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

This edition includes correspondence from 9 May 2013- 30 November 2013

INTERNAL MARKET, INFRASTRUCTURE AND EMPLOYMENT

(SUB-COMMITTEE B)

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Letter from the Chairman to Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum, dated 11 January 2013, on EM 17876/12 on a new European approach to business failure and insolvency. The House of Lords European Union Sub-Committee on the Internal Market, Infrastructure and Employment considered this document at its meeting on 11 February 2013, and decided to clear it from scrutiny.

We are sympathetic to your position that you would not support changes to existing UK domestic insolvency law where it is not in the best interests of UK businesses and consumers. However, we would like to highlight the study commissioned by the European Parliament that stated there would be clear benefits to harmonisation of insolvency law. We ask whether you have considered the findings of this report. We also seek clarification on whether you have conducted a cost-benefit analysis from a UK perspective on harmonising insolvency laws across the EU. The Committee would encourage you to consider the extent to which harmonising legislation would affect court proceedings relating to bankruptcy.

We also wish to clarify whether the Commission has fully outlined how it has defined ‘honest bankrupts’ and whether you consider this to be a clear definition.

We note from your EM that there are a few areas of the UK’s domestic insolvency law that differ from the Commission’s vision for harmonised insolvency laws. For example, the Commission expressed an aim to encourage fast-track proceedings for ‘honest’ bankrupts whilst in the UK there are currently no ‘fast-track’ or special procedures for honest bankruptcies. Where there are differences between the Commission’s proposal and the UK’s current laws, can you provide a justification as to why moves towards harmonisation would not be in the best interest of UK businesses and consumers?

We would be grateful for a response to these queries within 10 working days. In the meantime we are content to clear this document from scrutiny.

20 May 2013

ACCESS TO PROFESSIONS (14688/13)

Letter from the Chairman to Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, UK Trade and Investment

Thank you for your explanatory memorandum of 25 October which the House of Lords EU Sub-Committee B on the Internal Market, Infrastructure and Employment considered at its meeting on 25 November 2013.

The document has already been cleared from scrutiny. We note the Government’s support for the aims of the Communication, and we also believe it will bring benefits to the single market. However, we also wish to reemphasise our view, that the right of Member States to make provisions to protect patients by requiring language testing and thorough checking of medical qualifications should not superseded by the transparency initiative outlined in this Communication.

27 November 2013

AMENDMENT TO PROTOCOL 31 TO THE EEA AGREEMENT (UN-NUMBERED)

Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

Thank you for your Explanatory Memorandum of 13 March, which was considered by the Internal Market, Infrastructure and Employment Sub-Committee at its meeting of 24 April 2013.

As you have indicated in your Explanatory Memorandum this proposal raises the same legal issues as arose in document 10505/12 (COM(2012) 235), which was eventually adopted as Decision 2012/400.
We note that the legal base issue is currently subject to litigation in other matters which will apply here.

You indicate that the UK did not assert that Protocol 21 applies to Decision 2012/400 and we infer that you will take the same approach to this proposal i.e. accept that it will, if adopted, automatically bind the UK.

The question of whether Protocol 21 applies to proposals which do not have an express legal basis in Title V of Part Three TFEU is a matter which has arisen in respect of a number of other proposals, particularly those relating to international agreements. Your approach to this proposal and to Decision 2012/400 is, as you accept, not consistent with the approach taken by the Government in these other cases. We take this opportunity to reiterate the consistent position of this Committee, that Protocol 21 does not apply in the absence of an express Title V legal basis. We agree that the acceptance by the UK that this Protocol is not engaged in respect of Decision 2012/400 and this proposal does not preclude the UK arguing in other cases that an express Title V legal basis is not necessary, we remain concerned that once the precedent is set, it will weaken the Government’s case, should this issue ever come to litigation at some future date.

We do not expect a reply to this letter.

8 May 2013

APPLICATION OF ARTICLE 93 (17450/12)

Letter from the Chairman to Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Further to your letter of 24th January and your decision not to release my Department’s Explanatory Memorandum on the above Regulation from scrutiny, I am writing to update you on progress and to ask you to remove this from scrutiny as it is intended that there will be political agreement at the Competitiveness Council on 29th May. I am also taking this opportunity to inform you of the contents of Commission Staff Working Document SWD (2013) 103 final which gives advice from Commission Legal Services on the Legal basis for one aspect of the proposed revision to Regulation 659/1999.

Throughout my letter I shall make reference to the latest Presidency compromise text on the Regulation which will go to the Committee of Permanent Representatives (CoReper) on 15th May and I am sending in confidence a limited version of this text for the Committee’s information.

In your letter you said that you wished to emphasise that the Commission must respect the principle of proportionality in exercising its powers. This was also uppermost in our minds when considering our position. This is why although we took a positive approach to the proposals we decided that our negotiating position should be to ensure that the Commission acted proportionately in three specific areas. These were the new streamlined complaints procedure, the Market Information Tool (MIT) and Sectoral Investigations. I shall deal with each in turn.

COMPLAINTS HANDLING

Although we were generally supportive of the new streamlined complaints procedure which would reduce the workload for both Member States and the Commission, we considered that the requirement to complete a mandatory complaints form could be burdensome. We considered that an overly complex form could be an active disincentive for SMEs in particular to lodge complaints. I am pleased to say that in negotiations we have secured text in Recital 11 which specifically says that the demands on complainants should be taken into account. The Commission has also assured Member States that the actual complaints form will be the subject of a wide consultation. I therefore consider that this proposal balances the needs of Commission, Member State and complainants.

MARKET INFORMATION TOOL (MIT)

The proposed Market Information Tool would allow the Commission during the course of a formal investigation to seek information directly from the market instead of channelling all requests through the Member State. We know from our own experience that there is commercial information, such as market share of a particular company which a Member State, no matter how diligent, would struggle to provide. We are also aware of the lack of incentives for the market to provide key information in a timely manner or indeed at all. This information could be crucial to a full assessment of whether or
not a particular aid measure is compatible. We need to be sure that both our own measures and those from other Member States are being considered in as robust a fashion as possible. We therefore decided on balance to support but to seek inclusion of text to make sure that this was used proportionately.

I am pleased to inform the Committee that during negotiations a number of important amendments have been made to ensure that the burden on third parties is minimised as far as possible. Firstly Recital 2 makes it clear that the MIT will be used in the most complex cases and Recital 3 states that third parties will be asked only if the information already provided by the Member State has proved insufficient for the Commission to take a decision and that in seeking this information they should be mindful of proportionality in particular regarding Small and Medium sized Enterprises (SMEs). It is however, unlikely that SMEs would be involved in complex cases which tend to involve larger companies. Thus both Recitals together should significantly reduce the possibility of burden on these companies.

Article 6a (4) of the Regulation now makes it clear that Commission can only ask an undertaking for information at its disposal. This means that the Commission cannot ask for information which would require research or effort to retrieve. Article 6a (8) states that the Commission must tell the Member State what has been asked for and the criteria used to select the respondents. This should allow a Member State to ensure that a particular sector or particular type of company is not being singled out.

As you know the Regulation allows the Commission, if there is a need, to impose fines on companies who do not provide information. Whilst the Government considers that there should be this possibility to avoid a company wilfully refusing to give information and thus slowing down or even entirely preventing a competitor’s aid measure, we have been at pains to ensure that this is done proportionately. This has been achieved by the insertion of Recital 4 which states that the Commission must take account of proportionality and appropriateness and have particular regard to SMEs. Recital 4 (a) and Article 6b(4) also allows the Commission to waive any fine or penalty if the company eventually provides the information.

I am therefore content that this measure is proportionate and that the potential burdens on third parties have been reduced as far as possible. I should also say, to give further context, that the Commission has told Member States informally that of the 32 formal investigations opened in 2011 it would only have used this procedure in around 15 cases. The MIT should therefore be the exception rather than the rule.

Turning briefly to Staff Working Document (2013) 103 final. A number of Member States were concerned that Article 109 of the Treaty, which gives the Council the power to make Regulations on the application of the state aid provisions of the Treaty was not the correct legal basis for the Market Information Tool. The Commission Legal Services were therefore asked to advise. This is provided in this Staff Working Document. In essence the Legal Services consider that as the market information tool is required for the effective application of the state aid rules, as this would allow the Commission to obtain full information on a case in a timely manner, Article 109 is an entirely appropriate legal basis. The Government agrees with this assessment.

SECTORAL INVESTIGATIONS

The draft Regulation proposed that the Commission should be able to hold investigations into whole sectors across all Member States. Very often an investigation into alleged incompatible aid in one Member State will reveal a wider problem across the EU. We could see that this would provide detailed information across the whole EU about exactly what is happening in a particular sector which could help to allay concerns that other Member States are not abiding by the rules. However, we were concerned that this could take up a disproportionate amount of time which could be better spent on clearing UK cases and that that it could be a rather heavy handed approach when there might be no proof of actual harm.

During negotiations we have secured a number of amendments to both Recital 13 and to Article 20a to address our concerns. The Article now makes clear that there has to be a reasonable suspicion of distortion in several Member States before the Commission can act. The notion that the Commission must act proportionately is also embedded in the text of both the Recital and the Article. I therefore feel confident that the Commission will use this measure correctly.

I hope that the Committee can agree that the current text does ensure that the Commission has to exercise its powers in a proportionate manner and can clear the Regulation from scrutiny.

13 May 2013
Letter from Jo Swinson MP to the Chairman

Thank you for your letter of 13 May on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment by electronic circulation on 20-22 May.

We note the amendments that have been made to the proposal and note also your satisfaction with them. We have therefore decided to clear the document from scrutiny in advance of the EU Competitiveness Council meeting on 29 May.

No response to this letter is required.
23 May 2013

BIOCIDAL PRODUCTS (9783/13)

Letter from the Chairman to Mark Hoban MP, Minister for Employment, Department for Work and Pensions

Thank you for your explanatory memorandum of 5 June 2013, which was considered by the EU Sub-Committee on the Internal Market, Infrastructure and Employment on1 July 2013. The Committee decided to clear the document from scrutiny.

The Committee shared your view that the amending Regulation does not alter the policy implications of the Regulation, and is necessary to ensure its proper functioning.

We observe your concern that other Member States or the European Parliament could use this proposal as an opportunity to seek policy changes to the Regulation other than the corrections that the Commission is proposing. We note that the Regulation was only recently agreed after lengthy negotiations, and therefore, such a change would be unacceptable. We therefore welcome your undertaking to ensure that neither Member States nor the European Parliament use the amending Regulation to make changes to the substance of the legislation through the ‘back door’.

While we are content with the rationale behind the Regulation, we note the wider debate about raising the standard of EU and UK legislation. With that in mind, we consider that now is an opportune time to urge those involved in negotiations on EU legislation to ensure that legislation should be in the best possible shape before adoption, to avoid the need for corrections after agreement. We are pleased to observe that the changes to the Regulation will be made before it comes in to force, but we trust that in future, similar technical errors will be remedied at an earlier stage, long before a proposal is agreed.

No response to this letter is necessary.
3 July 2013

BLUE BELT, A SINGLE TRANSPORT AREA FOR SHIPPING (12193/13)

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for your EM of 13 August 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 October 2013.

Like you we support the RSS proposal. We also believe the ‘eManifest’ proposal could have clear benefits for EU competitiveness, the functioning of the internal market and relieving congested roads across Europe, by making the shipping of cargo more economically viable. The current situation where a ship moving between Antwerp and Rotterdam is treated as though it came from outside Europe, is unsustainable.

We note your concern about the timetabling of the proposal which you consider is over ambitious, and fails to provide for a full consideration of the scope of requirements. We support your resolve to persuade the Commission that no implementation date should be agreed until the scope of the requirement has been finalised.
We strongly believe that a measured approach is necessary, as it will be important to ensure that the system integrates smoothly with port operations and processes. We would therefore encourage you to begin consultation with key stakeholders as early as possible, to ensure that a balance is struck between taking advantage of the benefits the ‘eManifest’ proposal may have for EU competitiveness, and arriving at a realistic implementation date.

Given the early stage of the ‘eManifest’ proposal, we wish to be kept appraised of developments on this. We would also be interested in the outcome of the September comitology discussions on the RSS proposal.

15 October 2013

CAPE TOWN AGREEMENT 2013 (6040/13)

Letter from Stephen Hammond MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman

Thank you for your letter of 8 May regarding the consideration by your Sub Committee of the Explanatory Memorandum on the above proposal.

You refer to the concerns expressed in our document regarding the extension of competence on the governing articles of the protocol. I am able to report that negotiations at working group level, most recently on 11 July, have resulted in welcome amendments to the proposal.

The original wording of the proposal for a Council Decision authorising Member States to sign, ratify or accede to the Cape Town Agreement of 2012 (the Agreement) on the Implementation of the provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the 1993 Protocol) stated:

“Member States shall take the necessary steps to deposit their instruments of ratification of the Agreement, or accession to it, with the Secretary General of the IMO without delay and in any case no later than two years from the date of entry into force of this decision”

As you may recall, the Government was concerned this might indicate an intention to extend the competence of the Commission on the governing articles of the 1993 Protocol relating to matters such as the usual obligation to be bound by a convention (usually entitled “general obligations under the Convention”), entry into force, ratification and the adoption of amendments rather than the technical aspects of the 1993 Protocol that are incorporated into Council Directive 97/70.

At a meeting of the Shipping Working Group on 18 June, the UK, together with four other Member States, expressed these reservations to the Commission.

In light of these reservations, at the next meeting of the working group on 25 June, the Commission presented the following revised wording:

“Member States shall endeavour to take the necessary steps to deposit their instruments of ratification of, or accession to, the Agreement with the Secretary General of the IMO within a reasonable period and, if possible, no later than two years from the date of entry into force of this decision”

It is now the view of the UK and the other Member States who expressed their reservation that the proposal no longer places a requirement on Member States to looks to ratify the Agreement and as a result no longer looks to extend Commission competence onto the governing articles of the 1993 Protocol.

I welcome this revised wording and understand that it is also acceptable to all other Member States. No further working group discussions are anticipated, and we expect that the proposed Decision will be put to Council for agreement at the 10 October Transport Council.

21 August 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 21 August 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 October 2013.
We note that you are now content that the text of the Commission’s proposal respects Member States’ competence in this area.

We have therefore decided to clear this document from scrutiny. A response to this letter is not required.

15 October 2013

CARRIAGE OF PASSENGERS AND THEIR BAGGAGE BY AIR (7615/13)

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

Thank you for your explanatory memoranda of 2 April 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013.

We note that this proposal seems to have the support of relevant stakeholders in the UK: passengers, airlines, government, etc. More specifically, we note the absence of airports from your list of stakeholders, and ask whether they have been consulted. We also ask whether the charter airlines and package tour operators have undertaken to fully apply the new rules when they come into force. As you will likely be aware, the Committee has previously raised concern with the lack of passenger consultation and the limitations of the CAA’s role in this area. We seek clarification on how passengers were consulted on this dossier, and whether you are content that this was done effectively. We agree that it represents a more realistic arrangement for airlines in terms of providing financial and non-monetary compensation, while also reinforcing passengers’ rights to timely information and compensation for delays within specific timeframes.

We share your concern about the omission of Gibraltar from the Commission’s proposal and the serious consequences this could have in terms of diplomatic relations, and we therefore encourage the Government to seek a swift diplomatic resolution of this matter.

We have decided to retain this document under scrutiny, and we look forward to receiving updates from you in due course.

20 May 2013

Letter from the Rt. Hon. Simon Burns MP to the Chairman

Thank you for your letter of 20 May. I am writing to provide an update on these proposals, and the further information requested by the Sub-Committee on the Internal Market, Infrastructure and Employment.

The Explanatory Memorandum noted that the Government intends to press for the removal of the suspension of Gibraltar’s airport from the Regulation.

The FCO has been seeking a compromise solution with Spain to address the Spanish Government’s objection to the text of the Cordoba Agreement whilst ensuring application of all aviation measures to Gibraltar. Although we are yet to agree a workable solution, the UK will continue to engage constructively to find a compromise that will both allow for agreement to be reached on key aviation dossiers and ensure extension of the measures to Gibraltar. The UK’s position remains that measures must apply to Gibraltar.

You asked for further information on consultation of stakeholders, and specifically whether this included airports. Officials have met with representatives from the Airport Operators Association (the trade association representing the interests of UK airports), Which? (the largest consumer body in the UK), and the Consumer Council for Northern Ireland. I am content that my Department has consulted with the appropriate stakeholder groups.

During conversations at stakeholder events, both charter and package travel operators have confirmed their willingness to engage with and comply with the CAA’s enforcement role.

The Committee may wish to know that the CAA Consumer Panel was established in October 2012. The Panel has internal independence from the CAA and acts as a ‘critical friend’, scrutinising and challenging all of the CAA’s work. The main aim of the panel is to be a champion for the interests of consumers. The Panel consists of nine members including the Chair, Keith Richards. Keith was Vice-Chair of the Disabled Persons Transport Advisory Committee (DPTAC) and Chair of its International Working Group covering Aviation and Maritime. The CAA also regularly engages with Which? and
the Consumer Council for Northern Ireland to seek their views, in addition to undertaking their own independent consumer research.

I would finally like to take this opportunity to bring the Committee up to date with the projected timescales for negotiations. The Lithuanian Presidency is aiming for a ‘general approach’ at the Transport Council on 5 December, although this may be limited to a partial ‘general approach’ if the issue of Gibraltar airport cannot be resolved. An ‘orientation debate’ is planned for the 10 October Transport Council. The European Parliament is set to finish its first reading in early 2014, with a vote in Plenary anticipated in January 2014.

I will of course continue to keep your Committee informed of developments.

15 July 2013

Letter from the Chairman to the Rt. Hon. Simon Burns MP

Thank you for your letter of 15 July 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 22 July 2013.

We share your continued concern about the omission of Gibraltar from the Commission’s proposal and the potentially serious consequences this could have. We support the Government in seeking a diplomatic resolution of this matter.

We are grateful for the further information you provided about the stakeholder consultation conducted in the UK about the proposal, and are pleased to note that the passenger perspective featured prominently.

We have decided to retain this document under scrutiny, and we look forward to receiving updates from you in due course.

29 July 2013

CIVIL AVIATION (18118/12)

Letter from the Chairman to the Rt. Hon. Simon Burns MP, Minister of State, Department for Transport

Thank you for your letter of the 26 February on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013 and the Committee decided to clear the document from scrutiny.

The Committee found your response comprehensive and reassuring, especially on the issue of administrative burdens to industry. We would be grateful for updates as and when the Commission provide additional information on the burdens to organisations in respect of compatibility of the ECCAIRS system.

While we accept that there may be administrative complexities involved, we suggest that the integration between the EU and international systems could be better, in order to reduce the administrative burdens arising from reporting both internationally and at an EU level. We therefore seek information on whether you are making any steps in the direction of a more integrated system at international level.

We look forward a response within 10 working days.

20 May 2013

Letter from the Rt. Hon. Simon Burns MP to the Chairman

Thank you for your letter of 20 May about the above Regulation.

With regard to your point about integration between the EU and international reporting systems, I would like to assure you that the EU occurrence reporting requirements are consistent with the incident reporting requirements established by the International Civil Aviation Organisation (ICAO). The ECCAIRS database is also compatible with ICAO’s ADREP format. Indeed ICAO encourages contracting States to use the ECCAIRS software when establishing incident reporting databases.
The information from incident reporting systems that has to be shared with ICAO and other contracting States is limited to that related to accident and serious incidents involving aircraft engaged in commercial air transport and to analyses which identify safety matters considered to be of interest to other States. The Civil Aviation Authority assures me that burden imposed by the sharing of such information is insignificant.

With regard to the possible burdens to organisations in respect of compatibility with the ECCAIRS systems, the Commission has not yet provided any additional information. I will write again if and when we receive such information.

31 May 2013

CLASSIFICATION, LABELLING AND PACKAGING OF SUBSTANCES AND MIXTURES (7036/13)

Letter from the Chairman to Mark Hoban MP, Minister for Employment, Department for Work and Pensions

Thank you for your EM dated 15 March 2013 on the above legislative proposal. The Committee considered it at its meeting on the 10 June 2013 and decided to clear the document from scrutiny.

We share your view that the proposal is necessary to amend the wording in the five existing Directives to bring them into keeping with the new Classification Labelling and Packaging Regulation.

We would therefore encourage you to impress upon the European Commission the importance of beginning negotiations early on in the Lithuanian presidency, since you report that no working groups have currently been scheduled for the Irish Presidency.

We note from your EM that you intend to undertake a cost benefit analysis of the potential costs to businesses and would be grateful for sight of this when it has been completed.

I look forward to a response in due course.

28 June 2013

COMMUNITY-FLEET CAPACITY POLICY TO PROMOTE INLAND WATERWAY TRANSPORT (13716/13)

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for your Explanatory Memorandum on 3 October 2013 on the above proposal. This was considered by the Internal Market, Infrastructure and Employment at its meeting of 21 October 2013.

We are content to clear the proposal from scrutiny as there are no financial or legislative implications for the UK arising from it.

23 October 2013

COMPARABILITY OF FEES RELATED TO PAYMENT ACCOUNTS, PAYMENT ACCOUNT SWITCHING AND ACCESS TO PAYMENT ACCOUNTS WITH BASIC FEATURES (9788/13)

Letter from the Chairman to Sajid Javid MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memorandum (EM) on the above draft Directive. The House of Lords European Union Sub-Committee on Internal Market, Infrastructure and Employment considered this document at its meeting on 24 June 2013 and decided to hold it under scrutiny.

We are grateful for your comprehensive EM. We understand that you plan to seek a number of improvements to the proposal to ensure that the Directive avoids imposing unnecessary burdens on the UK financial services industry, to avoid any unintended consequences and to ensure that the Directive does not adversely impact the UK’s 7-day switching service, which goes beyond the
Commission’s proposals. We understand that negotiations are at an early stage but would be grateful for greater detail on exactly what improvements you are seeking.

We seek clarification on which institutions would be required to provide access to a basic account for all EU consumers, given the large number of institutions other than retail banks which now offer a money transfer service in some form. We also ask for further information on whether the institutions involved will be prevented from charging any fee for the use of these basic accounts.

You express concern regarding the legal base for this Directive. At this stage, we do not believe the EM provides sufficient detail to allow us to gauge the merits of your argument. We would be grateful if you could expand on the legal arguments you employ to challenge the legal base.

We also note your suggestion in paragraph 17 of your EM that the proposal arguably “engages Article 1 of Protocol No 1 to the European Convention on Human Rights” which protects the right to peaceful enjoyment of property. We would welcome further explanation from you as to why you think this proposal engages that aspect of the ECHR; since historically the European Court of Human Rights has construed widely the public interest test which lies at the heart of its jurisprudence on the operation of this provision.

26 June 2013

Letter from Sajid Javid MP to the Chairman

Thank you for your letter of 26 June on the Payment Account Directive, following the House of Lords European Union Sub-Committee on Internal Market, Infrastructure and Employment meeting on 24 June.

Following the circulation of the Explanatory Memorandum in June, you raised on behalf of the Sub-Committee a number of questions. Before I address each of these points, let me update you on the Directive timetable.

The European Parliament has prioritised the Directive and the deadline for MEP amendments was at the beginning of September. My officials have been working diligently with MEPs and their assistants in the European Parliament to ensure that this proposal achieves the best possible outcome for UK industry and consumers.

The Council is moving at a slower pace under the Lithuanian Presidency. The first Working Group was held at the beginning of September, and it is anticipated that meetings will now take place monthly.

You asked for more detail on what improvements the Government will seek to ensure the Directive avoids imposing unnecessary burdens on industry and achieves the right outcome for UK consumers. I have set out more detail below:

— “Payment account” definition (article 2b): The proposed Directive uses an ambiguous definition of “payment account” in this context. The UK seeks to clarify the definition to avoid unnecessary burdens being imposed on a broader range of products and providers. As it stands, the definition would include a broad range of different products, such as credit cards and other products offered by non-banks, and is not limited to current accounts, which we understand is the Commission’s intention.

— Comparison websites (article 7): The Directive aims to establish a voluntary accreditation scheme for comparison websites. I am seeking to block this element of the proposal. It is not appropriate to bring forward proposals on comparison websites one product at a time. This is because comparison websites usually cover a broad range of products, such as energy or insurance, therefore having an accredited scheme for just payment accounts could cause confusion for consumers. This aspect of the proposal represents a significant intervention in a currently unregulated area and was not included in the Single Market Act II, which recommended this Directive.

— Switching (articles 9-12): The proposed Directive includes provisions that would enable consumers to switch payment accounts. As noted in your letter, the UK is supportive of the Commission’s proposals but will want to ensure it is consistent with the current domestic 7 day switching service and does not put an additional burden on industry. The UK has significant practical concerns about cross border switching, for example the interest
risk of direct debits for cross border switching, and will therefore look to ensure a workable solution for both consumers and industry.

Basic payment accounts (article 15 and 16): The proposed Directive includes provisions that would create a right of access to basic payment accounts for all consumers legally resident in the EU. The UK wants to ensure that the proposals recognise the action already taken to address these issues on a national basis. This will mean ensuring the existing voluntary agreement by major UK banks to offer basic bank accounts is recognised and ensuring that anti-fraud and anti-money laundering requirements can be met under the proposal.

You also asked for further information on the provisions relating to basic accounts. The proposed Directive states that Member States should ensure at least one payment service provider offers a payment account with basic features to consumers who do not presently have a payment service account. As noted above, the UK will seek to ensure that the proposals fit with the domestic action already taken in the voluntary agreement between major UK banks to provide basic bank accounts, on a free if in credit basis, alongside other accounts. This policy has been successful in reducing the number of people without a payment account in the UK.

In your letter you also ask if institutions will be prevented from charging any fee for the use of these basic accounts. The proposed Directive provides that Member States shall ensure that services of a payment account with basic features are free of charge or for a reasonable fee. The proposal also states that the Financial Conduct Authority should establish what is considered a “reasonable fee” in due course.

As set out in the Explanatory Memorandum in June, the UK has concerns around the legal base of the Directive. These concerns were principally founded on what we felt was an insufficiently persuasive justification being advanced by the Commission for the basic bank account proposal being brought forward for single market purposes. On one analysis, the principal motivation behind this proposal could be seen as being social inclusion rather than the removal of barriers necessary for the functioning of the single market. Since then we have sought further legal advice and proactively engaged with other Member States as part of the Council Working Group discussions. The UK will continue to monitor these concerns to ensure that the proposed Directive is proportionate.

In the Explanatory Memorandum, I set out that it could be argued that Article 1 of Protocol 1 of the European Convention on Human Rights (ECHR) is engaged by article 15 of the proposal, on the basis that it was possible that payment account providers could suffer a pecuniary loss as a result of complying with this mandatory requirement. I have investigated this matter further and sought further legal advice. As you have noted, given the wide margin of appreciation public authorities have been afforded by the ECHR jurisprudence on the operation of this provision, and given that the proposed Directive states that payment service providers may charge a reasonable fee for the provision of the payment account with basic features when mandated to do so, and as such will not necessarily suffer pecuniary loss as a result of compliance, I no longer believe this is a priority issue.

13 September 2013

CONNECTING EUROPE FACILITY (16176/11), DEVELOPMENT OF THE TRANS-EUROPEAN TRANSPORT NETWORK (15629/11), TRANS-EUROPEAN TELECOMMUNICATIONS NETWORKS (16006/11), A GROWTH PACKAGE FOR INTEGRATED EUROPEAN INFRASTRUCTURES (16499/11), TRANS-EUROPEAN ENERGY INFRASTRUCTURE (15813/11)

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

Thank you for your letter dated 24 June on the above legislative proposals. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 29 July 2013.

We note that the Government has considered the House of Lords EU Select Committee report on the Multiannual Financial Framework, and we are grateful to see that many of its recommendations are reflected in the outcomes of Council negotiations.
We cleared 15813/11 from scrutiny on 1 November 2012. We have now decided to clear 16176/11 and 16499/11 from scrutiny.

We have been corresponding with Ministers in the relevant Government departments on documents 15629/11 and 16006/11. Currently, 16006/11 and 15629/11 remain under scrutiny. We will copy you in to any further correspondence on these proposals.

Your letter stated that the Irish Presidency of the EU planned to hold one further discussion on the Connecting Europe Facility on 26 June. We understand that this discussion did not take place. Is the Lithuanian Presidency of the EU planning to hold a discussion on it during its Presidency?

We look forward to hearing from you within the standard 10 working days.

30 July 2013

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

Thank you for your letter dated 30 July on the above legislative proposals. We were pleased to learn that you have now cleared from scrutiny the overarching Proposal for a Regulation establishing the Connecting Europe Facility (16176/11) and related Commission communication (16499/11).

You asked about discussions under the Irish and Lithuanian Presidencies. On 26 June and 10 July the Irish Presidency held final informal discussions with Member States on the Connecting Europe Facility regulation. During these meetings the majority of Member States were content with the progress. On the transport side, as reported in Simon Burns’ letter of 9 July, the UK has been successful in persuading the Commission to remove High Speed 2 from the Ten-T Core Corridor. However, we continued to express our concerns about the proposals regarding the Rail Freight Corridor extensions, which remain unchanged. We understand you will be holding a discussion with officials on the transport guidelines (15629/11), which we hope will resolve any outstanding concerns.

The Lithuanian Presidency are not planning to hold any further discussion of the Connecting Europe Facility regulation, which we now expect will be formally adopted within a Council meeting. This is likely to be as an A-point. Member States will submit written statements if there are any outstanding concerns. The European Parliament Plenary vote on this dossier is expected for October 2013. The Lithuanian Presidency also aims to conclude the telecoms guidelines (16006/11) this year, which the Department for Culture, Media and Sport will continue to liaise with you on.

26 August 2013

Letter from the Chairman to Sajid Javid MP, Economic Secretary, HM Treasury

Thank you for your letter dated 26 August 2013 on above proposals. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 October 2013.

Although we have now cleared the relevant documents from scrutiny, we would be grateful to receive a formal notification from you once the Connecting Europe Facility has been formally agreed by Council.

We will continue to copy you in to our correspondence with other Government departments on the related documents 15629/11 and 16006/11.

No response to this letter is required.

15 October 2013

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for the very helpful briefing from our officials on 4 September, and for their letter of 9 October, which was considered by the Sub-Committee on the Internal Market, Infrastructure and Employment on 28 October 2013.

We note that you have made good progress in negotiations on the TEN-T so far, and we are clear on what your concerns are regarding the alignment of TEN-T corridors with the existing Rail Freight Corridors (RFC), and how this should be funded.
We have therefore decided to clear this proposal from scrutiny. We would be grateful to receive a note on the discussions in the Council when the proposal has been agreed.

30 October 2013

Letter from Rt. Hon. Robert Goodwill MP, Parliamentary Under-Secretary of State, Department for Transport, to the Chairman

Thank you for your letter of 30 October 2013 to Baroness Kramer. Following the recent Ministerial reshuffle these matters now come within my portfolio.

I am pleased the Sub-Committee on the Internal Market, Infrastructure and Employment found the briefing from my officials on the 4 September helpful and grateful to them for clearing this proposal from scrutiny.

You asked to be informed when the TEN-T proposal had been agreed. I am writing to you now to inform you of the latest developments which we expect to draw this to a conclusion.

As expected this proposal remains on track for a First Reading Deal. The European Parliament discussed TEN-T at their Plenary on 18 November and voted in support of the proposed deal on the 19 November. We understand the proposed text of the First Reading Deal will be put to the Transport Council on the 5 December as an “A” point with the Regulation being adopted by the end of the year. As an “A” point there will not be any discussion of this proposal at Council. We have indicated we will support the proposed deal on the TEN-T Regulation.

I understand that the Connecting Europe Facility (CEF) proposal will also follow this timetable. You may recall HMT lead on this dossier. In Simon Burns’ letter of 9 July he mentioned the concerns we had regarding the annex proposed by the European Commission on the Rail Freight Corridors and their extensions to be included in CEF. Having considered our position we decided to abstain from supporting CEF and have sent a written statement to the Council Secretariat explaining our concerns. A copy of this is attached at Annex A [not printed].

Like TEN-T, the CEF proposal will be put to the Transport Council on the 5 December as an “A” point with the Regulation being adopted by the end of the year. There will not be any further discussion of this proposal at Council.

I would like to take this opportunity to thank the Sub-Committee for their interest and support on TEN-T.

26 November 2013

COPERNICUS PROGRAMME (10275/13)

Letter from the Chairman to Lord de Mauley, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs

Thank you for your explanatory memorandum of 11 June 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 June 2013.

The Committee shares your concern about the lack of clarity on the governance arrangements for this programme. We have therefore decided to hold this document under scrutiny, and we request to be updated as negotiations on this proposal progress.

26 June 2013

Letter from Lord de Mauley to the Chairman

I am writing to update you on negotiations regarding the above [not printed] regulation.

BACKGROUND

Copernicus, previously known as Global Monitoring for Environment and Security (GMES) is an EU earth observation system which uses data from satellites and in-situ sensors such as buoys, balloons or air sensors to provide timely and reliable added-value information and forecasting. The programme was originally launched in 2001 as a joint initiative of the Commission and the European
Space Agency (ESA). The idea was to deliver improved environment and civil security information and monitoring services to meet the needs of European users, in particular policy-makers and other end users. In addition, the programme contributes to economic stability and growth by boosting commercial applications (the ‘downstream services’) in many different sectors through a full and open access to Copernicus observation data and information products. The Commission is now proposing a new Regulation to enable the continued development and operation of the system.

The Copernicus programme aligns well to the UK Government’s priority for economic growth. The UK space industry, both in satellite manufacture and downstream services, is a UK success story. Copernicus will be a stimulus to growth by delivering long-term and reliable observations on which business can develop value added environmental services into the global market. The programme will also allow free, easy access to improved information and monitoring services to meet the needs of European users, in particular policy makers and public sector end users.

The key UK objectives for Copernicus are outlined below with the details of how these objectives have been addressed within the regulation.

**GOVERNANCE AND DEFINITION OF THE SERVICE COMPONENT**

For a programme of this scale it is important for the UK to see greater clarity of governance for Copernicus, and in particular for greater clarity on the respective roles of the Commission and Member States (including in relation to the Security Board and expert user groups).

The current regulation text defines the role of the Copernicus Committee; part of their role is to agree the annual and the long term programme plans for Copernicus, ensuring a clear role for Member States in shaping the direction and evolution of the programme. The Copernicus Committee has the power to appoint expert advisory groups for each of the Copernicus services to ensure that expert, user views are taken into account when planning the evolution of the programme. The Copernicus Committee is able to meet in several configurations, for example ‘the Security Board’ ensuring that matters pertaining to security are handled appropriately.

The design of the Copernicus services is also an important element of the delivery of the system. Given the complexity of the services it was not practical to define them in full detail in the Regulation itself, we therefore sought an approach that would ensure sufficient Member States’ involvement in the process for the final definition of the services. We now have Implementing Acts with examination procedure within the regulation to define the Copernicus services.

Our original aim was to strengthen the role of the Copernicus Committee, and its sub-configurations, to ensure appropriate Member State oversight of the delivery of the programme, and of the definition of the Copernicus Services. In the current version of the regulation we have achieved this and the approach has the support of the Presidency, the Commission and other Member States.

**COPERNICUS SPACE COMPONENT**

The delivery of the Space Component (which will be comprised of both satellite missions dedicated to Copernicus, and instruments hosted on other meteorological/earth observation satellites) will be the responsibility of ESA and the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), although the Commission will retain overall responsibility for ensuring that funds are spent effectively. The Space Component requires long-term planning and budget stability; however, the original Commission’s proposal did not specify precisely how much funding would be provided; nor did it clearly specify the activities to be undertaken within this component.

Following negotiations there is now a clear budget breakdown between the Services and the Space component within the Regulation and clear procedures for agreeing annual and long term work programmes for both the Space and Services components.

**DATA POLICY**

The UK is seeking the Copernicus data policy to be oriented as far as possible towards free and open use and that robust procedures were put in place to ensure any security concerns from Member States were considered and addressed within the regulation or data policy. Throughout negotiations we have argued strongly for a data policy based on the principle of free and open access to Copernicus data and information. The current version of the regulation reflects this. Amendments proposed by the European Parliament introduce the concept of a review of the data policy once the programme has been operational for two years. The UK could support a review of the data policy but not of the key principles for Copernicus of free and open access to Copernicus data. The UK
would also suggest that a review would be more appropriate after between three to five years as the evidence would not be available to undertake the review after only two years. The current regulation text includes a clear role for the Security Board to put in place robust procedures by use of an Implementing Act for the management of any security concerns expressed by Member States.

LEGAL COMPETENCE

Scientific research and space are areas of parallel competence; the UK will retain competence in this area. We will however continue to scrutinise the proposal to ensure that the EU remains within the scope of its competences. The legal basis of the Copernicus Regulation is article 189(2) of the Treaty on the Functioning of the European Union. This provides the Council and Parliament with the power to take necessary measures to draw up a European space policy, which may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space, but excludes any harmonisation of the laws and regulations of the Member States. The proposed regulation remains within the scope of this basis.

FINANCIAL COSTS

The programme will be financed under sub-heading 1a of the financial Multi-annual Financial Framework (MFF), with a maximum level of commitments of EUR 3,786 million (2011 prices) laid down in the MFF Regulation.

NEXT STEPS

This proposal was published in May by the Commission and needs to be agreed by both the Council (operating under Qualified Majority Voting) and the European Parliament. The Lithuanian Presidency aims to secure a ‘general approach’ by December 2013, with a view to ultimate adoption in the first quarter of 2014 (ahead of the forthcoming European Parliament elections).

We are entering the final phase on the Council side of negotiations with the last Space Working Group meeting scheduled for 14 November. The regulation text is much improved with UK views on the Copernicus Programme having been clearly addressed. The first report from the Rapporteurs for the Parliamentary side of the process has been released with the European Parliament position expected on 28 November. The proposal will go to the Competitiveness Council for general approach on 3 December with a view to entering into ‘trilogues’ with the European Parliament immediately afterwards. I expect negotiations to proceed at a rapid pace in the coming weeks and I am therefore requesting scrutiny clearance of the above item.

19 November 2013

DEPARTMENT FOR BUSINESS, INNOVATION & SKILLS: EU BUSINESS UNDER THE LITHUANIAN PRESIDENCY (UN-NUMBERED)

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

I am writing to summarise briefly the areas that we expect to be most active during the Lithuanian Presidency: July-December 2013.

SUMMARY

This is Lithuania's first EU Presidency and it will focus on three strands: ‘Credible Europe’, ‘Growing Europe’ and ‘Open Europe’. However, their agenda will be partly shaped by inherited topics from the Irish Presidency. BIS’s main interest will be in delivering growth, including the single market (digital and services), better regulation, free trade agreements and innovation.

There will be two European Councils on 24 October and 19 December covering innovation and industrial competitiveness, as well as two formal Competitiveness Councils in September and December.
INTERNAL MARKET

The Presidency will work to deliver the final outstanding proposals from Single Market Act I and advance the new proposals under Single Market Act II. It will also prioritise conclusions on the digital single market and on services.

On digital, the Commission will bring forward proposals for a single market in telecoms in September. The October European Council conclusions will address these. Commission proposals on e-commerce and parcel delivery are also likely, while Lithuania’s main legislative priority will be negotiations on Electronic Identification and Trust Services (eIDAS).

On services, Lithuania plan to agree conclusions in December to coincide with the Commission’s second report on the state of single market integration. We want these to include clear commitments for further action to unlock the full economic potential of the Services Directive, including through the creation of a proportionality test against which Member States’ restrictive practices can be challenged.

We also expect the Lithuanians to progress the work on the Network and Information Security Directive started by the Irish. Negotiations are still at a very early stage on this complex dossier and significant progress will need to be made on the file under the Lithuanians if it is to be completed before European Parliament elections in 2104.

On the Commission’s proposals on audit, the Irish Presidency has made good progress including through a productive orientation debate at the Competitiveness Council. We understand the Lithuanian Presidency will continue to work towards a General Approach with a view to a first reading agreement.

The Lithuanian Presidency will also take forward various aspects of the EU better regulation agenda. We expect there will be Competitiveness Council Conclusions in December following the publication of the Commission’s June 2013 report on next steps to reduce burdens on SMEs, the Commission’s Regulatory Fitness (REFIT) mapping exercise - expected in July, and taking forward ongoing work to improve the use of Impact Assessments in Council.

The Presidency has declared its support for the Women on Boards Directive, however Lithuanian President Grybauskaite stressed the need for education more than quotas. While there is strong support for quotas in the European Parliament, which is due to vote on the draft Directive in November, there is a solid blocking minority in the Council. Nine other Member States including Germany, Sweden and Denmark share our concerns on subsidiarity, as well as on quotas. Progress is likely to be slow in the face of this concerted opposition. This view is reinforced by the lack of a formal EPSCO Council planned for this Presidency.

We expect a proposal for a new Package Travel Directive to be formally adopted by the Commission in early July and the Council will begin considering in mid-September. It is not a top priority for the Lithuanians; they expect negotiations to be difficult and unlikely to be concluded during their Presidency.

The Product Safety and Market Surveillance Package was adopted in mid-February and includes proposals for EU Regulations on consumer product safety and market surveillance. We support the overall rationale for the package but have concerns on a number of individual provisions. Lithuania is not aiming to conclude a General Approach. Instead, they will seek a mandate from Coreper to start trilogues.

It was not possible to complete work on the Alignment Package under the Irish Presidency: the proposal to align nine existing product safety or performance Directives with the common framework on the marketing of products under the New Legislative Framework. The Lithuanian Presidency aims to finalise the package.

We also expect completion of the work on the revision of the Recreational Craft Directive and continuation of the work to revise the Radio Equipment Directive together with commencement of work on Proposals to revise the Pressure Equipment Directive, the Personal Protective Equipment Directive and the Gas Appliances Directive.

INTELLECTUAL PROPERTY

Negotiations on the proposed Directive on Collective Rights Management have made rapid progress during the Irish Presidency. We see this dossier as a welcome step towards completion of the Digital Single Market. The UK supported the Irish Presidency’s revised compromise proposal at COREPER in June and welcomes the plans for the dossier to go to trilogue in July.
The proposal to review the Trade Mark system was published in March. The package of measures is currently being discussed at the Council and the European Parliament with a goal of agreement before the end of the Parliament’s mandate. Although the current system is working well, there are improvements that can be made that will make it more business friendly and therefore enable UK SMEs to protect their brands in Europe more effectively. We support the need for reform but there are some significant issues to resolve. We will work actively with the Lithuanians who have an intense programme of Working Groups but we expect debate will continue in the next Parliament.

RESEARCH AND INNOVATION

Lithuania intends to complete the process of agreeing the full Horizon 2020 package in time for a formal launch this autumn. This will involve getting final agreement by the Council to the compromise text of the main legislative instruments (the overarching Regulation, Rules of Procedure and the texts relating to the European Institute of Innovation and Technology) which the Irish Presidency has elaborated in informal trilogue discussions with the European Parliament and the Commission. The Lithuanians will also seek to finalise negotiations on the Specific Programme which sets out the implementation of Horizon 2020 in more detail, based on the Political Agreement reached under the Cypriot Presidency, and to complete negotiations on the EURATOM element of Horizon 2020. Obviously final agreement remains conditional on the outcome of negotiations on the EU budget as a whole.

On the European Research Area, the Commission plan to publish a “Progress report” on the implementation of the ERA in September; this will form the basis for discussions in the October European Council and Council Conclusions to be agreed at the December Competitiveness Council. The European Research Area and Innovation Committee (ERAC) will provide strategic advice to help shape these Conclusions.

TRADE

We will expect a busy six months for the EU’s programme of bilateral trade negotiations. It will be vital that the Presidency works closely with the European Commission to ensure Member States are fully involved. This will be the case especially as it is during the Lithuanian Presidency that the negotiations between the EU and the USA will commence following the launch at the G8 Summit in Northern Ireland. Over the next six months we very much hope the negotiations with Canada can be concluded and that progress can be made on the EU-India negotiations ahead of the Indian general election next year. It is also over this period that I or my ministerial team will ask Westminster to ratify the EU’s FTAs with Colombia and Peru, the latter now having been applied provisionally since 1 March 2013.

On the regulatory front, the Lithuanian Presidency will have the legal and linguistic formalities to complete in relation to Trade Omnibus I and II on which political agreement was reached in trilogue under the Irish Presidency. There will however remain challenges in relation to the Commission’s proposal for an Enforcement Regulation to establish a legislative framework for taking measures to safeguard EU rights under multinational and bilateral trade agreements and, in particular, the Commission’s proposal for regulatory changes as the central part of its Modernisation of the EU’s Trade Defence Instruments. In both cases the Lithuanians will hope to reach, or be close to reaching, agreement on a Council mandate for trilogue discussions by the end of their Presidency. In contrast, we do not expect the Lithuanians to seek to progress the proposed regulation establishing rules on the access of third country goods and services to the internal market in public procurement while the blocking majority against it remains.

The Council is nearly ready to enter into trilogue negotiations on the European Commission’s proposal for a regulation establishing financial responsibility in investor-state disputes. The European Parliament has already agreed its position and the Lithuanians hope that the Council will reach agreement on its approach in October.

SPACE

The work related to the EU’s satellite navigation systems Galileo and EGNOS will continue to be taken under the Transport Council. The Lithuanian Presidency hopes to reach a General Approach on the Regulation to amend the functions of the EU Agency working on Galileo and EGNOS (the GSA) so that it reflects the wider role assigned to it in the main Galileo regulation.

The Decision on the proposed European space surveillance and tracking support system is expected to reach general approach at the December Competitiveness Council although a number of
outstanding financial and governance issues remain to be resolved to the satisfaction of Member
States.

Work will continue to be undertaken on the relationship between the European Space Agency and
the European Union during 2013 with a view to preparing proposals for the future early next year.

The Commission is expected to adopt a proposal for a regulation on the sale and transfer of data
from Earth observation satellites as part of the follow up to their Communication on a Space
Industrial Strategy. The UK is unconvinced of the need for a legislative proposal.

Negotiation on Regulation for the governance and funding of the Copernicus system (previously
known as GMES - Global Monitoring for the Environment and Security) will begin in earnest under
the Lithuanian Presidency.

EMPLOYMENT AND SKILLS

The Lithuanian Presidency will focus on tackling of youth unemployment.

The UK is in favour of supporting the development of the skills agenda and linked qualifications,
particularly, in relation to increasing the employability of young people. However, we feel that
Member States should adopt initiatives with regard to their own needs and existing systems.

The Government has cautiously welcomed the Youth Guarantee initiative in recognition of the need
to do something about youth unemployment, but feels that Member States should adopt the Youth
Guarantee according to individual need.

The Commission’s original proposal for a Quality Framework for Traineeships took a very broad
definition of ‘traineeships’, which we consider undermined the case for a single quality framework for
them. However, we note the Commission is reviewing its proposals and expect UK Government
officials to have further contact with Commission officials as they develop these.

We recognise the value of shared learning across the EU but this could be achieved through less
bureaucratic routes than a European Alliance for Apprenticeships. Therefore, the UK Government
(which is responsible for apprenticeships in England) welcomes that membership of the Alliance is
voluntary and accordingly does not propose to participate. Employers, training providers and other
partners in the UK will be free to choose whether or not to participate.

Negotiations on the Posting of Workers Enforcement Directive are ongoing, although positions in
Council are entrenched. This will be a difficult file for the Lithuanians to reach agreement on, and they
have not yet shown much appetite to progress the file. The Employment Committee in the European
Parliament agreed a mandate to open negotiations with Council in June 2013.

Social Partners spent 2012 attempting to agree a renegotiated Working Time Directive. They failed to
reach agreement, which means that the initiative for a new proposal has reverted back to the
Commission. The Commission is not planning on opening up another renegotiation, but instead will
undertake a thorough impact assessment of the Directive.

EDUCATION

The Lithuanians’ focus in Education matters during their Presidency is on quality and efficiency,
including the internationalisation, efficiency and financing of higher education; inclusive VET; and Open
Educational Resources (OERs). A conference, ‘European higher education and the world’ is expected
in Vilnius on 5-6 Sept and will mainly discuss the Commission’s Communication on
Internationalisation of Higher Education which has been delayed but is now due out on 13 July.
Another theme is leadership in education (including early school leaving, basic skills and
entrepreneurship), on which a conference is expected in Vilnius on 9-10 Sept. Council Conclusions on
the internationalisation of HE and on leadership in education are expected to be proposed to the
Education Council on 25 November, which will also see a policy debate on OERs and digital learning.
We do not expect any unwelcome proposals in these Conclusions, but will work to ensure that they
are acceptable to the UK and do not trespass on Member State competences.

The UK supported the partial general approach on the Erasmus for All proposal for the next
generation of Education, Youth and Sport programmes (2014-2020), agreed at the May 2012
Education Council. The Irish Presidency reached agreement in COREPER on 26 June on a
compromise they considered acceptable to the Parliament. We therefore expect the Lithuanian
Presidency to see the Parliament adopt the programme early in her term. The agreement contains
only budget percentages; the actual budget will be decided separately in negotiations on the MFF,
which are now expected to conclude during the Lithuanian Presidency.
MULTI-ANNUAL FINANCIAL FRAMEWORK (MFF)

Finally the Lithuanian Presidency will need to complete negotiations on the cohesion package of legislation in order to allow programming to start from 1 January 2014. This will require informal trilogues to be concluded with the European Parliament to be concluded during September. This will include aspects such as the Youth Employment Initiative announced at the February European Council and the 7% performance reserve. They will also need to take forward a proposal to amend the current regulation (1083/2006) to give Romania and Slovak Republic longer to spend their allocations on programmes (extending N+2 to N+3) and extending the top up to co-financing rates available to member states receiving assistance from the Union so that it is available for the whole of the programme period (and does not expire at the end of 2013).

I hope you find the above information useful.

The Department, of course, will keep you updated on progress of all of our key issues for the UK through the Presidency.

4 July 2013

DEPLOYMENT OF ALTERNATIVE FUELS INFRASTRUCTURE (5899/13)

Letter from Baroness Kramer, Minister for Transport, to the Chairman

Thank you for your letter dated 13 March 2013. I am writing to update you on progress of this proposal to mandate the build-up and coverage of alternative fuels infrastructure for transport, and common technical standards for their construction and interoperability.

I enclose the Checklist for analysis on EU proposals at Annex A [not printed], which has been completed following consideration of the Commission’s impact assessments and completion of our information gathering with stakeholders. We received over 50 responses from a broad cross-section of interests to our information gathering exercise and these provided sound evidence of the potential impact of these proposals. Summaries of the responses we received are presented at Annex B [not printed].

Stakeholders were generally supportive of publishing National Policy Frameworks for alternative fuels infrastructure, as a mechanism to help provide more transparency and predictability to the market. They were less supportive of mandatory requirements for infrastructure deployment and voiced concerns over the setting of binding targets and the need of the market to determine the scale and pace of roll out. There was broad support for common technical standards for infrastructure, so long as this was done in a timely, transparent and consultative manner and did not create additional barriers to market.

Your letter noted that the Sub-Committee on the Internal Market, Infrastructure and Employment shared the Government’s concerns about aspects of the proposal, particularly on the issues of delegated acts and the premature picking of ‘winning’ technology, and would like an account of how these concerns are being addressed.

The first meaningful negotiations began under the Lithuanian Presidency, and the proposals have now been discussed in six Council Working Group meetings. However, progress has been disjointed as the Lithuanian Presidency has taken a piecemeal approach to the concerns raised by Member States and remain reluctant to consider the proposal in a holistic manner.

To date, there has been virtually no discussion of the proposed use of delegated acts or technical specifications of the infrastructure, though it is clear through informal discussions that Member States share the UK’s objective to see the use of the ordinary legislative process to set targets on the number and location of alternative fuel infrastructure sites in Member States. That said, I am pleased to say that we have opposed the mandatory setting of targets at the EU level in the early exchanges with some success. Compromise text prepared for the most recent Working Group meeting has removed the binding nature of these targets and proposed that national commitments to the transition to cleaner power be included within the National Policy Frameworks.

The compromise text also takes into account the concerns of the UK and other Member States regarding the premature picking of ‘winning’ technologies by broadening the scope of the directive to include other types of alternative fuels. We have supported the principle of technical standardisation
across the EU for infrastructure construction, interoperability and use, but opposed the use of EU regulation to harmonise on today’s technology for fear of stifling future innovation and technological progress.

As our recently published UK strategy for ultra low emission vehicles ‘Driving the Future Today’ and Call for Evidence has confirmed, we do believe strong action will be required to achieve our objectives in this area, and are committed to working in partnership with our industry to deliver the opportunity for the UK. However, we have been clear thus far that we only support those regulatory requirements that are needed to effectively support the transition to cleaner transport powered by alternative fuels.

The Presidency aim for a general approach at the 5th December Transport Council meeting, though there remain issues of concerns for Member States that will need to be resolved to allow this, and the timetable remains ambitious. In the European Parliament, a vote is scheduled in the lead TRAN committee for the 26th November 2013, and an indicative plenary sitting date has been scheduled for February 2014. It is not clear how the European Parliament will vote on this proposal, though we expect to see limited support for mandatory targets.

The Government is considering its negotiating position for the remainder of the negotiations and I will, of course, continue to keep you informed of progress. If the Presidency maintains its objective of reaching a general approach on 5 December I will write to you again ahead of the Council to let you know the outcome of further negotiations.

15 November 2013

Letter from Baroness Kramer MP to the Chairman

Further to my letter dated 15th November 2013, I am writing to update you on the latest progress in negotiations of this proposal to mandate the build-up and coverage of alternative fuels infrastructure for transport, and common technical standards for their construction and interoperability.

You will recall that the Lithuanian Presidency have set a rapid pace in recent Working Groups with the aim of agreeing a general approach at December’s Transport Council on 5th December. Further proposed compromise text was discussed at the final working group (of eight) held last Wednesday, where I am pleased to say that we successfully safeguarded the recent progress made against the UK’s priority issues and have made some further gains.

The improvements that I reported in my letter of 15th November are retained; namely that the compromise text aligns with our key priorities by removing the binding nature of infrastructure targets and proposes that national commitments to the transition to cleaner power be included within National Policy Frameworks. This removes the potential for excessive regulatory burdens from installation costs that may not be balanced against revenues in the developing market. In their place, Member States will be required to identify the density of infrastructure considered appropriate to support the use of alternatively fuelled vehicles and establish their own targets within their National Policy Frameworks. Crucially, these targets can be revised by Member States on the basis of assessment of demand, which mitigates the risk of the developing market being saturated with outdated or even redundant technology specific infrastructure.

National Policy Frameworks have the potential to provide organisations with evidence to allow them to invest with greater confidence in the deployment of infrastructure for alternatively fuelled vehicles ahead of their mass uptake. The level of information required to be presented in these documents has been increased to compensate for the deletion of the binding EU targets and to provide more comprehensive information on Member States’ policy objectives, commitments and support for development of the market.

Also retained is the compromise text which takes into account the concerns of the UK and other Member States regarding the premature picking of ‘winning’ technologies by broadening the scope of the directive to include other types of alternative fuels.

I am pleased to report that the latest compromise text restricts the Commission’s powers to adopt Delegated Acts to amendments or updates to the references to technical standards, whilst inserting a new provision for seeking advice from Member States prior to adoption.

We have been successful in our attempts to remove wireless charging technologies from scope of the directive, so to avoid stifling innovation at such an early stage of technical development. We had also hoped to secure support for amendments that would provide greater flexibility for private electric
rapid recharging networks to install only those connectors required by their fleets, however we have been unable to do so due to concerns from a majority of other Member States that this would lead to fragmentation of the market.

Following these further negotiations it now appears likely that the Presidency will be able to achieve a general approach at the forthcoming December Transport Council. Having secured what I consider to be our key priorities from these negotiations, including the removing of binding EU targets and securing greater flexibility for Member States, I consider that the terms of the general approach represent a successful outcome for the UK and would therefore wish to support it.

27 November 2013

DEPLOYMENT OF THE E-CALL IN-VEHICLE SYSTEM (11124/13)

Letter from the Chairman to Stephen Hammond MP, Parliamentary Under- Secretary of State, Department for Transport

Thank you for your explanatory memorandum of 3 July 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 22 July 2013.

We note the Government’s concern about the possible financial burdens this proposal may place on the taxpayer and the motor industry, and we support your efforts to minimise this risk. Equally, however, we note the possible benefits of this proposal, as outlined in the ‘UK eCall impact assessment’, Transport Research Laboratory, March 2010.

We are particularly concerned about the possible implications of this proposal for data protection and privacy. Your explanatory memorandum says that the details of this will be specified in delegated acts. We encourage the Ministry of Justice and the Department for Culture, Media and Sport to attain clarity on this important aspect of the proposal before any decision is made on the suitability of delegated acts as an implementing tool.

We have decided to retain this proposal under scrutiny, and we look forward to receiving further updates in due course.

29 July 2013

DEPLOYMENT OF THE INTEROPERABLE EU-WIDE E-CALL SYSTEM (11159/13)

Letter from the Chairman to Ed Vaizey MP, Minister for Culture, Communications and Creative Industries

Thank you for your explanatory memorandum (EM) of 11 July 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 22 July 2013.

We note in paragraph 14 of your EM that you say:

“We accept the Commission’s case for a pan-European eCall system, by reason of the improvements in road safety and the better functioning of the single market resulting from the increased safety when European citizens and their vehicle cross borders.”

We share this view, and we encourage the Government to support the Commission’s proposals for an eCall system. We believe the results of your ‘UK eCall impact assessment’, Transport Research Laboratory, March 2010, support this position.

As this proposed Decision is closely linked to the proposed Regulation on eCalls (Document No 11124/13), we have decided to retain it under scrutiny, and we look forward to receiving further updates in due course.

29 July 2013
Letter from the Rt. Hon. Simon Burns MP, Minister of State, Department for Transport, to the Chairman

Further to my letter of 22 March 2013 I am writing as promised keep you informed of further developments before agreement is sought at the Council of Ministers.

You will recall that when I wrote to you last I said the Presidency had booked Trialogues with the European Parliament (EP) through to the end of May. Their last Trialogue concluded in the early hours of this morning (30 May) and we understand they have achieved a proposed First Reading agreement with the EP. We do not expect to receive the proposed compromise text for a few days, but we believe the Presidency may seek agreement to it at the 10 June Transport Council as an “A” point. We are awaiting confirmation of this, but in the meantime I did not want to miss the only opportunity for consideration by your Committee before the Transport Council takes place.

As you know, our overarching objectives for the negotiations have been for:

— Binding deadlines for technical standards or infrastructure development on the Comprehensive and Core Networks to be replaced with indicative targets and refer to the development of the TEN-T Core and Comprehensive Networks instead of their completion;

— Decisions on which transport projects should be developed and invested in on national networks to remain with the Member States concerned;

— No additional financial or administrative burdens to be placed on Member States; and

— Core Corridors and Corridor Coordinators to be optional rather than mandatory, focused on contentious cross-border areas/projects, and their governance and management proposals simplified.

In Trialogues, the Presidency had the challenging task of trying to balance the Council’s general approach position (which itself was a compromise between the conflicting positions of Member States) with the EP’s requests for more environmental requirements and for more direct involvement in transport planning for the EU as well as local and regional authorities. They have consistently worked to be as helpful and flexible as possible and have done their best to take account of Member State’s concerns. Based on the information that we currently have about the outcome of the Trialogue process it appears that Member States are likely to be able to accept the compromises reached, which include:

— That European Co-ordinators can consult with regional authorities as the European Parliament requested, but that this must be with the agreement of the affected Member State;

— That a provision for the corridor forums suggested by the EP will be included in the Regulation, but Member States will be able to decide in conjunction with European Co-ordinators whether they should be established and their membership; and

— That increased environmental requirements sought by the EP such as specific alternative fuel proposals for the different transport modes will be included but that these have been left more open than the EP originally proposed to take account of future technological developments.

We will not, of course, be certain exactly what is included in the proposed compromise until we have received it and had the opportunity to analyse the text. Of particular importance to us is the retention of the amendment secured by my predecessor at the March 2012 Transport Council which clarifies that all the projects required by the Regulation, including those relating to the Core and Comprehensive Networks, are considered to be ‘projects of common interest (PCI)’. This means all projects which the Regulation requires to be carried out are subject to the exemptions for PCIs to take account of Member States’ finances and their planning priorities (Article 1.4) and to be economically viable (Article 7).

Provided that the proposed compromise text protects this position, our view would be similar to the one we took when we supported the General Approach at the Transport Council in March last year, namely that as a result of the various amendments and compromises we can support the Regulation and retain the TEN-T Comprehensive and Core Networks proposed for the UK.
However, in parallel to this we still have concerns about the TEN-T Corridors, which are linked to separate negotiations on the proposed Connecting Europe Facility (CEF) Regulation. I know that your Committee also flagged up the corridors as an area of concern.

We believe the TEN-T Corridors would put in place additional obligations by way of governance arrangements and could pose additional administrative and financial burdens on Member States.

This is complicated in that the policy requirements for the TEN-T Corridors are set out in the TEN-T regulation but the proposed TEN-T Corridors will be determined in annex of the CEF Regulation. Also, in the course of TEN-T negotiations there have been recent proposals to align the TEN-T Corridors with the Rail Freight Corridors (RFC) established under Regulation 913/2010. The CEF Regulation discussions are ongoing.

Under the RFC Regulation, the UK has an obligation to participate in an RFC and proposes to comply with this obligation by the extension, through the Channel Tunnel as far as London, of an existing Freight Corridor. The proposals on alignment could mean extending the RFC from London to Scotland.

We do not support the alignment of the RFC with the TEN-T Corridors. The structures and governance of the two are different and we cannot accept TEN-T’s governance provisions overriding those in the RFC Regulation (Regulation 913/2010/EU concerning a European rail network for competitive freight). We have made it clear to the European Commission and Presidency that we do not agree to, or accept, any extensions to the RFC beyond London. We have also made it clear that any extension to RFCs should continue to be based on market studies as is currently required under the RFC Regulation.

If we decide not to be in a TEN-T Corridor then the obligations associated with alignment of the TEN-T Corridors and the RFCs and set out in the TEN-T Regulation would not apply to us.

We have reserved our position on whether to join the TEN-T Corridor proposed for the UK until the text in both the TEN-T and CEF draft Regulations has been finalised. The decision on whether or not to be in a TEN-T Corridor will take place under CEF.

I appreciate that your Committee may not wish to lift your scrutiny reserve until I have been able to write to you again with the detail of the compromise text. If so I would be grateful if you could consider granting a scrutiny waiver under the Scrutiny Reserve Resolution, pending completion of scrutiny at a later date and provided that the proposed compromise text is, as we anticipate, acceptable to the UK.

31 May 2013

Letter from the Rt. Hon. Simon Burns MP to the Chairman

Thank you for your letter of 31 May 2013, which was considered by the Sub-Committee on the Internal Market, Infrastructure and Employment on 6 June 2013. The Committee decided to grant a waiver under the Scrutiny Reserve Resolution.

We note that you have made good progress in negotiations, and that the proposed text largely meets your overarching objectives for negotiations. We observe also that the compromise made between the requests from the European Parliament and Member States is acceptable.

However, we have decided to retain the text under scrutiny pending further developments on the text, particularly in the area of the TEN-T corridors, on which, as you know, we have previously expressed concerns. Like you, we were particularly concerned about the proposal to align the TEN-T corridors with the existing Rail Freight Corridor (RFC) and the expense of a resulting extension of the existing RFC from London to Scotland. We would therefore welcome further information about the rationale behind this recent proposal, and the benefits that are envisaged.

We would be grateful to be kept updated on the status of negotiations on this dossier.

7 June 2013

Letter from the Rt. Hon. Simon Burns MP to the Chairman

Thank you for your letter of 7 June 2013. I am grateful to the Sub-Committee on the Internal Market, Infrastructure and Employment for granting a waiver on the proposal ahead of possible agreement at the 10 June Transport Council. No agreement took place at the Council however, and I am writing now to inform you of the latest developments.
Further to my letter of 30 May the proposed TEN-T Regulation remains on track for a First Reading deal, and final versions of the TEN-T Maps, which we consider to be acceptable, have been prepared in anticipation of this. Although the Commission has not put copies of the final maps on their website yet, those for the UK will be similar to those they published in May which can be viewed using the following link:


We understand the proposed text of the First Reading deal will be put to the European Parliament for a Plenary Vote in September and to Council as an “A” point for adoption in the autumn. The precise timing of this is not yet known.

My letter of 30 May set out some concerns I had regarding the TEN-T Core Corridors and Rail Freight Corridors (RFC) and said we would continue to discuss these during the Connecting Europe Facility (CEF) Regulation negotiations. As you know, HM Treasury lead on CEF and Greg Clark wrote to you on 24 June to advise you of progress on this.

As a result of further discussions on the draft TEN-T Regulation the Commission provided us with a letter of reassurance on the Corridors which included confirmation that:

— Under the TEN-T regulation Member States will be required to approve the Corridor Work Plan (CWP) and appointment of the Corridor Coordinator and approve the establishment of the Corridor Forum and its membership.

— We can prevent the CWP turning into a Commission implementing decision which would make it legally binding, and harder to amend in the light of changed circumstances as changes to an implementing decision would be subject to Qualified Majority voting.

— Infrastructure planning remains a matter for us (as a Member State).

Although this clarification was helpful I wanted to be clear that HS2, whilst on the TEN-T Network, is not part of a TEN-T Corridor or subject to any debates which could duplicate work or discussions and possibly delay its development. We have just seen the final proposed text of the First Reading deal and the project that involves HS2 has been moved from the Corridor list to the Core Network list in the CEF annex. For your information there is no priority for EU funding between these lists so the opportunity to seek funding should be the same for projects whichever list they are on.

Your letter asked about aligning the TEN-T and Rail Freight Corridors. The Commission proposed this as they believe it will help reduce admin burdens and avoid duplication of work on Member States. Whilst this is true for some countries, in the UK the position would be different as the Commission’s proposal is for the UK’s RFC to be extended past London.

Though we have strongly resisted the extensions of the RFC past London, the Commission and EP have refused to remove them from the proposed deal. Text has, however, been added to the CEF Regulation (Recital 11a and Article 27a) to clarify that the RFC Annex is governed specifically by the RFC Regulation (913/2010). While the additional text in the Regulation is not unhelpful in mentioning this, the text in the RFC Annex is still ambiguous: it does not seem to guarantee that the UK’s participation in the RFC can stop at London, even if the market study required by the RFC Regulation shows there is no economic case for the extensions proposed by the Commission and the EP.

The CEF Regulation is subject to Qualified Majority voting, and our expectation is that nearly all other Member States will support the proposed First Reading deal. The UK voting position remains under consideration. I will, of course, continue to keep you informed of further developments.

9 July 2013

Letter from the Chairman to the Rt. Hon. Simon Burns MP

Thank you for your letter of 9 July 2013, which was considered by the Sub-Committee on the Internal Market, Infrastructure and Employment on 29 July 2013.

We note that you have made good progress in negotiations, and like you, we were reassured by the letter from the Commission confirming that Member States would have a key role in establishing the Corridor Work Plan, and that infrastructure matters will remain within the competence of Member States.

We were grateful for your explanation of the Commission’s rationale on the issue of aligning the TEN-T corridors with the existing Rail Freight Corridors (RFC). We now understand that while the proposal may have benefits for other Member States, the costs outweigh the benefits for the UK, in
the sense that it would likely necessitate an extension of the RFC past London. We were therefore pleased to read that you are continuing to resist this part of the proposal.

Given the scale and importance of the proposal, we decided to retain it under scrutiny, pending a session with officials updating us on current negotiations on the proposal. We hope that you can accommodate this, and will be in touch to organise this in due course.

We look forward to receiving updates on the dossier in due course, and as negotiations progress.

31 July 2013

DWP PRIORITIES DURING THE LITHUANIAN PRESIDENCY OF THE EU: JULY TO DECEMBER 2013 (UN-NUMBERED)

Letter from the Rt. Hon Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

The Lithuanian Presidency of the EU has just started, and it is now clearer what business the Presidency is expecting to take forward, so I would like to update you on my Department’s plans and priorities over the coming months. This letter sets out the key dossiers that will be progressed. I apologise that I could not get this update to you sooner but some of the Presidency’s plans have only been announced in the last few days.

The focus of the Lithuanian Presidency is on creating a more credible, open and growing Europe. The priorities in the field of employment and social policy are better job opportunities, better protection of workers (including migrant workers), strengthening of the social dimension, and de-facto equal rights between men and women and anti-discrimination.

The following DWP legislative dossiers will possibly reach agreement in Council during the Lithuanian Presidency:

— The Fund for European Aid to the Most Deprived (15865-12 & ADDs 1&2)
— Classification, labelling and packaging of substances and mixtures (7036-13)
— Enhanced co-operation between Public Employment Services (PES) (11474-13)

THE FUND FOR EUROPEAN AID TO THE MOST DEPRIVED

Negotiations will continue on this proposal under the Lithuanian Presidency. The UK and likeminded Member States have challenged whether the fund is consistent with subsidiarity and whether it should be obligatory for all Member States. Most Member States are strongly supportive of, or can accept, the Commission’s proposal. The Irish Presidency explored compromises that would make the Fund voluntary or make its scope more flexible, but no consensus emerged on these. The European Parliament’s first reading supported the Commission proposal and called for the seven-year budget to be increased by €1 billion to €3.5 billion. I will provide an update to the Committee when we know how the Lithuanian Presidency plans to take this forward.

CLASSIFICATION, LABELLING AND PACKAGING OF SUBSTANCES AND MIXTURES

Following the efforts of the Irish Presidency, we expect the Lithuanian Presidency to bring forward a revised compromise text amending the chemicals classification provisions of the Young Workers, Pregnant Workers, Safety Signs at Work, Chemical Agents and Carcinogens and Mutagens Directives to align them with the European Regulation on the classification, labelling and packaging of substances and mixtures. We are promoting a proportionate alignment while maintaining levels of worker protection and minimising burdens on business. The European Parliament will consider the draft report of its Rapporteur in the Employment and Social Affairs Committee on the 18-19 September. We expect the Presidency will anticipate a swift first reading deal. The measure is intended to be a technical update only and not to revise the scope or policy aims of the Directives.
ENHANCED CO-OPERATION BETWEEN PUBLIC EMPLOYMENT SERVICES (PES)

Negotiations will continue on this proposal during the Lithuanian Presidency, with a possible agreement in the autumn. We agree that, subject to the competences reserved to Member States and subsidiarity, enhanced co-operation between PES is useful.

EMPLOYMENT AND SOCIAL POLICY COUNCIL (EPSCO)

Informal Council

The Informal meeting of Ministers for Employment and Social Affairs will be held on 11-12 July in Vilnius. The focus of this meeting will be on promoting sustainable social development through close interaction between economic and social policies in a growing Europe.

Formal Councils

The two formal EPSCO Councils during the Presidency will be on 15 October in Luxembourg and on 9 December in Brussels. Although we have provisional agendas for these meetings, the content is likely to change during the run up to each Council. My officials will provide your committee with annotated agendas and I will make the usual written statement before and after each Council meeting to set out the agendas and outcomes.

Provisional EPSCO Agenda – 15 October 2013

We anticipate possible general approaches on the Fund for European Aid to the Most Deprived; on classification, labelling and packaging of mixtures; and enhanced co-operation between Public Employment Services (PES). There also may be an exchange of views and endorsement of the Employment Committee (EMCO) and the Social Protection Committee (SPC) contributions on the Europe 2020 Strategy and the evaluation of the 2013 European Semester and thematic surveillance in employment and social policies; a presentation by the Commission, exchange of views and endorsement of EMCO and SPC contributions on the social dimension of the Economic and Monetary Union; and a report from the Commission on progress on Member States’ implementation of the Youth Guarantee (17585-12 & ADD 1). This will be followed by information from the Presidency on the Tripartite Social Summit (to be held on 24 October 2013) and the European Globalisation Adjustment Fund (2014-2020) (15440-11 & ADDs 1-3), where the Presidency will report on the trilogue discussions that have taken place with the European Parliament on this item, and information from the Presidency and the Commission on the G20 Meeting of Employment and Labour Ministers and the joint meeting with G20 Finance Ministers (to be held on 18-19 July 2013).

Provisional EPSCO Agenda – 9 December 2013

There will be an exchange of views on Europe 2020 governance in the field of employment and social policies: contribution to the preparation of the European Council of 19-20 December 2013, including a presentation by the Commission on the Annual Growth Survey (2014) and Joint Employment Report and endorsement of the EMCO Report on the Employment Performance Monitor and Benchmarking.

OTHER BUSINESS LIKELY TO BE PROGRESSED DURING THE LITHUANIAN PRESIDENCY

Social Security

We are continuing our discussions with other Member States on measures to tackle abuse of free movement, including principles for sustainable social security coordination in the longer term. The Lithuanian Presidency has not scheduled this item for a slot on either of the EPSCO agendas, but it may be added at some point following agreement in the Justice and Home Affairs Council for a working group to consider abuse of free movement, which will include liaison with EPSCO. We will continue to work with the Home Office and the Governments of other Member States to identify options for change. Amendments to Social Security Coordination Regulation 883/2004, which we originally expected in the first half of this year, will not now be brought forward till 2014, but it is possible that during the Lithuanian Presidency a routine and uncontroversial Commission Regulation will be proposed for minor technical amendments. We are continuing legal action over the Council Decisions on the EU-EEA (7591/11) and EU-Switzerland (16231/11) Agreements, and on analogous amendments to the Association Agreement with Turkey (8556-12), which were based, incorrectly in our view, on Article 48 TFEU. We expect a ruling on the EEA Decision in September, and will keep you informed.

Pensions
We will continue with work deriving from the Commission’s 2012 White Paper on Pensions. The main element of this is draft legislation on rights of access to an occupational pension, on which the Council reached a general approach at the end of the Irish Presidency. The Council will now be having trilogue discussions with the European Parliament on the draft legislation with a view to seeking agreement before the European elections. We will also be assisting Treasury colleagues on the institutions for occupational retirement provision (IORP) Review, incorporating the principles underpinning the (insurance) Solvency II Directive into the IORP Directive. Although it has postponed proposals for new funding requirements, the Commission plans draft legislation on “governance and transparency” in the autumn. In cooperation with other Member States we will concentrate on ensuring that any Commission proposals are properly impact assessed; and arguing that the open method of coordination offers a suitable alternative to legislation.

**Health and Safety**

The Commission has recently published the summary of its evaluation of the 2007-2012 European Strategy on Health and Safety at Work and is at the same time consulting on a ‘new EU Occupational Safety and Health policy framework’. We are currently considering our approach to the consultation.

**EU Accessibility Act**

We anticipate adoption of the ‘EU Accessibility Act’ during the Lithuanian Presidency, although the timing for this is uncertain. This is envisaged to be a measure in respect of more accessible goods and services for disabled people, which the Commission describe as a ‘business friendly’ proposal to improve the functioning of the internal market for accessible goods and services. Indications are that the dossier will be negotiated through a Competitiveness Council working group rather than under EPSCO.

We have established contact with key Ministers and officials in Lithuania and will be working closely with them on their forward agenda. I look forward to continuing to work closely with your committee to achieve the necessary scrutiny clearance before any agreement at Council.

I hope you find this information helpful.

10 July 2013

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**ELECTRONIC INVOICING IN PUBLIC PROCUREMENT (12104/13), END-TO-END E-PROCUREMENT TO MODERNISE PUBLIC ADMINISTRATION (12131/13), BUILDING OPEN ICT SYSTEMS BY MAKING BETTER USE OF STANDARDS IN PUBLIC PROCUREMENT (12141/13)**

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

Thank you for your Explanatory Memorandum, dated 11 September 2013, on the above proposal. The House of Lords European Union Sub-Committee on Internal Market, Infrastructure and Employment considered this document at its meeting on 14 October 2013.

We agree that increased adoption of public sector e-invoicing would save time and money and would like to see it encouraged. We do, however, share your concerns regarding the number of data standards for e-invoicing across the EU and would not like to see a further data standard added to this. We would be interested to know whether, during negotiations, there has been discussion of PEPPOL (Pan-European Public Procurement Online). We understand that PEPPOL was designed to facilitate cross border transactions through a standard format for e-invoicing and has been adopted in a number of Member States including Austria, Denmark, Finland and Portugal. Do you agree that PEPPOL should be incorporated into this draft Directive to avoid duplication, given that it has already been adopted by a number of countries?

We are also interested in whether the EU will play a role in educating and training new users of e-procurement systems.

Given the number of outstanding issues you have highlighted in relation to this proposal, we will continue to hold it under scrutiny and would welcome an update on negotiations as well as a response to our questions in due course.

23 October 2013
Letter from Nick Hurd MP, Minister for Civil Society, Cabinet Office, to the Chairman

Thank you for your letter of 23 October, addressed to Greg Clark, in response to the Government’s Explanatory Memorandum (EM) of 11 September, and for your continuing interest in this topic; I am responding as this now falls within my area of responsibility. I will address the particular points in your letter, and update you on progress on other matters in the EM. You mentioned that it might not be helpful to have yet another standard; asked whether PEPPOL (Pan-European Public Procurement Online) invoicing standards should be incorporated into the new directive; and enquired whether the EU will pay a role in educating and training users of new e-procurement systems.

Once you have considered this current letter it would be very helpful if your Committee could clear from scrutiny, or grant a scrutiny reserve waiver, so that the Government can accept the general approach in Council of Ministers.

The Government is not opposed in principle to a new formal European e-invoicing standard; however we would not wish to see a new standard which simply added to the existing numbers but was not widely supported or used. It will be essential that the proposed new formal standard is pertinent and widely adopted if it is not to become simply “yet another” standard.

You point out that the PEPPOL work programme developed an e-invoicing format and PEPPOL solutions are already in use in a number of Member States. I can confirm that in the negotiations on the new directive, the relationship between a new standard and existing standards has been discussed. We therefore anticipate that there will be further specific references in the Recitals to other standardisation initiatives, including reference to the European Competitiveness and Innovation Framework (under whose aegis PEPPOL fell). We expect the directive to emphasise the need for the new standard to take into account other specifications and standards work in the e-invoice field. This should help ensure its relevance and acceptance.

Of course, participation in PEPPOL, and adoption and use of PEPPOL deliverables, was always voluntary (as is involvement in its successor “OpenPEPPOL”) and not all Member States and interests were equally involved. It would not be appropriate to retrospectively change the basis of PEPPOL and simply adopt its work as a “mandatory” formal European standard. However, without pre-empting the work of CEN, we might reasonably expect that the proposed standard will in substance closely align with the PEPPOL e-invoice.

We are not aware of plans for the EU to play a specific role in educating and training new users of e-procurement systems; and this is probably an activity best left to bodies in individual Member States depending on the needs and circumstances of different e-procurement users. The Commission has published information on good practice and guidelines for future development of e-procurement, such as “The Golden Book of e-procurement practice”; and a blueprint for an ideal pre-award e-procurement system, developed by an e-Tendering Expert Group for the Commission. The Commission has developed the “ePRIOR” e-procurement system for use with its own key suppliers, and has made the solution “architecture” and software available to Member States.

The negotiations on the e-invoicing directive have led to a number of other suggested improvements compared to the original proposal, which we will wish to see carried into the final text. These include confirmation that the data elements of the core invoice standard should be consistent with the invoice data elements in the VAT directive, and the Commission has recognised that a data standard cannot guarantee personal data protection; we expect this will be changed to a requirement for the standard to “have regard to” personal data protection.

The timing provisions have been improved. CEN will be given a specific deadline to propose the draft data standard, and timing of Member States’ obligations to ensure acceptance of e-invoices will run from EU adoption of the standard, rather than from the original coming into force of the directive. Wider public sector bodies are expected to be given a longer timeframe than central government authorities.

As noted in the EM the original draft directive recognised that full interoperability also require interoperability of data formats (“syntax”) and transmission as well as the underpinning semantic data standards. However the original draft made no substantive proposal except on the semantic standard.

It is now expected that CEN will also be invited to identify a limited number of existing syntaxes of proven usefulness, which should then be approved by the Commission (according to the “advisory procedure”). Authorities and utilities would only be obliged to accept e-invoices which both met the semantic data standard and one of those syntaxes. This would reduce the potential number of syntaxes which an authority might have to accept; and help to ensure that the data standard is consistent with existing good practice. The list of syntaxes will be subject to review.
As the original EM points out, existing Government policy supports e-invoicing. However there may be cases where security requirements need other approaches, and we expect the directive to recognise this.

Of course these amendments are subject to further consideration and acceptance by the EU legislator. However, to date they have been generally supported in negotiations. In the Government’s view the main uncertainties and issues identified in the Commission’s original proposal have been largely addressed.

18 November 2013

**Letter from the Chairman to Nick Hurd MP, Minister for Civil Society, Cabinet Office**

Thank you for your letter, dated 18 November 2013, on EM 12104/13 on a proposal for a Directive on electronic invoicing in public procurement. The House of Lords European Union Sub-Committee on the Internal Market, Infrastructure and Employment considered this document at its meeting on 25 November 2013.

We are grateful for your response to our queries and for the further updates you have provided in relation to negotiations. We understand this document will be considered by the Council of Ministers on 2 December 2013 where it is anticipated that a general approach will be taken.

We are content to clear this document from scrutiny but would be grateful for details of this general approach following the Council meeting.

27 November 2013

**ENHANCED CO-OPERATION BETWEEN PUBLIC EMPLOYMENT SERVICES (11474/13)**

**Letter from the Chairman to Mark Hoban MP, Minister for Employment, Department for Work and Pensions**

Thank you for your explanatory memorandum of 16 July 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 4 September 2013.

We questioned the Commission’s rationale for proposing to use a legal instrument to instigate a voluntary programme of enhanced cooperation. We would be grateful for your view on this from a ‘better regulation’ perspective, and for clarification as to whether you think the proposal would make public employment services more effective in terms of filling the 1.7 million job vacancies referred to in your explanatory memorandum.

We are aware of concerns from other Member States about the proposed use of delegated acts by the Commission, to put in place the general framework for the implementation of the benchmarking and mutual learning initiatives. We would like to know the Government’s view on this matter.

We have decided to hold this proposal under scrutiny, pending your answer to these points. Taking into account the Parliamentary recess period, we would be content with a response to our questions above by 30 September.

9 September 2013

**Letter from Mark Hoban MP to the Chairman**

Thank you for your letter dated 9th September 2013 requesting further information to assist your committee’s scrutiny deliberation. Taking the Committee’s questions in turn:

A VIEW ON THE ‘BETTER REGULATION’ PERSPECTIVE

The Government’s better regulation principle seeks to free individuals and businesses from further regulation. This proposed Decision does not place any burden on individuals or business. Conversely it will enhance labour market operation in other EU Member States through facilitating more effective delivery of active labour market policies which is in HMG’s interest.

Government believe that the legislation is required because satisfactory outcomes cannot be achieved by alternative, self-regulatory, or non-regulatory approaches. The Public Employment Services (PES)
network collaboration which the proposed decision builds upon dates back to 1997. There have been very positive outcomes through mutual learning amongst some member states encouraging modernisation. Examples of this include improved services for employers, more intensive support for the long term unemployed, enhanced performance management, development of public private partnerships and development of digital delivery systems. A minority of PES have not actively participated however diminishing the overall returns from the network. In view of the limited success of voluntary participation to date, the Government supports the proposed Decision in principle.

WHETHER THE LEGISLATION WOULD IMPROVE THE PROSPECTS OF FILLING MORE OF THE 1.7 MILLION EUROPEAN VACANCIES

More efficient PES can improve jobseekers capability to compete for suitable jobs and, through closer working with employers increase the transparency of labour market opportunities. This can contribute to more vacancies being filled. Whilst we have gained benefits from this collaboration between member states’ PES, not all actively participate. Those who currently participate are typically those who have been more positive about modernising their systems. Other countries, including some with the most significant labour market challenges, have been less active. Service transformation from PES offering a passive to active ‘conductor’ labour market role has been achieved through various activities to better match labour supply and demand. Examples as listed below include:

— Improving access to job vacancies through more effective assistance for jobseekers and developing better relations with employers encouraging them to advertise vacancies with PES.

— Ensuring systematic management of the cases of unemployed people. This entails careful diagnosis of individual needs, providing personalised support, and close monitoring of unemployed job-seekers throughout their stay on the register (regular interviews, introduction of tailor-made individual action plans).

— Coordinated delivery of all services to job-seekers including counselling, information on vacancies and provision of income support, ensuring that people in receipt of unemployment benefits are actively seeking work.

— Building support networks through taking advantage of links between PES and other organisations providing assistance to unemployed people including vocational education and skills development.

Wider participation in the PES network would enhance the data available and contribute to more positive outcomes. It would also highlight PES deficiencies and support modernisation. This should result in reduced unemployment, greater numbers of filled vacancies and lower migration pull factors to areas of employment such as the UK.

THE PROPOSED USE OF DELEGATED ACTS

Delegated acts are crucial to ensure the benefits of this legislation are realised. The process of bench-learning which the proposed decision envisages necessitates Member States looking in detail at specific problem areas relating to the relevant provisions and this needs to be done on an on-going basis. Until an issue / area has been investigated it is not possible to construct the necessary indicators to measure improvement. Without some leeway to adopt subsequent indicators to assess progress on specific modernisation initiatives it will not be possible to ensure that the intention of the legislation i.e: to enhance co-operation and mutual learning, would be realised. To mitigate and manage the risk from future events and changing circumstances the proposed Decision contains a safeguard measure. This is in the form of a sunset clause which limits the delegation to a period of seven years.

HMG will continue to closely examine the use of delegated acts and to assess the use of those instruments on a case by case basis. However, we consider that the use of a delegated act in these particular circumstances is appropriate and will assist in promoting the UK’s interests in this area.

3 October 2013
Letter from the Chairman to Esther McVey MP, Minister of State for Employment, Department for Work and Pensions

Thank you for your letter of 3 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 21 October 2013.

We questioned the Commission’s rationale for proposing to use a legal instrument to instigate a voluntary programme of enhanced cooperation. You say that, in view of the limited success of voluntary participation to date, the Government supports the proposed Decision in principle. We remain unconvinced that the change to the legal base will affect the effectiveness of the PES network in Europe.

However, given that the proposal is neither overtly contentious nor legally binding on the UK despite the use of a legal instrument, we are content to clear it from scrutiny.

We look forward to a response within 10 working days.

23 October 2013

Letter from Esther McVey MP to the Chairman

Thank you for your letter of 23rd October 2013 following the discussion concerning the above proposal at the EU Sub – Committee B meeting on 21st October 2013. In regard to the Committee’s doubts that changing the legal base of the PES network will increase it’s effectiveness, and the query concerning the use of a legal instrument to instigate a voluntary programme I can advise you as follows:

Article 1 of the proposal for the establishment of the new structure specifies a Union- wide structure composed of the PES of Member States. Article 3 describes the initiatives of the network as including development of a European - wide evidence –based system among PES to compare performance of their activities.

Government maintains that the above provisions replace the current system of voluntary participation with a requirement for all Member States’ PES to actively engage in service improvement initiatives.

I trust that this further clarification addresses all of the Committee’s remaining concerns, and note that it is content to clear the proposal from scrutiny.

4 November 2013

Letter from the Chairman to Esther McVey MP

Thank you for your letter of 4 November 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 11 November 2013.

We note your clarification on articles 1 and 3 of the proposal. The proposal, if and when it is approved, will not affect the UK in any significant way, and we have already cleared this document from scrutiny. Therefore, we now consider correspondence on this matter to be closed.

12 November 2013
Communication from the Commission on "Towards a more competitive and efficient defence and security sector".

Two AOB points will be discussed: Information by the Commission on the European Steel Action Plan; and; information from the Commission on the General Block Exemption Regulation. There will also be a lunch discussion on climate change and energy policy vis-à-vis competitiveness.

The research substantive agenda items on 27 September will be: A presentation on the Commission’s legislative proposals to establish a number of public-public partnerships with Member States under Article 185 TFEU for the joint implementation of national research programmes and update by the Presidency on the state of play of discussions in Council Working Group; a presentation followed by debate on the Commission’s legislative proposals to establish a number of sectoral public-private partnerships (Joint Technology Initiatives) under Article 187 TFEU; and; a presentation by the Commission and policy debate on the Innovation Union and the European Research Area in response to Commission Communications on "State of the Innovation Union 2012 - Accelerating change," "Measuring innovation output in Europe: towards a new indicator," and the First progress report on the European Research Area.

Under AoB, the Commission will present its legislative Proposal for a Council Decision amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the development of Fusion Energy. There will also be a lunchtime discussion on "Driving the Economic Recovery: A Roadmap for Innovation-Led Growth"

The Government’s objectives for the Council are:

— To contribute to discussions on SME Competitiveness and Industrial Policy;
— To hear updates from the Commission on the Steel Action Plan and the General Block Exemption Regulation;
— To take stock of progress in the examination of Commission legislative proposals for public-public and public-private research partnerships;
— To influence discussions on the implementation of the European Research area in the context of Innovation Union; and
— To obtain an update from the Commission on progress made in delivering the ITER project.

25 September 2013

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, UK Trade and Investment, to the Chairman

The EU Competitiveness Council took place in Brussels on 26th and 27th September 2013. I represented the UK for the Internal Market and Industry items on 26th September and Shan Morgan, Deputy Permanent Representative to the EU, represented the UK for the Research items on 27th September.

Following adoption of A points, Council opened on the 26th with a full roundtable on supporting SME competitiveness in Europe, to feed into upcoming October European Council discussions. There was a broad consensus on the need to help SMEs through measures such as strengthening and developing the digital single market, and I in particular raised the importance of e-solutions, such as e-invoicing and e-procurement, and business to business e-commerce.

Many Member States, including the UK, also raised the issue of providing adequate sources of finance to viable but underserved SMEs, the need to remove remaining barriers in the provision of Services across borders and the need to reduce regulatory burdens. On this point, I also highlighted a paper on regulatory barriers to innovation that had been drafted with France and Germany, and circulated in advance of the meeting.

Over lunch, there was a discussion on competitiveness with respect to energy and climate change policies. I highlighted the need for an ambitious greenhouse gas reduction target, decarbonising our economy, yet retaining competitiveness, and ensuring security of energy supply.

The second substantive discussion of the day concerned EU industrial policy and a recent communication from the Commission on defence industries. I intervened first, stressing the need for improved impact assessment and greater consideration for competitiveness in developing legislation. I also set out the need for a broad, flexible, horizontal approach to industrial policy, less focussed on sectors and including services - not just manufacturing. This call was supported by a number of:
Member States. A broad theme also emerged on the need to integrate across policy areas, alongside the familiar calls to improve access to finance and improve skills.

On the Defence Communication, I welcomed the focus on encouraging competition in the sector, but also highlighted a number of concerns with the Communication, such as the potential for duplicating work done in other organisations, such as NATO, and also competence issues – this was supported by a number of Member States. I also called on the Commission to undertake a formal consultation process with Member States to share their views.

On AOB points, the UK also intervened on the General Block Exemption Regulation item, to support the proposed revision and a rise in ceilings, and also on the Tobacco Products Directive item, where the UK reminded Council that all Member States had signed up to the WHO rules with which this Directive was consistent.

On the 27th, the main substantive agenda point was a debate on European innovation policy. This focussed on progress on the Innovation Union flagship (an element of the Europe 2020 strategy), the European Research Area and the European innovation headline indicator. The Presidency noted the significant amount of work that had been undertaken in all three fields, and the importance of reflecting on the achievements and areas requiring further action ahead of October’s European Council. Commissioner Geoghegan-Quinn intervened with a short overview of recent Commission initiatives in these fields, noting that 80% of the Innovation Union commitments were on track for delivery. However, challenges remained, including falling R&D investments in response to the economic crisis.

The Commissioner also welcomed the emphasis that the UK, France and Germany had placed on the impact of regulatory barriers to innovation in the recent trilateral paper, and agreed that this was an area that required action. In the discussion that followed Member States, including the UK, expressed concern about the design of the innovation headline indicator, and the risks inherent in using a single measure of performance when developing policy in such a complex area.

There was broad consensus that some achievements had been made in delivering the European Research Area, particularly in the area of Joint Programming, but several Member States emphasised the importance of respecting the principle of subsidiarity and the very different nature of national research and innovation systems across Europe. The UK and Germany noted explicitly that we preferred a non-legislative approach to implementation. The UK and a number of other Member States also emphasised the opportunities that public procurement could offer as a means of supporting innovation, particularly amongst SMEs. Following directly on from this agenda item, a discussion took place over lunch on the key role innovation would play in driving growth.

4 October 2013

EU INTERNATIONAL COOPERATION IN RESEARCH AND INNOVATION: A STRATEGIC APPROACH (14000/12)

Letter from the Rt. Hon. David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman

Thank you and the Lords European Union Committee for your letter of 24th October 2012 about the European Commission’s Communication on Enhancing and Focusing EU International Cooperation in Research and Innovation: A Strategic Approach. Conclusions based on this Communication were adopted at the 30 May Competitiveness Council.

In your letter you ask how the Commission will ensure a commitment to voluntary cooperation among all Member States and ‘two-way’ participation between the Commission and Member States. While many of the practical aspects of implementing the Communication still remain to be defined in detail, the Conclusions stress that the partnership between the Commission and Member States needs to be strengthened to ensure that complementary and mutually reinforcing activities are developed. The Commission has also been tasked with undertaking more regular consultations with the Council concerning the Union’s international activities in line with the Treaties to ensure the latter’s full involvement in the preparation of joint declarations on research and innovation, and in the design and implementation of the Union’s international agreements.

You also asked whether the Commission had considered a specific undertaking to consult directly with the United States. The Strategic Forum for International Science and Technology Co-Operation (SFIC), which is composed of Member State representatives and the Commission, will continue to
promote the coordination of the international cooperation priorities established by the Member States. This coordination may include advising on initiatives with a range of partner countries, including the US. This work will reflect the priorities identified in the Communication. It will however be up to individual Member States including the UK to ensure that these initiatives play an effective role in promote productive partnerships in research and innovation.

On intellectual property, the Council Conclusions stressed the importance of pursuing the goal of cooperation between researchers across the globe while giving due attention to reciprocity and respect for intellectual property rights. The practical implantation of these principles will be worked out in the context of specific initiatives foreshadowed by the Conclusions.

The Council has invited the Commission to prepare multi-annual roadmaps as described in the original Explanatory Memorandum on the Communication. These will identify priorities and possible instruments within Horizon 2020 which might be used to support cooperation in research and innovation with strategic partner countries. The Commission has been tasked with developing the first roadmaps in close collaboration with the Member States by the end of 2013 and indicate their correlation with Horizon 2020 work programmes. It has also been asked to report regularly on their implementation. Work on these road maps has now begun and will be completed in the coming months.

I am of course ready to provide your Committee with further updates as the Commission and Member States set about implementing the principles established by the Conclusions of 30 May should this be required.

2 July 2013

EU SPACE INDUSTRIAL POLICY (6950/13, 6952/13)

Letter from the Chairman to the Rt. Hon. David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum (EM) of the 8 April and your letter of 8 May on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May and the Committee decided to clear the document from scrutiny.

We realise that the proposal is at an early stage, and therefore, as outlined in your letter, much further work needs to be done by the Commission in terms of working with and consulting Member States, prior to the introduction of any concrete proposals. However, the rationale behind the strategy seems reasonable, and the emphasis on the need to expand on research and innovation in this area ties in with the views that this Committee has previously expressed, most recently in its report published last month, The Effectiveness of EU Research and Innovation Proposals - given that these space technologies will increasingly affect the lives of EU citizens.

We are pleased to note that the concerns outlined in your EM have been addressed, and look forward to updates on the further information that the Commission has undertaken to provide in the course of its next steps.

We understand your reservations on the proposed European launcher policy, and urge you to press the Commission on further information on the scope and affordability of this policy. In an evidence session held on 23 May 2011, the Committee heard evidence on negotiations in this area and in the light of the issues raised in the session, we wonder what your views are on the advisability of a move towards independence in this area, as opposed to collaborating with other Member States. Do you feel that the benefits of a move towards independence outweigh the costs?

We also seek reassurance that the discussions on this specific proposal ties in with the overall direction of EU space policy, for example developments in the Galileo dossier.

While we acknowledge the clear need to ensure the availability of radio spectrum for space operations, like you, we would welcome further details on the Commission’s policy in this area. Given the finite nature and political issues involved in allocating radio spectrum, we also seek reassurance that, if and when policies in this area are introduced, competence over this area will remain at national level.

I look forward to a response in 10 working days.

20 May 2013
Letter from the Rt. Hon. David Willetts MP to the Chairman

Thank you for your letter of 20 May clearing my explanatory memorandum (EM) from scrutiny. You asked for further information relating to launcher policy, reassurance that the proposal ties in with the overall direction of EU space policy and competence issues relating to the allocation of radio spectrum.

It is difficult to make an assessment of whether the benefits of an independent launcher capability outweigh the costs until we have seen the detailed proposal. From a UK perspective, any future EU launcher policy will need to look carefully at customer requirements and current model for launcher development and production to ensure that the best option is taken forward for European’s independent access. This could involve a radical change to the current arrangement that is in place. The Council Conclusions on the “EU Space Industrial Policy” ask the Commission, in cooperation with ESA and Member States, to examine further the issues relating to independent access to space. I will keep you informed of progress on this issue.

I believe that the Commission Communication ties in with the overall direction of EU space policy. The idea of an EU space industrial policy was first proposed in the April 2011 Communication “Towards a space strategy for the European Union that benefits its citizens” which set out proposals for a space policy. The aim of the industrial policy is to keep Europe’s space industry competitive. EU space programmes such as Galileo predate this policy but the Commission is increasingly emphasising their potential to deliver growth in Europe’s space industry. Initiatives we have undertaken such as hosting the London Space Solutions Conference last year seek to expand the market for the domestic and European space sector by encouraging new uses of space services in the insurance, environmental management and emergency response sectors for example.

I would like to reassure you that the Government’s policy on the assignment of spectrum frequencies is that this is a matter for Member States, and not the EU. The Government will discuss with the Commission how the policy will be administered with regards to spectrum availability for SatCom.

6 June 2013

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

Thank you for your letter of 6 June 2013 on the above document which was considered by EU Subcommittee B on the Internal Market, Infrastructure and Employment at its meeting of 1 July 2013.

We were grateful for your informative response, which addressed the issues raised in our letter of 20 May. We note from your letter that you are unable to make a proper assessment of whether the benefits of an independent space launcher capability outweigh the costs, at this early stage of negotiations.

We look forward to updates on developments and further analysis on this point in due course.

3 July 2013

EUROPEAN COURT OF AUDITORS SPECIAL REPORT NO. 25: ARE TOOLS IN PLACE TO MONITOR THE EFFECTIVENESS OF EUROPEAN SOCIAL FUND SPENDING ON OLDER WORKERS? (UN-NUMBERED)

Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

I am today submitting an Explanatory Memorandum on the European Court of Auditor’s (ECA) Special Report No. 25: ‘Are tools in place to monitor the effectiveness of European Social Fund spending on older workers?’. I regret that the deposit of this document was delayed having been missed in the system of sifting documents both within the Cabinet Office and in my own department. As soon as this was picked up, your officials were alerted to this by the Cabinet Office and it was agreed that I should write in this respect.

As I understand it, the document was missed as these reports now appear to be circulated by the Council Secretariat in a different format than hitherto has been the practice; they now issue as an information note to delegations with a web link to the published report, rather than under the previous cover note arrangements that reproduced the contents of the letter from the President of the ECA (with the text of the report and the Commission’s replies attached) when submitting the report to the President of the Council. I have reminded my officials of the importance of working
closely with the Cabinet Office to ensure we continue to identify documents that should be submitted for scrutiny, and I am advised that such oversights are extremely rare as we have robust administrative systems in place. On this occasion, my officials have instigated further actions to ensure similar situations do not recur.

The European Court of Auditors presented this document to the Council Social Questions Working Party on 15 April, and the Presidency plans to provide draft Council Conclusions for discussion in the Working Party on 27 May. These will subsequently be submitted to the Council for agreement, but the timing is not yet known.

23 May 2013

EUROPEAN SOCIAL FUND (15247/11)

Letter from Esther McVey MP, Minister of State for Employment, Department for Work and Pensions, to the Chairman

I am writing to provide an update on progress of the negotiations on the above Regulation.

As you may recall, successive Presidencies have agreed a series of partial general approaches covering different thematic blocks. The European Parliament has also voted in its Employment and Social Affairs Committee on the amendments it wishes to see to the ESF Regulation and the Minister for Business and Enterprise provided an assessment of these in his letter dated 31 January 2013 on the overall package of legislation on cohesion policy. Since then, the Irish Presidency, and now the Lithuanian Presidency, has held numerous informal trialogue meetings with the European Parliament’s rapporteurs and the European Commission. The discussions have, as before, been undertaken on the basis that nothing is agreed until everything is agreed.

It is important to note at the outset that preparatory work on developing ESF programmes is already well advanced in all parts of the United Kingdom. For example, in England, Local Enterprise Partnerships have recently submitted their draft strategies setting out how they would like to see ESF spent in their areas. This work has had to go hand in hand with negotiations on the regulation. A key point for the UK has therefore been that nothing is agreed in the trialogues that unpicks preparatory work on programming done so far.

In terms of the investment priorities that ESF will support in 2014-20, the European Parliament has insisted that the priority proposed by the Commission covering lifelong learning and vocational training should be split in two. Because Member States had planned on this being one priority, the number of priorities to be the focus of thematic concentration has been increased from four to five to provide sufficient flexibility for promoting both lifelong learning and vocational training, as well as employment and social inclusion measures. The European Parliament has agreed to withdraw its proposal to create new investment priorities on promoting children’s rights, combating poverty and promoting active ageing without poverty.

The compromise with the European Parliament requires that 20% of the ESF should be spent on activity falling under the social inclusion thematic objective. The Managing Authorities responsible for ESF in the UK do not foresee any practical problems with this, and had already been working on this basis.

The share of eligible expenditure outside the EU from an ESF Operational Programme is lowered from 5% in the Council’s Partial General Approach to 3% (Article 13.2.b). The Commission had not proposed any such flexibility. Even the lower amount of 3% will be useful in some circumstances.

There is now a specific reference to ESF being able to “support actions and policies falling within its scope through financial instruments, including micro-credits and guarantee funds” (Article 15.1). The UK supports the use of financial instruments and so can accept this change which adds little to what would be permissible in any case under the Common Provisions Regulation. The compromise position does not refer to the Policy-Based Guarantee instrument that had been proposed by the Commission. Member States were concerned about possible effects on public debt and the EU budget of this instrument.

The Council’s Partial General Approach had proposed a new article covering the ESF Committee set up under Article 163 of the Treaty on the Functioning of the EU which will be consulted on Commission decisions on operational programmes, the planned use of technical assistance at EU level, and common themes of transnational co-operation (Article 17). This reflects the current
responsibility of the ESF Committee and had been maintained in the compromise with the European Parliament.

In terms of the budget for ESF, as the Minister for Business and Enterprise noted in his letter to you of 13 August on the ERDF Regulation, the February European Council agreed an overall budget for structural and cohesion funds in commitments of €325,149 million (2011 prices). This included €8,948 million for the European Territorial Cooperation goal and a special allocation of €3,000 million for the new Youth Employment Initiative. The European Parliament has signalled its political approval to these levels but has not yet given its formal consent to the underpinning MFF Regulation. This is now expected at its November plenary session.

One contentious issue has been the proposed minimum share of the structural and cohesion funds (not counting the allocation for European Territorial Cooperation and the Youth Employment Initiative) that should be allocated to the ESF. This is set in the Common Provisions Regulation on which negotiations have been conducted with the European Parliament’s Regional Development Committee. The Regional Development Committee and the Lithuanian Presidency have agreed that the minimum share for ESF should be 23.1% at EU level, rather than 25% wanted by the European Parliament’s Employment and Social Affairs Committee. It has also agreed that the share in each Member State should not be lower than in the 2007-2013 period and should be increased in proportion to how far its employment levels fall short of the EU target of 75%. For the UK, this would equate to a minimum share of 45.6%. The UK as a whole would be able to achieve this without any alteration to its current plans.

The budget for the investment for growth and jobs goal (ERDF minus European Territorial Cooperation, plus ESF and the Cohesion Fund) will be €313,197 million. 23.1% of this is €72,348 million. This compares to a minimum budget for ESF of €84,005 million under the Commission’s original proposal (assuming the 25% share it had indicated then).

To enable the Regulation to be adopted before 1 January 2014, there will need to be agreement at first reading. In terms of next steps, the European Parliament is expected to vote in plenary in the week beginning 18 November. The text will then pass to the Council. The proposed compromises in the informal trialogue, if accepted in the European Parliament’s plenary vote, should provide the basis for the Council to agree the Regulation at first reading.

28 October 2013
unemployment figures and if so, whether this will be taken into account in allocating funds under this initiative.

We look forward to further details about the implementation of the policy at UK and EU level as it develops. On this point, we support your cautious approach to the Commission’s proposal to integrate the YEI with the ESF in a way that allows the YEI to be assessed separately. We agree that it should be ensured that the separate proposals on monitoring, publicity and financial support do not increase the complexity of the ESF or increase additional administrative burdens on beneficiaries or managing authorities.

I look forward to a response within 10 working days.

5 June 2013

Letter from Mark Hoban MP to the Chairman

Thank you for your letter of 5 June clearing the above documents from scrutiny and requesting further information.

The UK agreed to the Conclusions of the European Council of 7/8 February 2013 on the Multi-annual Financial Framework, including that the new Youth Employment Initiative should be open to NUTS 2 regions with rates of youth unemployment above 25% in 2012. Overall the Conclusions on the Multi-annual Financial Framework represent a good deal for the UK, and we have no plans to seek changes to the agreement on eligibility for the Youth Employment Initiative.

On 22 May 2013, Eurostat published 2012 data on regional unemployment rates for the EU Member States. These showed that five NUTS 2 regions in the UK had youth unemployment rates above 25% in 2012: Inner London, Merseyside, Tees Valley and Durham, West Midlands and South West Scotland. Based on these data we estimate the indicative allocation to the UK from the €3 billion of additional Youth Employment Initiative money would be about €194 million.

NUTS 2 regions are, of course, the agreed basis on which structural funds are allocated. We do not expect the difference in the number of NUTS 2 regions in different Member States to create a discrepancy in the way funds are allocated. If the UK had a smaller number of NUTS 2 regions, it is possible that the number of qualifying regions in the UK and the UK allocation would be smaller. For example, if the qualifying regions in the UK were combined with neighbouring NUTS 2 regions it is unlikely that most of them would qualify for the Youth Employment Initiative.

The Youth Employment Initiative will be allocated on the basis of Eurostat data, as is the allocation of structural funds generally. Eurostat’s role is to consolidate the national labour force survey data and make it comparable. This includes ensuring that the surveys of individual member states adhere to the internationally agreed ILO definition of unemployment – and there is a common set of questions in each survey to support this. This removes any difference that might arise due to different national definitions of unemployment in Member States and removes any potential distortion in the allocation of the Youth Employment Initiative.

18 June 2013

EUROPEAN SOCIAL FUND AND THE COHESION FUND (7537/13, 8946/13, 13730/13, 15243/13)

Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman

I am writing to provide an update on progress of the negotiations on the above Regulation and subsequent amendments to the proposal, which your Committee has cleared from scrutiny. As you may recall, successive Presidencies have agreed a series of partial general approaches covering different thematic blocks. The European Parliament has also voted in its Regional Development Committee on the amendments it wishes to see and I provided an assessment of these in my letter sent on the 31 January 2013. Since then, the Irish Presidency, and now the Lithuanian Presidency, has held numerous informal triilogue meetings with the European Parliament’s rapporteurs and the European Commission. These have led to emerging agreements on many issues, although some important issues have still to be discussed in depth. The discussions have, as before, been undertaken on the basis that nothing is agreed until everything is agreed.
On strategic programming, the European Parliament has accepted the Council’s proposal to restructure the articles on the partnership agreement and programming (Articles 14 and 87) so that they have a stronger orientation on the achievement of results and a more logical flow. As I mentioned in my letter of 31 January, the European Parliament wanted to keep the code of conduct on partnership. The proposed compromise on this point keeps the code in a delegated act but places heavy qualification around its use. New paragraphs have been added into Article 5 to make clear that the code has to respect fully the principles of subsidiarity and proportionality and take account of the different institutional and legal frameworks of the Member States. Furthermore, it is explicitly stated that the code cannot have retroactive effect and that infringements cannot lead to financial corrections so there is no penalty for non-compliance. Finally, the text defines very specifically the scope of the delegated act. These changes address the concerns I highlighted in my letter of 31 January.

On the common strategic framework, the European Parliament and Council both agree this should be set out as an annex to the Regulation and have reached a potential compromise on a text. One issue still to be decided is whether, as the European Parliament and European Commission want, parts of the Common Strategic Framework can be amended by delegated act in limited circumstances. The Council remains unconvinced of the need for this.

On ex ante conditionalities (the pre-conditions that need to be fulfilled before funds can be spent), the European Parliament has broadly agreed to keep the changes proposed by the Council to Article 17. This continues to provide the emphasis on subsidiarity and proportionality that is important to the UK and makes clear the main assessment is by the Member State, with the burden of proof on the Commission to overturn this. The provisions on the thematic ex ante conditionalities in the annex are also acceptable to the UK, although some of these will need to be looked at again as and when the particular investment priorities are agreed in the fund-specific Regulations. As part of the compromise, the Council has indicated that it is willing to reconsider the general conditionalities on gender, non-discrimination and disability that it has deleted in its partial general approach. Revised wording on these conditionalities will focus on the need to put in place arrangements to ensure the involvement of relevant bodies and to train staff working on programming on gender, non-discrimination and disability issues. Such requirements do not cause a problem in terms of implementation in the UK, where the domestic legislation on equality is more advanced than the EU’s.

On community-led local development (articles 28 to 31) the main changes from the Council’s partial general approach are to specify that derogations from the population limits in the regulation need to be justified in the Partnership Agreement with the Commission and to make clearer what is covered by preparatory support. These are acceptable to the UK.

On financial instruments, my predecessor Mark Prisk set out in his letter of 25 May 2012 the UK’s desire for changes that allow greater scope for preferential remuneration in order to incentivise private sector involvement and that provide more certainty by ensuring the requirements for ex ante assessment are known at the beginning of the programming period. The European Parliament has accepted the changes proposed by the Council on Article 38 and on the incorporation of the requirements for ex ante assessment in Article 32 rather than being subject to a delegated act. The European Commission had been concerned that the changes proposed by Council to Article 36 would allow managing authorities to “park” money in financial instruments as a means of avoiding decommitments. The proposed compromise between the three institutions limits this risk while providing flexibility for equity-based funds to operate on a ten year cycle that is normal for such funds. Finally, as the rules on financial instruments are very technical and detailed in nature, it is not appropriate for them all to be set out in a basic Regulation. There therefore remain a significant number of delegated and implementing acts that will need to be brought forward by the Commission. The UK is satisfied that the scope of the delegated acts are sufficiently clearly defined and is participating actively in meetings organised by the Commission to prepare these secondary instruments in order to ensure they are well designed.

On monitoring and evaluation, the main change has been to introduce high level political discussions on the use of the funds. This is consistent with the February European Council conclusions and welcomed by the UK as a measure to improve the transparency on how effectiveness of EU spend.

On eligibility and revenue generating projects, the Council’s position has generally been maintained.

On management and control, the provisional agreement with the European Parliament takes account of the settlement on the overarching Financial Regulation and therefore provides for designation, rather than accreditation, of authorities. The date for the introduction of e-cohesion, whereby all dealings with beneficiaries should be capable of being done electronically, will be December 2015. Although this is sooner than the December 2016 date in the Council’s partial general approach, it is

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later than the December 2014 deadline sought by the Commission and the European Parliament and should be achievable in the United Kingdom. The notice period for on-the-spot audits is fixed at 12 working days, a reduction from the 15 days proposed by the Council but much clearer than the unspecified period in the Commission’s original proposal and longer than the 10 working days in the Parliament’s mandate. Overall, the Government believes the text continues to strike a good balance between providing effective discipline and budgetary control and reduced burdens for administrations.

On information and communication, the proposed compromise with the European Parliament maintains the removal of references to the EU flag in annex V [not printed], with a requirement instead for each managing authority to show the EU emblem, for example on a sign or plaque that can describe its role. Managing authorities will need to provide a few examples of projects in another EU language on their website but these do not need to be extensive.

The blocks on financial management, financial issues not covered by the Multianual Financial Framework and the final and transitional arrangements. The triilogues have also not yet considered the Commission’s subsequent amended proposals that were the subject of Explanatory Memorandums 7537/13 (YEI proposal) and 8946/13 (EMFF proposal). These proposals provided for the Youth Employment Initiative, proposed in the February European Council conclusions, and for the European Maritime and Fisheries Fund to apply the same management and control system that the structural funds use. The Lithuanian Presidency intends to hold discussions with the European Parliament on these in September.

In terms of timing, in order to be in a position for programming to start in January 2014, the intention remains for there to be a first reading deal. The European Parliament will vote in plenary at the end of October to establish its formal first reading position which should reflect fully the outcome of the triilogue discussions. This will then be transmitted to the Council. If the European Parliament text is acceptable to the Council, formal adoption of the Regulation is likely to take place at the end of November or early December, following checks by the Jurist-Linguists and publication in the Official Journal.

13 August 2013

EUROPEAN SOCIAL FUND 2014-2020 (6380/13) AND INVESTING IN CHILDREN: BREAKING THE CYCLE OF DISADVANTAGE (6671/13)

Letter from the Chairman to Mark Hoban MP, Minister for Employment, Department for Work and Pensions

Thank you for your explanatory memorandum of 13 March 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 22 April 2013.

We broadly welcome the proposal, noting that its ‘non-prescriptive tone’ gives Member States leeway to implement the package in a way that fully addresses their particular situation. We would welcome further information on how you intend to implement the Recommendation in a way which adds to the work the Government has already undertaken in this area. We note that both the Communication and the Recommendation have emerged in part due to the impact of the crisis on the welfare systems of Member States. Keeping in mind that the crisis has necessitated substantial cutbacks in this area in some Member States, we ask whether other Member States have expressed that they are willing and able to implement the Recommendation.

We note that the Communication foreshadows two future Directives, one on improving access to bank accounts, and the other on the better application and enforcement of free movement rights. We note that these are discussed at a very high level in this document, and ask whether you plan to undertake a full impact assessment on both, when they are proposed in a more detailed form.

I look forward to a response in 10 working days.

3 June 2013

Letter from Mark Hoban MP to the Chairman

Thank you for your letter of 3 June 2013, broadly welcoming the proposals in the European Commission’s Social Investment Package (SIP) and linked Recommendation on combating Child Poverty, and asking for further information on some aspects.
Also many thanks for agreeing to waive scrutiny on this item prior to the discussion of Council Conclusions on the SIP at the June 20 meeting of EPSCO. I appreciate the flexibility you showed and look forward to working with you in future to ensure that documents are cleared before discussion of any linked Conclusions at Council.

With respect to the specific queries in your letter, you asked about Member States’ willingness to implement the approaches promoted, but not mandated, in the Commission’s Recommendation. We do not yet know what other Member States plan to do as a result of the Recommendation, which is not binding and simply calls on them to design and implement child-friendly policies taking into account the principles in the Recommendation. However, all Member States already subscribe to these broad ambitions to combat child poverty. Indeed, the Recommendation largely builds on Member States’ own input to the Social Protection Committee’s study on “tackling and preventing child poverty, promoting child well-being”. Furthermore, discussions in Council Working Group, on Council Conclusions responding to the Commission’s proposals, have confirmed this general consensus, while maintaining Member States’ competence for the detailed national policy and, of course, managing the costs of this in the face of current fiscal challenges. This applies equally to the UK, where we do not plan any specific new action as a result of the Recommendation, but already adopt many of the good practice approaches outlined in it and in the wider SIP.

You also mention in your letter a Directive on bank accounts and ask whether the Government will be preparing a full impact assessment. The proposal for a Directive on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features was published on the 21 May (Com 2013 266). As mentioned in the Explanatory Memorandum for this Directive provided by the Economic Secretary to the Treasury, the Government will work with UK industry, regulators and consumer groups to further understand the impacts for the UK and provide them with an opportunity to share their views on the proposal.

With regards to the proposed Directive on enforcement of free movement rights, the European Commission has produced an impact assessment which concludes that the draft Directive will bring social benefits as the incidence of racial discrimination will be reduced, but that there will be some economic costs which will fall to Member States and enterprises. The Government has not yet produced an assessment of the impact of the Directive in the UK and will consider, through consultations between the relevant Government departments, the need to do so as negotiations develop. Further information on this Directive can be found in the Explanatory Memorandum signed and deposited by Mark Harper on the 7 June.

For your information Council Conclusions on the Social Investment Package were approved at the EPSCO Council in Luxembourg on June 20, and are attached [not printed] for your information. We are satisfied with these Conclusions which we believe are in line with the initial Commission proposals and promote, but do not mandate, good practice in the area of Social Investment.

17 July 2013

Letter from the Chairman to Mark Hoban MP

Thank you for the letter of 17 July 2013 from your predecessor, on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 October 2013.

We would like to thank your predecessor Mark Hoban, for directly addressing our queries in the letter. You will be aware that we have now considered in detail the two proposals which were foreshadowed by the Commission Communication, and will continue to correspond with the relevant Ministers on these dossiers.

Since the letter answers all our questions in relation to the proposed Recommendation, we are content to clear the documents from scrutiny.

No response to this letter is necessary.

23 October 2013
Letter from Nick Hurd MP, Minister for Civil Society, Cabinet Office, to the Chairman

This letter updates the Committee on progress with the Commission proposal for a Regulation on European Statistics on Demography. (Explanatory Memorandum of 20 February 2012, reference 5469/12.)

The European Parliament adopted its amendments to the Commission proposal on 24 April 2013 (ref 8441/13).

Most of the European Parliament amendments are acceptable, and in one case (EP amendment 10) furthers the Government’s preferences for stronger methodology for calculating the populations of member states according to a true usual residence basis. The Government has been concerned that some member states using a population register or a count of those “legally resident” may as a result over-estimate their population, with consequences for qualified majority voting weights and the distribution of Union funds. The EP amendment supports and reinforces the amendment sought by the UK and agreed in Council for a true usual residence basis for population statistics.

EP amendment 23 calls for Eurostat to produce quality reports on member states’ data. The Government’s position on quality reporting is that it is the responsibility of the producer of the statistic to comment on the quality of its statistics. Eurostat provide a valuable validation and challenge function, but quality issues should be resolved and reported by the producers of the national demography statistics. Exchanges of views with other member states suggest that this amendment is likely to be rejected in trilogue.

The first part of EP amendment 14 has the support of the Government because it removes the difficulty, reported in the Explanatory Memorandum, of counting vital events “regardless of the place the events occurred”. Council Working Party proposed the same amendment and this will be agreed in trilogue.

The rest of EP amendment 14 also reproduces amendments made in the Council Working Party but the Government opposes both. The original proposal of the Commission did not specify the breakdowns for vital events statistics, leaving the statistical design to an Implementing Act. Unfortunately some member states sought to have the breakdowns in the Basic Act itself. In their amendment proposals, a ‘citizenship’ breakdown for citizenship of the mother at the time of a birth, and citizenship of a registered death, was proposed and was accepted by the Presidency, despite UK objections.

The Government is now working with the Presidency and its partners in the Council, and with the Commission, to ensure that an estimate for citizenship counts, derived from the available Country of Birth data in UK registration administration system, is acceptable. However, it should be noted that if such an agreement is not achieved, UK will not be able to comply with the citizenship statistics requirements without a substantial and very costly change to the administration of vital events registration in all parts of the UK.

The remaining issue is the reference year in which a death occurs, and this issue is unchanged by the EP amendments. UK’s statistics offices, like those in a number of other member states, receive date of death records only when a final cause of death is decided. Where a cause of death is subject to (for example) an inquest, it is possible that the date of death will not be available until after the transmission deadline for the date of occurrence statistics. This issue matters only if the transmission deadlines are shorter than, approximately, 6 months from the end of the reference period. The transmission deadlines are not known as yet, because they are to be decided by a future Implementing Act. It is likely that the Implementing Act will allow a sufficiently long transmission schedule to allow full compliance by UK and other member states in a similar situation.

The outcome of the trilogue is not expected before the end of June.

23 May 2013
Letter from Mark Harper MP, Minister of State for Immigration, Home Office, to the Chairman

I enclose a copy of our Explanatory Memorandum, which was deposited late with Parliament on 7 June. As you know, the subject matter of this EM affects the responsibilities of a number of Government departments and the Cabinet Office has been working with the Home Office, Government Equalities Office and other interested departments to examine the legal and policy implications of this proposal.

After consideration, it was decided that the Home Office would take overall strategic responsibility for negotiations on this proposal and this took longer than we would have wished.

On behalf of the Government, I sincerely apologise for the delay in making this EM available to Parliament. I recognise timing is particularly important where subsidiarity is an issue for consideration.

7 June 2013

Letter from the Chairman to Mark Harper MP

Thank you for your explanatory memorandum (EM) of 7 June 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 June 2013.

The Committee has decided to conduct in-depth scrutiny of this proposal, and we will contact your officials in due course, to request an oral evidence session.

25 June 2013

Letter from the Chairman to Mark Harper MP

Thank you for your Explanatory Memorandum (EM) of 7 June 2013 on the above proposal. The Internal Market, Infrastructure and Employment Sub-Committee of the House of Lords Select Committee on the European Union decided that the proposal was of sufficient importance to justify a process of further scrutiny. The Committee heard oral evidence from the Centre for European Reform (CER); University of Edinburgh; Migrants Rights Network, and the National Institute of Economic and Social Research (NIESR) on 15 July, and heard oral evidence from you on 22 July. The transcripts of both evidence sessions are available via the Committee’s website.

This letter summarises the Committee’s deliberations on the Commission’s proposal and also sets out the Committee’s position on the merits of the proposal. It also requests the Government’s response on a number of points.

On balance, we support the Commission’s aims to consolidate existing rights of EU citizens to live and work in another Member State.

We would like to make the following points about specific provisions in the proposal:

EXISTING SITUATION AND NEED FOR A NEW DIRECTIVE

The Commission documents accompanying the proposal give concrete examples of where existing rights are not being respected in Member States, such as public authorities, employers and legal advisers not complying with EU law, and EU migrant workers having limited access to information and the means to ensure their rights. The documents suggest that these problems have contributed to only 3.1 per cent of working-age individuals in the EU living in a Member State other than their own. We agree with the Commission that this is a surprisingly low figure which indicates that there are important issues which need to be addressed. However, like you, we are not convinced that a new Directive is the best way of tackling the problem, and suggest that it is more appropriate for the Commission to use existing mechanisms to address the various issues raised in its Communication. We propose that this could be done through non-legislative action, such as proper enforcement through the European Court of Justice, the imposition of penalties where appropriate, and the EU and Member States working together to provide greater information to EU workers. We urge you to seek greater clarity in negotiations on the rationale behind the introduction of a new Directive to solidify existing rights rather than using existing enforcement procedures. We have therefore reached...
the view that, while there is scope for non-legislative action at EU level, the proposal for a Directive is not necessary, and the Commission should concentrate its efforts on enforcing existing legislation.

**SUBSIDIARITY**

We thank you for your clarification of the Government’s concerns on subsidiarity during the 22 July evidence session, which expanded on the points made in your EM. We acknowledge your view that existing structures such as the EURES jobs portal and SOLVIT already help EU workers to move between Member States and that there is little evidence that further action at EU level would be any better than action at Member State level. We considered the subsidiarity point with reference to the two guiding principles derived from the definition of subsidiarity set down in Article 5 TEU, namely; whether action at EU level is ‘necessary’, and whether action at EU level would provide ‘added value’, as compared to action at Member State level. In this case, the important point is necessity.

The Commission’s impact assessment provides convincing evidence to suggest a significant number of instances where Member States have not been applying EU law correctly. It shows that infringement procedures have been taken against a high number of Member States, including the UK, suggesting an inability or unwillingness from some Member States to adhere to EU legislation on free movement of workers. In order to enable the free movement of workers in the EU, and safeguard the ability of UK citizens to work in other EU Member States, we believe that some EU level action is necessary to overcome these issues. The question of whether or not action taken to address this should be non-legislative is not an easy one, although as already suggested, we tend to agree that (at least as far as the UK is concerned) non-legislative action through more effective use of existing enforcement mechanisms, and better provision of information to EU workers, is sufficient. Therefore, while we agree with your assertion that non-legislative action is preferable to the use of a Directive, we do not feel that the case against legislative action is strong enough to justify a formal subsidiarity complaint.

**FREE MOVEMENT IN THE CURRENT ECONOMIC CLIMATE**

Your EM did not express a clear view on what you consider to be the impact of free movement of workers in the context of the current difficult economic climate. In its Communication and Impact Assessment, the Commission referenced ‘brain drain’ (the loss of skilled workers to other countries) as a concern for Member States in the area of free movement. We note that the problem of ‘brain drain’ is exacerbated by the economic crisis, which has led to high levels of unemployment in some Member States, prompting the unemployed to seek work in other countries.

The evidence we heard from witnesses acknowledged this issue, but also highlighted the benefits of free movement of workers in this context. NIESR observed that for countries such as Latvia and Spain who have experienced high unemployment, the ability for skilled workers to move freely between Member States has provided an economic “safety valve”, providing support while the country recovers from the crisis. The CER and Migrants Rights Network highlighted the phenomenon of “brain gain”, whereby highly skilled young professionals move to other Member States temporarily and gain new skills, which they are able to bring back to their home countries. Overall, the evidence received indicated that free movement of workers in the UK is particularly important in the current difficult economic and employment climate, and should not be curtailed.

**DATA COLLECTION ON SOCIAL WELFARE**

In the 22 July evidence session, you reiterated the Government’s concerns about ‘social benefits tourism’ as expressed in your joint letter to the Commission with Ministers from Germany, Austria and the Netherlands. The letter stated that some cities in the UK were being put “under a considerable strain by certain immigrants from other Member States”. You also mentioned that, “there are significant numbers of sham marriages in which non-EEA nationals are seeking to gain an immigration advantage by marrying an EEA national” and that “There is some very clear documented evidence of the abuse of free movement rights”.

NIESR highlighted a recent study by Professor Christian Dustmann at UCL which examined the payments in taxes and other contributions to the UK public purse made by immigrants from the accession countries in comparison to the their consumption of services in the form of health, education and social benefits. It found that on average immigrants from the accession countries paid in somewhere between 30 per cent and 40 per cent more than they took out. However, both NIESR and CER accepted that it was very difficult to assess the existence of extent of ‘social benefit tourism’. Given that you have taken a strong position on this matter along with other Member States, we were concerned with the lack of information you were able to provide on the extent of the abuse of free
movement of workers. We are aware that the Commission has responded to the joint letter asking for data to back up the claims made in the letter, and we believe that it is important to provide the Commission with data that is more than anecdotal, in order to render any position on ‘social benefit tourism’ tenable. We observe that the Home Secretary is currently working on a joint report with EU partners to gather further information on this, and ask for confirmation as to when you expect this to be completed, and to be sent a copy when it is available. We note that in the evidence session, you mentioned that you would set out in your letter how universal credit will improve matters by recording the nationality of benefit claimants in the information system. We look forward to receiving this, and ask whether in the context of your report, you are considering any further changes to the current data collection system, to improve the accuracy of data on social benefits? We would be grateful for further information from you about the present scale of abuse of the social welfare system, and on plans to improve the accuracy of the data on social benefits.

IMPACT ON BUSINESSES

The CER said that a big problem for businesses looking to establish themselves in other Member States is a lack of clarity on their rights and their responsibilities to their employees. Should it be approved, Article 5 of the proposal would require Member States to set up institutions at national level which act as one-stop-shops, making clear to individuals and organisations with a relevant interest, the rules on freedom of movement for workers. Article 5 of the proposed Directive provides that Member States would be able to use existing bodies or agencies at national level for this purpose, so long as they are able to ensure that these bodies are sufficiently resourced to carry out any additional tasks required by the Directive. We note from paragraph 16 of your EM that the Equality and Human Rights Commission (EHRC) already has competence in some, although not all, of the areas listed but that you believe it might be necessary to identify another body to carry out some of the activities that the EHRC does not currently undertake. We suggest that the extension of the functions of the EHRC or another body may have significant benefits to businesses in terms of enabling them to easily adhere to the rules on freedom of movement for workers. Since the Commission cites a lack of legal compliance from employers as one of the key barriers to the ability of EU workers to exercise their right to freedom of movement, a focus on providing clarity to businesses is of critical importance. We ask what you would estimate to be the cost of an extension to the administrative function of the EHRC or another UK body? We believe that the extension of the powers of existing bodies to create a national one-stop-shop for businesses would have clear benefits to business, and subsequently to individuals. We ask for your view on any costs to Member State authorities and businesses, and the potential benefits of this aspect of the Directive.

NEXT STEPS

We raised a number of important points in the evidence session of 22 July upon which you undertook to follow-up in writing. We regret that we have still not received a response from you on this, despite the fact that negotiations on this proposal continue, with a working group scheduled in early September. This letter represents our initial view of the proposal, in lieu of the data on free movement and social benefits that you undertook to provide. We look forward to receiving your response to the points raised in the evidence session, and those outlined above within the standard 10 working days. On receipt of your response we may wish to comment further. We also look forward to receiving updates about the progress of the negotiations on the Commission’s proposal in due course.

4 September 2013

Letter from Mark Harper MP to the Chairman

Further to the oral evidence session on the Free Movement of Workers Directive on 22 July, I write to provide the Committee with further information on a number of points which were raised during the session.

In addition, I would like to thank Baroness O’Cathain for her letter of 4 September summarising the deliberations of the Internal Market, Infrastructure and Employment Sub-Committee of the House of Lords Select Committee on the European Union with regard to the Free Movement of Workers Directive. I am grateful for your Committee’s detailed considerations on the Directive; my reply also covers the points raised in that letter.

Your letter states that while the Committee is generally supportive of the European Commission’s objective to consolidate the free movement rights of EU citizens in other Member States, it does not
feel that new legislation is the most appropriate way to pursue this aim. As I set out in my oral
evidence to the Committee, we have similar doubts about the need for this Directive and whether
the issues it deals with are best addressed through new legislation or by training and information
dissemination at EU level and capacity building.

You ask for assurances that the Government will seek further clarity from the Commission on the
rationale behind the introduction of a new Directive. Whilst my officials have pushed for such
clarification during the initial negotiations, the Commission maintains that a legislative instrument is
justified. It cites the body of evidence presented alongside its original proposal and within its impact
assessment as evidence of the need for legislation to ensure the uniform application of free movement
ing rights across Member States.

Your letter also provides a number of considerations regarding the impact of free movement in the
current difficult economic climate. This is a key area of debate, and in many cases the overall impact
is difficult to assess. Within my evidence to the Committee I referred to the Balance of Competences
Review on the Free Movement of Persons which, as you know, will examine the scope and
consequences of the free movement of people across the European Union. This review has collected
evidence on the impact of free movement on the UK economy, and will be published before the end
of 2013.

Regarding your comments on the abuse of free movement rights, I would like to reiterate my view
that there is some very clear documented evidence of such abuse. This includes sham marriages,
documentation fraud and abuse of the social welfare system. As both the Home Secretary and I have
stated many times, we have serious concerns about such fraud and abuse – not least because it
undermines public support for free movement.

You also ask for further information on the scale of abuse of the social welfare system, and on plans
to improve the accuracy of the data on social benefits; and, in addition, during my evidence to the
Committee, Lord Brooke of Alverthorpe asked for a number of statistics on the exercise of free
movement rights.

As you know, the Home Office and the Department for Work and Pensions (DWP) are currently
working with EU partners to gather and collate evidence of abuse of free movement rights in order to
submit a report to the Commission. I will be happy to share the report with the Committee once it is
submitted. In the interim, I have set out some further relevant information below.

The nature of free movement is such that we have very limited data on the type of Treaty rights being
exercised by EU citizens in the UK, and by British citizens in other Member States. This is primarily
because of the differing systems of data collection at national level.

The DWP does not currently gather data on the nationality of benefit claimants. However, as the
Committee noted, there are plans to collect this data in future for claims to Universal Credit. In the
interim, to estimate flows of incoming workers, one rather crude measure we can use is the number
of new National Insurance Numbers (NINOs) issued by the DWP to non-UK citizens, which can be
broken down by applicant nationality. A NINO is generally required by any overseas national looking
to work or claim benefits or tax credits in the UK. DWP’s analysis below shows the number of
NINOs issued to nationals of the following groups of Member States.

<table>
<thead>
<tr>
<th></th>
<th>2009/10</th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/13</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU-15</td>
<td>91,340</td>
<td>134,950</td>
<td>143,860</td>
<td>176,060</td>
</tr>
<tr>
<td>EU-10 and EU-2</td>
<td>182,790</td>
<td>224,720</td>
<td>206,320</td>
<td>209,180</td>
</tr>
<tr>
<td>EU total (excl. Croatia)</td>
<td>274,130</td>
<td>359,670</td>
<td>350,180</td>
<td>385,240</td>
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</tbody>
</table>

The full statistical bulletin can be found at:
https://www.gov.uk/government/publications/nino-allocations-to-adult-overseas-nationals-entering-
the-uk-registrations-to-march-2013

In 2012 a ‘snapshot exercise’ was undertaken in order to estimate the number of people currently
claiming benefits who, when they first registered for a NINO, were non-UK nationals. Updated
statistics from this analysis were published on 29 August 2013.
The table below shows the number of claimants of each type of benefit by nationality group. At February 2013, over five and a half million people were claiming DWP working age benefits. Of these, 397,000 (7 per cent) are estimated to have been non-UK nationals when they first registered for a NINO.

<table>
<thead>
<tr>
<th>Benefit Type</th>
<th>Total non-UK nationals</th>
<th>EU-15</th>
<th>EU-10 and EU-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jobseeker</td>
<td>142,270</td>
<td>25,170</td>
<td>34,930</td>
</tr>
<tr>
<td>ESA and incapacity benefits</td>
<td>139,480</td>
<td>23,680</td>
<td>13,130</td>
</tr>
<tr>
<td>Lone Parent</td>
<td>40,230</td>
<td>3,770</td>
<td>3,090</td>
</tr>
<tr>
<td>Carer</td>
<td>41,270</td>
<td>4,200</td>
<td>4,140</td>
</tr>
<tr>
<td>Other Income Related</td>
<td>9,360</td>
<td>1,290</td>
<td>610</td>
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<tr>
<td>Disabled</td>
<td>17,380</td>
<td>2,940</td>
<td>2,470</td>
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<tr>
<td>Bereaved</td>
<td>7,140</td>
<td>1,270</td>
<td>570</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>397,160</strong></td>
<td><strong>62,330</strong></td>
<td><strong>58,950</strong></td>
</tr>
</tbody>
</table>

DWP estimate that in the year 2012/13 (provisional figures) £1.2bn, or 0.7 per cent of total benefit expenditure, is overpaid due to fraud. The nationality of the claimants committing fraud is not recorded on the system from which these statistics are reported.

You also ask for an assessment of costs to Member State authorities or businesses as a result of any extension of the powers of the EHRC to meet the provisions of Article 5 of the Directive.

I do not believe that there is any need to expand the existing functions of the EHRC. It already has responsibility for many of the matters covered in Article 5 of the Directive, and those responsibilities which are not within its remit can be discharged by other bodies, including government departments. There is no evidence to suggest that free movement rights are not being correctly implemented within the UK. Expansion of the EHRC’s existing remit may generate additional costs but I hope you will accept it would not be useful for us to attempt a precise estimate of these costs at this time.

This leads me to a point that was raised by Lord Clinton-Davis during my evidence session. The noble Lord asked whether we have engaged with the Confederation of British Industry or the Federation of Small Businesses.

I can confirm that we have not as yet consulted British industry about the Directive. I would like to reiterate that we do not expect the Directive to have any significant impact on businesses, a view reflected by the European Commission’s impact assessment which states that “no implementation costs have been identified for enterprises”. If, as negotiations on the Directive continue, revised texts have implications for businesses, then we will of course consult with industry. I recognise the wider significance of EU rules on free movement for British business and, as part of our call for evidence for the Balance of Competences Review on the Free Movement of Persons, we have engaged extensively with a range of businesses and trade bodies, including the British Chamber of Commerce, the Trades Union Congress, the CBI and the Federation of Small Businesses, in order to capture their views on this issue.

To follow up on the final point that was raised during my evidence to the Committee, Lord Wilson of Tillyorn enquired about the economic status of British nationals living elsewhere in the EU, of whom there are estimated to be approximately 1.4 million by the World Bank Global Migrant Stocks Database. Unfortunately, the survey which produced this number did not record whether the respondents were working or retired, so it is not possible to break down the figure any further.

I hope that the answers provided are satisfactory; I will endeavour to provide the Committee with a further update as negotiations progress.

17 September 2013
Letter from the Chairman to Mark Harper MP

Thank you for your letter of 17 September 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 October 2013.

We were reassured by your response to some of the issues raised in our letter of 4 September letter. Your analysis and the action you propose in relation to consulting with business and industry, and extending the powers of the EHRC seem well thought out and reasonable.

However, we remain concerned about the lack of data provided to back up the claims you have made to the European Commission and to this Committee that the UK is being put under considerable strain by immigrants from other Members States claiming benefits. We were surprised that, given the length of time it has taken to respond to our letter, the figures you have provided are not particularly illuminating. We have been given evidence backed up by clear figures which suggests that, contrary to your view, EU migrants pay more into the economy than they take out. Given your strong stance on this matter, we had expected similarly robust data to back up your contrary view.

The estimated figures in your letter indicate that although 7 per cent of EU claimants were non-UK nationals, a relatively low number of benefits claimants (121,230; just over 2 per cent of the total number of claimants) were EU nationals. The figures do not reveal how long these claimants were on benefits which we believe is a significant factor. It could be that benefits were claimed for a short time, only on initial arrival in the UK. Conversely, if the 2 per cent of claimants are comparatively long-term recipients of benefits, this could be an area which requires more detailed scrutiny. We would welcome further information on this point, if available.

You state that “there is some very clear documented evidence of such abuse” in relation to sham marriages, documentation fraud and abuse of the social welfare system. We would be interested in seeing this documented evidence.

We acknowledge that you are in the process of producing a report on the issue of abuse of free movement rights, and that our request for more detailed figures may be addressed by the report. We thank you for offering to share the findings of the report with the Committee, and look forward to considering your findings before the end of the year.

Since as pointed out above, many of our queries remain unanswered, we have decided to retain the document under scrutiny.

15 October 2013

FINANCIAL STATEMENTS (16250/11)

Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

I am writing to inform the Committee that agreement on the Accounting Directive has now been reached following votes by the European Parliament on 13 June 2013 and the Council on 20 June 2013. The Directive has now been published in the Official Journal.

As you are aware the Directive comprises two distinct elements – the revision and consolidation of the existing 4th and 7th Company Law Directives and the introduction of a new transparency requirement for companies operating in the extractive industries (oil, mining, gas and logging of primary forests). Having worked hard to secure important amendments in both elements of the Directive, I believe the final text represents a very positive outcome for the UK. I have summarised the position below. For ease of reference, the chapter numbers are those used in the original proposal.

CHAPTERS 1-8: ACCOUNTING

Chapters 1-8 form part of the EU’s commitment to ensure the proportionality of legislative measures, simplify accounting requirements, and reduce the associated administrative burdens, with particular emphasis on small companies. In the drafting of its proposal, the Commission has applied a “think small first” principle, which creates a building block approach to the imposition of reporting obligations as a company grows in size.
The changes introduced by Chapters 1-8 are largely deregulatory and complement the Government’s aim to reduce the administrative burdens imposed, in particular, on small companies. To this end, the Directive has:

— Created a more harmonised and simplified reporting regime for small companies (profit and loss account, balance sheet and limited notes);
— Removed small companies from the scope of mandatory audit, although this has no impact in the UK as we already take advantage of the Member State option to relieve most small companies of this burden; and
— Exempted small groups from preparing consolidated financial statements

In negotiations the UK successfully:

— Secured higher thresholds for the criteria for determining what is a small company. We estimate this will allow an additional 8,000 companies, currently treated as medium-sized companies, to take advantage of the flexibilities available to small companies;
— Secured the Council’s agreement to the inclusion of additional notes deemed key to understanding the financial statements of small companies and the presentation of a true and fair view of their financial position;
— Retained the option of using the balance sheet format most commonly used in the UK;
— Retained the ability to use merger accounting for appropriate business combinations;
— Secured flexibilities permitting Member States to exempt non-listed public interest entities from the obligation to prepare consolidated accounts. This will allow the UK to retain its current approach to relieving the burdens on certain small public interest entities such as small mutual insurers; and
— Effectively restricted the Commission’s ability to use delegated acts by attaching conditions to their use.

As noted in an earlier update to the Committee, the text now also incorporates the provisions of 2012/6/EU, the “Micros Directive”. This was necessary to prevent the exemptions it offers being lost on repeal of the 4th Company Law Directive as this new Accounting Directive comes into effect.

CHAPTER 9: EXTRACTIVES TRANSPARENCY

Chapter 9 supports the Government’s ambition for strong extractive reporting requirements and represents a significant contribution to the development of a global standard for transparency in these industries.

The UK Government secured all the important elements of its negotiating position in the final agreement of this chapter. The final agreed rules state that:

— EU listed and large extractives companies (mining, oil, gas and forestry) must report the payments they make to governments in all of their countries of operation.
— Companies must report any payment, whether made as a single payment or a series of related payments within a financial year, of €100,000 or more. This applies to all payments made in money or in kind to any national, regional or local authority. Companies are forbidden from artificially disaggregating such payments to avoid reporting.
— Companies must report all payments on a project-by-project (rather than merely a country-by-country) basis. A project is defined as “the operational activities that are governed by a single contract, licence, lease, concession or similar legal agreements and form the basis for payment liabilities with a government”.
— There will be no exemptions to reporting, even where companies are operating in countries that prohibit disclosure in criminal law.
We were also successful in arguing for an “equivalence clause.” This clause is intended to avoid dual reporting by companies listed with both the US Securities and Exchange Commission (the “SEC”) and an EU stock exchange, and therefore caught by both US Dodd-Frank and Accounting Directive rules. If equivalence between the two reporting regimes is established, companies will only need to produce one report to comply with both sets of regulations.

**IMPACT ON COMPANIES HOUSE**

The introduction of the revised, more harmonised, reporting regime for small companies will have some effect upon Companies House procedures for the receiving of financial statements, as will the requirement for extractives companies separately to publish reports on the payments they make to governments. We will work closely with colleagues in Companies House to ensure these changes are integrated into our plans as we begin the transposition into UK law.

11 July 2013

**FINANCIAL TRANSPARENCY OF PORTS (10154/13, 10160/13)**

**Letter from the Chairman to Stephen Hammond MP, Parliamentary Under-Secretary of State, Department for Transport**

Thank you for your explanatory memorandum of 13 June 2013 on the above proposal and Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 1 July 2013.

We note your belief that the proposed Regulation will do little to address the use of wasteful and anti-competitive subsidies by Member States in promoting national ports, and restrictive dock labour practices. You mention that previous governments have tried to get the Commission to address these issues without success. We would be grateful to know what efforts you are now making, perhaps with other like-minded Member States, to encourage the Commission to include these issues under the remit of this proposal. We would also be grateful to know the outcomes of your planned consultation with stakeholders and the industry sector.

We have decided to retain the proposed Regulation (10154/13) under scrutiny, and we may request an evidence session with you and your officials in the near future in order to discuss this proposal in more detail. In the meantime, we look forward to receiving a response to our above questions within the normal 10 days.

We have decided to clear the Communication (10160/13) from scrutiny.

3 July 2013

**Letter from Stephen Hammond MP to the Chairman**

Thank you for your letter of 3 July 2013 about the Commission’s proposal for a Regulation on market access to port services.

I believe that the most effective way to address wasteful and anti-competitive subsidies is not through adding new provisions to the Commission’s proposed Regulation, but rather for the Commission to strengthen its approach to State Aids in the ports sector specifically. Vigorous, fair competition between ports (with a minimum of permitted subsidy) is the best spur to efficiency within them.

With regard to allegedly inefficient dock labour schemes, I also take the view that these matters are generally better addressed by individual Member States, at national level, as they were successfully reformed in the UK in the past. Indeed, the Commission has also to some extent arrived at this view, given that the two previous attempts to impose regulation on port services fell largely as a result of this issue. These matters will be addressed through ‘social dialogue’ but ultimately local solutions will have to be found to local problems.

I am mindful that some MEPs may seek to include such provisions in the proposed Regulation (and the federation of European Community Shipowners’ Associations, ECSA, advocates this). If such proposals come forward through the legislative process we shall assess them on their detailed merits. We will, however, need to be extremely careful to avoid ‘collateral damage’ from any such amendments. The UK ports’ present position as a successful, efficient, unsubsidised industry with generally good labour relations has been very hard-won and I do not intend to imperil that.
My officials are currently drafting an Impact Analysis Checklist, which the European Scrutiny Committee has asked to see, and this will include a summary of views and comments from the ports services industry, including the ports themselves, terminal and shipping operators, trade unions and representatives from the main services identified in the Commission’s proposal. We will also seek views from environmental NGOs and will ensure that the Devolved Administrations are kept fully informed on progress of the proposal and interest from Parliament.

Officials will circulate the consultation package to industry shortly and I would expect to be able to respond further on the industry’s views during the summer.

17 July 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your helpful letter of 17 July 2013 responding to the queries in our letter of 3 July on the above proposal. The EU Sub-Committee B on the Internal Market, Infrastructure and Employment considered your letter on this issue at its meeting on 14 October 2013.

We note your view that decisions on how to deal with dockland labour issues should be made at national level.

We would be grateful to receive a copy of your Department’s Impact Analysis Checklist of the proposal once it is complete, and for further updates on the progress of negotiations on the proposal. In the meantime, we have decided to retain the proposal under scrutiny.

15 October 2013

Letter from Stephen Hammond MP to the Chairman

I am writing further to the Explanatory Memorandum, and my letter of 17 July, on the above proposal, and I also take this opportunity to thank you for your further follow-up letter of 15 October.

A targeted consultation took place between 12 July – 2 August and over 30 organisations and businesses – including those of the Devolved Administrations and environmental groups – were invited to comment. These organisations and businesses were asked, where possible, to provide any additional information or evidence to better inform the Government’s position, in particular relating to financial costs or regulatory burdens that may arise as a result of adopting the Commission’s proposal, as it is currently drafted.

As a result of the consultation we have completed the attached impact checklist. This provides an initial industry assessment of the likely impacts on the UK ports sector, and reflects the Government’s initial view that the introduction of heavy EU Regulation (at least in its present form) will not address the perceived problems in the European ports industry. The UK ports industry, and those who provide the kinds of service likely to be caught by the current proposed Regulation, largely support the Government’s position that the best way to address the perceived problems within the industry (as identified by the Commission) is through the fostering of fairer and stronger competition between ports, which will lead to the desired efficiencies and benefits.

Furthermore, the ports industry shares the Government’s view that a truly liberalised and competitive market will promote better and more transparent procurement of port services which would not impede or discriminate against UK ports, as the current proposal threatens to do.

Finally, the major UK port operators have made it clear that they are investing heavily and vigorously in port development and do not expect any shortage of capacity, even against a backdrop of increased demand as envisaged by the Commission up to 2030 and beyond.

The Committee may be interested to note that although working group negotiations have not yet started, there was a Shipping Working Group on 3 October which used the Commission’s Impact Assessment on the Ports Proposal to consider the wider approach and methodology of the Commission in preparing EU impact assessments.

Some Member States expressed the view that the Impact Assessment relating to the Ports Proposal was one of the better examples of Commission work. However, not all Member States agreed and some felt that much more work needed to be done by the Commission so as to more effectively capture the wide diversity that exists within the EU ports sector.

Another Shipping Working Group met on 31 October and discussions focused on the Commission’s IA for its proposed ports regulation, which is expected to be a greater priority for the forthcoming Greek Presidency, particularly in the second half of its term.
The European Parliament is beginning its consideration of the proposal during the autumn, and its first reading plenary is scheduled for March 2014. The EP Transport and Tourism Committee (TRAN) is holding a public hearing on 5 November, and a representative from the UK ports sector has been invited to speak.

I look forward to the Committee’s further consideration in due course on this very important proposal, and note that the Committee plan to recommend a debate in due course.

12 November 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your helpful letter of 12 November which the House of Lords EU Sub-Committee B on the Internal Market, Infrastructure and Employment considered at its meeting on 25 November 2013.

Thank you also for sending us a copy of your department’s impact analysis checklist. This explained in detail the concerns of UK ports and the related port services industry.

Since there are issues that appear to be unresolved at this stage, such the completeness of the Commission’s impact assessment, and the need to find a balance in the proposal between competition in the market for services and transparency of pricing, we have decided to retain the proposal under scrutiny. We would be grateful for further updates as negotiations progress.

27 November 2013

FOURTH RAILWAY PACKAGE (5855/13, 5960/13, 5985/13, 6020/13, 6019/13, 6012/13, 6013/13, 6014/13, 6017/13)

Letter from the Chairman to the Rt. Hon. Simon Burns MP, Minister of State, Department for Transport

Thank you for your EMs dated January-March 2013 on the above legislative package. We are also grateful to officials in your Department who appeared before us on 3 June to answer our questions on the package.

Due to the deadlines associated with issuing a Reasoned Opinion, we scrutinised the subsidiarity aspects of this package at our meeting on 18 March. In particular, we considered the proposals to transfer certain powers from National Safety Authorities (NSAs) to the European Rail Agency (ERA). We concluded that the idea of transferring powers to the ERA does not offend the principle of subsidiarity, given that the overview of a central body would seem to be necessary to address the barriers identified by the Commission to a liberalised rail service.

We note that there is to be a discussion and possible agreement on the interoperability aspects of the Package at the EU Transport Council meeting on 10 June. As this relates primarily to the role of the ERA, which we have already considered, we have decided to grant a scrutiny waiver to enable the Government to make progress in discussions in this area.

We look forward to being informed of the outcome of the Council meeting, and will continue our scrutiny of the remainder of the package.

7 June 2013

Letter from the Rt. Hon. Simon Burns MP to the Chairman

Thank you for your letter of 7 June confirming a scrutiny waiver to allow the UK to support a general approach on the recast of the interoperability Directive at the Transport Council of 10 June.

Your letter requested an update following the Council meeting and I can confirm that the Council reached a general approach on this part of the technical pillar of the Fourth Rail Package which seeks to liberalise EU rail markets.

The interoperability proposal aims to simplify technical approvals of rolling stock to facilitate cross-border services. The Commission originally proposed that the European Railway Agency should undertake all authorisations. However, I am pleased to report that the Presidency’s compromise proposal took on board the UK’s suggestion to give operators the choice to use national safety
authorities where rolling stock would only be used domestically. Two Member States maintained reservations on the text but the Presidency concluded that there was a qualified majority in favour.

I understand that DfT officials gave evidence, at an informal closed session, to the Internal Market, Infrastructure and Employment Sub-Committee on 3 June about the overall Package. At this session the Committee requested some information about the infringement proceedings taken by the Commission against Member States for earlier Railway Packages. I attach a table with these details and further information is available at:

http://ec.europa.eu/eu_law/infringements/infringements_decisions_en.htm

As indicated in the table [not printed], we are aware that Austria, Sweden, Lithuania, Romania, Luxembourg and the Netherlands have raised reasoned opinions about the Fourth Railway Package. Further information is available at:

http://www.ipex.eu/IPEXL-WEB

18 June 2013

Letter from the Chairman to the Rt. Hon. Simon Burns MP

Thank you for your letter of 18 June 2013 on the above document which was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 1 July 2013.

We are pleased to note that the Commission adopted your suggestion to give operators the choice to use national safety authorities where rolling stock would only be used domestically.

We are grateful for the information you provided about the infringement proceedings launched by the Commission against individual Member States for failure to implement previous packages. However, we would appreciate further information on what the outcome of some of the cases was, for example, were fines imposed on Member States, did Member States introduce national legislation to comply with the packages, etc.

We also wish to express our thanks to your officials, including Ms Clare Moriarty, Director General, Rail Group, who appeared before the Committee on 24 June to discuss in general terms the Fourth Railway Package and other transport issues which the Committee is scrutinising.

We retain the document under scrutiny, and look forward to receiving further updates in due course.

3 July 2013

Letter from the Rt. Hon. Simon Burns MP to the Chairman

I am writing to bring your Committee up to date with progress on this package and to request a scrutiny waiver for the proposed recast Railway Safety Directive (6014/13) in advance of an expected General Approach at the forthcoming Transport Council on 10 October.

The recast Railway Safety Directive is the second element of the package to be taken forward following the General Approach reached on the recast Railway Interoperability Directive at Transport Council on 10 June. Your letter to me of 7 June 2013 on that proposal indicated the Committee’s conclusion that the idea of transferring powers to the European Railway Agency (“ERA”) in respect of the issue of interoperability authorisations did not offend the principle of subsidiarity given that “…the overview of a central body would seem to be necessary to address the barriers identified by the Commission to a liberalised rail service.”

As you may recall from the Explanatory Memorandum on this proposal, we wanted to consider the proposed revisions to the roles and responsibilities of key actors, and in particular, the justification for the extension of powers for ERA to issue single safety certificates and how this would support the Commission’s market opening objectives.

Following further consideration of the proposals, the position we have taken is to argue that the European Union should build on processes that already work well, and where appropriate, modify these to recognise changes such as the introduction of the single safety certificate.

Working group discussions on the recast Railway Safety Directive began in late June and resumed on 3 September with a final meeting on 24 September. This was followed with circulation, by the Lithuanian Presidency, of a compromise text which was accepted by Member States in a further discussion on 2 October and will be presented as a General Approach text by the Presidency at the forthcoming Transport Council. Only one Member State continues to maintain serious reservations about the text.
During these negotiations, the UK has successfully supported a similar “choice” approach for the issue of the single safety certificate to the one agreed in the General Approach to the recast Railway Interoperability Directive. In summary, this approach would offer railway undertakings a choice as to whether to seek a safety certificate from the relevant national safety authority (“NSA”) (the Office of Rail Regulation for Great Britain) or from ERA for solely domestic operations with ERA being the sole issuing authority for safety certificates covering cross-border operations. We recognise that there are benefits in using ERA for cross-border operations so that an applicant receives a one-stop-shop service rather than dealing direct with several NSAs as at present.

This is a significant change from the Commission’s original proposals, in which ERA was to become the issuing authority for all safety certificates, and would deliver consistency of application across the interoperability and safety regimes.

A major proportion of the working group meetings have been taken up with consideration of this issue. A number of Member States indicated concern about ERA’s involvement and the potential for breaking the iterative link between the issue of the safety certificate and post-award supervision (which is undertaken by NSAs). An alternative model for cross-border operations, where a “Lead NSA” would accept applications and issue certificates after co-ordinating with other NSAs in the proposed area of operation, was discussed. Although that alternative model was not accepted, a compromise was agreed including the insertion of a new article on post-award supervision into the Directive. Amongst other measures, this is designed to clarify the powers of NSAs and ERA should restrictions or revocation be considered and provides a right of appeal to the applicant.

The sector has consistently indicated its support for the choice model and has gone as far as issuing a joint press release in advance of Transport Council to reinforce its preference.

Following consideration of the proposals by National Investigation Bodies (“NIBs”), the UK also suggested amendments to Chapter V of the Directive (Accident & Incident Investigation). We see these as vital to ensure the continued independence of NIBs given developments elsewhere as well as supporting the ability of NIBs to investigate ERA, where appropriate, when it becomes an issuing authority in future.

I am pleased to report that these amendments were supported by many Member States, as were further revisions to Chapter V suggested by the UK to bring the text into line with amendments recently agreed on similar provisions in relation to air and maritime accident investigation. These are aimed primarily at providing additional clarity and transparency following operational experience.

The choice approach and other amendments noted above have been incorporated into the General Approach text which the Lithuanian Presidency will be presenting to Transport Council on 10 October. I fully support the proposed General Approach text and believe this represents a significantly improvement over the original draft which will streamline existing procedures, minimising additional costs and burdens on the sector, whilst also addressing the key issues identified in the Commission’s impact assessment.

Since the majority of the working group discussions on the proposals took place during recess and after the Committee’s meeting on 4 September, it was unfortunately not possible to provide the Committee with a substantive update on negotiations at an earlier date. I appreciate that the Committee will not be formally meeting until after the Transport Council, but would be grateful if the Committee, or the Chairman on behalf of the Committee, could consider granting a scrutiny waiver ahead of the General Approach that the Presidency are seeking at the Transport Council on 10 October.

I will inform the Committee of the outcome of the Transport Council meeting in due course and will of course continue to keep the Committee informed of progress on this dossier and the rest of the Fourth Railway Package.

3 October 2013

FUND FOR EUROPEAN AID TO THE MOST DEPRIVED (15865/12)

Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

I am writing with an update on negotiations on this proposal which your committee has retained under scrutiny.

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During the Irish Presidency and the early stages of the Lithuanian Presidency, discussion in Council working group has focused on clarifying the European Commission’s proposal, and on three main issues: whether the Fund for European Aid to the Most Deprived (‘the Fund’) should be mandatory or voluntary; the scope of the Fund; and allocations to Member States.

The European Commission clarified two points which had not been fully understood by some Member States. First, on the scope of the proposal, a Member State would be able to use the Fund to support food aid for the most deprived people, and/or basic consumer goods for homeless people, and/or basic consumer goods for children. Second, on the budget, the allocation that a Member State receives would not be additional funding, but would be taken from its structural funds allocation (therefore a Member State’s structural fund allocation would be reduced by the amount it receives from the Fund).

The UK and likeminded Member States challenged whether the proposal is consistent with subsidiarity and whether it should be obligatory for all Member States to participate in the Fund. Under the Irish Presidency we explored two ways of making participation in the Fund voluntary. The first would have given Member States the option to retain their allocations within their structural funds programmes instead of supporting food aid or basic consumer goods. The second would have divided the Fund’s budget among Member States who opted to participate in the Fund (without reducing the structural funds allocations of Member States which did not participate). There was no consensus among Member States on either of these, and both were opposed by the European Commission. The most recent discussions indicate there is a qualified majority for a mandatory Fund, and the Lithuanian Presidency is taking forward negotiations on this basis.

On the scope of the Fund, the main issue has been whether it should be made more flexible so that a Member State could use the Fund to support social inclusion measures for the most deprived rather than food aid or consumer goods. This would enable a Member State to align the Fund with the delivery of social inclusion measures under the European Social Fund, and use it to address the causes rather than the symptoms of poverty. The most recent discussions have indicated considerable support among Member States for broadening the scope of the Fund, and the Lithuanian Presidency plans to consider this further in September. The UK has supported broadening the scope if the Fund is to be mandatory. The Commission has indicated that it is willing to consider broadening the scope.

On allocations, Member States have pressed the Commission for information on how allocations would be made to Member States on the basis of Article 6 of the Commission’s proposal. This information was not forthcoming until the end of July when the Commission produced a simulation based on the two indicators at paragraph 3 of Article 6 (i.e. the population suffering from severe material deprivation; and the population living in households with very low work intensity). The simulation also capped allocations at 2% of a Member State’s structural and cohesion funds allocation, so that no Member State would see a disproportionate reduction in its allocation. The simulation was based on an EU budget of €2.5 billion over seven years from 2014-2020 and produced a UK allocation of €205.7 million over seven years following the application of the cap. The Commission also produced a second simulation which incorporated an additional indicator on the number of people at risk of poverty after social transfers. This produced a UK allocation of €158.1 million. There will be further discussion of the allocations methodology in September. Because of the impact on our structural funds allocation, the UK will support adjustments to the methodology which reduce the UK allocation from the Fund.

Within the Multi-annual Financial Framework for 2014-2020 it has been agreed that the budget for the Fund will be €2.5 billion, with the option to increase this by up to €1 billion if individual Member States wish to allocate more of their structural funds to the Fund. Therefore once the Commission has allocated the €2.5 billion among all Member States, each Member State will have the option to receive a share of the additional €1 billion (on the basis that this will then be taken from its structural funds allocation). The UK does not intend to seek a share of the additional €1 billion. The methodology for allocating the additional €1 billion will also be discussed in September.

The European Parliament has not completed its first reading of the proposal, but adopted amendments to the proposal in plenary on 12 June 2013. The European Parliament supported a mandatory Fund and rejected amendments that would have made the Fund voluntary. The main thrust of its amendments is to give the Fund a stronger focus on food aid, and to give partner organisations a greater role in the Fund. At an initial discussion of the European Parliament’s amendments in Council working group in July, Member States expressed concerns that they would increase administrative burdens and introduce greater prescription. The European Parliament would like the Fund to have a bigger budget and so supports the option to increase the budget of the Fund by up to €1 billion.
The Lithuanian Presidency plans to have further discussions on the proposal in working group and COREPER, and to produce a compromise text, in September. Subject to the progress of these discussions, it will seek agreement to a general approach at the Employment and Social Policy Council on 15 October 2013. I will write with a further update before the Council.

We have not conducted a consultation on the proposal as our focus has been on challenging the principle of the Fund and seeking to make it voluntary. We do not wish to raise expectations about how much money will be available from the Fund, or what it could be spent on. If the scope is broadened to include social inclusion measures, then it might be appropriate to consider delivering it alongside the European Social Fund, in which case Local Enterprise Partnerships and their partners could have a role in identifying local needs and priorities.

We remain concerned about the administrative burden of delivering the Fund, even if European Social Fund systems were used, although this would depend on the scope of the Fund. European Social Fund systems have been set up to procure and deliver employment, training and social inclusion provision. If the scope were limited to the distribution of food and basic consumer goods, our initial assessment is that this would require different processes which could involve additional administrative burdens particularly in relation to the evidence that would be required from delivery organisations to support claims for reimbursement of costs.

29 August 2013

Letter from Mark Hoban MP to the Chairman

I am writing with an update on negotiations on this proposal which your committee has retained under scrutiny.

Since Mark Hoban wrote to you on 29 August, the proposal has been discussed three times in working group, and the Presidency presented a compromise text to COREPER on 4 October. The Presidency’s text confirms that the Fund will be mandatory for all Member States. It also makes the Fund more flexible in terms of its scope and Member State allocations.

The text incorporates the proposal made by the UK and likeminded Member States to broaden the scope of the Fund to support social inclusion activities. A Member State will be able to choose whether to use the Fund to support social inclusion activities or material assistance (food aid and consumer goods) or a combination of both social inclusion and material assistance. To allow the Fund to support social inclusion activities, there have been changes to the articles on programming, monitoring, evaluation, information and communication to reflect the addition of social inclusion activities to the Fund. These changes are drawn from the common provisions regulation governing the EU structural and investment funds, so there is consistency with the rules applied to social inclusion activity under the European Social Fund.

As Mark Hoban explained in his letter, the allocation that a Member State receives from the Fund is not additional funding, but will be taken from its structural funds allocation. The UK supported adjustments to the allocation methodology which reduce the UK’s share and therefore the amount that will need to be top-sliced from the UK’s structural fund allocation. These adjustments include a minimum amount of €3.5 million that will be allocated to each Member State. A Member State has the option to reduce its allocation to no lower than this minimum amount. The UK has decided to use this flexibility and has indicated it would like only the minimum amount of €3.5 million. At this point, some other Member States have still to indicate their desired allocation. However it is clear that the total of all Member States’ allocations will be above the lower limit of €2.5 billion in the 2014-2020 Multi-annual Financial Framework and may reach the upper limit of €3.5 billion. The seven-year allocation for each Member State will be set out in an annex to the regulation establishing the Fund.

At COREPER on 4 October, the Presidency concluded that it had sufficient support for its text to pursue informal negotiations with the European Parliament with a view to reaching a first reading agreement. The UK welcomed the more flexible approach to the scope of the Fund and allocations, but reaffirmed its concerns that the Fund was inconsistent with the principle of subsidiarity and that there was no need for the Fund in all Member States. The UK maintained its general and parliamentary scrutiny reserves.

The Presidency plans to have its first discussion with the European Parliament on 16 October. The Presidency is no longer seeking a general approach on the proposal at the Employment and Social Policy Council on 15 October.
I will provide a further update when progress has been made in discussions between the Presidency and European Parliament, and before the proposal goes to Council.

10 October 2013

**Letter from the Chairman to Mark Hoban MP**

Thank you for your letter of 10 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 October 2013.

We are most grateful to you and your predecessor Mark Hoban MP for his thorough updates on the progress of negotiations on this proposal.

With regard to your letter on 10 October, we welcome the policy improvements to the proposal which you have helped to negotiate. However, we feel that our objections to the proposal on the grounds of subsidiarity are still valid, and we have decided to retain the document under scrutiny.

We would be grateful to receive a further update from you on the progress of negotiations in due course.

23 October 2013

**HIGH SPEED ELECTRONIC COMMUNICATIONS NETWORKS (7999/13)**

**Letter from the Chairman to Ed Vaizey MP, Minister for Culture, Communications and Creative Industries**

Thank you for your explanatory memorandum of the 22 April on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013 and the Committee decided to hold the document under scrutiny.

As drafted, the proposal appears to address the aims of reducing the cost and enhancing the efficiency of deploying high-speed electronic communications infrastructure. Through encouraging infrastructure sharing and co-deployment, as well as instituting a central information/permit allocation point, the Commission appears to address the aim of lowering the barriers to entry for new network operators. Similarly, the provision for high-speed broadband facilities to be built-in to new or newly renovated buildings seems to fulfil the objective of making the rollout easier and less costly in the future – since the Commission state that making such provisions retroactively is more expensive.

However, while we accept the spirit of the proposal, like you, we were concerned about the use of a Regulation to implement the measures, as opposed to a Directive which would constitute a somewhat lighter touch legal instrument. A notable omission from the Commission’s explanatory note is the issue of why a Regulation was deemed a better option than a Directive. In light of the Commission’s undertaking that the proposal should allow leeway for Member States, a Directive would seem to be a better option, enabling Member States to implement the measures through national legislation, rather than being directly bound by EU legislation. We believe that the Commission has not explained adequately the additional benefits gleaned from a Regulation, as opposed to a Directive, which would also enable minimum rules and standards across the EU. We have therefore written to the Commission outlining this, and attach our letter to the Commission for your reference.

We note your concerns on the detail of the Regulation and the administrative and financial burdens imposed on Member States and other stakeholders such as network operators. We share these concerns, and urge you to push for further information on the expected financial costs to all parties, during negotiations with the Commission. We also ask whether you feel that the proposed measures are feasible from an administrative perspective, and ask what understanding you have at this stage of how a single contact point and single information point would be implemented. Further, we also acknowledge that ‘superfast broadband’ can refer to increased bandwidth as well as speed, and would welcome further detail on what is envisaged in this sense, since this should be taken into account as part of the Commission’s infrastructure planning.

We also observe your concern regarding the absence of competition considerations from the list of grounds on which telecoms companies may refuse to make their passive infrastructure available on request. We understand your argument that this may have an adverse effect on the competitiveness of small telecoms providers. However, we note that the Communication describes the reasons for refused access as “indicative reasons where the refusal to grant access may be deemed reasonable”,

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which suggests there may be flexibility as to the reasons for refused access. We suggest that you may wish to clarify this point with the Commission to establish whether competitive disadvantage is, in actual fact, ruled out as a criterion.

I look forward to a response within 10 working days.

20 May 2013

Letter from Ed Vaizey MP to the Chairman

Thank you for your letter of 20 May, in response to my Explanatory Memorandum of 22 April, on the European Commission’s proposal.

It is clear that the Government and your Committee share both support for the Commission’s overall objectives and concerns about the detail and costs of the proposal and the Commission’s choice of legislative instrument. This also reflects the views expressed by the House of Commons European Scrutiny Committee, both in the General Committee debate of 20 May and its Reasoned Opinion of 22 May.

It is worth reiterating that the Government backs the Commission’s plans to support superfast broadband rollout, lower the cost of deployment and work towards the Digital Agenda Europe’s 2020 targets – indeed, we are already taking forward a number of the measures proposed. The Government also welcomes the extensive work taking place under Commissioner Kroes to champion broadband as an essential tool to support growth. However, as I set out in my Explanatory Memorandum, we are concerned about the possible effects of the Regulation in its current form, particularly the likelihood of increased burdens on business and the state and the slowing of investment in infrastructure. We also share your and the Commons Committee’s concerns about subsidiarity and proportionality, and feel that a Regulation is not the most appropriate legal instrument to achieve the Commission’s overall goals.

I will address the points you raised in your letter of 20 May. First, you note the Commission’s decision to opt for a Regulation rather than a Directive, and your view that “the Commission has not explained adequately the additional benefits gleaned from a Regulation”. We agree that a lighter touch legal instrument is the more appropriate method to implement the Commission’s proposed measures. Many of the areas which would be affected by the proposal are governed by different regimes in different Member States: the UK wayleaves regimes governing access by utilities to private land, for example, are different from those in mainland Europe, while different Member States’ current treatment of infrastructure sharing varies depending on the way they have implemented Article 12 of the EU Framework Directive. We believe that a flexible approach, taking into account circumstances and regulatory regimes at national level, is more appropriate than a Regulation, and would wish to see these measures implemented via a Directive or, preferably, a Recommendation.

We also agree with you that the Commission has not done enough to demonstrate the benefits of a Regulation as opposed to a Directive: while the impact assessment does briefly state in section 4.3 why it feels “the measures can be best enacted through a Regulation” and outlines a number of explanations, it focuses far more on the costs and benefits of different approaches – for example ‘business as usual’ versus ‘enable efficiency gains’ – rather than the different legal instruments available to implement them.

Secondly, you mention concerns about the possible burdens on Member States and business. We share these concerns, particularly the lack of detail in the impact assessment; while it provides extensive data on the anticipated benefits, the Commission states that “it is difficult, if not impossible, to make an overall quantification of the implementation and administrative costs to be sustained for the entire EU”. However, we feel that these costs could be substantial: in the study accompanying the impact assessment (Annex IV part i) [not printed], for example, the cost of surveying just BT’s local access infrastructure is estimated at €495 million. Given this represents just one part of one utility sector (the information point would cover all network operators, not just telecoms), it is likely that the burdens on the state and business could be considerable. We are continuing to press the Commission for more detail in this area.

Thirdly, you ask about the feasibility of administering the measures. We have not yet had a chance to discuss the detail behind the Commission’s proposed Regulation, and this will be something we look to explore in the forthcoming Council Working Groups. It is likely that the single contact point and information point would incur start-up costs and, significantly, ongoing ‘business as usual’ costs, for example through the need to keep the infrastructure database up to date. Similarly, we feel the administration of the dispute resolution body (Article 3.4) would require the establishment of a new body or significant bolstering of the expertise within an existing body like Ofcom. While these
measures could feasibly be implemented, they would represent a significant cost to the state and extra layers of bureaucracy for the telecommunications sector.

Fourthly, you touch on the definition of superfast broadband. This has, in essence, already been taken into account by the Commission’s proposals, as the suggested measures to support infrastructure deployment would in all likelihood allow increased speeds and bandwidths.

Finally, you consider whether the proposed Regulation has the flexibility to take into account competition issues when judging access request refusals. We agree that, as drafted, there could potentially be some flexibility, but also feel that the Articles themselves as they stand leave open a real risk that competition issues are considered out of scope. We are concerned that, for example, moves by providers with significant market power to access the infrastructure of small companies could lead to some small savings but would have an adverse overall effect on competition. We would also like to understand the Commission’s view of the relationship between this measure and Article 12 of the Framework Directive, which includes a proportionality test as part of consideration a National Regulatory Authority must give to a request to share infrastructure.

The UK broadband market is one of the most competitive in the world, and we are keen to keep it that way. We will take your suggestion as one of the areas to clarify when the proposal is considered in Council Working Groups.

4 June 2013

Letter from the Chairman to Ed Vaizey MP

Thank you for your letter of the 4 June on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 June 2013 and the Committee decided to retain the document under scrutiny.

We were grateful for the information in your letter, and are reassured that you share many of our concerns, particularly those related to the use of a Regulation rather than a Directive. However, we note that on the issue of the possible burdens that the measure may impose on Member States and businesses, and the feasibly of administering the measures, negotiations are at an early stage and much more information is needed from the Commission in order to enable proper scrutiny of the Directive.

We ask that you keep us updated as negotiations progress.

No response to this letter is necessary.

26 June 2013

HORIZON 2020 (17932/11, 17933/11, 17934/11, 17935/11, 17936/11, 18100/11, 18101/11), EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (18090/11, 18091/11)

Letter from Rt. Hon. David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman

I am writing to update you on developments in negotiations on the above texts, for which Partial General Approaches (PGAs) were agreed at the May, October and December Competitiveness Councils last year (your letters of 24 July and 11 October refer). In particular, I expect negotiations to proceed at a rapid pace in the coming weeks and I am therefore requesting clearance of the above items from scrutiny where necessary.

Since I last wrote to you, negotiations have focused on seeking to reconcile the original Commission proposals, the Council PGA texts and amendments proposed by the European Parliament. These negotiations are now picking up speed, and, while it is impossible to be certain yet about the precise timing of decisions, they appear to be entering a decisive phase. In particular, the Irish Presidency has recently signalled its intention of reaching political agreement on a compromise text by the end of June.

There have been a number of informal “trilogue” and technical meetings between the Council (represented by the Irish Presidency), the European Parliament and the Commission. These discussions have revealed a large degree of consensus on the more technical content of the proposed legislation. There is, however, no agreement yet on a number of specific amendments which the European Parliament is seeking to secure. The most significant of these are as follows:
a) An additional element in the “Excellent Science” pillar entitled “Spreading Excellence and Widening Participation”; this would include various actions currently placed elsewhere in the proposals which seek to enhance the ability of researchers and institutions in less research intensive areas in Europe to participate in Horizon 2020;

b) A new Challenge entitled “Science with and for Society: a cross-cutting challenge” in the Societal Challenges pillar;

c) In the Industrial Leadership pillar, replacing the activity line on mainstreaming SME support, with a dedicated SME Instrument which would have a single management structure, an earmarked budget of 4.5% of Horizon 2020, and be managed through bottom-up calls independent from the other objectives in Horizon 2020;

d) In the Societal Challenges pillar, a new activity lines and sub-lines within the various challenges, as well as changes to the budget distribution originally proposed by the Commission;

e) In the Rules for Participation, the inclusion of a “full cost” model and the introduction of differentiated funding rates for different categories of participants;

f) The inclusion of a new instrument called Fast-Track to Innovation in both the Framework Regulation and the Rules for Participation; this would, inter alia, involve open calls, a shorter time to grant and small consortia;

g) In the European Institute of Innovation and Technology (EIT), combining the two “waves” of new Knowledge and Innovation Communities (KICs) into one at the beginning of the programme, with a dedicated budget line.

While respecting as far as possible the PGA text, the Government’s view is that Council should be prepared to signal a degree of flexibility towards the European Parliament on the majority of the above amendments, especially where they relate to adjustments to the ‘architecture’ of the programme rather than its content (points (a) and(b)).

On point (c), the Government could support a modest increase in the earmarked budget for SMEs. On point (d), the Government would oppose the significant reductions proposed to the health and transport budgets in particular (which are areas of considerable UK strength). On point (e), the Government recognises the case for introducing a “full cost” option, however we need to balance this with the imperative of securing a much simpler administrative system for participants (which the “flat rate” model offers). On point (f), the Government remains unconvinced of the need to introduce a new instrument, bearing in mind that the whole Horizon 2020 programme should reduce administrative delays experienced in previous programmes. However, the Government proposes to be open to the possibility of introducing elements of the Parliament’s amendments, for example in relation to open calls and shorter time to grant within the SME instrument scheme. On point (g), the Government believes it should be possible to accommodate the Parliament’s preference for a dedicated budget line for EIT but would prefer to adhere to the PGA text on the two “waves” which would likely be easier for the EIT to handle administratively.

We share the Presidency’s desire to secure agreement on first reading, thereby ensuring that the programme, which is of considerable importance to UK universities, businesses and other research organisations, can start on time with no interruption in funding. Our agreement to any package would however depend on the legislative texts delivering on our overriding objectives which I have described in my previous letters to the committee: a programme which focuses on excellence and administrative simplification for participants.

As far as the Horizon 2020 budget and its distribution are concerned, any decisions remain subject to an overall settlement of the Multi-Annual Financial Framework (MFF) which is satisfactory to the UK. As I have explained previously, the PGAs agreed by the Council on the main Horizon 2020 regulation did not include any budget elements. The Presidency is suggesting a broadly pro rata reduction to the figures in the original Commission proposal of €80bn, in order to fit within the reduced Horizon 2020 budget of some €70bn which emerged from the MFF settlement at the February European Council (which would still represent a real increase relative to 2013 spend). Negotiations on the budget distribution in Council Working Group have recently begun; our priority is to seek to maintain the overall percentage distribution between the three main pillars of the programme (excellent science, industrial leadership and societal challenges) in line with the Commission proposals, as these reflect well the UK’s strong and broad-based research strengths. Within each pillar, the UK will seek to
protect budget allocations for individual priority areas, which include the European Research Council, new technologies (including aeronautics, energy) which will be key to future growth and support to SMEs. On the other hand, the Government considers that the scale of the proposed very large budget increase for the EIT is unjustified and will seek to scale this back.

In addition, the European Parliament has tabled a number of amendments to the percentage distribution of funding proposed by the Commission. While the Government is open to the proposal to earmark limited budgets for actions aimed at “widening participation” and “science for/with society”, we oppose the substantial reductions proposed for the Health and Transport challenges in the Societal Challenges pillar.

As noted above, the Irish Presidency is seeking to reach agreement on a compromise package by the end of June. They plan to use a discussion at the next Competitiveness Council on 30 May to secure a clear steer from Council on the key outstanding issues, and it is likely that trilogue discussions will move rapidly after that. I am encouraged by the sense of urgency being shown by the Presidency. It is in the UK’s national interest that negotiations conclude in a timely manner such that Horizon 2020 may be launched in a timely fashion. With this in mind, I hope that the committee can clear the above items from scrutiny where necessary.

19 May 2013

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

Thank you for your letter of the 19 May 2013 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 3 June 2013 and the Committee decided to clear the documents from scrutiny.

The Committee has clearly outlined its views on the Horizon 2020 dossier in its recent report, entitled The Effectiveness of EU Research and Innovation Proposals, which outlines our concerns on aspects of the dossier. We would encourage you to take these views into account as discussions move forward, and keep us updated as negotiations progress.

We are pleased that negotiations are moving at a good pace, and that you have made significant strategic gains and are largely content with the proposed text. We also welcome many of the amendments made by the European Parliament, which align with the recommendations in the Committee’s recent report into EU Research and Innovation proposals. For example, we were pleased to see that the European Parliament has suggested a focus on reducing the time-to grant for SMEs; a move towards flexible funding options for different participants and; an emphasis on a ‘bottom-up’ approach to the ‘dedicated SME instrument’, allowing SMEs more leeway than the set thematic calls for proposals in the main Horizon 2020 programme.

We note that the agreement at the 7-8 February Council would decrease the budget for the Multiannual Financial Framework. Therefore, we wish to reiterate the view expressed in our recent report, that you should push for the Horizon 2020 budget to be increased or at least maintained, in order for the EU to remain internationally competitive in Research and Innovation.

We were very concerned with the European Parliament’s proposed amendment, introducing an additional element to the ‘excellent science’ pillar. As expressed in our report, we believe that in order to ensure the EU remains a key player in the field of R&I, excellence must be prioritised in Horizon 2020, and any adjustment between the research capacities of Member States should take place outside of Horizon 2020. We seek clarity on whether you have assessed the potential disadvantages of this amendment, in terms of EU competitiveness.

We look forward to an update in due course.

5 June 2013

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

I am writing to update you on negotiations on the above Horizon 2020 legislative texts. In particular, I would like to thank your committee for clearing the first four of the above items from scrutiny (your letter of 5 June 2013 refers), which allowed the Government to work constructively with the Irish Presidency towards a compromise between the Council and European Parliament (EP).

I am pleased to report that political agreement was reached on a package deal on 25 June 2013, at the final trilogue under the Irish Presidency. This was approved by Coreper on 17 July 2013, following further amendments to the Rules for Participation. I therefore anticipate formal adoption of the
legislative package by both the Council and the EP at first reading in the autumn, subject to further technical discussions with the EP and formal agreement on the wider multiannual financial framework (MFF).

As part of the overall deal, the Council also agreed to make the required modifications to the Partial General Approach (PGA) of the Specific Programme Implementing Horizon 2020 (17935/11), agreed in December 2012, in order to align it with the amendments made to the Framework Regulation. In addition, we will be looking to introduce an additional Annex enshrining the list of 14 programme committee configurations which will provide Member State oversight in the implementation of Horizon 2020, as well as pushing to reduce the maximum allowance for the Commission’s administrative expenditure from the 6% of the budget currently in the text. I expect negotiations on these remaining aspects to progress rapidly in the autumn, and I am therefore also requesting that your Committee clear the Specific Programme text from scrutiny.

The compromise package represents a good result for the UK research and innovation communities, and the UK will be well placed to continue our high levels of participation in the EU framework programme under Horizon 2020. Key elements of the compromise include:

— Minor adjustments from the original Commission proposal on the budget distribution within Horizon 2020 (as percentages of the total), including small increases to the budgets of the Excellent Science pillar and the Energy and Climate Societal Challenges, and slight decreases to the Health and Transport Societal Challenges (but significantly smaller reductions than the European Parliament had sought).

— Repositioning of two activity lines, “Spreading Excellence and Widening Participation” and “Science with and for Society”, to outside of the basic three pillar structure, and with allocated budgets.

— A single, central management structure for the implementation of the SME instrument, which will administer 4% of the total Horizon 2020 budget.

— Retaining the Council’s simplified funding model, with a flat-rate only approach to reimbursing indirect costs, and limiting bonus payments (of up to €8000 per annum) to researchers in non-profit making entities.

— Inclusion of a new “Fast Track to Innovation” pilot activity to be launched in 2015, with a fast time to grant and open calls to fund innovation actions.

— In the European Institute of Innovation and Technology (EIT), five new Knowledge and Innovation Communities (KICs), with pre-determined themes, to be launched in three waves in 2014, 2016 and 2018.

— Inclusion of a new Delegated Act provision, covering certain derogations from the Rules for Participation for new bodies set up under Article 187 TFEU, notably Joint Technology Initiatives (JTs). Horizon 2020 is the first Framework Programme in which the Rules for Participation will apply automatically to every instrument launched under it. The original Commission proposal for the Rules for Participation included provisions for a significant range of flexibility to allow derogations from the Rules for initiatives launched under Article 187 TFEU. As the basic acts establishing these are not subject to co-decision, the EP argued that such a wide-ranging power essentially undermined their powers as co-legislators on the Rules, and insisted on the use of a Delegated Act to authorise derogations for Article 187 initiatives. Following a Council Legal Service opinion, which confirmed that Delegated Acts could be used in this case, the Council (led by the UK, Germany, France and Spain) secured language to clarify and restrict the scope of the Delegated Act. This made clear that such Delegated Acts must respect the legal framework set out in the basic acts establishing each Article 187 initiative, thereby protecting the legislative prerogative of the Council.

The agreement reached is a good outcome for the UK and will allow Horizon 2020 to start on time at the beginning of 2014. The Commission has now scheduled informal meetings of ‘shadow’ Horizon 2020 programme committees in the autumn. Composed of experts from the Member States, these
will discuss the first draft work programmes in preparation for launching the first calls for proposals towards the end of this year.

Negotiations in the autumn will focus on the EURATOM legislative text and the recently published legislative proposals for Article 185 Joint Programmes and Article 187 initiatives (including the JTIs). These will be funded partly from Horizon 2020 and be the subject of separate Explanatory Memoranda.

I therefore expect negotiations on the basic Horizon 2020 legislative texts to formally conclude in the autumn, and hope that the committee will be able to clear the Specific Programme from scrutiny to allow the UK to signal its agreement to the Horizon 2020 package.

30 July 2013

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

Thank you for your letter of 30 July on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 September 2013.

We are pleased to note that negotiations are coming to a close on this important proposal, and that the UK will be well placed to continue to participate fully in the EU framework programme under Horizon 2020. We hope that the proposed text will encourage greater participation from SMEs and UK businesses.

In our letter of 5 July, we were content to clear the main Horizon 2020 proposal from scrutiny, and are glad that this enabled you to continue negotiations on the dossier. We understand that the above proposal deals with the technical implementation of the programme, and that you propose to modify the draft text of the proposal to align with the main Horizon 2020 text which was cleared by us on 3 June and agreed at the 25 June trilogue.

We are therefore content to clear the document from scrutiny and look forward to a response by 30 September, in observation of the recess period.

12 September 2013

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

I would like to thank your committee for clearing the above item from scrutiny (your letter of 12 September 2013 refers). This will allow the UK to support the compromise package reached with the European Parliament, and permit a timely launch of Horizon 2020 at the beginning of 2014.

I can confirm that the Lithuanian Presidency intends to seek agreement in the next few weeks to a number of amendments to the legal text of the Specific Programme, which are required to align it with the compromise agreed with the European Parliament on the Horizon 2020 Framework Regulation. I will write again to the committee with an update on the progress of negotiations in the coming weeks.

25 September 2013

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

I am writing to seek clearance for the above text, which is the last part of the Horizon 2020 legislative package on which scrutiny is still outstanding.

I am conscious that it is a very long time since I last wrote about this text; the last correspondence about it dating back to the launch of the legislative process in November 2011 and your Committee’s reply in January 2012. This reflects the fact that the Euratom text was largely left to one side until after the main legal texts were agreed between the Council and the European Parliament in June of this year. Since then the Lithuanian Presidency have been pressing forward with negotiations; these have now reached agreement in the Council Working Group and the text is expected to go to COREPER on 20 November and to Council for formal adoption shortly afterwards. There have been no substantive changes to the original proposals as far as the content of the legislation is concerned and the Government is content that the proposals are in line with UK priorities in this area.

The main reason that these proposals were held under scrutiny concerned the treatment of the budget for the International Thermonuclear Experimental Reactor (ITER) project. When they were
first put forward, the Commission was also proposing to take the funding for ITER out of the overall EU budget. This was clearly unacceptable to the UK, as well as to many other Member States. The Multi-Annual Financial Framework agreed at the European Council in February of this year clearly put ITER back “on budget” and legislation relating to ITER is now under consideration; your Committee has been examining this separately.

Accordingly I would request that your committee release this dossier from scrutiny so that the UK can agree it when it is brought forward for formal adoption at a future Council as part of the Horizon 2020 package.

13 November 2013

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

Thank you for your letter of 13 November 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 25 November 2013.

The Committee last considered ITER on the 21 October, and is content with the movement on this dossier.

Since the Committee is content with the other aspects of the Horizon 2020 proposal, it decided to clear the document from scrutiny.

27 November 2013

IMPLEMENTATION AND EXPLOITATION OF EUROPEAN SATELLITE NAVIGATION SYSTEMS (17844/11)

Letter from the Rt. Hon. David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman

I would like to offer you an update on the above document given the recent agreement on a compromise between the European Parliament's wishes and the positions of the Council and the Commission.

The Council reached a partial general approach in June last year although you will recall that the UK abstained from supporting that text and made a formal statement to preserve our ability to reopen the text should the budget for Galileo become incompatible with the scope of the programme prescribed by the regulation. We were conscious that we did not want the text of the regulation to drive the budget. I am pleased to say that this did not happen. The European Council agreement reached in February reduced the proposed budget for Galileo and EGNOS from €7bn at 2011 prices to €6.3bn and the Commission is now working to align the programme to this reduced budget. They have said that the objectives set out in the regulation for the programmes can still be delivered.

The European Parliament still needs to give its consent to the next Multiannual Financial Framework. However, budgetary restraint remains the top priority for the Government.

The European Parliament's proposals for the Galileo Regulation matched many of the elements set out in the Council’s partial general approach such as improving the clarity of roles and responsibilities between the Commission, European Space Agency and the EU’s GNSS Agency (GSA) based in Prague. They also introduced a number of helpful clarifications that we could support such as including a split of the budget to different phases of the programme in order to provide better transparency for expenditure.

The European Parliament insisted on the provision of a budget within the Regulation to maximise the benefits of the programmes in terms of downstream use. The compromise text includes a budget for this activity but makes it explicit that it is capped, focused on the development Galileo chipsets and receivers and that the first priority is to complete the Galileo system itself.

The Committee has raised concerns about the readiness of the GSA to adopt its new role and it is something that the UK continues to stress and challenge in different programme meetings. An expansion of the GSA is planned, partially offset by a cut in Commission staff numbers, to take account of its expanded remit.

Member State influence was another area of concern for the Committee and here I am pleased that the compromise text agreed last month provides for greater oversight by Member States of the
security of the systems than the Commission proposed. The new Regulation will give the Member States more influence over the management of the programme than is the case under the current regulation.

The Committee may be interested to know that ESA is testing the initial phase of the Galileo system based on the 4 test satellites now in orbit. The testing is going well and the performance of the system reported by independent companies is extremely good and comparable to the best systems in the world.

11 June 2013

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

Thank you for your letter of the 11 June 2013 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 June 2013.

We are grateful for your update on the progress of negotiations. We welcome the progress made in keeping the budget to a realistic level and in strengthening the oversight of Member States over the programme.

We look forward to further updates in due course.

26 June 2013

IMPLEMENTATION OF THE SINGLE EUROPEAN SKY (11490/13, 11501/13), AERODROMES, AIR TRAFFIC MANAGEMENT AND AIR NAVIGATION SERVICES (11496/13)

Letter from the Chairman to the Rt. Hon. Simon Burns MP, Minister of State, Department for Transport

Thank you for your explanatory memorandum of 3 July on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 29 July 2013 and the Committee decided to retain the documents under scrutiny.

We believe that the importance of the Single European Sky (SES) project should be to enhance safety and efficiency in the area of European Air Traffic Management (ATM), and ask whether you believe that this proposal impinges of any aspect of these two key considerations. We note that the proposals are at a very early stage of negotiation, and that you intend to ask for clarification by the Commission on aspects such as the issues of legal competence in relation to extending the SES outside of Europe but also within the International Civil Aviation Organisation North Atlantic region, and on the definition of the boundaries between core and non-core ATS services. We would be grateful for further information on the areas for clarification outlined in the EM, to enable us to assess the proposal in an informed way. Specifically, we observe that you are still considering the appropriateness of the delegated acts in the proposals, ask for greater information on their potential impact when it is available, as well as confirmation as to which stakeholders you are consulting on this.

We agree on the importance of consulting stakeholder groups, in order to ensure a fit-for purpose SES. It is pleasing to see that you are informally consulting the European Airspace Policy Committee (EAPC) and the Air Traffic Management Forum. However, we are very surprised that there has been no formal consultation on this proposal. We note your view that the opinions of key stakeholders are already well known as a result of consultations on previous SES proposals, and that these proposals do not intend to make fundamental changes. Nevertheless, the European Transport Workers Federation (ETF) have opposed both existing aspects of the SES project, and amendments brought in by these proposals. In light of this and the strenuous opposition from air traffic controller federations, we are concerned that you have not fully considered the benefits of a more transparent and formal approach to consultation on these proposals.

Furthermore, given that the one of the fundamental goals of the SES project is to reduce delays and increase safety, we ask whether you have consulted passenger organisations and pilots’ representatives such as the British Airline Pilots Association (BALPA) on the proposals.

We note that the proposals will be the subject of an informal Transport Council planned for 16 September 2013, and in view of the recess period, we would be content with a response within 10 working days of the 16 September Council.
Letter from the Rt. Hon. Simon Burns to the Chairman

In your letter of 31 July on the above proposals you asked for an update following my attendance at the Lithuanian Presidency’s Informal Transport Council on the Single European Sky held in Vilnius on 16 September 2013.

The Informal Transport Council opened with a welcoming address by the Minister of Transport and Communications of Lithuania and an outline of the Commission’s proposals by Siim Kallas, Vice-President of the European Commission and Commissioner for Mobility and Transport. All the States, including the UK, supported the Single European Sky initiative and recognised the need for making further progress a priority.

However, the vast majority of States said that the SESII+ proposals were too much too soon and that we should not be adding more regulation before the current regulations had had time to deliver: in short, progress should be continued under the current regulatory regime. The Commission did not agree to postpone or drop the proposals, as the majority of States were suggesting.

In his summary Commissioner Kallas stated that it was clear that we all shared the same goal of implementing the Single European Sky but there were a wide variety of views on the methods and tools to be used to achieve implementation. He said that the Commission proposals were ambitious; he noted that they included a number of detailed proposals and commented that the mood of the Council was directed to pragmatic work. He assured all at the meeting that the Commission is ready to discuss all the issues which States had raised.

It is worth noting that all the issues raised in our Explanatory Memorandum, in particular, issues of EU competence extending beyond Europe, separation of core and non-core air traffic services, and the appropriateness of the use of delegated acts, were raised by a number of States during the Council.

The Commission made no substantive response on any of these points. Nor did it provide additional clarification on other areas raised in our Explanatory Memorandum. We shall continue to press on these points and we have every confidence we will be able to engage in the forthcoming discussions on individual and technical issues and influence a positive outcome.

These proposals will continue to be progressed through the Council and the European Parliament. I will of course write again as soon as we have the necessary information requested by both Scrutiny Committees.

Your letter of 31 July 2013 also asked whether this proposal impinges on safety or efficiency. The Single European Sky initiative aims to deliver a seamless, safe, sustainable, cost-effective, high-performing and modern European air traffic management system capable of meeting future capacity needs and not artificially constrained by national borders.

These proposals, in principle, support these aims and we do not consider there is anything, in principle, in the proposals which detract from safety and efficiency.

There is also a balance to be struck between safety and cost efficiency in particular. The current SES regulations were amended in December 2009 to introduce, amongst other things, the European Air Traffic Management Performance Scheme (the Performance Scheme) which sets targets on cost, capacity, safety and environmental performance. We are currently preparing for Reference Period 2 of the Scheme which will run from 1 January 2015 to 31 December 2019.

In preparation for Reference Period 2, officials have been working closely with the independent regulator, the Civil Aviation Authority (CAA), and key stakeholders, including NATS, to ensure that the rules and regulations underpinning the Performance Scheme support the UK model of air navigation service provision and the high standards of service which it delivers through its air traffic controllers and support staff.

The detailed target setting for Reference Period 2 is still ongoing but will result in targets that deliver real benefits to users and the travelling public. Targets to increase capacity or reduce cost that compromised safety would not be acceptable to the UK. Nor would they be acceptable to the European Commission or other Member States. The SESII+ proposals aim to further enhance the Performance Scheme but will not alter the need to consider the interdependence between targets.

Turning to your comment on consultation, I would wish to stress that officials in the Department for Transport formally engage with a wide range of stakeholders and technical experts on an ongoing basis as part of the Implementation of the Single European Sky and this proposal is no different.
The tried and tested route of maintaining an ongoing dialogue by using regular forums to discuss Single European Sky issues with a range of UK stakeholders ensures effective engagement with stakeholders in a proportionate manner, drawing in both general views and the necessary detailed technical expertise.

The forum distribution includes representative organisations for amongst others, pilots, controllers, airlines and General Aviation. All have been given the opportunity to provide comments, general and specific, and all were asked if they wished to partake in a workshop to consider the technical detail of the proposals.

I am pleased to say that those that took up the offer included PCS, Prospect, GAPA, GATCO, LAA as well as individual airlines. BALPA are included in the distribution but did not participate in any way. I am content that a proportionate and effective level of formal consultation has taken place and will continue as we move forward on the negotiation of these proposals.

My officials review the distribution list of the European Air Traffic Management Stakeholder Forum from time to time to ensure it continues to be fit for purpose and always welcome new stakeholders wishing to actively engage in the development of the Single European Sky. If you are aware of any organisations who wish to engage in this important issue then they can contact the Department via tony.rapson@dft.gsi.gov.uk

To date no passenger organisations have engaged in this process, although they would be welcome to do so if they wished. The fact there has been no participation to date may be due to the technical nature of the proposals and a view that the airspace users, primarily the airlines, act, in this case, as a reasonable proxy for travellers. Moreover, the CAA, with its duty to protect the consumer, provides some representation on behalf of this stakeholder group.

I will of course write again to the Committee when we have greater clarity on the issues raised in the Explanatory Memorandum, but this will only be as the work is progressed in the relevant Working Groups and as yet the timetable has not been confirmed.

I am confident that we can achieve positive progress on the Implementation of the Single European Sky and that at least some of its potential to reduce costs and improve the travelling experience of UK passengers throughout Europe will be realised.

27 September 2013

Letter from the Chairman to the Rt. Hon. Simon Burns

Thank you for your letter of 27 September 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 28 October 2013.

First, we would like to congratulate you on your new role at the Department for Transport. We are grateful for Simon Burns’ detailed response in respect of our questions on consultation, and your reassurance that you have consulted widely. With specific reference to the consultation of passengers, we suggest that there may be other avenues of consultation you could explore, beyond the usual forum, which might be less accessible to groups that represent passengers.

We acknowledge that you are unable to provide us with more information on the many other concerns with which you concur, and we welcome your assurance that you will update us on these points, as negotiations progress. We decided to hold the proposal under scrutiny, pending this update.

We look forward to a response in due course.

30 October 2013
Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

I am writing to update you on progress with this Directive ahead of the upcoming vote in the European Parliament, due in the week of 18 November. I am also taking this opportunity to inform you of the contents of Commission Staff Working Document SWD(2013) 278 final which gives advice from Commission Legal Services on the legal basis for the Commission’s proposal.

OVERALL POSITION

As you know, I am strongly committed to securing an increase in the number of women on UK company boards and indeed at senior management level. I therefore support the underlying intention of Commissioner Reding in putting forward this Directive. However I agree with the committee that any measures in this area should be undertaken at national level, taking account of specific national circumstances including business culture, company law and similar factors. Furthermore, the specific proposals being put forward by the Commission run counter to the UK’s voluntary approach and would in my view be counterproductive and have unintended consequences. We have therefore consistently opposed the Directive on grounds of subsidiarity and proportionality, as have a number of like-minded member states.

LEGAL BASE

Some member states and the Council legal service have questioned the legal base for this Directive, which is Article 157(3) of the Treaty on the Functioning of the European Union (TFEU). In summary, they believe that the role of a company director is unique and may not (in some cases) fall within the scope of matters of employment and occupation. It should be noted that the status of directors vis-à-vis the companies on whose board they serve varies considerably from one member state to another – another illustration of the risks inherent in a one-size-fits-all approach.

While we respect the reservations of other member states with different legal systems, the UK position is broadly in line with that put forward by the Commission Legal Services in the attached paper SWD(2013) 278 final [not printed]. Therefore we do not propose to challenge the legal basis of these proposals.

PROVISIONS OF THE DIRECTIVE

The stated objective is that by 2020, women should constitute a minimum of 40% of the non-executive directors, or 33% of all directors, on the boards of all listed companies registered in an EU member state. Small and medium enterprises (SMEs) are exempted. Member States and individual companies could use whatever means they wished to achieve this goal, however in the event that companies did not achieve the target by the set date they would then be required to put in place a transparent selection process for board appointments, based on objective qualifications and open to challenge from unsuccessful candidates. Companies that did not meet the target and did not put these transparent processes in place would face enforcement measures.

A member state may derogate from implementing the Directive if it can show that, in aggregate, the listed companies whose registered offices are in that member state will meet the specified target of 40% or 33% as the case may be. The effect of this derogation clause would be to enable some listed companies to escape the measures specified in the directive, provided that enough other companies exceeded the target to allow it to be met when all board positions were considered in aggregate.

It is important to note that these provisions do not amount to quotas. A company could continue indefinitely without meeting the target – even with an all-male board. So long as it implemented the specified selection procedures, it would not be in breach. While this is a welcome change, I continue to believe that the provisions are ill-advised and would not be helpful in the UK context. I have not ruled out compulsory measures if progress is insufficient, but any such measures would be suited to the UK context – and would of course be subject to Parliamentary scrutiny.
POSITION IN THE EUROPEAN PARLIAMENT

The draft Directive has been under consideration jointly by two European Parliament committees, covering Legal Affairs and Women’s Rights and Gender Equality. Three other committees have reviewed the Directive and produced recommendations; these are the Employment and Social Affairs, the Economic and Monetary Affairs and the Internal Market and Consumer Protection Committees. The lead committees held their final vote on 14 October 2013 and the revised text will be put to a plenary vote in the European Parliament during the week of 18 November.

There is a wide range of views in the Parliament and within political groups. In debate, the draft directive has been criticised as much for not being rigorous enough as for being disproportionate or unwise. MEPs have also drawn attention to the importance of tackling related issues such as the gender pay gap and to the need for the EU’s own institutions to lead by example, both of which I welcome.

The case for voluntary measures has been put effectively and constructively by UK members. Marina Yannakoudakis MEP hosted a well-attended meeting in September with speakers Amanda Mackenzie, a member of Lord Davies’s steering group, Helena Morrissey, founder of the 30% Club and Heather McGregor, executive search consultant and FT Columnist. MEPs and Commission officials have praised the UK’s approach and the evident commitment from UK business leaders and government to improving the gender balance of listed company boards; they are particularly appreciative of the leadership of Lord Davies on this issue.

POSITION IN COUNCIL

In parallel, the draft measures are being considered by member states in Council. We have maintained our principled objections on grounds of proportionality and subsidiarity, while at the same time putting forward amendments to ensure that the derogation provisions mentioned above are effective and to clarify the scope of the directive and the applicable law.

Discussion in Council working groups have highlighted the range and diversity of company law systems and hence the difficulty of devising measures that will make sense across all 28 member states. The key issue is that directors are elected by shareholders to represent them. In some member states the company may not have much influence over the selection process - hence putting an obligation on the company with regard to selection may not be effective. This applies for example to employee representatives in dual board systems.

Our objections on proportionality and subsidiarity are shared by several other member states, some of whom also have concerns over the legal basis of the Directive. For this reason it is difficult to see a compromise position emerging. I am attaching [not printed] to this letter a minute statement tabled at the meeting of employment ministers on 20 June 2013. In addition to the nine signatories, other member states have since associated themselves with the statement.

Officials are keeping in touch with like-minded member states who are united in principled opposition to the Directive – positions that cannot be addressed by drafting changes. It is of course possible that some member states could change their view, not least given the elections that have recently taken place in Germany and the Czech Republic.

Given the fundamental nature of the objections, it is difficult to see how an acceptable compromise can be reached that would lead to agreed legislative measures. Yet we are in agreement with Commissioner Reding on the importance of this issue and the need for political leadership, which she is providing. Hence our preferred outcome remains influencing company behaviours by non legislative means. While this would not be binding, it would allow member states to unite around a strong political statement on this important issue.

9 November 2013

Letter from the Chairman to Jo Swinson MP

Thank you for your letter of 9 November 2013 in response to our Reasoned Opinion on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 25 November 2013. We decided to retain the proposal under scrutiny.

We also note the results of the European Parliament’s plenary vote on 20 November, establishing their first reading position on this legislative proposal. Your letter indicates that a common position in the Council is unlikely to be forthcoming in the near future. We note the position you intend to take in negotiations, and we fully support it given that both Houses of Parliament issued Reasoned
Opinions on the proposal highlighting its lack of respect for the principles of subsidiarity and proportionality.

We would be grateful for further updates as negotiations in the working party proceed, and we would ask what steps you are taking to advocate the UK position in discussions with other Member States, particularly given the recent changes in government in Germany and the Czech Republic mentioned in your letter.

We would be grateful for a reply to this letter within the usual 10 days, and further updates in due course.

27 November 2013

INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR FISHING VESSEL PERSONNEL (13350/13)

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for the explanatory memorandum from your predecessor dated 3 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 October 2013.

We support your intention to seek clarity from the Commission on what aspects of the International Convention on Standards of Training Certification and Watchkeeping for Fishing Vessels, 1995 (STCW(F)) it would like to regulate as part of the Professional Qualifications Directive. However, we note that the proposal is worded in a permissive way and does not direct Member States to sign up to the Convention, and that the Convention itself would not require a reduction in UK safety standards.

When you have received clarification from the Commission about its intentions to regulate parts of the Convention under the Professional Qualifications Directive, we would be grateful to receive an explanation of how your concerns have been addressed. In the meantime, we have decided to hold the document under scrutiny.

23 October 2013

INTERNATIONAL LABOUR ORGANISATION CONVENTION 170 (16760/12)

Letter from the Rt. Hon. Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

Following my letter in February 2013 about the above proposal, I am writing to provide your Committee with further information on the Government’s view on the meaning and implications of the European Commission’s proposed “authorising” of Member States to ratify International Labour Organization Convention 170 on the safe use of chemicals at work. This was something that you requested information on in your letter of 16 January 2013, in which you also informed me that EU Sub-Committee B had released the proposed Decision from scrutiny at its meeting on the 14 January 2013.

My Explanatory Memorandum of 11 December 2012 stated that generally the UK considers that Decisions such as this (authorising Member States to ratify) are not binding and subsequent legal advice confirms that in this instance the proposed Decision is permissive.

We have sought clarification from the Commission about its intentions with respect to the proposal. We understand from the Commission that the reasons for this draft Decision are twofold: firstly to remove possible obstacles to ratification by Member States, in particular by providing Member States with the authority to ratify those parts of the Convention that fall under EU competence and secondly, to provide legal certainty for the five Member States who have already ratified the Convention. The Commission has also confirmed that the measure is permissive. This latter point that there is no obligation to ratify the Convention was made very clear by the Commission at the recent Social Questions Working Party meeting on the 15 April at which the proposed Decision was discussed.
Nevertheless, there remains a slim risk that, in the future, the European Court of Justice (ECJ) could rule that Member states must ratify the ILO Convention, if the Convention is considered to concern an area that is ‘covered in large measure by EU law’. There is one instance of the ECJ holding that Ireland had breached its obligations under EU law by failing to ratify the Berne Convention for the Protection of Literary and Artistic Works. However, the facts of that case are distinguishable from those relating to the ILO Convention. Most significantly, in the Berne Convention case, a specific commitment to adhere to the Berne Convention by a certain date was imposed upon Ireland (and all contracting parties) by way of a Protocol to the Agreement on the European Economic Area (2 May 1992). No such commitment exists regarding the ILO Convention.

Given the above information, I propose that the UK position should be to agree to the Decision, subject to it continuing to use permissive wording which does not oblige or compel Member States to ratify the Convention.

23 May 2013

MARCO POLO (10982/13)

Letter from the Chairman to Stephen Hammond MP, Parliamentary Under- Secretary of State, Department for Transport

Thank you for your explanatory memorandum of 17 June 2013 on the above proposal and Communication. The document was cleared from scrutiny at the sift, and sent to the EU Sub-Committee B on the Internal Market, Infrastructure and Employment for information at its meeting on 8 July 2013.

We note your support for the Commission’s decision not to continue the Marco Polo programme in its current form, and that you will endeavour to ensure that any successor scheme is as effective as possible and provides good value for money. We are also pleased to see this decision from the Commission, as we believe it is important that programmes should be subjected to regular review and should be discontinued if they are not proving successful.

We would be grateful for information about the successes of the Marco Polo programme in the achieving modal shift in transport the UK, if any, and also about the Government’s own plans for moving freight off of roads and on to sea and railways.

Finally, we would be grateful for clarification on the meaning of the last bullet point in paragraph 6 of your explanatory memorandum.

12 July 2013

Letter from Stephen Hammond MP to the Chairman

Thank you for your letter of 12 July in response to my Explanatory Memorandum (EM) of 17 June. You ask for information about the successes of the Marco Polo programme in achieving modal shift in transport in the UK. Unfortunately there are no specific statistics for this. The Marco Polo programme comprises international projects covering more than one country. Since the programme has purely an international dimension, the statistics are collected at a project level, covering relevant logistics chains rather than particular countries in the EU. Therefore we have not been able to form a view on the success achieved within the UK. However, we are aware that some UK companies involved in the programme welcome the success of their projects.

I attach [not printed] for your information a list of projects that include some transport to or within the UK.

You asked for information about the Government’s own plans for moving freight off of roads and on to sea and rail. The Department for Transport provides freight grants to industry to encourage modal shift from road to rail or water, where the costs of using rail or water are higher than road and where there are environmental benefits to be gained.

The Department’s two freight grant schemes help to remove over 800,000 lorry journeys from Britain’s roads annually:

— The Mode Shift Revenue Support (MSRS) scheme provides financial support towards the day to day operating costs of running a rail or inland waterway freight service, where this is currently more expensive than by road.
The Waterborne Freight Grant (WFG) is designed to support the operating costs associated with coastal and short sea shipping services for up to 3 years, where the cost of moving freight by this means is more expensive than by road.

The Sustainable Distribution Fund budget for these operational grants is £19m in 2012-13 and 2013-14, with a guideline budget of £19m for 2014-15. State Aid clearance for both schemes expires in 2015, so we are starting to consider the future of freight aid grants to allow for future clearance timescales and give freight operating companies as much notice as possible of decisions.

Additionally, the Freight Transport Association (FTA) runs the Mode Shift Centre, which provides advice to operators who wish to make the shift from road to rail or water. We also work closely with the FTA on international multi modal issues, where the FTA represents the UK at some international events on multi modal freight.

You also asked for clarification of the last bullet point in paragraph six of my EM. This read:

— The projects are about giving limited incentives for switching from easy and non-risky transport solutions to more complex and difficult intermodal systems. Therefore the projects were particularly vulnerable to the economic crisis. Despite this, over 650 companies have been supported so far.

This was intended to explain, in part, why the number of projects supported by the programme was less than desired. Intermodal systems are more complex and difficult to implement than road transport solutions. Thus, companies may be less willing to pursue them during economic crises.

17 September 2013

MARINE EQUIPMENT (17992/12)

Letter from Stephen Hammond MP, Parliamentary Under-Secretary of State, Department for Transport, to the Chairman

I am writing to update you on progress with negotiations on this proposal.

The proposal has been examined article-by-article by Member States during a number of Shipping Working Party (SWP) meetings during the Irish Presidency. Many of the UK’s initial concerns have been addressed in subsequent drafts of the text, with particularly good progress during discussions on 21 May. One further meeting of this group is scheduled ahead of the 10 June Transport Council and it is expected that the pace of discussions during this meeting will also be extremely fast. The Presidency has reaffirmed its desire to reach a general approach at the Council.

The UK supports, in general, the need to amend the current Marine Equipment Directive (MED) to enhance its implementation and enforcement.

As mentioned in the original Explanatory Memorandum, the proposed measure provides a number of potential solutions to optimise the effectiveness of the instrument. However, I also noted in the EM that some of the proposed measures could go beyond enhancing the current MED and indicate an intention by the Commission to extend its involvement in this field, which potentially could jeopardise the UK’s independence and freedom to act at IMO.

The working group negotiations that have taken place to date indicate a number of concerns from other Member States (also in line with UK concerns), particularly with regard to the addition of the Ballast Water Management Convention to the scope of the Directive; the empowerment of the Commission, on its own initiative, to set “testing standards” through the use of delegated acts; failure to provide a mechanism for the approval of Alternative Design Arrangements; the use of electronic tags; and the addition of patent requirements. Additionally, the UK has concerns with the proposal for the Commission to update the Directive (using delegated acts) to amend the list of international Conventions which would require the flag State’s approval of equipment to be placed on board ships flying its flag. Our concern on this issue is that it could bypass national ratification processes, and is outside the scope of Article 290 of the Treaty (which sets the criteria for using delegated acts).

In more detail:

— Addition of the Ballast Water Management Convention (BWMC) to the scope of the Directive. We have opposed this requirement to prevent an
additional tier of type approval and therefore an additional burden on the UK maritime industry. During negotiations, I am pleased to say that the Commission and Presidency have so far agreed to exclude this Convention from the proposal, provided that it does not become ratified by the required 35% of shipping tonnage. This addresses our concern on this specific Convention. However, we have wider concerns regarding the automatic inclusion of International Conventions, as outlined in more detail in the paragraph below.

That the list of international conventions may be amended by means of delegated acts. As originally proposed I believe this would not only place UK maritime industry in a commercially disadvantageous position but also have the potential for a shift in the balance of competence claimed by the Commission as it would move the responsibilities for implementation of International Conventions from Member States to the Commission. Some improvement has been secured in negotiations, namely that the text has been amended so that it will be only applicable to the international conventions in force. However, I remain concerned because the amended provision still appears to allow the Commission to add conventions which the UK may not necessarily have ratified, so making such conventions binding upon us. Therefore, if the text remains unchanged, the wording would appear to be outside the authority granted by Article 290. However, during the working group discussion on 21 May 2013, the Presidency indicated that they could be flexible on deleting this provision depending on subsequent discussions ahead of the Council. We will continue to push for this deletion.

The empowerment of the Commission, to set “testing standards” in instances where the IMO has “failed” to act, through the use of delegated acts. My concern here has been to ensure Member States are not put at a disadvantage by having to meet potentially stricter EU rules, especially due to the inflexible nature of delegated acts, which require a qualified majority to oppose, and cannot be modified (only accepted or rejected). During working group discussions, some Member States proposed to remove the Commission as a body who sets standards for marine equipment. However, in the latest draft of the proposal, the Presidency have sought to find a compromise, by changing delegated acts to Implementing Acts, which give the Member States a significant voice in the setting of these standards. Although we would have preferred to have deleted this provision entirely, I consider this development an acceptable compromise.

Eight Member States (including the UK) have also expressed concern with regard to empowering the Commission via delegated acts to set testing standards in the absence of standards developed by the IMO. As above, the latest text refers to the use of Implementing rather than Delegated Acts. For the reasons above, I would consider that this compromise is acceptable.

The replacement of current ‘Wheelmark’ logo by use of electronic tags. We have argued against this and have resisted the proposal to lay down technical standards for the tags via delegated acts. We could accept electronic tags being used in addition to wheelmark, but we could not accept text which would allow for their use instead of wheelmark. In addition, we are of the opinion that as the IA prepared by the Commission does not provide any costs associated with this technology, this should form the basis of a separate impact analysis and Commission proposal if required. After extensive discussion, the Presidency has now agreed to delete this provision in its entirety within the next draft of the proposal.

Provision to provide a certified copy of patent, when applying for the conformity assessment. Directive 96/98/EC says that “The purpose of this Directive, as set out in its Article 1, is to enhance safety at sea and to prevent marine pollution through the uniform application of the relevant international instruments relating to marine equipment to be placed on board EU ships, and to ensure the free movement of such equipment within the European Union”. I do not believe that including patent requirements is
appropriate for this proposal. The Commission IA claims there would be no impact on SMEs in this respect.

However, I believe that it would impose an unjustifiable, additional, significant costs and workload on the maritime industry. Therefore, it is our position that if this requirement is to be included, then this provision should be re-examined by the Commission taking into account the associated financial burden. In the latest working group discussions, the Presidency have agreed to delete all references to the patent within the text, which is a significant step forwards.

Proposal that the delegation of power conferred on the Commission to issue delegated acts should be for an indeterminate period of time from the date of entry into force of this proposed Directive. We have resisted this provision. This is a horizontal issue in-between the Institutions, and there is widespread support for our position amongst the Member States. In negotiations, I am pleased to say that the text has therefore been amended so that the power to adopt delegated acts shall be conferred on the Commission for a period of five years only.

Additionally, the UK and a number of other Member States requested the inclusion of a mechanism for the approval of Alternative Design Arrangements. The Commission has noted the request to include Alternative Design Arrangements and informed Member States that consultation will be needed with European Maritime Safety Agency (EMSA), however, at this time the Commission do not appear favourable. The Presidency is currently working on a compromise solution which we will not see until the next draft of the text is issued. Provisional indications are that this compromise could be acceptable, but we will need to analyse the text when it is released.

More information has within the text on a range of other issues also been requested, such as;

— definition of “placed on board”;
— clarification on exclusion of testing standards from the requirements of application in their up-to-date version;
— clarification of the obligation that would be placed on manufacturers to make a sample of their product (at their own expense) available to the market surveillance authorities of a Member State;
— clarification regarding what penalties might be levied upon manufacturers who refuse to comply with a demand to provide samples, especially on legitimate grounds of disproportionate financial costs or protection of their solvency.

Further clarification has been achieved on these issues, and some further textual changes have been proposed. For example, on the third bullet above, the text now states that a manufacturer must provide samples to market surveillance authorities “when reasonable and practicable”. I consider that this also helps avoid penalties for manufacturers who refuse to comply on cost grounds. On the other areas listed, we are waiting to see the Presidency’s next draft proposal, which we expect to resolve our queries.

Unfortunately, the remaining negotiations are not expected to be concluded in time for your Committee’s final meeting before the Council, and outstanding issues may not be resolved until the Council itself. I appreciate that your Committee will want to hold this proposal under scrutiny until the outcome of further discussions is known. However, I would be grateful if the Committee could consider granting a waiver under the Scrutiny Reserve Resolution, pending completion of scrutiny at a later date, provided of course that an acceptable deal can be achieved at the Transport Council.

30 May 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letters of 19 April 2013 and 30 May 2013 on the above documents. These were considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 3 June 2013 and the Committee decided to retain the document under scrutiny and grant a scrutiny waiver under the Scrutiny Reserve Resolution.

We are reassured that you share our concerns on this proposal, and are pleased to note that you have made significant headway in terms of negotiations on these provisions. We particularly welcomed the move from Commission delegated acts to implemented acts, with respect to the provision which would empower the Commission to set ‘testing standards’ where the IMO has ‘failed’
to act. We also welcomed the reduction of the time-span of the Commission’s power to issue delegated acts to five years.

The Committee welcomes the confirmation from your officials that the outstanding issues on this dossier appear to have been resolved – and that you have managed to negotiate a deletion from the text, of the provision which would have given the Commission power to amend the list of international conventions by delegated acts. However, the Committee wishes to retain the document under scrutiny pending a formal update after 10 June Council.

I look forward to a response within 10 working days of the 10 June Council.

5 June 2013

Letter from Stephen Hammond MP to the Chairman

Thank you for your letter of 5 June 2013; I am grateful to your Committee for granting a scrutiny waiver on this proposal. I am writing now to update you as requested on further progress with negotiations and on the outcome of the 10 June Transport Council.

In the lead up to the Council there was further discussion of the outstanding items and I am pleased to report that these provided further clarification and solutions to my outstanding concerns.

In more detail:

— The provision allowing the list of international conventions to be amended by means of delegated acts has been deleted.

— As noted in my letter of 30 May, the proposal that the delegation of power conferred on the Commission to issue delegated acts should be for an indeterminate period of time from the date of entry into force of this proposed Directive has been changed and this power is now delegated to the Commission for a period of five years only.

— The requirement to provide a certified copy of the patent, when applying for the conformity assessment, has been deleted from the text of the proposal.

— Regarding the obligation placed on manufacturers to make a sample of their product available to the market surveillance authorities of a Member State: the text has now been clarified so that manufacturers have to provide information and samples after a request by a Member State and Member States can only ask for samples “when reasonable and practicable”. Therefore, there is an opportunity for manufacturers to push back on these requests where they are not reasonable or practicable. Since the text does not go into the detail of what this could be limited to, companies would be free to cite costs or any other argument. I consider this an acceptable compromise for both manufacturers and market surveillance authorities.

— Following lengthy discussions on Alternative Design Arrangements, the Commission noted that Member States would be free to use SOLAS provisions permitting them to accept equipment of alternative design. They did not wish to include such provisions under this Directive, as they did not wish to wheelmark these products. It was agreed to include a recital stating explicitly that Member States can approve Alternative Design Arrangements under SOLAS. All Member States were content that such a solution does not interfere with their ability to use Alternative Design under SOLAS. I also consider this a very sensible compromise, as it does not prohibit the UK from continuing to use Alternative Design mechanisms.

In addition, we have received explanations about the following issues:

— Definition of “placed on board” – We had concerns here because the previous text of the proposal was not clear about the point at which testing standards would apply. During the negotiation, the wider issue of application of testing standards was resolved and the text is now much clearer, stating that the implementing acts for testing standards must include application dates that take into consideration timeframes for ship-building. Member States have a voice in developing implementing acts, so can influence these implementation and application dates. The new reference to “taking into consideration timeframes for ship building” prevents the Commission from
bringing in a new standard in an unrealistic timeframe which would be costly to ship owners.

— Exclusion of testing standards from the requirements of application in their up to date version – the text now adds clarity by stating: “The entry into force of testing standards shall not be automatic but shall be identified in implementing acts in accordance with Article 35(2)”.

— Penalties, which might be levied upon manufacturers who refuse to comply with a demand to provide samples, especially on legitimate grounds of disproportionate costs or protection of their solvency – I believe that that the protection clause as outlined above helps avoid penalties for manufacturers who refuse to comply on cost grounds. However, it will be for Member States to decide what penalties, if any, to levy upon manufacturers who refuse to comply.

Given these further improvements to the proposal I felt able to support the general approach at the 10 June Transport Council.

The European Parliament is also considering this proposal and is currently expected to have its plenary first reading in October. I will of course continue to keep your Committee informed of developments on this proposal.

24 June 2013

**Letter from the Chairman to Stephen Hammond MP**

Thank you for your letter of 24 June on the above document. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 8 July and the Committee decided to formally clear the document from scrutiny.

Your concerns have largely been in line with ours throughout the negotiation of this dossier, and we are pleased to note that you have successfully negotiated compromises which address these concerns. Since there are no further issues outstanding the Committee is content to close the correspondence on this dossier.

No response to this letter is required.

10 July 2013

**MARITIME STRATEGY IN THE ATLANTIC AREA (9627/13)**

**Letter from the Chairman to the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 6 June 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 June 2013.

We note the Government's broad agreement with the proposed Action Plan, while emphasising the need to avoid duplication of effort at national and international levels.

We understand that the Irish Presidency of the EU is keen to agree Council conclusions at the General Affairs Council on 25 June. Given that the Action Plan is voluntary and has no direct legal or financial implications for the UK, we are content to clear the document from scrutiny.

We would, however, be grateful for an update on the outcomes of Council discussions.

I look forward to a response within 10 days of the General Affairs Council.

26 June 2013

**Letter from the Rt. Hon. Michael Fallon MP to the Chairman**

Thank for your letter of 26 June 2013 concerning EM 9627/13. I am pleased your Committee was able to consider the EM ahead of the General Affairs Council and clear it from scrutiny.

The Conclusions state that the Council “endorses the Action Plan for the implementation of the Maritime Strategy for the Atlantic Ocean area adopted by the Commission on 13 May 2013 to create sustainable growth in coastal regions and drive forward the blue economy in the Atlantic Member States; RECOGNISES the invaluable contribution of the Atlantic Forum to its development; and INVITES the Commission; the concerned Member States, regional and local authorities; civil society; and the private sector to consider how to implement as appropriate the Action Plan through to 2020, acknowledging the respective competences and priorities of the various actors in the implementation process and without prejudice to the outcome of the ongoing preparation of the Operational Programmes; INVITES stakeholders to focus on priorities that can promote innovation and entrepreneurship, improve the Atlantic’s marine environment and the connections between Atlantic coastal regions and their hinterland, support the move towards the low carbon economy, and create synergies for a socially inclusive and sustainable model of regional development based on cooperation, sharing of expertise and best practice between Member States and regions.”

As I noted in my explanatory memorandum, the Action Plan makes clear implementation is voluntary and not all the priorities are relevant for the UK. The Regulations governing how structural funds will be spent over 2014-20 require us to take account of the action plan when developing our Partnership Agreement and Operational Programmes, subject to the specific needs to the programme areas. Management of structural funds is a devolved matter. In England, the Government will be asking Local Enterprise Partnerships to consider the contents of the action plan when developing their EU investment strategies that will underpin the Operational Programmes for ESF and ERDF. The Government will reflect LEP plans in the Operational Programmes and in the Partnership Agreement to be submitted to the European Commission following adoption of the structural funds regulations.

The European Council on 28 June also endorsed the Atlantic Strategy Action Plan Communication.

8 July 2013

MARKET SURVEILLANCE OF PRODUCTS (5890/13), CONSUMER PRODUCT SAFETY (5892/13)

Letter from the Chairman to the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 8 March 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013.

We welcome the Commission’s initiative to consolidate and simplify existing legislation in this area. At the same time, however, we share your concerns about the possible duplication of existing national forums and structures, and the proportionality of enforcement of the proposal.

We note that you are not convinced of the merit of including a country of origin provision in the proposal as a means of improving product safety. We recognise that this proposal does not concern food products, but acknowledge that the recent horsemeat scandal in Europe and the difficulty in tracing tainted products in this instance demonstrates that a country of origin provision may be of some use. Nevertheless, we recognise that since many products are made up of components from different sources, there might be a difficulty in the practicality of establishing a specific country of origin. We would urge you to press the Commission on how a country of origin provision would work in practice. Similarly, we would be grateful for a more detailed explanation on the rationale behind your policy position on this issue.

We have decided to retain both documents under scrutiny, and we look forward to hearing from you within the usual 10 working days.

20 May 2013
Letter from the Rt. Hon. Michael Fallon MP to the Chairman

Thank you for your letter of 20 May in response to our explanatory memorandum of 8 March 2013 on the above proposals and specifically asking about the rationale for the policy position behind the Government’s reservations about the country of origin provision.

The Government is not opposed to country of origin labelling and we welcome the voluntary labelling practiced by many UK producers and retailers.

Our concern with this proposal is that it contributes nothing to product safety over and above what is already provided by the traceability requirements of the proposal. It would however add to business costs, the magnitude of which is unclear since the Commission Impact Assessment did not cover this last minute addition to the proposal.

As you recognise in your letter, the global supply chains involved in the production of many consumer goods present a very different context to the real issues relating to the identification of the country of origin arising in the horsemeat episode.

We have not rejected the proposal outright and we are, as you suggest, pressing the Commission for information on exactly how this provision would operate in practice and how it would be enforced.

I will keep you informed on developments on this issue, and others, as negotiations progress.

31 May 2013

Letter from the Chairman to the Rt. Hon. Michael Fallon MP

Thank you for your letter dated 31 May on the above proposals. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 10 June 2013.

We are grateful for your clarification of the Government’s position on the country of origin issue. We look forward to being informed in due course of the Commission’s response to your questions about the likely effectiveness of such a scheme.

In the meantime, we retain both documents under scrutiny.

13 June 2013

MODALITIES FOR PASSENGER VEHICLES (12733/12, 12747/12)

Letter from Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport, to the Chairman

I am writing to update you on progress of these two proposals and to share with you clarification on their effect on the earlier Impact Assessments, which have been provided to the Commons European Scrutiny Committee.

The amendments propose how vehicle manufacturers will meet existing EU level targets of 95g CO2/km for new cars and of 147g CO2/km for new vans by 2020. The Commission’s review of the feasibility of both regulations has not led to significant changes to their original analysis and it does not differ substantially from our own. The figures contained in our original impact assessment of the costs and benefits remain unchanged and are our best assessment of the likely impact of the regulations on the UK. There will be no additional enforcement costs from the proposals on these regulations since the reporting mechanism and penalty regime have already been introduced.

The proposals recognised the need to protect independent small volume and niche manufacturers from disproportionate absolute targets and the potential for an unfair share of the regulatory burden and proposed to extend their arrangements within the regulation. A simplified approach for manufacturers producing less than 500 vehicles per year proposed could save small businesses up to £22k in administrative burdens to 2020, according to the Commission’s analysis. The UK automotive industry confirmed this figure in our information gathering exercise and we have no cause to doubt it.

I would like to take the opportunity to update you on progress of both these dossiers. Environment Council on 17 December heard a progress report from the Cypriot Presidency. Since then, the proposals were considered in a further four Council Working Groups under the Irish Presidency and trilogue is now underway to try to reach a First Reading deal. The status of the UK’s priority issues is:
NICHE AND SMALL VOLUME DEROGATIONS

The need to ensure derogations are maintained was a high priority for the UK and to date there has been little formal discussion of the Commission’s proposals, which we support.

LONG-TERM TARGETS

Maintaining the existing targets, rather than raising or lowering them, was a high priority for this negotiation and there are currently no amendments proposed to change existing targets.

SUPER-CREDITS

Our support for super credits as a near term measure to 2020 in order to accelerate the early deployment of ultra low emission vehicles has afforded us an influential position throughout the negotiation to date, since this is where much of the debate has focussed. There is still a proposal that could take super credit earned before 2020 for use against targets post 2020, but it lacks support from Member States or the European Parliament.

Overall we are pleased with the negotiations so far and I will write to you again with further progress as they reach their conclusion.

24 June 2013

Letter from the Chairman to Norman Baker MP

Thank you for your letter of 24 June on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 8 July 2013.

Your letter indicates that you have made significant progress in negotiations, and have managed to achieve most of your negotiating objectives, specifically with regards to maintaining derogations for small scale manufacturers. This Committee’s main concern was to ascertain the credibility of the Commission’s impact assessment, and ensure that the proposal would not place a burden on small companies. We were reassured on both these points by your impact assessment of 11 December, and the clarification of your letter of 24 June.

We are also in agreement with your rationale on the issue of ‘super-credits’ since allowing manufacturers to use ‘super-credit’ earned before 2020 for targets after 2020, would seem to fly in the face of enacting strict CO² targets post 2020.

The Committee agreed to clear the document from scrutiny, but would be grateful for any substantial updates on the dossier as it progresses.

No response to this letter is necessary.

10 July 2013

Letter from Robert Goodwill MP, Parliamentary Under-Secretary of State, Department for Transport, to the Chairman

Thank you for your letter dated 10 July 2013. I am writing as requested to update you on progress of these two proposals that determine how manufacturers will meet existing EU level targets of 95g CO2/km for new cars and of 147g CO2/km for new vans by 2020. I am sorry that some fast-moving discussions on one of the dossiers, and the timing of the reshuffle, prevented this letter reaching you earlier.

On cars, a proposed first reading deal was struck following three scheduled trilogue meetings. The deal is hugely positive for UK when assessed against all our priorities for the negotiation and delivers against each of our objectives. The UK’s main priority was to ensure the retention of the niche and small volume derogations. These are of strategic importance to key UK companies and support our diverse manufacturer base by avoiding disproportionate targets and an unfair share of the regulatory burden and helping to ensure their competitiveness against their much larger European rivals. The proposed deal saw both derogations continue with a new de minimis threshold that would exclude the very smallest manufacturers from the burden of setting annual CO2 reduction targets. The negotiation saw the proposed ceiling threshold limit raised from 500 vehicles per annum to 1000 vehicles per annum and we believe this will save up to seven UK SME’s over £20k each in administrative burdens out to 2020.
Whilst the substance of the negotiation was to agree how to meet existing targets, the European Parliament applied considerable pressure on the issue of setting long-term targets post 2020. Our focus was to oppose setting these in the absence of robust evidence and an assessment of impacts. As part of the proposed compromise deal, references to the date of 2025 as a possible date for a post-2020 target were placed in the recitals, not the articles and a range of ambition rather than a specific target.

The trilogue package was presented to the Council of Permanent Representatives (Coreper) meeting on 04 October, where a Member State expressed some concerns with the proposed deal and gained sufficient support in the meeting to suggest they hold a blocking minority. The Member State tabled a counter proposal that would increase flexibility for the automotive industry (predominately premium brands) in terms of their compliance with the 95g target in 2020, by phasing in the requirement.

The Lithuanian Presidency intend to put the matter to the Environment Council on 14 October. Discussions on the dossier are continuing. It is not clear whether formal agreement will be sought at the Council, and it seems unlikely formal agreement is possible. Indeed, we consider that it would not be appropriate for agreement to be sought at this stage until more work has been done to reconcile matters on this dossier.

On vans, a proposed first reading deal was also struck following trilogue meetings, which is positive for UK when assessed against all our priorities for the negotiation and delivers against each of our objectives. These included maintaining the small volume derogation that is of strategic importance to key UK companies, and supports our diverse manufacturer’s base by avoiding disproportionate targets and an unfair share of the regulatory burden and helping to ensure their competitiveness against their much larger European rivals.

Some Member States had proposed lowering the existing vans target, 147g CO2/km by 2020, considered by many Member States to be overly generous to industry and whilst this did receive early support in Parliament, it did not appear in the final agreement and the existing targets were confirmed. We were mindful of balancing the potential environmental benefits against imposing additional costs to industry from late changes to well-established targets.

The proposal will be put to the Environment Council on 14 October for analysis of the proposed text with a view to agreement. As Member States are content, we now expect that it will be supported by the Environment Council at their meeting on 14 October.

Both proposals will of course still have to go through a formal agreement stage at Council following the European Parliament Plenary consideration of the proposed deals, currently scheduled for January 2014.

8 October 2013
this might have on operators. In respect of the clause which enables the Commission to review the Regulation in the light of international agreement, we would also ask for clarification on what input Member States will have in determining when such a review is appropriate.

In your EM you stated that you are reviewing the Regulation to ensure that it does not constitute an extension of the Commission’s competence. We ask for further information on the background to your concerns, and wish to be appraised of the findings of your review when it is complete.

Overall, we believe that the MRV option seems reasonable, and appears to be as light touch as possible. In particular we welcome the small operational burden on ship operators and owners, and the Commission’s assessment that most of the costs to industry will be counterbalanced by the benefits in fuel savings.

We are also pleased to observe that the proposal appears to maintain a ‘level playing field’ within the maritime industry, since the requirements would apply to all ships calling at EU ports irrespective of the ship’s flag. We would welcome further information as to the practicality of requiring the compliance of non-EU flag ships.

In observance of the recess period, I look forward to a response by 30 September.

12 September 2013

Letter from Stephen Hammond MP to the Chairman

Thank you for your letter of 12 September in response to the Government’s Explanatory Memorandum (EM) dated 17 July. The answers to the points raised in your letter are as follows.

You express the view that an EU proposal to introduce a market-based measure at this early stage might have a negative impact on progress in IMO negotiations. I fully concur with your view. An important factor in determining the Government’s position on the proposed Regulation on monitoring, reporting and verification of CO2 is that it is not a market-based measure. Whereas the Commission has indeed considered a range of possible EU market-based measures, it has decided not to initiate a proposal for an EU market-based measure at this stage to allow time for further discussions on the subject at a global level in the International Maritime Organization (IMO). The Government supports the Commission’s decision to restrict its initiative to a proposal on monitoring, reporting and verification, instead of a more substantive proposal such as a market-based measure.

You ask for clarification of our view on the use of an EU emissions trading system as a possible ‘third stage’ market-based measure. The Government does not support any EU market-based measure. The Government’s strong preference is for action at a global level through the IMO.

You ask about the feasibility of moving from an EU to a global system of monitoring, reporting and verification, and the impact which this might have upon operators. You also ask what input member States would have in determining when such a review was appropriate. The Commission has indicated that an EU data collection system would reflect developments in the IMO and could serve as a ‘pilot’ for a global data collection regime. The Commission has also indicated that it does not expect monitoring, reporting and verification obligations to apply to ships before 1 January 2018. This estimated timeline for the Regulation’s adoption leaves an opportunity for the IMO to make progress before the EU rules come into force. Work is taking place in the IMO to develop technical and operational measures to address greenhouse gas emissions from ships, and the development of a suitable data collection regime is part of that work. Accordingly, it could be feasible to align the EU arrangements with a global regime if the IMO were to make sufficient progress. Specifically, the Commission has indicated that, if a global monitoring, reporting and verification system was adopted in the IMO before the negotiations on the Regulation were complete, it should be possible for the EU institutions which are involved in those negotiations (including the Council of Ministers) to take the necessary steps to align the EU Regulation with the global system with a view to implementing that system in the EU. If a global system was adopted in the IMO after the EU Regulation had been adopted, the EU Regulation would need to be amended through the Ordinary Legislative Procedure, in which the Council of Ministers has a prominent role. Should this occur, there would no doubt be some impact on operators but it is difficult to be more precise without knowing what the similarities and differences between the EU and IMO regimes would be.

You ask about the background to our concerns about the extension of EU competence and you ask to be informed of our findings on the subject. Our concern is based on the fact that, when EU legislation is made in a subject area which is not already covered by exclusive EU competence, it can have the effect of extending exclusive EU competence to that subject area. The Department’s findings on the issue are as follows. The subject of greenhouse gas emissions from shipping is a matter of
shared competence as it is principally an environmental measure falling within Article 4 (2)(c) TFEU. If made, the proposed Regulation would prevent Member States from legislating with regard to the monitoring and recording of CO2 emissions from ships in a manner inconsistent with the Regulation. Although the right of Member States to negotiate and to conclude international agreements with regard to environmental matters is expressly preserved in Article 191(4) TFEU, the existence of the Regulation may encourage the EU to assert external competence in the this area in the future.

Finally, you ask about the practicality of requiring the compliance of non-EU flag ships. Under the United Nations Convention on the Law of the Sea (UNCLOS), port States are empowered to lay down conditions for entry into port. Consistent with UNCLOS, the EU Port State Control Directive (Directive 2009/16/EC) already requires ships, including ships flying the flag of a non-EU Member State, to meet certain mandatory requirements before they can enter EU ports. We envisage that such ships’ compliance with the Regulation would be implemented in a similar manner through port State control.

23 September 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 23 September 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 28 October 2013.

We are grateful for the letter from your predecessor, which addresses our questions point by point. We also welcome his reassurance that you are committed to action at international rather than EU level in this area, and would not support EU action in the area of market based measures.

We support the overall proposal since action in the area of monitoring and reporting makes sense at an EU level, given the dearth of data and this area and the impact of greenhouse gases from the maritime sector on the EU’s overall CO2 emissions targets. However, we share your concern with respect to the possible extension of EU competence in this subject area. We believe this would risk altering the relationship in this area, between Member States and the EU Commission, as agreed in the Treaty of the Functioning of the European Union (TFEU).

We agree with your position on the area of competence and the necessity for further action to be taken at international level. We are therefore content to clear the documents from scrutiny.

30 October 2013

MOTOR VEHICLE REGISTRATION (8794/12)

Letter from Stephen Hammond MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman

I am writing to you to update the Committee where we are in relation to negotiations on this dossier.

I am pleased to write that there has been some steady progress since my last letter to you. In terms of the three areas of concern that you highlighted, I advise you of the following:

THE PLACE OF NORMAL RESIDENCE

This subject unfortunately is the biggest area of concern within this dossier. Article 3 deals with the Residence Requirement. It has been stated that citizens moving to another member state will have six months to establish normal residence and a further thirty days in which they must notify the relevant authority – the DVLA in the case of GB and DVA in the case of Northern Ireland – that their vehicle needs to be re-registered. During this period, vehicle owners will not be immediately obliged to pay any relevant Vehicle Excise Duty, obtain UK motor insurance or a UK MoT certificate. However, we will have the freedom to make every encouragement that new residents re-register their vehicle as soon as feasible.

In July, Finland submitted a paper concerning the identification of a tax loophole which may arise as a result of this Regulation. Finland feel that individuals and organisations may create shell companies in other countries where the rates of road tax are low or non-existent. Vehicles may then be registered to these companies paying little/no tax to the countries they are actually used in. The converse of
this is that these vehicles will be subject to national rules in another member state, including MoT testing. We feel that the prohibitive cost of shipping vehicles overseas for an MoT certificate and for type approval of any modifications would deter UK citizens from taking advantage of this loophole. Our European colleagues would face greater exposure to this risk.

A second problem was identified by the Netherlands and also by the Finance and Leasing Association here in the UK which involves fraudulent activity by individuals. Some European countries including the UK have a legal distinction between a vehicle owner and a vehicle registered keeper whilst other countries like Germany only have a legal definition of a vehicle owner. It could be that individuals who purchase vehicles from a finance company on a hire-purchase agreement could take their vehicle to a country like Germany, present their registration documents and end up registered as the owner of the vehicle. Whilst this fraud does go on today, it requires the vehicle keepers to have the vehicles on national soil for 185 days. Using the shell corporation loophole, that 185 day requirement no longer applies making fraud easier.

Several European countries have expressed serious concern with Article 3 as it stands, believing it to be a serious threat to revenue collection and to the present system of hire-purchase/car finance and are prepared to challenge the Commission. As representatives of a country which has expressed concern over the fiscal impact of the draft Regulation, my officials have been included on discussions. Whilst we are concerned that an EU regulation would be creating legal loopholes that the unscrupulous would exploit, the impact to the UK is anticipated to be negligible. The UK could earn some goodwill in supporting fellow Member States in challenging the Regulation and we are monitoring the situation very closely.

THE ELECTRONIC DATA SHARING AND USE OF EUCARIS AS THE TECHNICAL PLATFORM

The Commission has agreed to explicitly use EUCARIS to facilitate data exchange between member states which removes the possibility of developing another system. However, France have asked whether the Commission has the legal power to mandate use of EUCARIS, stating that this goes against EU competition law. It was noted in meetings that the Cross-Border Enforcement Directive (which the UK is not bound by as we have an opt-out) specifically mandates use of EUCARIS so there is precedent. An opinion has been sought from the Commission legal service over France's challenge. For information, we support the use of EUCARIS to facilitate data exchange.

THE LIKELIHOOD AND IMPACT OF MOT TOURISM

There have been some amendments to the text to reduce the likely impact of MOT tourism. Whilst the tax loophole identified in point 1 may allow cars to be registered in other member states, it should be pointed out that several European states refuse the registration of opposite-drive vehicles in their territory. Therefore the number of countries where this could potentially occur is greatly reduced. Furthermore, the upcoming Roadworthiness Directive will harmonise MoT standards across Europe to a certain extent minimising further the impact of any MoT tourism.

Since the beginning of the Lithuanian Presidency in July 2013, work has accelerated on this dossier, not least as there is less than a year to go before the next European Parliamentary election. The indicative date for the European Parliament first reading plenary is November 2013 and there is at least one Working Group scheduled between now and then on 11 October 2013.

We have further considered the UK position on the proposal and feel that to a large extent, our island status and our driving system insulates us to a large extent from the impacts seen by other member states. New residents in the UK would be more likely to use their “establishing residency” period to sell their old cars and purchase vehicles suitable for driving on the left. My officials have been working on a UK specific Impact Assessment for MEP briefing ahead of First Reading which can share with the Committee once complete.

I will of course, keep you informed of further developments.

1 October 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 1 October 2013 on the above proposal which the EU Sub-Committee B on the Internal Market, Infrastructure and Employment considered at its meeting on 14 October 2013.
We are grateful for your thorough update on the progress of negotiations on the proposal so far, and welcome your offer to send us in due course the briefing being prepared for UK MEPs on the proposal.

We note your belief that the impact of the proposal on the UK is likely to be negligible, but we encourage you to continue to participate actively in the discussions on this proposal to ensure that a workable agreement is reached on it. This may, as you suggest, generate goodwill towards the UK Government in those Member States that have concerns about it. It is also important that any agreement is workable for all stakeholders, and does not lead to problems for the future, which may affect the UK indirectly.

We have decided to retain the proposal under scrutiny and look forward to receiving further updates in due course.

15 October 2013

MOVING YOUTH INTO EMPLOYMENT (17575/12), EUROPEAN YOUTH GUARANTEE (17575/12, 17585/12), TOWARDS A QUALITY FRAMEWORK ON TRAINEESHIPS (17578/12)

Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

Thank you for your letter dated 1 May, clearing the above documents from scrutiny and requesting further information about aspects of them.

The Recommendation for a European Youth Guarantee was adopted by the Council meeting of 22 April as an 'A' Item (approval without discussion) since political agreement had already been reached at the Council meeting on 28 February. As before the UK alone abstained.

Despite its misgivings about specifics of the Recommendation, the Government recognises that youth unemployment is a major issue that many Member States must tackle. Since our principal objection was to the prescriptive nature of the Commission proposal, in particular on a time period, we would not have wished to see a stronger instrument of any kind. The Recommendation sent a clear enough message to the Member States about the need for fast and concrete action. The Member States that initially stood with the UK typically shared our objection to prescription in this field, or at least showed distaste for it, but the specific focus of individual concerns varied. I am not aware of any representations on whether or how Member States that do not already offer a guarantee to youth after four months' unemployment intend to do so.

With regard to the other elements of the Commission’s package, the UK has decided not to participate in the stakeholder consultation on a future EURES 'jobs for young people' programme, so no engagement has been undertaken. With the European Alliance for Apprenticeships, the UK Government does not think that it would add any value to the programme for the UK to get involved in this. We understand that in late 2013 the Commission will bring forward new proposals for a Quality Framework for Traineeships, though details are limited at this stage. The UK Government will continue to engage with the Commission on this issue.

23 May 2013

NATIONAL AND INTERNATIONAL TRAFFIC AND THE MAXIMUM WEIGHTS IN INTERNATIONAL TRAFFIC (8953/13)

Letter from the Chairman to Stephen Hammond MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your explanatory memorandum of 20 May 2013, which was considered by the EU Sub-Committee on the Internal Market, Infrastructure and Employment on 24 June 2013. The Committee decided to hold the document under scrutiny.

Like you, we were largely content with the rationale behind the proposal, and were of the view that an update seems sensible, and is in line with the advances in technology, the increases in cross-border freight traffic and the Commission’s overall objectives for the Single Market and Green Transport. The Committee was pleased to note that as well as improving vehicle efficiency, and preventing
damage to road infrastructure in Europe, the proposal also stands to improve road safety and support job creation in the automotive manufacturing industry.

We support the aim of preventing damage to road infrastructure, but question the impact on road infrastructure of enabling ‘greener’ but heavier vehicles to circulate. The electric vehicle industry is continuously working towards producing lighter propulsion systems, and we ask whether you have considered the possibility that allowing heavier vehicles may discourage this type of research. Have you sought the view of the Highways Agency on this issue? While we acknowledge they are an agency of your department, we would be grateful for information on their specific position on this point.

The main issues for the Committee were with the uncertainty as to how the proposal will be implemented, and the administrative costs involved. We share your concern about the use of Delegated Acts giving the Commission broad powers to revise the technical specification for vehicles and enforcement equipment. We agree with your proposed solution of seeking to limit these powers, but would urge you to make flexibility a paramount consideration. While reducing the time period of the Delegated Acts to five years would go some way to addressing the concerns outlined, it risks reducing the flexibility to make changes to the specifications in the Directive as vehicles develop technologically. We would also be grateful for more information on what the Commission currently considers to be a “non-essential” element of the proposed legislation, for the purpose of the proposed Delegated Acts.

We were also concerned about the lack of information on the possible administrative costs of the Directive. As you noted in your EM, the proposal does not give any detail as to how certification of features at the front and rear of the vehicle should be done. We hope you are able to attain further information on this as negotiations progress. On the issue of the considerable costs to the Vehicle and Operator Services Agency and operators associated with the proposed requirement to establish a system for pre-selecting and targeting checks on vehicles, we observe your suggestion that your current practices are sufficiently rigorous. However, we would like to see a more detailed cost benefit analysis of this with more detail on current and potential enforcement statistics. In light of the large potential financial implications of the proposal on we were surprised to note that you have not produced an impact assessment, and we would be interested in the rationale behind this decision.

We were also sympathetic to your anxiety about harmonisation of sanctions, given that it is usually up to Member States to decide on an enforcement regime. However, we would be interested in more information on the comparison between the penalties for non-compliance in other Member States as compared to the UK. If sanctions are considerably lower in other Member States, codifying minimum sanctions through the Directive may avoid the risk of UK transport companies being placed at a competitive disadvantage.

I look forward to a response in 10 working days.

26 June 2013

Letter from Stephen Hammond MP to the Chairman

Thank you for your letter of 26th June regarding the consideration by the Sub-Committee on the Internal Market, Infrastructure and Employment of the Explanatory Memorandum on the above proposal.

You asked whether allowing for heavier but ‘greener’ vehicles to circulate might discourage the electric vehicle industry’s research into producing lighter propulsion systems. The Highways Agency believe that the increase in weight is nominal and that when considering the need to develop more ‘greener’ vehicles, the industry will be inclined to consider the overall weight of the vehicle, dynamic efficiency, vehicle construction materials, load distribution and whole life value as the primary drivers for research to aid vehicle performance.

Additionally, the extra weight allowance for electric or other low carbon propulsion systems aims to support adoption of these low carbon technologies; currently the additional weight of batteries (or gas tanks) reduces the load capacity of these vehicles and acts as a disincentive to potential operators.

You also questioned the potential impact on road infrastructure of allowing vehicles to be one tonne heavier. The Highways Agency’s view is that the increase in weight would have a neutral impact for the Strategic Road Network. Roadwear at any point in time is dependent on the cumulative volume of commercial vehicles loading over a specified period. The commercial vehicles that do most of the damage on the strategic road network are those with heavier load capacity, e.g. 40 tonnes and over. Therefore, one extra tonne on top of the maximum permissible weight for a vehicle would have a negligible impact, in the Highways Agency’s view. This is consolidated by the fact that the strategic
road network is capable of carrying commercial traffic over and above the design levels assumed in the Highways Agency’s standard, without damage to the road. This is notwithstanding the fact that road surfaces are typically replaced, on average, every 10 years owing to the general surface wear caused by all traffic.

My officials have not undertaken an impact assessment on the proposal given that we are still in the very early stages of the dossier, and are in the process of gathering evidence and talking to stakeholders as we develop a negotiating position.

Furthermore, we do not have sufficiently detailed information regarding many aspects of the proposal and are in the process of contacting other Member States for their early views. Indeed, one Member State has indicated that they will not be seeking views on the proposal with their stakeholders until September.

The Lithuanian Presidency currently does not intend to devote working group time to this proposal, although the Commission are trying to persuade them to do so. In any event our assessment is that the Presidency is unlikely to make significant progress towards agreement during their six-month term. The first exchange of views at Committee level in the European Parliament is tentatively scheduled for 17th September, but this may well change.

Regarding the other points in your letter which I have not been able to address specifically at this stage, we are not yet in a position to answer these queries because of the general lack of detail with the proposal.

I will, of course, keep your Committee informed in the lead up to negotiations and as they progress, and I will continue to keep your Committee informed of any developments.

15 July 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 15 July which was considered by the EU Sub-Committee on the Internal Market, Infrastructure and Employment on 29 July 2013. The Committee decided to hold the document under scrutiny.

We were grateful for your response to our queries on the impact of the proposal on the electric vehicle industry’s research into producing lighter propulsion systems, and the effect on road infrastructure of permitting an extra tonne of weight for ‘greener’ vehicles.

We observe that negotiations are at an early stage, and that you are therefore not currently able to respond to our request for further clarity on the Commission’s perception of the distinction between ‘non-essential’ and ‘essential’ elements of the act, for the purposes of the Commission’s use of delegated acts. We ask for greater detail on how you expect that the delegated acts will impact on the Commission’s power to legislate. We also await a response to our query on the level of sanction in other Member States.

We note that you are not able to provide an impact assessment of the proposal at this stage, but would like to have sight of the impact assessment as and when it becomes available.

30 July 2013

NON-FINANCIAL DISCLOSURE AND DIVERSITY INFORMATION BY CERTAIN LARGE COMPANIES AND GROUPS (8638/13)

Letter from the Chairman to Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum dated 7 May, which was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 3 June 2013. The Committee decided to retain the documents under scrutiny.

The Committee is pleased to observe that the proposal is not overly rigid in scope. It is positive that the proposal seeks to amend the existing accounting Directives, giving Member States the flexibility to amend their current rules in this area to meet the proposed requirements. Similarly, the proposal is less onerous on companies than some of the other options considered by the Commission, one of which would have imposed a requirement on a company to establish a diversity policy, while another would have mandated a minimum standard for EU non-financial reporting.
In paragraph 24 you inform the Committee that the Commission’s proposals will increase the number of companies preparing non-financial reports from around 1000 listed companies to between 2400 and 4800 large private companies. We would welcome further clarity on the rationale behind increasing the number of companies which prepare non-financial reports, in addition to changing the requirements for companies which are already obliged to submit them.

We observe the suggestion in your Impact Assessment that while SMEs are excluded from the scope of the proposal, there may be an indirect financial burden on SMEs, which may be required to provide data to upstream companies. We would appreciate greater clarity on whether this is likely to be the case, since the estimated costs would be a far greater burden on SMEs than larger companies. If you do anticipate that there will be an impact on SMEs, we would be grateful for an estimate of the scale of this burden.

We note that you were not convinced by the Commission’s justification on the principle of subsidiarity, and that you suggest that “flexibility at Member State level is a preferred approach in some areas”. We agree that flexibility is to be prized, but ask whether you have considered that, given that the UK already has some requirements in terms of non-financial reporting, lesser requirements in other Member States may put UK companies at a competitive disadvantage.

I look forward to a response within 10 working days.

5 June 2013

Letter from Jo Swinson MP to the Chairman

Thank you for your letter of 5 June asking for further clarifications around the European Commission proposal.

I wish to confirm that I am overall comfortable with the Proposal, which is broadly in line with our domestic approach to narrative/non-financial reporting and I share the EU Sub-Committee B (on the Internal Market, Infrastructure and Employment) observation that it is not overly rigid.

However, as you highlighted in your letter, there is one main concern: bringing within scope all ‘large’ companies and not just “quoted” companies (as is the case at present in UK law). This means approximately an extra 2000 to 5000 companies in the UK with an approximate cost of £30,000, in the first year and ongoing costs for subsequent years.

The Commission’s rationale behind the scope was their sense that the current implementation of the requirements in the accounting directives has led to a fragmented landscape; these proposals seek to redress this.

As part of the consultation on these proposals, the Commission sought views on the size of companies that should be required to provide non-financial information. Some respondents, recognizing the relevance of this aspect, called for a proportionate size-based approach. Others called for all companies, including SME’s, to fall within scope of the proposals.

You have also asked for further clarity on the potential burden on SMEs. Estimates, based on Companies House data, show that around 42,000 subsidiaries small and medium sized companies (under the EU definition used in the proposals) may be required to provide data to parent companies. This represents 1.7% of all UK companies, so only a limited share of companies will be affected by the reporting requirements.

The Commission’s Impact Assessment for the proposal does not quantify the estimated costs on subsidiary SMEs. However, we expect the reporting requirement to have only a limited impact on SMEs because generally if subsidiary SMEs have a CSR policy it is dictated by the parent company. By contrast, if a subsidiary SME has no such policy, there will be nothing to report to the parent company. BIS will conduct a full Impact Assessment in due course to more precisely estimate the costs for SMEs.

One of the strengths of the UK is its strong corporate governance regime, including the requirements of the non-financial reporting framework. Through this framework of reporting requirements, both voluntary and mandatory, UK companies can demonstrate that they are strong candidates for investment.

The Commission proposal will ensure that other member states will realise the importance of narrative reporting to increase accountability and adopt non-financial reporting requirements, as it is currently the case in the UK.
However, it is worth considering that, by creating a level playing field in non-financial reporting, the Commission will remove the competitive advantage companies who report under the UK framework have. This may lead those companies, currently at the forefront of innovation in reporting, to cease their efforts and pursue other avenues.

While the UK Government promotes transparency and welcome initiatives aiming at increasing the level of trust and confidence of shareholders and investors, we should be mindful that any efforts in this area do not impose excessive burdens on businesses and put growth at risk.

I am very grateful for your comments and value the views of the EU Committee.

20 June 2013

**Letter from the Chairman to Jo Swinson MP**

Thank you for your letter dated 20 June, which was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 1 July 2013. The Committee decided to retain the documents under scrutiny.

As expressed in our last letter, we welcomed the flexibility inherent in the overall proposal. However, our main concern was that potential impact of the proposal on SMEs, which your letter addresses.

We note that you are planning to conduct an impact assessment to estimate the costs for SMEs more precisely in due course, and would be grateful for a copy of this, at which point the Committee will be in a better position to decide whether to clear the proposal from scrutiny.

I look forward to a response in due course.

3 July 2013

**PACKAGE TRAVEL AND ASSISTED TRAVEL ARRANGEMENTS (12257/13)**

**Letter from the Chairman to Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 2 August 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 October 2013.

We are aware that Member States are still at the very early stages in their consideration of this proposal, and we note your ongoing consultation with UK stakeholders.

We have therefore decided to hold this proposal under scrutiny, and would be grateful to receive an update on the progress of negotiations following the second Council Working Group Meeting on 16 October. We would also be grateful to receive a summary of the key findings of the Government’s consultation on the Commission’s proposal once it concludes at the end of November.

15 October 2013

**Letter from Jo Swinson MP to the Chairman**

Thank you for your letter of 15 October following consideration of the above Explanatory Memorandum. I have noted that the Committee continues to hold the proposal under scrutiny. You asked for an update on progress of negotiations following the second Council Working Group Meeting on 16 October.

The first meeting, on 13 September, was concerned almost exclusively with consideration of the Commission’s Impact Assessment (IA). This dossier has been nominated as part of a pilot project for taking views on the Commission’s Impact Assessments in Council Working Groups and the Presidency sought views on a number of aspects of the document.

At the second meeting, the Working Group commenced its first “read through” and has reached just Article 4. Member States do not yet have settled positions, although I can report that in general there is an appreciation that the current regime is in need of updating and that the general approach adopted by the Commission has been welcomed. At this stage we cannot predict all of the issues likely to emerge in the course of negotiations, but during general comments on the IA at the first
meeting the concerns raised by Member States on the whole accorded with our initial reaction as set out in the Explanatory Memorandum.

Some common themes emerged with regard to the first Articles. Establishing the scope of the proposal and reaching clear, properly defined descriptions of the business models to be included, and the extent to which they are to be included, is a main feature of the discussions so far. We have already provided a short informal paper to the Commission and the Presidency to highlight one particular concern which has emerged in the context of the application of the UK’s Atol to “flight-plus” providers. Some businesses seek to circumvent those rules on the grounds that they act as agent for the consumer and not the suppliers (meaning they are not selling anything to consumers and so do not fall within the relevant definition). We believe there is a danger that, as drafted, the proposal could inadvertently exclude this model.

There is a degree of Member State confusion as to the difference between what is proposed to be a package, and therefore subject to the full coverage of the proposal, and what is proposed to be an “Assisted Travel Arrangement”, subject only to insolvency protection and a warning that the arrangement is not a package. We agree that there is a need for more clarity here.

Regarding business to business transactions, Member States are concerned about how the proposal is intended to apply to those who organise packages on an ad hoc, essentially amateur, basis (e.g. church groups etc.). Although previously excluded, there is concern that these types of arrangements might fall within the new regime. Some Member States argue that consumers should benefit from the proposed protections irrespective of the nature of the organiser. The Commission has been open to these discussions and has attempted to clarify its intent and rationale while acknowledging that it’s drafting can be improved. We will continue to engage on this issue.

I am sure you will appreciate that, although we are in the process of seeking evidence from our stakeholders, we have been in regular contact with the leading representatives on this matter for a long time, and continue to be. We have a reasonable idea, therefore, of their views and preferences, and the overall context of the UK market and this is informing our interventions at this stage. While we do not have a formal position on the proposal we will ensure that issues which are clearly of concern, including technical difficulties with the drafting and elements which are in need of clarification and better understanding, are properly aired.

In conclusion, the discussions at this stage can best be characterised as an exercise in seeking more clarity from the Commission on its drafting and underlying rationale. I hope this has provided you with the update on progress that you require, I will write again when our Call for Evidence has concluded with a report of its key findings.

22 October 2013

Letter from the Chairman to Jo Swinson MP

Thank you for your helpful letter of 22 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 November 2013.

We have decided to retain this proposal under scrutiny and look forward to receiving a report on the key findings of your Department’s consultation on the proposal in due course.

6 November 2013

Payment Services in the Internal Market (12990/13), Interchange Fees for Card-Based Payment Transactions (12991/13), Payment Services in the Internal Market and Cross-Border Payments in the Community (13425/13)

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

Thank you for your Explanatory Memorandum, from Sajid Javid, dated 2 September 2013, on EMs 12990/13, 12991/13 and 13425/13 on proposals relating to payment services. The House of Lords European Union Sub-Committee on the Internal Market, Infrastructure and Employment considered this document at its meeting on 28 October 2013.
First, we would like to congratulate you on your new role as Economic Secretary to the Treasury. We would appreciate more detail in relation to the draft Payment Services Directive II. In particular, what improvements does the Government wish to make to the Commission’s proposal and what support do you have from other Member States? We would also welcome further detail on the draft regulation of interchange fees. You state that you are still considering the detail of the proposal and we would welcome a more substantial letter once you have completed your consideration.

More generally, we understand that payment cards are more frequently used in the UK than in any other market. By contrast, for example, Italian consumers retain a preference for using cash for a variety of reasons. Is there, therefore, a risk that the UK could be disproportionately affected by this proposal? What work have you done to assess the impact on the UK?

We would also like to note concerns expressed by Professor Gustavo Matias Clavero in relation to the Spanish experience of lowering multilateral interchange fees for debit and credit cards. He states that when interchange fees are forced down, issuing and acquiring banks, damaged by lower revenues, defend their income statements by increasing other costs. He claims these new costs will simply be paid in a different form, for example through cardholder fees, higher interest rates on credit or debit cards, or new ATM costs. Do you share these concerns that lowering interchange fees will simply increase costs elsewhere? How do you intend to mitigate the risk of these unintended consequences, and how will this affect competition within the industry?

We are content to clear EM 13425/13 from scrutiny but will continue to retain EMs 12990/13 and 12991/13 under scrutiny.

We would welcome a response to our questions within 10 working days.

30 October 2013

Letter from the Sajid Javid MP, Economic Secretary, HM Treasury, to Chairman

Thank you for your letter of 30 October 2013 on the above Explanatory Memorandum.

I would like to start by confirming that I will continue to be the minister responsible for this dossier in my role as Financial Secretary.

In your letter, you ask for more detail on what improvements the Government wishes to make to the European Commission’s proposal for the Payment Services Directive II (PSD II), and what support the Government has from other member states.

The Government intends to pursue two overarching objectives during negotiations on the PSD II. First, the Government will seek to ensure that the Directive avoids imposing any unnecessary burdens on the UK financial services industry. For example, ensuring Third Party Payment Services providers (TPPs) remain in scope of the new Directive so consumers are adequately protected, while making sure the liability of each body involved in a payment transaction is fair and proportionate. In private we have already received support for this position from a number of countries which already have TPPs active in their market.

Second, the Government aims to maximise protection for consumers, whilst ensuring they can benefit fully from technological advancement in the payments market. The UK welcomes the inclusion of digital payments within the scope of the Directive, while seeking to establish whether the small payment exemption, currently proposed, is sufficient to ensure the continued growth of important types of digital transaction, particularly SMS-based charitable donations. This includes consideration of whether the small payment exemption is too low. From recent discussions with industry, we expect support for this position from the Czech Republic, Finland, France, Germany, the Netherlands, Spain and Sweden, all of which have advanced digital payment markets.

On the regulation of interchange fees, you asked for further detail once I have completed my consideration of the proposal. I will provide this further detail as soon as all the relevant analysis has been made available and assessed. This will include fully assessing the impacts of the regulation on UK consumers and small businesses and whether the UK could be disproportionately affected by the proposal.

13 November 2013
Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

I wanted to update you on the progress of ongoing negotiations to agree a Posting of Workers Enforcement Directive. Negotiations have been ongoing throughout the Cypriot and Irish Presidencies and may be reaching a stage where a general approach could be agreed.

Our priorities in negotiations are to avoid the imposition of a requirement that all Member States must introduce a system of joint and several liability in the construction sector for posted workers (which would make contractors responsible if their sub-contractors do not correctly pay posted workers) and to ensure that there is an appropriate balance in the permitted national control measures which Member States can impose on businesses seeking to provide services in their territory. These Articles, 12 and 9 respectively, have remained the most difficult to agree in negotiations thus far with strong positions held in Council.

Our position on the draft directive has reflected our concern that any measures which are agreed should not create hurdles to the Single Market. HMG agrees that Member States should help ensure that posted workers benefits of the protections set out in the Posting of Workers Directive, in particular that there should be mechanisms which ensure workers are able to receive outstanding remuneration. Article 11 of the proposed Directive does this. However, the imposition of a mandatory system of joint and several liability in Article 12 is not the appropriate approach. We do not agree that the same enforcement mechanism should be prescribed for all Member States. Member States which have chosen to introduce joint and several liability should be free to maintain those systems but we believe that Member States should be given the flexibility to decide how best to enforce this objective, in line with what works best for their country.

On national control measures, there is a considerable body of European Court of Justice case law has developed to assess the national control measures which Member States can put in place. This strikes a delicate balance in permitting mechanisms to enable enforcement and protect workers whilst still ensuring businesses are fully able to exercise their freedom to provide services and make full use of the Single Market, and is well reflected in the Commission’s proposal. I believe it is important to ensure we retain that balance.

There is a greater degree of agreement on other areas of the Enforcement Directive which will help protect vulnerable workers and ensure fair competition for businesses. These include increasing awareness of rights and responsibilities for workers and businesses (Article 5), improving exchange of information between Member States to support enforcement (Article 6), requiring mechanisms to support workers in enforcing their rights (Article 11) and ensuring there is a system to enforce these rights across borders (Chapter VI).

The Irish Presidency is aiming to agree a general approach on this at the EPSCO Council meeting on 20th June. This may be ambitious given the strong feelings in Council on Articles 9 and 12. I consider that it is important for us to agree upon the right Directive, one that respects the underlying principles of Union law such as the freedom to provide services, rather than to agree something quickly. Nevertheless, the Presidency is pushing forward to identify a compromise and it is possible that an agreement could be reached which would pave the way for a general approach in June. I will write to you again should this appear to be the case, but as negotiations may move swiftly at that point I wanted to update you on progress in advance.

14 May 2013

Letter from Jo Swinson MP to the Chairman

I am writing to update you on negotiations for the Posting of Workers Enforcement Directive, ahead of a discussion of this file at the 15th October EPSCO meeting.

I last wrote to you on 10th July 2013 regarding the discussions on this file. Negotiations in Working Groups are moving quickly, and I am writing to you now to ask that the Committee considers providing a waiver on scrutiny for the above Directive, should it be necessary to reach agreement at EPSCO in order to secure the UK’s priorities on this dossier.

The UK has worked closely with other Member States to ensure that the Directive both protects posted workers’ rights and does not impose unreasonable burdens on businesses looking to send workers abroad.
Significant and positive progress has been made on much of the Directive, and there is general agreement between Member States on many aspects of the text. These include elements which will improve awareness of rights and responsibilities of workers and businesses (Article 5), exchange of information between Member States (Article 6) and ensuring that the system to enforce these rights works across borders is effective (Chapter V). These provisions will ensure that workers posted across borders are aware of their rights in their own language. The Directive will also ensure that the enforcement of the rules surrounding posting workers is effective and proportionate, and will aid the cooperation across borders between Member States. Furthermore, it will set out to employers what their responsibilities are in the Member State they are posting workers to, without imposing disproportionate burdens on them to comply with.

There has been two key points of contention, Articles 9 and 12, on which negotiations are ongoing, and on which a general approach, or a partial general approach, may be reached at EPSCO.

Article 12 details the employer’s liability if one of its sub-contractors fails to fulfil its contractual obligations to employers. The Commission’s original proposal included a system of joint and several liability in the construction sector (under which contractors would become liable if any of their subcontractors fail to pay wages). On this point, the Government will not agree to anything that would change UK law by mandating joint and several liability in subcontracting chains. I believe that this is an issue on which Member States should be able to decide for themselves the most appropriate way to ensure that workers in subcontracting chains have their rights upheld. A mandatory system of joint and several liability will also undermine the EU’s aim to facilitate the posting of workers. In Member States which already use joint and several liability, these provisions apply to all workers in covered sectors. The Commission’s proposal relates only to posted workers - these provisions would lead to different treatment when the main contractor uses a company with posted workers to when they contract with a company not using posted workers. This will create an uneven playing field.

Article 9 concerns the administrative requirements that Member States require businesses posting workers to fulfil. The Government’s view is that Member States should not be able to introduce any administrative requirement they desire. Instead, we believe there should be a transparent and limited list of control measures that can be imposed by Member States, which will ensure stability and certainty for businesses posting workers. The Government will seek to secure a proposal which prevents Member States being able to impose an open-ended control measures on businesses. This is to ensure that businesses have clarity about the measures they will need to comply with when posting workers, and therefore helping encourage better operation of the single market.

I will write to you again immediately following EPSCO to update you on any progress in negotiations. In the meantime, on the basis of this information, I hope that the Committee will grant a waiver or release the file from scrutiny to enable the UK to agree to a general approach on the proposed Posting of Workers Enforcement Directive at the Employment Council on 15th October if this is called for and if the deal is in line with the parameters outlined above.

2 October 2013

Letter from the Chairman to Jo Swinson MP

Thank you for your letter of 03 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 October 2013.

You said in your letter that the Government will not agree to anything in the EPSCO meeting on 15 October that would change UK law by mandating joint and several liability in subcontracting chains. You asked for scrutiny clearance or a scrutiny waiver, ahead of the 15 October meeting. However, without knowing what the parameters of a possible general approach might be, and how this will address our concerns, we do not feel able to grant a scrutiny waiver or clearance. We therefore cannot agree to your request for a scrutiny waiver or for scrutiny clearance of this proposal.

We have decided to retain 8040/12 under scrutiny. We would be grateful an update from you on the discussion on this proposal within 10 working days of the 15 October EPSCO meeting.

15 October 2013

Letter from Jo Swinson MP to the Chairman

I last wrote to you on 3rd October 2013 regarding the discussions on this file, and to request a scrutiny waiver in expectation that agreement on a general approach, in line with UK priorities, could be reached.

Agreement on a general approach was not reached on the dossier between ministers, despite flexibility shown by many Member States.

A compromise text proposed by the Lithuanian Presidency was discussed, and whilst it fell short on the day, it may become the basis of a future compromise. This proposal set out a core list of control measures but also allowed for the introduction of new control measures subject to their meeting requirements of necessity and proportionality (article 9). It would also have allowed Member States to apply joint and several liability in subcontracting chains, although it would not have made introduction mandatory (article 12).

It is likely that the Presidency and Commission will continue attempts to secure an agreement. The UK will continue to aim for a Directive that strikes the right balance between protecting posted workers’ rights and the effective functioning of the single market.

As I have set out in my earlier letters to you, I consider that elements of the directive offer gains in protecting vulnerable workers and preventing unfair competition. This includes requirements to ensure that all Member States have provisions in place to ensure that workers are able to receive the money due to them, with action being possible in either the host or home state; measures to improve Member State cooperation so that cases involving posted workers can be looked into more swiftly; and provisions which ensure that where there has been a transgression any penalty due can be enforced across borders, including after the end of the posting.

I will write to you again if there are further developments in the negotiations on this file.

23 October 2013

Letter from the Chairman to Jo Swinson MP

Thank you for your letter of 23 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 November 2013.

We note the Government’s intention to strike the right balance between protecting posted workers’ rights and the effective functioning of the single market. Did the Government feel that the Lithuanian Presidency’s proposed General Approach achieved this balance, and was it your intention to vote in favour of it at the EPSCO meeting?

We have decided to retain the document under scrutiny. While we appreciate that EU Council timescales can be quite short, we request that you give the Committee as much notice and detail as possible when requesting scrutiny clearance or a scrutiny waiver in advance of any future Council discussion on a General Approach. It is also important that we are given a clear picture of the issues involved and the Government’s position on them if we are to grant a scrutiny waiver or scrutiny clearance.

6 November 2013

Letter from Jo Swinson MP to the Chairman

I am writing to update you on negotiations for the Posting of Workers Enforcement Directive. I last wrote to you on 23rd October 2013 regarding the discussions on this file, explaining that a general approach was not agreed at the October Employment and Social Policy, Health and Consumer Affairs Council (EPSCO).

I am writing to you now to request that you either release this dossier from scrutiny or grant a scrutiny waiver in expectation that agreement on a general approach, in line with UK priorities, will be reached at the EPSCO on December 9th.

You did not grant a scrutiny waiver previously due to concerns about national control measures and joint and several liability. It is anticipated that the compromise will be similar to the text discussed at EPSCO, so I hope that the details I outlined in my last letter and below address your concerns.

Article 9, which concerns the administrative requirements that Member States can require of businesses posting workers, is expected to set out a core list of national control measures but also allow for the introduction of new measures which are necessary and proportionate, and which will be
verified by the Commission. This would meet the UK’s aim of avoiding unnecessary administrative burdens for businesses.

Secondly, concerning Article 12, the UK will not agree to anything that would mandate Member States to apply joint and several liability in subcontracting chains in the UK. We do not have such a tradition in the UK, and introducing such a provision would impose significant burdens on businesses using posted workers. The UK would be willing to agree to an anticipated compromise would allow Member States to introduce joint and several liability if they wished to do so.

I will write to you again after EPSCO in December to update you on the discussions on this file.

23 November 2013

PROGRAMME FOR SOCIAL CHANGE AND INNOVATION (NOW RENAMED EMPLOYMENT AND SOCIAL INNOVATION) (15451/11)

Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

Your letter of 11 June 2012 cleared this proposal but asked to be kept informed of developments with the European Parliament (EP) and on the budget. And your letter of 5 December 2012 shared the Government’s concerns regarding the high costs and administrative complexity of the amendments proposed by the EP in respect of this Regulation, urged that the Government continue to stress the need for budgetary constraint, and again asked to be updated as the text developed.

I am happy to report that, after ongoing negotiations under both the Cyprus and Irish Presidencies with the European Parliament, the Lithuanian Presidency has now reached agreement in Council on the attached [not printed] compromise text (not yet made public), which meets our shared concerns.

Despite re-branding it as a programme for Employment and Social Innovation (EaSI), and much movement of text, the substance is largely unchanged from that of the partial general approach agreed by Council in June 2012. The Council text reflected good progress against the Government’s negotiating objectives to: remove the Commission’s proposed contingency fund; cap administrative spending; improve the level of Member State input to management and strategic direction of the programme; retain co-financing requirements; and secure greater flexibility in the support for public employment services (EURES). All these elements are retained in the final compromise text.

In addition, our concerns with several of the EP’s initial proposals have also been satisfactorily addressed. In particular, on the following key elements:

— Programme 7 year budget (Article 5.1) – This remains dependent on final agreement of the overall Multiannual Financial Framework (MFF), but the proposed figure of €919,469m at current prices is consistent with the indicative MFF agreed at the February European Council. It is also significantly below the Commission’s bid of €958m and, though the figures themselves are decided under separate negotiations on the MFF budget, the EP’s desired expansion of this programme’s scope implied a subsequent further increase in funding, including for an additional Youth Axis (below). A number of other amendments reflect compromise with the EP on revised percentage budget allocations, including:

  — 1% being added to each of the current PROGRESS (Programme for Employment and Social Solidarity) and Microfinance & Social Enterprise axes, with 3% to the EURES (European Employment Service) one, thus eliminating the Commission’s proposed 5% contingency reserve, as the UK had argued for on ground of budget discipline (Article 5.2);

  — Percentage sub-allocations within axis, with 80% of PROGRESS and EURES funding, and 90% of Microfinance & Social Enterprise funding, allocated to the agreed different thematic sections, to ensure a minimum level of activity under each, with the remainder to be allocated between these agreed sections as priorities emerge, largely as now (Articles 14a.1, 19a and 21a); and, at the EP’s insistence,

— A new flexibility introducing the possibility of using a delegated act for limited reallocation of funding between or within the axes, of between five and ten
percent (Article 26e), but subject to the usual controls of securing qualified majority in Council and simple majority in the EP, either to adopt or subsequently revoke the delegated act (Article 26f). This seems an acceptable compromise to secure our priority objectives.

Youth Axis – The EP ultimately withdrew its proposal for a separate Youth Axis, which Member States argued would lead to duplication with other programmes, although it is now much clearer that young people are a specific target group in all axes of the programme. This reflects current practice, but within the limits of the current programme actions.

Avoiding duplication – As above, youth issues are now more visible within the programme, but its actions do not replicate other EU instruments such as the European Social Fund and Erasmus for All programme. In addition, the text on consistency and complementarity between programmes has been strengthened (Article 8).

From the Government’s perspective, the key concession that Council made is that Member States have accepted the European Parliament’s wish to transfer cross-border partnership actions, currently provided for under the European Social Fund (ESF), to this programme on the ground that this would make them easier to set up. Initially, the UK, alongside most other Member States and the Commission, took the view that such mobility was already adequately covered by the ESF. However, this switch was a key point for the EP. Nonetheless, I can assure you that in conceding this point to the EP, we have maintained the existing levels of control to ensure that there is no duplication with other funding sources and that Member States remain free to decide whether to participate in such actions (e.g. in Article 20a, aa – “where requested by services territorially responsible for border regions”).

Other revisions to note, and which we can support, include:

A separate work programme for each axis, by means of implementing acts, under the advisory procedure (Article 26d). This better reflects the distinct focus of the three axes, and gives Member States greater influence under a joined-up programme management committee (below);

The extension of the current PROGRESS committee mandate to cover the whole programme, which will ensure more cohesive working and where we will ensure effective UK representation (Article 26i); and

The requirement to inform social partners of the results of the programme’s implementation (Article 10). We see this as a proportionate compromise which ensured that the EP withdrew its proposals to give social partners a strategic management role in areas of Member State and Commission competence.

This compromise text gained majority support at the Committee of Deputy Permanent Representatives (COREPER I) on 10 July, subject to agreement on the overall Multiannual Financial Framework, with the UK maintaining its parliamentary scrutiny reserve. It will now go to the European Parliament to set off the process for a formal First Reading agreement. We anticipate that it will go to the EP’s Plenary in October, and then to Council for full adoption in November, although it could progress more quickly.

I hope that you can agree that the proposed compromise represents a good outcome for the UK and does not affect your earlier clearance of the proposal. I also hope that, subject to there being no significant changes of substance and final agreement on the MFF, and scrutiny clearance by the Commons, that I can support adoption when this comes back to Council.

12 August 2013

Letter from the Chairman to Mark Hoban MP

Thank for the letter from your predecessor dated 12 August 2013 on the above proposal which the EU Sub-Committee B on the Internal Market, Infrastructure and Employment considered at its meeting of 14 October 2013.

We are pleased to note the favourable outcome to the negotiations on this proposal with the European Parliament, particularly on the issues of budgetary allocations and avoiding duplication of programmes.
We would be grateful to receive an update once the proposal is agreed and for your assessment of the final outcome.

15 October 2013

PUBLIC-PRIVATE PARTNERSHIPS IN HORIZON 2020 (12344/13)

Letter from the Chairman to the Rt. Hon. David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 31 July on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 September 2013 and the Committee decided to clear the document from scrutiny.

Overall, the dossier on PPPs seems to be well thought out and in line with the aim of promoting excellence, which the Committee believes should be the central focus of Horizon 2020. In the EM, the Government does not cite any specific concerns with the proposal. Nonetheless, there are a number of aspects on which the Committee wish to seek clarification.

The Communication outlines that ‘future internet’ will be one of the proposed cPPPs. While we observe that these will not be the subject of a legislative instrument, we ask whether and how this and other cPPPs are linked to other relevant EU initiatives. We note that the ‘future internet’ cPPP is likely to overlap with the ‘Trans-telecommunications network’ heading of the proposed ‘Connecting Europe’ project.

You make clear in respect of the JTIs and public-public partnerships which are listed in paragraph 8, that, “nothing is agreed until everything is agreed”, and that you therefore intend to reserve final judgement on whether to support these initiatives. On this point, we seek clarification on whether you expect that as currently agreed, the MFF has capacity to finance all the projects proposed in the Communication. In line with this, we are also interested in the extent to which you feel that the projects crossover with your recent article, “How can Government promote growth through innovation” and would like to know which of the currently proposed projects you are seeking to prioritise for funding.

In the course of its inquiry into EU Research and Innovation proposals, the Committee heard from witnesses on the IMI and Clean Sky JTI. In respect of the Clean Sky proposal, they commented specifically on the flexibility of its funding rules, which they said enabled the programme to award funding to a single company. The witnesses suggested that this encouraged SME participation, by removing the necessity for them to undertake the onerous task of forming a consortium before bidding for funding under the programme. There was some concern voiced that the European Parliament’s Industry Research and Energy (ITRE) Committee had pushed for the removal of this option, which would risk making participation more challenging for SMEs. We ask for reassurance that this flexible funding structure will be maintained, especially in the light of calls for greater SME accessibility to the JTIs in your own consultation.

We also heard evidence on the IMI 2 JTI. We note with interest that the proposed extension to the JTI has broadly similar derogations to its predecessor with regard to Intellectual Property (IP) policies. The evidence that we received suggested that the IMI model of handling IP rights has been largely successful in striking a fair balance between IP rights protection and open access to research. We therefore welcome this part of the proposed text, and hope it will remain as drafted.

I look forward to a response by 30 September, in observation of the recess period.

12 September 2013

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

I’m writing in reply to your letter of 12th September in which you asked me to address some observations your Committee had made on the Explanatory Memorandum (EM) for the above Commission Communication. Before I do, I should first thank you and the Committee for clearing the EM.

On the Connecting Europe Facility and the Trans-telecommunications network, my understanding from the Department of Culture, Media and Sport is that as this is still under negotiation we cannot be specific about links between this and the Future Internet Public Private Partnership (PPP). However the PPP will be concentrating on the opportunities for businesses and entrepreneurs to build new
services so I foresee a clear need to ensure co-ordination between that work and the development of the broadband infrastructure under Connecting Europe.

You asked about my view on the EU Public Private Partnerships in the context of my article that appeared in the May issue of the Journal of the Foundation for Science and Technology. That article covered the rationale for the industrial strategy and for investment in the general-purpose “8 great technologies”. I welcome the close alignment between them and the PPPs. For example “SPIRE”, “Factories of the Future” and “Bio-based industries” and to a large extent “Clean Sky” fit well with our focus on Advanced Manufacturing. In addition, the “Robotics” PPP is clearly linked to the “Robotics and autonomous systems” technology – and UK players closely involved in developing our national thinking through the Robotics and Autonomous Special Interest Group have been key players in developing the Strategic Roadmap for the PPP.

On the matter of the proposed budgets for the Joint Technology Initiatives (JTIs), while we expect all JTIs to be funded at a substantial level, indicative allocations will be fixed following forthcoming discussions in Council and the need to strike an appropriate balance between funding for these and other parts of the H2020 programme. I should be happy to write informing both EU Committees of the outcome on the budgets.

There are two aspects of the rules for participation in Clean Sky 2 that we regard as important. Retaining named beneficiaries is regarded as an essential element that has worked well in Clean Sky 1 to ensure that the leading European aerospace founding companies drive the whole 7 year programme, using their own company funding but receiving appropriate Commission funding for these named company beneficiaries.

Also, retaining the ability for single beneficiaries to respond to Calls for Proposals and Calls for Tender is seen as an essential element of Clean Sky 1 which should be retained in Clean Sky 2. This rule on single beneficiaries has resulted in a strong overall programme and in particular a strong participation of small companies and SMEs in Clean Sky 1 – these companies receiving significant funding and making up about 40% of organisations involved in Clean Sky 1 as a whole.

I agree with your comments that the Intellectual Property arrangements for the Innovative Medicines Initiative JTI (IMI) strike a fair balance between Intellectual Property Rights protection and open access to research findings. The UK Intellectual Property Office played a leading role in developing this policy. Our position is that IMI 2 should retain similar Intellectual Property arrangements as IMI.

30 September 2013

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

Thank you for your letter of 30 September 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 October 2013.

We were content with the overall tenor of the dossier, but had a few outstanding questions, which are addressed by your letter. We are grateful for your informative response to our letter, and your offer to update us as to the outcome of discussions on the budget for the Joint Technology Initiatives (JTIs).

We look forward to an update on this in due course.

23 October 2013

RADIO EQUIPMENT (15339/12)

Letter from the Chairman to the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills

Thank you for your letter of the 24 April on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013 and the Committee decided to clear the document from scrutiny.

We welcome your confirmation that responsibility for radio spectrum will remain at national level. We are also grateful that you have undertaken to ask the Commission for clarification on the scope and extent of the powers delegated to them via the Directive. Again, we would urge you to ensure that these are not overly broad, given the potential for such powers to be used to introduce overly
restrictive requirements which could negate the positive effects of the Directive on innovation, by creating a barrier to market entry.

We look forward to your updates on further developments regarding this dossier.

20 May 2013

REFIT (13920/13)

Letter from the Chairman to the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum (EM) of 18 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 November 2013.

The Committee considered the EM with interest, given the topicality and importance of the better regulation agenda. We would like to express our support for the initiatives proposed in the Communication, which we hope will help bolster the EU’s competitiveness, especially by removing ‘red-tape’ for SMEs.

We realise that the ‘next steps’ proposed are at an early stage, and that the measures in the Communication have not yet been given a timetable. We would therefore appreciate further updates on the potential proposal for a ‘fast track’ process, on the timetable for the measures in the Communication, and to know whether the Government are keeping track of the REFIT initiatives outlined in the Annex [not printed] to the Communication.

We look forward to a response in due course.

12 November 2013

RESULT OF THE UK’S PERFORMANCE IN THE INTERNAL MARKET SCOREBOARD NO.27

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, UK Trade and Investment, to the Chairman

I am writing to advise you that the European Commission will no longer be publishing a formal Council document on the Scoreboard for the Council of Ministers, which means that there will be no further formal requirement for Explanatory Memorandums to be produced and submitted for scrutiny.

The European Commission has recently advised my officials that the previous procedure for agreeing the Internal Market Scoreboard, which included a formal symbolic submission to the Council, was no longer necessary following the introduction of the online only Single Market Scoreboard that was launched on 4th July. Instead of the formal submission to Council, the Commission has put in place a promotion and mailing campaign to publicise the online Scoreboard. (The online Scoreboard can be viewed here: http://ec.europa.eu/internal_market/scoreboard/governance_cycle/index_en.htm)

However, in the absence of a formal Council document, I enclose at Annex A [not printed], a brief summary of the 8 page synopsis on ‘Transposition for all Member States’, which is similar to the Council document. I also attach [not printed] for your information, a copy of the 3-page document specifically on the UK performance that is also contained in the Scoreboard.

Given the importance of the Scoreboard in monitoring the UK’s performance in implementing Single Market legislation, I have decided to continue to update you on the UK’s future Scoreboard performance.

10 September 2013
Letter from the Chairman to Helen Grant MP, Parliamentary Under-Secretary of State for Justice, Ministry of Justice

Thank you for your letter of 30 April 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 3 June 2013.

We are grateful for your clarification of the issues we raised in our letter to you in March and we note the Government’s broad satisfaction with the outcome of negotiations so far on this proposal. Further to your request, we have decided to clear this document from scrutiny. We look forward to receiving an update on the outcome of the Council discussions on this dossier when they occur, and for a copy of the UK implementation stage impact assessment once it is complete.

A response to this letter is not required.

5 June 2013

REVIEW OF BALANCE OF COMPETENCE (UN-NUMBERED)

Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

I am writing to inform you that following my Rt. Hon. Friend The Secretary of State for Foreign and Commonwealth Affairs’ (William Hague) oral statement launching the Review of the Balance of Competences in July 2012 and further to the Written Ministerial Statement and letter from the Secretary of State for Business Innovation and Skills earlier this week on the launch of three further calls for evidence on the balance of competence review, the Department for Business, Innovation and Skills is publishing the Call for Evidence for the Social and Employment Balance of Competence review today.

The Social and Employment review is being led by BIS, jointly with the Department for Work and Pensions, the Health and Safety Executive and the Department for Culture, Media and Sport and will consider equal treatment, employment regulation, social protection and health and safety at work. It also covers those areas of competence that are focussed on improving coordination between Member States including employment promotion, social protection and the labour market aspects of the European Semester Process.

BIS will take a rigorous approach to the collection and analysis of evidence. The Call for Evidence sets out the scope of the report and includes a series of broad questions on which contributors are asked to focus. Interested parties are invited to provide evidence with regard to political, economic, social and technological factors. The evidence received (subject to the provision of the Data Protection Act) will be published alongside the final reports in summer 2014 and will be available on the Government website https://www.gov.uk/review-of-the-balance-of-competences#semester-3

The Departments will pursue an active engagement process, consulting widely across Parliament and its Committees, businesses, the Devolved Administrations and Civil Society in order to obtain evidence to contribute to our analysis of the issues. Our EU partners and the EU institutions will also be invited to contribute evidence to the review. As the review is to be objective and evidence based, we are encouraging a wide range of interested parties and individuals to contribute.

The result of the report will be a comprehensive, thorough and detailed analysis. It will aid our understanding of the nature of our EU membership and it will provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU. The report will not produce specific policy recommendations.

I am writing to extend this invitation to you to present your submissions to this Call for Evidence. Please find attached [not printed] document which set out the scope of the report and includes a series of broad questions on which we ask contributors to focus. The Call for Evidence period will run from 29 October 2013 until 17 January 2014 and officials will draw together the evidence and policy analysis into a draft report, which will subsequently go through a process of scrutiny before publication in summer 2014.

The Call for Evidence document is published and available on the Government website: https://www.gov.uk/review-of-the-balance-of-competences
Letter from the Rt. Hon. Simon Burns MP, Minister of State, Department for Transport, to the Chairman

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

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

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

14 May 2013

Letter from Stephen Hammond MP, Parliamentary Under-Secretary of State, Department for Transport, to the Chairman

I am writing to provide a further brief update on these proposals.

Mike Penning's previous letter of 21 August 2012 explained that a General Approach was approved at the EU General Affairs Council on 26 June that year, and that the European Parliament adopted its First Reading position on 3 July 2012 and informal trilogue discussions between representatives of the European Commission, the Irish Presidency and the European Parliament would begin shortly. Following very difficult trilogue negotiations, the Presidency and the European Parliament reached an agreement in principle last month on a proposed first reading deal.

As explained in Mike's previous letter, whilst the UK fully supported the Presidency General Approach, the European Parliament amendments to the original Commission proposal included a number of measures that were not supported by the UK. The main ones being:

— Requiring the European Commission to undertake a full impact assessment on the feasibility and merits of merging all the cards used by professional drivers – which was opposed by a broad consensus of Member States, including the UK.

— Reducing the weight threshold of vehicles whose drivers must comply with EU drivers’ hours rules from 3.5 tonnes to 2.8 tonnes gross laden weight. This would have been a major new burden as it would have greatly increased the number of vehicles in scope of the drivers’ hours rules – a measure that was not proportionate to the perceived benefits.

— A mandate for the European Commission to submit proposals to revise the tachograph rules for bus drivers by the end of 2013. This had the potential to apply drivers’ hours rules to local bus services. As passenger carrying
services with routes less than 50km in length are currently exempt under the current drivers’ hours rules, this would, again, represent another very significant new burden.

Retrofitting all vehicles with new generation tachographs by 2020. This can cost between £800-£1500 per vehicle and would have imposed another very significant cost burden for only marginal benefits.

Subsequent negotiations between the Presidency and the European Parliament in trilogue proved to be very difficult, largely because Member States were strongly opposed to the European Parliament amendments listed above. This opposition was mainly on cost grounds.

I am therefore pleased to report that the proposed first reading deal does not include any requirements relating to the first three bullets listed above. On the last bullet (retrofitting), the requirement to retrofit existing vehicles with the latest generation of digital tachograph has been further delayed for 15 years (i.e. until 2029-30) and will only apply to vehicles engaged in international transport and operating in a Member State other than the one in which it is registered. In practice, this has no cost implications for UK operators as only newly-registered UK vehicles will have to comply prior to the expiry of that period.

Overall, the proposed first reading deal strikes the right balance between incremental improvements to the security and operation of the digital tachograph, whilst keeping keep costs and other burdens on UK operators and its regulators to an absolute minimum. Formal adoption of the proposed deal at Council (as an ‘A’ point) and European Parliament Plenary Session will take place before the end of the year.

23 July 2013

ROADWORTHINESS TESTS AND THE ROADSIDE INSPECTION OF COMMERCIAL VEHICLES (12786/12, 12809/12, 12803/12)

Letter from Stephen Hammond MP, Parliamentary Under- Secretary of State, Department for Transport, to the Chairman

I am writing to update your Committee on progress with this package.

The Commission’s package of proposed legislation on vehicle roadworthiness has been under negotiation for nearly a year. As you may recall, the Cyprus Presidency opened negotiations on the proposal on Periodic Roadworthiness Testing, and the December Council agreed a general approach by qualified majority. I am grateful to your Committee for granting a waiver under the Scrutiny Reserve Resolution in your letter to me on the 19th December 2012 to allow me to agree to a general approach at the Transport Council Meeting the following day.

The general approach on the proposed Periodic Roadworthiness Testing Directive represented a much more acceptable version of the proposal to the UK and dealt with our concerns about delegated acts by limiting the scope to vehicle designations only and for a maximum 5 year period.

The Council’s general approach would convert the proposed regulation to a directive, if the European Parliament agrees. I believe that the modified directive would support road safety but without imposing excessive costs and unnecessary administrative burden on the Government and road users.

During the Irish Presidency discussions in working group have mostly focused on the second part of the Commission Roadworthiness package, the proposed Regulation on Roadside Inspection of Commercial Vehicles. Progress in working groups was slow initially but has picked up in the last month or so as the Presidency’s ambition is to reach a general approach on the Roadside Inspection proposal at the 10th June Transport Council. One final working group meeting is scheduled before the Council. We are very close to agreement and I anticipate that we should be able to get the further concessions we wan.

Discussions on the much smaller directive dealing with minor amendments to the EU specification for vehicle registration documents only started on the 13th May. The Presidency also hopes to reach a general approach on this dossier at the forthcoming Transport Council, however with little progress made so far it is doubtful that it will be ready.

The initial assessed cost associated with the Roadside Inspection proposal was £48m over five years. However, that estimate was incomplete as officials felt that many costs could be mitigated on implementation or avoided through careful amendment of the proposal. Resources were limited in
the time available so the focus was on obtaining figures for impacts with high degrees of certainty that could be defended in discussions with other Member States, the Commission and the European Parliament.

The original Roadside Inspection Proposal included:-

— A roadside inspection target of 5% of commercial vehicles, including N1 vehicles (e.g. vans below 3,500 kgs).

— Adoption of a compulsory risk rating system for vehicle operators, including N1 light commercial vehicles. (uncosted and likely to be very expensive).

— Ability to charge a fee to the owner of a vehicle inspected at the roadside if a major or dangerous defect has been found.

— A requirement to keep the original roadworthiness certificate on board the vehicle at all times. (uncosted and inconvenient)

— A requirement that if a detailed roadworthiness inspection is needed that this should conducted at premises that are no more than 10km away from the roadside inspection or by using mobile inspection units. (uncosted and inflexible for hauliers)

— A requirement that roadside inspectors should be qualified to the same standard as Periodic Testing inspectors.

Two key issues divide the Member States at the moment and are likely to need to be resolved ahead of or during the June Transport Council. These are the inclusion, or not, of N1 vehicles (vans such as a Transit or smaller) in scope of the proposal and the rules surrounding the inspection of the securing of loads. In both cases we believe that a suitable compromise is possible.

The inclusion of N1 vehicles (mostly vans) as a type of vehicle subject to roadside inspection is not at issue in itself for the UK; we have the power to inspect such vehicles and we do. Our concern is that the systems embedded in the proposal will make inspection slower, more complex, more expensive and less effective for vans because there are new obligations for inspectors and restrictions on how van inspections must be done. The UK is seeking either the total exclusion of N1 vehicles from scope or the removal of all subsidiary obligations for N1 vehicles (they would still be inspected but all other rules relating to the inspection would remain with the Member State). The exclusion of N1 vehicles is probably in the majority view among Member States. Our proposed compromise on removal of all detailed obligations for N1 vehicles is yet to be discussed by the Member States.

The issue of the inspection of load securing has proved to be very difficult in working group meetings. A consensus is yet to be reached but opinion has moved towards a flexible approach which will allow Member States to check load securing using the directive as guidance rather than a compulsory standard. The UK has been supporting this more flexible approach as there is massive diversity through the EU on how inspections are done now. It is expected that the final text will be suitable for the UK as the remaining debate is revolving around detail that is not likely to be of concern to the UK.

There is a broad consensus elsewhere. The key changes we believe will be agreed for the general approach are:

— Change from a Regulation to a Directive.

— Allowing use of permanent dedicated roadside testing sites as an alternative to having expensive mobile units. (this saves significant cost)

— Small trailers (O1) and medium trailers (O2) removed from scope of the Directive (Member States still inspect at their discretion).

— The removal of a specific target for a minimum number of roadside tests based on a percentage of the total number of commercial vehicle registered in its territory. (The UK along with some other Member States is wary of target based approaches as there is a risk of specification creep).

— Major changes to the risk rating systems so they work better, exclude N1 vans and are more flexible for authorities. (reduces cost for the UK).

— Change to the initial tests so that there is flexibility to be more targeted in finding faults so they can be rectified quickly and the vehicle allowed to proceed on its journey when safe without having mandatory "more detailed"
inspection. (this supports road safety, is quicker for business and has a nil cost for the UK as it aligns with existing system and practice).

— Changes to the "more detailed" inspections, now avoiding the costs associated with over specification on where these can take place.

— Removal of fee charging provisions and the requirement to keep an original test certificate on board vehicles at all times.

— Inspectors must be trained for the job they perform, so it is no longer necessary for training beyond what is needed.

I have included an annex [not printed] outlining the financial impact of these changes to the Roadside Inspection directive, comparing the original Commission proposal with the expected general approach text. In addition to avoiding costs in areas where we had been able to identify the impacts, costs have also been avoided in the areas that had not been previously been valued such as changes to risk rating system and mandatory "more detailed" testing at facilities remote from the roadside.

Considerable progress has been made on the Roadside Inspection proposal and the text is now greatly improved. Many concessions have been gained, and if a general approach is possible at the Transport Council it would be sensible for the UK to protect these by indicating our support. However, negotiations are ongoing on some issues, including the N1 issue described above and these are not expected to be concluded in time for consideration at your Committee’s final meeting before the Council. We are continuing to work closely with other Member States on these remaining issues, but it is possible that some may not be resolved until the Council itself.

To be clear, there has been no dilution in the standards of roadside inspection in the UK as result of the changes made at the working group meetings. Across the EU as a whole we would expect higher standards of inspection and therefore improved road safety

It is possible that the amending directive which proposes changes to Directive 1999/37 on the registration documents for vehicles may also reach a general approach. The directive is limited, but may have serious consequences as it includes a requirement that a vehicle registration must be withdrawn if a vehicle is prohibited from use. This is opposed by the UK as this adds major bureaucratic burdens into the process without any positive benefit. Some Member States use the vehicle registration to give effect to a prohibition, Northern Ireland and Great Britain does not. The problem with the current text is that Member States are forced to use the withdrawal of registration process regardless of whether they need to or not. Many other Member States are also opposed to the use of withdrawal of registration too. A very simple change to the text is likely to solve the problem so that Member States who need to use the provision can do so and those that do not need to use the withdrawal method can use alternatives. The general approach on the Periodic Testing proposal used this way of dealing with the issue, so it is likely that a similar approach will also be taken for the Registration directive.

Although I expect that the proposed General Approach on the Roadside Inspection proposal will be in a form that I would be content to support, and that it might be possible to resolve concerns on the proposal on registration documents, I appreciate that the Committee may not be ready to lift its scrutiny reserve on the proposals while the outcome of these further negotiations is unknown. I would therefore be grateful if the Committee could consider granting waivers under the Scrutiny Reserve Resolution, pending completion of scrutiny at a later date and provided that acceptable deals can be achieved at the Transport Council.

The European Parliament is also considering the whole roadworthiness package. The European Parliament is scheduled to vote in plenary on the amendments in late May. European Parliament amendments will not be included in the general approach texts.

I will, of course, continue to keep the Committee informed of further developments in negotiations on all parts of this package.

23 May 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 23 May 2013, which was considered by the Sub-Committee on the Internal Market, Infrastructure and Employment at its meeting on 3 June 2013. The Committee decided to grant a waiver under the Scrutiny Reserve Resolution ahead of the 10 June Council.

We were very grateful for the information on the progress of negotiations, contained in your letter. As we indicated in our December letter, we are pleased with the progress made in areas where we
had previously raised concerns. However in your letter you advise us that there are two remaining issues still to be agreed; namely the inclusion of ‘N1’ vehicles (transit vans and smaller) in the scope of the proposal, and the rules surrounding the inspection of securing loads. We now understand from your officials that these issues have now been resolved. We are therefore content with what has been agreed in this area, and feel that in the case of the obligations for ‘N1’ vehicles, your proposed strategy would seem to avoid significant costs to stakeholders which would emerge from new rules, while still maintaining a good standard of road safety.

Nevertheless, we have decided to hold the dossier under scrutiny, pending formal notification on the above compromises on the text and other discussions at the 10 June Council.

I look forward to a response within 10 working days of the 10 June Council.

5 June 2013

Letter from Stephen Hammond MP to the Chairman

Thank you for your letter of the 5 June granting a waiver under the Scrutiny Reserve Resolution in advance of the Transport Council meeting of the 10th June.

I am pleased to be able to confirm that General Approaches were agreed at the Transport Council meeting for the two remaining parts of the Roadworthiness Package.

The Council’s general approach for Roadside Inspection of Commercial Vehicles converts the proposal from a regulation to a directive, subject to the future agreement of the European Parliament.

In my last letter I advised that there was a broad consensus on a number of issues, this acceptable consensus was reflected in the general approach. I also advised that there were two key issues dividing the Member States that needed to be resolved for the Transport Council. That was the inclusion, or not, of N1 vehicles (vans such as a Transit or smaller) within scope of the directive and the rules surrounding the inspection of the securing of loads. I am happy to be able to confirm that our objectives were met in both cases, with N1 vehicles not in scope of the directive and the detailed rules for the inspection of loads being optional guidance for inspection bodies. In both cases these changes avoid excessive cost and bureaucracy without undermining levels of road safety. Therefore this general approach dealt with our concerns and now represents an acceptable outcome for future discussion with the European Parliament.

The Council also reached a general approach on an amending directive which proposes changes to Directive 1999/37 on the registration documents for vehicles. Our concern with this directive was the potential consequences of a requirement that a vehicle registration must be withdrawn if a vehicle is prohibited from use. This requirement was opposed by the UK in working group meetings prior to the Council meeting and the general approach presented to the Council no longer included that element. In addition all provisions for delegated acts were also dropped from the proposed directive. Therefore all our objectives for this general approach were also successfully met.

The European Parliament is still considering the roadworthiness package. The European Parliament Transport Committee voted on amendments in late May and it is now likely that there will significant differences between the Council’s general approach texts and the European Parliament’s amendments (for instance the European Parliament wishes to keep the Periodic Testing and Roadside Inspection proposals as regulations). The full European Parliament plenary will vote on updated amendments put forward by the Rapporteurs in early July. After that, dialogue will continue to attempt to bridge remaining gaps between the Council and Parliament. This is likely to take some time. We have been engaging with MEPs in an effort to get support in the European Parliament for changes that fall in line with our views on the package and to avoid any negative amendments.

I will, of course, continue to keep the Committee informed of further developments in negotiations on all parts of this package.

24 June 2013

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 24 June 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 22 July 2013. The Committee agreed to clear the document from scrutiny.
We are pleased with the outcome of the 10 June Council, in that the two remaining issues with the proposal were addressed and agreed on. Like you, we think that in its current form, the text will avoid excessive costs and bureaucracy.

We note from your letter that there are likely to be significant differences between the Council and European Parliament’s agreed text, and that negotiations to align the two texts are likely to take some time. We would be grateful for any updates on the progress of these negotiations in due course.

29 July 2013
Letter from the Chairman to Esther McVey MP, Minister of State for Employment, Department for Work and Pensions

Thank you for your Explanatory Memorandum (EM) of 27 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 11 November 2013. The Committee agreed to clear the document from scrutiny.

As you are aware, we are currently conducting an inquiry into EU action in the area of youth unemployment, and we were therefore very interested in this Communication. It also bears relevance to House of Lords EU Sub-Committee A on Economic and Financial Affairs current inquiry into the Genuine Economic and Monetary Union (GEMU), whose views we sought in our consideration of the document.

This Sub-Committee and the EU Select Committee as a whole, has shown an interest in and acknowledged the importance of the social dimension of the EMU. You may be aware of Sub-Committee A’s 31 January Seminar on the impact of austerity in the EU, at which the views of key economists, trade unions, campaigners, Ambassadors and Commission officials were heard. In light of this, Sub-Committee A believes that it would be useful to take action in relation to the social dimension (with a particular emphasis on employment) and would therefore be grateful for an explanation of your reluctance to establish a scoreboard to the European Semester (outlined in paragraph 19 of your EM).

Para 4.3 of the Commission document refers to the Convergence and Competitiveness Instrument, which Sub-Committee A has examined in the context of its GEMU inquiry. The Commission states that “financial support would be granted for reform packages that are agreed and important both for the Member States in question and for the good functioning of EMU.” It adds that this instrument could be established under secondary law. Building on this, the Commission states that “building on the CCI, the fiscal capacity could be progressively boosted to provide sufficient resources to support major structural reforms, even for a large economy under distress.” On this point, the Sub-Committee would like to ask whether you agree with the Commission’s case, and what treaty base is envisaged.

We are aware that the Commission document does not suggest any new initiatives, and in this sense, is fairly straightforward. We believe that the idea of reinforcing surveillance and thereby strengthening policy coordination would seem to be logical, in that a greater understanding of the shape of the problem would seem to support more effective policy making. At the same time, however, we would urge caution in using rigid indicators of poverty as they can exclude certain groups, for example, itinerant gypsy communities.

We note that the Syndicate European Trade Union (EUTC) and the President of the European Parliament have indicated that the proposal does not go far enough. The EUTC was disappointed that the draft proposal would not allow for the benchmark indicators to result in a binding sanction mechanism similar to the ones existing for excessive imbalances in macroeconomic procedure. We ask if you have a view on whether sanctions would be desirable.

We also note the omission from the text of the anticipated European system of unemployment insurance. What is the Government’s view on whether a European system of unemployment insurance is expected to be brought forward in the future, and do you have an initial view of the potential benefits and pitfalls of such a system?

I look forward to a response within 10 working days.

13 November 2013
Letter from the Rt. Hon. Simon Burns MP, Minister of State, to the Chairman


The debate focused on questions posed by the Presidency primarily seeking EU Ministers’ assessment of the need for a Single European Sky and the need for a new institutional framework to speed up implementation.

In response to the assessment of the need for a Single European Sky, I reiterated the UK’s strong support for the Single Sky Initiative in view of the initiative’s considerable potential to provide benefits to airspace users and travellers.

However, on the need for a new institutional framework, I emphasised the importance of allowing some more time for the implementation of existing regulation, and to ensure that its impact is fully understood, before taking further legislative steps.

Furthermore, I suggested that a more strategic look at the reasons the existing Single European Sky initiative regulation is not being delivered at the expected pace and the barriers to implementation would be more appropriate at this stage. I proposed that discussions on the proposed legislation are paused to enable this to take place. Although other Member States were of the same opinion, it is likely that the proposal will be progressed and my officials are already engaging with other Member States to ensure the best possible outcome.

In the margins of the Informal Transport Council, I held constructive bilateral meetings with my Ministerial counterparts from France, Germany, Denmark and Lithuania. This presented me with the opportunity to discuss some of the EU’s current and forthcoming transport dossiers including the proposed Road Charging dossier, progress on the Fourth Railway Package and Aviation ETS.

During my meeting with the Lithuanian Transport Minister, I was also able to discuss the UK’s rail sector interest in the long-term rail project (Rail Baltica) to develop a high quality, European standard gauge rail connection for passenger and freight transport from Tallinn (Estonia) to Warsaw (Poland), via Riga (Latvia) and Kaunas (Lithuania).

25 September 2013

Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman

I would like to update the Committee on the ongoing legal challenges in the Court of Justice of the EU relating to amendments to the social security provisions in the EU Agreements with the European Economic Area, Switzerland and Turkey.

The Committee will recall that the Government took legal action against the European Commission over the use of Article 48 of the Treaty on the Functioning of the EU (TFEU) as the legal base for amending agreements with third countries.

The UK position has always been that Article 48 is only appropriate for EU workers within the EU, and that the correct legal base governing third country migrants is Article 79(2)(b) TFEU. Article 79(2)(b) comes under Title V of the Lisbon Treaty, the citation of which would indisputably trigger the JHA opt-in Protocol, thereby allowing the UK to choose whether to participate. In the absence of a JHA legal base the Government has maintained that the opt-in applies on the basis of the binding JHA obligations contained in the proposal. The Commission disputes this position. Article 48 allows the Commission to adopt the proposals under qualified majority voting.

The Government has consistently asserted that the use of Article 48 legal base is in direct contravention of our rights secured under Protocol 21 of the Lisbon Treaty and is a clear attempt to extend Union competence in the area of social security.

The hearing in the Court of Justice of the EU (CJEU) concerning the EU-EEA Agreement case (C431/11) took place on 6 February 2013. The Advocate General’s opinion, which is not a binding
determination, issued on 21 March and the Court’s judgment is expected four to six months thereafter.

In her Opinion the Advocate General does not consider that Article 79(2)(b) to be the appropriate legal base, but agrees that Article 48 TFEU cannot be used either. It is her opinion that the Decision should be based on Article 217 TFEU which allows the EU to conclude association agreements with third countries.

Article 217, like Article 48, does not engage the UK’s opt-in. The Opinion goes on to say that the choice of an incorrect legal base does not necessarily mean the Decision has to be annulled where doing so would not affect the outcome.

The Advocate General does not consider that the application of Article 217 (or Article 48) would deprive the UK’s opt-in protocol of its intended effect; but that the effect is not intended to allow the UK and Ireland to participate “à la carte” across a range of EU measures.

No date has yet been set for a hearing in the EU-Switzerland Agreement case (C656/11). In line with the position taken in those two cases, the Government submitted an application under Article 263 TFEU to the CJEU to annul the Council Decision amending the EU-Turkey Agreement on 15 February 2013 on the grounds of an incorrect legal base.

I will provide the Committee with further information as these cases develop.

8 May 2013

Letter from the Chairman to Mark Hoban MP

Thank you for your letter of 8 May 2013 on the above documents. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 1 July 2013.

We are grateful for your update on the progress of the cases before the Court of Justice of the European Union.

We retain document 16231/11 under scrutiny, and look forward to further updates in due course.

3 July 2013

Letter from Esther McVey MP, Minister for Employment, to the Chairman

I am writing to update the Committee regarding the United Kingdom’s applications to annul three EU Council Decisions adopted under Article 48 of the Treaty on the Functioning of the EU (TFEU). The challenges relate to amendments to social security provisions in the EU-EEA Agreement, the EU-Switzerland Agreement on the Free Movement of Persons and the EU-Turkey Agreement.

My predecessor wrote to you in May this year after we received the Advocate General’s Opinion in the EEA case. We now have the Court ruling in that case and its findings diverge significantly from the views expressed in the Opinion.

The Court has rejected the UK’s application and determined that Article 48 TFEU is the correct legal basis. It noted the similarities in the scope and aims of the EEA Agreement and EU internal market measures in relation to free movement of persons and social security rights. The Court agreed with the Advocate General’s view that Article 79(2)(b) TFEU could not be used to adopt such a measure as the proposal did not concern a “common immigration policy”. Further, it held that the use of an Article 79 legal basis, because it entails an opt-in for the UK and Ireland, could result in undermining the objectives of the EEA Agreement. The Government is arguing strongly against such an interpretation in the EU-Swiss and EU-Turkey cases.

The Council Decisions in relation to the EEA and Swiss Agreements were adopted and entered into force in 2012. The UK implemented those Decisions as required, subject to the Court’s ruling on annulment. The matter is now settled in relation to the EEA Agreement. Regulation 883/2004 will also continue to apply under the Swiss Agreement unless the CJEU rules in favour of the UK application. The oral hearing in the Swiss case took place on 16 October and judgment is expected within three to six months.

The Council Decision in relation to the EU-Turkey Agreement was adopted in December 2012. The Commission gave an undertaking not to present the Decision for adoption at the EU-Turkey Association Council until the CJEU had ruled in both the EEA and Swiss cases. Therefore, the relevant provisions on social security have not yet entered into force. Written observations in the Turkey Agreement case have now closed and the UK has lodged an application for an oral hearing.
You will recall that there are currently a further nine Council Decisions on social security measures under EU-third country agreements which have been adopted under Article 79(2)(b) TFEU. Those measures have not been implemented and the UK did not opt-in to the Decisions. The Government remains alert to the potential implications of the EEA judgment for other agreements. However, it considers that the EEA Agreement is substantially different from other EU third country agreements and is advocating that position in the CJEU in the Swiss and Turkish Agreement cases.

15 November 2013

SOUND LEVEL OF MOTOR VEHICLES (18633/11)

Letter from the Chairman to Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport

Thank you for your letter of 29th April 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 June 2013.

We are grateful for you clarification on the issues we raised in our letter to you in February 2012. We retain this document under scrutiny and look forward to receiving further updates from you in due course.

A response to this letter is not required.

26 June 2013

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

I am writing to update your Committee on the subject of the proposed Regulation on the sound level of motor vehicles.

Since Norman Baker last wrote to you significant progress has been made in the Council Working Groups. The Lithuanian Presidency has also held trilogue meetings with representatives of the European Parliament and a proposed compromise position has been reached. No date has yet been set for consideration of this by the Council of Ministers; however I expect the Presidency to seek agreement at short notice in November or December.

Despite pressure from the European Parliament and some Member States to relax the noise limit values, the proposed compromise keeps values broadly in line with those originally proposed by the Commission and supported by the UK. This should see a reduction of about 4 dB(A) for each vehicle category. This was achieved following a compromise within the Council working group to reduce the noise limits in three stages rather than the two originally proposed by the Commission. The second and third stage limits are equivalent to the Commission proposal.

These stages will apply to new vehicles from 2016, 2020 and 2024 respectively. The overall impact of this is to delay the introduction of the most stringent limits by about five years. This will provide the necessary lead times for manufacturers of heavy duty vehicles which have long development cycles, although the stage 1 limits are somewhat unambitious since a high percentage of the UK car fleet already meets them.

During negotiations the UK argued in favour of the Commission’s proposal for non-mandatory fitment of noise generating devices (“acoustic vehicle alerting systems”) on electric and hybrid electric vehicles, provided that these met internationally agreed standards. However the European Parliament supported mandatory fitment, and in trilogue meetings their representatives made this a condition of accepting the proposed limit values and lead times. The Lithuanian Presidency proposed a compromise whereby optional fitment will be permitted for a transitional period of 5 years to allow work on harmonised technical standards to be finalised. After this period fitment will become mandatory, together with a driver operated on/off switch, for new vehicle types. During this transitional period the Commission will study the possibility of continuing to permit optional fitment on vehicles with active safety systems such as automatic emergency braking. The Government believes that we should now accept this compromise in order to secure the European Parliament’s agreement on the limit values.

The boundaries between the categories of vehicles in terms of, for example, power to mass ratio for light duty vehicles, engine power output for commercial vehicles, and the removal of categories of vehicles that will effectively no longer exist such as light duty commercial vehicles with low engine
power, have now been revised along the lines requested by industry and supported by the Government.

We successfully sought dispensations for specialist super sports cars, which have been included in a separate category, and for vehicles converted to make them wheelchair-accessible and armoured vehicles. Dispensations have been separately agreed for multi-stage build vehicles, ambulances, and hearses, within amendments to the EU Directive on the type approval of motor vehicles, 2007/46/EC.

In the original Explanatory Memorandum (EM), Norman noted that the Commission proposed slightly different vehicle operating conditions from those contained in the proposed future test method (Method B) that was trialled against the current method (Method A). As you may recall from Norman's letter of 29 April, the UK sought to reverse the changes in order to maintain the link between the proposed limit values and the data on which the Commission based their decision. This position has been supported by the European Parliament and other Member States. It is likely, however, that manufacturers will be permitted to use tyres with the legal minimum tread depth, rather than 80% tread depth, which is a slight, but acceptable, deviation from the position that we would have preferred.

Norman previously highlighted concerns raised by UK bus manufacturers regarding double-deck buses custom built for city use, which are fitted with low power engines and have higher capacity than city buses used in the rest of Europe. Because noise limits are set against engine power output, UK bus manufacturers felt they might be forced to compromise their designs by having to fit higher-powered engines simply to move the vehicle into a category with an achievable noise limit. As you may recall, the concern was that fitting an unnecessarily high-powered engine would increase emissions of air quality pollutants and of CO2, and, because of the physically larger engine, might reduce passenger carrying capacity. While we did not achieve specific limit values for these vehicles, the combination of the revised categories and longer lead time have reduced the burden on manufacturers, and industry are now content.

Provisions have also been included to address anomalies for certain classes of vehicle using the same basic chassis and drive train where one is commercial and the other is for carrying passengers. In these cases, where a passenger variant is derived from a commercial vehicle, as is the case, for instance, with some minibuses, the limit values for the commercial vehicle will apply. This reflects the difficulty of modifying a commercial vehicle to meet the stricter limits for passenger vehicles, and is a satisfactory outcome.

The European Parliament proposed to include provisions that would require manufacturers to provide a label at the point of sale informing consumers of the measured sound level of each vehicle. The UK and other Member States argued against this proposal. Labelling is required for carbon emissions, and incentives are in place to encourage consumers to purchase fuel efficient vehicles. No such incentives exist for vehicle noise and there is no evidence to show whether such labelling would influence the buying decision. There is also a risk that any such labelling requirements would distract the buyer from the existing fuel consumption and CO2 information. Noise data is already published online as part of the DfT's fuel consumption data tool.

In the trilogue discussions, the Parliament’s representatives accepted the proposed Presidency compromise of tasking the Commission to carry out a wider study into consumer information and return with proposals if appropriate. Manufacturers will also be “encouraged” to put labels in the showroom and on promotional material.

The European Parliament also called for a study on the feasibility of a road classification scheme. This would be a complex and costly exercise and the benefits of such a scheme, if any, have not been established. However, during the trilogue meetings, the Parliament’s representatives accepted the position put forward by the Presidency, and supported by the UK. That position was that requirements for roads should not be contained in a regulation on the type approval of vehicles, and that if requirements are to be imposed at all that should be done in the context of the Environmental Noise Directive.

The Government believes that the proposed compromise text represents a satisfactory outcome for the limit values, and that significant dispensations to minimise burdens on small UK manufacturers have been achieved. The delay on mandatory fitting of noise generators for electric and hybrid-electric vehicles will give time to develop harmonised technical standards, so minimising the cost to industry. The proposed study, in addition, should result in proposals to permit those vehicles fitted with active safety systems to be exempt. Given the progress made the Government is therefore minded to support the adoption of this dossier.

22 November 2013
Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

I am writing in response to the questions raised in your letter of 13th February 2013.

The UK Government raised the issue of infrastructure in Council working groups as well as separate discussions with the Commission and Member States and produced a paper to address the concerns raised by them. Ultimately other Member States and the Commission were persuaded by our arguments that inclusion of infrastructure in the regulation was justified and the proposal was endorsed by the Competitiveness Council in May.

The Department for Transport has been running consultation events with transport industry stakeholders as part of current European Commission "4th Rail Package proposals". As part of this forum the Department was able to discuss the Commission’s proposal to bring the existing public service compensation exemption under Regulation 1370/2007 within the scope of the Enabling Regulation. Stakeholders and other commissioners of public transport services (particularly Transport for London) shared the UK Government's concern that the proposed changes to the regulation would result in unnecessary uncertainty and disruption around funding of public transport. This proposal was removed from the regulation.

7 July 2013

STATE OF THE INNOVATION UNION 2012 – ACCELERATING CHANGE (8068/13)

Letter from the Chairman to the Rt. Hon. David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of the 18 April 2013 on the above Communication, which has now been cleared from scrutiny. It was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 May 2013.

We were pleased to see that the report presents a promising picture of the progress made in implementing the recommendations under the 'Innovation Union', since more than 80% of the initiatives under the Innovation Union policy are on track.

However we regret that the commitment to “consult social partners on interaction between the knowledge economy and the labour market” has not been taken forward, which is disappointing given the importance of consultation with stakeholders in the area of research and innovation, which we emphasised in our report, The Effectiveness of EU Research and Innovation Proposals, published on 30 April. We ask for further information on your position on this approach, and on why it has been taken.

We look forward to a response in 10 working days.

20 May 2013

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

Thank you for your letter of 20th May outlining your Committee’s disappointment over the lack of progress on the Innovation Union Commitment of the Commission to consult social partners on interaction between the knowledge economy and the labour market.

The Government agrees with your Committee that consultation with stakeholders in the area of research and innovation is essential. As I outlined when I gave evidence at your Committee’s inquiry into effectiveness of EU Research and Innovation proposals, the Commission generally do a good job of consulting stakeholders at different levels. The Government position remains that Commission proposals are likely to be effective if they reflect extensive consultation with stakeholders.

My officials have contacted the Commission Directorate responsible for this policy area, Employment, Social Affairs and Inclusion (EMPL) and they have yet to respond on why this particular commitment has not been taken forward. I will write to you again on their response once it is received.

6 June 2013
Letter from the Rt. Hon. David Willetts MP to the Chairman

Further to my letter of 11th June, I indicated that I would update the Committee when I received a response from the Commission on the lack of progress on the Commission’s Innovation Union Commitment to consult social partners on interaction between the knowledge economy and the labour market.

I have now received a response from the Commission which indicates that although the commitment has not yet been implemented, action is being planned and an update on progress will be provided in the next State of Innovation Union report due around Spring 2014. My officials have asked to be kept informed of progress on this commitment.

2 August 2013

STRENGTHENING THE FOUNDATIONS OF SMART REGULATION (13921/13)

Letter from the Chairman to the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 18 October 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 11 November 2013.

We welcome the Commission’s initiative to improve its evaluation procedures. Our report The Effectiveness of EU Research and Innovation Proposals (15th Report, Session 2012-13, HL Paper 162) published in April this year made a number of recommendations on the Commission’s monitoring and evaluation procedures for research. It is pleasing to note that many of the suggested changes in the Commission’s Communication are in line with our recommendations. For example, we note that the Commission is planning to hold a public consultation on its evaluation mechanisms, and it will seek to provide greater clarification at the outset of a project as to what is required and expected.

We also note that the Government expect to respond to a Commission consultation on the proposal later this year. We hope that you take account of the conclusions and recommendations of our report before submitting your response, in particular our recommendation that evaluations should be carried out by experts in the relevant sector. This could be reflected in the Commission’s revised evaluation policies if it makes the inclusion of relevant experts a requirement in the composition of DG Steering Groups.

We would be grateful to receive a copy of the Government’s submission to the Commission’s consultation once it has been sent.

12 November 2013

TOWARDS MORE EFFECTIVE EU MERGER CONTROL (12927/13)

Letter from the Chairman to Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum of 17 September which was considered by the Internal Market, Infrastructure and Employment Sub-Committee at its meeting of 21 October 2013. The Committee decided to clear the document from scrutiny.

We noted that the Commission’s proposals in respect of the Merger Regulation are, in principle, supported by the UK’s national competition authorities. We look forward to scrutinising in detail any legislative proposal brought forward by the Commission.

No response to this letter is necessary.

23 October 2013

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Letter from the Chairman to Ed Vaizey MP, Minister for Culture, Communications and Creative Industries

Thank you for your explanatory memorandum of 13 June 2013, which was considered by the EU Sub-Committee on the Internal Market, Infrastructure and Employment on 1 July 2013. The Committee decided to retain the document under scrutiny.

As you know, this Committee has previously shared your view that the budget allocated to the original trans-European telecoms (eTEN) proposal was too high, and that the overall 'Connecting Europe' package was overly ambitious in a time of budgetary restraint. We are therefore pleased to see that the budget for this proposal has been reduced, and believe that the resultant changes in the amending proposal are reasonable and logical.

Nevertheless, we are of the opinion that telecommunication networks is an important area in an increasingly digital age. We seek assurance that this rather substantial reduction in the eTEN budget is well thought through, and that the remaining budget will be used in the best possible way. We observe that the EM outlines a broad direction for the amended budget, and would be interested in more information on your priorities within this new proposal.

We realise that negotiations on the MFF are ongoing, although we are aware that the European Parliament and the Council reached a tentative agreement on 19 June. Should the budget allocated to this proposal change as a result of MFF negotiations, the amendments in this proposal would no longer be appropriate. It is for this reason that the Committee has decided to retain the document under scrutiny, pending a more concrete agreement on the MFF.

I look forward to a response in due course.

3 July 2013

TRANSPORT EXPECTATIONS FOR THE LITHUANIAN PRESIDENCY (UN-NUMBERED)

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

I am writing to advise your Committee of the transport issues that are likely to be taken forward during the Lithuanian Presidency.

Two formal Transport Councils are planned, the first in Luxembourg on 10 October and the second in Brussels on 5 December. The Lithuanians will also hold an informal Transport Council in Vilnius on 16 September focussed on the Single European Skies (SES) 2+ package.

AVIATION

The Presidency will prioritise work on the Air Passenger Rights review (EM 7615/13). They also plan to commence trilogue discussions with the European Parliament on the proposed Occurrence Reporting Regulation (EM 18118/12) and start work on the SES2+ package (EM 11490/13, 11496/13 and 11501/13). The Presidency expect to achieve a General Approach on Air Passenger Rights at the December Council, and to have a progress report on SES2+. They are also likely to give working group time to discussions on mandates for comprehensive air service agreements, and possibly for aviation ETS (see below).

MARITIME

The Lithuanians have indicated that they will take forward the EMSA funding proposal (EM 8219/13) and the proposed Ports Services regulation (EM 10154/13). The former of these should be uncontroversial, and it should be possible for them to secure a deal with the European Parliament. The Port Services proposal is expected to be more difficult as several Member States are strongly opposed to it. The Lithuanians have so far shown no interest in engaging with the question of IMO coordination, or any upcoming proposals on Passenger Ship Safety.

LAND TRANSPORT

Land transport will be the focus of much attention over the next six months, with both road and rail featuring a heavy agenda. On roads, the Lithuanians will work towards reaching first reading deals
with the European Parliament on all three elements of the Road Worthiness Package: MOT testing, Roadside inspections and registration documents for vehicles (EM 12786/12, 12809/12, and 12803/12). On these, the question of legal form is likely to dominate negotiations (the Council prefers Directives to Regulations, but indications are that the European Parliament wishes to keep the MOT testing and Roadside inspection proposals as Regulations). The Lithuanians are showing no interest in taking forward the proposal on Weights and Dimensions (EM 8953/13), but the Commission are encouraging them to do so.

Any discussion on the anticipated Road Charging proposal will depend heavily on its time of adoption (currently expected to be October). When I wrote to you at the start of the Irish Presidency I noted our concerns about the proposal’s potential to breach subsidiarity. We will of course ensure that your Committee is informed of the terms of this proposal as soon as possible, and officials will also continue to keep the Committee Clerks informed of developments ahead of the publication of the proposal.

Elements of the Fourth Railway Package will dominate the rail agenda. The Presidency will first focus on the safety proposal (EM 6012/13, 6013/13, 6014/13, and 6017/13) with the aim of reaching a General Approach at the October Transport Council. If they achieve this, we can expect them to turn immediately to discussions on the European Rail Agency element of the package (covered by the same EM) with the objective of a General Approach in December. This would wrap up the technical pillar of the package in Council.

Elsewhere, on the intermodal front, the Lithuanians have also prioritised work on the Clean Power for Transport Package (EM 5736/13 and 5899/13) and they will hope to reach a general approach by December.

ENVIRONMENT AND TRANSPORT

There will be Environment Councils on 14 October and 13 December. The Lithuanians look set to make steady progress on the range of environment dossiers relating to transport issues, although none rates as their top priority dossiers for discussion on the environment agenda. The late addition of CO2 emissions from Cars and Light Commercial Vehicles (EMs 12733/12 and 12747/12) to their programme is a possible exception given the progress with the European Parliament that was made under the Irish Presidency.

The Lithuanians are aware of the importance of swift resolution on aviation and the EU Emissions Trading System following the ICAO Assembly meeting in October and are committed to ensuring that Working Parties and Councils are well informed of the latest developments. The Commission’s publication of a consultation document recently demonstrates that they are prepared to bring legislative proposals forward quickly in October.

The Commission’s proposals on monitoring, reporting and verification of CO2 emissions from Shipping (EM 11917/13, 11851/13 and 11851/13) look set to make steady progress under the Lithuanians although they have not indicated any objective other than laying down the groundwork for the Greeks to take forward. There may be an exchange of views between Ministers at the Environment Council in Luxembourg on 14 October.

The Presidency will step up the pace on the negotiations on Indirect Land-Use Change (ILUC) of biofuels (EM 15189/12) in order to start trilogue discussions in the autumn. The European Parliament will vote on their amendments in September and the Presidency will hope to reach a General Approach in the Council. Negotiations are likely to focus on the level of the proposed cap for crop-based biofuels (cereals, starches, oil crops); a potential sub-target for advanced biofuels; and a decision on whether these should be counted multiple times towards the 10% target.

The Presidency are awaiting sight of the Commission’s proposal before confirming their intentions with the amendment to article 7a of the Fuel Quality Directive (unnumbered EM).

VEHICLE STANDARDS

The Presidency will take forward the proposed Regulation on Noise Levels of Motor Vehicles (EM 18633/11), with the intention of entering trilogues quickly and aiming for a deal with the European Parliament. The Presidency will continue with its work on a mandate for the Commission to negotiate an update to the 1958 United Nations Economic Commission for Europe technical agreement on automotive trade. They will also begin examination of the Commission proposal on Noise Levels of Motorcycles.
I hope that this general summary of our expectations is useful. Further information will, of course, be provided to you in the future on each of these dossiers, in line with the usual procedures for Parliamentary scrutiny.

24 July 2013

UPDATE ON EMPLOYMENT LAW RELATED EUROPEAN DOSSIERS (UN-NUMBERED)

Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

I am writing to update you on a number of employment law related European dossiers namely, Posting of Workers Enforcement Directive, Pregnant Workers Directive and Working Time Directive.

8040/12: POSTING OF WORKERS ENFORCEMENT DIRECTIVE

I wrote to you on 15th May 2013 regarding the negotiations on this file. Discussions have been ongoing but, despite the efforts of the Irish Presidency, Council has not yet agreed on a General Approach. This is mainly because of the continued opposing views on the key issues of the scope of the national control measure (Article 9) and the necessity of joint and several liability (Article 12).

The Lithuanian Presidency has signalled it will press ahead and is aiming for a General Approach by the October EPSCO.

The European Parliament’s EMPL committee voted in June 2013. The EMPL position goes beyond the Commission proposal on the two key areas. It would include an open-ended list of national control measures but would also require Member States to introduce a core set of controls. It would impose a mandatory system of joint and several liability for posted workers which would cover all sectors and extend liability to all contractors in a contracting chain.

The Committee voted for a mandate to enter into trilogues so these could begin if/when the Council agrees upon a Common Position.

13983/08: PREGNANT WORKERS DIRECTIVE (PWD)

The Committee will be aware that the European Commission published its proposals for amendments to the existing Pregnant Workers Directive (92/85/EC) in 2008. Progress on this dossier has been stalled since October 2010 as the Council did not agree on the position of the EP. This was primarily down to demands for 20 weeks’ fully paid maternity leave.

Successive Presidencies have made attempts to progress the file. Most recently the Irish Presidency held discussions with the European Parliament but these came to naught and the file still remains stalled.

The Government position remains that there should be no further discussion in Council unless and until the EP makes a clear and credible commitment to changing its position. We are concerned about the costs of the EP’s position but also its failure to take into account individual systems in Member States.

5068/11: WORKING TIME DIRECTIVE (WTD)

I wrote to you in December 2012 to inform you that the EU Social Partners were unlikely to reach an agreed proposal for the Working Time Directive. At the Employment and Social Council in February, Commissioner Andor confirmed that the Social Partner negotiations had failed. This left the initiative back with the European Commission.

I understand that the Commission is now very unlikely to bring forward a proposal in the near future. Indeed the Commission has committed to undertaking an impact assessment on the Directive. It made this intention public in its recent Communication, “Commission follow-up to the “Top Ten” Consultation of SMEs on EU Regulation”, as SMEs across the EU had reported the Working Time Directive as one of the most burdensome areas of regulation through the Commission’s exercise.
The Government’s position remains the same. Our first priority is the retention of the individual’s right to opt-out of the 48-hour working week. We would also like to see greater flexibility in the areas of on-call time and compensatory rest, which cause problems across public services.

I hope this update is helpful to the Committee. I will write to you again to update you on any progress on these matters.

11 July 2013