKREP and others are doing to ensure that the UK’s voice is heard by our European partners. We agreed with the Minister that the inclusion of ITER and GMES in the MFF was a welcome change in this box, but also noted the reinclusion of text allowing for a ‘contingency reserve’ to be created. We repeat our opposition to the placement of budget lines outside the MFF.

We read with keen interest the commentary by the Presidency on the revenue side of the MFF, and we would reiterate our conclusion from our May report: the UK rebate flows from imbalances in the expenditure side of the framework, and must be protected until serious reform of the CAP is achieved.

Given the fast pace of activity on the MFF expected over the course of the next few weeks, we are content to receive further updates on revisions of the negotiating box, and on the progress of negotiations, by correspondence rather than through the formal scrutiny process. We will retain the October negotiating box (15599/12) under scrutiny until after we have received and considered your Explanatory Memorandum. However, we have cleared the September negotiating box and the Commission’s Amended Proposal for an MFF from scrutiny.

The Committee was very disappointed that your letter to them setting out your initial response to the new negotiating was not received last week, as had been agreed, meaning that the Committee was
unable to take into account the Government’s views as part of its discussion on the October box. Your previous letter to us on these documents was similarly delayed; although dated 25 October, we did not receive it until 29 October, the day before our meeting. It is important that the Committee have time to consider carefully your correspondence and the Government’s position, and we would urge you to ensure that your responses reach us more promptly in the future.

I look forward to a response to this letter before the 22-23 November Council meeting, and would also appreciate a further update by the end of November regarding the outcome of the November Council meeting.

14 November 2012

Letter from the Rt Hon. Greg Clark MP to the Chairman

You will have seen my letter to Lord Teverson of 25 October, giving an update on recent negotiations of the European Union Multiannual Financial Framework (MFF). The latest version of the MFF negotiating box (15599/12) was issued by the Cypriot Presidency on 29 October. As you will know, there have since been further updates and discussions as part of the European Council process of 22-23 November. Given these unusual circumstances, I hope you will appreciate that negotiating box 15599/12 has now been superseded by the events of November European Council. However, I provide a brief summary of that box below for your information.

The October box was the first to include budget figures by heading. The Cypriot Presidency stated that they had found “at least €50+ billion” (commitment appropriations, constant 2011 prices) in reductions from the Commission's July 2012 proposal (document 12356/12). No lower limit for the size of each heading was proposed. The Presidency added that these reductions were found from all headings, though no figures were given for Heading 5 (Administration). The Presidency made clear in the box that these figures were “only a starting point for delegations” and “more sizeable reductions are needed in order to reach a compromise”.

As part of the November European Council process, the President of the European Council presented a new proposal, in the form of draft conclusions. This included a commitment-terms ceiling of €973 billion (£789 billion), with reductions from earlier proposals across the budget although there was no change during the Council in Heading 5 (Administration). While progress has been made in getting these ceilings down, the Prime Minister made clear that this was not enough.

The November European Council was not able to reach agreement on a seven-year budget framework. The Prime Minister rejected a proposal that would have risked UK taxpayers paying for unaffordable increases in the EU’s annual budgets. He did so together with like-minded allies from a number of countries, including Germany, the Netherlands and Sweden. The Government believes a deal next year is still achievable.

On own resources, we have been absolutely clear. The UK abatement is not up for negotiation. We will oppose any changes to the UK abatement and new EU taxes to fund the EU Budget.

28 December 2012

Letter from the Chairman to the Rt Hon. Greg Clark MP

I write in response to your letter dated 28 December, received by us on 9 January, regarding the October negotiating box for the latest MFF (15599/12), which was deposited for scrutiny on 5 November 2012, although no EM was ever submitted. We acknowledge that, in the circumstances, no EM is now required. However in the context of your recent oral evidence session with our Sub-Committee on Economic and Financial Affairs regarding HM Treasury’s scrutiny work, we would again note our dismay at how the scrutiny of the important MFF negotiations has been handled.

We requested a prompt response to our letter of 14 November, as well as a further update from you following the 22-23 November Council, and to receive a letter six weeks late is unacceptable in these circumstances. We may wish to discuss this with you further when you attend on 12 March to give evidence on the MFF and any decisions that may arise from the imminent February Council meeting.

Looking ahead to the meeting that will begin tomorrow, we would again draw attention to the conclusions of our most recent report, in particular our view that programmes that represent European Added Value - particularly in areas that can support meaningful economic growth, such as research and development programmes – should be prioritised, with cuts sought elsewhere in the budget, such as on the Common Agricultural Policy.

6 February 2013
Letter from the Rt Hon. Greg Clark MP to the Chairman

At the 13 March evidence session with your Committee, covering the Multiannual Financial Framework (MFF) negotiations, I offered to provide updates on the state of negotiations as they progressed. The latest development came with the recent release of new draft documents from the Irish Presidency — of the MFF Regulation and Inter-Institutional Agreement on Budgetary Matters and Sound Financial Management.

In order to ensure that your Committee is fully aware of the latest state of negotiations, I am sharing with you the draft documents in confidence, as these documents have not yet been deposited for scrutiny in Parliament.

I am keen that you have sight of these documents in advance, recognising that we are likely to face a compressed timetable for scrutiny when final, formal versions of these documents are released. My officials are ready to help you with any questions on the documents or the process of negotiations from this point.

Neither the MFF Regulation nor the Inter-Institutional Agreement have yet been part of detailed discussions at Ministerial level. However, at official level we have made clear that our top priority for the discussion of these documents is to respect the February European Council conclusions — a point that we have made jointly with other like-minded Member States since these documents were released. As you know, the Prime Minister has also made clear the UK’s position on the process with the European Parliament in his post-European Council statement.

25 March 2013

ROMANIA UNDER THE COOPERATION AND VERIFICATION MECHANISM (5938/13)

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

I write with regard to this document, which the Committee considered at its meeting on 26 February. This Commission Report provides an important background to our inquiry into EU enlargement, which is due to report next week.

We note that a number of the issues highlighted in the Commission’s Report involve a failure on the part of the political class to respect the independence of the judiciary, court rulings, and decisions and reports by the National Integrity Agency. Given some of the evidence we have received in our inquiry that highlights the need for political consensus in order to achieve sustainable reforms, such a failure is cause for concern. However, we are encouraged by the resilience of both the courts and the ANI in such circumstances.

We would be grateful for a response to the following questions arising out of this latest report:

— How are the Government working with their Romanian counterparts in order to tackle the issue of respect for the judiciary, court rulings, and ANI decisions and reports?

— What timeframe is anticipated for new nominations for the positions of Prosecutor General and head of the National Anti-Corruption Directorate, and what steps are going to be taken to ensure a broader and more robust selection process?

We hope to be able to discuss this matter with you in further detail at our evidence session on 26 March, but would ask for a response to this letter within the usual 10 working days, as well as further updates prior to the Commission’s next report.

We will retain the Report under scrutiny until we have had your reply, but as we understand that the Council will be imminently considering Conclusions on the Report, are willing to grant a scrutiny waiver in these circumstances.

27 February 2013
Letter from the Rt Hon. David Lidington MP to the Chairman

Thank you for your letter dated 27 February. I am grateful to the Committee for granting a waiver in order to allow Council Conclusions to be agreed before the Committee discusses the CVM report at its meeting on 26 March.

In your letter you ask two questions on behalf of the Committee relating to the CVM report.

How are the Government working with their Romanian counterparts in order to tackle the issue of respect for the judiciary, court rulings, and ANI decisions and reports?

We have been working very closely with the Romanian Government on justice sector reform and anti-corruption issues. These issues are frequently raised with the relevant authorities by the British Ambassador, visiting Ministers and senior officials. The UK has also funded a number of projects designed to boost the capacity of the judiciary and the anti-corruption agencies. This year we are focussing our efforts on: business ethics; tackling corruption in public procurement (a concern highlighted in the last CVM report); addressing conflicts of interest and supporting the capacity of the integrity unit in the Ministry of Health. In previous years, we also co-funded a project with the US Embassy to teach judges how to apply the new law governing the National Integrity Agency (ANI) and funded a study to address Court delays in high-level corruption cases.

What timeframe is anticipated for new nominations for the positions of the Prosecutor General and head of the National Anti-Corruption Directorate, and what steps are going to be taken to ensure a broader and more robust selection process?

I have raised this with Romanian government Ministers during my visit to Bucharest this week. No exact time frame has been set for re-launching the new process to appoint a General Prosecutor and Head of the National Anticorruption Directorate (DNA). The British Embassy will continue to take a close interest in the appointment procedure in line with the recommendations in the latest Co-operation and Verification Mechanism report and I will write again with a further update.

I hope that this answers your queries, but please let me know if there is anything more you and the Committee would like to follow up. I look forward to discussing these issues with you at your evidence session on 26 March.

13 March 2013

Letter from the Rt Hon. David Lidington MP to the Chairman

I am writing to update you on progress by Romania on judicial reform and anti-corruption measures.

On 27 March 2013 Prime Minister Victor Ponta, in his capacity of acting Minister of Justice, announced his nominations for the posts of Head of the National Anti-Corruption Directorate and General Prosecutor, together with four other key senior prosecutorial positions. The two top positions have been vacant since August 2012.

Although the Prime Minister, in his capacity as acting Justice Minister, did not run a new application process (as recommended by the European Commission), the nominations have been carried out legally. According to Romanian law the Justice Minister nominates the candidates; the Superior Council of Magistracy (the body that oversee the judiciary) issues an advisory opinion and the President makes the appointments. The appointment process is expected to be completed by mid-May, when the Superior Council of Magistracy will hold public hearings with the candidates, after which the President will sign off the nominations.

It is positive that these nominations have now been made, with both the Prime Minister’s and the President’s support. The appointment of the two top prosecutors had become a matter of urgency. Provided the appointments are confirmed by the Superior Council of Magistracy and signed off by the President, this will be a step forward for the rule of law and tackling corruption in Romania. A strong and independent body of prosecutors remains crucial for real progress against high level corruption in Romania.

24 April 2013
Letter from the Chairman to Ivan Rogers, Prime Ministers Adviser on European and Global Issues, Cabinet Office

Thank you for your letter of 22 October setting out the latest list of scrutiny overrides, as agreed between your officials and the clerks of the EU Select Committee and its sub-committees. I have tabled the usual Parliamentary Written Question and received a Written Answer from Baroness Warsi, which puts these figures on the record.

I note that both your letter and Baroness Warsi’s Written Answer [not printed] refer to parliamentary recesses as a cause of overrides. This is something that I have also discussed with the Minister for Europe earlier this month. As you may be aware, in urgent circumstances, the Lords Committee has a scrutiny waiver system in place, and I hope that you will encourage your colleagues in the departments to communicate promptly with our staff if an override appears likely during a recess, so that the waiver mechanism can be used. The Select Committee and its Sub-Committees can and do meet during parliamentary recesses when necessary, and several met during September this year.

For the next set of overrides from July – December 2012, we will pay close attention to when overrides occurred and whether there is anything further that can be done by the Committees or the departments in order to avoid them in future.

28 November 2012

Letter from Ivan Rogers to the Chairman

I enclose the latest list of scrutiny overrides, covering the period July to December 2012, as agreed between our teams. The list provides a commentary on each item and a short description of the reason for each override, which I hope you find helpful. Of the 29 items listed, 19 were overrides in the House of Lords. Our observations on the overrides are summarised here:

— CFSP Proposals: Proposals in this area always incur the largest number of overrides (15 on this occasion). These cases are characterised by very late release for scrutiny owing to their sensitive / classified nature, or accelerated timetable for agreement by Council. In many cases, restrictive measures can be the subject of several related instruments that are all agreed at the same Council; this occurred three times with Syria resulting in seven overrides; and twice on Iran resulting in five overrides. I am aware that both Committees recognise the urgent nature of this business, as can be noted from the commentary against each FCO override. I do note though that you expressed particular concern about the handling of one FCO measure on Moldova. I hope that the now established practices, including early warning letters to indicate urgent forthcoming business particularly around recess periods, delaying decisions in Brussels, and close working between FCO officials and the Committee clerks, are helping to keep the Committee better informed of potential overrides in this category.

— Partial General Approaches: One BIS override recorded for your Committee was on a measure where a partial general approach had been reached. In this case the commentary notes that you had further questions about comitology provisions and timing of the decision before the proposal was cleared.

— Classified texts and accelerated timetable for agreement: The three remaining overrides in your Committee were all HM Treasury proposals in this category.

I have seen your correspondence with the Minister for Europe about working closely with the Committee to comply with scrutiny commitments and the general principles underpinning that correspondence apply equally to the flow of information to the Committee to avoid overrides where practicable.

We will continue to work with your clerks and departments to promote the importance of early engagement with your Committee, and effective follow up on proposals retained under scrutiny. Your Clerk’s attendance at the Scrutiny Co-ordinators’ network meeting on 21 March was much appreciated and a demonstration of putting this collaborative approach into practice.
Letter from the Chairman to Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development

I write to you regarding this document, which the Committee considered at its meeting on 5 February.

The Committee agreed to clear the document from scrutiny. However, we would like to express our disappointment at the explanatory memorandum that we have received, which provided only a brief summary of the document and very little analysis or explanation to go alongside it. We appreciate that the Annual Report is somewhat historical, given that it covers 2011, but would have expected a more extensive EM that provided a more up-to-date picture.

With that in mind, we would be grateful for a response from you on the following points.

Given that a full year has elapsed since the end of the period covered by this Report, what is your initial assessment of the actions that the Report records were to take place throughout 2012. Have the goals been met and the necessary steps forward been taken? What is your view on the candidate and potential candidate countries’ current capacity to manage EU funds? What is the current assessment of the regional cooperation between the Western Balkans countries, and any further progress that may have been made?

The Commission document itself provides tables indicating the status of implementation of IPA funding up to the end of 2011. We note with particular concern the apparently very slow rate of spend in many of the relevant countries and would be grateful to know the UK Government’s views on this. We support the IPA and its aims, even when the recipients are middle-income countries. Could you provide us with an update on how these figures have changed over the course of 2012? What financial implications is the failure to convert commitments into actual spending likely to have?

Your EM notes the importance of DFID working closely with the FCO now that DFID’s office in Kosovo has closed. Could you provide some further information as to how your department and the FCO are currently working together regarding IPA-II programming, given that the MFF for 2014-20 is hopefully soon to be agreed?

We would also be grateful for an update now regarding the outcomes of the IPA-II conference of 25 January.

As you may be aware, our Committee is currently conducting an inquiry into EU enlargement, and the Minister for Europe has recently written to us setting out some examples of the UK’s involvement in twinning programmes under the IPA. A copy of his letter is enclosed. We would be grateful for any further comments that you may have regarding the efficacy of IPA funding. We would be particularly interested to know: what proportion of IPA funding you would estimate as going to state actors versus non-state actors such as NGOs; whether or not you see a case for increasing the access of non-state actors to EU assistance for enlargement; and how you think that might be best achieved.

I look forward to a response to this letter within 10 working days (by 20 February) in order that the further information can inform the preparation of our report on EU enlargement.

6 February 2013

Letter from Lynne Featherstone MP to the Chairman

Thank you for your letter of 6 February asking for further information arising from the EM on the 2011 Annual Report on Financial Assistance for Enlargement. I apologise that the original EM did not address all your questions and I am happy to provide the additional information you require.

You asked for an initial assessment of the actions that the Report indicated should take place in 2012. In my opinion the Commission has made good progress on a range of management issues. DFID welcomed the Commission’s introduction of a sector wide approach (SWAP) as this is something we had lobbied for. A potential concern has been whether the Commission would follow this up with the training necessary to embed the mechanism into day to day practice. We are now pleased to see
that training has become a foundation of the planning system and will monitor how well it is being implemented during discussions at the IPA Management Committee.

The Report also refers to a Joint Commission and World Bank project on monitoring, indicators and evaluation to begin in 2012. DFID is closely following this work and have a UK Seconded National Expert in DG Enlargement’s Evaluation Unit. The main benefit of this work should be to provide expertise to national staff on best practice on the use of indicators and aims to address concerns about the quality of indicators raised in the IPA Medium Term Evaluation of February 2011. Going forward it will also contribute to the results-based agenda proposed under IPA-II.

You asked for my view of the capacity of candidate and potential candidate countries to manage EU funds. An important aspect of IPA support is how it builds institutional capacity with the long term aim to receive structural and cohesion funds on countries eventual accession. The creation of Decentralised Structures (DIS) for IPA programme implementation helps countries align their procedural systems to those of the EU. Nevertheless, it is clear that beneficiary countries consider IPA to be a challenge and have raised concerns that current rules are too demanding, there is an excess of controls and that the “one size fits all” approach to programming is inappropriate. The UK has long been aware of these criticisms and has pressed for these to be addressed in IPA-II.

You asked for an assessment of regional cooperation between Western Balkan countries. Regional cooperation is essential for the region to overcome the legacies of the past including the violent conflict of only two decades ago and work together towards a more secure and prosperous future. It is also crucial for the region to work together on issues of regional interest such as tackling organised crime and corruption. We believe cooperation is improving but there continues to be more to do. That is why we welcome the inclusion of the multi-beneficiary programme equivalent to 9% of the overall IPA allocation in 2013 to provide practical support to regional cooperation. Examples include support to the Regional School of Public Administration to strengthen administrative capacity and the Western Balkans Investment Framework to leverage investment in sectors such as transport and water and sanitation. We will encourage targeted and effective projects through IPA II to build on this effort. As with other elements of IPA II, it remains important that the programme spend is fully joined up with political activity by the EU aimed at improving regional cooperation.

You noted the slow rate of spend in many countries. The cause is a combination of complex IPA processes and the lack of administrative capacity amongst beneficiary institutions. The programming of assistance from identification to implementation can take more than two years as it includes extensive discussions with government, stakeholders, Members States and international competitive tendering procedures. This is clearly a hurdle for the effective management of IPA. DFID has raised both IPA procedural and country capacity issues with DG Enlargement staff within the last year. Proposals for IPA-II aim to simplify the programming process by setting the strategy for each partner country over a full 7 year duration and by matching the allocation of funds more closely to the ability of governments to absorb funding. We believe this new approach will make for a better quality instrument, improve the time needed to get programmes to implementation and as a result increase the rate of disbursement of funds. Unfortunately, I don’t have an update on the 2012 figures but we will ask the Commission for these and update you when these are available.

Now that DFID has closed its last office in Europe, it is important that DFID and FCO work closely on the preparation of IPA-II. The relationship between the two departments takes account of the FCO policy lead on enlargement and DFID’s specialist expertise on development. Since the beginning of IPA-II discussions we have worked together to agree the UK position, participate in the COELA Working Group and instruct UK posts on engagement with EU Delegations. The next key point in the IPA-II programming cycle is the publication of the draft Country Strategy Framework and Country Strategy Papers which will be circulated during 2013.

The IPA conference of 25 January continued the consultation exercise undertaken by DG Enlargement on the development of IPA-II. Commissioner Fule introduced the event emphasising that IPA-II must be more efficient, have less red tape, provide incentives for the best performers and allow for faster more flexible funding. Other contributors outlined the new administration arrangements, particularly the format of new Country Strategy Papers, and the new policy areas including employment, human resources and agriculture. Country representatives welcomed the new IPA structure and there was widespread support amongst conference delegates for IPA-II.

You asked for the proportion of IPA funding going to state actors versus non-state actors. Approximately €231m (£269m) or 2% of IPA has been committed for non-state actors and civil society. We believe there is a case for increasing this assistance given the challenges faced in the fields such as rule of law, corruption, organised crime, the economy and social cohesion. Civil Society Organisations (CSOs) can make a substantial contribution to addressing many of these by creating a
demand for increased transparency, accountability and a greater focus on the needs of citizens in policy making. Civil society in IPA beneficiary countries has grown stronger during the past decade but it still needs to improve its representation by strengthening its membership base and geographical outreach. IPA support for civil society should also aim to move away from short term projects and towards longer term support based on a partnership model that fosters coalition building and networking among CSOs. This matter will be addressed at a future meeting of the IPA Management Committee.

Regarding the efficacy of IPA, the independent ROMS Monitoring system states that over 70% of external assistance projects were rated as good or very good. In DFID’s view, IPA is broadly effective but not operating at optimum efficiency and our previous experience of working with EU Delegations in country is that it tends to work in too many sectors and be engaged in too many small programmes. Also, the IPA Mid Term Evaluation concluded that funding could be better by improving the quality of the programming documents, but that notable improvements had been seen in this largely attributed to the growing capacity of beneficiary country governments through their National IPA Coordination units. The IPA-II instrument is an opportunity to make big changes to IPA so that it works to a much higher standard and that we have a clear understanding of the results being achieved.

20 February 2013