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

This edition includes correspondence from 18 May to 30 November 2010.

**INTERNAL MARKET, ENERGY AND TRANSPORT**

**(SUB-COMMITTEE B)**

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AN INTEGRATED PACKAGE FOR THE GLOBALISATION ERA: PUTTING COMPETITIVENESS AND SUSTAINABILITY AT CENTRE STAGE (15483/10)

Letter from the Chairman to Mark Prisk MP, Minister of State, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 15 November which was considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to clear the document from scrutiny.

We note that the Government broadly support the content of this Communication but that they only agree with action being taken at the EU level where there is a clear demonstration that it can add value while respecting existing Member State competences. We also note that many of the proposals detailed in the Communication have already been announced under the umbrella of other Commission Communications, including the Single Market Act, Innovation Union and the Europe 2020 Strategy more generally. Therefore, in line with our approach to these other policy areas, we will continue to scrutinise individual proposals in more detail as and when they are published next year.

30 November 2010
Letter from the Chairman to Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum of 7 September. It was considered by the Sub-Committee on the Internal Market, Energy and Transport on 11 October and they decided to retain it under scrutiny.

The proposal as it stands is, as you acknowledge, far from clear. We would appreciate clarification, when you receive it yourself, on the exact scope of mandatory EU-wide approval. From our reading, it seems clear that the intention is to extend mandatory approval to all classes of tractor, beyond classes T1-T3. This would appear to impose extra burdens on manufacturers of tractors in the other classes, unless they are currently subject to mandatory national approval requirements. We would be interested to receive your views on this, and would particularly appreciate an account of how the measure fits with the overall objective of reducing 60 current Directives to 5 under the initiative of the CARS 21 findings. We look forward to receiving a copy of your impact assessment when it has been produced.

19 October 2010

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

I am writing to draw your attention to the attached Explanatory Memorandum 9296/10 and 9435/10, concerning draft Council decisions to authorise signature and conclusion of the above agreement, which are due to be considered at the Transport Council on 24 June.

I am aware that the previous Committee took some interest in this subject, and were kept informed of progress in the negotiations that were taking place by Ministers of the previous Government. Following the conclusion of those negotiations the European Commission has now brought forward these draft decisions, which are to be considered at the forthcoming Council of Transport Ministers.

As noted in the Explanatory Memorandum, the negotiations have not delivered in full the level of liberalisation we would like to have seen, but the draft Protocol does represent a step forward, bringing some additional benefits to the aviation industry and to consumers, and maintaining the pressure for further liberalisation in the future. We share the general view that the deal on the table represents the most that is achievable in the near term, and that there is little to be gained from further prolonging the negotiations.

Unfortunately the depositable documents only emerged after the dissolution and will be considered by the Council before the new Committees will be in place and able to scrutinise them. The Government takes our scrutiny obligations very seriously, and would not lightly agree to a measure before scrutiny has been completed. However, given the substantial support that exists for early signature, the Government feels that the UK should join other member states in supporting the draft Protocol and approving its signature at the forthcoming Council.

22 June 2010

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

Thank you for your explanatory memorandum and letter of 22 June, which were considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to clear the documents from scrutiny.

As acknowledged in your letter, agreement to this document at the Transport Council on 24 June was an override of the scrutiny reserve. This was unavoidable, as the Sub-Committee was not able to meet before that date. However, we are concerned about the length of time taken to produce the explanatory memorandum.

The Agreement appears to be a reasonable compromise, given domestic US opposition to the further liberalisation of airline ownership. The locking-in of cabotage rights for US airlines with majority foreign ownership seems to provide a strong incentive for the US to relax its stance. We would be grateful for further information on whether the rules regarding noise-based restrictions take into
account possible restrictions on the grounds of pollution, and whether the new procedures introduced in the aftermath of the volcanic ash cloud will be affected by this agreement.

Your explanatory memorandum is slightly ambiguous in its description of the relaxation of the “Fly America” scheme. You say that the policy “still leaves valuable traffic by US government employees ... out of the reach of EU airlines”. Our reading of the Agreement suggests most US government employees are now able to fly on EU airlines. Did your sentence refer merely to employees of the Department of Defense and those travelling entirely within the US, or do you think the exclusion goes wider than this? We would also like further clarification as to the status of contractors or NGOs under the new scheme.

6 July 2010

AVIATION SECURITY CHARGES (9864/09)

Letter from the Rt. Hon. Phillip Hammond MP, Secretary of State for Transport, Department for Transport, to the Chairman

I am writing to inform your Committee about the latest developments concerning this proposed Directive.

As you may recall, the Spanish Presidency decided to await the outcome of the European Parliament’s first reading of the proposal before allocating any further working group time to it. The European Parliament’s first reading was completed on 5 May 2010. As expected, the key differences between the position of the Parliament and that of the Council is that the EP endorsed the view that the proposed Directive should apply to all commercial airports, and that Member States should pay for More Stringent aviation security Measures. Therefore no first-reading agreement could be reached between the Parliament and the Council.

The Government’s negotiating position for future discussions of this proposal includes the need to ensure that Member States continue to have the ability to swiftly put in place More Stringent aviation security Measures, if needed, and that these should not be restricted. With regard to the EP amendment requiring Member States to pay for More Stringent Measures, we are firmly behind the ‘user pays’ principle and consider that it would be wrong to burden the general taxpayer with these costs. In addition we do not support the EP’s and the Commission’s desire to include all commercial airports in this Directive. We believe that to avoid unnecessary administrative burdens on the industry the Directive should be aligned with the Airport Charges Directive, and only cover airports with passenger figures of more than 5 million ppa. In the UK this would include 9 airports which would therefore cover over 80% of passengers.

The Spanish Presidency convened a Council working group on 16 June 2010 to consider the EP’s amendments. The discussions in the working group only covered some of the amendments put forward by the EP; however, it was clear that these would cause problems for the Member States. In particular, virtually all Member States were in favour of the scope of this proposed Directive being restricted to airports with throughputs in excess of 5 million ppa as opposed to the Commission’s and the EP desire to see all airports covered by this Directive. The question of payment for More Stringent Measures was not discussed. The working group did not come to any firm conclusions and the dossier will be handed over to the Belgian Presidency, who have indicated that it will not be a priority for their term.

I will, of course, continue to provide your Committee with updates on the development of this proposed Directive.

29 July 2010

Letter from the Chairman to the Rt. Hon. Phillip Hammond MP

Thank you for your letter of 29 July 2010, which the Sub-Committee considered at their meeting of 11 October 2010. It was decided to retain the document under scrutiny, bearing in mind the continued disagreement between the Council and European Parliament regarding the proposal’s provisions.

We continue to agree with the Government’s position that Member States should not finance aviation security measures that are stricter than EU requirements and we trust that you will also continue to defend this point in future negotiations with the European Parliament.

We look forward to receiving further updates on progress of the negotiations.
BELGIAN PRESIDENCY PRIORITIES

Letter from Charles Hendry MP, Minister of State, Department for Energy and Climate Change, to the Chairman

I am writing to inform you of the energy and climate change issues we expect to be dealt with in the Council of Ministers under the Belgian Presidency. The Belgians have timetabled an Informal Energy Council on 6/7 September and an Energy Council on 3 December. Issues where DECC takes the lead are also dealt with at the Environment Council. An Informal Environment Council has already taken place (11/13 July) and there will be Environment Councils on 14 October and 20 December.

The Belgian Presidency’s top priorities on energy will be:

— An energy strategy for Europe 2011-2020
— Amendment of the European Energy Recovery Programme
— Publication of an infrastructure package
— Discussion of consumer and vulnerable customer issues

The main focus of the Belgian Presidency will be the European Commission’s proposals for an “Energy Strategy for Europe 2011-2020”, which the Commission is due to publish in November. We then expect discussion and broad endorsement by Energy Ministers at the Energy Council in December. This debate will be important in shaping the EU’s drive towards a secure, competitive and sustainable low carbon economy by 2050. The Energy Strategy will build on two previous ‘action plans’ in 2007 and 2008 that established an integrated EU approach to energy policy.

Another priority for the Presidency will be agreement of the Commission’s proposal to amend the European Energy Programme for Recovery (EEPR). The Commission adopted a European Economic Recovery Plan on 26 November 2008 as a response to the economic and financial crisis in Europe. The Regulation set up a financial instrument for the development of energy projects that contributed to economic recovery, the security of energy supply and the reduction of greenhouse gas emissions. The Regulation allowed for the Commission to propose further measures, in the event that full commitment of funds by the end of 2010 seemed unlikely, in areas such as energy efficiency and energy from renewable sources. The Commission has now presented its proposals for the reallocation of uncommitted funds from the original EEPR to support projects in the areas of energy efficiency and renewable energy, targeted at local and regional authorities. My Department submitted an Explanatory Memorandum on the proposal on 24 July. The Presidency is aiming to reach agreement early in its Presidency, although negotiations only began earlier this month. I and my officials will of course keep you informed of the progress of negotiations on this Regulation.

The Commission is also expected to publish in November an infrastructure package, which we expect to consist of a Communication on energy infrastructure development and priorities for 2020-30, a review of the guidelines for Trans-European Energy Networks, a Commission staff working paper on energy infrastructure, Communications on the preparation of a blue-print for offshore grids in the Northern Seas of Europe and on the EU’s other regional infrastructure priorities, and a report on smart grids. We expect initial discussions of infrastructure issues at the Informal Energy Council in September, with the package to be debated at the Energy Council in December.

The Belgian Presidency have said that consumer issues will be one of their energy priorities and will also be discussed at the Informal Council. They are planning a presentation of a report on benchmarking Member States on their ability to protect vulnerable customers at the formal Energy Council in December.

Other issues that may be taken forward under the Belgian Presidency are:

— a proposed Directive on the management of spent fuel and radioactive waste, which the Commission is expected to issue in late October to early November;
— a proposal concerning the transparency and integrity of wholesale market trading in November;
— an energy efficiency action plan;
— a debate on the creation of a roadmap for 2050 with a view to determining a long-term Strategy for a Low CO₂ Emissions Economy.
Finally, there will be a report on a number of external energy dialogues at the December energy Council.

On climate change, the Belgian Presidency will coordinate the position of the Member States within the framework of international negotiations on climate change under the UNFCCC. Discussions of the EU position began with an initial debate at the Informal Environment Council on 13 July. The October Environment Council will adopt conclusions to establish EU positions for the 2010 Conference of the Parties (COP 16) meeting at Cancun in late November/early December.

The discussions in the October Council will focus on the key issues that require resolution in the negotiations and are likely to include position, tactics and handling around the second commitment period of the Kyoto Protocol and related issues such as accounting for Land Use, Land Use Change, and Forestry (LULUCF), the issue of surplus Assigned Amount Units and the form and outcome of the negotiations from the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention. It is also likely that there will be a discussion on the EU’s 2020 emission target.

Following COP 16, there will also be an exchange of views on climate change at the December Environment Council, with the focus likely to be on the state of play in the UNFCCC negotiations and reaction to the COP 16 outcome.

The December Environment Council will also adopt conclusions on ‘Towards a resource efficient Europe’, one of the flagship initiatives under Europe 2020. This will be an opportunity to promote a low carbon economy in Europe.

22 July 2010

Letter from Edward Davey MP, Minister of State, Department for Business, Innovation and Skills, to the Chairman

The Belgian Presidency of the European Council started in July, and I would like to take this opportunity to set out what I anticipate to be their priorities in areas covered by BIS. In addition, I would like to draw to your attention specific dossiers that may progress during the summer recess.

BELGIAN PRESIDENCY

Following elections earlier last month Belgium is unlikely to have a new Government in place before the autumn. However, the caretaker regime is committed to fulfilling its obligation to run an effective EU presidency.

Much of the Belgian Presidency’s work will focus on the Europe 2020 strategy and its seven flagship initiatives.

Three of these flagship are BIS led. The first, a Digital Agenda for Europe (Council doc. no. 9981/10), was published in May and was discussed at the 31 May Transport, Telecommunication and Energy Council. I understand an Explanatory Memorandum was issued on the 22 June and your Committee has considered it. The next two flagship, “Innovation Union” and “An Industrial Policy for the Globalisation era” are due to be published in the autumn and conclusions for both initiatives are scheduled to be adopted at the November Competitiveness Council.

The Commission will respond to the recommendations of the Monti Review with the publication of a “Single Market Act” in October – despite the name this will be a non-legislative communication from the Commission. The Council will be expected to give its view on this at the December European Council.

In addition, below is a short summary outlining where specific dossiers are in the EU process. Where possible I have highlighted the likelihood of new Commission communications/proposals which may be subject to future scrutiny by your Committee should they emerge.

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A Smart Regulation communication will be published in the autumn. We understand it is likely to focus on three areas:

(a) Better implementation of EU rules e.g. making existing legislation deliver rather than looking for new legislative ideas

(b) Problems in both the Council and Parliament relating to assessing substantive amendments of proposals e.g. looking to encourage greater use of impact assessments within these institutions

(c) Consultation and communication during the policy-making process

Ex-post evaluation of the better regulation agenda will also be an important element in the Communication.
The UK Government has been lobbying hard to ensure UK priorities are reflected in the Communication and I have previously sent the Committee a copy of our response to the Commission’s smart regulation consultation as well as a copy of the joint publication with the Danish and Dutch Governments published in March.

— Consumer Rights Directive – I understand that the Presidency is planning a debate on the Directive at Competitiveness Council in December. The European Parliament is also considering the Directive but are unlikely to hold a First Reading Plenary Vote until early 2011.

— Late Payment Directive – Negotiations with Member States are ongoing and the Belgians are keen to reach agreement during their Presidency. As matters stand, the current draft text represents a reasonable package which will improve the situation for UK businesses trading in Member States and avoids undue additional burdens.

— One of the Presidency’s immediate priorities is to settle the language regime for EU Patent proposal (formerly known as the Community Patent). This proposal requires unanimous agreement by Member States, rather than QMV. The Belgians will attempt to find agreement at the Competitiveness Council in October. Failing this, the Belgian Presidency has indicated that they may seek agreement under the new provisions in the Treaty on Enhanced Cooperation (agreement by fewer than 27, but at least 9, Member States). In parallel, we are expecting an ECJ’s opinion on a proposed court system for patent litigation. This is unlikely to appear until October at the earliest. Once this has been published, the Council can return to negotiations on the Court agreement which is another part of the legislative package required before the EU patent system could be made operational.

— The Commission will bring out a Copyright package sometime in November. This will include initiatives on reforming the governance and transparency of collecting societies and also on orphan works. I do not expect any further activity on the Copyright Term Extension, as without intense and concerted effort, which the Belgians will not apply, the existing blocking minority on the proposal is unlikely to dissolve.

— A Commission Communication on a Standardisation Package for reform is expected by end of the year, which will include policy initiatives and as well as a revision to the EU legal standardisation framework (e.g. a revision of Technical Regulations Directive 98/34/EC - which underpins the single market for goods), to move towards a more integrated European Standardisation System enabling EU standardisation to capitalise on its strengths at the international level.

— The European Parliament needs to give its consent to the EU- Korea FTA, the formal process for which we expect to begin in September after signature of the agreement. If completed before end November, the FTA could be provisionally applied by 1 January 2011.

— After the launch of the European Digital Agenda in May, the first important outcome is now clearing the final stages of the co-decision process; the Next Generation Access Recommendation. This lays out clear guidance on issues relating to both funding and ensuring competition across and within for these new networks that will deliver faster Internet-based services. This will then be followed by the related Broadband Strategy that will lay out how policies focussing on ensuring all EU citizens enjoy a basic level of broadband service. Another important proposal will be the Radio Spectrum Policy Programme (a Council Decision) that sets out EU policy on the liberalisation of spectrum in order to deliver new digital services in the EU. Finally, two regulatory proposals are anticipated on the European Network and Information Security Agency (ENISA). One is a proposal for a new regulation on ENISA, as the Agency’s current mandate expires in 2012. The second is a regulatory proposal to temporarily extend ENISA’s mandate to allow time for negotiation of the new regulation.

— The Commission will also publish a communication towards the end of the Belgian Presidency (November/December) that evaluates the impact of the e-Commerce Directive on online markets, which will assess how to improve and adapt its content and implementation. In addition, we expect the
continuation on f the proposed code of rights for users of e-communications; where there is a possibility the Commission will publish a communication during the Presidency.

— An independent interim evaluation of the 7th R&D Framework Programme will be completed in the autumn and there is a small possibility that this will be discussed at the October Competitiveness Council.

— Finally, the Belgian Presidency is planning to hold a Space Council (an informal meeting of Ministers representing both the EU and the European Space Agency) on 25 November. A communication on space policy is expected and the Belgians are looking to agree a communiqué signed off by both EU and ESA Ministers.

In addition, I thought it would be a good opportunity to update you on the latest position on the Pregnant Workers Directive. At present, it is currently with European Parliament, which is discussing a range of potentially unhelpful amendments including requiring full pay for a maternity leave period of at least 18 weeks. The Plenary has now been twice postponed and will not now happen until October at the earliest. The lead committee commissioned an Impact Assessment on their amendments we expect this to be published before committee meetings in September. An early draft of the Impact Assessment was very disappointing as it did not address the main issue of the costs of full pay for Member States; a full and transparent evaluation is needed to inform MEPs’ decision making. The UK will continue to lobby hard to reach a position that does not impose significant costs on any Member State.

I hope you find the above information useful.

3 August 2010

BIOCIDAL PRODUCTS (11063/09)

Letter from the Chairman to the Rt. Hon. Chris Grayling MP, Minister of State, Department for Work and Pensions

I am writing in response to Lord McKenzie of Luton’s letter of 30 March, which was considered by Sub-Committee B on 28 June.

We are very grateful for the update on the negotiations but are aware that they are likely to have progressed in the three months since Lord McKenzie’s letter was written. We would therefore be very grateful for a further update both on the progress of negotiations and the production of the UK impact assessment, which we are very keen to see. We would hope that significant progress has been made in the production of the impact assessment in the time since Lord McKenzie’s letter and expect to receive a copy shortly.

We note that the European Parliament committee has adopted 476 amendments to the proposal: we would appreciate a letter in due course on the Government’s assessment of those amendments adopted at plenary, and therefore the likelihood of a second reading deal being achieved.

On the content of the proposal, we would be grateful for further detail on the plans to include treated materials within the scope of the proposal and on the issues to be resolved regarding mutual recognition of authorisations.

29 June 2010

Letter from the Chairman to the Rt. Hon. Chris Grayling MP

Thank you for your letter of 13 October, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They decided to retain the document under scrutiny.

We are grateful for the update on negotiations and for the provision of the UK impact assessment. We would appreciate it if you could keep us updated as progress is made towards political agreement, and will consider clearing the document when it is closer to its final form.

With regard to treated materials, we agree that it would be difficult to treat all types of products alike. Clearly, a ship is a different proposition from a pair of socks, which are themselves different from disinfectants or pesticides. However, we are concerned about the safety impact of excluding such items from the Regulation. How do you propose ensuring that dangerous biocides, such as dimethylfumarate, do not find their way onto the European market, while minimising burdens to importers of treated products? We consider it extremely important that care is taken to ensure
products imported with the intention of eliminating harmful organisms do not themselves cause more harm than the original problem.

Your impact assessment suggests that between 600 and 69,000 animals might be saved from testing by the inclusion of data-sharing provisions. This seems an extraordinarily wide range. Would you be able to explain why it was not possible to produce a more precise estimate?

I look forward to receiving a reply to this letter within the standard deadline of ten working days.

3 November 2010

CIVIL AVIATION: PREVENTION OF ACCIDENTS AND INCIDENTS (15469/09)

Letter from the Rt Hon Theresa Villiers MP, Minister of State, Department for Transport, to the Chairman

I am writing to bring your Committee up to date with the latest progress in the negotiations for this proposed Regulation, and in particular the prospects for a first reading deal between the Council and the European Parliament.

I am aware that the previous Government wrote to you on 4 March to give your Committee an early indication of the views of respondents to the public consultation, ahead of the agreement of a general approach at the 11 March Transport Council. The Government’s formal response to the public consultation on the proposal has now been published, and a copy is attached. Respondents broadly supported the proposal to update legislation on prevention and investigation of civil aviation accidents and incidents, although some expressed concerns on specific details in the Commission’s proposal. In general, respondents supported:

— the establishment of a Network of civil aviation safety investigation authorities;
— the view that EASA should have a role in accident investigations albeit that that role needs careful delineation from independent accident investigators;
— adequate protection of sensitive safety information from inappropriate use or disclosure;
— an accurate (rather than speedy) production of a passenger list in the event of an accident; and
— the production of a national plan to provide assistance to air accident victims and their relatives.

On 1 June, the European Parliament TRAN Committee adopted its report on the proposal, and proposed a number of amendments, including:

— a prescriptive approach to the Network including the creation of a Network Coordinator role over and above that of a Network Chair;
— various amendments incorporating aspects of aviation security matters and judicial proceedings, thereby extending the scope of the Regulation beyond its focus on accident and incident investigation to those areas;
— the use of sensitive safety information in judicial proceedings, without provisions pertaining to national law; and
— prescriptive provisions on common principles governing national level emergency plans.

Following this, there were a number of technical trilogue discussions between the Spanish Presidency, European Parliament and European Commission with a view to seeking agreement at “first reading”. I am happy to be able to report that UK input into these discussions successfully secured the following key provisions in the text:

— avoidance of the creation of a centralised European agency on accident investigation and instead confirmation of the light touch Network to formalise existing cooperation between accident investigation authorities – it will have no legal personality, will be limited to an advisory and coordination role and will have a chair elected from its accident investigation authority membership;
— recognition and protection of the independence of accident investigation authorities in the conduct of investigations from other interested authorities e.g. national aviation authorities, EASA, State judiciary;

— facilitation of EASA’s involvement as an “advisor” in an accident and incident investigation, subject to the scope of its competence and where such involvement does not create a conflict of interest with its regulatory role or inhibit the independence of the national accident investigation authority;

— safeguards on the protection of sensitive safety information gathered in an investigation thereby ensuring the information sources are not compromised and industry can continue a system of “open reporting” of all accidents and incidents;

— subject to appropriate safeguards, providing EASA and national aviation authorities with increased access to occurrence reports stored in a European central repository to facilitate EASA’s analysis of safety information and help it develop future strategy;

— in the event of an accident, the provision to accident investigation authorities of timely and validated lists of all persons and dangerous goods on board; and

— ensuring that all Member States establish at national level appropriate civil aviation accident emergency plans, with scope to recognise existing airport emergency planning, and which include the provision of assistance to victims of air accidents and their families.

The European Parliament will consider the proposed first reading text at its plenary first reading of the dossier in September. It is expected that the proposed text will be acceptable both to the Parliament and to the Member States, and that agreement will therefore be reached at Council soon after the plenary.

I will, of course, continue to keep you informed of any further developments.

22 July 2010

DIGITAL AGENDA FOR EUROPE (9981/10)

Letter from the Chairman to Ed Vaizey MP, Parliamentary Under-Secretary of State, Department for Business, Innovation & Skills

Thank you for your explanatory memorandum of 22 June, which was considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to clear it from scrutiny.

We understand that this Communication was published by the Commission on 19 May and was subsequently adopted by the Telecoms Council on 31 May. We understand that as the document was deposited with Parliament on the 25 May, the timing was tight, and there was no opportunity for scrutiny clearance to be obtained ahead of this Council meeting. Therefore, we understand your reasons for voting in favour of the proposal, but we note that technically a scrutiny override was nevertheless the result.

We also note that the Government broadly support the content of the Communication, particularly its commitment to achieving greater economic growth and productivity, but also have a number of concerns relating to various specific proposals. We would be particularly interested to receive your views on how the proposals might affect competition between businesses in Europe. We consider that it is an interesting document which contains a number of ambitious targets, not least those relating to broadband provision and Member States’ expenditure on ICT research and development, though we note that both businesses and governments might be unable to increase expenditure on R&D in the current economic circumstances. We will therefore look forward to scrutinising the various proposals emerging from this Communication as they are published.

6 July 2010

Letter from Ed Vaizey MP to the Chairman

Thank you for your recent letter concerning the Communication on a Digital Agenda for Europe and associated Explanatory Memoranda dated 6th July 2010.
It is worth noting that the Digital Agenda contains a large number of actions, including regulatory proposals, some of which lack specific detail. Therefore, I hope that you agree with me when I suggest that it would be difficult to assess the specific effect on competition in relation to each of the proposed actions.

With this in mind, I thought it would be useful to use one specific example from the various strands from the Digital Agenda for Europe where both proposals and the likely outcomes are more developed and therefore the effect on competition dynamics can be more easily identified.

**SPECTRUM MANAGEMENT**

Spectrum management within the EU will be taken forward through the Radio Spectrum Policy Programme (RSPP) and it is expected that this will be launched by the Commission in September. Although the detail is still to be determined, I am confident the programme will continue with, and further the promotion of market mechanisms, such as spectrum trading and liberalisation, introduced during the negotiation of the Communications Framework. HMG has fully supported moves that ensure the effective and efficient use of this valuable resource and sees such a Programme as one such mechanism.

As such, is anticipated that by embedding competitive dynamics, the proposed actions within the RSPP should lead to innovation creating new goods, services and content, thus increasing consumer choice, creating competition between the offerings, and thus driving down prices.

For reference, the proposals are contained in Section 2.1.4 of Digital Agenda and paras. 10 and 56 of the accompanying Explanatory Memorandum.

I trust that this example illustrates that competition remains a top priority consideration in relation to my approach to developing any specific policy proposals contained with the Digital Agenda.

I agree with your view that the document is ambitious and I look forward to working closely with you and your Committee as the proposals are brought forward for consideration by Member States.

26 July 2010

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**Letter from the Chairman to Ed Vaizey MP**

Thank you for your letter of 26 July, which was considered by the Sub-Committee on Internal Market, Energy and Transport at their meeting of 11 October 2010.

The Committee appreciates that before individual proposals, which form part of the Digital Agenda, are published by the Commission it will be difficult properly to assess what effect they will have on competition. However, when they do become available and are subsequently deposited, we would be grateful if the Government could articulate what effect they consider that each measure may have on the competitiveness of the single market.

We are concerned, however, that uncompetitive practices in the digital arena still exist within the EU. We should therefore be grateful to hear the Government’s assessment of EU plans to tackle such practices as the current French laws on online gambling.

I would be grateful to receive a reply to this letter within the standard deadline of ten working days.

12 October 2010

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**Letter from Ed Vaizey MP to the Chairman**

Thank you for your letter of 12 October, requesting further information on the competition aspects of the European Digital Agenda.

Regarding your request that the Government keep you informed about how the EDA will affect the competitiveness of the EU Single Market, I would like to assure you that the impact of EDA proposals upon competition have remained at the forefront of my mind. Full consideration of this question is contained in the recently deposited Explanatory Memoranda (EM) related to the "Broadband Package". (Council Doc no’s 13872/10, 13874/10 and 6223/10). The timing of their submission may mean that you and your colleagues may not have had sufficient time to fully consider their contents. However, once you have had a chance to study the EMs, please do not hesitate to contact me again if you have other questions on this important issue.

Secondly, you expressed concern that uncompetitive practices in the digital arena still exist. The Government, in close co-operation with the European Commission, continues to keep a watchful eye on the development of the regulatory framework across all 27 Member States, in order to quickly
identify and address uncompetitive practices. We also endeavour to help UK firms facing barriers when trading in other EU Member States. However, if there are specific practices which you think require further examination, again I would be pleased to investigate further.

Finally, on online gambling, the Government has used the formal EU notification procedure (as well as our bilateral relationships with other Member States) to scrutinise carefully the draft gambling acts in a number of EU Member States. Our aim is to ensure that legislation does not create regulatory barriers for UK companies and we have made a number of advances. A recent example is our intervention on the draft Polish ‘Gambling Activities Act’ which resulted in legislation being passed that did not increase costs or administrative burdens for UK companies.

However, despite remaining vigilant on all these fronts, we also believe that more could and should be done to ensure that uncompetitive practices are identified and stopped. The proposals for the new Single Market Act offer a number of opportunities for us to strengthen our means of redress and combat uncompetitive practice. So we will also continue to work closely with the European Commission to make sure we get what we want out of this Act.

*25 October 2010*

**E-CALL: TIME FOR DEPLOYMENT (13233/09)**

**Letter from Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman**

Thank you for your letter of 30 March 2010 requesting further information on the document referenced above. I am aware of the outstanding issues and would like to take this opportunity to update you on some aspects of the project.

You asked for a copy of the Highways Agency report on the wider benefits of eCall. This will be published shortly, and I will send a copy to you. Your letter referred to the Transport Research Laboratory report and the possibility of a UK pilot study. We have no plans to undertake such a study, as it is unlikely to provide any new evidence on the key issue of fatality reduction.

The Commission have reiterated their intention to use regulatory action to mandate eCall. A recently adopted Directive provides the Commission with powers to set standards for interoperability of ‘intelligent transport systems’ across the EU (EM 17564/08 refers); this includes standards for eCall. However, they have yet to confirm how the legislative framework would apply to the mobile communications industry and emergency responders across the EU. These organisations play a key role in the successful operation of eCall and would need to be considered in any formal proposal.

Studies commissioned by the Department have so far looked at the cost and benefit implications arising from different implementation scenarios and at the likely safety benefits for the UK. A formal Impact Assessment, taking account of the latest guidance, will be produced if detailed legislative proposals are forthcoming.

The Department will continue to work closely with the Commission to ensure that our concerns are adequately addressed. I look forward to updating you with further information in due course.

*20 July 2010*

**Letter from the Chairman to Mike Penning MP**

Thank you for your letter of 20 July, which was considered by the Sub-Committee on the Internal Market, Energy and Transport on 11 October. They decided to clear the document from scrutiny.

Thank you for providing us with a copy of the Highways Agency report on eCall. It suggests there would be significant benefits to the wider community of adopting the system, but does not assess the costs of implementation beyond those likely to be incurred by the HA.

We are surprised at your reluctance to conduct a pilot study, given that the Transport Research Laboratory and the Highways Agency have both suggested the system needs to be studied in action.

We believe that this is a most important matter and we stress the view that it could be overcome by technological development thereby obviating the necessity for EU financing/increases in expenditure. We would be grateful for updates on the progress of this dossier. Should the Commission come forward with proposals for regulation, we would expect to receive a copy of a UK impact assessment in good time, as we are concerned that it has not yet been adequately costed.

*12 October 2010*
Letter from the Chairman to the Rt Hon David Willetts MP, Minister of State, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum dated 7 May 2010. The Sub-Committee on Internal Market, Energy and Transport considered it on 5 July 2010 and agreed to hold it under scrutiny.

We note that the Government broadly support the ITER project as the next step in exploring practical fusion as an energy supply, and also recognise the inevitability of finding more money to meet ITER’s increased costs, though it appears that the Commission and Member States diverge in their opinions on the best ways to achieve this.

In light of the Government’s suggestion that the redeployment of funds within the EU Budget be further explored, we would be interested to hear which programmes in particular within FP7 the Government would recommend diverting funds from, and to what extent. In addition, we question whether redeployment is a clear enough financial commitment to ITER, as given the size of the funding gap, it is likely redeployment can only partially cover ITER’s increased costs.

With the Government having suggested that the Commission look again at taking a loan from the EIB, we would be interested to hear their views on where the income stream for loan repayments would be sourced from, in particular whether France would be expected to bear a larger share of the burden, in line with their elevated levels of contribution to the EU’s financing of ITER construction costs. Indeed, we are keen to hear how the burden of increased contributions in the absence of a loan from the EIB will be shared out amongst all signatories to the ITER Agreement. Has any consideration been given to inviting other states to take part in the project, in order to provide more funding?

6 July 2010

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

Thank you for your letter of 6 July in response to my explanatory memorandum dated 7 June 2010 on the above document.

As you may now be aware, Council Conclusions on ITER were adopted as an “A” point at the Agriculture and Fish Council meeting on 12 July, and I attach these Conclusions for your information.

You will see from the Conclusions that Council reaffirmed its commitment to the successful completion of the ITER project and acknowledged its estimated financing needs. You will also note that Council recognised the governance of ITER has to be improved and that there is a need for strict cost containment on the project.

Council also agreed that additional commitments of up to €1.4 billion to be found for ITER for 2012-2013 should come from a mix of sources within the current EU budget. The Treasury was content with this outcome which avoids increasing the EU overall budget for 2007-2013.

The Commission argued for a long-term financial commitment from Member States to fund ITER for the duration of its construction, that is, to the end of the next EU budget period. However, the Government, like other Member States, considered that this would have prejudged the outcome of the negotiations on the next EU budget (2014-2020).

The Commission has recently responded to the Council Conclusions by adopting a proposal for funding the construction costs of ITER. The proposal, which is attached, proposes to cover the €1.4 billion needed for 2012-2013 through redeployment of €460 million from Framework Programme 7, by transferring €400 million of unused funds from other EU budgets, and by a further transfer within the EU budget to be specified later.

The European Parliament and the Council will now both have to agree on the proposal amending the current financial framework 2007-2013.

The Commission has indicated that it is now in a position to support “ad referendum” (subject to later agreement of the budgetary authority) the adoption of the ITER baseline (the scope, schedule, and cost of the project) at the extraordinary ITER Council meeting on 27-28 July. As I am sure you are aware, Euratom is one of the seven signatories to the ITER Agreement, and the Commission represents Euratom at the ITER Council.

In your letter you asked about the contribution from France. The Council Conclusions make clear that within the European contribution to the construction costs of ITER, 80% will be funded by Euratom and 20% by France.
You also enquired about the division of ITER costs amongst other ITER partners, and the scope for new members joining the ITER project in order to provide more funding. It was decided by the seven parties that signed the ITER Agreement in November 2006 that the resources for the construction phase would be provided predominantly by contributions in-kind. This led to the supply of the ITER components being divided into procurement packages and allocated to the ITER members. The EU is providing about 45% of costs of ITER construction, and the other six parties are providing about 9% each. Consequently, accepting more countries into the ITER project would require a reallocation of the agreed in-kind contributions to ITER. It is very unlikely that ITER members would wish to see a change in the existing supply arrangements at this stage, even assuming there was a new member that wished to join and could find the necessary 9% share of construction costs. At some future point, it is likely the ITER project members will wish to consider some form of associate membership for other countries wishing to participate in the project.

I hope that the above has answered your queries and that the Committee would consider releasing this document from scrutiny.

4 August 2010

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

Thank you for your letter of 4 August which was considered by the Sub-Committee on the Internal Market, Energy and Transport on 11 October. They decided to clear the document from scrutiny.

It was disappointing to learn that Conclusions had been adopted on this dossier without its having been cleared by this Committee. We consider this to be an override of scrutiny.

We share the Government’s concern that only €860 million of the shortfall has so far been identified. We are also concerned that a large proportion of redeployed funds is to be found from the research and development budget. Given the Europe 2020 goal to increase European investment in research, this seems shortsighted. We previously asked which specific projects were likely to be scrapped in order to meet the shortfall: is there any further detail on this?

The idea of a loan from the European Investment Bank seems to have been dropped. Are you aware whether this avenue is likely to be pursued in order to meet the remaining €540 million gap?

The European Parliament has voted down the plan on the grounds that it is a piecemeal solution to the funding problem. Do you think it is likely that agreement will be reached before the end of the year?

I would be grateful to receive a reply to this letter within the standard deadline of ten working days.

15 October 2010

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

Thank you for your letter of 15 October following the submission of my Explanatory Memorandum of 7 June 2010 and my letter of 4 August 2010. I am grateful to learn that the Communication from the Commission to the European Parliament and Council has cleared scrutiny and I am pleased to provide you with the additional information that you have requested.

We work closely with our colleagues in Her Majesty’s Treasury on the ITER funding issue and I should like to draw your attention to its EM on Council doc. no. 12614/10 of 8th September on which this response draws.

I realise that the Committee was disappointed to learn that the Conclusions were adopted in Council before they had been cleared through scrutiny. This was unfortunate and unavoidable due to both the swift turnaround of the communication as well as Parliament being in summer recess. I will endeavour to adhere to the Committee’s new terms of reference for future documents.

It is noted that you share the Government’s disappointment that the Commission’s proposal of 20 July identifies only €860 million of the €1.4 billion ITER funding shortfall. The Commission’s proposal has subsequently received widespread criticism from Member States who have argued that the full amount of additional finance should be found in a single agreement rather than through two or more agreements, as proposed by the Commission, which would require separate negotiations with the European Parliament. The Presidency and the Commission are presently considering how to respond and we await a new proposal. We anticipate that this will be made during the upcoming conciliation committee between Council and the European Parliament, on the 2011 EU budget. This is scheduled to meet from 27 October to 11 November.
As you know, Council Conclusions of 12 July made clear that Council expected the Commission to make proposals for meeting the funding shortfall based primarily on redeployment within Heading 1a, first taking into account unused appropriations and then applying a flat-rate basis with appropriate adjustments.

The Government believes it is essential that the additional funding for ITER is identified within the overall ceiling of the Financial Framework. It also wishes to see a solution to the ITER funding for 2012-2013 at least cost to the UK.

HMT’s EM 1264/10 explained that the Government considers that research and innovation spending under Heading 1a represents significantly higher value for money than expenditure under Heading 2. However, use of unallocated margins under Heading 2 to finance ITER would eventually entail additional cost to Member States, which reprioritisation of the programmed allocation for Heading 1a would not. In order to limit the additional cost to the UK, the Government will argue for a more substantial proportion of the funding shortfall for ITER to be met through redeployment of funds within Heading 1a than that proposed by the Commission.

We understand the concerns that significant redeployment of existing funds within Heading 1a could have an effect on a range of policies and programmes which are part of the Europe 2020 agenda. However, the Financial Framework provides for a substantial increase in the Seventh Research Framework Programme over 2010-2013. As such, we believe it will be possible to obtain a balanced solution to these issues of respecting the current Financial Framework in meeting the ITER commitment, and of ensuring new additional financial contributions for ITER from Member States are limited as far as possible, while maintaining the Europe 2020 goals of increasing investment in research and innovation.

At present we do not have any detail on the implications for specific projects resulting from any redeployment from the Seventh Research Framework Programme within Heading 1a.

Finally, you asked about the idea of a possible loan from the European Investment Bank (EIB) which was put forward earlier as a possible solution to the ITER funding problem. After due consideration by the Commission, an EIB interest bearing loan was not thought to be feasible. Among the problems identified by the Commission was that, as the ITER project would not generate direct revenues, the repayment of the loan would have to be financed by the EU budget which would have involved committing EU funds beyond the current multiannual EU budget period. The Commission therefore ruled out the option.

29 October 2010

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

Thank you for your letter of 29 October, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. The Sub-Committee has also seen a letter of 6 November from the Economic Secretary to the Treasury.

Your letter is a welcome clarification of the situation as it stands, but we would appreciate further updates on the production of the compromise proposal. In particular, if a new Commission text emerges we would expect it to be deposited for scrutiny.

17 November 2010

Letter from the Chairman to Justine Greening MP, Economic Secretary, HM Treasury

Thank you for your letter of 6 November. The parts dealing with the ITER project were considered by the Sub-Committee on the Internal Market, Energy and Transport. The Sub-Committee on Economic and Financial Affairs, and International Trade will consider the other aspects of the letter.

Your letter provides clarification on where the funds are to be found, and we are pleased that the Commission appear to have identified funding sources for the entire €1.4 billion. We share your concern that a large proportion of this appears to come from unallocated margins, with a consequent increase in Member State contributions, but in the absence of an EIB loan, or of concrete plans to reallocate more funds within Heading 1a, it is difficult to see where else the money will found.

We would appreciate an account of the outcome of the talks as soon as you are in a position to provide it. Should a new proposal emerge, we would expect it to be deposited for scrutiny.

17 November 2010
Letter from the Rt. Hon David Willetts MP to the Chairman

Thank you for your letter of 17 November.

In view of the Committee’s continuing interest in ITER developments, I thought I would bring to your attention the enclosed staff working paper from the Commission about improving ITER governance entitled “Towards a robust management and governance of the ITER project”.

This Commission paper will be presented at the forthcoming Competitiveness Council on 26 November which I am proposing to attend.

24 November 2010

ENERGY: PROGRAMME FOR RECOVERY (9141/10, 10457/10)

Letter from the Chairman to Charles Hendry MP, Minister of State, Department for Energy and Climate Change

Thank you for your explanatory memoranda dated 3 June 2010 and 23 June 2010. The Sub-Committee on Internal Market, Energy and Transport considered them on 12 July 2010 and decided to clear them from scrutiny.

We support the Government’s energy efficiency objectives, in particular those concerning increasing the UK’s use of renewable energy sources; and have argued in our report, The EU’s Target for Renewable Energy: 20% by 2020, that energy efficiency was crucial to meeting the UK’s targets. To that end, we would be interested to know in more detail the possible options to which unused funds may be reallocated.

We do, however, find it surprising that it was not possible to allocate the full amount: was there a particular reason for this, given that applications were made for an amount in excess of the total €3.98 billion? On what criteria were applications assessed?

Your EM says that an impact assessment was not necessary for document 10457/10, as this is an amending proposal. However, we understand that no impact assessment was produced for the original Regulation either. How has the impact of these Regulations been assessed? Do you believe that reallocating funds to energy efficiency measures is the best possible use of this money? We have recently scrutinised a report on the funding gap for the ITER project: has any consideration been given to allocating these funds to that project?

We are particularly concerned that little has been said about the likelihood of jobs being created by this scheme, given the amount of money that has been distributed. What assessment has been made of this, and what guarantees are there that, once the technology is mature, jobs will not be exported outside the EU?

In addition, we would appreciate an update on the level of uncommitted funds as it currently stands.

13 July 2010

Letter from Charles Hendry MP to the Chairman

I am writing in response to your letter of 13 July about the Explanatory Memoranda (EMs) on the above documents.

First, I would like to take this opportunity to update you on the progress of negotiations. There have been three Working Group discussions, with a view to further debates in September. At this stage, however, Member States continue to have many questions about the operation of the financial instrument proposed; and it is unclear how negotiations will develop. The European Parliament has also debated the proposals and, along with the Belgian Presidency, is keen for an early agreement. In response to your question about the amount of money currently unallocated, the figure remains at €114m and the UK is arguing for it to be capped at that amount.

You asked for more detail on the type of projects that might receive the reallocated funds. As you are aware, the Commission’s proposal sets out a list of potential projects ranging from investments for high energy efficient combined heat and power and district cooling systems to clean urban transport to support increased energy efficiency and integration of renewable energy sources. There is an emphasis on projects at local and regional level in urban areas. The UK is keen to ensure that the type of projects listed in the draft proposal should be seen as an indicative list to ensure that support is widely available once the Regulation has been agreed. Once in force, we will of course encourage
UK projects to apply for funding although it will not be for the UK Government to put forward projects itself.

You also asked why it was not possible to allocate the full amount of €3.98 billion from the original Regulation. As you know, the Commission has identified a potential underspend of €114 million. Although the Commission has not given a detailed breakdown of which projects this money has come from, they have confirmed that it is from projects where it is already known commitments will not be made. Article 8 of the original Regulation 663/2009 set out the selection and award criteria. These included ‘maturity’ i.e. the ability to make commitments and spend the money quickly so as to contribute to the economic recovery. Other criteria included technical and financial soundness, and the extent to which EEPR funding would help overcome access to finance issues and leverage further investment.

You note that no Impact Assessment has been carried out on the original Regulation or the current proposal. The Commission did not supply an impact assessment for the original Regulation on the grounds that as it was intended as a stimulus to economic recovery it had to be agreed quickly. The current draft Regulation proposes using existing funds so there are no additional costs for the UK. The UK pressed at the time for proper assessment of the economic case for projects as they were selected and we continue to ask the Commission for an impact assessment in the present negotiations. The UK considers that an impact assessment at the EU level rather than at a Member State level would be more accurate and proportionate.

In the same way, the UK believes that it is for the EU to carry out an assessment of the jobs created by the scheme. The Commission agreed in the original Regulation that it would carry out an evaluation of the scheme by 31 December 2011.

Finally, you ask whether energy efficiency measures are the best possible use of this money, and suggest a possible alternative – the ITER project. As you know, the Government is keen to promote much greater energy efficiency and encourage local action. To this extent, the proposals are in line with broader Government priorities. Given the relatively small amount of funding currently being proposed, it seems sensible to target their use to help overcome barriers to investment for smaller projects. This is of course also in line with the agreement reached between the Council and European Parliament last year. I am aware of the ITER project and the current shortfall in funding. I understand that the Commission has recently adopted a proposal to address the funding shortfall for ITER and that David Willetts, Minister for Universities and Schools in the Department of Business Innovation and Skills, is writing to update you.

26 July 2010

ENERGY: SECURITY OF GAS SUPPLY (11892/09)

Letter from Charles Hendry MP, Minister of State, Department for Energy and Climate Change, to the Chairman

I refer to Lord Roper’s letter of 23 March to my predecessor, Lord Hunt, confirming that Subcommittee B (Internal Market) had cleared this proposal from scrutiny but that the Committee would like to be informed about the outcome of the Energy Council meeting.

You will have seen from my recent post Council Statement to Parliament that, as expected, there was no substantive discussion of this dossier at the Council on 31 May. The Spanish Presidency gave a brief progress report noting the constructive progress in the negotiations with the European Parliament and that there was a good chance of reaching a First Reading Deal by the end of its Presidency.

We have managed to secure a pragmatic, market-orientated Regulation that lays clear obligations on Member States/Competent Authorities and their Natural Gas Undertakings and provides a good balance between the (limited) powers of the Commission, which respect subsidiarity, and the responsibilities of Member State in preparing for and dealing with a gas supply emergency – whether national, regional or at Union level. We believe that the legislation should have a positive benefit on UK security of supply. For example, it will help to ensure that:

— actions by Member States will not impact negatively on other Member States’ ability to supply their protected customers both in normal times and at times of supply disruptions nor hamper the well functioning of the internal market;
— there will be much more visibility of Member States’ preventive and emergency plans (to ensure a measure of consistency between Member States); and

— there will be much greater transparency over Member States’ public service obligations.

As the Presidency enters the final stages of negotiations with the European Parliament we shall continue to work with them to ensure that this careful balance is maintained.

If a First Reading deal is struck during the Spanish Presidency, formal adoption would follow during the Belgian Presidency in the second half of the year.

10 June 2010

Letter from Charles Hendry MP to the Chairman

Further to your request, and my letter of 10 June reporting on the discussion of this issue at the 31 May Energy Council, I am writing to update you on progress to reach a First Reading Deal and the likely timetable for adoption.

As anticipated, following informal agreement on the text of the Regulation in the final trilogues on 22/23 June involving the Presidency, Commission and representatives of the ITRE Committee (Industry, Research and Energy Committee dealing with this dossier), ITRE voted formally to agree the text on 12 July. This paves the way for a First Reading Deal to be confirmed formally by a vote in plenary session of the European Parliament around 21 September. The Regulation is then scheduled provisionally to be taken as an ‘A’ point (i.e. no discussion) in Council later in September. Once this process is completed, the Regulation will be adopted once it has been published in the EU Official Journal (this may take up to a month or so). The Regulation will be in force 20 days from that date so end November / early December is likely timing.

The text, which was agreed, maintains the previously achieved careful balance between the (limited) powers of the Commission and the obligations of Member States in preparing for, and dealing with, a gas supply emergency.

12 August 2010

Letter from Charles Hendry MP to the Chairman

Further to my letter of 9 August updating you on progress on the Security of Gas Supply Regulation I can confirm that the European Parliament formally agreed a First Reading Deal on 21 September. The Regulation is now scheduled to be taken as an ‘A’ point (i.e. no discussion) in Council on 11 October. Once the Regulation has been published in the EU Official Journal (this may take up to a month or so) it will be in force 20 days from that date so end November / early December remains the likely timing.

As advised previously the Regulation is not expected to be burdensome for the UK since the UK meets most of the obligations in the draft Regulation. For example, the UK comfortably meets the ‘N-1’ infrastructure standard (capacity of the network to meet winter demand for gas in the event of failure of the largest single piece of gas infrastructure) and the emergency stages mesh well with the UK’s existing stages.

Nevertheless we shall ensure that we meet all the obligations and measures placed on Member States. We have a robust process in place for ensuring that the measures set out in the Regulation are implemented in the UK in a timely way, working with key delivery partners as necessary.

11 October 2010

EUROPE 2020 FLAGSHIP INITIATIVE AND SMART GROWTH (14035/10, 14679/10)

Letter from the Chairman to the Rt Hon David Willetts MP, Minister of State, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 25 October and also the separate explanatory memorandum of 26 October from Mark Prisk MP concerning the second document, which were both considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to clear both documents from scrutiny.
We note that the Government broadly support the content of these Communications and further note that the recent announcements concerning the science budget and other innovation measures, as part of the comprehensive spending review, suggest that Government’s approach to innovation and funding issues may be broadly sympathetic to the Commission’s position. We are also supportive of the overall aim of these Communications and will therefore look forward to scrutinising the more specific proposals which emerge as they are published.

A response to this letter is not required.

16 November 2010

EU 2020: FUTURE STRATEGY (7110/10, 9231/10)

Letter from the Chairman to Lord Sassoon, Commercial Secretary, HM Treasury

This letter is in response to Ian Pearson’s letter of 8 April 2010. It was considered by the Sub-Committee on Internal Market, Energy and Transport it at its meeting on 28 June.

We note that Europe 2020 was formally adopted at the 17 June European Council and consider this an override of the scrutiny reserve, though one which was unavoidable because the Committee was not yet in being. The European Council also confirmed the EU headline targets upon which Member States should finalise their targets. How does the Government intend to involve the national Parliament in establishing the targets for the UK?

Overall we fear that Europe 2020 still lacks a clear and efficient governance system as implementation of the strategy still relies mainly on the political will of Member States. Are the new Government still committed to having an ambitious and higher profile for Europe 2020 as a way of holding Member States to account for their delivery? If so, how do you intend to ensure a high profile for Europe 2020 in the UK?

29 June 2010

Letter from Lord Sassoon to the Chairman

Thank you for your letter of 29 June on the Europe 2020 strategy.

As you note, on 17 June the European Council agreed five EU headline targets:

— aiming to raise to 75% the employment rate for women and men aged 20-64, including through the greater participation of young people, older workers and low-skilled workers and the better integration of legal migrants;
— improving the conditions for research and development, in particular with the aim of raising combined public and private investment levels in this sector to 3% of GDP, with further work on an indicator reflecting R&D and innovation intensity;
— reducing greenhouse gas emissions by 20% compared to 1990 levels; increasing the share of renewables in final energy consumption to 20%; and moving towards a 20% increase in energy efficiency;
— improving education levels, in particular by aiming to reduce school drop-out rates to less than 10% and by increasing the share of 30-34 years old having completed tertiary or equivalent education to at least 40%; and
— promoting social inclusion, in particular through the reduction of poverty, by aiming to lift at least 20 million people out of the risk of poverty and exclusion.

The European Council agreed that Member States “should, in close dialogue with the Commission, rapidly finalise their national targets, taking account of their relative starting positions and national circumstances, and according to their national decision-making procedures”. The European Council emphasised the competence of Member States to define and implement quantitative targets in the field of education.

The European Council also gave its political endorsement to the EU economic and employment guidelines (see EMs 9231/10 and 9233/10). These will now come back to the Economic and Financial Affairs Council (ECOFIN) and the Employment, Social Policy, Health and Consumer Affairs Council respectively for legal adoption. The UK abstained in both Councils ahead of the European Council, reflecting parliamentary scrutiny reservations – I attach the version of both guidelines agreed by the
European Council. The European Council was clear that any recommendations following the guidelines “shall be fully in line with relevant Treaty provisions and EU rules and shall not alter Member States’ competences, for example in areas such as education”.

The Government is considering its approach to the national targets, not least in the context of the Spending Review due on 20 October. The Government is also considering what the main “bottlenecks” to growth are in the UK economy. It will set these out, as agreed by the European Council, in its National Reform Programme in the autumn. The “bottlenecks” covered by EU officials in work endorsed by ECOFIN, which Member States were invited to take into account, were:

— reducing the deficit;
— a well-functioning and stable financial sector;
— rebalancing the economy towards exports;
— facilitating an increase in private investment; and
— improving the skills base.

The process of governments working with EU partners to identify national bottlenecks, and then being held accountable for tackling them, has the potential to be a valuable way of encouraging reform without sacrificing ownership. It allows for useful analysis of the issues faced by each Member State in a way that can take into account the aggregate EU economy. A number of Member States with current account surpluses, for example, are encouraged in their national bottleneck plans to take steps to promote domestic demand.

The Government will ensure that Parliament is kept informed as work progresses on national targets and bottleneck plans under Europe 2020, using the most appropriate form of parliamentary engagement. Beyond that, the Government will also be proactive in updating the Committee as negotiations progress on the various strands of the strategy.

You ask if the Government is committed to having an ambitious and higher profile for Europe 2020. The Government agrees that there is an urgent need for reforms that improve economic growth prospects across Europe, in parallel with the reforms under discussion on Europe’s fiscal framework. Europe 2020 provides a useful starting point, but it would benefit from greater focus on specific policy measures. These might include for example:

— a deeper and stronger Single Market, to derive further benefit from one historical source of growth – more efficient internal markets;
— a more strategic and constructive approach to global trade, to tap into external demand – a critical source of future growth; and
— facilitating a third source of growth – technological change and innovation – through smarter regulation that allows enterprise to flourish.

12 July 2010

Letter from the Chairman to Lord Sassoon

This letter is in response to your letter of 12 July 2010. It was considered by the Sub-Committee on Internal Market, Energy and Transport it at its meeting on 19 July. The Committee took note of your letter.

We understand that you are planning to use the most “appropriate form of parliamentary engagement” to involve us in the definition of national targets. What does this form entail?

We agree with you that there is an urgent need for reforms that improve economic growth prospects across Europe in parallel with reforms on the EU fiscal framework. The success of Europe 2020 depends on both the good health of public finances across the EU and incentives for structural reforms. The fact that you mention the single market as a specific policy area from which Europe 2020 can benefit is of great interest to us in light of the Committee’s future inquiry on the matter. The Europe 2020 document itself recognises that a stronger, deeper, and extended single market is in fact one of the key instruments to achieve Europe 2020’s objectives and we are grateful to you for highlighting the other crucial areas for the success of the Strategy.

We will remain vigilant on the progress of negotiations on the various aspects of Europe 2020 while awaiting further updates.

20 July 2010
Letter from Lord Sassoon to the Chairman

Thank you for your letter of 20 July on the Europe 2020 strategy. You asked what form of parliamentary engagement I envisage as we take forward the definition of national targets for Europe 2020.

Unfortunately, at this stage it is difficult to be definitive about the timing and the most appropriate form of engagement on these issues, for two reasons.

First, the EU processes that will determine the content and timing of the UK’s National Reform Programme (NRP) are still being finalised. EU Heads agreed in June to a “European Semester” approach to the coordination of fiscal and structural policies. The Commission has outlined more detailed proposals for how this will work in terms of structural reform policies and the production of NRPs, but some aspects are yet to be agreed.

Second, the content of the NRP in terms of domestic reform policies will have a bearing on the most appropriate form of parliamentary engagement. Previous NRPs have been based on material that has already been presented to Parliament in the Budget or Pre-Budget Report. It is not yet clear to what extent this autumn’s NRP will again draw on measures already announced in the Budget or that will form part of the Spending Review due on 20 October.

I will update the Committee on the timing and engagement on the UK’s NRP as soon as I have greater clarity.

26 July 2010

Letter from the Chairman to Lord Sassoon

Thank you for your letters of 20 and 26 July, which were considered by the Sub-Committee on Internal Market, Energy and Transport.

Your letter appears to suggest that parliamentary scrutiny of the NRP is likely to be restricted to consideration of the Budget and Pre-Budget Report. Is this the case, or have developments over the summer enabled you to take a clearer view on what form parliamentary consideration might take?

In any case, we would appreciate an update on developments since your last letters.

15 October 2010

Letter from Lord Sassoon to the Chairman

Thank you for your letter of 15 October, which asks for an update on developments since my letters to you of 20 and 26 July and on Parliamentary engagement on the UK’s National Reform Programme (NRP).

Recent Developments

The Commission Secretariat General issued guidance to Member States on producing NRPs, on 14 July and 22 September. This guidance calls on Member States to submit full NRPs in April 2011 as part of the new “European Semester”. The Commission guidance suggests that Member States should include in the full NRP: an introductory statement; a summary of the macro-economic scenario in the Member State; an identification of “bottlenecks” to growth in the Member State and policies to tackle these, through “frontloading of reforms”; their approach to national targets; and horizontal and methodological issues, which includes an update on Parliamentary engagement.

As a transitional measure, Member States have also been asked to submit to the Commission “draft” NRPs by 12 November. The draft NRPs are more limited in their scope. The Commission guidance calls on Member States in their draft NRPs to include: a summary of the medium-term macro-economic scenario; bottlenecks to growth and policies to frontload reforms to tackle these; and their approach to national targets.

As part of this process, the Commission visited the UK on 25 October. The visit focused on: the new European Semester, economic governance, macroeconomic forecasts; fiscal policy and fiscal challenges in the UK; macroeconomic imbalances; and bottlenecks to growth in the UK. Officials from HM Treasury, Cabinet Office, the Office for Budget Responsibility, the Department for Business, Innovation, and Skills, and the Foreign and Commonwealth Office represented the UK.
PARLIAMENTARY ENGAGEMENT

The Government has had positive engagement with Parliament to date on Europe 2020 and looks forward to this continuing.

The draft NRP will be based on the Budget and the results of the Spending Review. Given this, and the very short period of time between the Spending Review and the deadline for submission, I intend to send to you a copy of the UK’s draft NRP once it has been submitted. I would then welcome the views of the Committee on the draft NRP as the Government works up the final NRP due for April 2011. I hope that my evidence session on the NRP, scheduled for 30 November, will provide such an opportunity.

28 October 2010

Letter from the Chairman to Lord Sassoon

Thank you for your letter of 28 October, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They agreed to bring correspondence on these documents to a close.

I look forward to discussing the National Reform Programme with you at the Select Committee evidence session on 30 November.

16 November 2010

Letter from Lord Sassoon to the Chairman

As promised in my letter to you of 20 July, please see attached [not printed] a copy of the UK’s draft National Reform Programme, which was submitted to the European Commission on 22 November.

I look forward to discussing this further when I appear before the Committee on 30 November.

23 November 2010

EU 2020: PART I – GUIDELINES FOR THE ECONOMIC POLICIES OF THE MEMBER STATES (9231/10)

Letter from the Chairman to the Lord Sassoon, Commercial Secretary, HM Treasury

Thank you for your Explanatory Memorandum on the Europe 2020 broad economic policy guidelines. The Sub-Committee on Internal Market, Energy and Transport considered the document at its meeting on 5 July. They decided to clear the document from scrutiny.

We take note of your abstention in the vote at the ECOFIN on 8 June. At the 17 June 2010 meeting, the European Council reached a political agreement on the broad economic policy guidelines (BEPGs). We consider this an override of scrutiny, although understandable, given that the Committee was not yet in being.

In line with the ambition of Europe 2020, the spirit of the economic guidelines should be to promote those structural reforms needed to unlock EU growth and competitiveness, a point you seem to recognise in your EM. Do you believe that the broad economic guidelines, as currently formulated, constitute an appropriate coordinated strategy for EU economic recovery?

We also observe that in the past these economic guidelines have not been at the centre of national policy making. However, EU leaders are discussing the need for greater economic policy coordination in the EU. How, and to what extent, would this greater emphasis on economic policy coordination put pressure on the UK to comply with the guidelines in national policy making? We believe that the preparation of the UK’s NRP will be essential in determining the detailed actions the UK would take in this respect. We urge you to send us a copy of it once finalised. We would also like to receive an update on the process of peer reviewing of the NRPs conducted by the European Council.

7 July 2010

Letter from the Lord Sassoon to the Chairman

Thank you for your letter of 7 July on the broad economic policy guidelines (BEPGs), which are part of the Europe 2020 strategy.
The ECOFIN Council formally adopted the BEPGs on 13 July, following political endorsement at the June European Council. The final version of the adopted BEPGs is attached to this letter.

You ask whether the BEPGs constitute an appropriate coordinated strategy for EU economic recovery. The Government welcomes the adoption of the BEPGs as an important part of the Europe 2020 strategy and of the wider EU economic governance framework, which can contribute towards EU economic recovery. As noted in the Explanatory Memorandum, the economic and financial crisis has severely impacted on Europe’s growth prospects, and it is critical that the EU and its Member States undertake the structural reforms needed to promote growth in Europe. All Member States report annually on their reform plans, in line with the Integrated Guidelines (which comprise the BEPGs and the employment guidelines), and receive non-binding recommendations for policies to pursue in the future. The BEPGs will therefore facilitate the coordination in Council of planned reforms where possible.

You also ask how and to what extent would greater emphasis on economic policy coordination in the EU put pressure on the UK to comply with the BEPGs in national policy making.

The issue of economic policy coordination and the role of the BEPGs in national policy making are detailed in Article 121 of the Lisbon Treaty. In addition to the annual policy recommendation process detailed above, Article 121(4) states that: “Where it is established … that the economic policies of a Member State are not consistent with the broad guidelines … or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned.” Such Council recommendations are agreed by a qualified majority of the Council, without the Member State concerned being able to vote.

You ask for the Government to send the Committee a copy of the UK’s National Reform Programme (NRP) once finalised and for an update on the process of peer reviewing of the NRPs conducted by the European Council. I am happy to do this.

20 July 2010

EU 2020: PART II – GUIDELINES FOR THE EMPLOYMENT POLICIES OF THE MEMBER STATES (9233/10)

Letter from the Chairman to the Rt. Hon. Chris Grayling MP, Parliamentary Under-Secretary of State, Department for Work and Pensions

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Internal Market, Energy and Transport Sub-Committee on 5 July 2010. They decided to clear the document from scrutiny.

We note that the Employment Guidelines are very broad and consider that the crucial step will be the National Reform Programmes (NRPs) to be drafted by each Member State. Out of necessity, these will need to contain far more details. We look forward to receiving a copy of the UK’s NRP once finalised and would be interested in an update from the Government on the process of peer reviewing the NRPs of other Member States once that progress is under way.

At the 17 June 2010 meeting, the European Council reached a political agreement on the employment policy guidelines. We consider this an override of scrutiny, though we acknowledge that this was unavoidable due to the Committee’s not yet having been established in the new Parliament.

6 July 2010

Letter from the Chairman to the Rt. Hon. Chris Grayling MP

Thank you for your letter of 19 July, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They agreed to bring correspondence on this document to a close.

You will be aware that the European Union Select Committee will be holding an evidence session with Lord Sassoon on 30 November, at which time I hope to discuss the production of the National Reform Programme in further detail.

16 November 2010
EU AIRPORTS: USE OF SECURITY SCANNERS

Letter from the Chairman to the Rt Hon Theresa Villiers MP, Minister of State, Department for Transport

Thank you for your explanatory memorandum of 8 July, which was considered by the Sub-Committee on Internal Market, Energy and Transport on 19 July. They decided to clear it from scrutiny.

We note that the Government broadly support the content of the Communication and consider that security scanners could play a key role in protecting the travelling public. We also note, with interest, the existence of the interim UK code of practice and the recent consultation on the final version. We consider that the Communication is an interesting document which contains a number of important considerations, not least those concerning the protection of passengers’ privacy and data protection rights, as well as guaranteeing adequate health standards. We believe that the introduction of such scanners raises important human rights issues. On a practical note, we are concerned that scanners may take longer to use than traditional arches, with a consequent effect on queues in airports. We will therefore look forward to scrutinising any legislative proposal which may result from this Communication and note that the Commission is expected to publish something later in the year.

20 July 2010

EURATOM: NUCLEAR SECURITY RESEARCH AND DEVELOPMENT

Letter from the Chairman to Charles Hendry MP, Minister of State, Department for Energy and Climate Change

Thank you for your explanatory memorandum of 25 May, which was considered by the sub-committee on Internal Market, Energy and Transport. They decided to clear it from scrutiny.

Nuclear security is clearly of increasing importance and we welcome further cooperation between the EU and the US in improving safeguarding mechanisms.

29 June 2010

EUROPEAN BROADBAND, THE RADIO SPECTRUM POLICY AND ACCESS TO THE NEXT GENERATION ACCESS NETWORKS

Letter from the Chairman to Ed Vaizey MP, Parliamentary Under Secretary of State, Department for Business, Innovation and Skills

Thank you for your explanatory memorandums of 13 October, which were considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to clear the documents from scrutiny.

We note that the Government broadly support the content of the documents, particularly their commitment to achieving greater economic growth and productivity in the EU. We are also enthusiastic about the potential benefits of this broadband package.

We also note that the Government have a number of concerns about specific aspects of the Proposal for a Decision to establish the first Radio Spectrum Policy Programme. We would appreciate it if we could be kept informed of how these matters are addressed in the Council during this measure’s negotiation.

3 November 2010

EUROPEAN SATELLITE RADIO-NAVIGATION PROGRAMMES

Letter from the Rt Hon Theresa Villiers MP, Minister of State, Department for Transport to the Chairman

I understand that when your Committee previously considered this proposal you cleared it from scrutiny, but were aware that there were some issues still to be resolved. I would therefore like to bring you up to date with further progress made in the negotiations, including the outcome of consideration by the European Parliament.
UPDATE ON THE DRAFT REGULATION

As you may recall, the Spanish Presidency had proposed a number of compromises aimed at reaching agreement between the European Parliament and Member States on several outstanding issues, and which were discussed by the Member States at working group level. The resulting proposed compromise text was considered by the European Parliament at its plenary first reading on 14-17 June, where it was adopted without further amendment. It will now be reviewed by Jurist-Linguists, and is then expected to be adopted at Council.

UPDATE ON THE OUTSTANDING AREAS

Security Accreditation

The draft regulation proposes that a new Security Accreditation Board (SAB) should be set up. The SAB will be responsible for the accreditation of all security aspects of the system and receivers capable of decoding the encrypted Public Regulated Service (PRS) signal. Accreditation will be done in a context of collective responsibility for the security of the Union and the Member States. All members of the SAB will be professionals in the field of accreditation and have appropriate security clearance for the tasks.

The Spanish Presidency and the Member States had concerns about a proposed amendment from the European Parliament to remove the reference stating that the Security Accreditation Board for European GNSS systems must be an autonomous body that takes its decisions independently. The compromise accepted by the European Parliament reinstates the status of the Board and reads – ‘accreditation decisions shall be taken independently of the Commission, without prejudice to Article 3, and of the entities responsible for implementing the programmes. As a result, a security accreditation authority for European GNSS systems shall be, within the Agency, an autonomous body that takes its decisions independently.’

The Spanish Presidency compromise also proposed that the Accreditation Board should adopt opinions by a majority of three quarters of the representatives of the Member States. All Member States took the view that such opinions should be adopted via majority voting, and the text now reflects this.

The role of the Galileo Supervisory Authority

You may recall that the Member States had agreed that the weight of the Commission’s vote on the Administrative Board of the GSA should be limited to one vote for each of its five representatives, and that although the Commission were prepared to accept this in return for ‘outright veto’ on a number of ‘project manager’ roles, there was a subsequent proposal by the EP that the Commission be given 40% of the vote. In subsequent negotiations the EP accepted the views of the Commission and Member States and agreed to the original proposals, thus the Commission will therefore have one vote for each of its five Board members. Decisions regarding the adoption of the work programme for the Agency and the exercising of disciplinary authority on the Executive Director will not be taken without a positive vote of the representatives of the Commission.

Involvement of the European Parliament

As you may also recall, the issue of the appropriate level of European Parliament involvement on the GSA Administrative Board had been the subject of lengthy negotiations with the EP, who wanted to have three representatives to sit on the Board as observers. The Spanish Presidency had put forward a compromise which would give the Parliament one representative on the board without voting rights. Member States considered this to be an acceptable compromise. The EP will not, however, be represented on the Security Accreditation Board.

NEXT STEPS

Following the review of the text by Jurist-Linguists it is expected that the proposal will be adopted at Council in the next few weeks.

28 July 2010
Letter from the Chairman to Charles Hendry MP, Minister of State, Department for Energy and Climate Change

Thank you for your explanatory memorandum of 25 October, which was considered by the Subcommittee on Internal Market, Energy and Transport. They decided to clear it from scrutiny.

We note the Government’s faith in the UK’s current regulatory system and their initial view that an additional layer of regulation at the EU level may not ‘add value’ in this respect. While we can see some merit in the Commission’s approach to this matter we also have concerns about the budgetary implications that may result. However, we will look forward to scrutinising the various proposals emerging from this Communication in more detail as and when they are published next year.

We would, however, appreciate further information on how the UK’s safety standards have developed in the 22 years since the Piper Alpha disaster, and would be interested to know whether the Government have any particular concerns about standards currently in place in other Member States.

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

16 November 2010

Letter from Charles Hendry MP to the Chairman

Thank you for your letter of 16 November, in which you advised that the House of Lords Subcommittee on Internal Market, Energy and Transport had cleared my Explanatory Memorandum of 25th October from scrutiny.

In your letter, you requested further information regarding the development of the UK’s safety standards since the Piper Alpha disaster and asked whether the Government had any particular concerns regarding the standards in place in other Member States.

As you know, I lead on Energy issues and have responded to these queries below. However, I should point out that health and safety is a matter for the Health and Safety Executive (HSE) and this response has been agreed with officials from that Agency.

How the UK’s Safety Standards Have Developed in the 22 Years Since the Piper Alpha Disaster

Responsibility for UK offshore health and safely prior to 1991 and the Piper Alpha disaster lay with the Department of Energy. The legislation was mainly prescriptive, laying down specific requirements over a range of subjects. Inspections were mainly concerned with the details of compliance with these requirements. The trigger for reviewing the UK’s offshore health and safety legislative regime was the Piper Alpha Disaster and the consequent Public Inquiry recommendations (the Cullen Report 1991).

The Cullen Report recommended that HSE should take over the responsibility for offshore safety from the then Department of Energy. The report realised that a more comprehensive approach to regulating the offshore oil and gas industry was necessary, with a change of culture that put more emphasis on the responsibility of duty holders to manage risks across the complete range of their activities. The concept of goal setting was introduced, with duty holders required to identify their hazards, assess the risks they posed, and put controls in place to minimise the risks.

The report proposed that for high-risk offshore activities, it was necessary to formalise the process into a Permissioning Regime, with the industry required to show in writing (via a safety case) that their major health and safety risks were 'as low as reasonably practicable'. The regulator's role was to assess the safety case, when appropriate accept it, and initiate inspections to ensure that the safety case was effectively implemented.

HSE implemented the recommendation to adopt a 'Safety Case' approach through the introduction of the Offshore Safety Act 1992. Other key Cullen recommendations included:

— Revising other offshore specific legislation (on evacuation, escape and rescue; management and administration; and design and construction) to a less prescriptive style, to complement the new Safety Case regime; and

— The introduction of other offshore regulations to cover the reporting of injuries and dangerous occurrence, first aid, pipelines and diving.
At this time, the European Commission introduced Council Directive 92/91/EEC, which introduced the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through to drilling. This Directive required the production of a safety and health document (similar to the UK requirement for a safety case). The UK implemented this Directive via the above legislation.

HSE CONCERNS ABOUT STANDARDS CURRENTLY IN PLACE IN OTHER MEMBER STATES

HSE has no reason to believe that relevant Member States have not fully implemented those parts of Directive 92/91/EEC relevant to offshore oil and gas work activities.

HSE works closely with the other principal offshore regulators active in the North Sea (Norway, Netherlands and Denmark) both bilaterally and via the North Sea Offshore Authorities Forum (NSOAF). Although we all have slightly different regulatory approaches, and legislative differences around and above the requirements of 92/91/EEC, this is achieved by such vehicles as: common NSOAF audit approaches on well control; NSOAF cross-North Sea initiatives with senior offshore company leaders; and joint working on priority topics in NSOAF work groups. The overall outcome is a broadly consistent safety regulation for operators in the North Sea.

The European Commission consider that the UK and Norway are the benchmark European offshore safety regimes. They acknowledge that their aim in relation to offshore safety regulation is to bring other Member States up to the standards seen in the North Sea. HSE understands that a key area of concern is how offshore work activities are regulated in those regions, rather than just how Directives have been transposed into national legislation.

I trust that this provides the clarity that you were seeking.

29 November 2010

HAZARDOUS SUBSTANCES: RESTRICTION OF USE (17333/10)

Letter from Mark Prisk MP, Minister of State, Department for Business, Innovation and Skills, to the Chairman

I refer to a supplementary EM on the above proposal which my predecessor submitted to Parliament on 27 May 2009. The Lords Select Committee considered and cleared this item from scrutiny at their meeting of 2 June 2009.

The purpose of this letter is to warn you that there are strong indications that the Belgian Presidency will work with the European Parliament and the Commission to achieve a first reading agreement late in 2010. At this stage, meetings have taken place between the parties at official level to try and establish whether such an agreement is likely. These so called “technical” meetings will continue into September and if successful will lead to the start of political negotiations late in September. Although a first reading vote in Plenary was scheduled for mid October, we now believe that date is likely to slip to the end of the year.

If we do indeed progress to formal first reading negotiations, I will update you in the Autumn.

20 July 2010

INTEGRATED MARITIME POLICY (14284/10)

Letter from the Chairman to Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your explanatory memorandum of 28 October, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They decided to hold the document under scrutiny.

We should be grateful for a further explanation of the legal bases for this proposal when the Government has received the clarification mentioned in the explanatory memorandum. The implication of the Government’s objection to the legal bases is that you intend to opt in to measure if they are retained. Is this the case? We would be interested to know what would be the implications a) for the UK and b) for the project as a whole, if the UK (and perhaps Ireland) did not opt in and Denmark were excluded. The drafting of the measure does not make it clear to which areas the AFSJ
legal bases apply, and therefore the extent of any ability to opt in or out. We consider this to be necessary if the AFSJ legal bases are retained.

You raise a subsidiarity concern. In general, we can see that the proposal brings added EU value by supporting and co-ordinating Member State action in this field. In regard to the development of the Atlantic sea-basin, we do not immediately see why EU action would not be justified, given that Atlantic coast of Europe is shared by many Member States. Furthermore, the objective of securing EU funds is one which can be achieved only by EU action. We anticipate that the UK would, in any event find it difficult to pursue a subsidiarity objection given that the Council Conclusions of November 2009, which presumably the UK agreed, called for EU action.

We are concerned that the allocation of resources has not been fully described. €50 million would seem to be more than a “modest financial underpinning” but it is not clear to us precisely how it is intended to be spent, beyond funding research and setting up promotional events and workshops.

I look forward to receiving a reply to this letter within the standard deadline of ten working days.

16 November 2010

MARKETING OF CONSTRUCTION PRODUCTS (10037/08, 14989/09, 9459/10)

Letter from Andrew Stunell MP, Parliamentary Under Secretary of State, Department for Communities and Local Government, to the Chairman

I am writing to inform the Committee that on 25 May 2010, the Construction Products Regulation was tabled at the Competitiveness Council meeting for political agreement, and the UK supported the proposal. Only two Member States voted against the proposal, meaning that political agreement on the text was secured. I understand the seriousness of taking part in a Council vote while the Parliamentary scrutiny reserve was still in place, and this letter is to explain the Government’s reasons for supporting the Regulation. The House of Commons European Scrutiny Committee was also holding the proposal under scrutiny, and I am therefore writing to them in the same terms.

BACKGROUND

The Regulation concerns CE marking for construction products such as windows or insulation. It is an internal market measure, and provides a system of performance declarations based on harmonised EU standards and test methods which allows users and regulators to see the technical performance of a product presented in a harmonised way. The intention of this is to allow products to move freely across borders, and prevent Member States imposing additional national testing.

The Regulation has been proposed because of problems with the current 1989 Directive. The drafting of the Directive is unclear, the supporting processes are complex and sometimes over-bureaucratic and the testing process can be costly and time-consuming, especially for small businesses and manufacturers of innovative products.

The Regulation agreed at Council states that for any product within its scope, testing and CE marking must be carried out before the product can be put on the market. It also provides simplified procedures for micro-enterprises and manufacturers of individual or bespoke products, and some derogations for micro-enterprises who are responsible for both manufacture and installation of their products, or those manufacturing products for heritage building projects.

FINAL NEGOTIATIONS AND COUNCIL VOTE

The agenda for the Council meeting confirming that the Regulation would be tabled for political agreement was circulated following Coreper on 19 May 2010. The Government’s view was that it was important to take this opportunity to agree the new Regulation. Council working party negotiations have now been in progress for two years, during which time the UK has secured a number of significant improvements to the text, and successfully argued for deletion of a number of proposals that were viewed unfavourably by either UK industry or regulators. The Presidency also agreed to a number of UK drafting suggestions on the text in the final weeks of negotiations. The political agreement has cemented these changes into the Council text, and while further changes may result from Second Reading negotiations with the European Parliament, there is now a firm Council basis for those discussions.

The alternative would have been to abstain and maintain our scrutiny reserve. While there is a chance that the Regulation would have achieved a qualified majority regardless, the final weeks of negotiations indicated that the UK held a pivotal position in securing an agreement. If our abstention had broken
the qualified majority, then the Regulation could have been abandoned and the potential benefits of replacing the current Directive lost. Longer term, the failure of the Regulation would also have raised the risk that infraction proceedings might have been pursued against the UK under the current Construction Products Directive.

IMPACTS FOR THE UK

The text agreed at Council is attached. This is largely unchanged from the version which was sent to the Committee for information on 29 April 2010 by my predecessor as Parliamentary Under Secretary of State for Communities and Local Government.

The major impact of the Regulation for the UK is the introduction of mandatory CE marking. Under our transposition of the current Directive, testing to the EU standards and CE marking are currently voluntary for anyone placing a construction product on the UK market. The Regulation will make this a legal requirement, bringing us and the three other Member States who have voluntary CE marking into line with the rest of Europe.

Many in UK industry will welcome the Regulation for its clarity (in comparison with the current Directive) and the fact that it will help create a more consistently applied system across Europe, especially for larger businesses already trading across borders. However, it will also introduce new burdens for some businesses, an issue which both Scrutiny Committees have highlighted in the past. The impact will be greatest for those small businesses manufacturing bespoke or short-run products who are unable to exploit economies of scale, or those working with the less flexible product standards. These burdens will be partly offset by the simplified procedures, which should allow sharing of test results or the use of results from similar products. The UK’s request for the availability of these simplified processes to be extended to all manufacturers of bespoke products (as opposed to artisan products only) was a late change to the text in the final weeks before the Council meeting.

NEXT STEPS

My understanding is that the text will now be translated, and then the Council will meet again in the autumn to confirm a Common Position on the text. As the Regulation is subject to co-decision, the next step would be for the Council to negotiate with the European Parliament with a view to securing a Second Reading deal in winter 2010-11. If the Regulation were adopted in early 2011, we would expect it to come into force in mid 2013.

I hope that the committee will agree that the circumstances justified the Government’s decision. I am happy to provide further information if it would be helpful.

3 June 2010

Letter from the Chairman to Andrew Stunell MP, Parliamentary Under Secretary of State, Department of Communities and Local Government

Thank you for your explanatory memorandum and your letter of 3 June, and for that of Barbara Follett of 29 April, which were considered by the Sub-Committee on Internal Market, Energy and Transport on 5 July. They decided to clear documents 14989/09 and 10037/08 from scrutiny, but to hold document 9459/10.

The Government’s consent to a political agreement on 25 May, as you acknowledge, constitutes an override of the scrutiny reserve. We are aware that there was no opportunity for scrutiny clearance to be obtained in time for the Council, and understand your reasons for voting in favour of the proposal. As we have retained document 9459/10 under scrutiny, the scrutiny reserve has now been reimposed on this dossier.

We are pleased that the negotiations have resulted in a text which appears to lessen the potential burden on businesses. However, you mention in your EM that your impact assessment estimates certain overall costs on businesses. Do the Government anticipate benefits to offset these costs?

The process for setting core, EU-wide characteristics seems to risk further burdens being imposed without sufficient consultation or scrutiny. What safeguards are in place to prevent this? Have the Government or Commission conducted an impact assessment into the likely types of characteristic which might be included, and are there plans to carry out such assessments when further characteristics are considered? Will the Government and the Commission carry out consultation before applying such labelling requirements? We are particularly concerned about the impact such burdens might have on an industry already suffering in the current economic climate.
We would appreciate further updates as appropriate as the proposal moves toward a common position and agreement by the European Parliament.

6 July 2010

Letter from Andrew Stunell MP to the Chairman

I am writing in response to your letter of 6 July 2010 informing me that two of the three proposals above have cleared scrutiny but the third (9459/10 – the text of the Construction Products Regulation as agreed at Council on 25 May 2010) has been placed under scrutiny by the Committee. I am grateful to the Committee for its understanding of the Government’s choice to take part in the vote at Council without having first cleared scrutiny.

Your letter asks two questions on the possible impacts of the Regulation.

benefits to industry

You ask whether the costs of the Regulation to manufacturers will be offset by any benefits. There will undoubtedly be benefits from the new Regulation, although it is difficult to put figures on these. They will include better opportunities for manufacturers to export their products, and the new clearer system should also improve the functioning of the internal market by, for example, making the rules more consistently applied in different Member States. This should benefit those manufacturers who are already trading across borders. For those manufacturers who are not trading outside the UK, the Regulation will create new burdens, but the simplified procedures in the Regulation should mitigate the costs of CE marking.

It has also been suggested that because the Regulation will introduce a mandatory marking system, this could help provide assurance that the performance of products which enter the UK market from abroad (including from countries outside the EEA) has been assessed in a reliable manner. Some sectors of industry have raised concerns about the increase in poor quality products entering the UK (either unmarked or apparently incorrectly/fraudulently marked) and suggested that this is due to the perception that there is no control on product quality as we do not have mandatory CE marking. The use of lower quality products could result in a need for premature replacement or (in extreme circumstances) threaten the safety of works.

potential impacts from pan-EU requirements

Your letter also asks whether there will be controls on the Commission’s use of its new power to require EU-wide declaration of particular performance characteristics on certain products. We envisage there being two main levels of scrutiny over the use of these delegated powers.

— Firstly both the Council and European Parliament will have a formal veto over any proposed delegated act. A Council working group would have the opportunity to examine any proposal in detail before it came to a vote at Council, although we have to accept that this would be a collective view, reached by qualified majority voting.

— Secondly, the Commission will be assisted by a committee of national experts (the Standing Committee on Construction, a version of which already exists under the current Directive). The recitals to the Council text stress the importance of consultation with national experts in the Commission’s use of its delegated powers, and we expect that all such proposals will be discussed with the Committee before formal notification to the Council and European Parliament. This will also give the Government the opportunity to consult UK businesses before any proposal is formalised.

Throughout the negotiations, the Commission have repeatedly stressed the importance of reducing burdens for small business and following the principles of the EU Small Business Act, most importantly to ‘think small first’. The UK will hold both the Commission and other Council members to these principles in future discussions on the use of these powers.

Next steps

The incoming Belgian Presidency has indicated that the Council will meet again on 22 September to confirm a Common Position on the Regulation. The text agreed at the May Council is now with jurist-linguists for final drafting amendments and Member States have no further opportunities to seek substantive changes prior to the September Council. I will send the final text to you for consideration.
when it becomes available, but it will be virtually identical to the text agreed in May. It would therefore be helpful to know whether or not this letter provides sufficient assurance for the Committee to lift its reserve.

17 July 2010

Letter from the Chairman to Andrew Stunell MP

Thank you for your letter of 17 July, which was considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to clear the document from scrutiny.

Thank you for your explanation of the potential benefits of the Regulation, although it would have been preferable to have received a full monetised assessment of such benefits.

We are glad to note that, through the Standing Committee on Construction, there will be Member State involvement in the decision-making process on EU-wide declarable characteristics, and also consultation with UK businesses. In our last letter we pressed you for an indication of whether impact assessments would be carried out on such proposals, in line with a recommendation in our report Impact Assessments in the EU: room for improvement? We are of the opinion that such proposals would be significant and urge the Government to push for the use of impact assessment when determining these characteristics.

We look forward to receiving updates on the progress of this dossier as it passes through the legislative process.

21 July 2010

PROVISIONS FOR ENGINES PLACED ON THE MARKET UNDER THE FLEXIBILITY SCHEME (12171/10)

Letter from the Chairman to Norman Baker MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your explanatory memorandum of 8 September, which was considered by the Sub-Committee on Internal Market, Energy and Transport. They decided to retain the document under scrutiny.

The proposal appears to be a sensible move to help with compliance costs to engine manufacturers, but it is difficult to assess whether the flexibility extensions have been set at the appropriate level. The Commission’s impact assessment appears to suggest that flexibility for railcars should, on pure cost-benefit terms be extended to 50%. You appear to support this analysis: is this the case, and do you intend to carry out a further impact assessment to determine the optimal level?

We are, however, concerned about the distribution of the costs and benefits of the proposal. Clearly, manufacturers would benefit from lower compliance costs, but who would bear the cost of the environmental impact? Do you believe this is in line with the principle of “polluter pays”? These engines will be in service for decades and we would urge caution in allowing higher-emission engines on to the market unnecessarily.

The situation regarding locomotive engines is unclear. It appears that very few, if any, engines will be ready for use by the time indicated in the existing Directive. It would seem sensible to make allowances, rather than expect manufacturers to do the impossible, but it is not clear to us how the level of flexibility has been calculated. The Commission has suggested manufacturers should be permitted to market 12 engines: we understand that a figure closer to 40 would be more realistic. Further, we would be interested to receive the Government’s assessment of the wisdom of moving to the IIIB standard for locomotives at all. Would it not be more sensible speed up the development of the stage IV engine, in line with standards in the US and Canada, in order to take advantage of the greater competition thereby created?

I look forward to receiving a reply to this letter within the standard deadline of ten working days.

27 October 2010

Letter from Norman Baker MP to the Chairman

Thank you for your letter of 27th October, informing me of the decision of the Sub-Committee on Internal Market, Energy and Transport.
I am, as you observe in your letter, inclined to the view that some increase in the levels of flexibility being proposed for the rail sector is probably justified. I would not wish, however, to pre-judge the results of the Impact Assessment which is currently being undertaken by my officials and which I expect to be able to send you under cover of a supplementary Explanatory Memorandum in the near future.

Your question concerning the way in which the costs and benefits of the proposed extensions to the flexibility scheme in the Directive are distributed is an interesting one. The public health costs of poor air quality are borne by both society as a whole and by those individuals whose lives are either shortened or reduced in quality as a result of air quality pollutants. Our impact assessment process balances these costs against benefits to businesses by assuming that, in general, benefits to United Kingdom businesses translate into benefits for the economy and so into benefits for society as a whole. It is a general feature of emissions legislation of this type that the polluter pays the costs of abatement, since the costs of the technologies required in order to meet stricter emissions limits are ultimately carried by the purchaser of the machine or vehicle. The proposed extensions to the flexibility scheme are both transitional and time-limited, so that they do not constitute a fundamental change in approach to the problem.

The situation regarding locomotive engines is, as you remark, somewhat unclear. The European Commission argue that the number of locomotive engines that they currently propose to permit in the flexibility scheme is one that strikes a proper balance between the needs of operators and of many engine manufacturers on the one hand, and proper consideration of air quality and the interests of those manufacturers who have invested in development of engines meeting the Stage IIIB standard on the other. It seems likely, to us, that this balance may not have been struck as optimally as it might have been, though, here again, I would not wish to pre-judge the outcome of our own impact assessment process.

We have been listening carefully to the concerns of the rail industry with respect to this Directive. Theresa Villiers, Minister of State at the Department, wrote to Commissioner Tajani at the European Commission in July of this year welcoming his commitment to extending the flexibility scheme to engines for locomotives and railcars and to introducing arrangements that will permit the re-engining of older railway vehicles with Stage IIIA engines. The first of these commitments is reflected in the current proposal from the European Commission, and we expect the second to be made good in a further proposal in the spring of next year. The Minister of State took the opportunity, at the same time, to mention the question of the circumstances under which like-for like engine replacement might be permitted in the rail sector, and to mention the question of putting in place a mechanism which would permit trains to be lengthened with new powered carriages of identical design in order to increase passenger capacity. Both of these questions are of interest to us and to stakeholders in the railway industry.

Given that some manufacturers have already invested heavily in the development of locomotives with engines meeting the Stage IIIB standard, that the date of application of the standard is almost upon us, and that the new Stage offers real air quality benefits, I think it unlikely that either the European Commission or many other Member States could now be persuaded to support a suggestion that we should skip Stage IIIB in favour of a Stage IV to be introduced after development of an equivalent emissions stage in North America.

I believe that the European Commission now understands that locomotives designed for railways in continental Europe cannot be run on much of the United Kingdom's railway network, and that United Kingdom operators consequently face difficulties of supply in respect of Stage IIIB compliant locomotives that are particularly acute. The current proposal is, in itself, evidence of the European Commission's preparedness to act upon a well made case in support of an industry sector. I am aware that representatives of railway sector stakeholders have been pressing their case in Europe, and my officials have been working with the Commission's officials in search of a viable solution to the problems faced by the railway sector in the United Kingdom in consequence of the introduction of Stage IIIB.

9 November 2010
RAILWAY PACKAGE (13788/10, 13789/10)

Letter from the Chairman to the Rt Hon Theresa Villiers MP, Minister of State, Department for Transport

Thank you for your explanatory memoranda of 1 November, which were considered by the Sub-Committee on the Internal Market, Energy and Transport on 22 November. They decided to hold both documents under scrutiny.

We are pleased to see that the Commission has published proposals for a recast of the First Railway Package, as we called for them to do in our report of 2008-09 Recast of the First Rail Freight Package.

Several of the proposed changes to the current rules reflect recommendations we made in that report, particularly Articles 6, 7 and 13 regarding stronger separation of infrastructure managers and railway undertakings, Articles 55-57 clarifying the role of national regulators and the removal of the loophole in Article 13 allowing service providers to refuse service if there are “viable alternatives”. However, we note that there is no move to ensure the complete separation of infrastructure managers and railway undertakings. With regard to provision of services we emphasise that it is vitally important to the liberalisation package that access to terminals and depots and associated services is guaranteed.

You raise concerns about the scope of Article 13, saying that it has not been fully explained. You also express a concern that the introduction of “use-it-or-lose-it” provisions to the Article might deter investment. We accept that the regulations would need to take into account the normal fluctuations in the freight business, but would be grateful if you could elaborate on your concerns.

With regard to the provisions on noise reduction, we are not entirely sure why the imposition of a charge would create very much extra administrative burden, and perhaps you could explain your thinking on this? We agree that any move to encourage greater environmental responsibility on the part of train operators should take into account harms other than noise, for example, carbon and other emissions. We would also appreciate an explanation of why you consider the provisions in Article 32 with regard to exceptions to the charging regime to be too rigid.

You express concern about the implications of the proposal for the governance of the Channel Tunnel. Do you believe that the proposal will lead to a reduction in the charges levied on freight through the tunnel, which would appear to present a barrier to further liberalisation?

I should also point out that your EM was submitted over a month after the publication of the original Commission documents. Although we were happy to grant a short extension to the normal 10 day deadline after deposit, such a long delay is completely unacceptable.

I look forward to receiving a reply to this letter within the standard deadline of ten working days.

23 November 2010


Letter from the Rt Hon David Willetts MP, Minister of State, Department for Business, Innovation and Skills to the Chairman

The Explanatory Memorandum, dated 6 January 2009 and relating to the Commission’s original proposal to repeal eight “Old Approach” directives in the field of metrology, was cleared by the Commons Scrutiny Committee and Lord’s Sub-Committee B (Internal Market).

Lord Drayson wrote to Lord Roper on 30 April 2009 to explain that the Presidency had decided not to proceed further with the file at that time as a result of comments made by other Member States. The current proposal reflects the response from the European Parliament and reflect recent changes to the Treaty and now falls under Article 114.

This proposal is to repeal only one of the eight directives originally proposed namely Directive 76/766/EEC on the approximation of the laws of the Member States relating to alcohol tables. Commission Regulations 1990/2676/EEC and 2000/2870/EEC contain most of the content of this Directive and references to the international standards for alcohol tables are identical to the tables provided in the Directive and can continue to be used for national regulation.

The proposal imposes no regulatory burden on the UK.
The future of the remaining Directives is still uncertain. Under the on-going review of the Measuring Instruments Directive (2004/22/EC) on which the Commission is scheduled to report to the European Parliament by 30 April 2011 consideration will be given as to whether any of the remaining Directives are still required and if so whether they should be converted into new Annexes under that directive. In such a case any provisions would become mandatory but a Member State would still be able to decide whether it wished to regulate in that area.

If a substantive proposal emerges it will, of course, be subject to a further Explanatory Memorandum at that time.

23 November 2010

SAFEGUARDING SECURITY: ELECTRICITY SUPPLY AND INFRASTRUCTURE INVESTMENT (11627/10)

Letter from the Chairman to Charles Hendry MP, Minister of State, Department for Energy and Climate Change

Thank you for your explanatory memorandum of 20 July, which was considered by the Sub-Committee on Internal Market, Energy and Transport at their meeting of 18 October 2010. They decided to clear the document from scrutiny.

The Committee note the Government’s support for the Commission’s continuing work on securing the EU’s energy supply and the development of its infrastructure, with which the Committee agrees. The Committee will also look forward to considering the energy infrastructure package when it is published by the Commission. We do, however, have concerns about the suitability of the current electricity grid for accommodating renewable generation, such as off-shore wind. We would be interested to receive your views on this.

19 October 2010

Letter from Charles Hendry MP to the Chairman

Thank you for your letter dated 19 October, in which you cleared my Explanatory Memorandum from scrutiny. In the letter you expressed the Committee’s concerns about the suitability of the current electricity grid to accommodate renewable generation, such as offshore wind, and asked for my views.

It is widely acknowledged that the current electricity grid in the EU is not suitable for accommodating the great increase in renewable energy generation which will be required if the EU is to meet its ambitious low-carbon objectives. This is why the Commission will shortly be publishing a Communication on Energy Infrastructure which will outline the action that will be required to facilitate the enormous investment in EU electricity grids needed by 2020 and beyond to give them the capacity and “smartness” to transport the increase in renewable energy sources we expect in all Member States. I expect to discuss this Communication with my fellow EU Ministers at the Energy Council on 3 December.

At the Council, in similar vein, I also expect to sign a Memorandum of Understanding with nine other Ministers setting out an ambitious work plan for the North Seas Offshore Grid Initiative. In this MoU we will recognise the huge contribution the renewable energy resources of the North Seas can make to the decarbonisation of our electricity supply and commit to work together to tackle the barriers to the development of the infrastructure needed to bring them to shore.

2 November 2010

Letter from Charles Hendry MP to the Chairman

Thank you for your letter dated 19 October, about the report from the Commission to the Council and the European Parliament on progress concerning measures to safeguard security of electricity supply and infrastructure development. I apologise for the delay in replying

The Government recognises the need for the transmission network to expand to meet the demands placed upon it including large amounts of generation from remote areas such as offshore wind. At the request of the Government and Ofgem the Electricity Networks Strategy Group (industry group co-chaired by DECC and Ofgem) produced in March 2009, a 2020 Vision outlining the grid reinforcements it believes would be required to enable us to meet our 2020 targets. This amounted to some £4.7bn of investment by 2020 and is in addition to the £4bn of investment previously
approved by Ofgem for the 2007-12 period. Ofgem has begun to approve priority investments contained in the ENSG report based on proposals submitted by Transmission Owners. For 2010-11 Ofgem approved £319m of investment and is currently considering further proposals for around £600m of expenditure in 2011-12.

The Government is mindful of the need to ensure that the required investment is approved and delivered in a timely and efficient manner to enable new generation, particularly renewable generation, to connect. We are therefore engaging with Ofgem, the Transmission Owners and other stakeholders to help ensure that the investments remain on track.

The Government is confident that under the current framework the electricity system is capable of addressing the challenges presented by renewables at the levels anticipated up to 2020. This is supported by National Grid, which has stated that it considers that balancing electricity supply and demand would be manageable at 2020 with around 30GW of wind on the network. As an indicator of the scale of the challenge, National Grid has estimated that by 2020 the requirement for short term operating reserve will increase by 6.5GW from today’s levels of around 4GW, largely as a result of decarbonisation.

At more significant penetrations of wind generation, the impacts on the grid would become more significant. Beyond 2020 it is expected that technologies such as demand side management, electricity storage and interconnection, as well as conventional generation, will play a greater role in maintaining the stability of the grid and utilising output from low-carbon inflexible sources. The Government is considering how security of supply can be maintained in the context of decarbonising the electricity system through our work on electricity market reform, and will consider barriers to new technologies as part of this. The Government will consult on electricity market reform in December 2010.

18 November 2010

SMART REGULATION IN THE EUROPEAN UNION (14421/10)

Letter from the Chairman to Mark Prisk MP, Minister of State, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 28 October, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They decided to clear the document from scrutiny.

We are extremely pleased to see that a number of recommendations from our report Impact Assessments in the EU: room for improvement? coincide with the Commission’s plans for Smart Regulation. Like you, we welcome the extension of the deadline for consultations to 12 weeks, and the greater emphasis on ex-post evaluations.

It is not clear to us, however, exactly how ex-post evaluation will be fed in to the legislative cycle. At what point will an evaluation be triggered, and how will the strategic “fitness checks” be taken into consideration in the impact assessments for new policies in the particular area? We were interested to hear that checks will take place this year for legislation in the policy areas of environment, transport, employment/social policy, and industrial policy, and would be interested to learn which particular pieces of legislation would be encompassed by these checks.

We note that the European Court of Auditors report suggests Member State IAs should be developed further and could be used to discuss the impacts of amendments in the Council, as considered in our report. We also note that the Commission aims more generally to encourage the European Parliament and the Council to produce impact assessments of their amendments. Do you see any likelihood of this happening?

With regard to the Impact Assessment Board, we note that the Commission has dismissed the argument that the Board should be more independent on the grounds that this would impinge upon its right of initiative. What is your assessment of this?

I look forward to receiving a reply to this letter within the standard deadline of ten working days.

16 November 2010
STATE AID TO FACILITATE THE CLOSURE OF UNCOMPETITIVE COAL MINES
(12698/10)

Letter from the Chairman to the Rt. Hon Chris Huhne MP, Secretary of State,
Department of Energy and Climate Change

Thank you for your explanatory memorandum of 13 August, which was considered by the Sub-
Committee on Internal Market, Energy and Transport at their meeting of 11 October 2010. They
decided to retain the document under scrutiny.

We note that the Government are broadly supportive of the proposed measure but also note the
concerns that are set out in the explanatory memorandum, which the Committee considers to be
reasonable. We urge caution with regard to any extension of the ending of special rules beyond 2014.
We look forward to receiving further updates on the progress of this proposal, including any
response received from the Commission regarding the Government’s particular concerns about the
proposal.

12 October 2010

Letter from the Rt. Hon Chris Huhne MP to the Chairman

Thank you for your letter of 12 October to Chris Huhne, which informed him that the Sub-
Committee on Internal Market, Energy and Transport have considered the explanatory memorandum
(EM) on the above Proposal and have decided to retain it under scrutiny. It also asked for further
updates on the progress of the Proposal, including any response received from the Commission
regarding the Government’s particular concerns about the proposal.

Since the EM was prepared, the Proposal has been discussed at successive DG Competition Working
Group and attache meetings, and the European Parliament has been invited to give an opinion.

At the first Working Group meeting, Spain entered a fundamental reserve on the lack of provision for
the payment of operating aid to continuing coal mines. This remains in place.

Spain also entered a reserve on the date of 30/09/2014 for last payment of closure aid, as did
Romania, Germany, Poland and Hungary. Spain further argued for aid to be made available to 2022, in
line with an earlier draft of the Proposal. The UK position is that we are sympathetic to an extension,
but to no later than 31/12/2018, which is the latest known date of any existing aid commitment (by
Germany). Poland and Hungary subsequently withdrew their reserves on the last payment date. At
one stage it appeared that Germany might do so too, but the latest text, dated 3 November, which is
to go to COREPER on 12 November, shows it still in place.

Spain, Romania, Germany and Poland also entered reserves on the proposed expiry date of
31/12/2026, arguing for a later date. Until this date, member States would be able to notify the
Commission of additional "exceptional" aid provided for in the Annex to the Proposal. The UK
position remains that the period between the last payment of closure aid and the expiry date should
be as short as practical. We are concerned that a long lifespan for this measure might be seen as a
signal that the last date for aid payments could be re-opened. Denmark and Netherlands also support
an earlier expiry date.

A number of member States argued that the texts at recital 8 and Article 3.1 (h) about the imposition
of additional environmental regulation on countries granting aid under the proposal should be deleted
because closure aid is a social and economic measure which will have no effect on either total coal
use or total environmental impact from coal use. We supported this line, and there were indications
that both would be deleted, but they remain in the latest text, with 3.1 (h) now at 3.2a.

The Commission’s objective is still to progress the Proposal so that a new Regulation is in place by 1
January 2011 to give continuity after the expiry of Regulation 1407/2002. Some retained reserves may
need resolution at COREPER, but the Commission’s aim is still to put a final text to Council in
December. I will write again to keep the Sub-Committee informed if the Proposal is significantly
changed before a text goes forward.

8 November 2010
Letter from Ed Vaizey MP, Parliamentary Under Secretary of State, Department for Business, Innovation and Skills, to the Chairman

I am pleased to confirm the agenda items for which BIS has responsibility at the forthcoming Telecommunications Council in Brussels on 31st May 2010. I intend to represent the UK at this Council.

There is only one substantive agenda item; this being the recently adopted Digital Agenda for Europe. This agenda item is made up of three strands:

**DIGITAL AGENDA FOR EUROPE**

- Presentation by the Commission
- Adoption of Council Conclusions
- Exchange of views on the "European Code of rights of users of electronic communications services"

The Commission’s EU European Digital Agenda was published on 19th May and is a key component of EU2020 (the successor to the Lisbon Agenda). The Agenda is essentially a roadmap from the Commission on how they would like to leverage the economic and social benefits of information and communication technologies (ICT) for the benefit of all EU citizens and businesses.

The Conclusions (negotiated last week) are initial Member States views on what is important in the new European Digital Agenda. The UK welcomes and supports the adoption of these Conclusions, as ICT is now seen by all Member States as one of the most important components of any European economic recovery, as well as future economic growth.

In my intervention on this item (we expect nearly all member States to make comments) I will welcome the opportunity to debate this essential issue and will say that:

- the priority for the new Digital Agenda should be to bring forward proposals that promote investment in super fast broadband on a pro-competitive basis;
- that we welcome many of the proposals that may make the Digital Single Market a reality and;
- support actions that seek to resolve both access to, and uptake of, the Internet by EU citizens.

The last item under this part of the agenda is the Exchange of views on the "European Code of rights of users of electronic communications services".

This is a Spanish Presidency and European Parliament proposal to produce an easily accessible summary of consumers’ online rights. Here, I will say that though we welcome this proposal (especially to codify existing rights) it should not create any new rights and that we will resist any efforts by the Commission to use this exercise to introduce any new regulation in this area.

The Spanish Presidency is also hosting a Ministerial lunch, where Member States will discuss the Latvian bid to host the offices of the Body of European Regulators for Electronic Communications (BEREC). This discussion will start with a presentation by the Latvian Minister for Transport and Communications, Kaspars Gerhards, on their proposal to host BEREC in Riga. (Latvia was the only bidder in a recent Council process) The lunch will end with a short meeting that will endorse the Latvian bid. In my intervention, I will congratulate the Latvians on securing Riga as the location for BEREC and welcome their (expected) offer of providing a satellite office in Brussels that will also be under their control.

In addition there are four “Any Other Business” items for which BIS has responsibility. The four are:

- Universal Service - Outcome of the public consultation - Information from the Commission;
- Europe’s Digital Competitiveness Report- Presentation by the Commission;
- Ministerial meeting EU-Latin America and Caribbean Countries: "Digital Content for a Digital Society" (Segovia, La Granja de San Ildefonso, 14-16 March 2010) - Information from the Presidency.
I do not expect to intervene on any of the above; though I may (if there is a discussion in relation to the Consultation on Universal Services) note that the EU should think very carefully before embarking on a single universal obligation across the EU-27 for broadband, because imposing obligations prematurely are likely to undermine what companies do voluntarily. Finally, the incoming Belgian Presidency will present their work programme for the next six months, which begins on 1 July 2010.

I am thoroughly looking forward to attending the Council.

27 May 2010

THE STATE OF DEVELOPMENT OF ROAMING SERVICES WITHIN THE EUROPEAN UNION (11711/10)

Letter from the Chairman to Ed Vaizey MP, Parliamentary Under-Secretary of State, Department for Business, Innovation & Skills

Thank you for your explanatory memorandum of 20 July, which was considered by the Sub-Committee on Internal Market, Energy and Transport at their meeting of 18 October 2010. They decided to clear the document from scrutiny.

The Committee note the Government’s continuing support for the Roaming Regulation. The Committee published two reports during the previous Parliament about both forms of the Regulation and retain a strong interest in this issue. As a result, the Committee will look forward to considering the Commission’s final report on roaming services when it is published in 2011.

19 October 2010

TRANSPORT COUNCIL BUSINESS

Letter from the Rt. Hon. Phillip Hammond MP, Secretary of State for Transport, Department for Transport to the Chairman

I am writing to advise you and your Committee of the transport issues that are likely to be taken forward by the Belgian Presidency during the remainder of their term.

The Presidency plans to focus on three key areas:

— A sustainable future for the transport sector;
— Safety and security of the different transport modes; and
— Innovation within the transport sector.

In addition to this, it is likely that Eurovignette, cross-border road safety enforcement, and the recast of the first rail package will be the priority dossiers for the Presidency.

The Presidency has informed us of the following key transport events over the next six months:

— There will be two Transport Councils during the Belgian Presidency. The first one will be in Luxembourg on 15 October and the second will be in Brussels on 2 December.
— An Informal Ministerial Transport Council will be held in Antwerp on 15-16 September, with a focus on maritime logistics chains, in particular short sea shipping and links to inland waterways and rail.
— A conference on Mobility and Health will be held in Brussels on 17 September, in the context of the European Mobility Week.
— A conference on research into security will take place in Ostende on 22–24 September.
— The 3rd Road Safety Days which will take place in Brussels on 13–14 October.
— A conference on the sustainable management of airports in La Hulpe on 25–26 October.
— A European Aviation Summit in Bruges on 26–27 October.
— A conference “Rail unifies Europe” in Liege on 15 November.
A conference on urban mobility in Brussels on 16–17 November.

The CARS 2010 conference on 17–18 November in Brussels.

AVIATION

In aviation, the follow-up to the ash cloud crisis will continue to occupy the Council. The immediate focus will be on preparation for the 37th Assembly of ICAO in September, where one of the main papers will deal with issues raised by the ash cloud. Three Working Groups in July dealt with ICAO preparation and the Belgians are keen to ensure that an international response to the recent ash cloud crisis is developed in that forum. The Presidency are looking for the Commission to clarify their intent regarding a review of the current Regulation EC 261/2004 on air passenger rights (original EM 5129/02), although we may not see proposals until later in the Autumn. If the volcano causes further disruption this will, of course, prompt more urgent activity.

On aviation security, the Belgians have indicated a specific interest in security at third country airports. It is not yet clear how this might materialise as Council business. The Presidency is also not clear how they will handle the follow-up to the Communication on security scanners (EM 10865/10), and they are looking to the Commission to develop proposals. The next steps are likely to be through comitology; but it will, of course, be possible for the Council to influence the outcome. Exact timing is uncertain, but we will be pressing the Commission to move swiftly to produce a proposal.

The Presidency’s intended approach to the aviation security charges dossier is not yet clear (EM 9864/09).

The Presidency will also seek to conclude the accident investigations Regulation (15469/09), where a first reading deal with the European Parliament looks very close. Theresa Villiers wrote to you on 22 July to bring your Committee up to date with the latest developments. The Presidency will continue to progress the various dossiers on external relations business.

HORIZONTAL

The Commission is expected to issue its transport White Paper in December, which will outline a strategy for a sustainable transport policy and infrastructure over the next decade. The Presidency hopes to be able to schedule a political debate on the paper at the December Council. We will be staying in touch with the Commission over the coming months in order to make sure that UK priorities are reflected in the final draft.

A Commission Communication is expected in November on passenger rights. The communication will take stock of the current passenger rights situation in all modes of transport. It will incorporate the results of public consultations, will assess whether application of current EU rules ensures adequate protection of passenger rights, and will identify possible areas for further action.

The Presidency will work towards further progress on the future trans-European transport network policy, looking at the methodology for an integrated transport network (core network). The Presidency hopes that the work will focus around the formulation of a multimodal network, with improved connections between ports and airports and adequate financial mechanisms.

The Presidency are aiming for a political agreement on the Eurovignette Directive (EM 11857/08). As you may recall, the two most recent Presidencies – Sweden and Spain – have regarded this dossier as a low priority and there has been no significant progress. The Belgian Presidency has, however, announced that it regards this issue as a priority, and discussion started in Working Group in early July. The Presidency have identified as the key issues: (i) whether Member States should be allowed to include a congestion element in any lorry charges; and (ii) whether there should be a requirement to earmark (hypothecate) revenues from external cost charges for investment in transport and/or the environment. On the former, they will seek more flexibility; and on the latter they will seek to negotiate wording which does not impose mandatory hypothecation. A separate letter will be sent to your Committee shortly to bring you up to date with the latest developments.

On Galileo, the Presidency will focus on the outcomes of the Mid Term Review of the programme, which the Commission is expected to publish after the summer, with conclusions developed by December. The Presidency will also take discussions forward on a forthcoming Communication and proposed Regulation on access for the Public Regulated Service (for which FCO will be the lead Department), and the recent Communication on stimulating uses of the system (“GNSS Applications”, EM 11137/10). They will also continue to develop work on external relations (Norway, Switzerland and Ground Stations) and ensure the GSA management structure Regulation (EM 6257/09) reaches a
conclusion by September. Theresa Villiers wrote to your Committee on 28 July to bring you up to date with the negotiations.

LAND

The initial priority for the Presidency will be road safety, with the publication of the road safety Action Plan for 2011–2020 and the revived proposal for a cross-border road safety enforcement Directive.

The cross-border enforcement Directive (EM 7984/08) became stalled in the Council under the French Presidency, when it was concluded that it could not proceed under the proposed transport legal base. The Presidency have proposed that negotiations should proceed under a justice legal base (Article 87) for the Directive. In view of this, the Commission has decided against issuing a formal amendment to their proposal, and an EM is therefore being submitted on an unnumbered document. The Presidency would like to reach some form of agreement on the Directive at the December Council.

The Commission has issued its road safety Action Plan (EM 12603/10), with the objective of halving the number of European road deaths by 2020. The Presidency hopes for conclusions on the Action Plan in December.

The Presidency have not ruled out the possibility of a second reading deal with the European Parliament on the bus passenger rights Regulation (EM 16933/08), and will consider the options. But they feel that conciliation is likely, during which key issues such as scope and liability will be re-opened. Norman Baker’s letter to you of 22 July provides further details.

The Commission will adopt a proposal to revise the First Railway Package shortly, which will look at the three existing Directives, but also address new issues such as environmental charging and regulators’ powers. The Presidency hopes to discuss the proposal in detail in the Working Group from September onwards, in order to prepare a progress report for the December Council.

The Presidency will continue to monitor the situation regarding the EU’s accession to OTIF (EM 12802/09) as agreement has been reached between OTIF and the EU on the terms and text of the accession agreement. Recent developments in the OTIF Administrative Committee suggested that a General Assembly would be called soon in order to finalise the accession agreement and allow OTIF members to formally vote on the EU’s accession.

SHIPPING

Belgium will also chair the Shipping Working Group under the Hungarian Presidency. There will be three legislative proposals forthcoming under the 12 month Belgian chair of the shipping group. They are all amending measures. They are: a revision of the European Maritime Safety Agency (EMSA) Regulation (due to be published in September; the Presidency hope for a general approach in December), the marine equipment Directive (expected in November/December), and a proposal on the mutual recognition of boat-masters certificates (in November/December).

The Presidency are likely to delay working on the latter two dossiers until the Hungarian Presidency. The purpose of the marine equipment Directive is to enhance safety at sea and the prevention of marine pollution through the uniform application of the relevant international instruments relating to marine equipment for which EC type approval safety certificates are issued. It is expected that the proposed revision of the EMSA regulation will not deal with issues related to “governance”, but will reflect ideas outlined in EMSA’s 5-year strategy. This foresees a limited number of new tasks – such as possible assistance to neighbouring countries in the service of safety, security and prevention of pollution at seas.

The Presidency will work with Member States on the Integrated Maritime Policy (IMP), looking at synergies between policies including maritime transport, coastal regions, fisheries, and the environment. A proposal for a regulation on financing preparatory initiatives and pilot projects is expected very soon. The proposal aims to ensure a continued modest financial underpinning for further promoting the development and implementation of the IMP in the remaining time of the current Financial Perspective during the period 2011–2013. This financing will allow the EU, together with Member States and stakeholders, to continue exploratory work that has already been initiated, on the basis of preparatory actions and pilot projects, and to develop options for implementation along the lines set out in the IMP Action Plan of 2007 (EM 14631/07), and the Progress Report of 2009 (EM 14363/09). Emphasis in discussions is likely to include value for money issues against a background of a need for measures to be evidence-based.
A Communication presenting a roadmap for maritime surveillance is expected in October, and the Presidency will aim for Council Conclusions on this in December, though these are likely to go through the General Affairs Council.

VEHICLES

Two new technical harmonisation proposals will be discussed under the Belgian Presidency. These are on: tractors (EM 12604/10) and two- and three-wheeled vehicles (to be presented later in September). Both will look to simplify the existing acquis and, like other Technical Harmonisation measures, seek to balance safety and environmental concerns against reducing burdens on businesses and better regulation. We do not expect either dossier to be discussed at Council this year; however, discussions will start in Council Working Group in September/October. In addition, a technical harmonisation proposal on electric cars (EM 11250/10), already issued by the Commission, will be discussed under the Belgian Presidency, and discussions began in Council Working Group on 27 July.

The Presidency will want to make good progress on the proposed CO2 from vans Regulation (EM 15317/09). Several Working Group meetings were held under the Spanish Presidency, but little concrete progress was made. Working Group discussions are likely to resume around or just after the Environment Committee vote in the European Parliament in late September. The Presidency will then explore the possibility of a 1st reading agreement before the end of the year. The Government will publish its response to the public consultation on the proposal shortly, once the formal UK position has been agreed.

On biofuels, the Commission is working hard to meet its end 2010 deadline to consider the impact of indirect land use change and whether measures are necessary to account for these effects. This will be challenging but we can expect some kind of consultation after the summer.

I hope that this general summary of our expectations is useful. Further information will, of course, be provided to you in the future on the progress of each of these dossiers, in line with the usual procedures for Parliamentary Scrutiny.

20 September 2010

TRANSPORT: HEAVY GOODS VEHICLES (11857/08)

Letter from Norman Baker MP, Parliamentary Under Secretary of State, Department for Transport

I am writing as Duty Minister on behalf of Mike Penning to bring your Committee up to date with on this proposal, as promised in Secretary of State Philip Hammond’s recent letter to you on Transport Council business during the Belgian Presidency. The Presidency now intends to seek political agreement on the proposal at the Transport Council on 15 October.

BACKGROUND

As you may recall, Directive 1999/62/EC, amended by 2006/38/EC – commonly known as the Eurovignette Directive - governs the calculation of tolls and road charges for goods vehicles over 3.5 tonnes, requiring that levels of charges should reflect the cost of providing road infrastructure and setting maximum rates for daily and other time-based charges. In 2008, the Commission brought forward proposals to amend the Directive further, which would permit a wider range of externalities – including in particular congestion – to be taken into account when setting charges, and also aimed to clarify the position on the hypothecation of tax revenues.

CURRENT STATE OF NEGOTIATIONS

Neither the Swedish Presidency in the second half of 2009 nor the Spanish Presidency in the first half of 2010 made any significant attempt to take the proposed amendments forward. However, the Belgian Presidency announced that reaching agreement on the proposals would be a priority and has proposed a compromise.

Negotiations in Working Group and Coreper have been constructive and we believe that there is a realistic prospect of political agreement being reached at the Council.

The most important aspect of the Belgian compromise is the removal of earmarking from the Directive. This is a major step forward which we warmly welcome. We still have some concerns
about the current compromise text, which recommends using revenues for transport purposes using text similar to that in the Emissions Trading Scheme Directive. The Presidency has indicated that it wants to agree the text at the Council meeting.

On congestion issues, the Presidency has proposed that Member States should be able to vary time-based charges in urban and other sensitive environments within the overall cap set by the methodology for calculating charges. The United Kingdom has hitherto argued that, as a matter of principle, congestion impacts should be included within the methodology for calculating charges, in line with the principle that the polluter should pay. However we believe that the Presidency compromise is one that we could live with, as it would still allow considerable flexibility to reflect congestion costs in any future charging regime.

The Belgian compromise also includes:

— A proposal that Member States should be permitted to exempt vehicles under 12 tonnes from charging within the rules of the Directive. This recognises the fact that a negligible proportion of international goods traffic is carried out by smaller vehicles. We believe this proposal should be welcomed both in principle and on the grounds that it gives national governments greater flexibility to establish their own charging rules.

— New proposals on delegated powers, greatly restricting the powers of the Commission to make changes to the annexes to the Directive using delegated acts. In particular it will remove the power for the Commission to propose increases to the minimum levels of annual vehicle taxation set out in Annex I of the Directive, and we understand that it is likely to remove the powers to use delegated act to increase the maximum rates in Annex II and substitute an automatic indexation of the rates.

Both of these are important steps forward, which we welcome. The latter in particular serves to push back the boundaries of the Commission’s competence in an area where we have real concerns.

We have also pressed the case for increasing the maximum daily user charge rate to €15 from the current €11, allowing Member States greater flexibility to set charges. So far we have received little support on this but we intend to continue pressing the case.

We remain concerned about the legal base. We continue to believe as a matter of principle that the proposals, insofar as they deal with taxation, should be dealt with on the basis of unanimity. However, the current proposals are based on the assumption that distance-based charges are charges and not taxes, and that therefore the Transport legal base is the correct one (this proposed amending Directive deals only with user charges and does not amend the vehicle tax provisions which were the main reason for a dual legal base for the 1999 Directive). Although a small number of other Member States share our concerns on this issue we do not believe there is sufficient consensus behind our view for it to prevail. As with the 2006 Amendments, we believe it would be appropriate to record our position in a Minutes statement.

CONCLUSIONS

On the whole, we believe that the package to be discussed at the Council is one which the UK can support. It removes the requirement for hypothecation and contains important provisions on vehicles below 12 tonnes and on delegated acts which would allow greater flexibility to Member States who introduce goods vehicle charging as well as constraining the Commission’s ability to make changes to the structure of rates without reference to the Council and Parliament.

Your Committee will, of course, want to know the outcome of discussions at the Council of Ministers, and I will write to you again to provide this information.

6 October 2010

Letter from Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman

Norman Baker wrote to you on 6th October to update your Committee on developments on the proposal to amend Directive 1999/62 (The Eurovignette Directive). That letter contained an undertaking that we would update you further after the Council.

Philip Hammond’s written statement to the House on 22nd October described the outcome of the Council, including the fact that political agreement was reached on a compromise Presidency text. The basis of that agreement was as set out in Norman’s letter, namely:
— The removal of references to mandatory earmarking of revenues from charges for externalities;
— The right for Member States to vary charges in sensitive areas, in order to reflect congestion and other externalities;
— The right for Member States to exempt vehicles below 12 tonnes from the provisions of the Directive
— The rolling back of the Commission’s powers to use Comitology to make changes to aspects of the Directive, including the methodology for calculating charges and the minimum tax rates set out in the Annexes

Although we pressed the case for increasing the maximum daily rate to €15 we remained isolated on this point and had to concede it.

However, we believe that the agreed text represents a significant policy gain that helps shift the balance back from Brussels to Member States on charging.

Our concerns that the amendments should have been considered on a tax rather than a transport base – and hence requiring unanimity rather than a qualified majority – were set out in a minutes statement. However the large majority of Member States accepted the view that a transport base was appropriate.

Your Committee is holding under scrutiny the Commission’s Communication on the broader strategy for the internalisation of external costs, and you will recall that there has been a lack of progress with the broader internalisation strategy because of delays in the negotiation of the Eurovignette Directive. We now expect that plans to take the strategy forward will be outlined in the forthcoming Transport White Paper.

23 November 2010

TRANSPORT: PERFORMANCE STANDARDS EMISSIONS (15317/09)

Letter from the Chairman to Norman Baker MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your letter of 7 December, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They decided to clear the document from scrutiny.

We are grateful for your very full description of the current negotiating position and the UK’s aims. Now would be an appropriate moment to make progress on this issue, in the light of the recent Cancun agreement. We would appreciate further updates as the negotiations progress.

We were slightly concerned by the proposal to defer a decision on how to assess multi-stage vehicles until 2011, and would appreciate a fuller explanation of the likely progress on this issue.

14 December 2010

TRANSPORT: RIGHTS OF COACH AND BUS PASSENGERS (16933/08)

Letter from Norman Baker MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman

I am writing to update you on progress with negotiations on the proposal for an EU Regulation on bus and coach passenger rights, including the outcome of the European Parliament’s second reading.

As you know, political agreement on a common position was reached at the December Transport Council in 2009. The Spanish Presidency held a number of tripartite meetings with the European Parliament (EP) and the Commission to try to reach a compromise that would enable a second reading deal to be reached. However, the EP plenary second reading on 6 July adopted a text that is unlikely to be acceptable to the majority of Member States. The Belgian Presidency has not yet ruled out the possibility of a second reading deal, and will consider the options, but they feel that conciliation is likely.

The key issues for the EP have been to:
— remove the ability for Member States to exempt regional (and therefore rural) bus services;
— remove the ability for Member States to exempt all domestic services for 5 years (which can be renewed twice);
— significantly increase the number of provisions that would automatically apply to urban and suburban services;
— re-introduce strict liability and advance payments; and
— revise the provisions on compensation and assistance in the event of delays and cancellations, and the rights of disabled persons and persons with reduced mobility (PRM).

In order to secure minimal changes to the liability provisions, Member States have been looking to compromise on scope, although the majority have sought to retain the ability for Member States to exempt regional services. Without this exemption rural bus services would fall in scope of the Regulation, and the cost of complying with some of the provisions could make these marginal, but socially necessary, services unviable to run.

The EP wants the following articles to automatically apply to urban and suburban services, in addition to those set out in the common position:

— compensation in the event of accidents is determined in accordance with national law, but if it is capped certain minimum limits apply (article 7);
— the provision by carriers of reasonable assistance to meet passengers’ immediate practical needs following an accident (article 8);
— carriers and terminal managing bodies to establish or have in place non-discriminatory access conditions for the transport of disabled persons and persons with reduced mobility (article 11(1));
— provision of assistance free of charge to disabled persons and persons with reduced mobility at terminals designated by Member States (article 13(1));
— disability awareness training for personnel of carriers and terminal managing bodies who deal directly with the travelling public (article 16);
— compensation in respect of damage caused to wheelchairs and other mobility equipment when assistance is being provided (article 17(1) and (2));
— provision of information in the event of cancellation or delay in departure from terminals (article 20);
— right to travel information throughout the journey (article 23);
— provision of information on passenger rights under the regulation (article 24 - this was added during discussions with the Rapporteur);
— carriers to have a complaints handling mechanism (article 25);
— ability for passengers to make a complaint and the timescales attached to the submission of complaints (article 26); and
— the requirement for a national enforcement body (article 27).

To safeguard the common position on liability and the ability to exempt rural services, we adopted a certain level of flexibility in our approach to the number of articles that would apply to urban, suburban and regional services, and on the length of the exemption for all domestic services. However, the likelihood of conciliation means there is an increased risk of a revised text which would be less acceptable to us than the common position.

Whilst we support the equitable treatment of disabled people, we have resisted proposed EP amendments to the provisions concerning disabled people and people with reduced mobility, where they would place unreasonable requirements on the industry. In respect of other amendments regarding passenger rights in the event of cancellation and delay, the provision of information, and complaints we will seek to ensure that any proposed amendments are proportionate and practical in their application and do not impose a disproportionate burden on businesses.

I will, of course, continue to keep your Committee informed of the progress of this proposal through the further stages in negotiations.

22 July 2010
Letter from the Chairman to Norman Baker MP

Thank you for your letter of 22 July which was considered by the Sub-Committee on the Internal Market, Energy and Transport on 11 October.

We were grateful to receive an update on the negotiations, but are concerned about their progress. We previously supported the Government’s negotiating aims to restrict the scope of this proposal as far as possible to long-distance services, but there seems now to be significant risk of its provisions being extended, with high potential burdens on small operators. We also note that there already exist several means of redress for bus passengers in the event of delay, cancellation or accident.

12 October 2010

TRANSPORT: RIGHTS OF SHIP PASSENGERS (11990/10)

Letter from Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman

I am writing to inform you of the progress that has been made on the proposed maritime passenger rights Regulation, including the outcome of the European Parliament’s second reading of the dossier on the 6th July 2010.

During the second reading process the proposed Regulation was subject to intense negotiations between the European Parliament, the Presidency (on behalf of the Council of Ministers) and the Commission, and a compromise package was reached between Member States and the European Parliament. The key elements of the package are:

(i) **Scope**: the Regulation will not apply to ships certified to carry up to 12 passengers, ships with a crew responsible for the operation of the ship of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way. The Regulation will also not apply on excursion and sightseeing tours or historical passenger ships. Nothing in the Regulation imposes obligations to modify or replace ships, infrastructure, ports and port terminals. In addition, the Recitals explain the aim of the Regulation is not to interfere in commercial business-to-business relationships concerning the transport of goods.

(ii) **Disabled persons**: the Regulation prohibits carriers and operators from refusing to issue, or making an additional charge for, a ticket or reservation to a disabled person and person with reduced mobility on the grounds of disability or of reduced mobility. The Regulation permits a carrier however, to refuse to embark a passenger for justified safety reasons. The Regulation sets the framework for the denial of embarkation, the requirement for publicly available access conditions and quality standards, as well as providing for the right to assistance and the conditions under which such assistance is provided.

(iii) **Disrupted travel**: the Regulation establishes the passenger’s right to assistance in case of cancelled or delayed departures. When delayed for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments. When such delays occur, passengers are entitled to be re-routed to the final destination or reimbursed the ticket price. Where an overnight stay becomes necessary, the carrier shall offer passengers adequate accommodation free of charge. For each passenger, the carrier may limit the total cost of accommodation to €80 per night for a maximum of three nights. The Regulation also lays down the right, in certain circumstances, to compensation in case of delay in arrival. Neither accommodation nor compensation is available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

(iv) **Complaints and enforcement**: the Regulation requires industry to set up an accessible complaint handling mechanism and requires Member States to designate a new or existing body or bodies responsible for the enforcement of this Regulation.

(v) **Entry into force**: the Regulation will apply 24 months after the date of publication in the Official Journal. If the Council of Ministers votes in favour of the Regulation, it is likely to apply from late 2012.

The Council of Ministers will now have to confirm the agreement reached with the European Parliament for this Regulation to be formally adopted, and it is expected that the compromise will be acceptable to Member States primarily because of the modest nature of the changes to the scope (see point (i) above); the cap on the carrier’s liability for disrupted travel (see point (iii) above) which takes account of events such as the recent volcanic ash incident; and the 24 months entry into force date.
Also, as part of the overall compromise package, it is worth noting that consistency with the aviation industry in respect of the amount of time that must pass before a passenger can expect assistance (in the form of refreshments, reimbursement and re-routing) is no longer considered to be a major sticking point for the majority of Member States. So the relevant provisions have now been reduced to 90 minutes, as opposed to the 120 minutes that was previously agreed by the Council of Ministers for the purposes of the Common Position.

19 July 2010

TRANSPORT STRATEGY ON CLEAN AND EFFICIENT VEHICLES (9006/10)

Letter from the Chairman to Mark Prisk MP, Minister of State, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 26 May, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They decided to clear it from scrutiny.

We understand that at the Competitiveness Council of 25-26 May, Council Conclusions were adopted on the basis of this document. We are of the opinion that, under the new Scrutiny Reserve Resolutions, this is an override of scrutiny, as the Conclusions endorse a variety of actions based on the document.

However, we acknowledge that it was not possible for the Government to deposit the document in Parliament before 26 May, and that the only way an override could have been avoided was for the UK to force a vote on the document and abstain or object. Of more concern is that fact that Council Conclusions were reached less than a month after the publication of the document. We therefore urge the Government to be vigilant in ensuring adequate time is allowed for parliamentary scrutiny of documents, and would be interested to know if such measures were taken in this case.

On the substance of the document, we agree that coordinated action is vital, particularly with regard to standardisation, the development of charging networks, and the establishment of smart grids. We agree that measures should be technology neutral.

We look forward to scrutinising the various proposals emerging from this Communication as they are published.

29 June 2010

TRANSPORT: TRANS-EUROPEAN NETWORK (9582/10)

Letter from the Chairman to the Rt Hon Theresa Villiers MP, Minister of State, Department for Transport

Thank you for your explanatory memorandum dated 2 June 2010. The Sub-Committee on Internal Market, Energy and Transport considered it on 5 July 2010 and agreed to hold it under scrutiny.

In light of the fact that their initial response was a preference for a simpler and integrated TEN-T network with a single layer core priority network, we would appreciate clarification on the Government’s current view on the proposed dual layer methodology.

We recognise the Government’s support for the review of the TEN-T programme, but would be interested to hear a more detailed explanation of the impact the proposed changes to TEN-T policy would have on the UK, in particular the revised costs and benefits, and whether they envisage any changes to the breakdown of financing arrangements for Member States.

Finally, we recognise that the Government are still formulating their position on the latest stage of the Policy Review. We would be grateful to receive an update on the progress of these discussions, preferably as soon as possible, to allow sufficient time for a response before the Commission’s deadline of 15 September 2010.

6 July 2010

Letter from the Rt Hon Theresa Villiers MP to the Chairman

Thank you for your letter of 6th July advising that this document will be held under scrutiny pending further information and developments.
You asked for clarification on the Government’s current view on the proposed dual layer methodology. Although, as you note, we are still formulating our position, the Government is cautiously supportive of the dual layer approach, providing clarity is given to the principles supporting it.

The current consultation does provide more clarity; that the dual layer approach can be regarded as a simplification of the current network as it will be moving away from a series of separate modal maps and distinct nationally driven priority projects to a single integrated comprehensive network. It will be based on the current modal network maps revised to take account of changes to national priorities, adding in missing links and removing dead ends. The core network will be formed from the elements in the comprehensive network that link up key transport nodes (capital cities, major urban and manufacturing centres) defined by an evidence-based methodology. The advantage of this is that the network will become a multi-modal network based on transport needs.

It is becoming clear that this approach is favoured by other Member States, and the Commission sees this as the way forward; the other options are effectively now discarded.

With regard to your question about the impacts that the proposed changes would have on the UK; these are uncertain at this stage, as the shape of the core network will determine where the bulk of expenditure will go. In discussions with the Commission we would press to ensure that the comprehensive network and core network provide the greatest possibility for the UK to bid for funding.

Assessing the impact on the costs and benefits of the programme, and how they will change as a result of this consultation, is not straightforward. In terms of costs, the TEN-T programme is a funding programme that comes from the EU central budget. At present this is set at €8 billion for the period 2007-2013. The policy review does not directly focus on the funding mechanism, though it does suggest the possibility of unifying transport infrastructure spending from other programmes (such as European Regional Development funds and Structural funds) to improve progress in completing the network. Preparations for negotiations for the EU budget for the next financial period (2014-2020) are underway. These are being led by HMT, and it is these discussions which will determine the cost of the programme to the UK. My Department will, of course, contribute to this process.

The benefits of the programme are difficult to quantify; at a strategic level the benefit will be that the UK has better access to the internal market via an efficient multi-modal transport infrastructure. On another level it could be the amount of funding that the UK can attract from the programme. These are both difficult to estimate. We will work to ensure that the programme has sufficient flexibility to include new UK projects such as High Speed 2 which clearly add value to the network.

The review does partly open up the question of a change to the breakdown of the financing arrangements for Member States, because it raises the question of setting up a single transport infrastructure funding stream. This consultation will help the Commission develop their thinking on what the future funding instrument will be; but it will be the overall EU budget review negotiations which will determine the outcome. We do not expect that the current model for managing the programme or the rates of co-finance for projects will change fundamentally.

You asked for an update on progress of discussions for the policy review. I have just launched a public consultation which will help develop a UK response to the Commission consultation, and I attach a copy of our consultation document.

I will, of course, keep you informed of the outcome of our consultation, and of further developments in the review of TEN-T policy.

27 July 2010

Letter from the Chairman to the Rt Hon Theresa Villiers MP

Thank you for your letter of 27 July, which was considered by the Sub-Committee on the Internal Market, Energy and Transport on 11 October. They decided to clear the document from scrutiny.

Your letter was somewhat vague on the Government’s position. We hope you will be in a position to give a clearer indication of the Government’s views on the merits of the dual-layer approach when you have completed your response to the Commission. We would be interested to see a copy of the response when it is ready.

We are concerned that this project is progressing without a clear indication of the potential costs and benefits of the various options and we consider this an obvious imperative. We would expect a full impact assessment to be produced before any decision on the extent of the core network was made.
TRANSPORT: VOLCANIC ASH

Letter from the Chairman to the Rt. Hon. Phillip Hammond MP, Secretary of State for Transport, Department for Transport

I am writing in response to Lord Adonis’s letters of 29 April and 6 May 2010 which were considered by the Sub-Committee on the Internal Market, Energy and Transport on 28 June.

We were interested to read the account of events following the eruption of Eyjafjallajökull and in particular the assessment prepared by the Commission for the extraordinary Transport Council on 4 May. We would be interested to hold an evidence session in order to explore the issues further. It was reassuring to read that speedy action was taken in order to establish coherent thresholds for safe flight through volcanic ash, but the crisis does seem to have exposed a number of inadequacies in European coordination strategies for such incidents. We are also concerned that any revision of Regulation 261/2004 strikes an appropriate balance between alleviating sudden financial pressures on airlines with protection of consumer rights for stranded passengers.

It appears that considerable activity has been generated in response to the crisis, and we look forward to scrutinising the various proposals as they emerge. We understand that a further document has been prepared and was discussed at the Transport Council on 24 June. We shall consider this document in detail when it has been deposited in Parliament.

We note also that the Government plan to sell their stakes in both the National Air Traffic Control Service (NATS) and the High Speed One rail link. We would be interested to have your assessment of the implications of these measures for the greater coordination of European air traffic control and for the provision of strategic alternatives to air travel in the event of airspace closure.

29 June 2010

Letter from the Chairman to the Rt. Hon Theresa Villiers, Minister for State, Department for Transport

Thank you for your explanatory memorandum dated 19 July 2010. The Sub-Committee on Internal Market, Energy and Transport considered it on 26 July 2010 and decided to clear it from scrutiny. In addition, we are very grateful to your officials for appearing before us to give evidence.

We recognise the Government’s support for the Commission’s efforts to coordinate a joint EU response to the volcano crisis, but would be interested to hear a more detailed explanation of the funding for the various initiatives which have been put forward. In particular, we would like to hear where funding for the schemes set up will be sourced from, and whether they will be appropriating funding from the EU budget.

In addition, we would appreciate clarification on what exactly is entailed by categorising the Single European Sky (SES) programme as the Commission’s “highest political priority”, and what measures will be taken in the near future to accelerate the implementation of the SES.

Finally, we would be grateful for an overview on the role the Government is taking in ensuring that Regulation 261/2004 is applied and enforced in a uniform way.

27 July 2010

TYPE-APPROVAL OF TWO AND THREE-WHEELED VEHICLES AND QUADRICYCLES (14622/10)

Letter from the Chairman to Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your explanatory memorandum of 25 October, which was considered by the Sub-Committee on the Internal Market, Energy and Transport. They decided to retain the document under scrutiny.

We welcome the broad intention of this proposal, along with the similar proposals we have recently seen, to simplify the type-approval process for vehicles.
The new provisions in this Regulation seem sensible, in that they are likely to improve safety and reduce environmental harm. As the precise details of these measures have yet to be determined it is difficult to give an opinion on their appropriateness, but we would be interested to receive an initial assessment of why you believe the proposal will introduce significant costs to industry. We would therefore be grateful if you could keep us updated with the progress of negotiations and provide us with a copy of the UK impact assessment when it has been produced. We would appreciate an assurance that IA will fully take into account the effect of the cost of carbon.

I look forward to receiving a reply within the standard 10 working days

23 November 2010

VERTICAL AGREEMENTS AND CONCERTED PRACTICES

Letter from Edward Davey MP, Minister of State, Department for Business, Innovation and Skills, to the Chairman

I am writing to inform you that the European Commission has adopted a revised regulation that exempts vertical agreements for the sale of products and services from competition rules.

The revised vertical agreements and concerted practices block exemption regulation (VBE) and accompanying guidelines came into force on 1st June 2010 and will be valid until 2022. The regulation has been revised to take into account the development, in the last 10 years, of the internet as a force for online sales and cross-border commerce. The new regulation retains the principle that companies are free to decide how to distribute their products, provided that their agreements do not contain price-fixing or other hardcore restrictions, and both manufacturer and distributor do not have more than a 30% market share. Approved distributors are also free to sell on the internet without limitation on quantities, customers' location and restrictions on prices.

During public consultation by the European Commission, a key issue was the argument put forward by brand owners that they should be allowed to control the how their products are distributed. The new VBE retains this principle but the guidelines state that a manufacturer or brand owner cannot block its distributors from selling through on-line retail platforms, or auction sites, where these sites fulfil the standards set by the manufacturer or brand owners for the sale of their products.

The text of the new VBE and accompanying guidelines and frequently asked questions can be found at the following link:


12 August 2010