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 May to November 2009.

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Letter from the Chairman to Lord Myners, Financial Services Secretary, HM Treasury

Thank you for your Explanatory Memoranda 9495/09, 9589/09 and 9590/09 of 21 May on remuneration recommendations and 9494/09 of 20 May 2009 on proposals for a Directive on Alternative Investment Fund Managers. These were considered by EU Sub-Committee A on 9 June, where we decided to hold the documents under scrutiny.

We would like to invite you to appear before the Committee to provide information on the Government’s opinion on these proposals, given their significant and controversial nature.

9 June 2009

Letter from Ian Pearson MP to the Chairman

Thank you for your letter of 8 July advising me of the outcome of the EU Sub-Committee A’s consideration, on 7 July, of my Explanatory Memorandum on the use of FISIM for own resources.

Your letter advises that the Sub-Committee agrees that it would be appropriate to consider all proposals for changes to the calculation of Gross National Income for own resources purposes at the same time. The Sub-Committee also felt that there has not yet been enough data collected to test the robustness of the data and that the proposal should be delayed to allow time for this to be tested, and asked for updates on the progress of negotiations.

An initial discussion of the matter was held in Brussels at a meeting of the Own Resources Working Group on Monday 6 July. At that meeting a number of Member States shared the UK’s concerns over the timing of this proposal, notably the Netherlands, Germany and Ireland, while a number of other Member States voiced their concerns over the issue of the proposal being retrospective. No conclusions were formed at this meeting although it was suggested to the European Commission that a better time to deal with this would be as part of any change to the Own Resources system resulting from conclusions on the next Financial Perspective, and on the next change to the European System of Accounts, both of which are scheduled for 2014. Further discussions will take place at meetings of the Own Resources Working Group scheduled for 14 September and 16 October. Before the first of these the European Commission has agreed to provide Member States with data on the financial implications of the proposal.
I hope that your Committee will find this update helpful.

14 July 2009

**Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 14 July on the calculation of Gross National Income for the purpose of own resources (10343/09). This was considered at EU Sub-Committee A’s meeting of 13 October and we decided to hold the document under scrutiny.

We are pleased to note that the concerns of the Committee were reflected in your concerns and those of other Member States raised at the meeting of 6 July. We would like to receive updates on the further negotiations of 14 September and 16 October, in particular whether the consideration of the proposal will be postponed until a later date.

14 October 2009

**Letter from Ian Pearson MP to the Chairman**

Thank you for your letter of 14 October and further to my letter of 14 July 2009, I am writing to update you on developments concerning the above proposal.

Since that letter, The European Commission has released figures showing the impact of the proposal on all Member States if it is introduced retrospectively to 1 January 2005 and I attach these figures for your information.

Three meetings of the Own Resources Working Group have also taken place in Brussels to discuss the proposal in detail. Member States are broadly split according to whether they are financial winners or losers. At the latest of these meetings, held on 16 October, a Swedish Presidency compromise proposing retrospection to 1 January 2007, rather than 2005, was discussed but could not be agreed upon. The Presidency has since put forward a further compromise proposal that excludes retrospection and proposes a start date of 1 January 2010, a copy of which is attached.

Although the inclusion of FISIM increases the UK’s share of EU GNI, and thus GNI-based contributions, due to the way that the UK abatement is calculated, the increase in the UK’s GNI payment is exactly offset, in arrears, by increases in the value of the UK abatement. As a result, in “steady-state” there would be no impact on UK contributions of including FISIM.

The issue of retrospection however, affects the impact of the current proposal on the UK. This is because, after four years, the amount of the UK abatement is considered final, so if FISIM is allocated in 2009 retroactively to 2005, the UK will not see a compensating increase in the value of the abatement for 2005, and would see a substantial increase in its contributions for that year, as the Commission’s figures show.

A start date of 1 January 2007 or later would however, eliminate this effect, so that the proposal would have no cost to the UK. I believe therefore that the UK should now be prepared to accept either of the revised proposals that have been tabled.

As the Committee noted earlier, clearly FISIM will have to be taken into account in calculating GNI for the purposes of assessing the own resources liabilities of Member States. Questions concerning the robustness of the data remain, but if revisions to methodology do take place in future, this will be accounted for through adjustments in contributions for earlier years in the same way that other revisions to the GNI data are currently taken into account.

I hope that your Committee will find this update helpful and will now be able to clear this proposal from scrutiny.

29 October 2009
## Impact of FISIM allocation on EU budget financing

(if FISIM allocation for OR purposes is implemented in 2009, with retroactive effect back to 2005)

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>total cumulative effect</th>
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<tr>
<td>EUR million</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td><strong>BE</strong></td>
<td>-8.7</td>
<td>-0.5</td>
<td>+4.2</td>
<td>-1.3</td>
<td>-1.2</td>
<td>-7.6  -0.002%</td>
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<td>-2.2</td>
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<td>-0.1</td>
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<td>+1.4</td>
<td>+1.4</td>
<td>+3.2</td>
<td>+0.003%</td>
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<tr>
<td><strong>DK</strong></td>
<td>-3.9</td>
<td>-3.6</td>
<td>-4.6</td>
<td>-3.7</td>
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<tr>
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<td>+3.5</td>
<td>+25.0 +0.001%</td>
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<tr>
<td><strong>EE</strong></td>
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<td>+0.4</td>
<td>+0.9</td>
<td>+0.5</td>
<td>+0.5</td>
<td>+2.3  +0.016%</td>
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<tr>
<td><strong>IE</strong></td>
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<td>+9.0</td>
<td>+10.0</td>
<td>+7.6</td>
<td>+6.8</td>
<td>+38.5 +0.027%</td>
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<tr>
<td><strong>EL</strong></td>
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<td>+5.4</td>
<td>+4.1</td>
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<td>+7.2</td>
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<tr>
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<td>+2.1</td>
<td>+2.4</td>
<td>+11.1 +0.001%</td>
</tr>
<tr>
<td><strong>CY</strong></td>
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<td>-0.8</td>
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<td><strong>LT</strong></td>
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<td>-1.2</td>
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<td>-1.2</td>
<td>-5.6  -0.020%</td>
</tr>
<tr>
<td><strong>LU</strong></td>
<td>-0.2</td>
<td>+0.2</td>
<td>+0.4</td>
<td>+0.3</td>
<td>+1.0</td>
<td>+0.003%</td>
</tr>
<tr>
<td><strong>HU</strong></td>
<td>+1.4</td>
<td>+1.3</td>
<td>+2.0</td>
<td>+1.9</td>
<td>+3.0</td>
<td>+9.7  +0.012%</td>
</tr>
<tr>
<td><strong>MT</strong></td>
<td>-0.1</td>
<td>-0.1</td>
<td>-0.2</td>
<td>-0.1</td>
<td>-0.1</td>
<td>-0.5  -0.008%</td>
</tr>
<tr>
<td><strong>NL</strong></td>
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<td>+1.8</td>
<td>+4.9</td>
<td>+1.8</td>
<td>+3.2</td>
<td>+10.3 +0.002%</td>
</tr>
<tr>
<td><strong>AT</strong></td>
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<td>-4.7</td>
<td>-4.8</td>
<td>-4.9</td>
<td>-5.4</td>
<td>-25.0 -0.009%</td>
</tr>
<tr>
<td><strong>PL</strong></td>
<td>-2.2</td>
<td>+2.9</td>
<td>+8.4</td>
<td>+6.2</td>
<td>+9.2</td>
<td>+24.6 +0.009%</td>
</tr>
<tr>
<td><strong>PT</strong></td>
<td>+2.4</td>
<td>+7.1</td>
<td>+8.5</td>
<td>+6.2</td>
<td>+6.7</td>
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<tr>
<td><strong>RO</strong></td>
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<td>-8.4</td>
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<td>-33.0 -0.027%</td>
</tr>
<tr>
<td><strong>SI</strong></td>
<td>-0.4</td>
<td>+0.2</td>
<td>+0.4</td>
<td>+0.4</td>
<td>+0.8</td>
<td>+0.002%</td>
</tr>
<tr>
<td><strong>SK</strong></td>
<td>+0.4</td>
<td>+0.7</td>
<td>+0.8</td>
<td>+1.6</td>
<td>+2.2</td>
<td>+5.7  +0.008%</td>
</tr>
<tr>
<td><strong>FI</strong></td>
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<td>-3.8</td>
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<td>-4.1</td>
<td>-4.8</td>
<td>-21.8 -0.012%</td>
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<td>-7.7</td>
<td>-3.8</td>
<td>-4.0</td>
<td>+35.7 +0.002%</td>
</tr>
</tbody>
</table>

Notes:
- A positive sign in the above table corresponds to additional own resources payments from the Member States concerned. Inversely, a negative sign corresponds to a reduction in own resources payments.
- FISIM allocation increases the amount of the UK correction of year n (via a decrease of the UK advantage) and modifies its financing in year n+1. For the simplicity of presentation, in the above table, all these impacts are included in the figure for year n.

Yet, these impacts may go back only 3 years, since the amount and financing of the UK correction is then considered final, pursuant to the calculation method of the UK correction. Thus, if the FISIM allocation for OR purposes is implemented in 2009, then the 2005 UK correction financed in 2006 (as well as all previous UK corrections) will remain unchanged, even if the retroactivity of FISIM application goes back to 2005. Consequently, the above figures for 2005 do not include any impact on the 2005 UK correction financed in 2006, but only the impact on 2005 VAT & GNI balances, so that the figure for the UK is substantially positive.

Similarly, if the FISIM allocation for OR purposes is implemented in 2010, then the 2006 UK correction financed in 2007 (as well as all previous UK corrections) will remain unchanged; if the FISIM allocation for OR purposes is implemented in 2011, then the 2007 UK correction financed in 2008 (as well as all previous UK corrections) will remain unchanged; etc.
Letter from the Chairman to Ian Pearson MP

Thank you for your letter of 29 October 2009 on the allocation of Financial Intermediation Services Indirectly Measured (FISIM) for the establishment of Gross National Income (GNI). EU Sub-Committee A considered this at its meeting of 10 November.

We note that the two Presidency compromise proposals are to the benefit of United Kingdom interests, in terms of lowering additional own resources payments. However, we still harbour reservations over the quality of the data collected that will be used in the new calculation of GNI, as insufficient data has been collated to test its robustness. Therefore, the implementation of this proposal should be delayed to allow time for the improvement of data collection techniques.

We are content to clear this document from scrutiny, given that we have recorded our concerns with the proposal.

11 November 2009

BUDGET FOR THE EUROPEAN COMMUNITIES 2010

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memorandum dated 11 June and for meeting with Sub-Committee A on 30 June. The Sub-Committee have now considered the Preliminary Draft Budget (PDB) and have cleared the item from scrutiny. As is usual practice, the Committee plan to publish a Report on the Budget by the end of July.

We broadly agree with your position. We support the Government’s efforts to ensure that EC expenditure delivers value for money, appropriations are based on realistic spending forecasts and Financial Perspective ceilings are respected.

As the Sub-Committee discussed with you at the meeting last week, the Committee shares your concern that the PDB has insufficient margins to accommodate the European Economic Recovery Plan and unforeseen commitments. We believe that appropriations should be reduced under Heading 1a to increase the margin under the Financial Perspective ceiling.

We support the Commission’s attempts to focus the Preliminary Draft Budget on economic recovery as a result of the financial crisis. However, we believe that without fundamental reform of the budget system it is difficult for annual budgets to respond to changing situations, as a significant review of the Budget is carried out only once every seven years. The size of the EC Budget also limits any realistic attempts to stimulate economic recovery through this funding source. We were pleased to hear that you will push for the Budget Review to have an ambitious reforming agenda, looking to create a budgetary system that will be able to react effectively to unexpected events.

We are concerned that in the light of the recession the distribution of the Budget favours agriculture because we believe that greater spending in other areas could better contribute to economic recovery. We agree with you that spending on agriculture under Heading 2 should be reduced.

We would be grateful if you could write to the Committee after 10 July to update us on progress at Budget ECOFIN. We look forward to working with you both on this issue and on other dossiers in the future.

8 July 2009

Letter from Ian Pearson MP to the Chairman

Thank you for your letter of 8 July on the EU Preliminary Draft Budget for 2010. I am writing to update you and the your Committee on the Council’s first reading position on the 2010 EC budget, agreed at Budget ECOFIN on 10 July.

I am grateful to the Committee for their careful and considered scrutiny of the 2010 Preliminary Draft Budget (PDB). The evidence session on 30 June was interesting as always and helpful to me in developing my approach to the subsequent Budget ECOFIN. I look forward to the Committee’s report later this month.

DRAFT BUDGET 2010

ECOFIN Budget Council agreed the 2010 Draft Budget (DB2010) unanimously on 10 July. As I outlined in the Explanatory Memorandum of 11 June 2009 on the Commission’s Preliminary Draft
Budget, the Government’s key priorities for negotiations over the DB2010 have been to ensure:

payment levels that better reflect implementation capacity, to avoid budgetary surpluses; sufficient
margins under the Financial Framework ceilings, not least to contribute to the financing of the
remaining €2.4 billion outstanding for the European Economic Recovery Plan; and enhanced value for
money, including questioning increases for agriculture and administration.

The DB2010 and the statements agreed alongside it go a considerable way to achieving these
objectives, specifically through:

— An overall reduction of €1,795m (£1,530 m\(^1\)), or 1.5%, in payment levels
  compared to the PDB, to €120,521m (£102,696m). This brings the budget
  more in line with implementation capacity and anticipated requirements;

— An overall reduction of €613m (£522m), or 0.4%, in commitments
  compared to the PDB, to €137,944m (£117,542m). This significantly
  increases the margins under the Financial Framework ceilings;

— A €119m (£101m) decrease in payments and commitments in relation to
  agricultural market interventions;

— Targeted reductions in administration expenditure based on
  implementation rates, staff number requirements, and vacancy rates; and

— Targeted reductions to the budgets for regulatory agencies to ensure that
  these more accurately reflect requirements\(^2\).

The Annex contains a summary of overall commitment and payment levels in the DB2010 by heading.
A heading-by-heading breakdown of DB2010 follows here.

Under sub-Heading 1a (Competitiveness for growth and employment), the DB2010 reduces commitments
and payments appropriations by €100m (£85m) and €408m (£348m) respectively, compared to the
PDB. The margin under the Financial Framework ceiling for commitments was increased to €218m
(£186m). The decreases largely reflect targeted reductions in the following areas:

— a €84m (£72m) reduction in payments in four research cooperation
  budget lines (covering health; nanosciences, nanotechnologies, materials
  and new production technologies; and transport, including aeronautics and
  the Clean Sky Joint Undertaking);

— a €74m (£63m) reduction in payments and commitments for
  administrative management, management, and staff costs;

— a €40m (£34m) decrease in payments in “financial support for projects of
  common interest in the trans-European energy network”;

— a €30m (£26m) reduction in payments in the “Ideas” budget line; and

— a reduction of €111m (£9m) in commitment levels for decentralised
  agencies.

Under sub-Heading 1b (Cohesion for growth and employment), the DB2010 reduces payment
appropriations by €293m (£250m) compared to the PDB. There were no changes to commitment
appropriations. The margin under the Financial Framework ceiling for commitments therefore
remains €12m (£10m). Reductions in payment appropriations were made largely through:

— a decrease of €138m (£118m) for the European Regional Development
  Fund;

— a decrease of €97m (£83m) for the European Social Fund; and

— a decrease of €58m (£49m) for the completion of 2000-2006 programmes.

Under Heading 2 (Preservation and management of natural resources), the DB2010 reduces commitment
and payment appropriations by €363m (£309m) and €491m (£418m) respectively, compared to the
PDB. The margin under the Financial Framework ceiling for commitments was increased to €1,473m
(£1,255m).

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\(^1\) This and subsequent sterling figures calculated at 30 June exchange rate: €1 = £0.8521

\(^2\) Agency requirements were estimated based on a range of criteria, including: establishing the increase of EU administrative
  expenditure across-the-board at a level near the inflation rate; setting the administrative budget of each agency at a level that
took into account their specificities, as well as real and justified needs; carrying out targeted reductions under certain budgetary
lines for the agencies, based on 2008 budget outturn and real needs; and increasing the standard flat rate abatement on salaries
for most of the agencies, taking into account their current vacancy rate. In line with this, no new posts were accepted, expect
for new agencies foreseen in 2010 and Frontex.
These decreases largely reflect targeted reductions in the following areas:

— A €230m (£196m) decrease in payments and commitments for the accounting clearance of previous years’ accounts, with regard to shared management expenditure under the European Agriculture Guidance and Guarantee Fund and the European Agriculture Guarantee Fund;

— A €119m (£101m) decrease in payments and commitments in relation to market interventions; and

— A €98m (£84m) decrease in payments for rural development on the basis of anticipated implementation rates.

Under sub-Heading 3a (Freedom, security and justice), the DB2010 reduces commitment and payment appropriations by €6m (£5m) and €28m (£24m) respectively, compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €51m (£43m). The decreases largely reflect targeted reductions in the following areas, to bring appropriates levels more into line with anticipated needs and implementation rates:

— a €4m (£3m) reduction in payments for the European Fund for the Integration of Third Country Nationals;

— a reduction of €3m (£3m) in commitments for decentralised agency subsidies.

— a €3m (£3m) reduction in payments for the External Borders Fund;

— a €3m (£3m) reduction in “Prevention of and fight against crime”;

— and a €2m (£2m) reduction in payments and commitments for the European Police Office (Europol).

Under sub-Heading 3b (Citizenship), the DB2010 reduces commitment and payment appropriations by €15m (£13m) and €26m (£22m) respectively, compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €34m (£29m). The decreases largely reflect targeted reductions in the following areas, to bring appropriates levels more into line with anticipated needs and implementation rates:

— a reduction of €9m (£8m) and €5m (£4m) in commitments and payments respectively for multimedia actions;

— a €6m (£5m) reduction in payments for “Community action in the field of health”;

— €3m (£3m) in commitments reductions for subsidies to decentralised agencies;

— a €3m (£3m) reduction in payments for the “Europe for Citizens” programme; and

— a €3m (£3m) reduction in payments for the European Centre for Disease Prevention and Control.

Under Heading 4 (EU as a global player), DB2010 reduces commitment and payment appropriations by €89m (£76m) and €508m (£433m) respectively. The margin under the Financial Framework ceiling for commitments was increased to €310m (£264m). The decrease in payments is partly due to the fact that €249m (£212m) for the Emergency Aid Reserve has been removed from DB2010. The commitments level of the Reserve every year is set in the Inter-Institutional Agreement. Appropriate payments are made available for it throughout the year as and when required to respond to emergency needs, and therefore Council considers that payments do not need to be presented in the DB2010.

The remaining reductions largely reflect targeted decreases in the following areas:

— a €50m (£43m) reduction in commitments and a €166m (£141m) reduction in payments for the Instrument for Pre-Accession;

— a €29m (£25m) reduction in payments for the European Instrument for Democracy and Human Rights; and

— reductions of €8m (£7m) and €21m (£18m) in commitments and payments respectively for macro-financial assistance.
Under *Heading 5 (Administration)*, the DB2010 reduces commitment and payment appropriations by €40m (£34m), compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €276m (£235m). The reduction in Heading 5 was enabled by:

— establishing the increase across-the-board of EU administrative expenditure at a level near the inflation rate;

— setting the administrative budget of each institution at a level that took into account their specificities as well as real and justified needs;

— carrying out targeted reductions under certain budgetary lines for all the institutions, taking into account budget outturn in 2008 and real needs; and

— increasing the standard flat rate abatement on salaries for most of the institutions, taking into account their current vacancy rate.

During the conciliation meeting with the European Parliament, attended by the Commission, that followed the Council’s first reading discussion, a Joint Statement was agreed on the importance of full recruitment in relation to the 2004 and 2007 enlargements posts. The Government supports this statement, which calls for quicker progress in ensuring agreed posts are filled.

The Government will continue to pursue our key objectives in subsequent stages of the 2010 budget process, building on the well-balanced compromise achieved in the DB2010.

24 July 2009
### SUMMARY OF COUNCIL’S FIRST READING POSITION

<table>
<thead>
<tr>
<th>€ million</th>
<th>FF ceiling</th>
<th>PDB 2010</th>
<th>Council’s Draft Budget</th>
<th>Difference (3)</th>
</tr>
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<tbody>
<tr>
<td><strong>Heading</strong></td>
<td>CA (1)</td>
<td>PA (2)</td>
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<td>PA</td>
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<tr>
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<td>12,769</td>
<td>10,982</td>
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</tr>
<tr>
<td>- Margin</td>
<td>119</td>
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<td>218</td>
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<tr>
<td>1b Cohesion for growth and employment</td>
<td>49,394</td>
<td>49,382</td>
<td>36,382</td>
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<tr>
<td>- Margin</td>
<td>12</td>
<td></td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>2 Preservation and management of natural resources</td>
<td>60,113</td>
<td>59,004</td>
<td>58,075</td>
<td>58,640</td>
</tr>
<tr>
<td>Of which: market-related spending and direct aids</td>
<td>43,754</td>
<td>43,626</td>
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<td>1,473</td>
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<td>3a Freedom, security and justice</td>
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<td>51</td>
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<td>3b Citizenship</td>
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<td>640</td>
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<td>4 European Union as a Global Player</td>
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<td>7,921</td>
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<td>310</td>
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<tr>
<td>5 Administration</td>
<td>8,008</td>
<td>7,851</td>
<td>7,851</td>
<td>7,812</td>
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<tr>
<td>- Margin</td>
<td>230</td>
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<td>276</td>
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<td><strong>TOTAL (3)</strong></td>
<td>138,564</td>
<td>122,322</td>
<td>137,944</td>
<td>120,521</td>
</tr>
</tbody>
</table>

i. **CA** = commitment appropriations  
ii. **PA** = payment appropriations  
iii. Due to rounding, figures in difference column may not equal column differences, and sum of rows may not equal the total

<table>
<thead>
<tr>
<th>£ million</th>
<th>FF ceiling</th>
<th>PDB 2010</th>
<th>Council’s Draft Budget</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
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<td>PA (5)</td>
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<td>1a Competitiveness for growth and employment</td>
<td>10,556</td>
<td>10,880</td>
<td>9358</td>
<td>10,370</td>
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</tbody>
</table>

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3 The margin for Heading 1 (sub-Heading 1a) does not take into account the appropriations related to the European Globalisation Adjustment Fund (€500m).  
4 The Council’s Draft Budget discounts appropriations related to the European Globalisation Adjustment Fund (€500m).  
5 The margin for Heading 4 does not take into account the appropriations related to the Emergency Aid Reserve (€249m), as foreseen in the IIA of May 2006.  
6 The Council’s Draft Budget discounts appropriations related to the Emergency Aid Reserve (€249m).  
7 Administration totals shown reflect updated estimates from institutions and may not match those contained in the initial PDB.  
8 For calculating the margin under the ceiling for Heading 5, account is taken of the footnote (1) of the financial framework 2007-2013 for an amount of €78m for the staff contributions to the pension scheme.
<table>
<thead>
<tr>
<th></th>
<th>101</th>
<th>186</th>
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<tr>
<td>1b Cohesion for growth</td>
<td>42,089</td>
<td>31,001</td>
</tr>
<tr>
<td>and employment</td>
<td>42,078</td>
<td>30,751</td>
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<td>- Margin</td>
<td>10</td>
<td>10</td>
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<td></td>
<td>-250</td>
<td></td>
</tr>
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<td>2 Preservation and</td>
<td>51,222</td>
<td>49,967</td>
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<td>50,277</td>
<td>49,066</td>
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<tr>
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<td>37,283</td>
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<td>spending and direct aids</td>
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<tr>
<td>3a Freedom, security and</td>
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<td>830</td>
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<td>justice</td>
<td>835</td>
<td>590</td>
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<td>- Margin</td>
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<tr>
<td>3b Citizenship</td>
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<tr>
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<td></td>
<td>-13</td>
<td></td>
</tr>
<tr>
<td>4 European Union as a</td>
<td>6726</td>
<td>6098</td>
</tr>
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<td>Global Player</td>
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<td>- Margin</td>
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</tr>
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<td>-433</td>
<td></td>
</tr>
<tr>
<td>5 Administration</td>
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</tr>
<tr>
<td>- Margin</td>
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</tr>
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<td></td>
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<td>TOTAL (6)</td>
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</tr>
</tbody>
</table>

i. CA = commitment appropriations

ii. PA = payment appropriations

iii. Due to rounding, figures in difference column may not equal

Letter from the Chairman to Ian Pearson MP

Thank you for your letter of 24 July on The Council's first reading position on the 2010 EC Budget. We considered this letter at our meeting of 20 October.

We note with approval the changes made to the Preliminary Draft Budget, particularly those in line with the conclusions of our recent report The EC Budget 2010. This includes the increase of the margin of Heading 1a under the Financial Perspective ceiling to meet commitments for unforeseen circumstances and the reduction in commitments and appropriations under Heading 2.

We look forward to receiving further updates on negotiations on the 2010 Budget.

23 October 2009

Letter from Ian Pearson MP

Thank you for your letter of 23 October, confirming that your Committee has considered the update I provided on the outcome of Budget ECOFIN on 10 July.

The European Parliament (EP) recently concluded its first reading of the 2010 Draft EC Budget, and I am pleased to update you on the amendments adopted by the EP plenary session on 22 October.

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9 The margin for Heading 1 (sub-Heading 1a) does not take into account the appropriations related to the European Globalisation Adjustment Fund (£426m).
10 The Council’s Draft Budget discounts appropriations related to the European Globalisation Adjustment Fund (£426m).
11 The margin for Heading 4 does not take into account the appropriations related to the Emergency Aid Reserve (£212m), as foreseen in the IIA of May 2006.
12 The Council’s Draft Budget discounts appropriations related to the Emergency Aid Reserve (£212m).
13 Administration totals shown reflect updated estimates from institutions and may not match those contained in the initial PDB.
14 For calculating the margin under the ceiling for Heading 5, account is taken of the footnote (1) of the financial framework 2007-2013 for an amount of €78m for the staff contributions to the pension scheme.
addition, this update covers two Amending Letters to the Preliminary Draft Budget (PDB), presented by the Commission since Council’s first reading.

THE EUROPEAN PARLIAMENT’S AMENDMENTS

The EP’s amendments propose a total of €141.7bn (£126.7bn\(^{15}\)) in commitment appropriations, and €127.5bn (£114bn) in payment appropriations, representing increases of €3.8bn (£3.4bn), or 3%, for commitments, and €7.0bn (£6.3bn), or 6%, for payments over the Draft EC Budget established in Council’s first reading. The amount of commitment appropriations corresponds to 1.2% of EU GNI, and is therefore under the 1.24% EU GNI set by the Community’s Own Resources Decision.

It should be noted that the EP has proposed amendments to secure the remaining €2.4bn (£2.1bn) in commitments, with associated payments, required for the European Economic Recovery Plan, explained in more detail below. You will recall that Spring European Council agreed that the funding for this remaining tranche would be secured at the conciliation of the 2010 and 2011 budgetary procedure. The EP’s amendments include a proposal to raise the Heading 1a (Competitiveness for growth and employment) Financial Perspective ceiling by €1.98bn (£1.77bn) to finance the energy-related components of the Recovery Plan, while financing the €420m (£375m) required for CAP Healthcheck and rural development components from the margin of Heading 2 (Preservation and management of natural resources). The EP amendments leave a remaining total margin for commitments in 2010 of €553m (£494m), after this proposed Financial Perspective revision.

Under Heading 1a (Competitiveness for growth and employment), the EP increased commitment appropriations by €2.2bn (£2bn) and payment appropriations by €2bn (£1.8bn), compared to the Draft Budget. This includes additional commitments of €1.98bn (£1.77bn) and payments of €850m (£760m) for the European Economic Recovery Plan, as well as a proposed increase to the Financial Perspective ceiling by €1.98bn (£1.77bn) to accommodate this increased level of commitments. Excluding this revision, the EP’s proposed amendments leave a margin of €0.7m (£0.6m). The EP increases in large part reverse the Council’s reductions to the Preliminary Draft Budget (PDB); they also go beyond PDB levels for certain budget lines including:

— In amendments to four separate budget lines under the Competitiveness and Innovation Framework Programme, increases above PDB levels of €16.3m (£14.6m) in commitments and €118m (£105m) in payments;
— “Financial support for projects of common interest in the trans-European transport network” – increase of €4m (£3.6m) and €150m (£134m) in commitments and payments respectively above PDB levels;
— increases above PDB payments levels of €70m (£63m) and €80m (£72m) on “Ideas” and “People” budget lines respectively.

The EP amendments bring the total commitment and payment appropriations for Heading 1a to €14.9bn (£13.3bn) and €12.6bn (£11.3bn) respectively.

Under Heading 1b (Cohesion for growth and employment) the EP increased commitment appropriations by €5.5m (£4.9m) and payment appropriations by €2.8bn (£2.5bn) compared to the Draft Budget levels, leaving a margin of €6.4m (£5.7m) below the Financial Perspective ceiling. Again, these increases reverse Council’s reductions to the PDB and also exceed PDB levels for certain budget lines including:

— European Social Fund – an increase to payment appropriations of €603m (£539m);
— European Regional Development Fund – an increase to payment appropriations of €1.2bn (£1.1bn); and
— Cohesion Fund – an increase to payment appropriations of €650m (£581m).

The EP amendments bring the total commitment and payment appropriations for Heading 1b to €49.4bn (£44.2bn) and €38.8bn (£34.7bn) respectively.

Under Heading 2 (Preservation and management of natural resources), the EP increased commitment appropriations by €1.2bn (£1.1bn) and payment appropriations by €1.4bn (£1.3bn) compared to the Draft Budget, leaving a margin of €304.6m (£272.3m) below the Financial Perspective ceiling for commitments. The EP proposed €420m (£375.4m) in commitments and €100m (£89.4m) in payments for the remaining tranche of rural development and CAP Healthcheck measures under the European

\(^{15}\) This, and all other sterling figures in this letter, are calculated at the rate of €1=£0.8938 (rate on 30 October 2009)
Economic Recovery Plan. The EP also restored PDB appropriation levels for budget lines that Council had targeted for reductions, and proposed two new budget lines: “EU action programme to combat climate change”, of €15m (£13.4m) in commitments and payments; and a new dairy fund of €300m (£268m) commitments and payments. In addition, EP amendments go beyond PDB levels for certain budget lines, including:

- Rural development programmes – an increase of €402m (£359m) in payment appropriations above PDB levels; and
- School fruit scheme and school milk scheme – an increase of €15m (£13.4m) in commitments and payment appropriations above PDB levels on both budget lines.

The EP amendments bring the total commitment and payment appropriations for Heading 2 to €59.8bn (£53.4bn) and €59bn (£52.7bn) respectively.

Under **Heading 3a (Freedom, security and justice)**, the EP increased commitment appropriations by €32m (£28.6m) and payment appropriations by €101m (£90.3m) compared to the Draft Budget, leaving a margin of €18.5m (£16.5m) below the Financial Perspective ceiling for commitments. The EP reversed the Council’s reductions to the PDB on several programmes and agencies, including the European Union Agency for Fundamental Rights, the European Migration Network, the European Police Office and the “Fundamental Rights and Citizenship” programme. The EP also proposed increases above the PDB levels for:

- European Agency for the Management of Operational Cooperation at the External Borders – an increase of €7m (£6.3m) in payments appropriations above PDB levels;
- External Borders Fund – an increase of €27m (£24m) in payment appropriations above PDB levels;
- European Return Fund – an increase of €5m (£4.5m) in commitments appropriations and €18m (£16.1m) in payment appropriations above PDB levels; and
- European Refugee Fund – an increase of €10m (£8.9m) in commitments and €19m (£17m) in payment appropriations above PDB levels.

The EP amendments bring the total commitment and payment appropriations for Heading 3a to €1.0bn (£0.89bn) and €794m (£709.7m) respectively.

Under **Heading 3b (Citizenship)**, the EP increased commitment appropriations by €33.9m (£30.3m) and payment appropriations by €54.9m (£49.1m) compared to the Draft Budget, leaving no margin below the Financial Perspective ceiling for commitments. The EP restored PDB appropriation levels, and proposed further increases above the PDB for budget lines including:

- “Special annual events” – an increase of €9.8m (£8.8m) in both commitment and payment appropriations beyond PDB levels;
- “Europe for citizens” – an increase of €1.8m (£1.6m) in commitment and €2.1m (£1.9m) in payment appropriations beyond PDB levels; and
- “Information for the media” – an increase of €1.2m (£1.1m) in commitments and €2m (£1.8m) in payments appropriations beyond PDB levels.

The EP amendments bring the total commitment and payment appropriations for Heading 3b to €668m (£597.1m) and €668.4m (£597.4m) respectively.

Under **Heading 4 (EU as a global player)**, the EP increased commitment appropriations by €309.5m (£276.6m) and payment appropriations by €666.5m (£595.7m) compared to the Draft Budget, leaving a low margin of €387,930 (£346,732) below the Financial Perspective ceiling for commitments. As a result of the EP’s amendments, the €248.9m (£222.5m) payment appropriations for the Emergency Aid Reserve are effectively brought back on budget, accounting for a large part of the overall payments increase. The EP approved the Commission’s Amending Letter 1 (explanation of the detail below), which provided for additional payment and commitment appropriations for support to Palestine and for the budget line “environment and sustainable management of natural resources, including energy”. The EP proposed further appropriations for support to Palestine, beyond those proposed in the Amending Letter 1, of €25m (£22m) in both commitments and payments.

The EP proposed decreases to 7 separate Common Foreign and Security Policy (CFSP) budget lines, totalling €50m (£44.7m) in both commitments and payments. At the same time, they proposed an
increase to the CFSP administrative expenditure budget line of €50m (£44.7m) in both commitments and payments, to be placed in a reserve; as well as a small reduction in the same budget line of €150,000 (£134,070) in both commitments and payments. The EP restored PDB appropriation levels and proposed further increases above the PDB for budget lines including:

- €3m (£2.7m) commitments and €13m (£11.6m) payments for the European Neighbourhood and Partnership financial cooperation with Eastern Europe;
- €1m (£0.89m) commitments and €24.3m (£21.7m) payments for Cooperation with developing countries in Latin America; and
- €8m (£7.2m) commitments and payments for “Health”.

The EP amendments bring the total commitment and payment appropriations for Heading 4 to €8.1bn (£7.2bn) and €7.8bn (£7bn) respectively.

Under Heading 5 (Administration), the EP increased commitment appropriations by €53.7m (£48m) and payment appropriations by €52.7m (£47.1m) compared to the Draft Budget, leaving a margin of €222m (£198m). The EP amendments largely reverse Council’s reductions to the Commission’s budget, with the EP proposing an additional €1.4m (£1.3m) beyond the PDB levels for the Commission Publications Office. EP increases also included €2m (£1.8m) commitments and €1m (£0.89m) payments for the Erasmus public administration programme. On its own budget, the EP proposed a range of reductions and increases across budget lines, resulting in an overall increase to commitments and payments of €17.5m (£15.7m). This included a reduction in the “Salaries” budget line by €3m (£2.7m) commitments and payments; and an increase in the budget line “Visitors Centre” of €3.1m (£2.8m) in commitments and payments. The EP also increased the Court of Justice “Remunerations and allowances” line by €5.8m (£5.2m) in both commitments and payments.

The EP amendments bring both the totals for commitment and payment appropriations for Heading 5 to €7.9bn (£7.1bn).

Tables summarising the changes between the PDB, Draft Budget and the EP’s first reading amendments are set out in Annex 1 to this letter.

**AMENDING LETTER 1**

Amending Letter No. 1 (SEC (2009) 1133) to the 2010 PDB was presented by the Commission and discussed by Council Budget Committee from 8 September. The Letter proposes three amendments:

- an additional €95m (£85m) in commitments and €60m (£53.6m) in payments to support the Palestinian Authority through the “European Neighbourhood and Partnership financial assistance to Palestine, the peace process and UNRWA” budget line;
- an additional €50m (£44.7m) in commitments and €20m (£17.9m) in payments to support timely preparation for the implementation of a new international climate change agreement after the global meeting in Copenhagen in December, on the “Environment and sustainable management of natural resources, including energy” budget line.
- the creation of a new budget line, “Bananas accompanying measures”. In view of the ongoing negotiation with some Latin American suppliers of bananas, it is necessary to give more support to adaptation and restructuring processes in traditional African, Caribbean and Pacific bananas suppliers, who will see their preferential advantage in exporting to the EU reduced by the new agreement.

When this was discussed in Council Budget Committee, the additional appropriations for Palestine were approved. However, a number of Member States, including the UK, did not support creation of the proposed new budget line, as there is not yet a legal base for it. This element was not approved; nor was the third element, for climate change activities. The UK and several other Member States were of the view that broader policy decisions around climate change financing, and flowing from the Commission’s Communication of 10 September “Stepping up international climate finance: a European blueprint for the Copenhagen deal” (COM (2009) 475/3), needed to be taken before budgetary appropriations were made. In approving this element of Amending Letter No 1, the EP placed the appropriations in a reserve, pending the outcome of the Copenhagen conference.
Amending Letter No. 2 (SEC (2009) 1462) was presented by the Commission on 27 October, and initially discussed in Budget Committee on 28 October. It concerns three elements:

— an upwards revision for agriculture expenditure based on the latest economic data available on market factors, and legislative decisions and other proposals presented since the PDB was published. Specifically, Amending Letter No 2 proposes a net increase of €685.3m (£612.5m) and €264m (£236m) in commitments and payments appropriations respectively. This includes €324m (£290m) in commitments to provide additional assistance to the dairy sector, including a new €280m (£250m) fund for exceptional measures. The overall increase also includes commitments of €420m (£375m) to finance the remaining rural development and CAP healthcheck elements of the European Economic Recovery Plan. These and other smaller increases and decreases to individual budget lines, based on more up-to-date economic data, bring the overall total levels of appropriations in Heading 2 to €59.7bn (£53.4bn) and €58.3bn (£52.1bn) in commitments and payments respectively.

— an increase of €1.6bn (£1.4bn) in commitments appropriations and €377.5m (£337.4m) in payments appropriations under Heading 1a for the energy component of the European Economic Recovery Plan, as well as lifting the reserve of €650m (£581m) in payment appropriations in 2009. The increases in 2010 require corresponding revision of the Financial Perspective sub-ceilings for commitments in 2009 and 2010. The Commission’s proposal to do this is set out in COM(2009) 600, published on 27 October 2009, and subject to a separate Explanatory Memorandum.

— An increase of €75m (£67m) in commitment appropriations under Heading 1a on budget line “Nuclear safety – transitional measures (decommissioning)”. Under Article 30 of the Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the EU, Community support of €210m (£188m) (in 2004 prices) is provided to the Kozloduy International Decommissioning Support Funds, for the decommissioning of the Kozloduy nuclear power plant in Bulgaria. Additional support beyond 2009 has been requested, and the Commission will present separately a proposal for a Council Regulation for the continuation of support, making available €300m (£268m) for the period 2010-2013. Payments would not flow until 2012, and the €75m (£67m) commitments appropriations for the 2010 Budget is proposed to be placed in a reserve, pending adoption of a legal base.

Amending Letter No 2 will be further considered by Member States at Budget ECOFIN as part of Council’s second reading. The Government is not convinced of the need for additional and exceptional support for the dairy sector to the level proposed, but is otherwise broadly satisfied with the information provided by the Commission on Heading 2 budget lines. The Government is pushing for clarification of the needs and implementation status of the Kozloduy decommissioning programme, and for a legal base to be established, before further budgetary appropriations are made.

Next stages of the EC budget procedure

Following discussion of the EP’s amendments in the Council’s Budget Committee, and subsequently by Ambassadors in Coreper, a conciliation session between the Council and the EP will take place on 19 November during Budget ECOFIN. Both sides will attempt to reach consensus on the elements of the EC Budget, including funding for the remaining tranche of the European Economic Recovery Plan. Council will then conclude its second reading of the 2010 EC Budget, when compulsory expenditure (mainly spending on agriculture) will be settled. The Budget will then pass back to the EP for its second reading from 14 December, at which non-compulsory expenditure (the remainder of the Budget) will be settled and the 2010 EC Budget finally adopted.
The Government's objectives for the forthcoming Council discussions will remain consistent with those outlined to you in previous correspondence and with our position in the earlier stages of the negotiations. Principally, we wish to reach agreement in as many areas as possible in a way that maintains budget discipline and does not compromise sound financial management. Securing the remaining financing for the European Economic Recovery Plan in a timely and budget-disciplined manner is also a key priority. Finally, we will continue to seek to reduce the overall level of payment appropriations to bring the budget closer to the probable implementation rate, and to reduce the likelihood of a large surplus.

4 November 2009

Letter from Ian Pearson MP to the Chairman

I am writing to update you on a development in the last several days on the negotiation of the EC’s annual budget for 2010, to be agreed at Budget ECOFIN on 18 November.

At the end of last week, the Council Secretariat proposed a letter of amendment to the Commission’s Preliminary Draft Budget for 2010, covering additional resources for changes to the functioning of the European Council and the Council in 2010, following the entry into force of the Lisbon Treaty.

These costs primarily relate to the establishment of the European Council as an institution; the costs incurred in holding the regular European Council meetings and third country summits at Head of State or Government level; the creation of an office of the new President of the European Council, of a comparable size to that of the President of the European Commission; and an increase in the Council's resources to support the higher number of co-decided dossiers under Lisbon. The total amount of funds requested under the budget’s Heading 5 (administration) is €25m (£22m) in both commitment and payment appropriations.

In detail, these elements break down as follows:

- €2.4m (£2.1m) to cover building-related costs for the organisation of European Council events;
- €2.6m (£2.3m) to cover IT, other equipment and transport expenses, including in the organisation of European Council events;
- €6.9m (£6.2m) to fund other operating expenditure connected with organising European Council events;
- €1.5m (£1.3m) for the salary, entitlements, representation and travel costs of the President of the European Council;
- €5.8m (£5.2m) for additional staff for the Council Secretariat, comprising: 22 new posts for the office of the President of the European Council, 10 new posts for additional security agents for his/her protection, and 28 new posts to strengthen other departments;
- €0.8m (£0.7m) to cover expenditure on missions by those working directly with the President of the European Council, media coverage of events, and medical expenses; and
- €5m (£4.5m) to act as a contingency reserve to fund activities, the demand for which may arise in-year as the European Council is set up and shaped as an Institution.

In presenting this proposal, the Council Secretariat expressed an intention to present it for formal decision by Ministers at Budget ECOFIN on 18 November. Member States had not been given any prior warning of this intention, or indeed of the proposal’s publication date or form.

The Government has repeatedly and strongly objected to this method of procedure, in the Council’s budget committee on 13 November, and bilaterally with other Member States, the Presidency and the Council Secretariat. The Government of course fully supports the establishment of the European Council as an Institution and the creation of the post of President of the European Council. We firmly believe that the President should have the necessary support in order to allow them to be

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17 This and all other sterling figures in this letter are converted at the rate on 30 October 2009 of €1=£0.8938)
effective in bringing greater coherence and consistency to the EU’s actions, and to drive forward real progress on the collective issues we face.

However, we believe that proposals for funding these changes should be presented in sufficient time to allow adequate consideration by the Budgetary Authority. We have also made very clear that such proposals must be brought forward on a timing that allows Member State governments an adequate period for consideration by national Parliaments.

Following pressure from the UK and other Member States in Council, it now seems possible that the proposal may be considered according to an alternative procedure providing for further consideration of it until the end of this month. I am sorry not to be able to give you a more certain picture on this, and can assure you that we are pushing for full clarity on the process as soon as possible. In the meantime, if the issue is discussed at Budget ECOFIN, I will reiterate the need for a period of proper consideration of the proposal by Member States, including with national Parliaments.

I fully appreciate that the Committee will be concerned by the procedural developments I have described. I can reassure you that we will continue to do all we can to ensure an opportunity for detailed reflection on this and any future such proposals. I will keep the Committee updated.

17 November 2009

Letter from the Chairman to Ian Pearson MP

Thank you for your letters of 4 and 17 November 2009 on the 2010 EC Budget. EU Sub-Committee A considered these at its meeting of 24 November 2009.

We are grateful for the updates you have provided on the negotiation process and also the advance warning of the early agreement of a further amending letter to the 2010 PDB. We will consider this letter in detail when we have received it for scrutiny.

We look forward to further updates on the progress of negotiations.

25 November 2009

BUDGET: NEGOTIATION OF EC’S ANNUAL BUDGET FOR 2010

Letter from Ian Pearson MP, Economic Secretary, HM Treasury, to the Chairman

I am writing to update you on a development in the last several days on the negotiation of the EC’s annual budget for 2010, to be agreed at Budget ECOFIN on 18 November.

At the end of last week, the Council Secretariat proposed a letter of amendment to the Commission’s Preliminary Draft Budget for 2010, covering additional resources for changes to the functioning of the European Council and the Council in 2010, following the entry into force of the Lisbon Treaty.

These costs primarily relate to the establishment of the European Council as an institution; the costs incurred in holding the regular European Council meetings and third country summits at Head of State or Government level; the creation of an office of the new President of the European Council, of a comparable size to that of the President of the European Commission; and an increase in the Council’s resources to support the higher number of co-decided dossiers under Lisbon. The total amount of funds requested under the budget’s Heading 5 (administration) is €25m (£22m) in both commitment and payment appropriations.

In detail, these elements break down as follows:

- €2.4m (£2.1m) to cover building-related costs for the organisation of European Council events;
- €2.6m (£2.3m) to cover IT, other equipment and transport expenses, including in the organisation of European Council events;
- €6.9m (£6.2m) to fund other operating expenditure connected with organising European Council events;
- €1.5m (£1.3m) for the salary, entitlements, representation and travel costs of the President of the European Council;

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18 This and all other sterling figures in this letter are converted at the rate on 30 October 2009 of €1=£0.8938
19 Figures shown relate to both commitment and payment appropriations
— €5.8m (£5.2m) for additional staff for the Council Secretariat, comprising: 22 new posts for the office of the President of the European Council, 10 new posts for additional security agents for his/her protection, and 28 new posts to strengthen other departments;

— €0.8m (£0.7m) to cover expenditure on missions by those working directly with the President of the European Council, media coverage of events, and medical expenses; and

— €5m (£4.5m) to act as a contingency reserve to fund activities, the demand for which may arise in-year as the European Council is set up and shaped as an Institution.

In presenting this proposal, the Council Secretariat expressed an intention to present it for formal decision by Ministers at Budget ECOFIN on 18 November. Member States had not been given any prior warning of this intention, or indeed of the proposal's publication date or form.

The Government has repeatedly and strongly objected to this method of procedure, in the Council's budget committee on 13 November, and bilaterally with other Member States, the Presidency and the Council Secretariat. The Government of course fully supports the establishment of the European Council as an Institution and the creation of the post of President of the European Council. We firmly believe that the President should have the necessary support in order to allow them to be effective in bringing greater coherence and consistency to the EU's actions, and to drive forward real progress on the collective issues we face.

However, we believe that proposals for funding these changes should be presented in sufficient time to allow adequate consideration by the Budgetary Authority. We have also made very clear that such proposals must be brought forward on a timing that allows Member State governments an adequate period for consideration by national Parliaments.

Following pressure from the UK and other Member States in Council, it now seems possible that the proposal may be considered according to an alternative procedure providing for further consideration of it until the end of this month. I am sorry not to be able to give you a more certain picture on this, and can assure you that we are pushing for full clarity on the process as soon as possible. In the meantime, if the issue is discussed at Budget ECOFIN, I will reiterate the need for a period of proper consideration of the proposal by Member States, including with national Parliaments.

I fully appreciate that the Committee will be concerned by the procedural developments I have described. I can reassure you that we will continue to do all we can to ensure an opportunity for detailed reflection on this and any future such proposals. I will keep the Committee updated.

17 November 2009

BUDGETARY ASPECTS OF THE LISBON TREATY

Letter from Ian Pearson, Economic Secretary, HM Treasury, to the Chairman

On 21 August, Baroness Kinnock wrote to you to confirm the Government's intention to keep your Committee updated on preparatory work related to the implementation of the Lisbon Treaty (if ratified by all Member States) and to share any Presidency texts relating to such work on a confidential basis. In line with this approach, I am writing to share with your committee a Presidency note summarising the key issues related to, and the outcome of initial discussions within the Council's budget committee on, the implementation of the budgetary aspects of the Lisbon Treaty.

This note has been considered by Permanent Representatives, who approved the proposed mandate for the Presidency to prepare agreement with the European Parliament on joint declarations relating to: the continuity of the Budget procedure; and transitional measures required to clarify aspects of budgetary procedure pending the adoption of the relevant legal acts and instruments. Permanent Representatives also provided officials in the Council's Budget committee with a mandate to further examine the budgetary aspects of the Lisbon Treaty on which agreement is expected to be reached after the Treaty's entry into force.

The Government's main objective with respect to the implementation of the budgetary aspects of the Lisbon Treaty is to ensure that budget-discipline is maintained. We are content that the approach outlined in the Presidency note is in line with this main objective.

I hope this information is helpful to the Committee. I look forward to continuing to assist your committee in the scrutiny of the budgetary aspects of the Lisbon Treaty and undertake to share any further Presidency texts relating to this matter with your committee. I will submit Explanatory
Memoranda on the legislative proposals required by the Lisbon Treaty in this area, expected following the entry into force of the Treaty.

26 October 2009

Letter from the Chairman to Ian Pearson MP

Thank you for your letter of 29 October on the implementation of the budgetary aspects of the Lisbon Treaty. EU Sub-Committee A considered this at its meeting of 24 November. We look forward to receiving further updates on this issue, and your explanatory memoranda on the legislative aspects.

25 November 2009

CAPITAL REQUIREMENTS DIRECTIVE: AMENDMENTS (13713/08)

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your letter dated 22 April 2009 on the Capital Requirement Regulations. Sub-Committee A took note of this letter at its meeting on 5 May 2009.

We would like to request further details concerning the text of the compromise that is likely to be adopted by the European Parliament, particularly in the areas of securitisation and inter-bank exposures. We look forward to receiving your response on this matter.

8 May 2009

Letter from Lord Myners, Financial Secretary of State, HM Treasury, to Lord Roper

Thank you for your letter of 8 May 2009 in which you have requested further detail concerning the text of the compromise that is likely to be adopted by the European Parliament, particularly in the areas of securitisation and inter-bank exposures.

I attach to this letter the text of the final measures adopted by the European Parliament. The European Parliament did not amend the proposals received from the Council.

The securitisation measure aims to improve risk management by making sure that originators and sponsors of credit risk transfer share risks with investors, changing the rules to ensure the originating institution retains an element (5%) of the securitised asset to better align potentially misaligned incentives. It also imposes disclosure and diligence requirements and monitoring requirements on an ongoing basis, in order to achieve greater transparency in what was seen as an opaque market with barriers to effective risk management.

The changes to the inter-bank regime aim to significantly strengthen this regime, intended to ensure financial institutions are not exposed too heavily to any single or connected counterparty. The current regime sets a maximum limit for all exposures from banks to non-banks and all inter-bank exposures over one year, but contains a national discretion on inter-bank exposures for less than a year. The new measure extends the current limit for inter-bank exposures to all exposures regardless of maturity. However, to ensure limits are targeted on institutions that pose a genuine systemic risk, a higher limit is set for smaller banks of €150m.

15 June 2009

COLLECTION OF STATISTICAL INFORMATION BY THE EUROPEAN CENTRAL BANK (2533/98, 14606/08)

Letter from Angela Smith MP, Minister for the Third Sector, Cabinet Office, to the Chairman

Thank you for your letter of 10 February 2009, responding to a letter from my predecessor, Kevin Brennan MP, concerning Explanatory Memorandum 14606/08.
In your letter, you state that Sub-Committee A had decided to continue to hold the document under scrutiny in anticipation of updates on the state of negotiations on the Government’s concerns over data security and the clarity of the wording of the document.

I am now in a position to update you.

The Council Working Group on Statistics has met on a number of occasions to work towards meeting the concerns of Member States. UK representatives have taken every opportunity to seek greater clarity of the wording of the document and to solve data security issues.

The Government is now satisfied that these concerns have been met.

On wording, a number of textual changes have been agreed which significantly improve the overall structure and taxonomy of the data flows described within it.

In particular, the position regarding the transmission of confidential data between the ECB and the European Statistical System (ESS) has been clarified, including reassurances that such transfers could take place for statistical purposes only, and by guaranteeing protection from unlawful disclosure. Onward transfers of confidential data must now be authorised by the original collector of the data.

These changes enhance confidentiality by harmonising the protections in both the European System of Central Banks (ESCB) and the ESS. At the same time, an improved mechanism for routine access to data, coupled with the established European Statistics Code of practice which promotes openness and transparency, would result in higher quality statistics and commentary for the public good.

On 20 April 2009, the European Data Protection Supervisor (EDPS), responding to a request from the Czech Presidency, gave his opinion on data security issues.

The EDPS welcomed the amendments to the text which now contain specific reference to the data protection legal framework, highlighting the importance of maximising the close coordination between the EBC Regulation and the established Regulation on European Statistics.

The EDPS did however criticise a number of elements including disagreement with the phrase “information becomes statistical information if it is used for the compilation of statistics, irrespective of the purpose for which it was originally collected” and the need for a clear definition of “statistical information”.

The document has since been redrafted to take full account of the EDPS criticisms.

Letter from the Chairman to Angela Smith MP

Thank you for your letter of 14 July 2009 containing a useful update on the state of negotiations on the Government’s concerns over data security and the clarity of the wording in the draft. EU Sub-Committee A considered your letter at its meeting of 13 October, where it was agreed to clear this item from scrutiny.

We are aware that this document was agreed on 18 September. However, this will not be recorded as a scrutiny override, as the United Kingdom abstained from the vote and the document was subject to Qualified Majority Voting. We are pleased to note that you observed the scrutiny reserve resolution in this case.

Letter from Ian Pearson MP, Economic Secretary, HM Treasury, to the Chairman

I have the pleasure of providing you with a copy of the UK Consolidated Statement for 2007-2008, including the Comptroller and Auditor General’s (C&AG) audit opinion and report on the statement, which I presented to Parliament today. This follows the commitment made by the Government in November 2006 that, as part of its work to improve the accountability for EU funds across the EU, HM Treasury would prepare an annual Consolidated Statement, audited by the NAO, on the use of EU funds in the UK.

I am pleased that the C&AG’s report again gives a positive opinion on regularity, showing that there has been no evidence of material irregularity in the payments made to beneficiaries in the period concerned. However, it places limitations of scope on a number of areas of the Statement, indicating that the consistency of the recording and the accounting of EU funding by UK government bodies
needs to be further improved. The Government continues to work to ensure these accounting issues are addressed, and being able to make this type of improvement was a key motivating factor behind producing the Consolidated Statement. The C&AG’s audit report notes the improvements made by HMT in its processes for preparing the Consolidated Statement since the 2006/07 Statement and the Government is keen to continue to improve the statement and processes underlying it.

The Government hopes this Statement and the C&AG’s audit opinion will be helpful to the European Court of Auditors and the European Commission when they are performing their own audits and controls. We will continue to work to build momentum for similar action by our EU partners.

15 October 2009

CONTROL OF EXPORTS OF DUAL-USE ITEMS AND TECHNOLOGY (1334/00, 5011/09)

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury
Thank you for letter of 18 February 2009 21 on Community General Export Authorisation (CGEA) licences for dual-use items. This was considered by Sub-Committee A at its meeting on 12 May, where we decided to hold the document under scrutiny.

Given the reservations that the Committee has over some of the possible changes to the CGEAs, we would like to request quarterly updates on the progress of negotiations on this subject.

13 May 2009

Letter from Ian Lucas MP, Minister for Business and Regulatory Reform, to the Chairman
I am writing in response to your letter of 13 May 2009 to update the Committee on the progress made in negotiations on proposals to increase the number of Community General Export Authorisations (CGEA) available to exporters. An informal update was provided by my officials to the clerk of your Committee in July.

Since the last informal update a further meeting of the Council Working Group on Dual-use goods (the Group responsible for the Dual-Use Regulation) took place on 8 September. The main focus of discussions at that meeting were associated with the country schedules on proposals EU003 (Export After Repair/Replacement) and EU004 (Temporary Export for Exhibition or Fair). On EU003 the current proposal is to exclude Belarus but include Malaysia, Singapore, Tunisia and UAE. On EU004 the current proposal is to include French Overseas Territories, Morocco and Tunisia.

Although there has been some progress an agreement on the final text has yet to be made. A copy of the latest position paper prepared by the Presidency on both licences are attached for your information (not attached).

Discussions are to continue at the next meeting of the Council Dual-Use Working Group scheduled for 20 October 2009. To date the Working Group has not considered the other authorisations set out in the Commission proposal.

12 October 2009

Letter from the Chairman to Ian Lucas MP
Thank you for your letter of 12 October updating the Committee on the progress of negotiations on document 5011/09.

EU Sub-Committee A is pleased to note that some progress has been made in the negotiations. We agreed to continue to hold the document under scrutiny in anticipation of further updates on the progress of negotiations.

28 October 2009

21 Correspondence with Ministers, December 2008 to April 2009
Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury to the Chairman

Further to the Select Committee on the European Union’s report of 25 March 2009, I am writing to update you on negotiations on the French initiative to replace the Customs Information System with a Council Decision. Your Committee did not clear the Explanatory Memorandum, pending further information from ongoing negotiations.

The UK broadly supports the initiative but has some reservations as set out in my Explanatory Memorandum of 7 March 2009.

— The legal base referred to in the draft text covers operational cooperation between Member States’ competent authorities but not the collection, storage and analysis of information. Amendments have been made to the instrument which provide for the latter, and consequently the UK has asked that the legal base be extended to include Article 30(1) (b) of the Treaty on European Union. The UK has raised this point in discussions and it has been referred to the Council Legal Service.

— The reference in Article 2 in the draft text to Articles 36 and 223 of the Treaty establishing the European Community referred to the original TEC. The UK asked that the references be updated to Articles 30 and 296 of the consolidated TEC. The draft text has been updated accordingly.

— The data protection issues are still being negotiated. The original draft text alluded only to the Council of Europe Convention on the Protection of Individuals with Regard to the Automatic Processing of Personal Data (known as Convention 108) and the Council of Europe Recommendation regulating the use of personal data in the police sector; no account was taken of the Data Protection Framework Decision (DPFD) which was adopted by the JHA Council in November 2008. Following the opinion of the Council Legal Service, changes were made so that the DPFD is fully reflected in the draft text. The Joint Supervisory Authority (JSA) and the European Data Protection Supervisor (EDPS) have also provided opinions on the text and a number of suggestions have been made which will be discussed in the near future. The UK is satisfied that the DPFD has been reflected in the draft text and welcomes the comments from the JSA and EDPS, though at the last negotiations a few Member States questioned the need for the reference to the DPFD as it is only due to be implemented by 27 November 2010. The UK believes that such a reference is necessary as many MS may implement the DPFD before the November 2010 date.

— The original draft text did not refer to the data protection rules governing Europol and Eurojust. This has now been rectified. In addition Europol is not seeking inputting rights to the CIS and both Europol and Eurojust will have read-only access.

— In the draft text (and the existing Convention and Protocol to establish the FIDE database) the input of data into the third pillar FIDE database is mandatory. This is out of alignment with the first pillar version and in principle obliges Member States to enter sensitive data on ongoing investigations. In negotiations the UK has suggested that the mandatory element should be changed to align with the first pillar. The UK has gained the support of most Member States on this issue, but due to the unanimity decision-making arrangements that exist in the third pillar, it is felt that a compromise text that satisfies all MS concerns is the only practical way forward. The UK is participating in a drafting group to produce a compromise text and is hopeful that our concerns will be addressed and the matter will be agreed soon.

— The European Parliament (EP) has been consulted, as per legislative arrangements in the third pillar, and provided its opinion on the original French initiative in March. Their opinion recommended the initiative be rejected, and called on the French Republic to withdraw it. The EP believed the initiative was being ‘rushed through’ by the Council before entry into force of the Lisbon Treaty, thereby limiting the EP’s legislative
influence. The EP was also not satisfied that there were adequate data protection safeguards on the data collected and stored on the system, and believed that the EDPS should have been consulted at an earlier date by Council. The Presidency has since met with the EP Rapporteur who produced the opinion and assured him that measures have been taken to address the data protection issues. They also explained to the Rapporteur’s that far from being a totally new initiative, the draft decision actually amends and replaces an existing Convention. As a result, the EP will be consulted on the revised text, and will provide a modified opinion in Autumn 2009.

The UK is confident that our concerns will be addressed, though negotiations are likely to continue for the next few months. We will keep you updated on progress.

21 May 2009

Letter from the Chairman to Rt Hon Stephen Timms MP

Thank you for your letter of 21 May on the Council Decision on the Customs Information Database. EU Sub-Committee A welcomes the progress that has been made in negotiations towards reconciling your initial concerns.

We have decided to hold the document under scrutiny and we would like to receive updates on the progress of further negotiations, particularly on the compromise draft text concerning the alignment of the first and third pillar databases.

We would also like to receive an update on the revised European Parliament opinion on the text, particularly considering their reservations over the initial draft of the Decision.

24 June 2009

Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

Further to the Select Committee on the European Union’s report of 24 June 2009, I am writing to update you on the negotiations on the French initiative to replace the Customs Information System (CIS) Convention with a Council Decision. Your committee did not clear the Explanatory Memorandum, pending further information from ongoing negotiations.

The UK supports the initiative and the outstanding concerns detailed in my letter of 21 May 2009 have now been addressed.

— The UK proposed that the legal base for the Council Decision should be extended to include Article 30(1) (b) of the Treaty on European Union which relates to the collection, storage and analysis of information. The proposal was referred to the Council Legal Service, they researched this proposal but felt that there was no need to extend the legal base as Article 30 (1) (a) was flexible enough to fully cover the Council Decision. In consultation with lawyers we agreed to drop this proposal.

— The UK was concerned that in the draft text the input of data into the third pillar database was mandatory. This was out of alignment with the first pillar version and in principle obliged Member States to enter sensitive data on ongoing investigations. In negotiations the UK gained support from most of the Member States but due to unanimity decision making arrangements in the third pillar it was necessary to secure a compromise to move the negotiations forward. The UK participated in a drafting group to prepare a compromise text which addresses our concerns and the text has been agreed by all Member States.

— The outstanding issues regarding data protection have been addressed with the Data Protection Framework Decision (DPFD) being fully reflected in the text. A subsequent issue arose regarding the data protection supervision of the CIS. The Council Legal Service raised a proposal to change the supervisory body from the Joint Supervisory Authority (JSA) to the European Data Protection Supervisor (EDPS), as the EDPS supervises the 1st pillar CIS and they are the only body which has the authority to supervise the Commission (who manages the CIS). A number of delegations, including the UK, opposed this proposal as it would
not ensure sufficient supervision over the whole of the system as the EDPS has no jurisdiction under the 3rd pillar unlike the JSA. A compromise was suggested, which the UK supports, whereby both the JSA and the EDPS would supervise the CIS. This has been approved by all but one Member State, but it is likely that they will agree shortly.

EUROPEAN PARLIAMENT

— The European Parliament (EP) has just released their revised draft opinion. The EP had previously been concerned about the CIS Council Decision believing that there were not adequate data protection safeguards and considered that the initiative was being ‘rushed through’ before the entry into force of the Lisbon Treaty, therefore limiting the EP’s legislative influence. The Czech Presidency subsequently met with the EP Rapporteur who produced the opinion, and assured him that measures had been taken to address the data protection issues. As a result the Rapporteur agreed to produce a modified opinion and this draft version has just been released.

— The EP’s draft opinion highlights concerns that they still have with the document. As negotiations continued during the formulation of the EP opinion most of these concerns have already been addressed, for example, including clear reasoning in the text for the need to update the CIS and to grant access to Europol and Eurojust. They have also highlighted the need to make the CIS compatible with other information systems, and ensuring appropriate data access controls. These are quite technical aspects and we consider that it is not appropriate to go into this detail within the legal text.

— The EP is also concerned with the purpose limitation of the data collected. The UK considers this is adequately covered in the text as it stands as well as through the DPFD.

— Within their opinion the EP has provided a list of proposed amendments to the Council Decision, again most of these have already been included in the document. The remaining EP proposals are very minor, for example asking for a list of Member States competent authorities to be published; and requesting the EP is given a copy of any future reports or evaluations of the CIS. The UK can agree to these requests.

Therefore as all of the UK issues have been resolved and most of the EP’s concerns have already been addressed in the text, the UK feels that we can fully agree to the revised text of the CIS Council Decision. If the committee sees fit to clear the document from scrutiny this will ensure that the CIS Council Decision is agreed before the possible entry into force of the Lisbon Treaty. If it is not agreed in time this could see the re-opening of negotiations which under Qualified Majority Voting could see the UK lose some of the compromises we have secured.

4 November 2009

Letter from the Chairman to the Rt Hon Stephen Timms MP

Thank you for your updates on the negotiations on the decision on the Customs Information Systems (CIS) Convention.

This was discussed by EU Sub-Committee A on 24 November, where it was agreed to clear the document from scrutiny, given that your concerns have been addressed in the latest draft of the proposal.

25 November 2009

DERIVATIVES MARKETS (11873/09)

Letter from Lord Myners to the Chairman

Thank you for your letter of 10 September 2009, in which you requested further detail, particularly, the Government’s response to the Commission Communication and an account of the Commission’s public hearing of 25 September 2009.
I attach a copy of the Financial Services Authority and HM Treasury response to the consultation. An account of the public hearing has been provided by the Commission by a combination of videos, a speech transcript and presentation notes. These can be accessed through the Commission’s website below:


The Commission has now published its proposals on future policy actions to strengthen the safety of derivatives markets. Your committee will receive an Explanatory Memorandum on these proposals in due course.

26 October 2009

ECONOMIC PARTNERSHIP AGREEMENTS: SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (13314/08, 13386/08)

Letter from Gareth Thomas MP, Minister of State, Department for International Development, to the Chairman


An update was requested on the progress of discussions following the visit of Trade Commissioner Baroness Ashton to the region in February. This letter sets out the most recent developments in the region.

STATE OF PLAY OF THE INTERIM EPA

The visit by Trade Commissioner Ashton to the SADC region in February was positively received. Following the visit, a meeting was held on 9-12 March between senior officials in the region and the Commission, at which agreement was reached on issues including export taxes, infant industry safeguards, quantitative restrictions, free circulation of goods and tariff alignment to preserve the South African Customs Union (SACU).

The Interim EPA was signed on 4 June by Botswana, Lesotho and Swaziland. Mozambique is expected to sign shortly, and Namibia is expected to sign towards the end of 2009.

Following these discussions, the Commission produced two Joint Declarations and an accompanying legal text. The declarations accompany the legal text of the Interim EPA and are intended to give assurances to the SADC signatories that specific modifications will be made to the Agreement. The first declaration sets out the position on tariff alignment, such as that the tariffs under the SADC EPA align with those of the South African Customs Union. Ensuring that tariff regimes are harmonised across the region is critical to regional trade. The second declaration sets out the commitment to regional integration and the region’s commitment to concluding the full EPA negotiations.

The new legal texts, to be included in the full EPA, will cover the areas referred to above, where agreement has been reached. This means that the agreed changes detailed in these legal texts do not change the terms of the Interim EPA text, but only become effective once the full EPA is signed.

NAMIBIA’S POSITION

Namibia has requested that the legal text detailing changes to be included in the text of the full regional EPA be included as an addendum to the Interim EPA. The Commission has stated that it cannot give such assurances as the interim EPA would have to be re-submitted to the European Council; Namibia has cited this as the main reason for not signing.

While it appears that Namibia will not sign in the short term, the EU is an important market for its agricultural exports (especially beef and grapes). Failure to sign the EPA could ultimately lead to the Commission revoking Namibia’s Market Access Regulation, which provides countries that have signed an EPA provisional duty-free, quota-free access to the EU. Discussions are ongoing.

We will continue to support the SADC region in its ambition to sign the full regional EPA and encourage the Commission to be as development focused and transparent as possible in its negotiations with SADC states.

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22 Correspondence with Ministers, December 2008 to April 2009
EU FINANCIAL SUPERVISION (10511/09, 13645/09, 13648/09, 13652-58/09)

Letter from the Chairman to Lord Myners, Financial Secretary, HM Treasury

Thank you for Explanatory Memorandum 10511/09 on the Commission Communication on the reform of financial supervision. Sub-Committee A considered the proposal at its meeting on 23 June and decided to hold the document under scrutiny.

The Commission Communication describes, in more detail, plans for the revision of the EU financial architecture on which the Committee has already commented on in its report The future of EU financial regulation and supervision.

The discussion among finance ministers at the ECOFIN Council on 9 June and 18–19 June has shown that there are different views among Member States on the role and the powers of the three new Supervisory Authorities. We would like to request more information about how the UK Government's concerns over the location of fiscal authority (included in the Council conclusions) can be reconciled with the provision of binding powers to these Authorities. Given that you are providing evidence to the Committee on 14 July on the Alternative Investment Fund Managers (AIFM) Directive, we would be grateful if you could discuss this issue with us at this time.

24 June 2009

Letter from Lord Myners to the Chairman

Thank you for the letter dated 24 June. You have requested more information about how the UK’s Government’s concerns over the location of fiscal authority can be reconciled with the provision of binding powers to the three new supervisory authorities. I can confirm that I will cover these issues in the evidence session scheduled for 14 July.

8 July 2009

Letter from Lord Myners to the Chairman

I am writing to keep your Committee informed of my response to the Commons European Scrutiny Committee’s report of 21 October. I outline below the information requested on the European Commission’s draft legislative proposals on EU financial regulation and supervision.

Is the government convinced of the proportionality of the proposed measures?

— The financial crisis has demonstrated the need to raise EU supervisory standards and address home-host issues, for example concerning branches. The Government believes that the new supervisory system will, for example, improve enforcement of rules and raise standards through peer review, and therefore improve the financial stability framework.

Is the Government satisfied, particularly in the light of the importance of the financial services sector for the UK economy, that the architecture of the proposed new bodies, including their membership, particularly of the Steering Committee of the European Systemic Risk Board, members’ voting weights and the relationships of the European Court of Justice to these bodies are acceptable?

— The Government is satisfied with the composition of the European Systemic Risk Board (ESRB). In particular, the Government has ensured a balanced representation of eurozone and non-eurozone representatives on the ESRB Steering Committee.

— Regarding ESRB voting, the Government is happy with the improved threshold limits. In the three European Supervisory Authorities (ESAs), there are wide-ranging views on voting among Member States, and the Government is currently exploring potential voting mechanisms.

Does the Minister’s use of the qualification “where practicable”, in relation to bringing the present proposals into line with what has been agreed by the European Council, mean that the Government is planning to concede points previously won?

— It is not the Government’s intention to go back on the conclusions that finance ministers and heads of Government worked hard to agree at the
June ECOFIN and European Council meetings. However, parts of the conclusions do not cover key issues for the UK and do not constitute “points won”. Furthermore, arrangements that are workable in practice, and within existing legal constraints, may diverge slightly. The Government does not want to have a situation where the new bodies are not workable in practice and cannot fulfil the tasks entrusted to them. This would be especially damaging for the European financial services industry. But it does remain a priority for the Government to stick to the spirit of the conclusions. Most importantly, the Government is clear that the final agreement on the package should go no further than what was mandated by the European Council in June.

What is the purport of the Minister’s comment about ensuring “the new bodies operate in a legal way” — what might be illegal about the operations proposed?

— There are wide-ranging roles proposed for the new bodies. However, these are legally complex and there is significant case law on how European agencies should operate. We need to ensure that the bodies’ powers do not have too wide discretion or undermine the roles of the courts. The Government is working with Council Legal Service and other Member States to ensure that the bodies are on a very sound legal footing.

Are members of the European Economic Area content to be subjected to bodies on which they have no representation?

— EEA Members are already subject to EU law and are not consulted on this.

To what extent does the Government agree with the “clarifications” in the City of London Corporation’s response to the Commission Communication European financial supervision and to what extent have these points been met in the proposals?

— The Government has long stressed the distinction between regulation and supervision. It remains clear to us, as was also stated in the ECOFIN and European Council conclusions in June, that day-to-day supervision should remain at the national level, where national authorities are best placed to supervise individual institutions, and to respect national fiscal responsibilities. I agree with the City, however, that “supervisors need to converge their supervisory practices and ensure that like firms are treated similarly”. The new ESAs will play a key role here, and we need to ensure that the legislation fulfils this aim.

— The Government believes the EU would benefit from more harmonised and better quality rules. The Chancellor proposed a single rule book in March this year. Therefore I support a strong rulemaking role for the new ESAs, which will be composed of experts in the fields of banking, securities, insurance and pensions.

— Regarding the specification of what sort of “diverging opinions” are covered in the case of “disagreement between national supervisors”, the Government is listening to the views of other governments and working to clarify the areas in which the ESAs would be able to settle disagreements.

— On the scope of “Full supervisory powers for some specific entities”, this would only apply where the sectoral legislation empowers the authorities to have direct supervisory responsibility over an entity. This will therefore have to be agreed in Council and Parliament on a case-by-case basis in the relevant legislation.

— On the concept of “binding cooperation” between the ESRB and the ESAs, it will be important that the ESAs’ expertise feed into the ESRB’s risk assessments and that the ESRB has access to all the relevant information it needs to fulfil its tasks.

— Regarding the ESAs’ access to information, including in supervisory colleges, it is right for them to have access to appropriate information about firms, so that they can properly fulfil their duties.

Do the proposals fit in with what is being established at the international level and in third countries with significant financial services sectors?
The work of the ESRB will be closely integrated with the global early warning system under the IMF/FSB. The legislation specifies that the ESRB should "coordinate with international institutions, particularly the International Monetary Fund and the Financial Stability Board, as well as the relevant bodies in third countries on matters related to macro-prudential oversight". More harmonised regulation and higher quality standards were agreed in the G20, and it is only right that the EU ensures it plays its role in that process.

**UPDATE ON OCTOBER ECOFIN MEETING**

I would also like to take this opportunity to update your committee on the discussion of the legislative proposals at the 20 October ECOFIN. The Swedish Presidency had originally proposed for the Council to agree on general approaches to the Regulation establishing the ESRB and the Council Decision entrusting the ECB with specific tasks concerning the functioning of the ESRB.

The UK Government is aware that the proposals have not yet cleared scrutiny and have therefore maintained a scrutiny reserve in the negotiations. At the October ECOFIN, the Chancellor made it clear to the Presidency and the Council that the UK could not agree to general approaches, that insufficient time had been given to Parliamentary scrutiny and we would not negotiate on this point. He also made clear that we maintained our Parliamentary scrutiny reserve.

Agreement to general approaches is therefore not recorded in the Council conclusions. Instead it states that “without prejudice to ongoing national parliamentary procedures, there is broad agreement on the substance” of the proposals. The Presidency is invited to begin negotiations with the European Parliament on the Regulation. It is also invited to take the necessary steps to initiate the process with the European Parliament on the Council Decision.

The conclusions make clear that final agreement on the complete supervisory package will come to ECOFIN and European Council in December, until which time I will endeavour work with your committee to clear scrutiny.

I hope that your committee finds this information helpful.

26 October 2009

**Letter from the Chairman to Lord Myners**

Thank you for your Explanatory Memorandum of 15 October on the reform of financial supervision in the European Union. EU Sub-Committee A considered this document on Tuesday 27 October 2009.

We invite you to provide oral evidence to Sub-Committee A on this subject on Tuesday 10 November from 3.00 – 3.45pm. A draft list of questions will be provided in advance of this meeting. This session would be followed by a further session on the Alternative Investment Fund Managers Directive from 3.45 to 4.30pm.

We are aware that the discussion on these proposals is moving at a fast pace. We also note that a "broad agreement" was reached at the ECOFIN Council of 20 December on the European Systemic Risk Board. The progress of negotiations will be a topic which we will discuss on the 10 November.

We have also received your response to our recent report, *The Future of EU Financial Supervision and Regulation* which we noted at our meeting of 27 October 2009.

We have decided to hold this document under scrutiny in anticipation of the forthcoming evidence session.

28 October 2009

**Letter from the Chairman to Lord Myners**

Thank you for providing evidence to the Committee on 10 November on the Commission’s proposals for a Directive on Alternative Investment Fund Managers and also on the reform of the structure of financial supervision within the European Union. In this letter we set out our points of concern relating to the proposals for the reform of financial supervision and what we hope you can achieve in your negotiations on the proposal.
EUROPEAN SYSTEMIC RISK BOARD

We welcome the establishment of the European Systemic Risk Board (ESRB). It can play an important role in the detection of systemic risk in the European Union and in a global “early warning system” in terms of imbalances within the financial system. A future crisis will affect EU or global institutions, rather than be limited to a single country, and risk detection systems at a level higher than national bodies can provide will be needed. A European Union wide body will be more effective at identifying problems in the EU than one based exclusively within any Member State but global imbalances by definition can only be detected by global bodies. It is therefore crucial that the ESRB work in coordination with the Financial Stability Board and that data exchange occurs between these two bodies.

We recognise that the ESRB will not have binding powers and it will be advisory only. However, concerns have been raised that the ESRB could seek to insist that individual Member State governments conform to its own economic or fiscal policies. We assume the UK will be working, both during negotiations and after agreement of the proposals, to ensure that the ESRB will not bring pressure to bear on individual governments in this way.

As you know, we have concerns over the organisation and structure of the ESRB. As the proposal is drafted the Board will have 61 members; this is too many to achieve effective decision making, particularly in a possible crisis situation. We acknowledge that the Steering Committee will be able to increase the effectiveness of the ESRB and it is vital that the United Kingdom has guaranteed representation on this committee.

The Directive as drafted would entrust the secretariat of the ESRB to the European Central Bank (ECB) and we welcome the use of the ECB. It is well placed to collect data on systemic risk and has sufficient expertise to carry out this task.

EUROPEAN SUPERVISORY AUTHORITIES

We welcome the overall objective of the European Supervisory Authorities (ESAs) – to work towards a single European rulebook and to facilitate increased cooperation between European supervisory authorities – as both positive in terms of increasing cooperation between national supervisors and an important step in creating a true single market in financial services.

We understand that the authorities are to be constituted under Article 95 of the EC Treaty. The power given to the ESAs to provide opinions on the success of individual Member States’ implementation of decisions and their dispute settlement powers cast doubts over whether Article 95 can be used in this way. We urge you to work towards ensuring that all powers of the ESAs are within the bounds granted to them by the Treaty. We would be grateful if you could provide details of changes to the legal base that will occur as a result of the coming into force of the Lisbon Treaty.

Our specific concern, which we know you share, is that an ESA will have the power to apply a decision directly to an individual institution if a national supervisor fails to implement that decision. As decisions are decided by Qualified Majority Voting, this could lead to a decision being directly applied to UK financial institutions, without the Financial Services Authority (FSA) having the power of veto. This appears to go against your assertion, with which we strongly agree, that day-to-day supervision must remain the responsibility of the national supervisor. We urge you to ensure that decisions made in an ESA to apply a rule directly to a national financial institution must be done so by unanimity or alternatively that the ESAs have no power directly to apply a decision to a financial institution in an individual Member State. Any other outcome would amount to day-to-day supervision and intervention being effectively in the hands of the ESA.

Finally, we acknowledge concerns that have been raised over the process for appeal where decisions impinge upon Member States’ fiscal authority. We urge you to push for clarification on the system of safeguards which will prevent the ESAs from seeking to enforce decisions that impinge on Member State fiscal authority.

In conclusion, we believe these proposals are a positive step toward a unified system of financial supervision which will have benefits both for financial stability and the single market in financial services. However, the key concerns raised above need to be addressed before the proposals are agreed in Council. In view of the huge importance of the proposals to the financial institutions of the United Kingdom and our serious concerns over the proposed powers of the ESA we intend to retain the document under scrutiny.

We appreciate that if the proposal is amended as we suggest in relation to the ESAs more attention will be needed to be given to the problem of home-host supervision but we believe that the problems around this subject can and will be resolved as the ESAs bed down and gain experience.

25 November 2009
Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for Explanatory Memorandum 8118/09 dated 20 April 2009 on the mobilisation of the European Globalisation Adjustment Fund, which was cleared in the Chairman’s Sift of 27 April 2009. The Committee took note of this letter at its meeting on 5 May 2009.

We would like to ask whether the Government expects any proposals to be made for the support of workers made redundant from the United Kingdom’s car manufacturers through the European Globalisation Adjustment Fund. We look forward to receiving your response on this matter.

7 May 2009

Letter from Jonathan Shaw MP, Minister for Disabled People and Minister for the South East, DWP to the Chairman

I am writing to inform you of the outcome of the European Parliament’s First Reading of the above proposal. The results of the negotiation have resulted in a compromise amendment being presented to and passed by the European Parliament.

The amended regulation now includes a temporary derogation to the end of 2011 to allow it to be used to help workers who have been displaced by the current economic and financial crisis providing the link can be demonstrably proven. For Member States applying under this derogation the co-financing rate is increased to 65%. For all other applications the co-financing rate will remain at 50%.

The intervention criteria have been amended, reducing the trigger number of redundancies from 1,000 to 500 (to take place over a period of 4 months) in an enterprise including suppliers and downstream producers. In addition, support funded by EGF can now apply over 24 months, increased from twelve months.

Some minor changes have also been made to the method for counting redundancies and the reimbursement of indirect costs.

Subject to the Regulation going through the formal approval process, we expect it to come into force in mid-July and it will cover applications received from 1 May onwards.

6 June 2009

Letter from Ian Pearson MP to Lord Roper

Thank you for your letter of 7 May following consideration by your committee of the above mentioned Commission proposal and clearance of the Explanatory Memorandum from scrutiny. I am pleased to answer your question about possible applications to the European Globalisation Adjustment Fund (EGF) from the UK to support redundant car workers.

While car manufacturing companies will make their own decisions as to how best organise and deal with the challenges of globalisation and the current economic situation, the Government also has an important role to play in supporting companies and workers in a competitive global environment, especially in these difficult economic times. In January, the Secretary of State for Business, Innovation and Skills announced the Automotive Assistance Programme to enable lending of up to £2.3bn to the sector. Following demand from the automotive sector for support under the “Train to Gain” scheme, the budget of £65m has been increased substantially up to £100m.

The Government believes that the EGF has a useful role to play both in responding to the consequences of globalisation and to the current economic situation, especially in more disadvantaged areas of the EU. It is the Government’s position that supporting redundant workers and assisting them to retrain and re-enter the labour market should primarily be the responsibility of Member States, and assistance from the EGF should be to complement rather than replace Member State actions and those of companies.

In England (different arrangements apply in the Devolved Administrations), Regional Development Agencies, with their partners, are responsible for coordinating an immediate response to large redundancies. They are aware of the availability of the EGF and would make the initial decision about whether a bid in relation to car industry or other workers would add value to their response. The European Social Fund (ESF) has already been used to invest in Jobcentre Plus, its Rapid Response Service and Train to Gain, the combination of which have already proved to be effective in helping workers and areas affected by restructuring. The EGF Regulation states that the Fund must not duplicate use of the ESF; but if a bid meeting the application criteria were to come forward, it would
receive full consideration. The decision on whether to submit such an application would be taken by DWP ministers in consultation with colleagues in other departments.

29 July 2009

**Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 29 July concerning the possible use of the European Globalisation Adjustment Fund to support redundant British car workers, which we found most useful.

EU Sub-Committee A would like to be kept informed of any such applications should they occur, or if you anticipate that they will occur, in the near future.

14 October 2009

**Letter from Ian Pearson MP to the Chairman**

I am writing to inform you of developments on an issue related to the EC annual budget. The issue in question is the subject of an Explanatory Memorandum dated 17 September, as follows:


This was discussed in the Council’s Budget Committee in September. The UK delegate laid down a scrutiny reserve at each stage, and made clear that the earliest the reserve could be lifted would be 14 October, after Parliament returned from Recess.

However, we were informed on 7 October that the Council Secretariat intended to forward the issue for agreement as an “A” point at the Transport Council on 9 October, notwithstanding the UK’s scrutiny reserve. The reason for doing so was a wish to secure EP approval of the item at its plenary on 19-22 October. The next EP plenary after that will be in the final week of November, and the Council Secretariat were reluctant to leave the request for funding for EP approval until then. The 9 October Transport Council was the last Council meeting before the EP’s October plenary.

It is both unusual, and unfortunate in these circumstances, that there was no other Council meeting scheduled that might have approved the item before the October EP plenary, and after the UK Parliament’s Committees had the opportunity to consider it. UK officials made clear to the Council Secretariat in Brussels that it was extremely unsatisfactory for items to be put forward for Council’s agreement while still subject to a UK Parliamentary scrutiny reserve.

As discussed by officials with the Clerk of your Committee, the UK formally abstained on the item in question at the Transport Council on 9 October, as the scrutiny reserve remained in place (although I understand your Committee cleared the question from scrutiny today). The item was approved by a qualified majority of the Council.

I am sorry that we found ourselves in this situation last week. I can assure you that we will continue to do everything possible in future to ensure that Parliament is given the proper time needed to conduct its scrutiny of the EC budget.

You may wish to be aware that the UK also abstained at Transport Council on a proposal for a Decision of the European Parliament and of the Council on the mobilisation of the EU Solidarity Fund. This was the subject of an Explanatory Memorandum also dated 17 September, which your Committee cleared on 23 September (EM 12768/09 and 12769/09). The House of Commons European Scrutiny Committee had not yet had the opportunity to scrutinise the documents, so the UK Parliamentary reserve remained in place on this issue.

16 October 2009
Letter from Pat McFadden MP, Minister for Employment and Postal Affairs, Department for Business, Enterprise and Regulatory Reform, to the Chairman

In my letter to you of 31 January 2009, I noted that I would write to your Committee again when the amendments covered by document nos. 17022/08 had been agreed.

The ERDF Regulation has been amended following its first reading by the European Parliament. The text has not been substantially amended, with the following changes having been made:

— The introduction of a limit on the amount of ERDF that Member States can allocate to energy efficient improvements and the use of renewable energy in housing (a maximum of 4% of their total ERDF allocation)

— The requirement for such spending to be in order to support social cohesion (rather than limited to low-income households as originally proposed)

— An increase in the options whereby project claimants can allocate indirect costs to a project (for example, where a project charges overheads such as electricity or other utilities based on a proportion rather than on a specific amount)

The amendments are in line with the Government’s objectives of simplifying the administration and management of the Structural Funds and increase the options for Member States. It is expected that the Regulation will be agreed as amended in Council mid-May.

9 May 2009

Letter from Pat McFadden MP to the Chairman

In my letter to you of 31 January 2009, I noted that I would write to your Committee again when the amendments covered by document nos. 16543/08, 16548/08 and 17022/08 had been agreed.

The three regulations have now been published in the Official Journal. The ESF and general provisions regulations have come into force and the ERDF regulation will come into force on 10 June. Copies of the final texts are enclosed [not printed].

I wrote to you on 9 May to outline the amendments to the ERDF regulation, which was not substantively amended. The ESF Regulation is unchanged compared to the original Commission proposal. The only change to the general provisions regulation is a small technical amendment to allow the overheads option to apply to both the ESF and ERDF.

2 June 2009

FINANCIAL MANAGEMENT: SIMPLIFICATION OF CERTAIN REQUIREMENTS FOR FUNDS (12425/09)

Letter from the Chairman to Kevin Brennan MP, Parliamentary Under Secretary of State and Minister for the Third Sector, Cabinet Office

Thank you for your Explanatory Memorandum 12425/09, which EU Sub-Committee A considered at its meeting on 20 October 2009.

We support your position that Article 77 should not be amended to remove the need for co-financing of projects in 2009 and 2010, as this is an important part of the financing of projects as part of the Funds. What benefits does the Commission aims to achieve through this amendment?

Would you also provide updates on negotiations in the working groups held since your Explanatory Memorandum. We will hold the document under scrutiny in anticipation of your answer.

23 October 2009

23 Correspondence with Ministers, December 2008 to April 2009
Letter from Ian Pearson MP, Economic Secretary, HM Treasury to the Chairman

I write further to your letter dated 23 April 200924 on the above Draft Decision clearing the Decision from scrutiny and requesting an update on the final form of the proposals.

COREPER met on 30 April to consider the final compromise version of the dossier. The compromise proposal states that the three Level 3 committees have a choice between receiving action grants and operating grants. It also states that after a comitology procedure with scrutiny, the Commission can select new beneficiaries if they are direct successors to beneficiaries identified in the proposal, or be carrying out the same work as the current beneficiaries and must fulfil their eligibility criteria. A draft Declaration accompanies the draft Decision, in which the Council calls on the Commission, when preparing the Preliminary Draft Budget, to finance this initiative from re-prioritisation. However the European Parliament has decided not to be a signatory to this Declaration.

The proposal now allocates funding away from the accountancy bodies and is now as follows:

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The proposal was agreed at COREPER by a qualified majority. The UK did not agree with the proposal and made the following minuted statement at this meeting:

"The Council has agreed to co-finance specific EU wide projects established under Community legislation, but not general funding of the committees' activities. The UK therefore cannot agree to the current proposal which allows for general funding of the level 3 committees, as it is concerned that such funding could undermine the independence of the committees. In addition the UK is unable to accept the comitology provisions which would allow for any future bodies to also be funded under this proposal. These are issues which should be addressed as part of the debate currently taking place on the Larosière proposals."

The proposal went to the European Parliament on 6 May, where it was adopted. I have attached the outcome of the European Parliament’s first reading for further information. It will now be voted on at a future meeting of the Council, where the UK will vote against.

I June 2009

Letter from the Chairman to Ian Pearson MP

Thank you for your letter of 1 June on the funding of Level 3 Committees. Sub-Committee A took note of this document at our meeting of 23 June.

Witnesses to this Committee have told us that the Level 3 Committees require extra funding. However, we agree with your position that funding should not threaten the independence of the Committees. Therefore, action grants are a more appropriate form of funding than operating grants.

We look forward to further updates on the progress of this document in negotiations.

24 June 2009

Letter from Ian Lucas MP, Minister for Business and Regulatory Reform, Department for Business, Innovation and Skills, to the Chairman

I write further to your letter dated 24 June to Ian Pearson on the above draft decision requesting an update on the progress of this document in negotiations. I am now the Minister responsible.

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24 Correspondence with Ministers, December 2008 to April 2009
There were no changes to the document after the European Parliament’s first reading decision on 6 May, which was attached to Ian Pearson’s letter to you of 1 June.

The draft decision was finally voted on as an “A” item at the meeting of the Council on 27 July 2009. The UK voted against the proposal. Germany abstained, but there was not enough support for the UK’s position to block it. The Council addendum to the minutes of the Council, which are released publicly, state that the Council approved the amendment set out in the European Parliament’s opinion and adopted the proposed act thus amended. The decision was published in the Official Journal of the European Union on 25 September.

The UK did not agree to the Decision, part of which allows for general funding of the level 3 committees, as it was concerned that such funding could undermine the independence of the committees.

15 October 2009

FRAUD: COMBATING FRAUD AND EXCHANGE OF INFORMATION BETWEEN THE EC AND ANDORRA, MONACO, SAN MARINO AND SWITZERLAND

Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

The European Commission has submitted a proposal for the Council to give it a mandate to open negotiations with Andorra, Monaco, San Marino and Switzerland for Agreements to combat fraud and other illegal activity and to ensure exchange of information in tax matters.

The proposed mandates are expected to be discussed in ECOFIN on 20 October. They will be considered alongside a draft Agreement with Liechtenstein, which was first submitted to ECOFIN in February 2009 (EM 17247/08). This draft Agreement has since been further developed in the context of the rapidly changing environment for tax cooperation and the G20 London Summit of last April that ensured that uncooperative jurisdictions made commitments to meet international standards of transparency and exchange of information.

The proposed mandates are for Agreements that fully reflect international standards. They are for mixed competency Agreements that would be signed jointly by the Commission and the Member States with each of the negotiating partners. As well as ensuring much needed exchange of information with the countries concerned, the resulting Agreements should also help to bring about the end of the “transition period” under the Savings Directive (Directive 2003/48/EEC), which allows certain Member States to apply a withholding tax instead of automatic exchange of information on savings interest, until such time as Andorra, Monaco, San Marino, Switzerland and Liechtenstein have concluded exchange of information agreements with the Community.

The Government welcomes the proposed mandates and would like to see them adopted by ECOFIN with a view to concluding the Agreements with the countries concerned as soon as possible.

We will keep you informed of developments. If the mandates are adopted by the Council we will provide an Explanatory Memorandum on the resulting draft Agreements when these are submitted to the Council.

12 October 2009

FRAUD: MEASURES TO CHANGE THE VAT SYSTEM TO FIGHT FRAUD (6859/08)

Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury

Thank you for your letter on Explanatory Memorandum 6859/08 about changes to the VAT system to fight fraud. This was considered by EU Sub-Committee A at its meeting on 29 April 2009, at which we took note of the letter.

We would like to ask what figures do the Government have for the value of detected, rather than estimated, MTIC fraud in the United Kingdom? How are estimated levels of fraud arrived at?

7 May 2009

25 Correspondence with Ministers, December 2008 to April 2009
Letter from Rt Hon Stephen Timms MP to the Chairman

Thank you for your letter of 7 May in which you asked for further information on the level of MTIC fraud in the United Kingdom.

HMRC published its latest estimates for MTIC fraud in the United Kingdom, alongside the Pre-Budget Report 2008, in *Measuring Indirect Tax Gaps – 2008*, a copy of which is in the House of Lords Library. The latest estimate of MTIC fraud levels show that the impact on VAT receipts for 2007/08 was between £0.5bn and £2bn.

You rightly distinguished between fraud estimates and frauds detected. Some forms of tax fraud (e.g. the pre-meditated accrual and non-payment of a tax liability) are very difficult to detect until they have taken place; while it is possible to detect other forms (e.g false claims for repayment of tax) before the revenue is lost. MTIC fraud can involve both types of fraudulent activity, causing difficulties for the estimation of fraud levels.

As stated in *Measuring Indirect Tax Gaps – 2008*, in arriving at its estimate of MTIC fraud, HMRC uses a predominantly bottom-up approach based on operational data. This necessarily takes as a starting point the frauds that have already been detected. However, as I’m sure you appreciate, the amount of fraud detected is an operationally sensitive figure and, therefore, it is not appropriate to reveal details of the methodology or the amount of fraud detected, as to do so may have a detrimental effect upon HMRC’s anti-fraud interventions and compliance activities.

9 July 2009

INSURANCE AND REINSURANCE (SOLVENCY II) (11978/07, 6996/08)

Letter from Lord Myners, Financial Services Secretary, HM Treasury, to the Chairman

I am writing to update you on the progress of negotiations with regard to the ‘Amended proposal for a Directive of the European Parliament and of the Council on the taking up and pursuit of the business of Insurance and Reinsurance, Solvency II’. On 22 April 2009 the European Parliament voted through a package of amendments which had been agreed with the Council of Ministers, which means that the Directive has now been agreed.

Attached to this letter is an update on the provisions of the directive.

2 June 2009

ANNEX


Background

1. This Annex provides an update on the negotiations of the EU Solvency II directive. This directive aims to develop an EU-wide system of prudential regulation for insurers and reinsurers.

Favourable outcome

2. Favourable agreement has been reached between the Council and the European Parliament on the text of the Solvency II directive. The final directive is a good result for UK, in particular with regards to the treatment of equity risk, which was UK’s top remaining negotiating priority in the latter stages of negotiation.

A good outcome for UK on duration approach

3. The ‘duration approach’ to equity risk (which had been incorporated into the Council’s Common Position of December 2008) reduces the capital charge for equities that are being held to back long-term liabilities. The approach is based on the inaccurate bet that equity markets will always keep increasing in value, and is incompatible with the calibration of the directive (which is that there should be only a 1 in 200 probability of insolvency over 12 months). The UK had serious concerns with the duration approach.

4. Risk to UK policyholders in the final directive has been avoided by firmly limiting the effect of the duration approach to certain restricted business lines which only target policyholders within the Member State (MS) which permits its use.
5. To summarise, the duration approach is now ring-fenced in several ways:
   — it is permitted only for occupational retirement provision business, or retirement benefits provision where there is a specific national tax deduction provided to policyholders in the country where this insurer is based;
   — the duration approach can only be applied where liabilities exceed 12 years;
   — the firm cannot passport the business applying the duration approach to policyholders in another MS;
   — a firm in a MS which does not permit the use of the duration approach cannot reinsure business to a MS which permits the use of the duration approach;
   — any business line applying the duration approach must be clearly ring-fenced from the firm’s other business lines, in order to limit the risk of contagion between lines and to limit risk of contagion to the firm as a whole;
   — it is a MS option whether to permit the approach or not.

Group support regime

6. In order to reach this acceptable outcome for UK on equity risk, the “pure” group support regime has been deleted, with the skeleton of the text remaining (which provides for increased co-operation between supervisors).

7. However, the possibility of “pure” group support has been kept alive by the introduction of a review clause, which would mean that it might be resurrected at some point in the future (once certain conditions have been met such as progress on developing an EU-wide insurance guarantee scheme).

8. With regards to group supervision overall, the directive will introduce a number of improvements, such as the creation of supervisory colleges made up of national supervisors responsible for a group and its subsidiaries, in order to facilitate cooperation, exchange of information and consultation between supervisors.

Additional anti-cyclical ‘dampener’ mechanisms

9. The current text also incorporates two sensibly crafted anti-cyclical ‘dampener’ mechanisms:
   — firstly, to adjust the capital charge according to prevailing conditions in order to reduce the need for insurers to sell into falling markets in order to protect their solvency position (in turn pushing markets to fall further and faster), and conversely, to increase the capital charge in rising markets, acting as a break in moderating insurers’ risk appetite to buy into equities when the markets are showing signs of overheating;
   — and secondly to allow, in the event of exceptional falls in financial markets, insurers a longer time to recover back to their correct capital levels under certain defined circumstances (and under strict supervision from the supervisor).

A good text overall

10. In summary, the directive is a good result for the UK. It delivers strong capital requirements by introducing risk sensitive capital requirements, meaning that insurers will be better placed to withstand adverse developments.

11. The dual capital requirement of the ‘MCR’ (Minimum Capital Requirement) and ‘SCR’ (Solvency Capital Requirement) permits for a so-called ‘ladder of supervisory intervention’ – meaning that supervisors will be able to take progressive action to respond to emerging threats, commencing when the SCR (the higher of the two requirements) is breached.

12. Insurers themselves will be required to continue to improve their own risk management. A key feature of this is the introduction of the ‘ORSA’ (Own Risk and Solvency Assessment), which

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26The group support regime allows insurance groups to better manage their economic capital by allowing a parent insurance firm to downstream capital support to its subsidiary in times of stress, rather than having to actually hold capital in both the subsidiary and the parent.
means that firms will need to examine what possible future risks they might be faced with, and how these might affect business plans. It will also be the responsibility of senior management to demonstrate to supervisors that they are sufficiently equipped and organised to be able to identify, measure, manage and mitigate against current and future risks. Insurers will be allowed to use internal models that have passed rigorous approval processes, in order to calculate their capital requirements.

13. The new regime will also require insurers to provide better information to supervisors and the market.

14. Two other highlights are that HM Treasury has ensured that the directive is tailored to the needs of the specific nature of the Lloyds market, and that it does not include defined benefit pension provision in its scope.

Next Steps

15. Level two negotiations have commenced already. The deadline for implementation of the Directive is 31 October 2012.

LISBON: NATIONAL REFORM PROGRAMME 2009

Letter from Ian Pearson, Economic Secretary, HM Treasury, to the Chairman

I am writing to you to announce publication of the UK’s National Reform Programme (NRP) 2009. As part of the EU’s Lisbon Strategy for Jobs and Growth, the UK must present to the European commission by 15 October 2009 its National Reform Programme (NRP) 2009, setting out UK progress on economic reform.

The NRP responds to the recommendations the European council agreed in March 2009 for the UK on fiscal sustainability and skills and employment, and the council’s points to watch for the UK on housing supply and R&D. The NRP 2009 also reports on UK progress in the areas of the business environment and climate change, energy policy, and sustainable development, which were re-emphasised by the European council in March 2008 as priority areas over the 2008-10 cycle of the Lisbon Strategy. Reporting is in the context of the current downturn and medium-term reform measures, in line with the European Economic Recovery Plan (EERP). The NRP 2009 does not make any new policy announcements: rather, it reports on the implementation of existing reforms, and looks forward to announced future policies.

The NRP 2009 is complemented by a reporting table as required by the European commission, which sets out a fuller picture of the main reform measures undertaken by the Government and the devolved Administrations. The UK is at the forefront of economic reform in Europe, and as such it is vital that we met the EU-level NRP publication deadline of 15 October. As last year, publication during recess is the only way to ensure this deadline is met.

Copies of the NRP 2009 document (not printed) will follow by post, the NRP reporting table will be published in electronic form (not printed) alongside the NRP document.

MEDIUM-TERM FINANCIAL ASSISTANCE FOR LATVIA (5223/09)

Letter from Ian Pearson MP, Economic Secretary to the Treasury, HM Treasury, to the Chairman

I am writing to alert you to a forthcoming vote on a Commission proposal for a Council Decision amending the Council Decision 2009-290 of 20 January 2009 providing Community medium-term financial assistance to Latvia. You will recall that the January ECOFIN agreed to provide €3.1bn to Latvia from its medium-term balance of payments facility (EU BoP) as part of a €7.5bn international financial package. On 26 June, the Economic and Financial Committee (EFC) approved the disbursement of the second instalment of EU assistance to Latvia, amounting to €1.2 billion, by the end of July.

In a separate development, as part of the excessive deficit procedure (EDP) under the Stability and Growth Pact, the 7 July ECOFIN adopted (i) a Council Decision on the existence of an excessive

27 See EM5223/09 for details.
deficit in Latvia as it failed the 3% of GDP budget deficit criterion in 2008, and (ii) a Council Recommendation for the correction of the excessive deficit under Article 104(7).

However, an issue of inconsistency between the Council Decision of 20 January granting EU balance of payments (EU BoP) assistance to Latvia and the Council 104(7) Recommendation under the EDP was raised by the legal service of the Council. In particular, the Council Decision of 20 January had set a deadline for correcting the excessive deficit by 2011, while the 104(7) Recommendation set a target date of 2012 in view of the deterioration of the economic situation in the country since January. A separate EM will follow shortly on the Council Recommendation to enter Latvia into the EDP.

To address this problem, the Commission made a proposal for a new Council Decision amending the Council Decision of 20 January to ensure consistency with the Council 104(7) Recommendation addressed to the country. The proposal was finalised on 7 July following consultation with the EFC, and adopted by the Commission on 8 July. The Swedish Presidency is seeking a Council Decision on this proposal at the Budget ECOFIN on 10 July to enable the Commission to disburse the second instalment of the EU loan by the end of July to meet the country's urgent financing need.

The amendments in the proposed Council Decision are aimed at (i) confirming the legal base for the decision, and (ii) linking the time frame and consolidation path for the correction of the budget deficit, as required by the EU BoP conditionality, to the Council 104(7) Recommendations to Latvia adopted under the EDP. The proposed changes do not substantially alter the original decision. There is no change in the amount of the EU assistance; and in practice the only effect the proposed changes would have on the original loan conditions is the postponement of the deadline for reducing the budget deficit below 3% by one year to 2012.

The timing and urgency has meant that the Presidency is seeking a Council Decision on 10 July, therefore it is unfortunate that the Government has not been able to alert Parliament until now to the proposal. However, given the urgency of the situation, I believe that it is right for the UK to support this amendment, thus enabling the Commission to provide the much-needed second tranche of EU financial assistance to Latvia. The UK therefore intends to vote in favour of the proposed Council Decision at the Budget ECOFIN of 10 July.

9 July 2009

MEDIUM-TERM FINANCIAL ASSISTANCE FOR ROMANIA (8642/09, 8937/09)

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memoranda 8642/09, COM (2009) 199, 8937/09 and your letter dated 28 April on the medium-term balance-of-payments finance facility. These documents were considered by Sub-Committee A at its meeting on 9 June.

The Sub-Committee recorded the first two items as scrutiny overrides and cleared document 8937/09 from scrutiny. We regret that this override builds upon others that occurred when financial assistance was granting through the balance of payments facility to Latvia and Hungary. Although we agree with you that the UK’s agreement to these proposals send a strong message of solidarity to Member States facing difficulties, we would like to emphasise that override should only ever be used as a last resort.

We feel that we could have been informed of the current state of play by the Government at an earlier stage as the loan to Romania was politically agreed at the last European Council meeting. We also observe how rapidly the Commission proposal was approved and how quickly financial assistance was granted to Romania.

However, we believe that Commission’s proposal on the balance of payments facility will make the process of granting financial assistance through the scheme more transparent, in particular by clarifying the conditions applied with the use of the facility. With regard to the financial package to Romania, we hope that the conditions on which the assistance was granted have been considered carefully. We had a similar concern with regard to the allocation of financial assistance to Hungary and Latvia.

We understand that this proposal has been subject to both the opinions of the ECB and the European Parliament. We note that in the Explanatory Memorandum accompanying the ECB’s document, you expressed support for the ECB’s opinion but did not comment on the six specific amendments suggested by the ECB. We would like further explanation of the Government’s view on the ECB proposed amendments and clarification on why only two of the ECB’s six amendments were accepted in the Council.
On a different point both Lord Myners and Caroline Flint, when they gave evidence to Sub-Committee A and the EU Select Committee respectively, discussed the balance of payment facility as a means to provide financial assistance to non-euro zone Member States. Lord Myners told the Committee that there was no question that any Member State can receive a bail-out under Article 100 TEC. We invite you to take note of the Minister’s response in parallel with the European Parliament Resolution on the balances of payments facility dated 21 April, that reads “the European Parliament (…) recalls that Article 100 TEC is applicable to all Member States and invites the Commission to put forward a proposal for a Regulation to define the conditions of implementation of that provision”.

We understand that there is pressure at EU level to define the conditions underpinning the use of Article 100 to provide financial assistance to Member States within the eurozone. Discussions at the European Council on 19-20 March made evident that there are financially vulnerable countries among older Member States such as Ireland, Greece. Are the Government aware of any eurozone country requesting Community financial assistance? What measures could be taken and what Treaty article could be used to assist defaulting countries in the eurozone as Member States that have already adopted the euro so do not qualify for medium-term financial assistance balances of payment facility? Our Legal Advisor believes that a respectable case can be made for the use of Article 100 TEC where the need for assistance arises for reasons, other than balance of payments difficulties, relating to the economic situation of a Member State. What is the Government’s view on this point?

We look forward to receiving your response.

19 June 2009

Letter to the Chairman, from Ian Pearson MP


EU ASSISTANCE TO ROMANIA

I would like to first thank the Committees for their understanding in the use of scrutiny overrides in cases where financial assistance was being granted, often at very short notice. Given the exceptional circumstances and the urgency of providing rapid support to Member States the UK had to step forward and support these cases of financial assistance as a means to express EU solidarity and safeguard financial stability.

In the specific case of Romania, the IMF and Commission were formally approached on 6 March for balance of payments support. A joint Commission-Presidency statement on 10 March indicated that the authorities were assessing the situation and that the EU stood ready to provide unspecified support to Romania. This was then followed, on 25 March, by a further joint Commission-Presidency statement of ‘intention’ to provide assistance of up to €5bn from the medium-term balance of payments finance facility, though this statement did not include details regarding the specifics of the loan or its attached conditionality.

As was mentioned in our previous letter the negotiations on the content and detail of proposals are highly sensitive, both in terms of their impact on markets and in the context of parallel negotiations with other donors. However, when the Commission proposals – which confirmed the amount of the EU assistance, and set out the policy conditions and specifics of the loan – were formally released on April 22 an Explanatory Memorandum and accompanying letter was produced on 28 April for communication to the Committees, outlining the full details of the financial assistance. The ECOFIN Council subsequently adopted the Commission proposals on 5 May. In this context I would express our regret at a repeated use of scrutiny override. We will always endeavour to keep the scrutiny committees fully informed on any future cases as soon as possible, and initiate the scrutiny process as soon as relevant documentation is received.

You also ask about the policy conditions attached to the EU loan to Romania. The EU’s balance of payments facility comes with economic conditionality that aim to restabilise the balance of payments situation. Furthermore, this assistance has so far always been delivered in conjunction with an IMF programme, and the policy conditions of EU assistance have been consistent with those of the parallel IMF programmes, which given the IMF’s expertise and experience in this field increases confidence in the appropriateness of policy conditions. Consideration of the attached conditionality forms an important part of the Government’s decision on whether or not to support the granting of financial assistance. In the case of Romania, we judge the conditions to be appropriate under the current circumstances and believe that they will go a long way to address the country’s short-term balance of payments problems if fully implemented.
You asked for further information regarding the ECB's opinion on proposed amendments to EC 332/2002. In its capacity as administrator of the financial assistance available under the EU's medium-term financial assistance facility, the ECB delivered an opinion on the proposed amendment. The ECB delivered several opinions on various aspects of the legal text, two of which were incorporated. The remaining opinions were not adopted at the discretion of the Presidency.

The Government supports the ECB's assertion that the procedure for use of the medium-term financial assistance facility should be fully in line with the Treaty, and on the subsequent clarification of the amendment in line with Article 27 of the Statute of the European System of Central Banks and of the ECB.

The Government does not agree with the ECB's suggested language, which seeks to broaden the definition of "economic policy conditionality" to include those programmes with any ex-ante eligibility criteria, which is present in "new-style International Monetary Fund arrangements", such as the Flexible Credit Line. The Flexible Credit Line is designed to provide financing to countries that meet high-standards of pre-set eligibility criteria. This is intended to provide protection to countries who have put in place the right policies, but who may none-the-less be hit by external events. As such it does not come with economic policy conditionality attached. Coordination between the Community and any Member State seeking access to such instruments is vital for operational purposes, but we do not believe that it is necessary for this process to be set out in the regulation.

The ECB has further suggested an amendment that seeks to reintroduce the use of a "back-up programme" into the regulation as a means to ensure that, by implication, we do not preclude Member States who are "seriously threatened" with balance of payments problems. The Government agrees that, in line with Treaty Article 119(1), Member States who have not adopted the Euro should be able to seek support if "seriously threatened" with balance of payments problems, however we do not feel that the wording as it currently stands in the proposal excludes them from doing so.

The ECB further suggested an amendment to alter wording in the proposed Recital 2, which would outline that the Memorandum of Understanding between the Community and Member State regarding their financial assistance under the facility should be presented, as opposed to negotiated. The Government believes that where necessary the regulation should be fully in line with the Treaty, but in this particular instance we do not feel that the wording as proposed is problematic.

ARTICLE 100

You also asked about the Government's view on the use of Article 100 (TEC) to support countries facing difficulty. Many countries within the EU, both new and old, are facing the challenges that come with the current economic climate. The Government is not aware at the present time of any euro-zone economies seeking balance of payments support. In addition, as you have noted, the Government has already stated that there is no possibility of a 'bail out' under Article 100 of the Treaty on European Community, as Article 103 specifically prohibits other Member States or the Community assuming the obligations of an individual Member State.

You ask about the potential for assistance to be provided under Article 100 TEC, of which Paragraph 2 deals with financial assistance. However, we note that Declaration 6 to the Nice Treaty (Declaration on Article 100 of the Treaty establishing the European Community), states:

"The Conference recalls that decisions regarding financial assistance, such as are provided for in Article 100 and are compatible with the "no bail-out" rule laid down in Article 103, must comply with the 2000-2006 financial perspective, and in particular paragraph 11 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure, and with the corresponding provisions of future interinstitutional agreements and financial perspectives."

Further, there is reason to believe that Article 100(2) may not provide the necessary powers for an extension of medium-term financial assistance under the Balance of Payments Facility provided for in Regulation 332/2002. Recital 14 of that Regulation states clearly that:

"For the adoption of this Regulation, which provides for the granting of Community loans financed exclusively with funds raised on the capital markets and not by the other Member States, the Treaty provides no powers other than those of Article 308."

In principle Article 308 could, of course, be used to provide for medium-term financial assistance to euro-zone Member States; however, we note that this would require the unanimous consent of all EU Member States and, moreover, that we are not aware of any such proposals.

5 July 2009
Letter from the Chairman to Ian Pearson MP

Thank you for your response to our letter regarding your Explanatory Memoranda 8642/09, COM (2009) 199, 8937/09 on the medium-term balance of payments finance facility. EU Sub-Committee A considered your letter at its meeting of 14 July.

We acknowledge the reasons you give for the necessity of a scrutiny override on this occasion and thank you for your detailed view on the ECB’s opinion of this dossier. We note your belief that Article 308 could be used to provide financial assistance to eurozone Member States. Would you be open to the use of this Article in this way should a eurozone Member State request financial assistance using the balance of payments facility? We would also like to receive updates on formal requests by Member States for balance of payments support so we can keep abreast of developments in this area.

15 July 2009

Letter from Ian Pearson MP to Lord Roper

Thank you for your letter regarding the balance of payments finance facility. We appreciate the Committee’s understanding in the use of scrutiny overrides in these cases, and will endeavour to inform them as soon as the appropriate documentation becomes available on any formal requests for balance of payments assistance in the EU.

You ask whether the Government would support the use of Article 308 to provide medium-term financial assistance to a euro-zone Member State. Any such request would have to be considered on its individual merits, taking into account the economic situation and needs of the Member State concerned, as well as the UK’s other international policy priorities.

I would reiterate that the Government is not aware of any euro-zone economies seeking such support, or of any proposal by the Commission to allow for its provision. Furthermore, the use of Article 308 requires the unanimous consent of all Member States.

29 July 2009

MICROFINANCE FACILITY FOR EMPLOYMENT AND SOCIAL INCLUSION (11778/09)

Letter from the Chairman to Baroness Vadera, Minister of State, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum 11778/09 of 29 July on a European microfinance facility. EU Sub-Committee A considered this at its meeting of 20 October 2009.

We support your position that the proposal is a positive step in ensuring that disadvantaged groups have access to micro-finance, particularly in the context of the current economic climate. Despite the fact that we believe that many of the loans may not be repaid in full, we acknowledge that this is a worthwhile scheme.

We are also concerned over the subsidiarity of the proposal, as a facility offering micro-loans to individuals can operate more effectively at a national rather than EU level. We would be grateful for your response on this point.

In your memorandum you note that “officials will be working to ensure that the proposals… meet the needs of the UK.” What are these specific needs and the reasons behind them? We would also like to receive further details on the operation of the Facility once these are available following the consultation.

We are concerned that sophisticated groups may be able to gain access to money through this facility through fraudulent means. Do you accept that this is a risk? What provisions are in place to prevent this from happening?

We agreed to hold the document under scrutiny in anticipation of your reply.

23 October 2009

Letter from Lord Davies of Abersoch, Minister of State for Trade, Investment and Small Business, Department for Business, Innovation and Skills to the Chairman

In your letter of 23 October to Baroness Vadera, regarding the EM 11778/09 you raised several issues on which you required a response. As I am now the Minister responsible for this policy area I am
responding to your letter. I would like to highlight that the intention is that this Facility is available from January 2010, which would mean agreeing the proposals in late December. It would therefore be extremely useful if the Committee would consider releasing this document from scrutiny on the basis of my response set out below.

You expressed concerns over the subsidiarity of the proposal suggesting that a facility offering microloans to individuals can operate more effectively at a national rather than EU level. It is certainly best that those organisations offering support to individuals and microenterprises operate at national level. They need to understand the local area and are best placed to reach disadvantaged groups and communities. This is how the Facility will work in practice with UK organisations able to access capital to onward lend through the Facility. There are already national measures which support microfinance activity in the UK, for example the Enterprise Finance Guarantee, Community Investment Tax Relief and direct support for organisations providing microfinance from the Regional Development Agencies. I believe the Facility will work to bring additional benefit on top of those national schemes. In order to achieve maximum leverage it makes sense to take action at an EU level. By having a Facility set up with EURO 100 million, I believe additional leverage will be achieved with the European Investment Bank.

You also wanted to know the specific needs of the UK and the reasons behind them. In part this it to ensure that the Facility is complimentary to existing national schemes (mentioned above) rather then duplicating them. We are also keen to ensure that Regional Development Agencies (who provide direct support to agencies providing microfinance loans) might be able to act to aggregate demand on behalf of non bank financial institutions in their region. Finally, many organisations providing microfinance in the UK are small, we want to ensure that they are able to access the Facility and use it to provide support to the disadvantaged groups which they support.

You were also concerned about the risk of fraud. There is a risk of fraud within this Facility, as with any fund of this kind. However, the European Investment Fund, which will administer the fund on behalf of the Commission already has robust due-diligence procedures in place to ensure that any organisation which receives money under their schemes has been properly assessed. Likewise, those organisations which provide microfinance loans will need to demonstrate that they have taken appropriate precautions to ensure that any individual or microenterprises supported by the Facility has been properly assessed. Officials are actively pursuing this issue in negotiations to ensure that this is properly addressed in the mandate (and other corresponding documents).

I also thought it might be useful to take this opportunity to provide you with a general update on the PROGRESS Microfinance Facility. The European Parliament has opposed reallocation of funding from the Community Programme for Employment and Social Solidarity (PROGRESS), cleared from scrutiny in respect of DWP EM 11717-09. They have instead proposed an amendment to create an entirely new budget line and increase funding under this to EUR 150 million. The Government, and many other member states and the European Commission, continues to work for funding to be reallocated from the PROGRESS programme, as per the original proposal.

19 November 2009

MULTI-ANNUAL FINANCIAL FRAMEWORK (15208/09)

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memorandum 15208/09 of 3 November 2009 on the revision of the financial framework to fund the economic recovery plan. EU Sub-Committee A considered this at its meeting of 10 November.

We are pleased to see that the European Economic Recovery Plan (EERP) is to be funded through reallocations from money originally destined to fund the CAP. This is in line with the Committee’s conclusions in our recent report, The EC Budget 2010. We are also pleased to note that the €5bn of funding for the EERP has been allocated without an increase of the overall financial framework ceilings.

However, we note that very small or no budget margins have been left under several budget headings. We believe it is important that sufficient margins exist to allow for unforeseen expenditures without need for further revision of the financial framework.

We are content to clear this document from scrutiny.

11 November 2009
### Table 1: Summary of 2010 PDB, Draft EC Budget and EP First Reading – EUR million

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<td>CA(2)</td>
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| 1. Sustainable growth  
1a. Competitiveness for growth and employment  
Margin  
1b. Cohesion for growth and employment  
Margin | 61,782 | 62,152 | 47,365 | 62,052 | 46,663 | 64,255 | 51,418 | 2,203 | 4,755 |
| 2. Preservation and management of natural resources  
Margin | 60,113 | 59,004 | 58,075 | 58,640 | 57,583 | 59,808 | 58,959 | 1,168 | 1,376 |
| 3. Citizenship, freedom, security and justice  
3a. Freedom, security and justice  
Margin  
3b. Citizenship  
Margin | 1,693 | 1,629 | 1,360 | 1,608 | 1,306 | 1,674 | 1,462 | 66 | 156 |

28 CA totals for Sustainable Growth include €500m appropriations for the European Globalisation Adjustment Fund.  
29 CA totals for Heading 1a exclude €500m appropriations for the European Globalisation Adjustment Fund.  
30 €500m appropriations for the European Globalisation Adjustment Fund are excluded from calculation of the margin.
| 4. European Union as a global player  
| Margin  
| 7,893 | 7,921 | 7,665 | 7,832 | 7,156 | 8,141 | 7,823 | 310 | 666 |
|  | - | 221 | - | 310 | - | 0.4 | - | - |
| 5. Administration  
| Margin  
| 8,008 | 7,851 | 7,851 | 7,812 | 7,812 | 7,866 | 7,865 | 54 | 53 |
|  | - | 230 | - | 276 | - | 222 | - | - |
| TOTAL (4)  
| Margin  
| Appropriations payments as a percentage of EU GNI  
| 139,489 | 138,557 | 122,316 | 137,944 | 120,521 | 141,745 | 127,526 | 3,801 | 7,005 |
|  | - | 1,761 | - | 1,734 | - | 1,427 | - | - |

Notes

1. FF = Financial Framework
2. CA = commitment appropriations
3. PA = payment appropriations
4. Due to rounding, the sum of the lines may not equal the total

*The margin for Heading 1a left by Parliament, excluding its amendment to raise the Financial Framework ceiling to finance €1.98bn for the European Economic Recovery Plan, amounts to €706,340

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31 €248.9m appropriations for the Emergency Aid Reserve are included throughout in both commitments and payments totals for Heading 4, with the exception of the 2010 draft budget, where €248.9m for the Reserve is excluded from the payments total.
32 €248.9m appropriations for the Emergency Aid Reserve are excluded from calculation of the margin.
33 For calculating the margin for Heading 5, account is taken of the footnote (1) of the Financial Framework 2007-2013 for an amount of €78m for the staff contributions to the pension scheme.
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34 CA totals for Sustainable Growth include £447m appropriations for the European Globalisation Adjustment Fund.  
35 CA totals for Heading 1a exclude £447m appropriations for the European Globalisation Adjustment Fund.  
36 £447m appropriations for the European Globalisation Adjustment Fund are excluded from calculation of the margin.
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<td>-1,275</td>
<td>-1.08%</td>
<td>-3,397</td>
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Notes
1. FF = Financial Framework
2. CA = commitment appropriations
3. PA = payment appropriations
4. Due to rounding, the sum of the lines may not equal the total

*The margin for Heading 1a left by Parliament, excluding its amendment to raise the Financial Framework ceiling to finance £1.77bn for the European Economic Recovery Plan, amounts to £631,327

£222.5m appropriations for the Emergency Aid Reserve are included throughout in both commitments and payments totals for Heading 4, with the exception of the 2010 draft budget, where £222.5m is excluded from the payments total.

£222.5m appropriations for the Emergency Aid Reserve are excluded from calculation of the margin.

For calculating the margin for Heading 5, account is taken of the footnote (1) of the Financial Framework 2007-2013 for an amount of £70m for the staff contributions to the pension scheme.
Letter from Gareth Thomas MP, Minister for State, Department for Business, Enterprise and Regulatory Reform, to the Chairman

Thank you for your letter of 28 April 2009, requesting an update on the progress of this proposal. I am writing to inform you that there has been none and no progress is currently envisaged.

The Commission’s proposal to introduce compulsory origin marking of a selected range of imports from some third countries was published in December 2005. The sectors covered are leather goods, footwear, textiles, clothing, ceramics, glassware, jewellery, furniture and brooms with a provision for an unlimited number of sectors to be added.

The proposal originated as a general labelling regime promoted by 2003 Italian Presidency. It made little initial progress against strong opposition from a majority of industry and consumer bodies across Europe. However, because of continued pressure from Italy, the Commission agreed to formally propose a Council Regulation.

This has NOT been formally accepted for negotiation. Technical level discussion confirmed strong MS divisions on the issue and successive Presidencies have declined to pick up the subject. At the same time the Commission has done nothing to address the concerns raised by MS. Recently, Italy has lobbied again for the proposal to be taken up again.

The UK has carried out repeated consultations on this issue with OGDs (opposed without exception) and UK stakeholders. The majority of the latter oppose (e.g. CBI, Consumers Association, BCC, BRC, UK textiles and clothing industry, Hallmark Association) but with some supporters (TUC, the ceramics industry – who continually lobby Ministers on this issue, Scottish Textiles and Clothing industry, furniture industry). The UK position remains that the UK has strong reservations about this proposal which the Commission has yet to satisfactorily address.

1 May 2009

Letter from the Chairman to Gareth Thomas MP

Thank you for your letter of 1 May updating us on the progress of document 5091/06. EU Sub-Committee A considered this at our meeting of 12 May. Given that Italy has begun to lobby for the proposal to be taken up again, we decided to hold the document under scrutiny and would like to request an update if any progress is made on the proposal.

20 May 2009

PACKAGED RETAIL INVESTMENT PRODUCTS (9493/09)

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memorandum of 14 May 2009 on packaged retail investment products. This was considered by EU Sub-Committee A on 9 June and cleared from scrutiny.

We would like to express our broad agreement with the aim to increase transparency and consumer protection relating to PRIPs. However, we also understand your concern that the legislation should avoid being over prescriptive.

We also note that you appear to imply in your comments on subsidiarity that there is room for Member States to implement different regulatory practices concerning PRIPs. Can you confirm whether this is the case and whether you believe this should continue to be the case?

Whilst we are clearing this document from scrutiny we look forward to scrutinising in more detail the Commission proposals on this subject, that you inform us are due to be published by the end of 2009.

9 June 2009

40 Correspondence with Ministers, December 2008 to April 2009
Letter from Sarah McCarthy-Fry, Exchequer Secretary, HM Treasury, to the Chairman

Thank you for your letter of 9 June 2009, sent to Ian Pearson. This topic is now within my portfolio. I am grateful for the comments relating to the scrutiny of Explanatory Memorandum (EM) 9493/09 on Packaged Retail Investment Products (PRIPs) carried out by EU Sub-Committee A.

We note that this EM has been cleared from scrutiny and that you have requested further information relating to our stance on Member States implementing different regulatory practices relating to PRIPs.

Whilst we broadly agree with the Commission’s aims of appropriate transparency and selling practices across Member States we must also acknowledge that not only are the products in question subject to Member State variations but cultural practices and consumer expectations also vary.

Whilst we believe that every Member State should provide a consistent level of consumer protection we also feel that the EU legislation should be broad enough to allow for these cultural differences and consumer expectations to be taken into account and not be so prohibitive as to force compliance with requirements which may have limited, or even detrimental, effect within individual Member States. We believe that this can be achieved by the setting of rules focusing on outcomes at the EU level (for example requiring that firms provide disclosure which gives a clear presentation of all the costs involved in an investment product) without mandating in detail the precise means by which that outcome should be reached. We plan to argue for this approach in discussions with the Commission.

I hope that this response has provided you with the answer to the question raised.

16 July 2009

Letter from Sarah McCarthy-Fry to the Chairman

Thank you for your response dated 16 July 2009 to our letter regarding your Explanatory Memorandum 9493/09. EU Sub-Committee A considered your letter at its meeting of 13 October.

Thank you for confirming that you believe EU legislation should be broad enough to allow for Member State variations in the products in question, cultural differences and varying consumer expectations. We acknowledge that you do not consider that EU legislation should be so prohibitive as to force compliance with requirements which may have limited, or even detrimental, effect within individual Member States. We note that the Government trust that their aims can be achieved by ensuring that legislation at an EU level is focused on outcomes without detailing the means by which such outcomes are to be achieved.

We look forward to scrutinising the Commission’s proposals on this subject in due course.

14 October 2009

PASSENGER CAR RELATED TAX (11067/05)

Letter from Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

You wrote on 27 April 2009 asking for an update on the progress of the above dossier.

There has been no progress since December 2007 when we wrote to your predecessor, Lord Grenfell, with an update of progress made under the Portuguese Presidency. The succeeding Slovenian, French and Czech Presidencies did not take up work on this dossier and there are no indications that the incoming Swedish Presidency intends to pursue it either.

As you will already know, one of the key elements of the Commission proposal was inclusion of a CO2 element in the tax base. However, work on this is of little value since there is nothing to prevent Member States from choosing to base their car taxes on CO2 emissions if they so wish. Given concerns about subsidiarity test as set out in our letter to you of December 2007, we are content for the Presidency not to pursue further work on this dossier.

I hope you find this information helpful.

2 July 2009

41 Correspondence with Ministers, December 2008 to April 2009
**Letter from the Chairman to Lord Myners, Financial Services Secretary, HM Treasury**

Thank you very much for your Explanatory Memorandum (11873/09) on the Commission’s Communication on Derivatives. EU Sub-Committee A considered this at its meeting on 27 October 2009.

EU Sub-Committee A has previously considered the role of Credit Default Swaps in the recent financial crisis and we therefore welcome the fact that the Commission is consulting on this matter before proposing legislation.

We understand that the Commission hosted a hearing on the 25 September on this Communication and we would appreciate an account of it together with the official UK response to the Commission’s consultation.

We look forward to receiving the Commission’s proposals on this subject, which we will scrutinise in detail.

We will hold this document under scrutiny in anticipation of your reply.

28 October 2009

**REMUNERATION POLICIES: SUPERVISORY REVIEW (12093/09)**

**Letter from Lord Myners, Financial Services Secretary, HM Treasury, to the Chairman**

The Commons European Scrutiny Committee has requested further information in relation to EM12093/09 (concerning the draft Directive amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies).

Specifically, the Committee requested an explanation of those areas where the Government is seeking to negotiate adjustments to the current draft Directive and an update on the progress being made in achieving our desired outcomes.

The draft Directive contains three elements where the Government is seeking material adjustments to the proposals. These are:

- those amendments designed to increase the level of capital banks hold against risks in the trading book;
- those requirements relating to re-securitisations;
- those requirements relating to remuneration policies and practices.

Details of the adjustments we are seeking in each of these areas and our progress in achieving our intended outcomes is set out below.

**TRADING BOOK CAPITAL**

The Explanatory Memorandum sets out the rationale for increasing the level of capital CRD firms should hold against their trading risks. The Government is broadly supportive of the amendments set out in the draft Directive that deliver those increases. However, in several areas the proposals had not been updated to reflect those most recently agreed by the Basel Committee on Banking Supervision (BCBS). The BCBS is the recognised forum for achieving international agreement on regulatory capital requirements.

The most notable divergence was in the treatment of correlation trading positions. For this class of exposure the amended capital treatment was extremely punitive, to the extent that it would effectively close that market. This in turn could potentially have led to a reduction in the availability of credit in the wider economy. The BCBS proposals exempt such exposures from the new requirements for calculating the capital held against securitisation positions, instead allowing firms to use a modelled approach (where certain strict criteria are met). A lower limit is also introduced to prevent capital requirements falling below a given level.

The Government has argued that the BCBS proposals deliver a sufficient and proportionate capital treatment for these positions. Furthermore, international convergence is of vital importance in maintaining the competitive position of the EU. On this basis we sought to have the draft Directive brought into line with the BCBS proposals.
There has been strong support amongst Member States for aligning the Commission proposals with those agreed at the BCBS and the Commission has now published a compromise document closely aligned to the Basel text and incorporating the correlation trading carve-out.

At this stage we foresee our remaining interventions limited to minor technical amendments.

**Re-securitisations**

Re-securitisations are by their nature more complex than straight securitisations and in many cases the assumptions regarding the benefits of diversification in the underlying assets have proved to be overly optimistic. Therefore the draft Directive contains proposals comprising a set of capital requirements that are higher than for straight securitisations of the same rating.

The Government is supportive of the need for firms to hold an increased level of capital against re-securitisation positions and considers the increases delivered by the proposals are appropriate.

However, the draft text also introduces the concept of a ‘highly complex’ re-securitisation. For these positions firms will be required to demonstrate to the regulator, on a transaction-by-transaction basis, that they have conducted the requisite due diligence. Until this point those positions would be subject to a penal capital treatment. We do not agree that this provision should be included in the amended Directive for several reasons:

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- due diligence requirements introduced in the previous package of amendments to the CRD are already challenging and include specific requirements relating to re-securitisations. Therefore, where adequate due diligence cannot be conducted (due to complexity) those re-securitisations are already subject to penalty provisions;

- mandating that supervisors must approve the due diligence conducted on each and every re-securitisation transaction is too onerous, and an unnecessary interference in how a supervisor manages risk;

- there are inherent difficulties in defining what qualifies as a ‘highly complex’ re-securitisation. Notwithstanding the potential for regulatory arbitrage (i.e. firms specifically structuring deals to fall just outside any definition) it is also challenging to avoid creating a definition that inadvertently captures less risky exposure. It is more logical to make the distinction based on whether or not a firm is able to conduct the necessary due diligence; and

- the BCBS text does not incorporate the notion of a ‘highly complex’ re-securitisation. The Government has argued that the BCBS proposals deliver a sufficient and proportionate capital treatment for these positions. Furthermore, international convergence is of vital importance in maintaining the competitive position of the EU. On this basis we have sought to have the draft Directive brought into line with the BCBS proposals.

In summary, the new provisions do not result in a treatment that is any more robust than those already introduced, yet it is significantly more onerous for firms and supervisors and potentially introduces uncertainty and ambiguity for firms. The Government position is therefore to seek the removal of any reference to ‘highly complex’ re-securitisations.

Notwithstanding our position on the removal of provisions referring to ‘highly complex’ re-securitisations, the recitals of the proposals state that the required due diligence may be impossible to carry out for re-securitisations where the ultimate underlying exposures are leveraged buy-out or project finance and that firms “should not invest in such highly complex re-securitisations”.

I outlined earlier why provisions introduced in the previous package of amendments are sufficient and why no additional reference to highly complex re-securitisations is necessary. Perhaps more importantly, it is completely inappropriate for the Commission to be identifying particular markets, without proper justification, and especially as such identification could prevent further market activity in these sectors. Therefore the Government position is to have the proposals amended such that any reference to leveraged buy-out or project finance in the context described is removed.

At Council working groups there has been almost unanimous agreement with our position on both these matters. However the Commission has not yet acted upon the views expressed by the vast majority of Member States and we will continue to advocate the removal of this section of the proposals.
REMUNERATION POLICIES

The Commission proposals on Remuneration set out high-level principles, based on both the EC Recommendation and the principles set out by the Financial Stability Board. As set out in the Impact Assessment, these principles are broadly aligned with those due to be implemented by the FSA at the start of 2010, except that the FSA principles go further in some regards.

As you will be aware, the topic of remuneration is high on the political agenda at present, with the Government pursuing its goals domestically and, at the international level, both within the EU and the G20. The Prime Minister set out the overriding principles that should guide the work on remuneration up to the G20 Pittsburgh summit in a letter co-signed by Angela Merkel and Nicolas Sarkozy. We expect to pursue these principles as set out in the CRD negotiations as well.

I hope this letter contains the further information that you require. I remain happy to offer any further assistance.

30 September 2009

Letter from the Chairman to Lord Myners

Thank you for your Explanatory Memorandum 12093/09, which Sub-Committee A considered at the meeting on 13 October.

We welcome the Commission’s proposal as it addresses the key areas of re-securitisation and remuneration which have been at the root of the recent financial crisis. However, we would like to ask whether there has been any development of your opinion on this proposal in light of the recent G20 meeting in Pittsburg.

It is also unclear how the proposal addresses the issue pro-cyclicality. Our recent report on the financial crisis concluded that “the Commission should work towards an over counter-cyclical capital regime through further amendments to the Capital Requirements Directive” in conjunction with the work undertaken internationally by Basel Committee to ensure international consistency.

A similar point was made in the conclusion of ECOFIN on 7 July 2009 which stated that “the Council calls on the Commission and the Member States to accelerate their work and make rapid progress on countering the pro-cyclical effects of regulatory standards, e.g. as regards capital requirements and impaired assets.” Does this proposal make progress toward establishing a counter-cyclical capital regime, and, if so, how?

We also note that the Financial Services Authority is developing a remuneration regime to apply to all UK regulated firms. To what extent has this been influenced by EU legislation, or vice versa? We have decided to continue to hold this document under scrutiny.

14 October 2009

Letter from Lord Myners, to the Chairman

Further to my letter of 6 November, I write to update you on the proposal for amending the Directives above.

As the proposal has not cleared national Parliamentary scrutiny the Government has maintained a scrutiny reserve throughout the process.

However, the Swedish Presidency decided to seek a general approach on the directive as an “A” Item to ECOFIN on 10 November. The accompanying “A” Item Note included a statement that “The UK delegation maintains a parliamentary scrutiny reservation”. At ECOFIN, the Presidency noted outstanding scrutiny reservations but indicated that they could assume agreement under qualified majority voting. The Presidency will now pursue negotiations with the European Parliament with a view to adopting the directive in first reading.

The manner in which this has progressed is unfortunate. Regrettably, the process has continued with the Government’s scrutiny reserve in place. My officials are in discussion with the Presidency to ensure that our scrutiny reservation is recorded in the minute of the Council meeting.

17 November 2009
Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury

Thank you for your Explanatory Memorandum on document 13868/09. EU Sub-Committee A considered this at its meeting on Tuesday 27 October 2009.

We were a little surprised at the very cautious position you adopted towards this proposal, given that the United Kingdom has an existing VAT reverse charge for mobile phones and computer chips and that the UK may opt-out of this proposal.

We are looking forward to receiving your impact assessment of the proposal upon UK business and further updates on progress of negotiations.

We decided to hold the document under scrutiny in anticipation of your reply.

28 October 2009

Letter from the Rt Hon Stephen Timms MP to the Chairman

You wrote on 28 October in response to my Explanatory Memorandum 13868/09, holding the document under scrutiny and looking forward to my impact assessment and an update on negotiations.

Negotiations have made it clear that Member States’ overriding concern is to put in place an EU response to fraud in Emissions Allowances (EAs) traded under the EU Emissions Trading Scheme. The difficulties and the implied delay in achieving agreement on a list of goods to be included in the pilot have resulted in a compromise text which currently limits the experiment to just mobile telephones, computer chips and EAs. Member States may opt to apply the reverse charge to any or all of these commodities. The Government’s earlier concerns about restrictions to the list of goods and the items on it therefore fall away. The categories of supplies now covered are clearly key commodities involved in missing trader fraud. Nevertheless the scope of the experiment is not yet agreed as some Member States believe that it should be limited to EAs alone as a specific, high profile, response to an emerging problem. The Commission have confirmed that the VAT Directive derogation route remains open for Member States seeking to apply a reverse charge to specific commodities.

The compromise text also removes our reservations over the balance between burdens and the need for information to control, monitor and evaluate the temporary arrangement. The new text no longer requires Member States to introduce additional reporting requirements for both purchasers and vendors. Instead, with regard to goods it allows Member States to decide what additional reporting is necessary given the context of the current information required by the tax authorities. For EAs there is no requirement to introduce additional reporting requirements. There is already a system of national registries which track the ownership of EAs. Supplies are between businesses which usually have a full right to deduct. This means that there is little risk of tax loss and a new system of reporting is unlikely to be proportionate.

Finally the experiment is still optional but in order to allow for a more thorough experience and evaluation, it has been prolonged by 6 months until 30 June 2015.

With regard to the impact on UK business, as noted above, the compromise text allows for a far less onerous reporting regime than in the original proposal. Since we can keep our existing reporting regime for ‘phones and chips and are not required to introduce new measures for EAs, we don’t anticipate that there will be an increase on burdens on business from this part of the Directive. There will be an increase in burdens for businesses, however, from the move to a reverse charge for EAs, as accounting mechanisms will need to be changed as well as training developed and delivered. We have not been able to quantify those costs but stakeholders that we have consulted generally appear to support the reverse charge as a long term solution to the problem of fraud in EAs and have been most concerned about additional reporting requirements. In view of the fact that the main elements leading to additional burdens have been removed from the proposal, we propose to undertake any necessary Impact Assessment as part of the process of implementing the Directive.

Similarly, the compromise proposal means that the UK authorities will not be required to receive and process either reports of purchases for ‘phones and chips in addition to the existing arrangements; or introduce new reporting requirements for dealings in EAs. This means that there should be no additional costs for HM Revenue and Customs arising directly from the requirements of the Directive.
The latest version of the compromise text is being taken forward for discussion at the 2 December ECOFIN, where the Swedish Presidency hopes to reach agreement. I’m aware that this timetable does not allow much time for the scrutiny process to be completed, although I hope that by writing to you now, you and your committee will be able to consider this update ahead of the meeting. Given the political imperative, however, behind reaching agreement as soon as possible in order to protect the integrity of one of the Community’s flagship environmental policies, we may need to proceed to agreement on 2 December. While it would be unfortunate if scrutiny procedures were not to be completed, I hope that you will understand that it will not be appropriate for the Government to withhold agreement at the December ECOFIN.

17 November 2009

STABILITY AND GROWTH PACT (7308/09)

Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memoranda on the Council recommendations and decisions on the Stability and Growth Pacts and excessive deficit procedures of various Member States. EU Sub-Committee A considered these documents at our meeting of 9 June. We decided to clear from scrutiny documents 7308–7330/09 and 8325/1/09. We also decided to clear documents 7897–7904/09 from scrutiny.

We decided to hold documents 7955-6/09, which relate to the United Kingdom excessive deficit procedure. Is the difference between the Council recommendation that the UK bring its deficit below 3% by 2013/14 and the Government’s projections for the UK’s deficit levels to be at 5.4% at this time significant? Do you expect the Council to revise its recommendations in line with the Government predictions?

9 June 2009

STATE AID SCOREBOARD (8812/09)

Letter from the Chairman to Gareth Thomas MP, Minister of State, Department for Business, Enterprise and Regulatory Reform

Thank you for your Explanatory Memorandum 8812/09 on the state aid scoreboard. EU Sub-Committee A considered this at its meeting of 2 June 2009.

We believe that it is important that detailed restructuring plans are produced for all institutions that receive state aid. We would also like to express concern over the large number of state aid requests listed, the majority of which have been accepted by the Commission.

We would like to inquire whether a detailed breakdown of the value of individual bank recapitalisation measures are available and would like to inform you of our keen interest in the development of state aid policy over the coming months. We have decided to clear this document from scrutiny.

5 June 2009

Letter from Lord Myners, Financial Services Secretary, HM Treasury, to the Chairman

I am writing in response to your letter of 5 June 2009 to Gareth Thomas MP, then Minister of State, Department for Business, Innovation and Skills, as I have lead responsibility for the issues you raise pertaining to bank recapitalisation.

The Government is a firm supporter of the state aid rules and has maintained a constructive and cooperative dialogue with the European Commission on the business plans for the recapitalised banks.

A detailed breakdown of the value of individual bank recapitalisation measures is available. These can be found in the UK Financial Investments Limited (UKFI) Annual Report and Accounts 2008/0942.

The UKFI Annual Report and Accounts state that the Government invested £20 billion in Royal Bank of Scotland (RBS), comprising £15 billion in ordinary shares and £5 billion in preference shares; £5.5 billion in Lloyds TSB, comprising £4.5 billion in ordinary shares and £1 billion in preference shares;

and £11.5 billion in HBOS, comprising £8.5 billion in ordinary shares and £3 billion in preference shares.

The European Commission published restructuring guidelines on 23 July, which explain the Commission’s approach to assessing restructuring aid given by Member States to banks. The Government has welcomed this guidance and will continue to work constructively with the Commission on approval of RBS and Lloyds Banking Group’s business plans.

In addition to recapitalisation, the UK Government announced an agreement in principle with RBS and Lloyds Banking Group to enter into the asset protection scheme in February and March of this year. We are currently in negotiations with the Commission over state aid approval. A further announcement will be made in due course.

19 October 2009

Letter from the Chairman to Lord Myners, Financial Services Secretary, HM Treasury

Thank you for your letter of 19 October on state aid rules and bank recapitalisation. EU Sub-Committee A considered this letter at its meeting of 3 November 2009.

We note that the European Commission has provided its opinion on the restructuring of RBS, Lloyds Banking Group and Northern Rock. We would like to receive updates on Commission opinions on the Government’s restructuring policies for banks that received state aid in the United Kingdom, which we considered as part of our recent report, The future of EU financial regulation and supervision (HL 106).

We look forward to receiving your reply.

5 November 2009

TAXATION: ADMINISTRATIVE COOPERATION IN THE FIELD OF TAXATION (6035/09)

Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

Thank you for your letter of 18 March about the proposed Administrative Cooperation Directive. I apologise for the delay in replying.

In your letter you refer to a possible contradiction between our concern that an extension of automatic exchange of information under the comitology procedure could impose burdens on industry and our view that an impact assessment is unnecessary. Perhaps I could clarify the position.

The proposal does not itself propose automatic exchange of information for any specific categories of income or capital. It proposes the establishment of a comitology committee with the power to decide which categories of income and capital should be subject to automatic exchange.

In the absence of any proposal that actually lists specific categories, there is no basis on which to carry out an impact assessment. If and when any proposal is made that names specific categories, and if automatic exchange of information in those categories is likely to have a direct impact on industry in terms of significant reporting burdens, then I would share your view that an impact assessment would be necessary.

You also raise a question about the legal base for the proposal, pointing out that tax policy remains subject to national sovereignty and, by implication, unanimity. I fully agree that unanimity is appropriate for this Directive and I am pleased to confirm that legislation under Articles 93 and 94 is subject to unanimity.

13 July 2009

Letter from the Chairman to the Rt Hon Stephen Timms MP

Thank you for your response dated 13 July 2009 to our letter on Explanatory Memorandum 6035/09. EU Sub-Committee A considered your letter at its meeting of 13 October. It was agreed to hold this proposal under scrutiny.

While considering that the proposal could impose unnecessary burdens on industry, we note your reasons for not providing an impact assessment. We would like nevertheless to be informed of any work the Government is undertaking to understand the impact of the proposal on the industry and
the implications of leaving the automatic exchange of information on specific categories of capital to be determined by a Comitology procedure.

On the legal basis, we assume from your letter that the Government justify the choice of Article 94 on the basis that as tax policy remains subject to national sovereignty it should require unanimity. The Committee’s view, as expressed in our previous letter, remains that although tax policy remains subject to national sovereignty, the Directive only deals with administrative arrangements and as such does not impinge on Member States’ authority over tax matters and therefore the use of Article 95 requiring qualified majority voting could also be justified. We invite you to take note of the Committee’s view on this point as it seems that there was some misunderstanding on this point.

Finally, we note the four month delay in responding to our letter which meant that we were unable to consider your reply before the summer recess. We would appreciate a more prompt response in future. As significant time has passed since the proposal was initially scrutinised, we would like to be informed on progress in the negotiation process under the Swedish Presidency.

14 October 2009

Letter from the Rt Hon Stephen Timms MP to the Chairman

Thank you for your letter of 14 October about the proposed Administrative Cooperation Directive. I am writing to update you on progress.

I am pleased to report that the Government has secured significant improvements in the draft text at working group level. Consequently we are ready to support the adoption of the Directive by the Council at an early date, provided that certain conditions are met.

The most important development relates to the questions you raise about the impact of the Directive on industry and the implications of leaving decisions on automatic exchange of information to a Comitology procedure. Under the Commission proposal the impact on industry would depend very much on the scope of automatic exchange of information. If automatic exchange were confined to information within the possession of tax authorities, which the tax authority collected as part of its normal domestic reporting arrangements, then there would be no significant impact on industry. If, on the other hand, automatic exchange of information were extended to categories of income or capital that are not currently subject to routine reporting by industry, then the impact could be considerable in terms of the costs of setting up new reporting systems and the associated information technology.

In leaving decisions on these matters to a Comitology procedure (which means that decisions would not require unanimity), there would be a risk that compulsory automatic exchange of information would be introduced for categories of income and capital that were not currently reported on by banks or other sectors of industry in respect of their customers or shareholders, such as dividends or capital gains (which in the UK are subject to self-assessment rather than third party reporting). This is something that we have pointed out at Council working group discussions. It is also a matter of concern to a number of other Member States.

In view of these concerns the Council working group has come to the view that decisions on automatic exchange of information should not be made under a Comitology procedure. Instead the Directive itself should make clear that automatic exchange of information should be confined to certain specific categories of income and capital (except where Member States agree other arrangements bilaterally).

Discussions are continuing on the precise categories to be subject to automatic exchange of information. The Government’s view is that these should be confined to categories where information is readily available to the Member State providing the information. In particular, we would wish to ensure that any compulsory automatic exchange of information introduced under the Directive would not extend to areas where new reporting systems would be necessary for UK industry.

The Presidency is expected to seek political agreement at ECOFIN on 10 November. However, two Member States that currently have banking secrecy and are hesitant about any extension of automatic exchange of information are likely to block the proposal. As a leading supporter of transparency and exchange of information the UK would not wish to actively oppose the proposed Directive. However, we will be able to maintain our scrutiny reserve so long as other Member States oppose political agreement.

In view of the way discussions are progressing we feel confident that the final draft presented by the Presidency will meet our concerns that there should be no disproportionate burdens on industry. In the event that other Member States do not block political agreement, the UK would come under pressure to lift our Parliamentary scrutiny reserve. In these circumstances the Government would not wish to prevent agreement.
I appreciate that due to the speed at which negotiations have progressed, the proposal has not cleared the scrutiny process. However there is a possibility that we may need to proceed to political agreement on 10 November and I wanted to inform the committee of this possibility. While it would be unfortunate that scrutiny procedures will not have been completed I hope that you can understand the importance of agreeing the proposal if the UK finds itself isolated, bearing in mind the G20 priorities to promote transparency and exchange of information.

I am grateful for your clarification of the Committee’s view on the legal base for the Directive. We take note of your view that qualified majority voting could be justified for matters concerning administrative arrangements as distinct from tax policy. However, the Government does not share that view.

9 November 2009

Letter from the Chairman to the Rt Hon Stephen Timms MP

Thank you for your letter on administrative cooperation in the field of taxation. We are supportive of this proposal as it is a positive step towards transparency in the banking sector and tax evasion.

We understand that in the revised text the categories of automatic exchange of information will be established by the Directive itself, rather than through the Comitology procedure. First, what the categories of income and capital subject to automatic exchange of information would be most likely included in the final version of the text? Second, will these categories be sufficient to guarantee transparency in the banking sector in line with the OECD standards?

Since the Comitology procedure no longer applies, we also believe that it is now possible to carry out an impact assessment on the proposed Directive to understand the impact of the proposal more thoroughly, especially its significance in combating tax evasion. We are looking forward to receiving a copy.

As a political agreement is likely to be reached in December, we would like to be kept informed on the outcome of the meeting. We are content to clear the proposal from scrutiny while awaiting responses to our questions.

25 November 2009

TAXATION: GAS OIL USED AS MOTOR FUEL (7512/07)

Letter from Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

You wrote on 27 April 2009 asking for an update on the progress of the above dossier.

The French Presidency undertook some work on this dossier and held a discussion of the proposal at official level in the Council. In an effort to make progress, the French Presidency mooted a compromise which deleted the most contentious elements of the proposal. Their compromise removed the proposals to (i) introduce modest increases to motor fuels duty rates and (ii) align minimum rates on unleaded petrol and diesel. These would instead be tackled under a forthcoming review of the Energy Taxation Directive. Consequently the proposal mainly focussed on increasing flexibility for Member States to decouple their commercial and non-commercial diesel rates in the context of the introduction of a broadly equivalent increase in road user charges.

Following a rather negative reaction from most Member States, the French Presidency and succeeding Presidencies have not undertaken any further work on this dossier and we expect it will be subsumed within the forthcoming review of the Energy Taxation Directive.

I hope you find this information helpful.

2 July 2009

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43 Correspondence with Ministers, December 2008 to April 2009
Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

Thank you for your letter of 18 March about the proposed Recovery Directive. I apologise for the delay in replying.

You ask about the impact of the proposal on local authorities. This is an aspect of the Directive that we will need to consider carefully before it is agreed. My officials are in discussion with the Communities and Local Government Department (CLG) about how local authority involvement in mutual assistance under the Directive would work in practice. CLG will consult the English local authorities as discussions proceed. Likewise we will be consulting the devolved administrations in respect of local authorities in other parts of the United Kingdom.

You also ask about recovery rates. The apparent low rate of recovery in relation to requests for assistance is a key motivation for the Commission proposal. However, we cannot say with any certainty what level of improvement might be expected. We are uncertain as to the precise basis on which the Commission has produced its figure of a 5 per cent recovery rate and it is difficult to make comparisons between Member States whose domestic powers of recovery, on which the ability to process requests depends, vary considerably.

In your letter you asked to be kept up to date on the progress of negotiations. Discussions have been taking place at working group level under the Czech Presidency and steady progress has been made in analysing the proposed text. The Commission, in its Communication on good governance in tax matters (9281/09) encouraged the Council to adopt the proposal as soon as possible. ECOFIN, in its conclusions of 9 June, welcomed the proposed Directive and expressed its readiness to take forward work on this and other areas of good governance in tax matters under the Swedish Presidency, inviting the Presidency to report back in the autumn.

13 July 2009

Letter from the Chairman to the Rt Hon Stephen Timms MP

Thank you for your response to our letter on Explanatory Memorandum 6147/09 dated 13 July 2009. EU Sub-Committee A considered your letter at its meeting of 13 October. It was agreed to hold this proposal under scrutiny.

We note that your officials are in discussion with the Communities and Local Government Department (CLG) about how local authority involvement in mutual assistance under the proposed Directive would work in practice. We would like to be informed of the impact of the proposal on local authorities as this becomes clear from the discussions between the Government and CLG consultation.

We regret the lack of a precise figure on the recovery rate in the United Kingdom as we hope that this Directive will raise the recovery ratio by simplifying administrative procedures. As the Directive is expected to be debated at the Council in November, we would also like to receive further detail on progress on the Proposal under the Swedish Presidency.

We note the four month delay in responding to our letter which meant that we were unable to consider your reply before the summer recess. We would appreciate a more prompt response in future.

14 October 2009

Letter from Rt Hon Stephen Timms MP to the Chairman

Thank you for your letter of 14 October about the proposed Recovery Directive. I would like to update you on progress under the Swedish Presidency.

There has been good progress in discussions at working group level, where Member States have been keen to ensure that the Directive works in practice and achieves its aim of an improved recovery ratio. Much of the discussion has therefore focussed on detailed drafting points and the need to ensure compatibility with national legal frameworks and administrative practices.

44 Correspondence with Ministers, December 2008 to April 2009
The draft has been amended to exclude the recovery of social security contributions as this is already covered under the Social Security Regulation (EC 883/2004) and the recently adopted Implementing Regulation (EC 987/2009).

The draft has been strengthened in terms of its provisions for data protection and confidentiality of information exchanged. In addition the provision in the Commission proposal requiring Member States to use the Directive to the exclusion of other bilateral or multilateral agreements has been amended to allow Member States to use other agreements where these may provide for a greater measure of assistance.

In your letter you ask to be informed about the impact of the proposal on local authorities. Local authorities have generally welcomed the proposal although there are doubts as to whether it will be used widely by local authorities, as compliance rates for local taxes are generally high and debts relatively small. The main benefits of the Directive should be in respect of national taxes, which are the main focus of the Directive.

In view of the progress made under the Swedish Presidency the Directive has been included on the agenda for ECOFIN on 2 December and the Presidency is expected to seek agreement on a general approach.

23 November 2009

TAXATION OF SAVINGS INCOME IN THE FORM OF INTEREST PAYMENTS (15733/09)

Letter from Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

I am writing in response to your letter of 14 January 2009 informing me that Sub-Committee A has decided to hold the proposed amending Directive on the taxation of savings income under scrutiny in anticipation of the publication of the UK impact assessment.

I am pleased to report that HMRC has completed an impact assessment, which I now enclose with this letter. The assessment is based on the Commission proposal, taking account of the emerging shape of the Directive as developed in the relevant Council working group for submission to ECOFIN. The Presidency will be seeking political agreement on the text of the Directive at ECOFIN on 2 December.

The impact assessment suggests that, on average, the five largest retail banks will each incur costs of between £4.8 million and £11.8 million to introduce the proposed changes, while for other banks the average cost will be between £174,000 and £614,000. The actual costs will depend very much on the final shape of the Directive. On the basis of the Commission proposal the costs would be towards the higher end of these estimates but taking into account changes made by the Council, they are likely to be closer to the lower end. The impact assessment therefore uses the lower estimate for the purpose of calculating overall costs. The figures draw heavily on estimates provided by the British Bankers’ Association.

The main reason for the difference in costs between the Commission proposal and the emerging draft Directive is that the Council has introduced certain “grandfathering” provisions, which mean that financial institutions will not need to apply all new information gathering requirements to existing customers and that financial products brought into scope for the first time will only be captured “prospectively”, in that such products already issued before the Directive comes into force will not be subject to the Directive.

The UK has taken a lead within the Council to ensure that such grandfathering provisions have been introduced to the draft text. We have also been active in ensuring that the scope of the Directive is limited to savings income substantially similar to savings interest and does not extend to income or capital gains from higher risk financial products that are not in competition with traditional savings accounts.

Although the estimated costs to the financial sector of implementing the new Directive are significant, the Government considers them to be proportionate in relation to the need to close loopholes in the current Directive for the purposes of combating tax evasion more effectively.

In view of the progress made on the draft Directive under the Swedish Presidency and in order to take forward the important objective of tackling tax evasion in accordance with EU and G20 priorities, the Government is keen to support political agreement on 2 December. I appreciate that this timetable does not allow much time for the scrutiny process to be completed but hope that you and your committee will be able to consider this matter ahead of the meeting.
TAXATION: PROMOTING GOOD GOVERNANCE IN TAX MATTERS (9281/09)

Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury

Thank you for your Explanatory Memorandum 9281/09 on the Commission’s Communication on good governance in tax matters. Sub-Committee A considered this at our meeting of 9 June and agreed to clear the proposal from scrutiny.

The Committee is very interested in the debate on good governance and tax transparency. We would be grateful if you would keep us informed of the results of discussions on this subject at the June ECOFIN.

9 June 2009

Letter from the Rt Hon Stephen Timms MP to the Chairman

Further to your letter of 9 June 2009, I write to provide an update on the outcome of the discussions on this matter at the June ECOFIN.

Based on the Commission’s 28 April communication, ECOFIN adopted Council conclusions on further work relating to good governance in taxation. The conclusions encourage further work in relation to legislative proposals on the savings taxation directive, the administrative cooperation directive and the recovery directive, and urge the Commission to swiftly present the results of negotiations on an anti-fraud agreement with Liechtenstein.

The UK is content with the conclusions, which represent a positive step forward on the three individual directives and on the wider good governance agenda, with its close links to the G20. The incoming Swedish Presidency will report to the Council in autumn on progress made.

I hope you find this information helpful.

29 June 2009

VAT: DRAFT DIRECTIVE AMENDING VAT DIRECTIVE (14942/07)

Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

My predecessor sent your Committee an Explanatory Memorandum on 27 November 2007 about a legislative proposal to amend the VAT Directive in four specific areas. These amendments concerned: the VAT scheme applicable to the supply of natural gas, electricity, heat and refrigeration; the tax treatment of EU joint undertakings (e.g. bodies set up for Community research and development); consequential changes on the accession of Bulgaria and Romania; and the right to deduct input VAT on immovable property used for mixed business/non-business purposes.

Although your Committee kindly cleared the Explanatory Memorandum from scrutiny, I thought it might be useful to provide you with an update. In particular, you may recall that the Government had concerns about one of the proposed amendments. It was supposedly intended to clarify the tax status of joint undertakings and other bodies set up for Community research and development under Article 171 of the EC Treaty. However, the precise impact of the proposal as drafted was unclear, as it appeared to extend an existing VAT exemption to them. In the event, it transpired that the Commission’s aim here was not to extend the exemption at all, but merely to clarify the current treatment for Community bodies covered by the Protocol of Privileges and Immunities. This would include some joint undertakings and other bodies set up for Community research and development under Article 171 of the EC Treaty, but only where they qualify as Community bodies and are covered by the Protocol of Privileges and Immunities. This is now made very clear in the legal text itself.

More generally, the technical discussions on this draft VAT Directive are almost concluded. The Czech Presidency intends taking this to ECOFIN on 9 June for adoption. Given the clarification on the joint undertakings aspect, the Government is now content to support these proposals at ECOFIN.
An Impact Assessment was not sent to you with the original Explanatory Memorandum. I have therefore included one now.

18 May 2009

VAT FRAUD IN THE EUROPEAN UNION (16774/08, 12886/09)

Letter from the Rt Hon Stephen Timms, Financial Secretary, HM Treasury, to the Chairman

Following submission of the above Explanatory Memorandum dated 16 December 2008, and further correspondence, your Committee decided not to clear the document from scrutiny but asked for further updates on negotiations. I am writing to provide that update and to request clearance for part of the proposal.

As you are aware, the proposed Directive has two elements: changes to combat evasion linked to exemption of certain imports under Customs Procedure Code 42 (CPC 42); and the introduction of an explicit power to apply Joint and Several Liability (JSL) cross border. Whilst resolution of the JSL part of the proposal remains some way off, progress has been made on CPC 42. The Presidency has concluded that this should be taken forward in its own right for agreement at ECOFIN shortly, allowing further discussion of JSL to a slower timetable. The Government would like to be a position to agree to the Directive at the June ECOFIN which is when we anticipate the Presidency will try to confirm agreement.

CPC 42 exempts goods imported from outside the Community from payment of VAT in the Member State of entry if they are destined for another Member State. Relief is available on condition the VAT is declared and paid in the Member State of destination. As the Explanatory Memorandum explained, we agree with action to tackle abuse of CPC 42. Our concern was that the changes were helpful but that they were of limited impact and imposed additional burdens on business.

There have been few changes to this part of the original proposal. The revised text clarifies that the exemption from VAT on importation is only available if the importer supplies the Member State of importation with the VAT number of those involved in the import and in receiving the onward supply. However it now makes it clear that this is a minimum requirement, allowing Member States to introduce their own further conditions if appropriate.

In addition, the importer will not now automatically have to provide proof of the future onward supply as Member States can opt to only require provision of that evidence on request.

The amendments made in negotiations, specifically the option to allow provision of evidence on request, mean that business in the UK will now be protected from additional requirements to submit paperwork. The evidence required, however, will still change from the current details of the actual transport for the onward supply, to other commercial records of the intended onward supply – for example orders or details of transport arrangements.

During negotiations, the Commission’s VAT Unit have indicated that they view this clarification of the CPC exemption as the first step in changes, with accordingly limited ambition. They see subsequent steps to improve the EU level system as lying with their Customs Unit colleagues.

Negotiations on this element are not yet concluded. Most Member States had problems with the original text, although no consensus on an alternative approach has yet emerged. The group will continue their discussions and UK officials will work to ensure that the emerging compromise is effective against fraud and respects the principles of legal certainty and proportionality. I will write again to update you when the position is clearer.

I hope you find this information helpful and that it allows you to consider whether scrutiny clearance can be given for the Directive dealing with the changes to CPC 42. I am aware that an Impact Assessment has yet to be produced for this part of the original proposal. However, our view, given the outcome of the negotiations with regard to burdens on business and the limited changes to existing practices that the text would entail, is that an Impact Assessment should not now be necessary. We still intend, however, to produce an assessment for the JSL part of the proposal.

11 May 2009

Letter from the Chairman to the Rt Hon Stephen Timms MP

Thank you for your letter of 11 May 2009 on the amendments to Directive 2006/112/EC. EU Sub-Committee A considered this document at our meeting of 19 May 2009.
We agree that your proposal to go ahead with the negotiations on exemptions from VAT at a faster pace than on Joint and Several Liability proposals is sensible. Therefore, under Article 3 (b) of the Scrutiny Reserve Resolution, we are happy for you to give agreement to this specific proposal at Council.

We decided to continue to hold the document under scrutiny given the reservations expressed over the Joint and Several Liability Proposals. We would like to request updates on the progress of negotiations on this document.

20 May 2009

Letter from the Rt Hon Stephen Timms MP to the Chairman

I have today introduced legislation to remove VAT from supplies of emissions allowances (also known as carbon credits) traded within the UK, in order to prevent the risk of VAT fraud.

This fraud threat became apparent after fraudulent trading on the Bluenext exchange prompted the French government to remove VAT from supplies of emissions allowances in France. The Government of the Netherlands has also made VAT changes in respect of emissions allowances trading.

Today’s action will have the effect of instantly closing down the fraud opportunity, without placing any new tax burden on legitimate businesses or incurring any substantial cost to the taxpayer. The operation of the Emissions Trading Scheme will be unaffected.

The UK Government is actively engaged in discussions with the European Commission on establishing an EU-wide solution to this threat, and has sought a derogation from EU law to cover this short-term action. However, HMRC’s intelligence indicates that there now exists a substantiated and increasing risk of the UK becoming a major target for the fraudsters during the next few months. This risk assessment is informed by HMRC’s experience in recent years of VAT Missing Trader Intra-Community (MTIC) fraud in mobile telephones and computer chips.

We have seen how quickly frauds of this kind can escalate and how effective decisive action can be in tackling them. That is why we have chosen to act now to close down these frauds and protect the public finances.

30 July 2009

Letter from the Chairman to the Rt Hon Stephen Timms MP

Thank you for your Explanatory Memorandum on the proposal on administrative cooperation and combating VAT fraud which was considered by Sub-Committee A at its meeting of 20 October 2009.

We welcome the Commission’s proposals as it represents a further step in the fight against VAT fraud which needs an EU response to be tackled effectively.

We are aware that the abuse of ‘inactive’ VAT identification numbers is a well-known phenomenon and we understand from the Commission’s view that by establishing common standards for registration and deregistration of taxable persons that it should become impossible for potential fraudsters to obtain or abuse a VAT identification number. Upon these considerations these provisions appear to be justified. We would therefore be grateful if you could elaborate further your concerns related to common standards which you allude to in your memorandum.

We recognise that one of the most novel elements of the proposal is the establishment of Eurofisc. What is your view on this new body? Have other Member States expressed subsidiarity concerns over the establishment of this new body? How do you see the use of comitology to some new elements of the proposal?

Finally, we note that consideration of this proposal is still at a very early stage, and that you have not entirely developed your negotiating position. We would be grateful if you could update us as you develop your negotiating position on this regulation. We will hold the Proposal under scrutiny.

23 October 2009
VAT GROUPING (11734/09)

Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury

Thank you for your Explanatory Memorandum 11734/09 of 20 July on VAT grouping. EU Sub-Committee A considered this at its meeting of 20 October 2009.

We agree that, where possible, regulation should avoid imposing unnecessary burdens on business. What has been the reaction of other Member States to the Commission Communication?

We agreed to hold the document under scrutiny in anticipation of your reply.

23 October 2009

VAT: POSTAL SERVICES (11338/04)

Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

Further to your letter of 27 April 2009, I write to provide you with an update on progress on this particular legislative measure.

As you know, the agenda for discussion of proposed legislation is set by the EU Presidency. As a result, the proposed Directive, which seeks to apply a reduced VAT rate to standard postal services, has not been discussed in the Council of Ministers since July 2004.

There have however, been several developments as regards this VAT exemption which may provoke renewed interest. For example:

1. The European Court of Justice (ECJ) recently released its decision in the matter of TNT Post (C-357/07). This case was referred to the ECJ as part of an application for judicial review, whereby the UK’s present application of the VAT exemption for various ‘public’ postal services provided by the Royal Mail was challenged. The guidance of the ECJ will now be applied by the High Court of Justice (Administrative Branch). We are awaiting this decision.

2. Various infraction proceedings against Member States, including the UK and Sweden, were stood over pending the outcome of the TNT case. These actions may be pursued if the European Commission considers that the guidance of the ECJ in that case, does not fully cover its concerns.

3. The European Commission’s commentary on the effectiveness of the Postal Services Directives published in January 2009, identified a need for a pan-EU approach to the VAT treatment of postal services and has provoked renewed interest in this VAT exemption.

I will update you if there is any progress of this measure under the Swedish Presidency.

I hope you find this information helpful.

2 July 2009

VAT: TREATMENT OF INSURANCE AND FINANCIAL SERVICES (16209/07)

Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman

Further to your letter of 27 April 2009, I write to provide you with an update on progress on this particular legislative measure.

This measure comprises a legislative Proposal to amend the principal VAT Directive (2006/112/EC) and a legislative Proposal for a Council Regulation. The proposed amendments to the Directive contain modernised legal text outlining the borderline of the financial and insurance services VAT exemption and suggestions for some structural changes to this VAT exemption. The proposed Regulation aims to ensure uniform interpretation of the Directive text. Both proposals have progressed under the Slovenian, French and Czech Presidencies.

45 Correspondence with Ministers, December 2008 to April 2009
46 Correspondence with Ministers, December 2008 to April 2009
There is widespread agreement among Member States that the VAT rules should be modernised. However, much work has yet to be done to find a text that accurately reflects developments in the financial and insurance sectors, whilst maintaining the correct boundaries for VAT exemption.

Member States remain divided on ideas for structural changes (the amendments to the option to tax and cost sharing rules). Little progress has been made, as there is a need for further in-depth technical discussion.

The proposed Regulation has been significantly reworked to align it with the Directive text. This has produced meaningful discussion allowing Member States to set examples of the scope of the VAT exemption. However, this work is still at a very early stage and nothing yet has been substantially agreed.

I hope that you have found this information helpful.

2 July 2009

Letter from the Chairman to Rt Hon Stephen Timms MP

Thank you for your letters of 2 July 2009 on the progress of the above dossiers. EU Sub-Committee A considered these letters at its meeting on 14 July 2009.

The Sub-Committee would like to request further updates on the progress of negotiations when and if progress is made, and will continue to hold the documents under scrutiny.

15 July 2009