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 18 May to 29 November 2010.

EUROPEAN UNION SELECT COMMITTEE

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COMMON SECURITY AND DEFENCE POLICY

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

Thank you for your positive and proactive engagement in our recent meetings on how inter-parliamentary oversight of the EU Common Security and Defence Policy (CSDP) should be structured once the Western European Union Assembly is wound up.

I welcome your draft constitution and judge it provides a good basis for parliamentary discussion. In particular, I support your proposals that the new structure should add value to national scrutiny systems and that costs are borne by the ‘troika’ parliaments. I also welcome that third states, such as EU candidate countries, will have a standing invitation. Given their important and valuable role in CSDP and the key partnership between the EU and NATO on security matters, I strongly believe that other countries - notably Norway - but also other non-EU European NATO members should be invited as a matter of course.

The date for closing the WEU Assembly, 30 June 2011, is fast approaching. I believe we share concerns that the European Parliament’s influence may increase if there are no arrangements for inter-parliamentary debate in place by then. I therefore urge that the necessary arrangements
between EU national parliaments and the European Parliament to decide on the new body be taken forward as a matter of some urgency, especially considering the potential difficulty in reaching an agreed arrangement at 27 plus the European Parliament. Understanding that it is for parliaments to drive this process, I am happy to consider ways I could expedite this process.

29 November 2010

CODECISION AND NATIONAL PARLIAMENTARY SCRUTINY

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

On 20 July, my Committee discussed guidance for handling limité documents agreed between officials in the Cabinet Office, the Clerk to my Committee and Clerks in the House of Commons. I am writing to let you know that the Committee agreed the guidance without amendment; I attached a copy for the avoidance of doubt.

The Committee is grateful for these new arrangements, which should mark a real step forward in Parliamentary scrutiny of EU decision-making. As a result of the Committee's discussion, I would be grateful if you could provide us with details of what the criteria are for documents to be given the limité marking in the first place.

23 July 2010

EU BILL: PROGRAMME FOR GOVERNMENT

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

As you will be aware, the UK Coalition Government published a Programme for Government when we entered office in May this year. That Programme set out our firm commitment that Britain should continue to play a strong, positive and active role in an enlarged European Union. We want an open, external market, and we support the negotiation of new EU Free Trade Agreements. We want to strengthen and expand the single market, including the energy market, in order to deliver growth. We want to promote a resource efficient, low carbon EU economy. And we want to work through the EU to achieve our international objectives. In order to deliver this, we are engaging effectively and constructively with the EU and with our European partners, and we will continue to do so.

However, many people in Britain feel disconnected with how the EU has developed, and the decisions that have been taken in their name. By rolling out control of these decisions to the people, this Coalition Government believes that we can help rebuild trust and reconnect people with these EU decisions. In order to do this, I will today introduce a Bill into Parliament which will deliver the commitments in the Programme for Government and give people more control over decisions made by the Government on the EU in their name. The Bill is available to download on the Parliament website or from the FCO website at www.fco.gov.uk/eubill.

The Government has already been clear that there should be no further transfer of power or competence from the UK to the EU over the life of the current Parliament, which lasts until 2015. This Bill ensures that if in the future there is a new change to the EU Treaties that moves a power or an area of policy or competence from the UK to the EU, then the Government will have to have the British people's consent in a national referendum before it can be agreed.

Any Treaty change, whether using the Ordinary or Simplified Revision Procedure, will need to be approved by an Act of Parliament, even if it does not transfer competence or power from the UK to the EU, before the UK can ratify that new Treaty or decision. But any change which would not transfer power or competence from the UK to the EU, such as accession treaties, or treaties which only apply to the Eurozone, would not require a referendum as a result of this legislation.

This Bill also ensure that the use of any ratchet clause (or passerelle) will also require primary legislation before the UK can approve it, in a mechanism modelled closely on the requirements of the German Parliament.

Where a passerelle would amount to the transfer of an area of competence or power from the UK to the EU, then the Government will have to have the British people’s consent in a national referendum before it can be agreed.
The Coalition Government has also examined the case for a United Kingdom Sovereignty Bill in accordance with the Programme for Government, to make clear that ultimate authority remains with Parliament.

Following that examination, we have decided to include a clause which makes clear that it is only by virtue of primary legislation passed by the UK Parliament that directly applicable or directly effective EU law falls to be recognised and available in law in the United Kingdom.

Should you have any questions or would like further information on the Bill please do not hesitate to contact my office or visit the FCO website at www.fco.gov.uk/eubill.

11 November 2010

FORTHCOMING FIRST SESSION LEGISLATION: PARLIAMENTARY SOVEREIGNTY

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

I am writing to inform you that today the Government has laid a Written Ministerial Statement in the House of Lords setting out our intention to include a provision affirming the principle of Parliamentary sovereignty in the forthcoming European Union Bill. A copy of the Statement is attached for your information. I will lay this Statement in the House of Commons on its return next week.

I shall of course keep you informed of further developments as the Government prepares the Bill for introduction, and I would be pleased to respond to any queries which you may have in advance of the publication of the Bill.

6 October 2010

LISBON TREATY: COMPOSITION OF THE EUROPEAN PARLIAMENT

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

As you are aware, the EU Treaties as amended by the Treaty of Lisbon provide for the allocation of 18 extra MEPs to 12 Member States, including the UK which gains 1 extra MEP. The number of MEPs from Germany is also reduced by 3. However, as you are also aware, last year’s European Parliament elections were held under the provisions of the Nice Treaty, given that the Lisbon Treaty had not at that stage entered into force, and so these additional MEPs were not elected at that time. To allow the extra MEPs provided for to be elected in the current 2009 – 2014 European Parliament and without the 3 German MEPs having to stand down in the middle of a term of office, transitional arrangements are needed to enable the number of MEPs to temporarily exceed the limit of 750 plus the President which is laid down in Article 14(2) of the Treaty on European Union.

The basis for the transitional arrangements was first set out in the December 2008 European Council Conclusions. As set out in the then Minister for Europe’s letter to the Committees on this issue of 14 December 2009 those Conclusions state that: “In the event that the Treaty of Lisbon enters into force after the European elections of June 2009, transitional measures will be adopted as soon as possible, in accordance with the necessary legal procedures, in order to increase, until the end of the 2009-2014 legislative period, in conformity with the numbers provided for in the framework of the IGC which approved the Treaty of Lisbon, the number of MEPs of the twelve Member States for which the number of MEPs was set to increase. Therefore, the total number of MEPs will rise from 736 to 754 until the end of the 2009-2014 legislative period. The objective is that this modification should enter into force, if possible, during the year 2010.”

The June 2009 European Council Conclusions then confirmed that the European Council: “recalls its Declaration of December 2008 on transitional measures concerning the composition of the European Parliament. Once the condition set in its Declaration of December 2008 is met, the necessary steps to implement these measures will be taken by the Presidency.”

As outlined in the then Minister for Europe’s letter in December, the Spanish government submitted in December 2009 a proposal to the President of the Council to launch a consultation without the European Commission and European Parliament to convene an IGC without holding a Convention beforehand given the limited scope of the provisions. Both the European Parliament and the European Commission consented to the IGC without a Convention. In order to make the required
transitional changes, the Member States of the EU agreed a Protocol containing transitional arrangements concerning the composition of the European Parliament, via a very limited Intergovernmental Conference (IGC) in the margins of the 23 June meeting of the Committee of Permanent Representatives of EU Member States.

As with all Treaty changes, the Protocol now requires ratification from all Member States before it can enter into force. Any amendment to the EU Treaties can only be ratified by the UK if it is approved by Act of Parliament. This is set out in section 5 of the European Union (Amendment) Act 2008. Parliament therefore needs to pass primary legislation before the Protocol needs to be ratified in the UK and the Government intends to include the necessary provision in the forthcoming European Union Bill.

This is a technical change to the Treaty relating to numbers of MEPs and does not transfer any power or competence from the UK to the EU. The additional numbers of MEPs are entitled to take their seats in 2014 – this Protocol simply means that they will be able to do so earlier than this date.

2 July 2010

PARLIAMENTARY OVERSIGHT OF EU SANCTIONS MEASURES

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

As part of my wider commitment to keeping Parliament informed of the Government’s activity, I am writing to outline how I propose to keep you informed of Government policy on EU sanctions regimes.

WRITTEN MINISTERIAL STATEMENTS

FCO Ministers will announce new sanctions regimes and significant changes to existing regimes by means of a Written Ministerial Statement soon after the sanctions measures are adopted. A statement will be issued when either the UN or the EU agrees to:

— impose a new sanctions regime
— extend the duration of an existing sanctions regime
— significantly alter an existing sanctions regime
— lift a sanctions regime

However, the FCO will not issue a Written Ministerial Statement for non-substantive changes to a sanctions regime, such as updating a list of dual use items, or adding or removing names to an assets freeze or travel ban list. In addition to separate statements, every autumn the FCO will issue a Written Ministerial Statement informing Parliament of all the sanctions regimes which the UK implements.

I will send a copy of these Statements to the Committees to keep you in touch with developments.

EUROPEAN SCRUTINY

We will continue to submit Explanatory Memoranda to the European Scrutiny Committees setting out the policy, financial and legal implications of the Council Decisions and Council Regulations adopted to implement sanctions measures.

FCO Ministers will, where possible, write to the Scrutiny Committees between six and eight weeks in advance of a sanctions negotiation, informing the Committees of the upcoming negotiation and of the UK’s high-level position. In line with Cabinet Office Scrutiny Guidance, the FCO will subsequently submit an Explanatory Memorandum to the Committees, copied to the Foreign Affairs Committee, as soon as a draft Council Decision and/or Council Regulation has been received, in the following circumstances:

— a new EU autonomous sanctions regime is being adopted
— a new sanctions regime is being adopted to translate UN sanctions measures into EU law
— an existing EU sanctions regime is being extended
— substantive changes are being made to an existing (either UN or EU autonomous) sanctions regime
— a sanctions regime is being lifted

Where a sanctions regime is being adopted to translate UN sanctions measures into EU law, the FCO will also provide the text of the relevant UN Resolution. Once negotiations are complete, the FCO will send a copy of the final Council Decision and/or Council Regulation to the Committee, along with a letter informing them whether there have been substantive changes in the final text, and their significance.

However, the FCO will not submit an Explanatory Memorandum to the Committees when the draft Council Decision and/or Council Regulation only contains proposals to:

— make minor changes to lists of people or organisations subject to restrictive provisions in existing measures
— make minor changes to lists of goods that are subject to an embargo
— extend measures imposing sanctions in pursuance of UN Security Council resolutions, without making substantive changes to the UN measures

Instead, FCO officials will contact Committee officials with information about such upcoming changes in good time prior to the proposed changes, with an explanation of how they are technical and/or minor. Committee officials will then indicate to their FCO counterparts that they are content for them not to be deposited, or explain why they would like them to be deposited with an Explanatory Memorandum. The FCO will not submit Commission Regulations, as they are not subject to scrutiny requirements.

The FCO will do everything possible to avoid an override. However, an override may be necessary, for example if sanctions negotiations are completed whilst Parliament is in recess. In these instances, we will provide the Committees with as much information as possible before recess, and submit an Explanatory Memorandum for their consideration upon their return.

If you are content with the above approach, I will instruct officials to take forward arrangements.

3 August 2010

PARLIAMENTARY SCRUTINY OF EU DOCUMENTS

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

Following the informative evidence session we had with you on 6 July, we would like to respond to your question as to how parliamentary scrutiny of EU documents can be improved and the role of the Government in achieving this. As a Committee, we take our scrutiny role very seriously, ensuring that we consider important EU documents and other matters relating to the EU in advance of decisions being taken on them in Brussels and hold the Government to account to the Parliament of the UK for their actions at EU level. We are proud of the success of the Committee and its Sub-Committees in scrutinising items in depth, complementing the work of the House of Commons European Scrutiny Committee. In order to assist us with this work, we would like to remind you of a number of the Government's existing obligations with regard to scrutiny.

Firstly, we would like to stress the importance of departments submitting explanatory memoranda (EM) to Parliament on time and of ensuring that these provide a full and proper account of the scrutiny item concerned and the Government's policy thereon. In particular, the explanation of subsidiarity should be relevant and thorough. You will of course realise that following the introduction of the reasoned opinion and opt in procedures, we will not be ready to grant an extension on an EM relating to a legislative proposal which is subject to either procedure.

Secondly, regarding correspondence on scrutiny items, we would like to see swifter responses to our letters, keeping to the ten working day deadline. We appreciate that some responses, such as those updating the committee on a particular council meeting, will necessarily take longer. We therefore spell out when a prompt response is required and when there is greater room for flexibility, as also when we do not require a response to a letter.

Thirdly, we consider overrides of the scrutiny reserve a serious matter, and, in order to help avoid this, we request that fair notice be given when an override looks likely. Arguably the best way to increase confidence in UK parliamentary scrutiny of the EU would be to reduce overrides to a minimum, with a full explanation in every case.
Fourthly, we would also like to remind you of some of the main conclusions in our 17th Report (2008-09): Codecision and national parliamentary scrutiny (HL Paper 125) which considered how to minimise difficulties in conducting effective scrutiny of proposals subject to the ordinary legislative procedure. In particular, the Government must provide us with sufficient information on changes and proposed changes to proposals to allow us to comment before UK Ministers agree to them, including supplying limited documents where necessary.

Fifthly, we continue to urge Ministers to recognise the importance of every department working hard to keep Parliament fully informed of the progress of negotiations on EU legislation and to impress this on their officials. We also believe that the Cabinet Office should be more proactive in monitoring and enforcing the application of its scrutiny guidance by departments. In this context, we believe that examples of best practice could be disseminated across Whitehall. For example, BIS has responded well to past criticism of its performance and now has a very good record, running regular training sessions for those involved in the scrutiny process and having a full time scrutiny co-ordinator in place to oversee matters.

Finally, one change which we recommended in our report, and which is yet to be acted upon, was an arrangement to allow our EU Liaison Officer to view and forward Council documents related to codecision negotiations. We believe this would be beneficial and would appreciate it if you would give this matter serious consideration.

I hope that you will find these points useful as you reflect further on how parliamentary scrutiny of EU documents can be improved.

23 July 2010

REVISED FRAMEWORK AGREEMENT

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

I attach for the attention of the European Union Select Committee an advance copy of the "Revised Framework Agreement on relations between the European Parliament and the Commission", recently agreed between the Parliament and the Commission and due to be formally adopted by both institutions at the European Parliament's full plenary session on 20 October.

The Framework Agreement updates an existing agreement which has governed the relations between the European Parliament and the European Commission since 1990, and which was last updated in 2005. The new text has been negotiated given the new mandates of European Parliament and Commission, updated to reflect the entry into force of the Lisbon Treaty. The Framework Agreement defines the political responsibilities of each institution towards the other, lays down rules for the flow of information between them and aims to improve the planning and co-ordination of the two institutions' legislative procedures.

The latest version of the Framework Agreement was first issued to the Council on 29 July. There has been concern expressed within the Council that the Framework Agreement 'could potentially breach the requirement for the Commission and the European Parliament to act within the limits of the powers conferred upon them by the Lisbon Treaty; by both conferring powers on the European Parliament beyond the Treaty (i.e. on access to confidential information and a greater role in international negotiations) and limiting the Commission's autonomy (i.e. during the legislative process and in requesting the resignation of Commissioners).

In light of the above there has been discussion within the Council as to whether the Council should issue an official declaration noting its intention to monitor the operation of the Framework Agreement and reserving its right to bring a legal challenge before the Court of Justice at a later date, if it considers that either or both institution subsequently applies the Framework Agreement in a way contrary to the Treaties.

Of course, I am extremely concerned over any potential undermining of the interinstitutional balance as set out in the Treaties arising from the Framework Agreement. Accordingly, the UK has been in the forefront in pushing within the Council to secure a robustly worded Council declaration in response to the Agreement, and will continue to push this line as discussions on these texts progress within the Council. I will of course keep the Committee informed of further progress.

15 October 2010
Letter from David Lidington MP, Minister of State for Europe and NATO, Foreign and Commonwealth Office, to the Chairman

I am writing to explain the delay in submitting this Explanatory Memorandum.

Due to the cross-cutting nature of this Commission document, I wanted to ensure that the government’s explanatory memorandum fully reflected the views of all departments concerned. Clearly, it has been a time of great change in Government and accordingly departments needed some time to adjust and reflect on the policies of the new coalition. Final agreement from all departments was only received on Friday 18th June, and we have submitted the Explanatory Memorandum as soon as possible thereafter. But I would nonetheless like to apologise for the delay.

However we do take these issues seriously, so I have committed to hold a debate on this document in the Westminster Hall on Government time.

29 June 2010

SCRUTINY: DOSSIERS OF INTEREST

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

Congratulations on your appointment as Chairman of the Select Committee on the European Union.

As you know, this Government is dedicated to getting the scrutiny system right. Scrutiny is a top priority for us and I have already asked officials to look at how they can meet our obligations on scrutiny. This Government is looking at ways that parliamentary control, scrutiny and accountability over EU decision making can be strengthened, this includes discussion of the role that Parliamentary scrutiny plays in holding the Government to account on EU decision making. As the Chair of the committee responsible for scrutiny of the EU, I would welcome an opportunity to hear your views and discuss ideas.

With a view to informing you fully in your role as Chair of the European Scrutiny Committee, I thought it would be helpful to include a list of all Explanatory Memoranda (EM) that I have signed off as Minister for Europe. These documents fall into two categories, those that were agreed prior to the election and those agreed and signed off by me following the election. Officials at the Foreign and Commonwealth Office kept the Clerks of your Committee fully informed during the election period with unsigned EM’s being completed prior to agreement at Council. I have deposited a similar list on behalf of Government as a Written Ministerial Statement, which I also attach for convenience.

Of those agreements signed off whilst the Committee was not sitting I wanted to flag up the following, as significant or of historical interest to the Committee. You will see that there is also a list of all EM’s yet to be submitted to the Committee, which should be with you shortly for consideration.

The dossiers that may be of particular interest to you are noted below.

COMMON SECURITY AND DEFENCE POLICY

Kosovo: The Council agreed on 8 June to extend the mandate of the EU Rule of Law mission – EULEX – Kosovo, for two years with minimal mandate changes. This included a technical extension, from the current budget, until October. A new financial reference amount will be adopted at a future date.

Afghanistan: The Council Decision on 18 May 2010 agreed to extend the mandate of the EU Police Mission in Afghanistan (EUPOL Afghanistan) for three years, until 30 May 2013. Under this Decision, EUPOL Afghanistan will significantly contribute to the establishment, under Afghan ownership, of sustainable and effective civilian policing arrangements.

An Explanatory Memorandum regarding the Council Decision on The Status of Mission Agreement for EUPOL Afghanistan was delivered to the Committee on 8 June 2010. This sets out in detail the privileges, immunities and guarantees required for EUPOL Afghanistan. It is the UK’s judgement that the agreement will help to avoid confusion in country about the mission’s role and the status of international personnel. However, there has been an unexpected last minute delay in negotiations with the Government of Afghanistan which meant that the Council Decision was not adopted at the 14 June FAC. It is unclear at present when the Council will decide.
Guinea Bissau: The mission EUSSR Guinea Bissau’s mandate was due to expire on 31 May. The Council agreed to extend the mission’s mandate until 30 September 2010 in order to evaluate whether conditions in the country were ripe for further security sector reform following a military mutiny on 1 April.

SANCTIONS

Somalia: On 12 April 2010, the UN Sanctions Committee responsible for the Somalia sanctions regime decided to list one organisation (Al Shabaab) and eight individuals under UNSCR 1844. These were implemented by the EU on 26 April 2010 by Council Decision 2010/231/CFSP, which repealed Common Position 2009/138/CFSP and brought all the restrictive measures under one Council Decision, and Council Regulation (EU) No 356/2010.

Burma: Under the provisions set out in the Common Position (now Council Decision), the European Council is required to renew its sanctions measures on Burma every 12 months. The last renewal took place on 27 April 2009, and the measures were due to expire on 27 April 2010. HMG’s position at the time of negotiations was that there should be no easing of sanctions on Burma in the absence of tangible progress. We therefore sought a renewal of the restrictive measures for a further 12 months. The EU adopted Council Decision 2010/232/CFSP renewing restrictive measures on Burma on 26 April.

THE COMMISSION WORK PROGRAMME FOR 2010

The Commission issued its Work Programme for 2010 on 31 March. For the first time this Work Programme provides a multi-annual overview, aiming to give stakeholders more forewarning of Commission plans for coming years. The Work Programme prioritises tackling the financial crisis, building a citizens’ agenda, the external agenda and modernising the EU’s ways of working. An Explanatory Memoranda giving the new Governments’ views on the Commissions’ proposals has just issued, although I understand that this was delayed. The Government is seeking to set aside time in the Westminster Hall for a debate on the Work Plan.

The annexes attached period a full list of the other, more routine, items agreed whilst your Committee was dissolved. I am happy to give more information on any of these decisions via correspondence.

I look forward to meeting and working closely with you and your Committee in the future.

28 June 2010

THE INITIATIVE OF THE FRENCH GOVERNMENT TO AMEND THE STATUS OF SAINT-BARTHÉLEMY

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

I am writing to let your Committee know that the European Council, on an initiative from France, has amended the status of Saint Barthélemy (a French overseas territory in the Caribbean) with regard to the EU. This amendment has meant Saint Barthélemy has moved from being treated as an “outermost region” of the EU to which the treaties apply to an “overseas country and territory” (OCT) to which special arrangements for association with the EU apply. The French requested a change to the EU Treaty status because the specific features of Saint Barthélemy - its remoteness from the mainland, its small insular economy largely devoted to tourism and subject to difficulties in obtaining supplies which hamper the application of Community standards of ordinary law, and its institutional status within the French Republic - make the status of an OCT the most suitable status for this territory’s relationship with the European Union.

The amendment is a French domestic matter, and has no direct implications for the UK, or the EU more widely. Although the status of Saint Barthélemy with regard to the EU has been amended the Treaties already allowed for this amendment in status to take place. The amendment was done under Article 355 (6) TFEU. Under this Article, “The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status with regard to the Union of a Danish, French or Netherlands country or territory referred to in paragraphs 1 or 2”. In this case, the European Council has adopted a decision on an initiative from France as the Member State concerned to amend the status of Saint-Barthélémry, which is referred to in Article 355 (1)(TFEU).
The amendment moved Saint Barthélemy from an ‘outermost region’ of the EU (listed in Article 349 and Article 355(1) TFEU) to which the provisions of the Treaties apply, to an ‘overseas country and territory’ referred to in Article 355(2) TFEU and listed in Annex II to the Treaties, for which special arrangements for association set out in Part Four of the Treaty. In reality, this means that Saint Barthélemy will no longer be subject to the acquis and instead will become one of the overseas countries and territories associated with the EU.

Following the French initiative to amend the status of Saint Barthélemy with regard to the EU, the European Council consulted the Commission, as required by Article 355(6) of the Treaty of the Functioning of the European Union (TFEU). The European Commission published an opinion concluding that the change of status of Saint-Barthélemy does not raise any particular difficulties with regard to EU law, although certain technical amendments to secondary legislation will be needed. In order to protect the Union’s interests beyond the change of status, the Commission considers it important for agreements to be concluded between France and the European Union on:

— Keeping the euro and the legislation on the smooth functioning of Economic and Monetary Union, and
— Good fiscal governance, specifically mutual fiscal assistance and cooperation in the area of business taxation.

I mistakenly did not recognise this issue as one likely to emerge as an inter-institutional document as defined by the Committees’ terms of reference and judged that it did not require scrutiny when this issue was discussed in Brussels over the summer. When a final document was issued as a formal communication from the Commission submitted to the Council, the Cabinet Office consulted the staff of the Committees on 25 October on whether the document should be deposited in view of the fact there would be no direct impact on the UK. This consultation resulted in the document being deposited for scrutiny and an EM was then commissioned. The UK agreed to the change in status at the October European Council as there were no direct implications arising from this decision for the UK.

I regret that consideration was not given to the potential impact for the scrutiny process of this proposal during the summer; that neither committee was able to scrutinise the proposal before the European Council at which it was approved, nor that I was able to write to the Committee before the European Council.

11 November 2010

Letter from the Chairman to David Lidington MP

Thank you for your letter of 11 November about the Commission Communication on this subject. I agree with your assessment that this is not a matter that concerns the UK, and have therefore cleared the document from scrutiny.

The fact that no document was deposited for scrutiny until after the European Council had agreed the matter is however a matter of regret, and I am grateful for your apology. In accordance with our practice, I will table shortly a Question for Written Answer to ask the reason for the override, in order to bring it to the notice of the House.

16 November 2010

UN GENERAL ASSEMBLY (UNGA) RESOLUTION

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

In my Written Ministerial Statement to Parliament of 14 July (attached) I highlighted EU Member States intentions to seek agreement on a UN General Assembly (UNGA) resolution which would grant the EU additional rights of participation in that body.

In the event adoption was not possible before the end of the 64th session of the UNGA as other members of the Assembly wanted more time to consider the resolution. This means adoption will have to be deferred until the 65th session of UNGA which begins today. The next opportunity for adoption is likely to be in November after the General Debate and after many of the UNGA Main Committees have finished their work for the autumn session.

In the meantime the EU will continue as before presenting agreed positions of the Member States through the rotating Presidency. This is a workable solution but not what was envisaged by Lisbon.
The UK will remain closely engaged in the discussions about the handling of the draft resolution. We want the EU to have the powers necessary for it to fulfil the role hitherto played by the rotating Presidency, representing the EU and the Member States where we have an agreed position. We were content that the draft reflected UK interests, ensuring that the EU would only speak when the EU Member States agreed it should, that it should remain an observer and not have voting rights and that the resolution would only have effect in the UNGA and certain subsidiary bodies where it made sense for the EU be able to act. As an observer the EU would not be seated among the UN member States in the Assembly chamber.

As I said in my Written Ministerial Statement, the granting of such rights to the EU would not affect the UK’s position as a member of the UNGA or the UN Security Council. Nor would it prejudge whether the EU should actually exercise those rights on any particular issue. If the resolution is adopted, the UK will decide where and when the EU acts in discussion with our EU partners and on the basis of a balanced judgement as to where UK interests lie.

15 September 2010

WESTERN EUROPEAN UNION

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

When you addressed my Committee on 6 July we discussed future oversight of CFSP and CSDP once the Parliamentary Assembly of the Western European Union is wound up. Subsequently you have copied correspondence with the Chairman of the Commons European Scrutiny Committee to me. This sets out the options as you see them and invites comments.

On 20 July my Committee discussed how this parliamentary oversight should be structured and agreed the enclosed position paper. We are of the firm view that the demise of the WEU will diminish parliamentary scrutiny of this area and that an interparliamentary structure, led by the national parliaments, would add value to the scrutiny work which each parliament is free to conduct on its own. We have set this against the need to keep costs to a minimum.

My Committee’s position has elements in common with options one and two in your non-paper. We consider that using the existing meetings of foreign affairs committee chairpersons (COFACC) is the correct starting point as it builds on a successful existing structure. However we consider that this should be strengthened by including the chairpersons of defence committees. To ensure party balance, we envisage that it would also be necessary to invite one additional member per chamber to each meeting. Our view is that this is the best way to ensure useful and balanced debate. This model also ensures the participation of parliamentarians with expertise and experience as well as coherence with the independent work of each parliament.

23 July 2010

Letter from David Lidington MP to the Chairman

Thank you for your letter of 23 July and your paper setting out the House of Lords EU Select Committee’s position on how parliamentary oversight of the EU Common Security and Defence Policy (CSDP) should be structured once the Western European Union Assembly is wound up.

I welcome your Committee’s constructive engagement in this issue and your general support for our proposal to use the meetings of the foreign affairs committee chairpersons as the starting point for creating a new scrutiny arrangement. As well as capitalising on parliamentarians’ experience and expertise, consolidating existing arrangements should minimise bureaucracy and ensure cost-effectiveness.

Like you, I support the primacy of national parliamentary scrutiny of the CSDP, informed by contacts between European parliamentarians and without the expansion of the European Parliament’s competencies. It is important that future arrangements also involve all EU Member States and non-EU European NATO Allies, preferably with arrangements for other candidate and third countries given the important role that they play in CSDP and the key partnership between the EU and NATO on security matters.

I expect to receive further views on future options for inter-parliamentary scrutiny of CSDP from other parliamentarians, in particular from Robert Walter MP, and will write again setting out a consolidated position in due course.

18 August 2010