



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

This edition includes correspondence from 1 January – 30 July 2018

EU EXTERNAL AFFAIRS SUB-COMMITTEE

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CONTRIBUTIONS (10042/18)

**Letter from the Chairman to the Rt Hon Lord Bates, Minister of State, Department for
International Development**

Thank you for your Explanatory Memorandum (EM) dated 21 June regarding the above document. This was considered by the External Affairs Sub-Committee on 5 July. We have four questions to which we would be grateful for your response. First, the Committee would like to understand the apparent contradiction relating to UK contributions contained in the EM. The EM states that the UK Government's expectation is that the UK's overall contribution to the 11th EDF would not change because this year's lower contributions would be counterbalanced by likely future increases. However, it is not clear from the information provided in the EM what sits behind this assessment. So far, for 2020-2021 there are non-binding total spending ceilings and for 2019, the EM states that while contributions and payments remain the same, commitments are lower. Given commitments from 2017 onwards have been forecast to be lower, this may – if anything – suggest that future contribution levels would not increase, but remain the same or be reduced overall. The Committee would therefore be grateful for clarification on the reasoning behind the assessment that this year's lower contribution levels would be offset by future increases.

Second, it is not clear from the EM what the process for allocating contributions and commitments is and how contributions relate to commitments. The Committee would appreciate a brief explanation covering this.

Third, the EM states that “the UK has pushed against any amended proposal that would mean the EC holds balances in excess of forecasted spending, or that would mean payment in advance of need”. Does “payment in advance of need” mean “payment in advance of implementation” in this context? If not, what does it refer to? Fourth, the EM states that the UK has committed to “pay our share of the 11th EDF and all previous EDFs until all programmes approved from these funds are fully implemented”.

However, the EM does not set out how the UK contributions would link to any role the UK may play in the EDF during and after the transition period and we would be grateful for an update on this.

We look forward to your response within the usual 10 working days. In the meantime, we have decided to retain the document under scrutiny.

5 July 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ESTABLISHING THE EUROPEAN DEFENCE FUND (10084/18)

**Letter from the Chairman to Stuart Andrew MP, Minister for Defence Procurement,
Ministry of Defence**

Thank you for the Explanatory Memorandum (EM) of 27 June 2018, submitted by Guto Bebb MP, regarding the above document. This was considered by the External Affairs SubCommittee on 12 July 2018. We would like to request further information on the following issues.

First, we were disappointed at the lack of detail included in the EM. Please provide us with further information about the changes made to the Regulation since last year's EM on the launch of the European Defence Fund, submitted on 10 July 2017.

Second, the EM states that the Government “broadly welcomes the intent of the EDF to strengthen Europe's defence capabilities and to foster competition and innovation in our shared defence industry”. Does this indicate that there are elements of the EDF's intent which the Government does not agree with? If so, which elements are those?

Third, the EM stresses that the UK has “been consistent in setting out that EU defence initiatives should complement other activity (not least NATO), be open to third parties and promote a competitive European defence industry. The Government will seek to ensure that the EDF meets these objectives as the regulation proceeds through the EU legislative process.” What is your assessment of the complementarity between other activities and the EDF, its openness, and its promotion of competition as the Regulation currently stands? How has the Government sought to ensure that the EDF meets these objectives?

Fourth, in his letter of 9 October 2017, Earl Howe informed the Committee that the Government was concerned about the role the Commission would play in the decision-making of the EDF and that the role of Member States should be “brought out much more clearly in the Regulation”. Has this been changed to your satisfaction in the finalised Regulation?

We have decided to retain the Proposal under scrutiny. We look forward to your reply within the usual ten working days.

20 July 2018

**JOINT REPORT TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND
THE COUNCIL ON THE IMPLEMENTATION OF THE JOINT FRAMEWORK ON
COUNTERING HYBRID THREATS FROM JULY 2017 TO JUNE 2018 (10135/18)**

**JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN
COUNCIL AND THE COUNCIL INCREASING RESILIENCE AND BOLSTERING
CAPABILITIES TO ADDRESS HYBRID THREATS (10242/18)**

**Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State
for Europe and the Americas, Foreign and Commonwealth Office**

Thank you for your Explanatory Memoranda regarding the above documents. They were cleared from scrutiny at the Chairman’s sift and were discussed by the External Affairs Sub Committee on 19 July. The Sub-Committee had a couple of follow-up questions that it would welcome a response to.

First, while responsibility for tackling hostile threats, including hybrid threats, clearly rests with Member States, there is no reference in the EM – or in the recent technical notes issued by DExEU – to how the UK envisages to cooperate with the EU on countering hybrid threats post-Brexit. What assessment has the UK Government made of the UK’s interest in continuing to participate/cooperate with initiatives under the Joint Framework and, in particular, will it seek continued involvement with the Hybrid Fusion Cell?

Second, while the EM states that progress is being made on the implementation of the agreed measures under the Joint Framework, it also says that progress “is slowest on Actions 20-22, which cover cooperation with NATO, military capabilities and mutual assistance. Delivery will require a significant push and coordinated approach from the institutions.” What actions is the UK taking to encourage such a ‘push’ and coordination?

We look forward to receiving a response within the usual 10 working days

20 July 2018

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and
the Americas**

Thank you for your letter of 20 July, confirming that the EU-Sub Committee on External Affairs considered the above documents and decided to clear them from scrutiny. You also raised some questions, however, about the UK’s interests in EU work on countering hybrid threats and its delivery.

First, you asked about the UK’s interest in continuing to participate in, and cooperate with, EU work to counter hybrid threats, once we have left the EU. The Government has made clear that, on leaving the EU, the UK will pursue an independent foreign policy. But the UK remains unconditionally committed to European security, which is why we are seeking a security partnership that includes

cooperation and consultation on foreign policy, defence and security issues. Hybrid threats are an area in which close collaboration between the UK and the EU is likely to be mutually beneficial, so we would expect them to be covered by the partnership.

In the meantime, the UK is working to give political momentum to EU efforts. We played a major role in persuading the June Foreign Affairs Council and the June European Council to agree a comprehensive package of measures, including in some of the areas you mentioned, such as strategic communications. We are also seeking to strengthen EU-NATO co-operation; the importance of this was recognised at this month's NATO Summit as well as at the two Councils. In addition, we are strengthening the Centre of Excellence on Countering Hybrid Threats, to which we provide a seconded national expert. The Centre acts as a venue where NATO Allies and EU Member States can come together to share best practice and work together to tackle the threat.

You also asked about the actions the UK is taking to encourage delivery of the measures under the Joint Framework, including Actions 20-22. We will continue to use suitable meetings of Ministers and senior officials, such as the EU's Political & Security Committee, to give direction to this work and track progress. We will also support delivery through our secondee in the EU's Hybrid Fusion Cell, and through our bilateral engagement with influential Member States.

31 July 2018

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ESTABLISHING THE NEIGHBOURHOOD, DEVELOPMENT AND
INTERNATIONAL COOPERATION INSTRUMENT (10148/18)**

**Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP Minister of State
for Europe and the Americas, Foreign and Commonwealth Office**

Thank you for your Explanatory Memorandum (EM) dated 4 July 2018 regarding the proposal to establish the Neighbourhood, Development and International Cooperation Instrument. This was considered by the External Affairs Sub-Committee on 19 July 2018.

We have a few outstanding questions to which we would be grateful for your response, as below.

First, we were disappointed that your EM states that "it is not yet possible to determine whether it will be in the UK's best interests to participate in any future EU instruments" and refers to UK participation being subject to negotiations with the EU. We appreciate that the outcome is subject to negotiations and that you cannot provide any assessment of this yet, but we are concerned that you consider it not yet possible to determine whether UK participation is in its best interest. What work is the Government undertaking to assess its interests regarding the Neighbourhood, Development and International Cooperation Instrument (NDICI)? When do you anticipate the Government to have adopted a position?

Second, your EM says that the conditions to be met for the UK to participate include that "sufficient governance oversight over our funds" needs to be offered. Please provide us with further detail about what you would expect such oversight to look like.

Third, decisions on the budget of the European Development Fund and where it is spent are currently taken by the EU-ACP Council of Ministers for the whole duration of the Fund. What influence will ACP countries have over the spending of funds once the EDF becomes part of the EU's budget?

Fourth, the proposed EU-ACP agreement succeeding the Cotonou Agreement includes the restructuring of the partnership along three regional compacts—Africa, the Caribbean, and the Pacific. Under the geographic pillar of the NDICI, the programmes are divided as follows: 1) Neighbourhood, 2) Sub-Saharan Africa, 3) Asia and the Pacific, and 4) Americas and the Caribbean. The proposed allocations under this structure therefore do not correspond to the structure of the regional compacts. What is your assessment of the impact this difference between structures will have on the EU's ability to efficiently disburse funds, and on the UK's ability to co-operate with the EU's post-Cotonou Agreement?

Fifth, what is your assessment of the implications of this changed structure of EU foreign policy instruments for the UK's stated intention to co-operate with the EU on a case-by-case basis after Brexit?

We have decided to keep the above document under scrutiny. We look forward to your response in the usual 10 working days.

20 July 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS LAUNCHING THE EUROPEAN DEFENCE FUND (10164/17)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE EUROPEAN DEFENCE INDUSTRIAL DEVELOPMENT PROGRAMME AIMING AT SUPPORTING THE COMPETITIVENESS AND INNOVATIVE CAPACITY OF THE EU DEFENCE INDUSTRY (10589/17)

REFLECTION PAPER ON THE FUTURE OF EUROPEAN DEFENCE (10165/17)

Letter from the Chairman to Guto Bebb MP, Parliamentary Under Secretary of State, Ministry of Defence

Thank you for the letter of 11 December 2017, from your predecessor, Harriett Baldwin, regarding the above documents. This was considered by the External Affairs Sub-Committee on 11 January 2018. I understand that the information contained was confidential, and I confirm that the letter and our ongoing correspondence will be kept confidential.

The Ministry of Defence's response to my letter of 20 October 2017 exceeded the agreed Government response time of 10 working days by more than five weeks, which resulted in a scrutiny override. This override could have been avoided, had we received an answer to the question we posed earlier. We were disappointed by this delay and would like to emphasise to you the importance we attach to a timely approach to scrutiny.

We have further questions about the Proposal, as outlined below, to which we would be grateful for your response.

First, your predecessor's letter states that, under the revised Proposal, undertakings owned by non-EU countries could participate in the EDIDP and be eligible for funding, provided they have an executive management structure based inside the EU. Later, however, the letter refers to Article 6(3), which includes no such provision, but rather says that undertakings by third countries could be considered as long as they do not contravene the Union's or Member States' security and defence interests. The Regulation defines third country entities to include those "having its executive management structures outside the Union". Please clarify what the definition of a third country entity is, and the requirements for such entities to be eligible for EDIDP funding. Please also set out how an undertaking differs from an entity and what the legal structure underpinning an undertaking would be.

Second, is our understanding correct that undertakings located in third countries would not be eligible for funding under the EDIDP, but undertakings controlled by third countries or their entities would be eligible for funding as long as they were located in an EU Member State?

Third, the letter mentions the possibility of undertakings being able to procure items from outside the EU "where there are no readily available competitive substitutes in the EU". Is there a definition of what 'readily available' means in this context? Is this linked to a maximum time period for sourcing the items?

Fourth, the letter mentions the extra 10% funding incentive for PESCO projects. What is the Government's position on this?

Fifth, is the Government content with the provisions included in the current Proposal with regard to the participation of third countries? Do other UK concerns remain?

We have decided to continue to hold the document under scrutiny. We look forward to your response within the usual 10 working days.

12 January 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE EUROPEAN DEFENCE INDUSTRIAL DEVELOPMENT PROGRAMME AIMING AT SUPPORTING THE COMPETITIVENESS AND INNOVATIVE CAPACITY OF THE EU DEFENCE INDUSTRY (10589/17)

Letter from Guto Bebb MP, Minister for Defence Procurement, Ministry of Defence

I am writing to inform you that following my predecessor's letter of 11 of December 2017, a scrutiny override occurred on the 12 of December with the UK supporting the adoption of a first reading "general approach" for the European Defence Industrial Development Programme (EDIDP) draft Regulation at the General Affairs Council. The draft Regulation was adopted unchanged from the version you saw earlier. I am sorry this was necessary due to the compressed timescales of the EDIDP negotiation.

The EU Parliament are still formulating their own proposal on the Regulation for establishing the EDIDP, with a final vote due sometime in March. After that the Council and European Parliament Regulations (along with the original Commission proposal) will go to Trilogue, about which I shall of course keep you informed.

Furthermore, I would like to clarify that my predecessor's responses to the questions raised by the House of Commons European Scrutiny Committee (available at Appendix 1) (not published here) in response to the Government's Explanatory Memorandum (dated 10 of July) can be published.

23 January 2018

Letter from the Chairman to the Rt Hon Earl Howe PC, Minister of State

Thank you for your comprehensive letter of 7 February 2018 regarding the European Defence Industrial Development Programme. This was considered by the External Affairs Sub-Committee on 22 February 2018. I understand that the information contained was confidential, and I confirm that your letter and our ongoing correspondence will be kept confidential.

I would also like to thank you for explaining to me the reasons for the late responses of the Ministry of Defence to my previous letters, and for assuring me that these issues have now been resolved.

We would like to be kept informed on the following issues:

1. The further development of and changes to the EDIDP proposal;
2. The timeline of discussions about third country participation in the EDIDP, as and when available, including decisions taken; and
3. Discussions around the implications of the UK's departure from the EU for its co-operation with the EDIDP, including during possible transitional arrangements.

We are now content to clear the Communication on the launching of the European Defence Fund (10164/17) and the Reflection Paper (10165/17) from scrutiny. We have decided to continue to hold the Proposal for a Regulation of the European Parliament and the Council establishing the European Defence Industrial Development Programme (10589/17 (15536/17)) under scrutiny.

22 February 2018

Letter from Rt Hon Earl Howe PC, Minister of State

Thank you for your letter of the 22 February 2018 and for your acknowledgement of the issues leading to previous delays in responding to correspondence on this matter, and acceptance that they have now been resolved.

I was pleased to receive your confirmation that Communication on the launching of the European Defence Fund (10164/17) and the Reflection Paper (10165/17) has been cleared from scrutiny.

On the Proposal for a Regulation of the European Parliament and the Council establishing the European Defence Industrial Development Programme (10589/17 (15536/17)), I understand that more information is required and that it therefore remains under scrutiny.

You have asked to be kept fully informed of developments and changes to the EDIDP proposal, timelines of discussions about third country participation in the EDIDP, including decisions taken and any discussions around the implications of the UK's departure from the EU for its co-operation with the EDIDP, including during possible transitional arrangements. I feel this type of update would more rightly sit with the Minister of Defence Procurement and I understand he will be writing to both European Scrutiny Committees with more information in the very near future.

Please note that to ensure you receive timely responses in future, I have had oversight of Committee engagement transferred to our Parliamentary Branch.

17 April 2018

Letter from Guto Bebb MP, Parliamentary Under-Secretary of State and Minister for Defence Procurement, Ministry of Defence

In accordance with the letter you will have received from my Honourable colleague, The Rt Hon Lord Howe, I write to inform you and the European Scrutiny Committee that the European Defence Industrial Programme (EDIDP) Regulation has had its first reading in the European Parliament.

As you know, an amended version of the European Commission's initial draft was endorsed by Ministers at the EU General Affairs Council (GAC) on 12th December. The Council version modified many of the provisions to our advantage, in particular by recognising that third country industry could take part in the EDIDP, albeit with no EU funding. Furthermore the amended version confirms that companies based in the EU but owned by third country parties, such as BAES Hagglands in Sweden owned by BAES US, were eligible for funding. These provisions are especially important because although the current Regulation only applies up to 2020, the Commission are likely to be guided by its terms in drafting any post 2020 EDF Regulation.

The Regulation cleared the Committee stage on 28th February, led the Committee on Industry, Research and Energy. This agreed restrictions that aim to prevent a parent company outside the EU being involved in any decisions made by their subsidiaries related to the EDIDP activity and leaving it with the Commission to test whether sufficient controls are in place. Fortunately, the Council provision allowing third country based industry to participate on a pay to play basis have been included. Parliament approved the proposals on 13th of March, with Trilogue commencing on the 15th of March. The aspiration is to have the Regulation finally agreed by June 2018 to make it possible to allocate EU funds from the beginning of 2019.

I also wish to address the points raised during the 31st January sitting of the European Scrutiny Committee. At that sitting, I was asked to provide clarity on the following:

- **how, and by whom, assurances by a host Member State about the eligibility for EDIDP funding of an undertaking controlled from a third country would be assessed, and whether other Member States could challenge those assurances;**

This was left for each member state to determine in accordance with its own national processes, the assumption being it would as a minimum entail some form of confirmation from a recognised source, for example a department of defence or economics. Member states could theoretically challenge these assurances in the programme committee before final award of proposals, however the general assumption is that if the Commission is part funding member state led projects they already have legitimacy.

- **how the existence of an EU-based “executive management structure” of such third country-controlled undertakings would be assessed in practice, and against which criteria, to ensure it was indeed effectively run from within the EU;**

This again was left as a national decision. In recognition of differences in sovereignty and market philosophies, it was considered more appropriate that a nation would best know whether the local

undertaking had sufficient managerial autonomy and that it had sufficient independence to take some account of the member state's national interests.

- **who would judge whether “competitive substitutes” for the necessary assets or resources for an EDIDP project are available within the EU, before a beneficiary could source them from a non-EU undertaking;**

In the first instance this would be a decision for the consortia who then might be required to provide evidence to support this to the Commission.

- **whether cooperation with entities located in a country subject to CFSP sanctions would be allowed in principle, if not in practice; and**

While not specifically excluded, such cooperation would likely fall foul of cooperation contrary to the security interests of the member states and the Union.

- **what level of political representation the Government will seek within the Foreign Affairs Council and the Commission's EDIDP Committee, where individual funding decisions will be made, during the post-Brexit transitional period (when the UK will still contribute to the EDIDP as if it were a Member State).**

In accordance with the draft Written Agreement, the UK will have no right to attend to programme committees. However, we will be making the case for UK participation in the programme committees for the following reasons: The Prime Minister has stated a desire to remain associated with the EDF long term; we will still be contributing; and we are supporting UK industrial participation where we believe we have a lot to offer.

As the EDIDP Regulation continues through the Trilogue process, my officials continue to press for a text that remains largely in accordance with that agreed at the GAC last December.

I will provide further updates in due course.

23 April 2018

Letter from the Chairman to Guto Bebb MP, Parliamentary Under Secretary of State and Minister for Defence Procurement

Thank you for your update letter of 23 April 2018 regarding the European Defence Industrial Development Programme. This was considered by the External Affairs Sub Committee on 3 May 2018.

We have decided to continue to hold the Proposal for a Regulation of the European Parliament and the Council establishing the European Defence Industrial Development Programme (10589/17 (15536/17)) under scrutiny.

We look forward to receiving further updates from you in due course, in particular on the implications of the UK's departure from the EU for its co-operation with the EDIDP, including during the planned transitional period.

3 May 2018

Letter from Guto Bebb MP, Parliamentary Under Secretary of State and Minister for Defence Procurement

With reference to our recent correspondence on this topic, including most recently the letter from Lord Boswell, dated 3rd May, I write to provide a further update on the EDIDP Regulation as agreed.

I acknowledge the questions that were asked of me on this topic when the European Scrutiny Committee sat on 9th May 2018. I intend to address these in my next correspondence.

I would like to inform you and the European Scrutiny Committee that the legal text of the EDIDP Regulation was provisionally agreed between Presidency, Commission and Council in the fourth trilogue on 22nd May.

The details were reviewed by Member States intending to be agreed by COREPER on 29th May. However, agreement was not reached as the Regulation had been revised, beyond the Presidency's agreed COREPER mandate from 14th May, in a few areas, which were unacceptable to a number of member states. These revisions included amending the EDIDP funding line; extending the eligibility criteria for subcontractors down the supply chain; and a new requirement for the Commission to be notified of any transfer of ownership of, or granting of a licence in respect of, any of the results generated by the Programme. If such action is deemed to contravene the objectives of the EDIDP Regulation then all funding must be reimbursed.

To mitigate the above, France, supported by the UK, proposed to remove the "granting of a licence" text from Article 12.4 and the UK also requested that Article 7.8 should be amended so that only subcontractors having access to "highly" classified information would have to pass the funding eligibility tests. The Presidency agreed to check these two proposals with the Parliament without opening the rest of the text. COREPER would then reconvene on the 7th June. The revised funding proposal is currently being staffed for HMT approval.

If these proposals are agreed by the EU Parliament we expect the text to be agreed by a sufficient number of Member States, under the Qualified Majority Vote, to go through at the final COREPER on 7th June, but under a waiver stipulating that it must still clear the UK Parliament's scrutiny process. We hope you will clear the EDIDP Regulation from the scrutiny process prior to the General Affairs Council on 26th June where it is intended to be agreed by leaders and welcomed by the June European Council.

My officials will continue to actively represent the UK position as the EDIDP Regulation continues its progress through the EU legislative process. I will be writing to you again very soon to request the EDIDP Regulation is cleared from scrutiny.

5 June 2018

Letter from Guto Bebb MP, Parliamentary Under Secretary of State and Minister for Defence Procurement

With reference to our recent correspondence on this topic, including most recently my letter dated 5th June, I write to provide a further update on the European Defence Industrial Development Programme (EDIDP) Regulation. I will also address some issues that have been raised as part of my commitment to provide further updates in due course.

I would like to inform you and the European Scrutiny Committee that the legal text of the EDIDP Regulation was agreed at COREPER on 7th June. In my last letter I explained that the Presidency had proposed changes to articles in three areas which were unacceptable to a number of member states. These included amending the EDIDP funding line; extending the eligibility criteria for subcontractors down the supply chain; and a new requirement that the Commission is notified of any transfer of ownership of, or granting of a licence in respect of, any of the results generated by the Programme. If such action was deemed to contravene the objectives of the EDIDP Regulation then all funding must be reimbursed.

As explained in my last letter, to mitigate the above, France, supported by the UK, proposed to remove the "granting of a licence" text from Article 12.4 and the UK also requested that Article 7.8 should be amended so that only subcontractors having access to "highly" classified information would have to pass the funding eligibility tests. The Presidency agreed to check these two proposals with the Parliament without opening the rest of the text.

The Parliament agreed to accept the changes to Article 12.4 but not the amendment to Article 7.8. The revised funding proposal was approved by HMT. COREPER reconvened on 7th June and the final text was agreed under QMV but under a waiver stipulating that it must still clear the UK Parliament's scrutiny process.

We have been informed by UK Rep that the Regulation will now not be discussed at the General Affairs Council on 26th June but will instead be agreed at the first Ministerial Council following the EU Parliament's vote which will take place in Plenary between the 2nd to 5th July. This now allows sufficient time for the UK Parliament to consider the Regulation and to complete the scrutiny process. The European Council will address progress made on the European Defence Fund as part of its broader discussion on Security and Defence on 28th – 29th June.

In your letter of 3rd May you asked for further updates on EDIDP, particularly the implications of the UK's departure from the EU for its co-operation with the EDIDP including during the planned transitional period. I trust that the below points are informative to your consideration of the progress of EDIDP.

The draft Withdrawal Agreement text makes clear that the UK can continue to participate in EU programmes during the implementation period. However, Article 122.7b of the draft Withdrawal Agreement sets out that there may be a derogation from this agreement in exceptional cases. The UK does not believe that its application would be justified in this case and has received no notification from the European Commission that it intends to apply a derogation to any EDIDP or PADR projects.

It is not possible to quantify the proportion of funding which has been awarded to UK firms under the Preparatory Action on Defence Research 2017 (PADR). The PADR is an ongoing programme which will continue until 2019 and therefore the information available at this stage remains incomplete. However, a number of UK companies are part of consortia that have been awarded contracts under the 2017 PADR.

There have been queries regarding what progress the Government has made in securing the level of representation it is seeking on the EDIDP Programming Committee, both during and after the post-Brexit transition. At this time we cannot yet say what meetings we will or will not be able to participate in, as this point is still under negotiation with the European Commission.

Additionally to co-operation on EDIDP, there have been thoughts about whether the Government will seek a formal agreement with the EU giving the UK defence industry 'associated' status with the post-2020 European Defence Fund, comparable to such status available to third countries under the civilian Framework Programme for Research.

Negotiations are only just starting on future UK-EU Framework. Resultantly we do not have a definitive answer yet as to what the final end-state agreement will look like, as it is subject to further discussions with the European Commission. While we would like to explore models for participation in the European Defence Fund drawing on what has worked well elsewhere (for example, Horizon 2020), we are also encouraging the EU and our bilateral partners to think seriously about how we can best capture the potential of our new partnership.

My officials will continue to actively represent the UK position as the EDIDP Regulation continues its progress through the EU legislative process.

I will be writing to you again very soon to request that the EDIDP Regulation is cleared from scrutiny.

15 June 2018

Letter from the Chairman to Guto Bebb MP, Parliamentary Under-Secretary of State and Minister for Defence Procurement

Thank you for your update letter of 15 June 2018 regarding the European Defence Industrial Development Programme. This was considered by the External Affairs Sub-Committee on 21 June 2018.

In light of the comprehensive information you provided, we have decided to clear the Proposal for a Regulation of the European Parliament and the Council establishing the European Defence Industrial Development Programme (10589/17 (15536/17)) from scrutiny.

We request to receive further updates from you on the modalities of UK participation in EDIDP programmes in due course, in particular on the following two issues:

- The progress of negotiations between the UK and the EU regarding UK participation at EDIDP Programming Committee meetings; and
- Whether the UK will seek a formal agreement with the EU giving the UK defence industry 'associated' status with the post-2020 European Defence Fund.

22 June 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL SETTING UP A UNION REGIME FOR THE CONTROL OF EXPORTS,
TRANSFER, BROKERING, TECHNICAL ASSISTANCE AND TRANSIT OF DUAL-USE
ITEMS (RECAST) (12785/16)

**Letter from Graham Stuart MP, Minister for Investment, Department for International
Trade**

The proposal from the Commission is to replace the Council Regulation (EC) 428/2009, which currently provides the legislative framework of EU export controls on dual-use items (i.e. goods, including software and technology, which can have both civil and military applications). The detailed proposal followed an extensive review exercise and consultation period with stakeholders, which commenced in 2011 and attempts to modernise and strengthen controls covering the export of dual-use items, and in addition to take account of the changing environment and evolving threats from technological changes. The proposal in the Commission's words is ambitious. We submitted an Explanatory Memorandum on this proposal in 17 October 2016.

Further to my Department's last specific update of 25 January 2018, on the recast of the Dual-Use Regulation and plans for export controls post Brexit, and as referenced in the general trade policy scrutiny update sent on 2 July 2018,

I would like to bring you up to date with progress on this dossier. While we provided a detailed update in our letter of 18 November 2016, which was followed by general update letters, circulated in July 2017 and in February and May 2018, we consider it is now timely to provide another more substantial update.

We respect the interest of both EU parliamentary committees in this dossier and address here a number of outstanding points raised by the House of Commons European Scrutiny Committee, when it was previously discussed at the committee's 26th meeting (Session 2016-17) on 18 January 2017, and when the House of Lords cleared the file from scrutiny on 1 December 2016.

The European Parliament adopted the text of their response to the proposal on Wednesday, 17 January 2018. This is published on their website under procedure file 2016/0295(COD)¹.

This dossier has been a priority for the Bulgarian Presidency and the Commission. Negotiations between Member States on the proposed text, which also considered the European Parliament's revisions, started in earnest with the Bulgarian Presidency. Up to that point the previous presidencies conducted an article by article read through of the proposal with no negotiation on the texts.

Under the Bulgarian Presidency it has progressed faster than we had expected, which we welcome, with many member states - including the UK - agreeing on various articles within the proposal, including the period of validity of an export licence.

However, there are some issues which many member states consider contentious which will likely dominate discussions during the Austrian presidency. These are:

- an autonomous EU control list for certain dual-use items,
- a human rights end use control,
- an EU general export licence allowing the unrestricted export of all cryptographic items to destinations other than those subject to an arms embargo or other EU restrictive measures.

Government assessment of introduction of an EU autonomous list of dual-use items

The idea of an autonomous EU control list has in part split the Council. Some member states consider the autonomous list as a more acceptable alternative to the human rights end use control, some have not expressed any views and one has its own alternative position. The UK along with a growing number of member states (nine so far) have concerns with this concept as it represents a significant departure from the established position where control lists are derived from the four recognised international export control regimes. The UK is concerned that, as proposed, the creation of EU-only controls within an existing system of international controls, will undermine the existing

¹ https://eur-lex.europa.eu/procedure/EN/2016_295

international level-playing field for EU exporters and have a detrimental impact on the multilateralism that has underpinned the export controls regimes success to date.

The proposed new controls were based on national legislation from a single member state. The autonomous controls being proposed have been previously presented for consideration at the Wassenaar Regime (one of the international export control regimes concerned with controls on conventional weapons) but have since evolved, leaving the Commission's proposal out of date.

We are concerned that if adopted we could see the same category of goods being subject to two different controls, one based on Wassenaar controls supported by the highest available technological competence and broad international participation and another, arguably for less sensitive goods, being subject only to EU controls thereby putting EU exporters at a commercial disadvantage compared to other non-EU countries. In addition, due to the way the autonomous controls are added, they would be more restrictive than those derived from the Wassenaar Regime.

While it is true that Wassenaar is not primarily a human rights regime, it has nonetheless brought into control equipment of human rights concern, including telecommunications interception equipment, internet communications surveillance systems and equipment for intrusion software. Proposals for new controls on Electronic Forensics Equipment (for extracting information from digital devices) and software for Lawful Interception and data retention of telecommunications traffic have been presented to Wassenaar.

Included with the idea of an autonomous list was the power for the Commission to update the autonomous list by delegated act. Almost all member states agree that the Commission should not have delegated powers to introduce further autonomous controls. These states, including the UK, do not want the autonomous list developing into a broad-ranging list that could include any new technologies such as artificial intelligence and robotics.

Government position on proposed human rights end-use control

Although the Government is supportive of effective controls to ensure that exports do not contribute to human rights violations, the introduction of a human rights end use control is an unknown quantity as it potentially covers all goods. It relies on the competent authorities of member states being able to make a judgment about allegations that the item would be used for directing or implementing human rights abuses by the proposed end-user. Even if it were possible, it is not clear at which point these allegations would constitute evidence sufficient to refuse an export licence. As an end use control this could apply to anything and will see exporters who have never before come under the remit of export controls having to understand and comply with an end use type control. A significant majority member states (around 23) do not support this additional end use control.

EU general export authorisations

In respect of the EU general export licence for cryptographic goods, the Commission recognises that the draft text is too lax and would freely allow the export of cryptographic goods which most member states consider to very sensitive from a national security perspective. Member states are working together through their national experts to prepare a more acceptable text.

It is worth mentioning that while the UK supports the proposed terrorist end use control we are very much alone. Only a couple of other member states have said they would consider it.

Analysis of future UK-EU cooperation on dual-use items post Brexit and during Implementation period

On the issue of UK-EU technical cooperation on export controls of dual-use items, we provided an update to you and your committee in our letter of 25 January 2018 in connection with EM 14765/17.

As specified in this letter, our overall objective remains to maintain the integrity and effectiveness of the export licensing system through Brexit and beyond. The Dual-Use Regulation is to be preserved through the European Union (Withdrawal) Act which contains the necessary powers to allow amendments if required.

Other points raised by the committees

Information on the outcome of consultations with industry and others

We have had several informal discussions with UK trade representative bodies and have alerted them and UK industry to the Commission proposal (though most already knew) and suggested that they

submit their views to the Commission. We also provided updates on the progress of the recast discussions at a recent Export Control Symposium attended by more than two hundred UK exporters.

A number of trade representative bodies have submitted comments to the Commission. Many have expressed concerns with the extension of the end use controls to cover human rights and terrorism, autonomous EU controls and a one-year licence validity. Many have expressed views about the uncertainty that these measures will bring and commented on the cost to their industry of having to implement them. They do however welcome the relaxations from the Commission that increase the number of general export authorisations.

The potential administrative burden of implementation

Based on discussions to date, it is likely that much of the increased administrative burden created by the proposal can be addressed through a small increase in staff. While negotiations continue we cannot be entirely certain of the eventual burden. We will look to provide a more detailed assessment on these points in a further update once we know the final state of the proposal.

We will also update the committee in the likelihood of any further substantive changes to the proposal if necessary.

Further timetable for negotiations

This dossier is not a priority for the Austrian Presidency though it is possible, but by no means certain, that it could enter trialogues towards the latter stages of the Austrian Presidency. We will continue to keep your committee informed of any progress towards trialogues and when this file is likely to reach COREPER and Council ahead of any general approach or informal mandate ahead of trialogues.

17 July 2018

EUROPEAN DEVELOPMENT FUND (EDF): FORECASTS OF COMMITMENTS, PAYMENTS AND CONTRIBUTIONS FROM MEMBER STATES FOR 2017, 2018, 2019 AND NON-BINDING FORECAST FOR THE YEARS 2020-2021 (13579/17)

Letter from the Chairman to the Rt Hon Lord Bates, Minister of State, Department for International Development

Thank you for your letter dated 19 December 2017 regarding the above document. This was considered by the External Affairs Sub-Committee on 11 January 2018.

We are now content to clear the document from scrutiny. There is no need to reply to this letter.

12 January 2018

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL PROGRESS REPORT ON THE EUROPEAN AGENDA ON MIGRATION (14473/17)

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL COMMISSION CONTRIBUTION TO THE EU LEADERS' THEMATIC DEBATE ON A WAY FORWARD ON THE EXTERNAL AND THE INTERNAL DIMENSION OF MIGRATION POLICY (15574/17)

Letter from the Chairman to the Rt Hon Caroline Nokes MP, Minister for Immigration, Home Office

Thank you for your Explanatory Memorandum (EM) received on 22 January 2018 about the Report from the Commission to the European Parliament, the European Council and the Council: Progress report on the European Agenda on Migration (Document No. 14473/17) and the Communication from the Commission to the European Parliament, the European Council and the Council: Commission contribution to the EU Leaders' thematic debate on a way forward on the external and

the internal dimension of migration policy (Document No. 15574/17), which the Home Affairs Sub-Committee and the External Affairs Sub-Committee of the Select Committee on the European Union considered at their respective meetings on 21 February and 8 February 2018. Given the considerable external affairs aspects of both documents, I am also copying this letter to Sir Alan Duncan, Minister for Europe and the Americas.

The Communication covers an important area of policy in which coordination with the EU will continue to be necessary post-Brexit. However, while the EM suggests that the Government is broadly supportive of the Commission's proposals, it gives no indication of the extent to which the UK might engage with the proposed structures once it has left the EU.

On 13 December 2017 we wrote to your predecessor, Rt Hon Brandon Lewis MP, for more information about whether the Government thought that the Commission's proposal to produce consolidated reports on the European Agenda on Migration would affect the parliamentary scrutiny process, but we are yet to receive a response.

We understand that the combination of the internal and external dimensions of migration in such EU documents poses challenges to the Government in producing Explanatory Memorandums. Our concern is, however, that this consolidation has now led to your depositing an EM that is outside the remit of the EU Home Affairs Sub-Committee, and indeed outside the remit of the Home Office. Would the Government consider allocating the documents to either the Home Office or the Foreign and Commonwealth Office on a case-by-case basis, based on the focus of their content, or the provision of a joint EM on such reports?

We have a number of questions about the content of the report (14473/17), to which we would be grateful for your response, as below.

First, the progress report states that under the EU-Turkey Statement, the pace of returns to Turkey "remains very slow, with only 1,969 returns since March 2016", and 11,354 people have been resettled from Turkey since 4 April 2016 to 15 Member States (MS). What were the benchmark goals for (1) returns to Turkey and (2) resettlement from Turkey?

Second, the report says that the EU Border Assistance Mission (EUBAM) Libya will participate "in the planning for an Italian-led fact-finding mission to the South of Libya this autumn which fully involves Libyan border guard authorities and focuses on border management and migration issues." Please provide us with further information about this mission, its objectives, and whether the UK is considering participating.

Third, the progress report refers to a €46.3 million programme to reinforce border and migration management capacities of the Libyan authorities, which was approved and expected to be contracted in November. Sir Alan Duncan, in a letter to me dated 27 October 2017, told us that the programme "includes thorough assessment of the current situation on the southern Libyan border before undertaking projects". Please provide us with further information about the programme, its current status, whether the UK is considering participating in it, and how it complements the actions of EUBAM Libya.

Fourth, the report provides an update on training for the Libyan coastguard. What further training packages are planned, and what is your assessment of the effectiveness of the monitoring system in place so far?

Fifth, your EM states that "the UK stands ready to assist the EU-AU-UN Taskforce". What would such assistance look like in practice?

Sixth, the progress report mentions an immediate funding gap of €110 million in the North Africa window of the EU Trust Fund for Africa. The UK has not pledged any further financial assistance to fill the gap— what assessment underpins this decision?

Seventh, your EM states that "the UK will be launching a communications project in Nigeria – to highlight the methods used by abusers to exploit vulnerable people". Please provide us with further information about the project, its planned duration, and its cost.

Eighth, your EM affirms that the UK "remains committed to resettling 23,000 [refugees] from the Middle East and North Africa region". What is the timeframe of this commitment?

Ninth, your EM refers to the Prime Minister's £75 million migration package, which was announced in June 2017. Please provide us with an update on progress made since this announcement. Sir Alan

Duncan told the Committee on 2 November 2017 that “the aim is to sign programme agreements and make initial payments before the end of the year.” What programme agreements have been signed to date?

Tenth, on future co-operation between the UK and the EU, your EM says: “The UK’s longer term aim is to ensure that the UK’s deepening of our international bilateral engagement can continue to be an active and constructive part of EU led regional dialogues, which currently involve non-EU European partners to ensure we are effectively addressing root causes at source ... for Africa the Valletta Action Plan gives us the framework to continue doing this”. Could you please elaborate on the UK’s planned participation in the Valletta Action Plan after Brexit?

We would welcome clarification on these points. We look forward to hearing from you within 10 working days. In the meantime, we will hold the documents under scrutiny.

27 February 2018

Letter from the Rt Hon Caroline Nokes MP, Minister for Immigration

Thank you for your letter of 27 February 2018. I apologise that my replies to your letters on a range of EMs and further correspondence, including on 12702/17, did not issue. This was rectified on 8 March.

You also asked how changes in Commission reporting of progress on the European Agenda on Migration may affect the UK’s parliamentary scrutiny process. The Committee makes a reasonable suggestion. Migration will not be a dedicated item at the March European Council but the Commission has published the next progress report package, once again as a combined report. Be reassured that all Departments responsible for the policy are involved in the scrutiny process, and my officials will explore handling with the relative Departments and discuss this with the Committee Clerks. We aim to ensure that the Committee receives updates on the various work streams in the most appropriate way.

Regarding the content of 14473/17, you asked a number of specific questions on a range of issues, many of which are led by other Government Departments. I am therefore also writing on behalf of my Ministerial colleagues.

You asked for the benchmark goals for returns and resettlement from Turkey under the EU-Turkey Statement. As part of the Statement, the EU and Turkey agreed that: 1. All new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey; and 2. For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU. We continue to support the EU towards the full implementation of the Statement.

You requested further information on the EUBAM Libya mission, including its objectives and if the UK will be participating. In a related question, you asked for further information on the €46.3m programme to reinforce border and migration capacities of the Libyan authorities, including whether the UK is participating and how it complements the EUBAM Libya.

The EU Trust Fund for Africa (EUTF)’s €46.3 million programme ‘Support to Integrated border and migration management in Libya (T05-EUTF-NOA-LY-04)’ seeks to support the Commission’s Action Plan to address migratory flows on the Central Mediterranean Route. The main focus is to support the Libyan Coast Guard’s efforts to tackle irregular migration and rescue migrants. As part of this programme a pilot project on land borders was agreed, designed to improve legal alternatives to smuggling, increase surveillance for Libyan Border Guards, create a regional hub for Border Guards, and work with IOM and UNHCR to create standard operating procedures and training for Guards in rescuing migrants and tackling smuggling and trafficking networks.

The Italian Ministry of Interior agreed to take forward this action on behalf of the EUTF. Under Activity 4 of this action a joint Italian-EU assessment mission will visit the southern border to evaluate how best to take forward this pilot activity. Due to security conditions on the southern border this assessment mission has been delayed. This mission complements EUBAM that also focuses on support to coastal border management. Coordination with EUBAM is a critical element of the programme to avoid duplication. The UK has not received a request for direct support to this mission. However, at the December European Council the Prime Minister announced the UK’s intention to provide an additional €3 million to the EUTF.

You asked what further packages of training are planned under Op Sophia for the Libyan coastguard, and what the UK's assessment of effectiveness and monitoring is to date. Training packages are planned for 2018 in Italy, Spain, and Greece. These will cover seamanship, search and rescue, and human rights. Since "Package 2" (training in EU Member States) has not yet been completed, it is too early to assess fully the effectiveness of the training. However, early indications are positive and trainers have noted the enthusiasm of the Libyan trainees. There has also been an increase in the numbers of migrants that the Libyan Coastguard has rescued at sea. A monitoring mechanism to assess the effectiveness of the Libyan Coastguard has also been established.

You asked what assistance the UK is providing to the EU-AU-UN Taskforce. The UK supports the aim of the EU-AU-UN Taskforce to save and protect the lives of migrants and refugees along migration routes and particularly inside Libya; but there have been no specific requests for assistance from the UK by the Taskforce. The work includes accelerating assisted voluntary returns to countries of origin, and the resettlement of those in need of international protection. We have therefore offered to resettle up to 100 vulnerable refugees, evacuated from Libya, to the UK as part of our existing commitments under the Gateway Scheme. This builds upon our previously funded work through the International Organisation for Migration (IOM) to enable 1,400 voluntary returns from Libya in 2016-17.

Given the €110 million gap in the North Africa window of the EUTF, you asked why the UK had not pledged more money and what assessment underpins that decision. The shortfall of funds under the EUTF's North Africa window was the subject of discussion at the December European Council. As already stated, the Prime Minister announced the UK's intention to provide a further €3 million in funding to support joint European efforts in North Africa under the EUTF. Officials are now working with the Commission on the transfer of those funds.

You asked for further information on the communications project in Nigeria, including planned duration and cost. The Nigeria communications project looks to inform potential victims, and enablers (parents, communities etc) of the risks of modern slavery, the reality of false job-offers and the methods used to recruit young girls into domestic servitude. The aim of this project is to help individuals make better informed choices before accepting a potential false job-offer in the UK and Europe and therefore reduce the number of victims entering modern slavery in source countries. This is a pilot project that will run for four months and will cost £375k. The project does not have any government branding to maintain credibility of the messaging among the audiences we are communicating with.

On resettlement, you sought clarity on the timeframe for the 23,000 commitment. The UK commitments are already on public record. 20,000 refugees who have fled the conflict in Syria and are in need of protection will be resettled by 2020 through our Vulnerable Persons Resettlement Scheme (VPRS). And through our Vulnerable Children's Resettlement Scheme (VCRS), our aim is to resettle up to 3,000 unaccompanied children by 2020. I am pleased to say that the UK has reached an important milestone in this work, as we have now resettled over ten thousand (10,538) vulnerable refugees who have fled the Syrian crisis since the VPRS began in 2014.

You asked about progress made to date on the £75 million migration programme. The programme is currently in its inception phase, with rigorous analysis taking place to further refine project activities. We have now signed a programme agreement with IOM to provide humanitarian assistance and protection services for migrants along the route from West Africa via the Sahel to Libya.

You sought insights into the UK's future approach to engagement with the EU on migration issues, including the Valetta Action Plan. As it currently stands, the UK continues to support a comprehensive approach and we have, alongside our European partners, renewed our commitment to stand together as an international community to tackle this issue. The UK's departure from the EU will not affect our commitment to working with our partners to ensure we continue to address the shared challenges posed by illegal migration together. This includes efforts to tackle drivers at source. The Valetta Action Plan brings together EU Member States, associated countries (Iceland, Norway and Switzerland) and African countries to address migration issues. It provides a ready-made forum to take forward our shared agenda.

3 April 2018

Letter from the Chairman to the Rt Hon Caroline Nokes MP, Minister for Immigration

Thank you for your fulsome response dated 3 April 2018 regarding the above documents. This was considered by the External Affairs Sub-Committee on 26 April 2018 and by the Home Affairs Sub-Committee on 9 May 2018. Given the considerable external affairs aspects of both documents, I am also copying this letter to Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas.

We appreciate your reassurance that Government Departments are coordinating closely on the scrutiny process and we are looking forward to further cooperation with officials on this matter.

Your letter answered most of our questions, and we have decided to clear the documents from scrutiny.

We do, however, have three outstanding questions.

First, the progress report states that under the EU-Turkey Statement, the pace of returns to Turkey “remains very slow, with only 1,969 returns since March 2016”, and 11,354 people have been resettled from Turkey since 4 April 2016 to 15 Member States (MS). Could you please provide us with a figure to put into context the “very slow” pace of returns? How many persons are still waiting to be returned under the statement, or are waiting to be resettled? What number would you have hoped to have been resettled in this period?

Second, your letter provides us with the information that the UK aims to resettle up to 3,000 unaccompanied children by 2020. How many of them have been resettled to date?

Third, your letter states that under the Prime Minister’s £75 million migration package, which was announced in June 2017, a programme agreement has been signed with the International Organisation for Migration (IOM) “to provide humanitarian assistance and protection services for migrants along the route from West Africa via the Sahel to Libya”. What is the cost and duration of this programme?

We look forward to your response in the usual 10 working days.

10 May 2018

Letter from the Rt Hon Caroline Nokes MP, Minister for Immigration

Thank you for your letter of 10 May 2018.

You asked for figures that demonstrate the Commission’s assertion that the pace of returns to Turkey under the EU-Turkey Statement “remains very slow”. Hellenic Police figures indicate that in the relevant years there were:

2016 - 801 returns

2017 - 683 returns; and

2018 until 10 May - 127 returns.

We have been informed that Greece conducted a further returns operation to Turkey on 31 May but we have not yet received information on the numbers involved.

You asked how many persons are waiting to be returned or resettled under the Statement and you also asked for the UK’s expectations on the pace of returns under the EU-Turkey Statement.

As part of the Statement, the EU and Turkey agreed that all new irregular migrants crossing from Turkey to the Greek islands after 20 March 2016 will be returned to Turkey. According to the Greek authorities, the total number of refugees/migrants on the islands (as of 29 May 2018) is 16,800. However, many have made asylum applications, which is one reason why accelerated asylum procedures are necessary here because they can quickly identify those that should be returned to Turkey under the terms of the Statement. We continue to support Greece to increase their asylum claim processing capacity, especially on the islands, and encourage Greek work with Turkey on returns.

You asked how many unaccompanied children have been resettled (to the UK) to date. As of December 2017, 570 at-risk children and their family members had been resettled under the Vulnerable Children’s Resettlement Scheme. The scheme is accessible to all ‘children and adolescents at risk’ as defined by UNHCR, which encompasses unaccompanied children as well as those in families or with care-givers (an adult who UNHCR is satisfied has assumed legitimate responsibility for the

child). Provisional data shows that of those refugees resettled in the UK under any of our schemes in 2017, 3,092 were children (under 18 years old), an increase of 21% on the previous year.

In relation to the £75 million migration package, which was announced in June 2017 by the Prime Minister, you asked about the cost and duration of the programme agreement with the International Organisation for Migration (IOM). The IOM has been allocated £27m of that total over the next three years.

8 June 2018

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE
COUNCIL ON THE IMPLEMENTATION OF REGULATION (EC) NO 428/2009 SETTING
UP A COMMUNITY REGIME FOR THE CONTROL OF EXPORTS, TRANSFER,
BROKERING AND TRANSIT OF DUAL-USE ITEMS (14765/17)**

**Letter from the Chairman to Graham Stuart MP, Parliamentary Under Secretary of
State for Investment, Department for International Trade**

Thank you for the Explanatory Memorandum (EM) dated 5 December 2017, from your predecessor, Mark Garnier, regarding the above document. This was cleared at the Chairman's sift, and considered as an information item by the External Affairs Sub-Committee on 11 January 2018.

The EM touches on two issues on which we would welcome further information. First, it states that the Government "will continue to engage constructively with the Commission and the other Member States in order to influence future discussions ... including on the ongoing file concerning proposals to re-cast the dual-use regulation". What discussions have been held between the Commission and Member States on the Proposal to recast Regulation 428/2009 since the update letter of 20 February 2017 from your predecessor? What is your assessment of the likelihood that the UK's position—which your predecessor set out to us in that letter as "opposition to one year licence duration, the EU autonomous list, and the extension of the catch-all control to Human Rights and International Humanitarian Law"—being agreed to by the other Member States? When do you expect a final decision to be taken on the Proposal?

Second, we would welcome more information on your plans for a post-Brexit dual-use regime. We have a number of questions on this issue as follows:

- Do you anticipate that the UK will maintain exactly the same export control regime after March 2019, via the transposition of EU law in the EU (Withdrawal) Bill?
- If so, for what period would you expect to maintain this regime unamended?
- The EM states that "The Government will negotiate with the EU to maintain as much continuity as possible for the UK's export licensing system following EU exit". Please could you set out for us what negotiations with the EU would be necessary in this regard?
- More broadly, what are the Government's plans for a new post Brexit dual-use regime? Given the Government's "opposition to one year licence duration, the EU autonomous list, and the extension of the catch-all control to Human Rights and International Humanitarian Law" in the current Proposal to recast the Regulation, do you plan to design a new, post-Brexit regime which does not include these elements?
- Finally, what is your assessment of how important the "close cooperation with the EU" (referred to in the EM) will be to the success of the UK's dual-use regime after Brexit, and how will this be achieved?

We look forward to your response within the usual 10 working days.

12 January 2018

Letter from Graham Stuart MP, Parliamentary Under Secretary of State for Investment

Thank you for your letter of 12 January, subsequent to our Explanatory Memorandum (EM) dated 17 October, in which you request further information on the recast of the Dual-Use Regulations and plans for export controls post Brexit.

Recast of the Dual-Use Regulation

As referred to in our January 2018 general scrutiny update letter to both committees, this file is still under active discussion among Member States. There have been 12 meetings since October 2016 where the recast has been discussed with the Member States. So far this has taken the form of a read-through of each article and annex in full. This read-through, essentially the first reading, concluded during the December 2017 meeting.

Member States will now begin to negotiate the text in Council in order to create a Council version of the proposal. Our view is that it will take a significant time for Member States to negotiate and agree on a draft regulation - at the very least extending well into the Austrian presidency which is due to run from July to December 2018. The proposal will then be subject to the trilogue negotiations between Council, European Parliament and Commission.

The UK Government's opposition to a one year licence and concerns with the extension of the catch all control to include Human Rights and International Humanitarian Law² are shared with most Member States; our concerns with the autonomous list are shared with some Member States. While we are hopeful that we can make good progress on these issues, nonetheless like all issues, they will be subject to negotiation. While we remain a Member State we will continue to push home our position.

Export controls post Brexit

Our overall objective is to maintain the integrity and effectiveness of the export licensing system through Brexit and beyond. This would mean:

- The UK remains compliant with relevant international obligations
- Controls continue to be enforced robustly
- Existing EU controls would be retained and fixed in UK law
- Minimal additional burdens on business
- Minimal impact on licensing performance against targets

The Dual-Use Regulation is to be preserved through the European Union (Withdrawal) Bill. In its current form, the Bill contains the necessary powers that would allow the preserved Regulation to be amended so that it could be updated in future to reflect changes to the lists of controlled items, as the UK has international obligations to implement export controls from the various international regimes. We do not have any current plans to implement additional changes beyond those that are necessary to ensure the proper functioning of the preserved legislation.

To better maintain continuity, the following areas will be subject to negotiation with the EU:

- Continued access to EU mechanisms for sharing information on denied licences and related consultation procedures - denial information is an important means of ensuring the robustness and effectiveness of export controls. The UK provides a significant amount of information that is used by other EU Member States when considering their export licence applications. Continued access and sharing of this information would be mutually beneficial.
- Co-operation on updates to the control lists (Annexes I and IV of the Dual-Use Regulation) - the control lists are updated annually, implementing changes agreed in the four international export control regimes, and the UK plays a key role in drafting the text. The updates involve a significant amount of work interpreting the controls and amending them to properly reflect the changes made by the regimes. We would still have to do this work after we leave the EU and cooperation would mean fewer differences between how the UK and the EU interpret a changed control. Fewer differences help maintain a level playing field and minimise the burden on UK exporters with a presence in the EU.
- Simplified procedures for EU exports of controlled items to the UK - When we are no longer a Member State, dual-use items will require an export licence before they are exported from the EU to the UK. We will argue for the UK to be included in an EU open

² The extended catch all control could cover a huge number of items and will potentially create uncertainty for exporters across many industries not currently familiar with export controls and an administrative burden for competent authorities.

licence that would simplify exports from the EU to the UK. The UK would reciprocate with an open general licence for the export of dual-use items to the EU, which could be used immediately following a short online registration. This would minimise the burden on competent authorities and exporters.

- Mutual recognition of extant “EU licences” granted before Brexit - dual-use licences granted by one Member State are valid in all Member States. Most export licences being issued now, throughout the EU, will still be valid after March 2019. It would minimise the burden on exporters and competent authorities if there were a mutual agreement that these licences could continue to be used until they expire, typically two years after they first issued.

The UK already has its own system of export controls under the Export Control Act 2002 and the Export Control Order 2008. Policy development is still ongoing on the exact shape of a post Brexit dual-use export control regime. Firm conclusions on this will depend on the final recast proposal and the outcome of the negotiations on the future economic and security relationship with the EU.

Finally, close cooperation with the EU will help ensure alignment between the EU control list and the UK control list meaning a lesser burden on UK companies who have a presence in the EU. The sharing of information on denied licences enhances the overall security of the UK and EU as this larger pool of information makes the licence assessment processes both in the UK and the EU more robust. As emphasised above, all elements of cooperation are subject to negotiation, though we consider that the areas we have identified would be mutually beneficial and could be achieved relatively simply.

I will be happy to answer any further questions you might have on this issue.

25 January 2018

COUNCIL DECISION 2017/.../CFSP OF ... 2017 ESTABLISHING PERMANENT STRUCTURED COOPERATION (PESCO) AND DETERMINING THE LIST OF PARTICIPATING MEMBER STATES (14866/17)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

Thank you for your Explanatory Memorandum (EM) of 13 December 2017 regarding the above document. This was considered by the External Affairs Sub-Committee on 11 January 2018. Thank you for the detailed section on policy implications in your EM, which we found very helpful, although you provided very little information about the commitments and projects to be delivered under PESCO. We would like to request further information on the following issues.

First, the EM states that third country participation in individual PESCO projects is possible. Does this extend to all third countries, i.e. also those who are not EU Member States? Would any difference be made in the level of possible participation in projects between EU Member States not part of PESCO (currently the UK, Denmark and Malta) and non-Member States?

Second, which of the 17 projects has the Government identified to be of interest to the UK for possible participation? What assessment has the Government made more generally of priority areas under PESCO that it would want to participate in?

Third, please outline what different options for participation in PESCO projects there would be for the UK, for instance regarding financial contribution or the contribution of assets or staff.

Fourth, your EM mentions that conditions for participation of third countries will be determined at future Council meetings. When do you expect this to take place and what would be the Government’s desired modalities for participation?

Fifth, is the Government satisfied that the suggested PESCO projects do not duplicate existing NATO efforts?

Sixth, how do the initiatives under PESCO relate to the co-ordination work the European Defence Agency is already doing, in particular with regard to technical standards?

12 January 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 12 January requesting further information about the Explanatory Memorandum on the establishment of PESCO. In response to your six questions:

1. The EU has not yet taken a decision on the involvement of non-EU States in PESCO. We hope that such States will be able to participate in PESCO projects on a case by case basis where there is mutual benefit. EU Member States that are not currently part of PESCO but want to participate in its projects will need the agreement of existing PESCO members and will have to adhere to the commitments outlined in the Notification Letter signed at the Foreign Affairs Council (Defence) on 13 November. There are currently no provisions to accept any other arrangement, such as ad-hoc involvement in specific projects, without being a member of the overarching framework.
2. The Dutch-led initiative on Military Mobility is of interest given the clear need to improve Military Mobility within Europe and resolve impediments to both NATO and EU activity. The UK is already engaged in a separate workstrand on Military Mobility facilitated by the European Defence Agency (EDA). More generally, we believe that PESCO should prioritise projects that address shortfalls in European capability as identified by the EDA Capability Development Plan. Furthermore, project proposals should develop in complementarity to NATO and support NATO-EU cooperation.
3. The details of future arrangements for the involvement of the UK and other non-EU States remain subject to negotiations. Should third parties be invited to join PESCO projects, they would likely need to commit finances and resources commensurate with their involvement.
4. A timetable to discuss the modalities for participation in PESCO have not yet been agreed. Third countries will not have voting rights at the political level but the UK will seek third country voting rights at the project level for the project(s) in which they are involved. I will inform your Committee of substantive developments concerning this in due course.
5. During discussions to refine the project list, the UK consistently argued that PESCO project proposals should not duplicate efforts by NATO and other organisations, and that capabilities delivered under PESCO should be available not only to the EU but also in support of NATO and UN operations. We were extremely supportive of the EDA's inclusion of NATO complementarity as a key criterion in its decision making calculus for agreeing the final project list and believe it was accurately reflected. Other PESCO Member States share the imperative not to duplicate NATO's existing efforts.
6. There are clear synergies between PESCO projects and existing EDA workstreams, including technical standards. During development of the PESCO project proposals, these synergies were highlighted, and the EDA emphasised that PESCO should complement pre-existing work.

24 January 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your very helpful letter of 24 January 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 8 February 2018.

Thank you for answering our questions. We would like to request to be kept informed on the following issues:

1. The timeline of discussions about third country participation in PESCO projects, as and when available, including decisions taken;
2. The development of already approved PESCO projects; and
3. The approval of further projects under PESCO.

In the meantime, we have decided to continue to hold the document under scrutiny.

8 February 2018

AUTHORISING THE OPENING OF NEGOTIATIONS ON A PARTNERSHIP
AGREEMENT BETWEEN THE EUROPEAN UNION AND COUNTRIES OF THE AFRICA,
CARIBBEAN AND PACIFIC GROUP OF STATES (15720/17)

**Letter from the Chairman to the Rt Hon Lord Bates, Minister of State, Department for
International Development**

Thank you for your Explanatory Memorandum (EM) dated 11 January 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 25 January 2018.

We have a number of questions about the proposed Partnership Agreement, to which we would be grateful for your response, as below.

First, your EM states that the proposed Partnership will remain open to the participation of outside actors. It recommends there to be “greater clarity on the proposed statuses of ‘observer’ and ‘enhanced observer’, or the criteria for gaining these statuses or fully acceding to the new partnership.” What assessment has the Government undertaken of these options for UK association with the EU-ACP Partnership after Brexit? What is the UK’s position on what criteria should apply to gain either status?

Second, your EM says that the new EU-ACP Partnership Agreement will not come into force until 2021. The Cotonou Agreement already expires in 2020. What agreement will EU-ACP relations be governed by in the remainder of 2020? Would the UK aim to continue its participation in the EU-ACP Agreement during a possible transitional arrangement with the EU after Brexit?

Third, your EM welcomes the proposed structure of the new Partnership, which would “shift ... decision-making power to the regional level”. It then states that: “However, this shift towards regionalisation would need to take account of the political realities on the ground. Appropriate and responsive governance processes which assign clear roles to different actors, enabling issues to be swiftly addressed in the most appropriate forum, will be critical to ensuring coherence and efficiency.” Could you please elaborate on how you would expect the shift to take account of such political realities, and on what “appropriate and responsive governance processes” could look like in this context?

Fourth, your EM refers to a proposed “simplified procedure”, to address changing circumstances by amending regional compacts, which it recommends to be further defined. What is the UK’s position on what such a procedure should entail?

Fifth, your EM mentions the inclusion of provisions to terminate the Agreement and states that “broad agreement on the parameters” underpinning such a termination will be important. What is the UK’s view on which parameters should underpin the termination of the Agreement, and on what the termination procedure might look like?

Sixth, it is not clear to us what the membership of the regional Councils managing the separate protocols would be, or what a ‘prominent role’ given to regional organisations would entail. Please provide us with further information about the Councils’ membership and role.

Seventh, your EM states that the Africa compact would “support a more coherent ‘Whole of Africa’ strategy”, which would involve Northern African countries, which would keep its separate Association Agreements with the EU. What assessment has been undertaken to inform this approach, and how would you expect this approach to be implemented in practice?

We look forward to your response in the usual 10 working days. Meanwhile we have decided to retain the proposal under scrutiny.

25 January 2018

Letter from the Rt Hon Lord Bates, Minister of State

Thank you for your letter dated 25 January requesting further information on the above document.

I am pleased to respond to your questions to the extent that I am able. However, as I hope you will appreciate, there remain certain areas that require further detail which will be established during both EU discussions and the subsequent negotiations between the EU and ACP countries. The EU is

currently discussing its mandate for these negotiations and over the coming weeks in Brussels all Member States will have the opportunity to contribute and pose questions to the Commission.

The UK is seeking clarity on the different options for engagement with the future Agreement in order to make an informed decision on the nature of any possible future cooperation with the EU. This includes clarification of 'observer' and 'enhanced observer' status. The EU will remain a key development partner following the UK's exit, however our relationship with the EU will be different. Any future cooperation will be decided by Ministers on a case-by-case basis where it is in the UK's interest and meets UK standards on value for money.

We will be seeking, wherever possible, to continue the effect of our current arrangements with third countries and international organisations as we withdraw from the EU, including the Cotonou Partnership Agreement. The Cotonou Partnership Agreement is currently due to expire at the end of February 2020. The EU's intention is that the future Agreement will come into provisional application in March 2020, followed by ratification by parliaments of all signatory parties, which takes much longer. The future Agreement should enable work with a broader range of actors, including the private sector and non-Member States. The precise details of the Implementation Period remain a matter for our negotiations with the EU, and it is therefore too soon to say what an Implementation Period means for the specifics of this agreement.

The Cotonou Partnership Agreement is financed by the European Development Fund (EDF). However the current Agreement is a political (not financial) framework, with the accompanying financial instrument annexed as a protocol. Therefore it is not necessary for the future Agreement and the revision of the financing instruments to be precisely aligned. The current EDF will end on 31 December 2020. The UK has committed to honouring its share of all commitments made under EDF II and the payments related to our share of the outstanding commitments made under previous EDFs.

The future Agreement presents an opportunity to respond to the significant changes in the global context since the signature of the Cotonou Agreement in 2000. As part of this, we would like to see greater strategic engagement with a wider range of actors at a regional level, such as the private sector and civil society, as well as non-ACP countries and non-EU donors. This would ensure that those who have the most value to add on a particular issue are able to engage most effectively. The involvement of a large number of political actors means that the future Agreement would require clear governance structures as a basis for the partnership and adequate resources to address issues swiftly and efficiently at the most appropriate level (national, regional or ACP-wide), with clearly delineated responsibilities.

We would welcome a simplified procedure that would allow Regional Councils representing each of the Africa, Caribbean and Pacific groupings, as opposed to the whole ACP grouping, to take decisions on amendments to the regional compacts. This is something which we will be working with partners to define. Whilst ensuring a commitment to the highest standards of scrutiny and control, we will want to see governance procedures that are flexible and able to respond rapidly and efficiently to changing contexts. Whilst details are still to be established, at this stage it is envisaged that Regional Councils will consist of Heads of States or Ministers of countries within the regions, for example African Heads of State, and that they will lead on the political steering of the regional protocols.

The current Agreement contains provisions for one of the Parties (usually the EU) to take appropriate measures, such as suspension of aid, should another party be in breach of fundamental freedoms such as human rights, democracy and the rule of law. The UK welcomes the proposal for a similar recourse in the new Agreement. However as your point infers, it will be important to clarify the parameters for terminating the Agreement or parts of it. This is part of the ongoing discussions. We believe it best that any decision to terminate the agreement should involve all of the relevant parties, including consultation with all EU member states and any third country donors.

Finally, you asked about the proposed inclusion of North African countries into a 'Whole of Africa' Strategy. In order to preserve the primacy of the bilateral Association Agreements between North African countries and the EU, the Commission proposes involving them solely on a political level in practice, as opposed to legally binding them to the agreement. We are supportive of a framework that takes a continent-wide approach to the whole of Africa, including consideration of how to integrate North African countries on relevant issues, such as peace, security and migration.

8 February 2018

Letter from the Chairman to the Rt Hon Lord Bates, Minister of State

Thank you for your letter dated 8 February 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 22 February 2018.

We still have a number of open questions about the proposed Partnership Agreement, to which we would be grateful for your response, as below.

First, your letter states that the Government “would like to see greater strategic engagement with a wider range of actors at a regional level, such as the private sector and civil society, as well as non-ACP countries and non-EU donors”. The current proposed mandate states that “the Parties will agree to promote the involvement of civil society and the private sector, in particular SMEs, in dialogues on trade and trade-related matters, as well as in the implementation of the EPAs”. What “greater strategic engagement” would the Government wish to see?

Second, your letter states that the Government “would welcome a simplified procedure”, which would allow regional Councils to take decisions on amending regional compacts. The provision for a simplified procedure is already included in the mandate: “The Agreement will also include a provision establishing that the Protocols on the EU-Africa, EU-Caribbean, and EU-Pacific partnerships may be amended according to a simplified procedure, upon request of one of the two Parties and on the basis of a decision adopted by the respective Councils.” The Committee’s question in my last letter was about the UK’s position on what such a simplified procedure should entail. What further simplification would the Government would wish to see, beyond the provision already included in the mandate?

Third, we would like to request to be kept informed on the following issues:

1. Developments regarding the definition of ‘observer status’ and ‘enhanced observer status’ to the Partnership Agreement;
2. Further developments regarding the accession of third countries to the Agreement; and
3. The Government’s evolving analysis of the UK’s interests in co-operation with the EU and African, Caribbean, and Pacific countries under the Partnership Agreement, both during a transitional arrangement and after Brexit.

We look forward to your response in the usual 10 working days. Meanwhile we have decided to retain the proposal under scrutiny.

22 February 2018

Letter from the Rt Hon Lord Bates, Minister of State

Thank you for your letter dated 22 February requesting further information on the above document.

As set out in our original EM, we are supportive of the Commission’s proposal for the negotiating mandate, however we believe that further detail needs to be developed in certain areas. As you highlight in your letter the proposed negotiating mandate seeks to strengthen engagement and dialogue with a broader range of actors, including Civil Society Organisations (CSOs) and the private sector. The UK is fully supportive of this approach. The UK views strengthening CSO participation in public life as an important priority, and as such we have joined other Member States in calling for civil society to be more comprehensively embedded in the future partnership agreement. This would offer a vehicle for more strategic in-depth discussions on common priorities.

On 20 February I attended the informal Foreign Affairs Development Council (FACDEV) in Brussels. There I highlighted the importance of securing a broader and more open post-2020 partnership agreement. Promoting the engagement of non EU-ACP donors and actors – which appears to be a clear objective within the Commission’s proposals - will also help to bring in added strategic value and expertise.

You also asked about the simplified process for amending the regional compacts. This is not only about future structures, but also about rationalising the processes under which those bodies can take decisions. Given that the new Agreement is not intended to have an end date, empowering regional councils to take decisions on amendments to the regional compacts will be important. It will help ensure the Agreement is adaptable and reflective of changing circumstances, which we have long advocated for. With growing diversity between the ACP regions, a more regionalised framework will allow the adoption of a differentiated approach which recognises the specific needs of each region.

While we therefore support the principle of a 'simplified procedure' to amend the regional compacts, this will be a new feature of the partnership which has not existed to date. It is therefore important that further detail on its process is established as discussions within the EU and between the EU and ACP progress, and we want to continue to scrutinise and support the development of that more greatly streamlined and devolved architecture.

Between now and the end of April, the UK is participating in intensive discussions with the Commission and Member States on the mandate. We note the further questions that you have raised, not least regarding the definition of terminology such as 'observer status.' I will endeavour to update you, to the best of my ability, as these negotiations draw to a close and before the final text goes to Council for approval in May.

8 March 2018

Letter from the Chairman to the Rt Hon Lord Bates, Minister of State

Thank you for your letter dated 8 March 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 19 April 2018.

Your letter did not fully clarify your position on the issues we raised. We look forward to receiving a further update from you before the text of the Council Decision is finalised, and hope that you will also include further information on the UK's views on engagement with stakeholders and the proposed simplified procedure for amending regional compacts in this letter. In the meanwhile, we have decided to retain the proposal under scrutiny.

20 April 2018

Letter from the Rt Hon Lord Bates, Minister of State

As promised, I am writing to keep you updated on changes to the substance of the post-Cotonou negotiating mandate. We anticipate that Member States will be asked to approve this proposal at the Foreign Affairs Council (FAC) on 28th May, following a vote in the Committee for Permanent Representatives (COREPER) in the coming weeks.

In my last letter I agreed to update you at the point when Member State discussions on the negotiating mandate were nearing a close. Given that both Committees have raised related questions on this issue, I am combining my response to the remaining issues which relate to the negotiating mandate text. While there are also important questions raised by both the European Scrutiny Committee and the European Union Committee on future financing, these discussions on the EU's future instruments are taking place separately in the context of negotiations on the EU's next Multi-Annual Financial Framework (MFF). Once the MFF discussions are underway, I will update you on a timely basis on that aspect of your queries. Similarly, with regard to the separate issue of the governance of EDF funds, I trust that the answer we provided in my April 2018 letter to the European Scrutiny Committee addressed this.

Regional compacts: As stated in my letter to you on 8th March, a simplified procedure for amending the regional compacts is important as it will allow regional councils to take decisions on adapting the regional partnerships over time to reflect changing circumstances, without requiring the agreement of all ACP countries. We agree with the inclusion of this procedure in the text. While we might have hoped for more definition on the procedure at this point in the process, the latest version of the negotiating mandate text does stress that the final EU-ACP agreement will set it out in more detail. We recognise that this is to allow sufficient room to negotiate these clauses and their operability with ACP partners during the next phase of negotiations.

External partners and observer/ enhanced observer status: There have been some developments on the position regarding expanding the future EU-ACP partnership to enable work with external partners. The latest version of the negotiating mandate text merges the statuses of 'enhanced observer' and 'observer' into just one option of being an observer to the partnership. We are content with this streamlined and clearer approach. In addition, we have proposed drafting suggestions to better clarify the rights and obligations of observers, and to ensure the wording more positively incentivises future external partners to join the partnership. We have also stressed that the exact terms of the relationship with each observer should be defined in a separate annex to the agreement. The current text therefore supports our objective to include clearer parameters around

how this important clause will function in practice, while not prejudging negotiations with ACP countries. It also leaves open options for future UK collaboration at a strategic and political level.

Future UK association with the EU-ACP partnership: As stated in my most recent letter to the European Scrutiny Committee, we cannot provide a definitive position on the UK's association with the future EU-ACP partnership, nor an assessment of the extent of the efforts involved in negotiating continued UK involvement versus replicating the partnership bilaterally, until we know the shape of the final agreement, which is yet to be negotiated with the ACP. In addition, we cannot prejudge parallel discussions on the future UK-EU relationship which are taking place between the UK negotiating team and the Commission. However, we can and will continue to play a full role in discussions to ensure the negotiating mandate makes good development sense for our partners, and leaves the door open for future UK collaboration. Should we decide that being an observer to the future partnership would support UK objectives once the final agreement is in place, we are confident that the necessary openness exists within the text to agree the terms of this in more detail with EU and ACP partners.

Potential for accession as full member: With regard to the ability to accede to the partnership as a 'full member', the position in the text remains largely unchanged. It confirms that external parties who share similar objectives may become full members of the future agreement, on the basis of a decision from the EU-ACP Council, but that the specific terms and procedures for accession will be defined in the agreement itself rather than the negotiating mandate.

Regional priorities: For the thematic priorities within each of the regional pillars, there have not been significant changes to their order and substance since the original version of the text and our corresponding EM. We have been able to secure stronger references to gender equality and inclusion of people with disabilities, in line with the UK's strong leadership on the 'Leave No-One Behind' agenda and commitment to prioritise disability inclusion.

Continued engagement between the UK and ACP countries: We note the concern from both Committees to avoid any disruption in the UK's economic and political engagement with ACP countries during the proposed Implementation Period with the EU, and thereafter. As I stated in my most recent letter to European Scrutiny Committee, during the Implementation Period the existing Cotonou agreement and any successor agreement that comes into force will form part of the body of EU law in the same way as existing agreements, and we would expect the terms of the agreement to apply to the UK for this time limited period. After the Implementation Period (from January 2021) we will be able to decide where and how it makes best sense to work with the EU, and where that is in our mutual interests. On development, this will draw on HMG's well-established model for the allocation of ODA and for determining country specific allocations, based on where there is the greatest need and value for money assessments, including to African, Caribbean and Pacific countries. Politically we will also be better able to tailor our relationships to our UK priorities, from January 2021.

On trade, the UK remains committed to ensuring ACP countries can reduce poverty through trading opportunities. The Government's first priority is to deliver continuity in our trading arrangements for developing countries, both during the Implementation Period and beyond it. Legislation has been introduced into Parliament which will allow the Government to put in place a UK trade preferences scheme for developing countries as we leave the EU, and we are working with partner countries to ensure we continue the effects of the EU's Economic Partnership Agreements (EPAs).

As you are aware, discussions on the post-Cotonou negotiating mandate are still ongoing. This letter relates to the latest revised draft which has been circulated to Member States as a *Limite* document. There may still be further changes before we have a final draft document, though these are unlikely to be substantive at this late stage. We anticipate that Member States will be asked to approve the EU position on the negotiating mandate at the end of May, in order for negotiations with ACP countries to commence from summer 2018 onwards.

I trust that this answers any questions outstanding to date and that it gives you the assurances required that we are taking all steps to protect the interests of the UK and our partner countries in the context of the post-Cotonou negotiations. We look forward to updating you further on the state of play of the negotiations with ACP countries, as and when they commence.

2 May 2018

Letter from the Chairman to the Rt Hon Lord Bates, Minister of State

Thank you for your comprehensive letter dated 2 May 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 24 May 2018.

We are now content to clear the item from scrutiny. We look forward to your updates on the state of play of the negotiations, as and when they commence.

25 May 2018

JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ELEMENTS FOR AN EU STRATEGY FOR IRAQ (UNNUMBERED)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

Thank you for your Explanatory Memorandum of 23 January 2018 regarding the above document. It was considered by the External Affairs Sub-Committee on 8 February 2018.

The EM clearly sets out how the Joint Communication aligns with UK priorities, which was helpful. We do, however, have a question on EUAM Iraq, and a number of questions relating to the Joint Communication itself, as this document was somewhat unclear in a number of areas. We would be grateful for your response.

First, in your EM on EUAM Iraq, dated 5 October 2017, you informed us that the Government would consider the deployment of UK secondees to the mission. What decision have you reached on this, and is the mission now fully staffed and operational? Second, the Joint Communication states that: "Addressing the needs of former combatants will have to be an integral part of the reform ... This can be achieved by offering them education and employment opportunities and reintegrating them in a peaceful society." It is not made clear in the Joint Communication how the EU will support this aim: will it form part of the role of the EUAM Iraq, be pursued by the EU Delegation to Iraq and Member States, or is this a task for the Iraqi authorities alone?

Third, the Joint Communication emphasises the importance of "political inclusiveness and a sustained process of reconciliation". How will the EU support this objective, and what is your assessment of the Iraqi government's commitment to this aim? The document also refers to EU's willingness to "deliver support to reconciliation initiatives, if appropriate". Please could you provide some examples of such initiatives?

Fourth, the document expresses the EU's willingness to "invest in targeted good governance support for Iraqi state institutions". What might this entail and how would it be delivered?

Fifth, what actions have the UK and the EU taken to encourage dialogue between the Federal Government and the Kurdistan Regional Government? What role, if any, do you envisage for the EU and UK in this regard?

Sixth, the document states that the EU should draw on "the several tools available to it" to assist with Iraqi economic reform. Please could you explain what these tools are, and how such support would be delivered by the EU?

Seventh, the Joint Communication calls for EU support to develop an independent and efficient justice system in Iraq. How would the EU deliver this objective? What is your assessment of the Iraqi government's commitment to this agenda?

Eighth, the Joint Communication calls for increased support for primary and secondary education, and support for educational reform. What is the current level of support provided by the EU to education in Iraq? By what means is this support provided? Is this an agenda to which the Iraqi government is fully committed?

Finally, the document also notes that the EU is exploring opportunities to extend the portfolio of the Madad Fund. How is funding from this fund being spent in Iraq? How might additional funding be allocated?

We look forward to your response within the usual 10 working days.

8 February 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 8 February requesting further information about the Explanatory Memorandum on the Joint Communication to the European Parliament and the Council – Elements for an EU Strategy for Iraq. In response to your nine questions.

1. I can confirm that we have considered secondees for several positions within the mission. We advertised for candidates to the Deputy Head of Mission role and put a candidate forward to the EU for interview. Unfortunately they were not successful. We will continue to consider potential UK candidates for future positions on a case-by-case basis, depending on likely benefit to the UK and the calibre of applicants. The mission is not yet fully staffed, but it is operational.

2. All efforts to reintegrate former combatants into society will need to be Iraqi-owned and led. If assistance from the International Community is requested then the EU, individual states, and other international organisations will consider such requests on their individual merits, including assessing who is best placed to assist. The Government of Iraq has not yet determined how it intends to tackle this issue and the EU and its Member States will assess how it might play a role once Iraq's proposed approach becomes clearer.

3. The Government of Iraq, including Prime Minister Abadi, has underlined its commitment to advancing reconciliation at both the local and national levels. The EU is already providing assistance in this area. That support includes responding to concerns related to missing persons, seeking to break the cycle of sectarian violence, and providing mental health and psychosocial support to victims of Daesh violence. It has also provided funding to UNDP's Funding Facility for Immediate Stabilisation, which supports reconciliation indirectly. The EU is now considering the shape of its future support in this area.

4. The focus of the EU's current effort is building the capacity of local authorities through a Local Area Development Programme. That programme seeks to improve delivery of public services through better planning and implementation processes at the governorate level. Another likely area of possible future EU engagement is support for Public Financial Management.

5. The UK is urging both sides to reach an agreement as soon as possible on the immediate issues of Federal control and joint management of borders, and the resumption of international flights to Kurdistan's airports. Progress on these issues will be critical for moving towards more comprehensive Baghdad-Erbil talks on their wider relationship. Most recently, the Foreign Secretary pressed this message with Prime Minister Abadi on 6 February, as did Minister Burt with both Prime Minister Abadi and Prime Minister of the Kurdistan Region of Iraq Nechirvan Barzani at the Munich Security Conference. The EU has also been engaged in diplomatic lobbying to progress Baghdad-Erbil talks; language to this effect was included in the EU's January Council Conclusions on Iraq. This will remain a diplomatic priority for both the UK and EU.

6. The principal EU tools to assist with economic reform are the economic and trade dialogue under the EU-Iraq Partnership and Cooperation Agreement (PCA); and technical assistance – in conjunction with the World Bank – to strengthen public financial management oversight and accountability, support change management and build technical capacity.

7. This is an area of ongoing EU support to Iraq. In 2017 the EU concluded a four year project which focussed on strengthening the efficiency and credibility of the criminal justice system and enhancing the rule of law in Iraq. The EU is funding activity to build the capacity of the Iraqi police and develop a human rights-compliant counter terrorism strategy. It is also considering anti-corruption activities, in conjunction with Interpol, to tackle money laundering and build police capacity in evidence gathering. Furthermore, support for the justice sector is within the mandate of EUAM Iraq, but it is not currently engaged in this area.

There is Iraqi appetite to improve the function and efficiency of the Iraqi justice system. This has been partially demonstrated by PM Abadi's choice of a strong Chief Justice, who has begun to implement some tangible reform, including through transparency of judicial decisions, supporting training and capacity building, and his intent to help professionalise legal practices.

8. This is another area of ongoing direct EU support with a €35.6m capacity-building programme for primary and secondary education, working with international partners such as the British Council, UNESCO and UNICEF. The EU is also developing a Competency Based Training Model, piloted in the

oil sector, which could be replicated across the Iraqi economy. The Iraqi Government is publically committed to improving the quality of and access to education, and has taken some limited steps towards this, but we should be realistic about the likely pace and extent of reform. Education provision in Iraq has been affected by the internal conflict, resources are scarce and it will be a slow transformation.

9. The primary objective of the Madad Fund (also known as the EU Regional Trust Fund in Response to the Syrian Crisis) is to provide a coherent and reinforced aid response to the Syrian and Iraq crises and the displacement resulting from them. In Iraq, Madad-funded programming is focused on education, livelihoods, health and access to other essential services for refugees and those displaced by Daesh and during the military campaign against Daesh. It has had a particular focus on the most vulnerable, including women. Any additional funding is likely to maintain these areas of focus, but could also contribute to building longer-term resilience – such as technical support for local and regional authorities responsible for refugee populations within Iraq.

The Madad Fund comprises contributions and pledges from 22 EU Member States and Turkey, including the UK, as well as contributions from various EU funding instruments. It has reached a total volume of EUR1.4bn to date. The fund is flexible and able to adapt to crises and developments in the region. That includes support to people in Iraq fleeing from the interlinked crises of Syria/Iraq/Daesh. No final decisions on how the fund might adapt to support the new EU Iraq Strategy have yet been taken.

23 February 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 23 February 2018 regarding the above document. It was considered by the External Affairs Sub-Committee on 8 March 2018.

Your letter provides useful information which answers most, but not all, of our questions. In this regard, we would be grateful for your further responses on the following issues, and have decided to retain the item under examination.

First, your letter states that the EU provides “a €35.6 million capacity-building programme for primary and secondary education”. Over what timeframe is this €35.6 million disbursed?

Second, your letter’s content on political inclusiveness and reconciliation is somewhat vague. Please could you provide us with greater detail of how the EU is supporting this process by “responding to concerns relating to missing persons” and “seeking to break the cycle of sectarian violence”. You also mention that the EU contributes to the UNDP’s Funding Facility for Immediate Stabilisation, “which supports reconciliation indirectly”. Please could you explain what “indirect” contribution this Facility makes to reconciliation?

Third, we would appreciate a more detailed response on the EU’s support for Iraqi economic reform than is contained in your letter. We asked what the tools available to the EU to support economic reform are, and how the support would

8 March 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 8 March requesting further information on the Joint Communication to the European Parliament and the Council – Elements for an EU Strategy for Iraq. In response to your three questions.

1. The Committee asked about the timeframe for the dispersal of EU funds in support of education. The €35.6 million capacity-building programme for education comprises two strands of activity. The first, amounting to €23 million, falls under the EU’s Multi-annual Indicative Programme. This funds several projects, some of which will finish in 2018, while others will continue until 2020. The second, amounting to €12.6 million, falls under the Madad Fund, and runs from January 2017 until the end of 2019.

2. The Committee asked for further details on EU support for reconciliation. The EU is supporting reconciliation directly through projects which promote dialogue initiatives to prevent conflict between Internally Displaced Persons (IDPs) and host communities. It is also responding to concerns over missing persons with €4.2 million in financial assistance to investigations conducted through the International Commission on Missing Persons (ICMP). The EU also contributes to UNDP's Funding Facility for Stabilisation, which promotes reconciliation indirectly by supporting Iraqi-led stabilisation and post-conflict recovery efforts in liberated areas. Activities include repair to critical infrastructure, which enables key services such as water, electricity, education and sewerage to resume. It also supports the resumption of employment opportunities with cash for work and small business loans. The stabilisation and recovery of these areas is critical for the overall process of national reconciliation in Iraq.

3. The Committee also asked for further information on the EU's support for economic reform. The EU's central tool for supporting economic reform is its Financial Management programme, delivered through the World Bank. The EU is providing €14 million to the programme over five years. It aims to coordinate public financial management reforms, support reform to payroll management and provide technical assistance to improve procurement processes.

20 March 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 20 March 2018 regarding the above document. It was considered by the External Affairs Sub-Committee on 19 April 2018.

We are now content to clear this item from scrutiny. There is no need to respond to this letter.

20 April 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL FIRST ANNUAL REPORT ON THE FACILITY FOR REFUGEES IN TURKEY (6941/17)

Letter from the Rt Hon Lord Bates, Minister of State, Department for International Development

Second €3bn EU Facility for Refugees in Turkey

I am writing to provide you with an update on the second €3 billion EU Facility for Refugees in Turkey (FRIT2) ahead of the normal scrutiny procedures being triggered by the release of EU documents, which we expect to receive in the coming weeks.

The EU-Turkey Statement agreed by leaders in March 2016 committed the EU to mobilise FRIT2 once the first €3 billion (FRIT1) is 'about to be used to the full'. DFID's Explanatory Memorandum 6941/17 on the European Commission's Second Annual Report on the Facility for Refugees in Turkey provides a recent progress update on FRIT1 programming.

The Commission fully contracted FRIT1 by the end of 2017, providing a natural point to begin discussions on FRIT2. At the March European Council, leaders acknowledged they remained politically committed to FRIT2 by virtue of their commitment to the EU-Turkey Statement. Member States and the Commission are now discussing how FRIT2 should be funded. FRIT1 is funded with €1 billion from the EU budget and €2 billion bilaterally from Member States.

The Commission have proposed the same split for FRIT2 (see Commission Decision C/2018/1500), though this is yet to be agreed. For the elements of financing that are on-budget, the UK continues to push for as great a proportion as possible to come from reallocations from lower priority areas of the EU budget.

When these official-level discussions in Brussels conclude, the Commission will produce a Draft Amending Budget, explaining what funds will be taken from the EU budget and the sources of these funds, which will trigger the formal scrutiny process. HM Treasury will lead on the submission of an Explanatory Memorandum at that point, covering the amendments to the EU budget. The EM will also

give information on the bilateral contribution to be made by Member States, including the UK. It is likely that the Commission will look to take the Draft Amending Budget to a vote quickly so that they can mobilise urgent funds for ongoing projects and avoid potential funding gaps.

Regarding governance, the 19 March Draft Withdrawal Agreement ensures that the UK will continue to have a seat and voting rights in the FRIT Steering Committee, which will provide strategic oversight of funding for the current FRIT and for the duration of FRIT2.

10 May 2018

COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE UNION, OF THE PARTNERSHIP AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF SINGAPORE, OF THE OTHER PART (7322/18)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I am writing with regard to the Council Decision on the conclusion of the EU-Singapore Partnership and Cooperation Agreement (PCA) (7322/18)). I wanted to provide the Committee with an update on the PCA at the earliest possible opportunity ahead of a decision at the 20 June COREPER.

The Committee has previously considered this PCA: On 24 November 2013, the then Minister for Europe, David Lidington MP, wrote to the Committees in both Houses informing them that the PCA had been initialled. Subsequently, an Explanatory Memorandum (EM) was submitted to Parliament for scrutiny on 7 March 2014. The documents were cleared by the House of Lords on 18 March 2014. The House of Commons European Scrutiny Committee concluded that the document was “legally important” on 9 April 2014.

The PCA has however been stalled since this time. The reason for the delay is two-fold: First there had been technical issues related to provisional application i.e. whether or not the Agreement, or parts of it, should apply prior to coming into force. Second, the associated Free Trade Agreement (FTA) was held up by an EU Court of Justice (CJEU) case over EU competence. This has now concluded.

In recent weeks, progress towards the PCA has moved more quickly than expected and a new text was published by the EU on 4 May which replicates text that was considered by the Committee in 2014. It only became clear at COASI on 23 May that a decision on the PCA will be sought on 20 June at COREPER and on 25 June at the Foreign Affairs Council (FAC)

As the Committee is aware, I place great importance on the scrutiny process, and see it as crucial that the Committee receives documents as early as possible. I apologise that the Committee has not yet received an EM on this Council Decision. Whilst the unofficial text dated 4 May was issued, it was not received by FCO policy officials until 22 May. On receiving the text, our legal team needed time to review it carefully to ensure that no changes had been made to the substance of the Council Decision which the Committee considered in 2014.

My officials have consulted with the Committee Clerks, and we understand that the Committee requires a new EM, rather than a letter, due to this being a new document (albeit not a new proposal) and the time that has passed. An EM will be submitted to the Committee within days, but I wanted to ensure the Committee was updated at the earliest possible opportunity. The EEAS intends to seek agreement on the Council Decision at COREPER on 20 June and at the 25 June.

The PCA is due to be signed in October and will go to the European Parliament for consent in March 2019. This is an important agreement for our EU exit and broader UK-Singapore relations. We have championed the Singapore PCA and FTA from the beginning, and were one of the first Member States to go through the scrutiny process. Finalising the PCA before we leave the EU in March 2019 will allow the UK to transition the EU-Singapore FTA into a bilateral agreement.

Conversely, failing to support the PCA at this juncture would have significant ramifications for our post-Brexit relationship with Singapore. As you know, Singapore is an important economic partner in a fast-growing region. We are planning to launch a “Partnership for the Future” with Singapore in

2019, the 200th anniversary of the founding of modern Singapore. Singaporean support is also key to developing the UK's post-Brexit relationship with ASEAN.

My officials will stay in close contact with the EEAS and I will keep the Committee informed of progress on this issue.

14 June 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter dated 14 June and your Explanatory Memorandum (EM) dated 15 June 2018 regarding the EU-Singapore Partnership and Cooperation Agreement (PCA). These documents were considered by the External Affairs Sub-Committee on 5 July 2018.

Your EMs and your letter provided comprehensive information, which we appreciate. We have a few outstanding questions to which we would be grateful for your response, as below.

First, the EM states that the role of political agreements after Brexit is currently being considered by the Foreign Secretary. The Committee would like to be kept updated on the outcome of those considerations.

Second, the EM explains that while immediate provisional application questions have been resolved, UKRep have confirmed that provisional application will be discussed further after signature. The Committee would welcome some further information on this, including what the UK's position and involvement will be in those discussions.

Finally, the EM refers to opt-in Article 19(6) of the PCA and states that it is the UK's view that it will not be bound by it. The Committee would be grateful for confirmation that Article 19(6) of the Agreement mirrors Article 19(6) of the Agreement as drafted in 2013.

We are content to clear the above document from scrutiny. We look forward to your response in the usual 10 working days.

5 July 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 5 July, confirming that the EU Sub-Committee on External Affairs considered the above document and decided to clear it from scrutiny. You also raised some questions which I have addressed in turn below.

[...] the EM states that the role of political agreements after Brexit is currently being considered by the Foreign Secretary. The Committee would like to be kept updated on the outcome of those considerations.

The role of political agreements after Brexit remains under consideration. I have noted your wish to remain sighted on the outcome and the Third Country Agreements Unit of the Foreign and Commonwealth Office will keep the committee informed of progress.

[...] UKRep have confirmed that provisional application will be discussed further after signature. The Committee would welcome some further information on this, including what the UK's position and involvement will be in those discussions.

The UK will be given the opportunity to comment on discussions on Provisional Application after Signature of the PCA. Signature is scheduled to occur at the same time as Signature of the EU-Singapore Free Trade Agreement (FTA) in October 2018 at the Asia Europe Meeting (ASEM) Summit. Any discussions regarding Provisional Application will first be held at working-level at the Asia – Oceania Working Party (COASI). UKRep have confirmed that a timeline for these discussions has not yet been set.

[...] The Committee would be grateful for confirmation that Article 19(6) of the Agreement mirrors Article 19(6) of the Agreement as drafted in 2013.

There has been no substantive revisions following the 2013 Agreement. Article 19(6) remains unchanged. UKRep will lay a Minute Statement which is submitted to the Council on adoption of the proposal in order to record the Government's position on the application of the opt-in under Protocol 21 to the Treaties. The statement will read:

“The United Kingdom wishes to record its support for Council Decision on the signing, on behalf of the Union, of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part. The United Kingdom notes, however, that Article 19(6) of the Agreement imposes obligations in relation to readmission. As these are obligations falling within Article 79 TFEU, the United Kingdom notified its intention to participate in the Council Decision in accordance with Article 3 of Protocol (No 21) to the Treaties on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, in relation to Article 19(6).”

19 July 2018

JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE ACTION PLAN ON MILITARY MOBILITY (7633/18)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

Thank you for your Explanatory Memorandum (EM) of 19 April 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 3 May 2018.

We were disappointed by the low level of information provided in your EM about the Action Plan and areas where the Government may wish to participate after its exit from the EU. We would like to request further information on the following issues.

First, your EM states that “the UK strongly believes that NATO’s role is crucial in the delivery of the action plan.” Could you please elaborate on the role NATO could and should play in the delivery of this plan? What actions will the UK take to ensure this happens? To what extent are this plan and current NATO initiatives on military mobility complementary?

Second, your EM states: “While we are a full member of the EU, the UK will engage with the specific initiatives outlined in the Action Plan to assess where the government could negotiate future participation where it is mutually beneficial.” What assessment has the Government undertaken to date to determine which areas it is interested in participating in?

Third, how do the actions identified in the plan relate to the PESCO project on military mobility? What other initiatives on military mobility are currently implemented at an EU level—for instance through the European Defence Agency—and to what extent are they complementary? In the meantime, we have decided to hold the Joint Communication under scrutiny

3 May 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

I write in response to your letter of 3 May about the above document and your request for further information on NATO involvement, complementarity with PESCO and the European Defence Agency (EDA), and areas for UK participation.

The purpose of improving Military Mobility is to aid the free movement of military units and assets throughout Europe via the removal of bureaucratic barriers and improvement of infrastructure. Success in these areas would help reduce the Notice to Effect times of NATO forces, which would increase readiness and contribute to improving Defence and Deterrence capabilities.

NATO has been considering “Military Mobility” since 2014 (to enable SACEUR’s Area of Responsibility) and has experience to share. However, NATO does not have the legal and policy making frameworks to reduce the cross-border bureaucracy nor the resources to invest in projects such as improved road and rail connections, whereas the EU does. It is therefore right that NATO is closely engaged with the current Military Mobility work to advise on its priorities.

Moreover, NATO Allies and EU Member States each have only one set of national experts, and aligning the work being done by the EU and NATO to achieve the same end goals will reduce duplication and enable resources to be used more efficiently. The UK is at the forefront of calls for the inclusion of NATO throughout the development of the EU's Military Mobility work. Consequently, the EDA has brought NATO into the discussions with the EU Military Staff to develop the Military Advice and Requirements that the Action Plan calls for; and Military Mobility is a specific area for EU-NATO cooperation specified in the agreed 74 actions from the Joint Declaration.

Complementarity is further maintained by coordination between the Action Plan, the PESCO project on Military Mobility, and the road map on Military Mobility developed by the EDA, which acts as the secretariat for PESCO and its constituent projects, including Military Mobility.

Finally, with respect to areas of potential UK participation, we are still early in the development of the multilateral Military Requirement and Advice papers by the EU Military Staff. Once these papers are available, we will then explore specific areas where we could add value. My reason for raising the issue in my previous letter was to underline that while we remain an EU Member State, we will continue to play our full part in decisions and activities that support EU-NATO cooperation and the defence and security of the Euro-Atlantic region.

17 May 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 17 May 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 24 May 2018.

Thank you for answering our questions about NATO's role in the delivery of the action plan, and about the UK Government's considerations about co-operation with specific initiatives. Your letter did not provide much information about the complementarity between the action plan and other initiatives on military mobility. We would therefore like to request further information on this issue.

How do the actions identified in the plan relate to the PESCO project on military mobility? Could you please provide us with some examples of other initiatives on military mobility that are currently planned or implemented at an EU level—for instance through the European Defence Agency? Your letter says that “complementarity is further maintained by coordination”—please provide us with an example of such coordination. In the meantime, we have decided to hold the Joint Communication under scrutiny.

25 May 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 25 May requesting further information on Military Mobility initiatives. I have responded to each of your points in turn and I hope this provides the further clarity you are seeking

Military Mobility is being advanced through a number of EU initiatives. The main project is one of the 17 in the first tranche of PESCO:

“This project will support Member States' commitment to simplify and standardize cross-border military transport procedures. It aims to enhance the speed of movement of military forces across Europe. It aims to guarantee the unhindered movement of military personnel and assets within the borders of the EU. This entails avoiding long bureaucratic procedures to move through or over EU Member States, be it via rail, road, air or sea. The project should help to reduce barriers such as legal hurdles to crossborder movement, lingering bureaucratic requirements (such as passport checks at some border crossings) and infrastructure problems, like roads and bridges that cannot accommodate large military vehicles.”

The European Defence Agency (EDA) is also looking at three specific aspects of Military Mobility:

Legal issues for the military domain range from the requirements for safe and secure transport of personnel and military equipment, including the transport of dangerous goods, to aspects of liability including environmental legislation; from the physical and legal protection of personnel to the availability and adequacy of relevant transport infrastructure. Given that the legislative framework differs within the Member States, it is difficult for the military to respond adequately. It is therefore important to examine the measures that should be taken to improve processes and procedures, in full respect of the sovereignty of Member States and in accordance with the EU Treaties and legislation

Customs - Harmonising the military requirements. Requests for military transport in and out of the EU are submitted to customs regulations. In this domain common standard procedures will be developed, and existing procedures and interpretations will be harmonised. This EDA programme has a strong link to the European Commission and will be executed in accordance with the European Union Customs Code.

Cross Border Movement Permissions concern the procedures to acquire permission to cross borders and is an area where the EU Member States can work together to increase the consistency and/or the effectiveness of their procedures. This EDA programme aims to develop pre-grants for military movement.

Military Mobility is also referenced in the context of implementing the Joint Declaration on EU-NATO Cooperation³:

Defence capabilities Establish cooperation and consultation at staff level, through regular meetings, in military mobility in all domains (land, maritime, air) to ensure a coherent approach and synergies between the EU and NATO aiming to effectively address existing barriers, including legal, infrastructure and procedural, in order to facilitate and expedite movement and border crossing of military personnel and materiel, in full respect of sovereign national decisions.

One such example of coordination is the presented Action Plan, which is necessary to coordinate the work and outcomes of these projects and activities. The EDA's position as the secretariat for PESCO will assist with oversight of progress and the ability to harmonise the activity on behalf the Member States.

There is also the reality that the UK, like other Member States, has only one set of Subject Matter Experts (SMEs) on logistics, movements, and planning. It is therefore vital, for reasons of effectiveness and efficiency, the number of calls on their experience is minimised. Those SMEs will provide consistent advice to the meetings they attend and in that way too will a degree of coherence be brought to those workstrands.

11 June 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 11 June 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 21 June 2018.

Thank you for answering our question about the complementarity between the action plan and other initiatives on military mobility. Based on the information you provided, we have decided to clear the Joint Communication from scrutiny. You do not need to respond to this letter.

21 June 2018

³ Council conclusions on the Implementation of the Joint Declaration by the President of the European Council, the President of the European Commission and the Secretary General of the North Atlantic Treaty Organization, 14802/17 dated 5 December 2017

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN (7959/18),

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN (7960/18)

Letter from the Chairman to the Rt Hon Greg Hands MP, Minister of State for Trade Policy Department for International Trade

Thank you for your Explanatory Memorandum (EM) dated 3 May 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 24 May 2018.

Your EM provided comprehensive information, which we appreciate. We have a number of questions, to which we would be grateful for your response, as below.

First, your EM provides us with an overall positive assessment of the Economic Partnership Agreement. Which of the elements contained in the EPA would the Government seek to replicate in a bilateral FTA with Japan after Brexit?

Second, it is not clear to us whether the continued application to the UK of the EU-Japan EPA during the transition period would need to be notified to the WTO, on the grounds that it might represent a breach of the most favoured nation principle. What assessment has the Government undertaken of the WTO compatibility of its plans, and what is its view on this?

Third, your EM states that the Government is preparing its own impact assessment of the EPA, which it “will make available to Parliament as soon as possible”. The Committee welcomes this and is looking forward to receiving the assessment in due course.

In the meantime, we have decided to retain the above documents under scrutiny. We look forward to your response in the usual 10 working days.

25 May 2018

Letter from the Rt Hon Greg Hands MP, Minister of State for Trade Policy

Thank you for your letters of 25 May 2018 with respect to the consideration by the Lords European Union Committee of the Explanatory Memoranda (EMs) on the EU-Japan Economic Partnership Agreement (EUJPEA), the EU-Singapore Free Trade Agreement (EUSFTA) and the EU-Singapore Investment Protection Agreement (EUSIPA).

I note your confirmation that the EMs concerning the EUSFTA and the EUSIPA have been cleared from scrutiny, and that the EM concerning the EUJPEA remains under consideration.

In response to the questions concerning the Japan and Singapore agreements, I welcome the opportunity to provide further clarification as follows and thank you for inviting responses in one combined letter:

I. Which of the elements contained in the EUJPEA does the Government seek to replicate bilaterally with Japan when we leave the EU?

As stated in the original EM, it was agreed at the March European Council that the shared aim of the EU and the UK is for international agreements to which the UK is party by virtue of its EU membership to continue to apply to the UK during the Implementation Period (IP). Article 124 of the draft Withdrawal Agreement, and the notification proposed in the footnote to that article, will serve as the basis for the continued application of EU international agreements to the UK during the implementation period, including the EUJPEA. HMG is engaged in ongoing discussions with counterparts in the Japanese Government in relation to article 124 of the draft Withdrawal Agreement.

The Prime Minister and the Japanese Prime Minister Shinzo Abe agreed in August 2017 to ‘work quickly to establish a new economic partnership between Japan and the UK based on the final terms of the EPA’ as the UK leaves the EU. The UK-Japan Trade and Investment Working Group,

established last year by the Japan-UK Joint Declaration on Prosperity Cooperation, is tasked to deliver on this commitment and met for the second time in May.

2. What assessment has the Government undertaken of the WTO compatibility of its plans to maintain access to the EUJEPa and EUSFTA during any transition period following the UK's exit from the EU, and what is its view on this?

The Government is content that the continued application of the EUJEPa and EUSFTA during the IP, in accordance with the Withdrawal Agreement, would be consistent with the UK's WTO obligations.

3. Impact Assessments

I otherwise welcome your request for Impact Assessments (IAs) on the Japan and Singapore Agreements. I am pleased to attach in '**Annex A**' (not published here) a final IA on the EUJEPa, which has been independently reviewed by the Regulatory Policy Committee (RPC), which is why I have not been able to share the IA until this point. The RPC has awarded the IA a 'green' rating, and their opinion can be found in full in '**Annex B**' (not published here). This goes above and beyond the analysis required as part of the EU scrutiny process, and reflects the Government's sincere commitment to transparency and scrutiny of trade policy. This will provide a solid basis for the consideration of the agreement by Parliamentarians.

We will follow up in due course with the IA in relation to the Singapore agreements, which will also be independently reviewed and rated by the RPC. I will ensure that the scrutiny committees in Parliament receive the IA at the earliest opportunity.

Council Conclusions on EU FTA Architecture

As a separate matter, I committed in my letter of 3 May 2018 on EU FTA architecture (which accompanied the EMs on the Japan and Singapore trade agreements) to write to the Commons and Lords scrutiny committees following the meeting of the Foreign Affairs Council (Trade FAC) on 22 May 2018 to provide an update on the status of the Council Conclusions on EU FTA architecture, which I flagged as a likely agenda item for the meeting. The Council Conclusions did indeed feature as part of the Trade FAC agenda and I can confirm that they were adopted by the Council at the meeting. The Council Conclusions were subsequently published on 22 May 2018, and a copy of the text can be found in '**Annex C**' (not published here).

11 June 2018

Letter from the Chairman to the Rt Hon Liam Fox MP, Secretary of State for International Trade

Thank you for your letter of 11 June 2018 regarding the above documents. They were considered by the External Affairs Sub-Committee on 21 June 2018.

In the light of the information provided in your letter, we have decided to clear the above documents from scrutiny. You do not need to reply to this letter.

21 June 2018

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, OF THE FREE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF SINGAPORE (7966/18)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE FREE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF SINGAPORE (7967/18)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE INVESTMENT PROTECTION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF SINGAPORE OF THE OTHER PART (7974/18)

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING OF THE INVESTMENT PROTECTION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF SINGAPORE OF THE OTHER PART (7973/18)

Letter from the Chairman to the Rt Hon Greg Hands, Minister of State for Trade Policy, Department for International Trade

Thank you for your Explanatory Memorandums (EM) dated 3 May 2018 regarding the above documents, and your letter dated 2 May 2018 about the EU FTA architecture following the Court of Justice of the EU's Opinion on the EU-Singapore FTA of May 2017. These documents were considered by the External Affairs Sub-Committee on 24 May 2018.

Your EMs and your letter provided comprehensive information, which we appreciate. Your EM mentions that the Government is preparing its own impact assessment of the EU-Singapore FTA, and that it will make the assessment available to Parliament as soon as possible. The Committee welcomes this and looks forward to receiving the assessment in due course.

We have one outstanding question, to which we would be grateful for your response, as below.

As raised in our letter to you about the EU-Japan Economic Partnership Agreement, it is not clear to us whether the continued application to the UK of the EU-Singapore FTA during the transition period would need to be notified to the WTO, as otherwise it might represent a breach of the most favoured nation principle. What assessment has the Government undertaken of the WTO compatibility of its plans, and what is its view on this?

Please feel free to answer this question along with our other questions on the EU-Japan EPA in one combined letter.

We are content to clear the above documents from scrutiny. We look forward to your response in the usual 10 working days.

25 May 2018

Letter from the Rt Hon Greg Hands MP, Minister of State for Trade Policy

Thank you for your letters of 25 May 2018 with respect to the consideration by the Lords European Union Committee of the Explanatory Memoranda (EMs) on the EU-Japan Economic Partnership Agreement (EUJEPAs), the EU-Singapore Free Trade Agreement (EUSFTA) and the EU-Singapore Investment Protection Agreement (EUSIPA).

I note your confirmation that the EMs concerning the EUSFTA and the EUSIPA have been cleared from scrutiny, and that the EM concerning the EUJEPAs remains under consideration.

In response to the questions concerning the Japan and Singapore agreements, I welcome the opportunity to provide further clarification as follows and thank you for inviting responses in one combined letter:

1. Which of the elements contained in the EUJPEA does the Government seek to replicate bilaterally with Japan when we leave the EU?

As stated in the original EM, it was agreed at the March European Council that the shared aim of the EU and the UK is for international agreements to which the UK is party by virtue of its EU membership to continue to apply to the UK during the Implementation Period (IP). Article 124 of the draft Withdrawal Agreement, and the notification proposed in the footnote to that article, will serve as the basis for the continued application of EU international agreements to the UK during the implementation period, including the EUJPEA. HMG is engaged in ongoing discussions with counterparts in the Japanese Government in relation to article 124 of the draft Withdrawal Agreement.

The Prime Minister and the Japanese Prime Minister Shinzo Abe agreed in August 2017 to ‘work quickly to establish a new economic partnership between Japan and the UK based on the final terms of the EPA’ as the UK leaves the EU. The UK-Japan Trade and Investment Working Group, established last year by the Japan-UK Joint Declaration on Prosperity Cooperation, is tasked to deliver on this commitment and met for the second time in May.

2. What assessment has the Government undertaken of the WTO compatibility of its plans to maintain access to the EUJPEA and EUSFTA during any transition period following the UK’s exit from the EU, and what is its view on this?

The Government is content that the continued application of the EUJPEA and EUSFTA during the IP, in accordance with the Withdrawal Agreement, would be consistent with the UK’s WTO obligations.

3. Impact Assessments

I otherwise welcome your request for Impact Assessments (IAs) on the Japan and Singapore Agreements. I am pleased to attach in ‘**Annex A**’ (not published here) a final IA on the EUJPEA, which has been independently reviewed by the Regulatory Policy Committee (RPC), which is why I have not been able to share the IA until this point. The RPC has awarded the IA a ‘green’ rating, and their opinion can be found in full in ‘**Annex B**’ (not published here). This goes above and beyond the analysis required as part of the EU scrutiny process, and reflects the Government’s sincere commitment to transparency and scrutiny of trade policy. This will provide a solid basis for the consideration of the agreement by Parliamentarians.

We will follow up in due course with the IA in relation to the Singapore agreements, which will also be independently review and rated by the RPC. I will ensure that the scrutiny committees in Parliament receive the IA at the earliest opportunity.

Council Conclusions on EU FTA Architecture

As a separate matter, I committed in my letter of 3 May 2018 on EU FTA architecture (which accompanied the EMs on the Japan and Singapore trade agreements) to write to the Commons and Lords scrutiny committees following the meeting of the Foreign Affairs Council (Trade FAC) on 22 May 2018 to provide an update on the status of the Council Conclusions on EU FTA architecture, which I flagged as a likely agenda item for the meeting. The Council Conclusions did indeed feature as part of the Trade FAC agenda and I can confirm that they were adopted by the Council at the meeting. The Council Conclusions were subsequently published on 22 May 2018, and a copy of the text can be found in ‘**Annex C**’ (not published here).

11 June 2018

RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS WITH A VIEW TO APPORTIONING THE UNION'S WTO CONCESSIONS ON TARIFF RATE QUOTAS ANNEXED TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994 IN VIEW OF THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION (8944/18)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE APPORTIONMENT OF TARIFF RATE QUOTAS INCLUDED IN THE WTO SCHEDULE OF THE UNION FOLLOWING THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION AND AMENDING COUNCIL REGULATION (EC) NO 32/2000 (9254/18)

Letter from the Rt Hon Greg Hands MP, Minister of State for Trade Policy, Department for International Trade

I am writing with regard to the above two proposals and in particular the recommendation for a Council Decision authorising the opening of negotiations with a view to apportioning the Union's WTO concessions on Tariff Rate Quotas annexed to the General Agreement on Tariffs and Trade 1994 in view of the withdrawal of the United Kingdom from the Union.

These proposals were published by the European Commission and deposited in Parliament on 24 May. Mindful of the need for proper Parliamentary scrutiny against the background of a very short period before this is likely to come to Council, I requested that an Explanatory Memorandum be sent to the relevant Committee clerks as soon as possible and this was done on 29 May.

The European Commission has advised the Bulgarian Presidency to move forward the Council Decision as quickly as possible. This was discussed at the Trade Policy Committee on 1 and 8 June, and will be on the agenda again on 15 June. They then intend to put the Council Decision to COREPER for discussion and agreement on 20 June and then to vote at a Council meeting on 26 June. As you can see, the timeline is extremely tight.

The purpose of the proposed Council Decision is to empower the Commission to open formal negotiations under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) on behalf of the EU27 with a view to modifying the European Union's existing quantitative restrictions known as Tariff Rate Quotas (TRQs) to reflect the withdrawal of the UK from the Union. The UK considers that the European Union has the right to modify its goods schedule.

My officials have been working closely with the European Commission to progress the work of separating WTO concessions to create a UK-specific goods schedule in a smooth and coordinated manner. In October of last year, the UK and EU Permanent Representatives to the WTO set out our approach to tariff rate quotas in a joint letter that was sent to the WTO Membership, and to the International Trade Committee. Following on from this, we are now in a position to begin the formal steps to establish our goods schedule, the first of which will be to circulate our schedules at the WTO for certification. Should it be necessary, the UK may then move on to a second stage, and open our own Article XXVIII negotiations, on a UK-specific goods schedule and tightly constrained to residual specific Tariff Rate Quota lines where rectification with our partners has not been finalised.

In its original iteration, Article 4 of this Council Decision included a reference to the UK being 'authorised to undertake the necessary procedures', as the UK sees fit, to establish its own independent schedule of concessions on goods at the WTO. However, following advice from the Council Legal Service, the Presidency plans to remove this reference. Instead, the revised draft decision – which is still in flux – is more likely to recognise the need to take into account the specificities of the UK as a withdrawing Member and against this backdrop, to refer to the Commission's role in ensuring that the duty of sincere cooperation is respected. My officials have discussed these amendments in detail with the clerks of the relevant committees.

The Council Decision as it was originally drafted was a matter that the Government recommend supporting. We will continue to recommend supporting the Council Decision provided these changes do not materially alter the balance of UK interest. I would emphasise that discussion of the draft text continues, and further changes are possible. My officials will remain in close touch with Committee clerks.

We would welcome the Committee's clearance at this stage of this document. If this is not possible, I anticipate needing to override scrutiny, if the highly ambitious timescales remain as outlined above.

The second proposed measure is a draft Regulation which would allow the European Union (excluding the UK) to unilaterally amend TRQs in their schedule in the event that its Article XXVIII negotiations are not concluded by the time the European Union needs to submit a goods schedule that would cover the EU27 without the UK. This is expected to be agreed at a slower pace by January 2019.

Given how this proposal relates to Brexit and the UK's own steps to introduce its own tariff schedules, I appreciate that you will have a keen interest in these proposed measures. I will of course provide you with further updates as these proposals move forward.

12 June 2018

COMMUNICATION FROM THE COMMISSION PROGRESS REPORT ON THE IMPLEMENTATION OF THE EUROPEAN AGENDA ON MIGRATION (9072/18)

Letter from the Chairman to the Rt Hon Caroline Nokes MP, Minister of State, Home Office

Thank you for your Explanatory Memorandum (EM) dated 19 June 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 12 July 2018. Given the considerable external affairs aspects of the document, I am also copying this letter to Sir Alan Duncan, Minister for Europe and the Americas.

We have a number of questions, to which we would be grateful for your response, as below.

First, we welcome that the EM states that Brexit "will not affect our commitment to working with our partners to ensure we continue to address the shared challenges posed by illegal migration". The White Paper published on 12 July also states that the UK is seeking continued participation in international dialogues with European and African partners, frameworks and processes, such as the Rabat and Khartoum Processes. Are there any details you can provide about how the UK envisages its future cooperation with the EUTF could look like after Brexit?

Second, the EM states that the Government is "working to ensure that the EUTF delivers on UK objectives and is complementary to our bilateral development and humanitarian assistance in Africa." However, it does not provide any information on how this is being achieved and the Committee would be grateful for a brief explanation.

Third, it is evident that there are significant funding and resource gaps which, if left unaddressed, could adversely impact on the delivery of the Agenda's aims. What actions, if any, is the UK undertaking to help address the EUTF's funding gap of EUR 1.2 billion? Also, in relation to Greece, the EM acknowledges that EU support 'falls short of the need'. What is the UK Government's assessment of reported staff shortages, including at Greek refugee camps? Is the UK Government providing any bilateral support?

Fourth, the progress report highlights the increasing role of Tunisia as a transit country and country of origin: 22% of departures from North Africa are from Tunisia and 20% of those using the Central Mediterranean route are Tunisian. However, EU efforts in North Africa appear to be almost exclusively focused on Libya. Is the UK Government aware of any plans by the EU to extend specific support to Tunisia and are there any supporting actions the UK is taking bilaterally?

Fifth, the EM provides information on EU support to Syria and its neighbouring countries, but does not provide any information about migrant flows from Syria to countries like Jordan and Lebanon. Could some updated statistics on migration flows to Syria's neighbours be provided?

Sixth, the EM states that the EU has signed cooperation agreements with Albania and the former Yugoslav Republic of Macedonia to deploy the European Border and Coast Guard Agency. Has the EBCGA now been deployed and, if so, what has its impact been so far?

Seventh, it looks likely that Spain may play an increasing role in accepting and processing migrants using the Central Mediterranean route. Is the Government aware of any additional support that the

EU is, or will be, offering the Spanish Government to deal with any expected increases in migrant arrivals?

The Committee is still awaiting a response to three questions it raised with you in its correspondence of 10 May. These are reproduced below and we would be grateful for a reply, which could form part of your response to this letter:

The previous progress report stated that the pace of returns to Turkey “remains very slow, with only 1,969 returns since March 2016”, and 11,354 people have been resettled from Turkey since 4 April 2016 to 15 Member States. Could you please provide us with a figure to put into context the “very slow” pace of returns? How many persons are still waiting to be returned under the statement, or are waiting to be resettled? What number would you have hoped to have been resettled by now?

Your 3 April letter mentioned that the UK aims to resettle up to 3,000 unaccompanied children by 2020. How many of them have been resettled to date?

Finally, your letter stated that under the Prime Minister’s £75 million migration package of June 2017, a programme agreement has been signed with the IOM to provide humanitarian assistance and protection services for migrants along the route from West Africa. What is the cost and the duration of this programme?

We look forward to your response in the usual 10 working days. Meanwhile we have decided to retain the communication under scrutiny.

13 July 2018

**PROPOSAL OF THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS
AND SECURITY POLICY, WITH THE SUPPORT OF THE COMMISSION, TO THE
COUNCIL FOR A COUNCIL DECISION ESTABLISHING A EUROPEAN PEACE FACILITY
(9736/18)**

**Letter from the Chairman to the Rt Hon Lord Bates, Minister of State, Department for
International Development**

Thank you for your Explanatory Memorandum (EM) dated 27 June 2018 regarding the proposal to establish a European Peace Facility (EPF). This was considered by the External Affairs Sub-Committee on 12 July 2018.

Your EMs provided helpful information, which we appreciate. We have a few outstanding questions to which we would be grateful for your response, as below.

First, the EM states that “it is not yet possible to determine whether it will be in the UK’s best interests to participate in any future EU instruments” and refers to UK participation being subject to negotiations with the EU. We appreciate that the outcome is subject to negotiations and that you cannot provide any assessment of this yet, but we are concerned that you consider it not yet possible to determine whether UK participation is in its best interest. What work is the Government undertaking to assess its interests regarding the European Peace Facility? When do you anticipate the Government to have adopted a position?

Second, the EM says that the conditions to be met for the UK to participate include that “sufficient governance oversight over our funds” needs to be offered. Please provide us with further detail about what you would expect such oversight to look like.

Third, your EM states that the Government is currently “considering whether it is in our interests to continue to support these African-led peace support missions through the EU” and that support through the EPF would not allow for Official Development Assistance (ODA) to be used. The Government would also “want to be able to support capacity building of third countries’ armed forces where this is in support of our national security objectives”, “using UK ODA where this is permissible under ODA rules. We might choose to do this through the EPF if the right conditions allow”. Please provide us with specific examples of what type of capacity building projects could be supported by UK ODA, and please elaborate on what the “right conditions” are that would allow for this to be done through the EPF. What funds, other than ODA, would the Government consider using to co-operate with actions under the EPF?

Fourth, what will be the implications of the restructuring of EU funding instruments, in particular the inclusion of the African Peace Facility in the off-budget EPF, and of the European Development Fund in the next Multiannual Financial Framework, for UK co-operation with these after Brexit?

We have decided to keep the above document under scrutiny. We look forward to your response in the usual 10 working days.

13 July 2018

COMMISSION DELEGATED REGULATION (EU) .../... OF 6.6.2018 AMENDING THE ANNEX TO COUNCIL REGULATION (EC) NO 2271/96 OF 22 NOVEMBER 1996 PROTECTING AGAINST THE EFFECTS OF EXTRA-TERRITORIAL APPLICATION OF LEGISLATION ADOPTED BY A THIRD COUNTRY, AND ACTIONS BASED THEREON OR RESULTING THEREFROM (9831/18)

Letter from the Chairman to George Hollingbery MP, Minister of State for Trade Policy, Department for International Trade

Thank you for the Explanatory Memorandum (EM) dated 18 June 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 5 July 2018.

The EM provided comprehensive information, which we appreciate. We have three questions, to which we would be grateful for your response, as below.

First, our understanding is that the US sanctions to be re-imposed only relate to the energy and petrochemical sectors of Iran. Could you please confirm whether this is correct?

Second, the EM states that the Regulation will not have any direct regulatory costs to businesses, but that there “may be further non-regulatory impacts on business from this regulation, given that businesses could be fined for contravening the regulation, and this may affect their commercial decision-making”. It appears to us that the Regulation puts EU businesses with interests in the US in a difficult position: if they continue to trade with Iran, they might face fines by the US Office of Foreign Assets Control, but if they stop trading with Iran they could be seen to not comply with the Regulation, which would also incur a fine. Could you please provide us with a more detailed assessment of what the impact of this Regulation will be on such businesses? Would there be a difference in the treatment of businesses already trading with Iran, as opposed to those considering taking up trade relations with Iranian businesses?

Third, would you be able to provide us with an estimate of the height of possible fines by the US, and of what the penalties would be in the UK of breaking the EU Regulation?

We have decided to clear the above document from scrutiny. We look forward to your response in the usual 10 working days.

5 July 2018

Letter from George Hollingbery MP, Minister of State for Trade Policy

Thank you for your letter dated 5 July 2018. I am grateful to you and your fellow Committee members for clearing the Explanatory Memorandum through Parliamentary Scrutiny. You raised three questions in your letter:

Sectoral extent of the US sanctions to be re-imposed

You asked whether US sanctions to be re-imposed only relate to the energy and petro-chemical sectors of Iran. As far as we understand, they will extend beyond those sectors and include sanctions on finance and banking, insurance, energy, petrochemical, shipping, shipbuilding, port and automotive sectors, and gold and other precious metals; graphite, raw or semi-finished metals (including aluminium, steel and coal).

Impact of the regulation on businesses

You also asked for a more detailed assessment of the impact on businesses. The UK does not recognise the US extra-territorial (i.e. secondary) sanctions listed in the EU’s Blocking Regulation.

They have a negative impact on our businesses who are trading legally. It is therefore right that we (and the EU as a whole) take steps to mitigate the impact of those sanctions on our business.

The protective elements of the Blocking Regulation include:

1. Guarantees that courts in EU Member States will not recognise or allow the enforcement of judgments against EU businesses for fines they incur in the US for breaching these secondary sanctions; and
2. Enabling businesses to seek damages through the courts in any Member States should they be negatively impacted by, for example, a business partner pulling out of a business deal owing to US sanctions.

I recognise the potential for businesses to be placed in a difficult position between the different sanctions regimes. In response, we are taking steps to mitigate this impact by pressing, and working with, the Commission to develop a guidance document (which we will share, once complete, with both the House of Lords and the House Commons) about the precise nature of the Blocking Regulation and responses to frequently asked questions. We anticipate this guidance will be published shortly.

Subject to the prohibition on complying with the relevant US secondary sanctions, the decision to do business in Iran is ultimately a commercial decision for those involved and the UK government already publishes guidance on doing business in Iran on GOV.UK which is reviewed and updated continuously.

Fine levels in the US and the UK

You asked about the levels of fines in the US and in the UK.

For the UK, in England and Wales, for offences committed on or before 12 March 2015, the maximum fine on summary conviction is £5,000. For offences committed after 12 March 2015, the maximum fine is unlimited, whether on summary conviction or on indictment. In Northern Ireland, the maximum fine on summary conviction is £5,000 and the equivalent for Scotland is £10,000. On indictment, the maximum fine is unlimited.

In the case of the US, the levels of fines will depend on the precise provision being contravened, but we've previously seen very large fines, in some cases in excess of several hundred million dollars for breaches of sanctions.

17 July 2018

Letter from the Chairman to George Hollingbery MP, Minister of State for Trade Policy

Thank you for your letter dated 15 July 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 19 July 2018.

We appreciate the additional information you provided to us in your letter. We were very concerned by some of the points raised in your letter and by the wide scope of the US sanctions that are to be re-imposed. We have further questions about the Regulation, to which we would be grateful for your response, as below.

First, would you be able to provide us with the number of UK businesses that are currently doing business with Iran and would be affected by the re-imposed sanctions and the Regulation?

Second, is our understanding correct that the blocking regulation would aim to protect businesses within the EU, but would not be able to protect branches or assets of European businesses in the US?

Third, could you please elaborate on how US fines on EU companies would be enforced in the US?

Fourth, what is your assessment of how this blocking regulation has worked in previous cases, when applied to US sanctions against Cuba and Libya? What lessons were learnt and taken into consideration when developing the current blocking regulation?

Fifth, which other actions the EU could take to protect EU businesses' trade with Iran, in addition to developing a guidance document?

We look forward to your response in the usual 10 working days.

23 July 2018

COUNCIL DECISION TO MAKE PUBLIC THE NEGOTIATING DIRECTIVES FOR THE EU-CHILE MODERNISED ASSOCIATION AGREEMENT (UNNUMBERED)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I am writing with regard to the EU Council Decision to make public the negotiating directives for the EU-Chile Modernised Association Agreement. Since I last wrote to you on this matter on 22 November, Member States have agreed to make the negotiating directives public. Adoption of this decision is due to take place at the Foreign Affairs Council on Monday 22 January.

As you may recall, the aim of the Modernised Association Agreement is to create a more comprehensive, up-to-date framework for the EU's relations with Chile, with a particular focus on trade liberalisation. We hope the revised agreement will also give a significant boost to our efforts to strengthen our bilateral trade and investment with Chile.

During discussions, Member States came to the conclusion that publication of the negotiating directives would have 'no impact on the ability of the EU to negotiate effectively, and would not undermine the EU's negotiating position in these specific negotiations.' Member States also agreed such a move did not constitute a precedent and that, as a matter of principle, negotiating directives would remain outside of the public domain, unless otherwise agreed on a case-by-case basis.

Whilst the negotiating directives themselves do not fall within the documents listed for formal scrutiny under the Scrutiny Reserve Resolution, a decision to make public the directives would fall within the purview of the Committees. I regret that, in order to avoid blocking agreement on Monday, I have agreed to override Parliamentary scrutiny in this instance.

As you know, the responsibility to keep your Committee informed on issues requiring scrutiny is something I take seriously. I regret that on this occasion there has not been sufficient time for your Committee to scrutinise the Council Decision prior to adoption.

18 January 2018

EUROPEAN DEFENCE FUND AND GALILEO/ACCESS TO PUBLIC REGULATED SERVICES (UNNUMBERED)

Letter from Baroness Verma to Lord Callanan, Minister of State, Department for Exiting the European Union

In preparation for Phase II of the Brexit negotiations, the EU External Affairs Sub-Committee considered the European Commission's 'Slides on Security, Defence and Foreign Policy'.⁴ Following up on our report, *Brexit: trade in goods*,⁵ published in March 2017, we sought views from industry on the elements pertaining to the European Defence Fund and Galileo/access to public regulated services.

We received a response from the Royal Aeronautical Society (RAeS) which we wish to draw to your attention. The letter is enclosed. In particular, we highlight that the RAeS emphasises the value that the negotiation of a bespoke arrangement for post-Brexit participation in the European Defence Agency would bring to the UK, and the importance of the European Defence Fund and EU R&D funding (including Horizon 2020) to the UK defence industry. We also draw to your attention RAeS's assessment that the Government should seek to ensure full UK participation in the Galileo programme after Brexit, including UK participation in Copernicus.

20 April 2018

⁴ https://ec.europa.eu/commission/sites/beta-political/files/security_defence_and_foreign_policy.pdf

⁵ <https://publications.parliament.uk/pa/ld201617/ldselect/lducom/129/129.pdf>

COUNCIL DECISION ESTABLISHING A COMMON SET OF GOVERNANCE RULES FOR PERMANENT STRUCTURED COOPERATION (PESCO) PROJECTS (UNNUMBERED)

Letter from the Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas, Foreign and Commonwealth Office

On 25 June, the Foreign Affairs Council (FAC), jointly attended by Foreign and Defence Ministers, is expected to adopt an EU Council Decision formally establishing the governance rules for projects delivered through PESCO.

I remain keen to keep your Committee fully informed on issues concerning the EU's Common Security and Defence Policy so I write to update you on this Council Decision and other upcoming legal acts relating to PESCO.

As it did in March, the Council will act in "PESCO format": all EU Member States have a seat and a voice at the table, but only PESCO Participating Member States (PPMS) may vote. The UK has not joined PESCO and will not vote on the adoption of this Council Decision; equally we will not be bound by the Decision.

The text of the Council Decision is being finalised in Brussels but its purpose is to set out the internal governance arrangements for PESCO projects, including the roles of project members, the PESCO secretariat (consisting of the European External Action Service, European Defence Agency and EU Military Staff), and project observers. We have largely stayed out of the negotiations given we are not a PPMS but we have supported the push for maximum flexibility so that it is principally for PPMS, rather than at Council level, to shape and agree how individual projects are governed. We judge this would set a helpful precedent for a flexible approach to cooperation with non-EU countries.

This Council was due to endorse a second legal act on the sequencing of PESCO commitments, but that has been delayed. It is now expected to be adopted as a Council Recommendation at the July FAC. Based on the timelines provided for in the roadmap for implementation that was adopted as a Council Recommendation in March, negotiations on third state participation in PESCO projects will not formally start until after both legal acts have been agreed.

Many Member States have signalled their support for third state participation arrangements to be finalised as soon as possible and a provisional date of the end of 2018 has been proposed for adopting a Council Decision. Again, the UK will not vote but will be able to speak in these negotiations, and we will seek a positive outcome. We believe that PESCO can only benefit from the contribution, at project level, of third countries.

As with the Council Decision and Council Recommendation that we submitted to you in March, the UK's scrutiny reserve does not apply to this or future Council Decisions relating to PESCO as we are not a PPMS. I will provide a post-adoption Explanatory Memorandum to your Committee following the June FAC to ensure the appropriate level of awareness and scrutiny.

21 June 2018

COUNCIL DECISION CONCERNING EXTENDING THE MANDATES OF EUPOL COPPS AND EUBAM RAFAH (OTNYR)

Letter from Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas, Foreign and Commonwealth Office

I am writing with regard to the EU Council Decision concerning extending the mandates of the Common Security and Defence Policy (CSDP) Missions deployed in the Palestinian Territories: the European Union Police Mission for the Palestinian Territories (EUPOL COPPS), and the European Union Border Assistance Mission for the Rafah Crossing Point (EUBAM Rafah). Both mandate extensions are for 12 months to 30 June 2019.

As detailed in the attached Explanatory Memorandums, supporting the Middle East Peace Process continues to be a priority for this Government. It is important that the UK is able to continue to send a strong message by supporting the EU Council in its decision to renew the mandates of these two missions for another 12 months.

EUPOL COPPS continues to play a critical role in developing effective and sustainable policing and wider criminal justice capability in the Occupied Palestinian Territories. EUBAM Rafah continues to assist the Palestinian Authority (PA) to prepare for redeployment to the Rafah Crossing Point between Gaza and Egypt, once political and security conditions allow, and to help the PA General Authority for Borders and Crossings to strengthen its border management knowledge.

The overall political picture remains challenging. The highly anticipated US peace plan initiative remains the best option for achieving peace. We share President Trump's desire to bring an end to the conflict and have encouraged the US to bring forward propose an initiative that addresses the legitimate concerns of both parties.

The "Great March of Return" protests, which began in March, have seen an increase in violence and further instability. The humanitarian situation in Gaza remains dire. It is important to address the underlying causes of the economic and humanitarian issues that Gaza faces, in particular there is an urgent need to improve movement and access for people and goods. We support UN Special Representative of the Secretary General, Nicolai Mladenov's plans to advance urgent infrastructure/economic development projects, ease access/movement, and support Egyptian-led reconciliation process. Reconciliation has yet to pay dividends. The mandates for the missions expire on 30 June 2018. The mandates would have lapsed had they not been renewed in advance of their renewal date. Unfortunately the documents (Council decisions, operational plans, and budgetary impact statements) were written so close to the renewal date that they needed to be agreed very quickly. Therefore I regret that I find myself in the position of having to agree to the adoption of these Council Decisions before your Committee has had an opportunity to scrutinise the documents.

Your Committee has previously expressed concern that renewals of this type are not considered earlier in the EU, reducing the possibility of the documents being scrutinised. This is something I am very aware of and I have instructed my officials to continue to raise these concerns with colleagues in the EU.

I understand your Secretariat noted that this year's EMs failed to refer to certain projects or issues that were raised last year. I fully appreciate the importance of ensuring consistency when referring to relevant projects and issue. I will ensure that steps are taken to ensure that we achieve consistency in the future.

The responsibility to keep your Committee informed on relevant issues is something I take seriously and the need for the override of scrutiny on this occasion is regrettably unavoidable.

27 June 2018

GATT SCHEDULE

Letter from the Rt Hon Liam Fox MP, Secretary of State for International Trade, Department for International Trade

I am writing to inform you that the UK's schedule of goods pursuant to the General Agreement on Tariffs and Trade (GATT) has been formally sent to the World Trade Organization (WTO) Secretariat, for circulation by the WTO Secretariat to all WTO members. This represents an important milestone in the UK's transition at the WTO as part of our exit from the European Union (EU), and a step towards an independent UK trade policy. I will place a copy of the schedule in the library of the House.

As I first set out to Parliament in a statement on 5th December 2016, we see our WTO transition as a technical exercise in which we will not change our existing rights or obligations. We are therefore notifying UK specific schedules through the GATT's 1980 procedures for rectification. The process for certifying a goods schedule can be completed in a minimum of three months. During this, WTO members are able to, and frequently do, object to the rectification of Members schedules. Achieving consensus on the UK's proposed GATT schedule may take time, but this will not impact trade. The UK would continue to trade on the terms to be proposed in our schedule while we complete the certification process. If concerns are raised, we will, as we have to date, engage WTO members in an open, inclusive and transparent manner. We expect our UK-only schedule to come into force, certified or uncertified, once the EU's schedule of goods ceases to apply to the UK.

When your officials examine this schedule, they will find that it does not adjust the terms under which we trade with WTO members. The apportionment methodology that we have used to set out our future Tariff Rate Quotas (TRQs) is the best way to balance the interests of existing TRQ holders with the interests of preference holders and domestic producers. This is a methodology we worked closely with the European Union to develop. For TRQs, it is based on historic trade flows between the years 2013 to 2015. For Aggregate Measurement of Support (AMS), the UK figure can be worked out by referring to the original calculations made for the European Economic Community's AMS in 1994. Both of these methodologies show no overall increase in the EU27 and UK TRQ and AMS quotas respectively.

I will keep you updated as this work progresses

19 July 2018

EU ECONOMIC PARTNERSHIP AGREEMENTS AND THE PROTOCOL OF ACCESSION OF ECUADOR TO THE EU-ANDEAN AGREEMENT

Letter from George Hollingbery MP, Minister of State for Trade Policy, Department for International Trade

Given your committee's previous interest in the Protocol of Accession of Ecuador to the EU-Andean Agreement, and the Economic Partnership Agreements with the Southern African Development Community, the Eastern and Southern Africa states and Ghana, I am pleased to advise you that we have, today, laid in Parliament the European Union (Definition of Treaties) (Ecuador EU-Andean Accession and Economic Partnership Agreements) Order 2018 to designate the Ecuador – EU Andean Accession and Economic Partnership Agreements as Treaties in accordance with the European Communities Act 1972. Please see attached a copy of the full Written Ministerial Statement.

We are publishing alongside these our economic impact assessments of the potential of each of these agreements, which we are publishing for transparency purposes given the Committee's previous interest.

These agreements, which have been provisionally applied, require ratification by the EU Member States to come fully into effect. This Order and also the parallel laying this week of four individual Treaty Command Papers, is the start of the formal process of ratification of the agreements in the UK.

These agreements will have a positive impact on the economies of the UK, the EU and the Third Countries, promoting bilateral trade and economic growth. The European Union's Economic Partnership Agreements (EPAs) have a development focus that goes beyond trade, by including co-operation and assistance for partner countries.

The Government remains committed to supporting the EU's ambitious trade and development agendas including the economic partnership agreements it is putting in place. The UK's ratification of these agreements whilst the UK is still an EU Member State is a clear demonstration of this commitment.

The Government has been clear it will seek a seamless transition to replicate the effects of the agreements when we leave the EU, in line with our policy on trade agreement continuity.

11 July 2018

NEGOTIATING A MODERNISED PARTNERSHIP AND CO-OPERATION AGREEMENT BETWEEN THE EU AND UZBEKISTAN

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I am writing to inform you that at the Foreign Affairs Council on 16 July the European Council is due to authorise the European Commission to open negotiations with the Republic of Uzbekistan on an

Enhanced Partnership and Co-operation Agreement (EPCA) and to adopt directives for the negotiations.

The EU and its Member States concluded a Partnership and Cooperation Agreement (PCA) with the Republic of Uzbekistan in 1996. The Republic of Uzbekistan seeks to strengthen bilateral cooperation with the EU in order to diversify its economic partnerships and in recognition of its achievements in democratic transition. It is in the interest of the UK and the EU to begin negotiations on a new Agreement. The Republic of Uzbekistan has transformed its relationships with the other countries of Central Asia, enabling the demarcation of borders, the opening of transport links, boosting trade, and holding discussions on sensitive issues such as sharing energy and water resources. An internal reform programme is reducing state control, opening the economy to foreign investment and making the government structures more accountable.

Uzbekistan has also made significant progress on human rights issues, albeit from a low base. For example, it has transformed its relations with the UN and regional human rights bodies including by agreeing to a visit in 2017 by the UN High Commissioner for Human Rights and Special Rapporteur on Freedom of Religion or Belief and accepting 201 recommendations at its Universal Periodic Review in May 2018. All imprisoned journalists have been released, along with other political prisoners. Human Rights Watch, who were previously banned, are now regular visitors; the BBC and other outlets have reported on events in Uzbekistan; and Amnesty International have visited. It is in the UK's interest to support this. The Agreement will boost political dialogue and cooperation between the EU and the Republic of Uzbekistan, sending a signal of commitment to support political reform to the whole of this strategically important region.

The European Commission hopes to adopt the negotiating mandate at the Foreign Affairs Council on 16th July so that they can begin negotiations with the Republic of Uzbekistan in the autumn. We support the swift opening of negotiations, and the Uzbeks are equally keen to move forward. The UK has been supportive of similar Agreements with Kazakhstan and the Kyrgyz Republic and we should continue to play a positive and supportive role whilst we remain within the EU. As a matter of course, we will monitor developments during negotiations and input policy positions as appropriate.

The UK has agreed to transition the existing EU-Uzbekistan PCA to a bilateral agreement for when the UK ceases to be party to the EU agreement. Uzbekistan has signalled that it is happy in principle with this approach. The UK and Uzbekistan have agreed to keep abreast of EU negotiations on an EPCA and to consider any implications of the EPCA on a bilateral PCA.

The European Commission plans to start the formal process of negotiations with the Republic of Uzbekistan in the autumn, reporting to the EU working group at regular intervals. The negotiations could take up to two years and may conclude during the implementation period. The Commission will present recommendations for Council Decisions on signature and conclusion of the revised agreement in due course. We will submit the documents for your Committee's consideration when the Council Decisions for signature and conclusion issue.

12 July 2018

ANNUAL COMMON FOREIGN AND SECURITY POLICY (CFSP) REPORT - OUR PRIORITIES IN 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I am writing with regard to the annual CFSP report which sets out the breadth of EU external activity for 2018, including many areas of progress in line with UK objectives. Negotiation of the report concluded on 9 July, which leaves insufficient time to complete the Parliamentary scrutiny process before the report is adopted formally at the Foreign Affairs Council (FAC) on 16 July. I am therefore writing to inform you that, in line with the approach that we have taken since 2016, we will submit the report for scrutiny after the FAC. I am grateful to the Committee clerks for their handling advice.

13 July 2018

EUROPEAN DEFENCE AGENCY 2018 BUDGET

REPORT BY THE HEAD OF THE EUROPEAN DEFENCE AGENCY TO THE COUNCIL

Letter from the Chairman to the Rt Hon the Earl Howe, Minister of State, Ministry of Defence

Thank you for your Explanatory Memorandums on the above documents, both dated 4 December 2017. The documents were cleared at the Chairman's sift on 12 December 2017.

Your Explanatory Memorandum on the EDA budget 2018 states that the Government called on the EDA to "delete less successful projects". We would be grateful if you could please expand on this: which EDA projects does the UK consider "less successful", what are the reasons for this, and what action are you taking to improve and/or close these projects?

I look forward to your response in the usual 10 working days.

12 January 2018

Letter from the Rt Hon the Earl Howe, Minister of State

Thank you for your letter of 12 January 2018 requesting further information on the Explanatory Memorandum regarding the European Defence Agency (EDA) 2018 Budget. I am sorry for the delay in responding.

You asked which EDA projects the UK considers "less successful", what are the reasons for this, and what action are you taking to improve and/or close these projects.

It may be helpful if I first set out the background.

On 7 November 2017, at the EDA Special Preparatory Committee meeting the UK did not support the 10.23% budget increase sought by the Agency for its 2018 Budget. Our rationale for a smaller increase was in part to encourage the EDA to reduce the number of projects in its portfolio by cancelling or scaling back those that were making little progress. The UK made this point at several EDA meetings. Focussing EDA's resources on fewer projects should result in better outcomes for those that remain funded. The UK's position on the budget at this meeting was agreed by the other Member States and the budget increase was set at 5%.

In response, the EDA has reduced its operational budget, and specifically the variable costs. The budget allocation for some projects has been reduced and some projects have been cancelled. The projects chosen to be cancelled had lack of interest by Member States and/or were making limited or no progress towards delivering capability. Examples include:

Global Access to Standards

This project was to provide centralised access to the standards necessary for procuring and maintaining defence equipment. The UK and France withdrew from this project in early 2017, which required other Member States to become involved if the project was to remain viable.

On 27 November, the EDA offered Member States options to continue the project in its current format, renew the project's format, or terminate it. The project was terminated in February 2018.

European Air Transport Command (EATC) Cooperation Model

This project sought to replicate the advantages of the EATC's Air Transport model for the Maritime ("Logistics at Sea") and Land ("Surface") domains.

In November 2017, the EDA decided that the work to date had not progressed as hoped. After consultation with Member States it was decided that the continuation of an EATC replication brought no added value for Member States in either Logistics at Sea or Surface Movement and the project was terminated in December 2017.

Barter Mechanism Initiative

This project sought to investigate the utility of using 'barter mechanisms' (under which goods or services are exchanged without a financial transaction) in the military domain.

An EDA stock-take in 2016 led to a Food for Thought Paper but Member States did not show any interest in taking forward this work strand. The project was subsequently terminated in December 2017.

The UK is only involved in EDA projects that we judge are beneficial in terms of capability development for our Armed Forces, and where the opportunity for meaningful collaboration with other Member States would bring benefit to European security. Two important examples are Counter-Surface to Air Fire⁶ and Personnel Recovery⁷, both of which have potential to enhance our national and collective security capability.

Going forward, while the UK remains a full member of the EDA, we will continue to press the EDA and other Member States to re-prioritise the EDA work programme – and seek opportunities to further rationalise the number of commitments to realise additional efficiencies and better capability outcomes.

27 March 2018

COUNCIL DECISION CFSP/2017/2264 OF 7 DECEMBER 2017 AMENDING DECISION 2014/219/CFSP ON THE EUROPEAN UNION CSDP MISSION IN MALI (EUCAP SAHEL MALI) (UNNUMBERED)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

Thank you for your Explanatory Memorandum (EM) and letter dated 4 January 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 18 January 2018.

We note that you overrode Parliamentary scrutiny on 7 December 2017 in order to support the adoption of the Council Decision. Your letter did not explain why it was not possible to provide the draft Council Decision to the Committee for scrutiny in advance of adoption, and we would be grateful for your response on this point.

We have a number of questions about the mission, to which we would be grateful for your response, as below.

First, we note that while the Government is a strong supporter of EUCAP Sahel Mali, the Government does not provide any personnel to the mission. What factors underpinned the Government's decision on participation in this mission? Are language skills a barrier to UK participation?

Second, in 2016 we were informed by your predecessor that EUCAP Sahel Mali was experiencing difficulties in recruiting staff, including for roles considered 'mission critical'. Has this issue been resolved?

Third, when was the last strategic review of the mission undertaken? We would welcome information on the principal findings of the latest review, if one has been undertaken since your update letter of October 2016.

Fourth, what is your assessment of how well the different tasks of the mission—training and building the capacity of the Malian internal security forces, border management and addressing migration flows, and training for other G5 countries—align? What level of priority does the mission attach to these different tasks? How staff are divided between them?

Finally, are there any third country participants in EUCAP Sahel Mali or in EUTM Mali?

We look forward to your response in the usual 10 working days.

18 January 2018

⁶ C-SAFIRE capability is required to prevent the threat or use of SAFIRE being a risk to mission success, constraining air assets' freedom of action, or imposing avoidable costs or casualties.

⁷ Deployed personnel carry the risk of being trapped, isolated, detained, captured or maltreated by adversary forces in a hostile environment. Ensuring the swift and safe recovery of personnel who for some reason have ended up isolated in an emergency situation is a high-priority for all EU-led crisis management operations.

Letter from the Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas

I am writing in response to your letter of 18 January 2018 in which you raised concerns about the handling of the above document and asked a number of questions.

It is clear that the scrutiny process was not handled in the correct manner on this occasion. Following consultation, it is apparent that those officials responsible for the preparation of the paperwork did not have a clear understanding of the process and this led to regrettable errors. Arrangements are being put in place to provide further training on the scrutiny process to ensure this does not happen again. I would like to reassure you that future CFSP documents will be drawn to the attention of the Committee in the correct manner.

In response to your five questions.

1. The UK is a strong supporter of EUCAP Sahel Mali. Language skills have, unfortunately, been a barrier to UK participation in the mission. As well as marrying language skills with jobs that would be a good fit for the UK, we are then reliant on UK candidates being successful at interview, which is not always the case. We seek to second people into missions in order that they hold strategic positions which can influence the success of the mission and delivery of its mandate. In the Sahel, we have civilian secondees in other missions i.e. the EU Training Mission and EU Stabilisation mission for Central Mali.

2. On recruitment, while the situation has improved since 2016, there are still some difficulties. The mission now has an international staffing level of 79%. Some of the positions that are vacant are strategic advisor roles, operational CT trainer roles and analyst roles. The mission is actively trying to fill these roles.

3. The last strategic review of the mission took place in October 2016. The next review is due to take place in March/April 2018. I will, of course, write to inform both scrutiny committees of the findings when they are published.

4. EUCAP Sahel Mali are working on priorities agreed with the Malian government. These include key areas such as border management, counter terrorism intervention and intelligence work. These areas of work align well and prioritisation is agreed by the Malian government and EUCAP themselves. The numbers of personnel working on each of these priority areas fluctuates as events on the ground change. It is also worth noting that some areas of work target more than one priority. EUCAP Sahel Mali also supply strategic advice to the Malian internal security forces. The short term impact of the mission is through training, but long term results will be achieved through initiating and implementing frameworks as well as working with other EU instruments. The Malian internal security forces have functioning institutions and are operational throughout the training.

5. There is one third country national in EUCAP Sahel Mali. One of the strategic advisors in the Planning and Evacuation Unit is Swiss. There are no third country nationals in EUTM Mali.

1 February 2018

COUNCIL DECISION (CFSP) 2017/... OF [DD/01/2018] AMENDING DECISION 2011/72/CFSP CONCERNING RESTRICTIVE MEASURES DIRECTED AGAINST CERTAIN PERSONS AND ENTITIES IN VIEW OF THE SITUATION IN TUNISIA (OTNYR)

Letter from the Rt Hon Sir Alan Duncan MP, Minister for Europe and the Americas, Foreign and Commonwealth Office

I am writing with regard to the attached EU Draft Council Decision and Draft Council Implementing Regulation concerning restrictive measures in view of the situation in Tunisia. These will be adopted on 29 January 2018 and published in the Official Journal on the following day. The draft legal acts have been marked 'OTNYR'.

As described in the Explanatory Memorandum, these documents extend restrictive measures on 48 individuals who are subject to ongoing investigations for misappropriation of Tunisian state assets, during the regime of former President Ben Ali.

Unfortunately, as your committee has not had the opportunity to scrutinise the documents before their adoption, I have found myself in the position of having to override Parliamentary Scrutiny to

allow the EU to adopt the revised legal acts. The measures need to be extended before they expire on 31 January 2018 so as to avoid the risk of asset flight.

As you know, the responsibility to ensure your Committee can scrutinise sanctions decisions is something I take seriously but the need for the override of scrutiny on this occasion was regrettably unavoidable.

24 January 2018

**COUNCIL DECISION AMENDING AND EXTENDING COUNCIL DECISION
2013/34/CFSP ON A EUROPEAN UNION MILITARY MISSION TO CONTRIBUTE TO
THE TRAINING OF THE MALIAN ARMED FORCES (EUTM MALI) (OTNYR)**

**Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister for
Europe and the Americas**

Thank you for your Explanatory Memorandum (EM) dated 26 April 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 3 May 2018.

We were pleased that your EM was particularly detailed and thorough. We are now happy to clear this item from scrutiny.

We nonetheless have a number of requests and questions, to which we would be grateful for your response, as below.

First, we remind you of our request that you provide a letter to update us on the Strategic Reviews of all CSDP missions and operations when they are produced.

Second, we request an update on the Stabilisation Action in Mopti and Segou, since its launch in August 2017.

Third, we note that EUTM Mali is the first CSDP mission mandate renewal that will extend beyond the UK's membership of the EU. Does the UK intend to continue to provide personnel to the mission after 29 March 2019? What influence will the UK have, and what influence will it request, over the mission once the transitional period begins?

Fourth, our report on UK participation in CSDP missions and operations after Brexit will be published this month, and we look forward to engaging further with the Government on this important topic through your formal response and the debate on the report.

We look forward to your response in the usual 10 working days.

3 May 2018

**Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and
the Americas, Foreign and Commonwealth Office**

Thank you for your letter of 3 May, confirming that the EU-Sub Committee on External Affairs considered the above document and decided to clear it from scrutiny. You also raised some questions, however, about process; other EU action in the Sahel; and future UK involvement in this CSDP Mission.

Thank you for your reminder on the Strategic Reviews of CSDP missions. I am conscious that I have not so far written to you on the EUTM Mali Strategic Review. The EEAS have stated that they intend to conduct an "integrated regional review" of EU activity across the Sahel by the end of 2018. I intend to write to you when this regional review is released.

The EEAS are due to release a report on the stabilisation action in Mopti and Segou later this month. The need for action in that part of Mali is clear and there are a number of options for delivering this. Once this report has been issued I will write to you with a full assessment of progress and next steps.

The UK wants to establish a deep and special relationship on CSDP that goes beyond existing third party arrangements. This includes providing personnel to operations and missions. Whether or not we do this will depend on the outcome of the negotiations. If we were to deploy UK personnel, we must be able to play an appropriate role in shaping EU discussions.

I look forward to your report on UK participation in CSDP mission and operations after Brexit.

17 May 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

Thank you for your letter dated 17 May 2018 regarding the above document and which provides a response to the Committee's follow-up questions after the item had been cleared from scrutiny. We look forward to receiving the updates mentioned in your letter on the stabilisation action in Mopti and Segou next month and on the EUTM Mali Strategic Review later in the year.

25 May 2018

PROPOSAL OF THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY TO THE COUNCIL FOR A COUNCIL DECISION AMENDING COUNCIL DECISION (CFSP) 2015/778 OF 18 MAY 2015 ON A EUROPEAN UNION MILITARY OPERATION IN THE SOUTHERN CENTRAL MEDITERRANEAN (EUNAVFOR MED OPERATION SOPHIA) (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

The attached draft Council Decision amends 2015/778/CFSP Council Decision allows EUNAVFOR Med Operation SOPHIA to host a Crime Information Cell as part of the EU's efforts to improve information sharing with relevant law enforcement authorities of Member States and EU agencies.

The draft Council Decision will be marked *Limité* prior being finalised and published in the Official Journal.

2 May 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your Explanatory Memorandum (EM) dated 26 April 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 17 May 2018.

We were disappointed with the lack of information provided in your EM and we have a number of questions, to which we would be grateful for your response, as below.

First, your EM states that the legal basis for the proposal is articles 42(4) and 46(2) of the Treaty on European Union. Article 46(2) relates to Permanent Structured Co-operation (PESCO) on defence. Could you please elaborate how this provides the legal basis for this proposal?

Second, your EM does not include any further detail about how the data shared through the proposed Crime Information Cell (CIC) will be protected. Are you satisfied with the provisions on data protection currently included in the proposal? Please provide us with information on opportunities for redress if the sharing of data has not been undertaken in accordance with the law.

Third, your EM leaves out information about the implications of Brexit on the CIC. The proposed Council Decision states that the processing of data should comply with Article 8 of the Charter of Fundamental Rights of the EU, which will cease to apply to the UK after Brexit, and which will not be retained in UK law. In addition, we understand that Operation Sophia currently does not allow for any third-country participation. Would the UK still be able to participate in Operation Sophia, and to access CIC data, during the transition period from March 2019 to December 2020? Will the UK seek to gain access after the end of the transition period?

Fourth, your EM states that you expect the EU to look to expand the CIC model to other CSDP missions and operations, if the pilot is successful. What would be the timeline for the assessment of the CIC, and what criteria will be applied to measure its success?

We look forward to your response in the usual 10 working days.

18 May 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 18 May 2018 requesting further information on the above documents. I have responded to each of your questions in turn and I hope this provides the further clarity you are seeking.

Regarding the legal basis, there was a typographical error in the Explanatory Memorandum. The correct legal basis is Articles 42(4) and 43(2) of the Treaty on the European Union, not 46(2). This Council Decision therefore does not pertain to Permanent Structured Co-operation. I apologise for the error and the confusion caused.

You asked about how the data shared through the proposed Crime Information Cell (CIC) will be protected. Personal data will be processed in accordance with the law of the Flag State of the ship on which the CIC is hosted (currently Italian and therefore Italian law) and, with respect to EU Agencies' staff, in accordance with the legal framework applicable to their respective Agency.

We are satisfied with the data protection provisions but, if required, redress would be through either the Italian Data Protection Commissioner (or that of the Flag State if this changes) or the Data Protection Officer of either FRONTEX or Europol, as appropriate. The European Data Protection Supervisor has overall responsibility for data protection regarding FRONTEX and Europol and thus offers an additional opportunity for redress. Data protection will be further strengthened by the General Data Protection Regulation, which came into force on 25 May, as well as the accompanying EU Institution Regulation (which is expected to be adopted in due course).

You also asked about the implications of Brexit on the CIC. Operation SOPHIA is not open to Third States, but Article 122(6) of the draft Withdrawal Agreement, endorsed at the March European Council, sets out that the UK should be treated as if it is a Member State for the duration of the Implementation Period (IP) and therefore it is our understanding that we would still be able to participate in the Operation during this period.

The UK will continue to participate in Europol and other EU Justice and Home Affairs agencies during the IP and we will continue to have access to the relevant databases and data sharing tools. If the trial of the CIC were to be extended into the IP, we fully expect that the UK would retain access to CIC data.

Looking further ahead, the UK's ability to participate in EU Common Security and Defence Policy (CSDP) missions and operations, including Operation SOPHIA, after the IP is subject to negotiations. The Prime Minister has set out the Government's vision for a deep and special relationship on security and defence post Brexit and this includes participating in CSDP missions and operations where it is in our mutual interest.

You also asked for more detail regarding the assessment of the trial. The CIC will be assessed throughout its six month trial, with a review at the four month period, and a full assessment presented to Member States on completion of the trial. The success of the trial will be assessed on the basis of effectiveness of information sharing, the impact on wider EU law enforcement, and the challenges faced, including legal and data protection. We also expect the trial to inform how the model could be applied elsewhere.

31 May 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your very comprehensive letter dated 31 May 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 14 June 2018.

The letter provided us with the information we sought, and so we are content to clear the proposal from scrutiny. Please provide us with your assessment of the review of the Crime Information Cell after the first four months, once it is available.

15 June 2018

COUNCIL DECISION AMENDING JOINT ACTION 2008/124/CFSP ON THE EUROPEAN UNION RULE OF LAW MISSION IN KOSOVO (EULEX KOSOVO) (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your questions regarding the transfer of EULEX's tasks to EU and Kosovo institutions following the mandate renewal; the assessment made of Kosovo's readiness to take on such tasks; and the planned timeline for transition.

Of the tasks to be transferred out of EULEX during the six month reconfiguration period, the strengthening tasks will transfer to other EU institutions (where it has been deemed necessary that such work continues). Meanwhile, the Mission's executive tasks (with the exception of witness protection, support to the Specialist Chambers, and the Formed Police Unit, which the Mission will retain) will transfer to the Kosovo institutions following a full document review to ensure witness safety and judicial integrity. Following the assessment by the European External Action Service (EEAS), Member States agreed the decision not to extend the mandate of EULEX judges beyond 14 June. After this date international judges will no longer have the legal mandate to adjudicate criminal cases in Kosovo: all cases must therefore be handed over to the Kosovan judiciary. The EULEX Strategic Review provides details of the assessment made against each of the Mission's strengthening and executive tasks with regards to their readiness for transition. During the course of the new mandate, the EEAS will conduct further assessments of Kosovo's readiness to take on the remaining responsibilities in 2020. If Kosovo's institutions are assessed to be unable to take over any responsibilities at this time, the EEAS will discuss the appropriate way forward with Member States.

Prior to the EULEX Strategic Review of December 2017, the EU made an assessment of the readiness of the Kosovan institutions to accept the handover of cases. As outlined in the Strategic Review, the EU assessed that "progress made to date by Kosovo in the field of the Rule of Law provides a solid basis for moving ahead with the transitioning of EULEX executive and strengthening tasks". The Government agrees with this assessment and judges that while risks remain, the time has come for Kosovo's judiciary to take on all responsibility for the adjudication of legal cases. In the new mandate, EULEX will have a robust monitoring function, with a political escalation mechanism, to mitigate any risks. The Strategic Review provides further detail of the assessment made of Kosovo's readiness to take over executive tasks, and of the potential risks.

The transfer of all tasks is expected to take place in the six month reconfiguration period from the beginning of the new mandate (14 June 2018 to 14 December 2018). From 15 December 2018, we expect the Mission to be fully downsized with a renewed focus on its residual functions.

6 June 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your Explanatory Memorandum (EM) of 30 May 2018 and subsequent letter providing further information regarding the above document. They were both considered by the External Affairs Sub-Committee on 7 June and, on the basis of the comprehensive information provided, the Committee has decided to clear the item from scrutiny.

11 June 2018

JOINT PROPOSAL FOR A COUNCIL DECISION ON THE UNION POSITION WITHIN THE ASSOCIATION COUNCIL SET UP BY THE EURO-MEDITERRANEAN AGREEMENT ESTABLISHING AN ASSOCIATION BETWEEN THE EUROPEAN COMMUNITY AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF TUNISIA, OF THE OTHER PART, WITH REGARD TO THE ADOPTION OF THE DOCUMENT: 'STRENGTHENING THE EU-TUNISIA PRIVILEGED PARTNERSHIP: STRATEGIC PRIORITIES FOR THE PERIOD 2018-2020' (OTNYR)

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

Thank you for your Explanatory Memorandum (EM) dated 2 May 2018 regarding the above document. I cleared this document, alongside its annex, from scrutiny on 8 May 2018 and provided it to the External Affairs Sub-Committee for information.

Even though we have cleared the document from scrutiny, we nonetheless have a number of questions, to which we would be grateful for your response, as below.

First, we note that the period covered by the priorities document extends beyond the UK's membership of the EU and includes the envisaged transition period. What influence will the UK Government seek after 29 March 2019 over the actual programmes designed to fulfil the agreed EU-Tunisia strategic priorities?

Second, as this is likely to be only one of several partnership priority documents adopted with countries in the ENP region, what are the UK Government's plans for continued engagement with these?

We look forward to your response in the usual 10 working days.

18 May 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 18 May regarding my Explanatory Memorandum on the above document. I am grateful to the Committee for its swift consideration.

The UK remains committed to EU partnership priorities, including European security, and that is why we are seeking a deep and special future security partnership. An integral part of this will be working together on foreign policy and external security issues, in line with our shared interests and values.

Following the UK's exit from the EU, we will no longer be party to the Common Foreign and Security Policy, and will instead pursue an independent foreign policy. We are seeking a future security partnership that will enable us to maintain close consultations on foreign and security policy issues, and align where in our mutual interest, including the ENP. We envisage this relationship would enable cooperation but retain the decision making autonomy of the EU and the sovereignty of the UK. The scope and scale of UK-EU cooperation on foreign and security policy issues will depend on the outcome of negotiations on the future partnership.

7 June 2018

JOINT PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION, ON BEHALF OF THE EUROPEAN UNION, OF THE STRATEGIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND JAPAN, OF THE OTHER PART. (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I understand from your officials that the Committee would welcome an update on negotiations on the EU-Japan Strategic Partnership Agreement. I am pleased to inform the Committee that negotiations

on the SPA, which started in 2011, are drawing to a close and agreement on a final text is within reach.

The SPA is a political framework agreement between the EU and Japan, building on existing cooperation between the two parties. The agreement aims to strengthen the overall partnership between the parties. The signature of the SPA, alongside the EU-Japan Economic Partnership Agreement (EPA - the free trade agreement between the EU and Japan), will also support our wider prosperity objectives with Japan.

The SPA and EPA, though not legally linked, are politically linked and the Commission has indicated the intention to sign them together in July. As a result of the Commission's ambition to sign this agreement in July during an EU-Japan summit, the timeline for scrutiny may be shorter than usual. We will keep the Committee updated as timings become clearer. Once a final text is available, we will submit an Explanatory Memorandum setting out the government position on the SPA.

21 April 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your Explanatory Memorandum (EM) dated 8 May 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 17 May 2018.

We were disappointed with the lack of information provided in your EM, in particular regarding the implications of the UK's exit from the EU. We have a number of questions, to which we would be grateful for your response, as below.

First, the Strategic Partnership Agreement (SPA) does not include any detail about its implementation, for instance through the establishment of additional high-level dialogues or fora between the EU and Japan. Please provide us with further information regarding the measures in planning to facilitate the implementation of the SPA.

Second, it is not clear from your EM which elements of the SPA will be provisionally applied and on what basis they are identified. Please provide us with specific examples of which elements of the SPA will be provisionally applied once the Council Decision has been adopted, the basis upon which other elements are not yet applied, and when the full SPA will be applied.

Third, to what extent are the SPA and UK-Japan bilateral political co-operation complementary, and where do they overlap?

Fourth, your EM does not contain any further information about the mixed nature of the agreement. Will the UK remain party to the SPA, as set out in the draft Withdrawal Agreement, during the transition period? Will the UK seek to adapt its own bilateral partnership with Japan once the SPA ceases to apply to the UK, to account for the loss of co-operation at the EU level?

We look forward to your response in the usual 10 working days.

18 May 2018

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your letter of 18 May 2018 requesting further information on the above documents. I have responded to each of your questions in turn and I hope this provides the further clarity you are seeking.

Please provide us with further information regarding the measures in planning to facilitate the implementation of the SPA.

The SPA will be implemented by an EU-Japan Joint Committee, as agreed in Article 42 of the draft SPA; this committee will be set up to cover the wide range of issues established in the Agreement. The committee will also make recommendations and adopt decisions, where appropriate, and facilitate specific aspects of cooperation based on the Agreement. Draft Rules of Procedure will be adopted by the Council once the Agreement is signed. In accordance with its international obligations

the Government takes full account of EU international agreements and considers their application to the UK as a matter of course.

Please provide us with specific examples of which elements of the SPA will be provisionally applied once the Council Decision has been adopted, the basis upon which other elements are not yet applied, and when the full SPA will be applied.

Annex A (not published here) of this letter lists the elements of the SPA which will be provisionally applied.

The elements of the SPA which will be provisionally applied, and the basis upon which they are identified, are contained in Article 4 of the Draft Council Decision on the signing and provisional application of the SPA (in accordance with Article 47 of the SPA). These are the articles considered to contain matters within the competence of the European Union, or necessary to the extent that they relate to the provisional application of the SPA. As this is a mixed agreement, some elements are within the competence of EU Member States and as such will not be provisionally applied.

The entire SPA will enter into force after ratification by EU Member States (the Union Party) and Japan, and the exchange of the ratification instruments between the Parties in Tokyo. These steps at EU Member State level will follow signature by the European Commission, scheduled for July 2018, and European Parliamentary consent, scheduled for December 2018.

Third, to what extent are the SPA and UK-Japan bilateral political co-operation complementary, and where do they overlap?

The SPA and existing UK-Japan bilateral political co-operation overlap in the areas covered by the SPA, given the breadth of our bilateral work. Whilst existing UK-Japan cooperation is broad and strong, underpinned by a number of recent Joint Declarations agreed between the Prime Minister and Japan's Prime Minister Shinzo Abe, the SPA could provide a valuable forum for issues on which the EU exercises competency. This deepened cooperation between the EU and Japan on these issues would benefit the UK whilst it remains an EU Member State.

The SPA is also complementary to the wide range of existing UK-Japan cooperation providing beneficial multiplier effects on many issues, like climate change. We judge the overlap between the SPA and existing UK-Japan cooperation will be useful for reinforcing the broad terms of our cooperation, with direct bilateral cooperation taking forward more detailed work, especially in areas of national competency, or where formal cooperation is outlined in the Joint Declarations.

Will the UK remain party to the SPA, as set out in the draft Withdrawal Agreement, during the transition period? Will the UK seek to adapt its own bilateral partnership with Japan once the SPA ceases to apply to the UK, to account for the loss of co-operation at the EU level?

The draft Withdrawal Agreement states that during the implementation period, the UK is to be treated as a Member State for the purposes of international agreements. New agreements, such as the SPA, will form part of the body of Union law as defined in the Withdrawal Agreement and so our aim, as part of our ongoing discussions with international partners, is that these should continue to apply to the UK for the duration of the implementation period.

UK-Japan cooperation is already strong and has been recently reinforced by the Joint Vision Statement agreed during Prime Minister Theresa May's visit to Japan in 2017. We continue to discuss with our Japanese partners how best to continue building on this wide-ranging bilateral cooperation. These discussions will take stock of any relevant EU Exit implications in due course and the most appropriate bilateral arrangements to support and develop our political relationship.

31 May 2018

Letter from the Chairman to the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas

Thank you for your comprehensive letter dated 31 May 2018 regarding the above documents. They were considered by the External Affairs Sub-Committee on 14 June 2018.

In response to the additional information received, we have decided to clear the above documents from scrutiny. You do not need to respond to this letter.

22 June 2018

COUNCIL DECISION AMENDING AND EXTENDING COUNCIL DECISION OTNYR -
COMMISSION IMPLEMENTING REGULATION (EU) .../... OF XXX ON CERTAIN
COMMERCIAL POLICY MEASURES CONCERNING CERTAIN PRODUCTS
ORIGINATING IN THE UNITED STATES OF AMERICA PURSUANT TO ARTICLE 4(1)
OF REGULATION (EU) NO 654/2014 (OTNYR)

**Letter from the Chairman to the Rt Hon Greg Hands MP, Minister of State for Trade
Policy, Department for International Trade**

Thank you for your Explanatory Memorandum (EM) dated 8 May 2018 regarding the above document. This was considered by the External Affairs Sub-Committee on 24 May 2018.

We have a number of questions about the impact of Brexit, to which we would be grateful for your response, as below.

Our first question relates to the two sets of countermeasures with different start dates that are included in the appendices to the regulations. The more immediate set of countermeasures, if implemented, will apply from 20 June 2018. While we understand that the draft Withdrawal Agreement suggests that international agreements will continue to apply to the UK during the transition period, we would be grateful if you could confirm whether the UK would continue to apply these tariff countermeasures during that time and what the process for this would be.

Second, what consideration has been given to how (and if) the UK would continue to implement these tariffs should the EU countermeasures continue to be in place after the end of the transition period?

Thirdly, the second set of countermeasures, which are additional further tariffs, will only apply from 20 March 2021 (or upon a WTO determination of inconsistency of the US safeguard measures) – so likely after the transition period has ended. While the UK's current position is one of agreement with the EU on these countermeasures, we would be grateful for confirmation whether the UK Government will seek to apply the March 2021 tariffs and any mechanisms for doing so. We would also be keen to know, what role, if any, the new Trade Remedies Authority provided for by the Trade Bill will play.

In the meantime, we are keeping this item under scrutiny. We look forward to your response in the usual 10 working days.

25 May 2018

Letter from the Rt Hon Liam Fox MP, Secretary of State for International Trade

Thank you for your letter dated 25 May regarding the Explanatory Memorandum (EM) in relation to the above-captioned Commission Implementing Regulation (EU).

As set out in the draft Withdrawal Agreement, the UK would apply the Common Customs Tariff during the transition period. Countermeasures are increased tariffs, therefore, the UK would continue to apply such measures maintained by the EU during this period.

After the end of the transition period, whether the UK would continue to implement these tariffs or implement the second set of countermeasures would depend on the customs arrangements to be agreed with the EU. The Trade Remedies Authority, which will be an independent, arms-length body, will not be responsible for deciding whether to impose these countermeasures.

I hope this answers your questions, but please do not hesitate to write back if you require any further clarification.

11 June 2018

**Letter from the Chairman to the Rt Hon Liam Fox MP, Secretary of State for
International Trade**

Thank you for your letter dated 11 June regarding the above document. It was considered by the External Affairs Sub-Committee on 21 June 2018. On the basis of the information provided, the Committee has decided to clear the item from scrutiny.

The Committee just had one follow-up question: is the Government aware if there are any EU plans to introduce non-tariff barriers in response to the actions by the US? Grateful if you could respond, as usual, within 10 working days.

22 June 2018

COUNCIL DECISION (CFSP) 2018/778 OF 28 MAY 2018 AMENDING DECISION 2013/255/CFSP CONCERNING RESTRICTIVE MEASURES AGAINST SYRIA (OTNYR)

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I am writing with regard to the attached EU Council Decision and Council Implementing Regulation. These documents renew the measures, which include the designation of over 250 individuals and entities, for 12 months until 1 June 2019.

As detailed in the attached Explanatory Memorandum, the situation in Syria continues to be of serious concern. It is therefore important that the UK continues to send a strong message to the Syrian regime that its continued intransigence is unacceptable by supporting the EU Council in its decision to renew these restrictive measures for another 12 months.

I unfortunately found myself in the position of having to agree to the adoption of these measures without being able to follow the normal parliamentary scrutiny process. As you know, the responsibility to keep your Committee informed on issues concerning sanctions is something I take seriously and the need for the override of scrutiny on this occasion was regrettably unavoidable.

26 June 2018

EU FTA ARCHITECTURE FOLLOWING THE COURT OF JUSTICE OF THE EUROPEAN UNION'S OPINION ON THE EU-SINGAPORE FTA OF MAY 2017

Letter from Rt Hon Greg Hands MP, Minister of State for Trade Policy, Department for International Trade

I am writing to you with respect to developments in the EU's approach to the architecture of Free Trade Agreements (FTAs). This specifically relates to competence and the way in which agreements are concluded and implemented.

Since the Lisbon Treaty entered into force in 2009, there has been a difference of interpretation between the Commission and Member States over the extent to which certain provisions typically found in EU FTAs fall within the scope of the Common Commercial Policy (CCP). The CCP is explicitly placed under the exclusive competence of the EU via Article 3(1)(e) of the Treaty on the Functioning of the European Union (TFEU), and as such the ensuing debate has been around the degree to which the provisions in question might fall beyond the scope of the CCP, and within an area of competence shared with Member States or even within an area outside of the EU's competence entirely. The division of competence is important in identifying how an EU FTA is to be concluded. FTAs that include areas of both EU and shared competence are typically presented as mixed agreements, requiring ratification by all Member States in addition to conclusion by the EU and ratification by the third-country. FTAs only covering areas of EU exclusive competence only need to be concluded by the EU and ratified by third-countries. Some of the main contested areas have been cross-border transport services, investment, sustainable development and intellectual property. The UK has been an active participant in the ongoing debate.

As previously communicated to the committees, the Commission referred the EU-Singapore FTA to the Court of Justice of the European Union (CJEU) on 10 July 2015 for an Opinion on the balance of competence within the agreement. On 16 May 2017 the CJEU reached its Opinion, which I summarised in my written update of 13 July 2017. The Court considered that most areas of the EU-Singapore FTA fall within the remit of the CCP and are therefore under the exclusive competence of the EU, with the exception of certain investment provisions. Specifically, the Court considered provisions relating to non-direct foreign investment and investor-state dispute settlement to fall within an area of shared competence. The EU-Singapore FTA is a broad, modern EU FTA and,

therefore, the CJEU's Opinion is likely to be determinative of the competence position on other modern EU FTAs.

Following the CJEU's Opinion, the Commission have proposed a new approach to EU FTA architecture. The overall approach outlined by the Commission would allow for EU-only FTAs by separating out investment protection and investment dispute settlement. For those agreements which have not yet been signed but which are initialled or under negotiation, the Commission have proposed splitting texts to allow for an EU-only FTA with separate mixed investment agreements (where an investment chapter has been negotiated). For new FTAs, the Commission will seek mandates that allow for an EU-only FTA, with the option of a separate mixed investment agreement. The Commission have argued in favour of streamlining the process of concluding EU FTAs in order to further strengthen the EU's position as an effective negotiating partner, able to implement agreements efficiently.

Noting the broader significance of this matter, Council Conclusions on EU FTA architecture have been proposed by the Bulgarian Presidency and are under discussion by Member States. The Conclusions are expected to address the engagement of national parliaments in the EU's FTA process, following the CJEU's opinion on the Singapore FTA. The UK Government acknowledges the role of the CJEU in interpreting the EU Treaties and we note the clarity provided on the remit of the CCP by the Court's Opinion on the balance of competence in the EU-Singapore FTA. We also recognise the importance of keeping national parliaments duly informed and consulted on EU trade policy, and the valuable role they play in addition to the Council and the European Parliament in embedding democratic accountability.

As a departing Member State, soon to be outside of the EU, it is appropriate that the UK's role in shaping the EU's long-term approach to EU FTA architecture should change from our pre-referendum position. As such, should the Council reach consensus, the UK will not block the adoption of Council Conclusions. Whilst it would not be appropriate for the UK to seek to fundamentally influence the core debate on competence architecture at this stage, we will nevertheless remain engaged in the process of agreeing the Council Conclusions, and ensuring that they reflect the correct legal position. We will continue to advocate a position which recognises the importance of involving national parliaments, civil society and citizens in the development of EU trade agreements. I will write again to both scrutiny committees to provide an update following the Trade Foreign Affairs Council on 22 May 2018, where the Council Conclusions are likely to feature as part of the agenda.

This development in the approach to EU FTA architecture does have implications for the role of national parliaments in concluding EU FTAs. Mixed agreements involving shared competence between the EU and its Member States require ratification by Member States before they can enter into force, whereas EU-only competence agreements do not and enter fully into force following approval and conclusion by the Council and the European Parliament, and ratification by the third-country. In this respect I am aware that concluding FTAs as EU-only agreements will have implications for the involvement of the UK Parliament in concluding EU FTAs, with formal scrutiny ahead of the Council Decisions on signature and conclusion no longer accompanied by a domestic ratification process.

The first agreements in respect of which the new architecture is applied will be the EU-Japan Economic Partnership Agreement (EPA) and the EU-Singapore FTA. The agreement with Japan was negotiated without an investment chapter and has therefore been presented to Council as an EU-only EPA. Singapore was presented to Council as two agreements; an EU-only FTA and a separate mixed Investment Protection Agreement (IPA). This means that Member States will not be required to ratify the EPA or the FTA. Whilst Member States will need to ratify the Singapore IPA, it is not envisaged that the UK will do so given the time this process usually takes (nearly 5 years in the case of the EU-Korea FTA) and the fact that the UK will almost certainly have left the EU ahead of this. The Commission has signalled that it will not seek to provisionally apply any aspects of the IPA and we do not expect Member States to request this.

Given the implications of the change in architecture for parliamentary involvement in the conclusion of the Japan and Singapore agreements, I would like to work with you and your committee, as well as the House of Commons European Scrutiny Committee, to explore ways to ensure that opportunities for thorough scrutiny remain. Subject to parliamentary time, I will work with Business Managers and the Whips Offices to identify opportunities to debate these agreements in both Houses, should this be of interest. My ministerial colleagues and I will also be available to appear before the Committees if

this is requested. In the coming weeks, I will present explanatory memoranda to Parliament on these agreements.

In the meantime, my Department stands ready to respond to any questions on the Explanatory Memoranda I submit in relation to the proposed Council Decisions on signature of the EU-Japan EPA, the EU-Singapore FTA and the EU-Singapore IPA.

2 May 2018

RATIFICATION OF EU THIRD COUNTRY AGREEMENTS

Letter from the Rt Hon Sir Alan Duncan KCMG MP, Minister of State for Europe and the Americas, Foreign and Commonwealth Office

I am writing to inform you about the action the Government is taking on the ratification of EU Third Country Agreements (TCAs) before our exit from the EU. These are agreements with non-EU ("third") countries which the EU has entered into on the UK's behalf as an EU Member State. I wanted to inform you that these agreements are being ratified, given your interest in the topics covered.

Until the UK leaves the EU we retain a duty of cooperation to the EU and other Member States. During this period the Government will continue to negotiate and apply EU legislation, including ratifying EU TCAs. Ratifying these agreements also reaffirms the UK's commitment to our partners around the world. Once ratified, the Government will consider replicating the agreements' effects in bilateral agreements.

The agreements we intend to ratify are as follows:

- EU-**Canada** Strategic Partnership Agreement (**SPA**)
- EU-**Australia** Framework Agreement (**FA**)
- EU-**New Zealand** Partnership Agreement on Relations and Cooperation (**PARC**)
- EU-**Cuba** Political Dialogue and Cooperation Agreement (**PDCA**)
- EU-**Central America** Association Agreement (**AA**)
- EU-**Armenia** Comprehensive and Enhanced Partnership Agreement (**CEPA**)
- EU-**Kazakhstan** Enhanced Partnership and Cooperation Agreement (**ePCA**)
- EU-**Turkmenistan** Partnership and Cooperation Agreement (**PCA**)

These agreements are high level political agreements with countries that represent significant opportunities for the UK as we leave the EU. Each TCA provides for regular political dialogues intended to strengthen links and encourage convergence on areas of mutual interest. The agendas include respect for human rights, the promotion of democratic principles, and sustainable development, amongst many others.

The headline scope of the agreements is as follows:

- The **Canada SPA** is the sister political agreement to the EU-Canada Comprehensive Economic and Trade Agreement (CETA), and provides political support to the trading relationship.
- The **Australia FA** and **New Zealand PARC** are both precursors to EU-Australia and EU-New Zealand Free Trade Agreements.
- The **Cuba PDCA** provides for cooperation on sustainable development, human rights and trade, with a view to strengthening trade relations.
- The **Central America AA** contains extensive trade provisions which address obstacles to trade and establish a framework for future trade relations between the parties.
- The **Armenia CEPA** strengthens and replaces the existing Partnership and Cooperation Agreement, and provides a strong foundation for future political and economic cooperation.

- The **Kazakhstan ePCA** will increase the ease of doing business for UK firms, including reciprocal most-favoured nation treatment for trade in goods.
- The **Turkmenistan PCA** will contribute to progress on economic reform and social development in Turkmenistan, including human rights.

Full texts of the agreements are available at the gov.uk website.

The Government laid the **Canada SPA, Australia FA, New Zealand PARC, Cuba PDCA** and **Armenia CEPA** under the Constitutional Reform and Governance (CraG) Act 2010 during the week of 23 April 2018. The other three agreements – **Central America AA, Kazakhstan ePCA** and **Turkmenistan PCA** – have previously been laid and approved under the CraG Act.

The Government intends to schedule the motions for the affirmative Statutory Instruments for all eight TCAs later this year. Ahead of this I would like to offer the opportunity for you to raise any questions you may have with officials in my Department.

18 May 2018