



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 November 2012 – 8 May 2013

EXTERNAL AFFAIRS

(SUB-COMMITTEE C)

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AFGHANISTAN: EU POLICE MISSION

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

I am writing to let your Committee know my views on the findings of the EUPOL Strategic Review, on its implications for the right way forward, and where matters stand on evaluating its impact and value for money.

This Strategic Review was of particular importance as it examined EUPOL's mandate at a crucial period in the run up to transition in 2014. Discussions on the review were tough and protracted – but I am pleased that UK officials secured the key UK objectives of a continued focus on Afghan National Police senior leadership, a tighter and more focused EUPOL presence in the provinces and a further review next year to determine the shape of CSDP engagement after transition.

The UK considers that EUPOL is the appropriate body to fulfil the role of providing the civilian policing expertise that is vital for developing a more capable, legitimate, accountable and sustainable Afghan National Police (ANP). This is a unique role. EUPOL complements the work of the US and other international police reform programmes such as the NATO Training Mission Afghanistan (NTM-A), which focuses on recruitment, equipping and providing basic training for new police recruits.

The Review put forward four options for consideration on the functional focus and scope of EUPOL:

- EUPOL focus on the professionalization of the civilian part of the ANP (training intensive);
- EUPOL focus on the development of civilian policing including its connection to justice (including mentoring and advising as well as training);
- Current three pillar focus with increased role in the justice reform/wider rule of law reform;
- EUPOL as a lead organisation in development of civilian policing.

The consensus among Member States was **option b**, which the UK pushed hard for. In order to make progress with the development of a civilian police force, some level of concurrent progress is needed in the development of the formal justice sector. However it is not practical for EUPOL to take on this increased role in justice/wider rule of law. There are other international actors (such as the UN, the World Bank and separate EU programmes) better placed to perform this role. Since it was founded in 2007 EUPOL has worked hard to establish itself as the provider of training and mentoring to mid and senior level ranking police and to find its niche alongside other international partners. EUPOL is now performing a role which no other international partner is providing. To expand its focus now would dilute the impact that EUPOL is having and risk a need for a further increase in resources – one that is likely to be unachievable in the current climate. At the same time, a reduced training-only focus would remove EUPOL's capacity to provide mentoring support to the ANP and Ministry of Interior leadership, and would impact on the sustainability of the mission's activities.

The second question the review looked at was EUPOL's geographical point of application and its presence outside Kabul. Three options were proposed:

- No permanent EUPOL presence outside Kabul;
- Concentration in fewer locations outside Kabul, in addition to a Kabul presence;
- Seek to maintain or expand wide geographic coverage.

Member States agreed on **option b**, which I fully support. At present EUPOL operates in 10 provinces, based out of Provincial Reconstruction Teams (PRT's). Many of these, including our own PRT in Helmand, will close in the run up to 2014. EUPOL will therefore have to adapt its provincial presence. Based on an assessment of the security conditions and delivery of EUPOL's activities in each province, the mission proposes to reduce EUPOL's presence to 3 or 4 key provinces where force protection will be sufficient (Helmand, Kunduz, Mazar e-Sharif, and Herat), as well as Kabul.

I believe that a EUPOL presence in the provinces, for as long as possible, has many advantages such as: extending EUPOL's influence beyond Kabul; enabling local solutions that cannot always be addressed centrally from Kabul; the opportunity for civilian police experts to influence predominantly military-led training and mentoring. It also allows EUPOL to work with those Afghans leading the police effort on the ground - the Provincial and District Chiefs of Police.

The key issue will be security considerations in each of the provinces and how effective EUPOL can be in each location. Member States have requested information on the modalities and costs of this reduction in sites during the next phase of operational planning, so we will have an opportunity to scrutinise the mission's proposals. The challenge for EUPOL is to deliver mentoring and training that is sustainable – more train the trainer courses – and that has impact.

As you know, the EUPOL budget for the period 31 July 2012 – 31 May 2013 represented an increase from the previous year. The main reason for this was the need for the mission to have a greater level of security and more close protection teams. This is in response to recent attacks on international advisers, as well as a heightened threat environment and is consistent with the increased security arrangements of others in the international community. The security of those working for the Mission will always be a priority.

The final question examined in the review was the time horizon of CSDP engagement in Afghanistan. The review proposed three options:

- Extension of EUPOL mandate until the end of 2014 but no longer;
- Extension of EUPOL mandate until the end of 2014 (with a view to return to the issue of possible post-2014 CSDP engagement);
- Extension of EUPOL mandate beyond the end of 2014.

Member States agreed that **option b** was the best option, at this stage, and have requested that the EEAS and the Commission prepare a review by mid-2013 of comprehensive EU action to strengthen civilian policing and Rule of Law post-2014. This will include a detailed analysis of the full range of EU instruments, including CSDP, available to support this work. The UK position on whether the EUPOL mission should continue post-2014 will be based on whether EUPOL has achieved its objectives on the ground, and whether it is the most effective organisation to take forward its activities.

A planning document based on the above-mentioned options, as outlined in the Strategic Review paper, will now be drawn up looking at the role of the Mission until the end of 2014. This will contain detailed benchmarks for the mission.

In light of the next review to examine EUPOL's mandate post transition, evaluating the impact of EUPOL will become a more important part of the missions work. More effective benchmarking and monitoring and evaluating of its activities will allow Member States to determine whether EUPOL has achieved its objectives and provide a starting point to plan for responsibility of training activities to be passed to other actors.

Thus far the Mission has rightly focussed on establishing itself as a valued contributor to the international effort on policing in Afghanistan and on delivery, by rolling out mentoring and training programmes throughout the country. For example the Police Staff College in Kabul has trained over 4,000 mid to senior ranking police officers and EUPOL has established a reputation as a respected partner. The question that needs to be examined now is the impact of this training and how sustainable it is – Can the Afghans continue this training beyond 2014 with a much reduced international presence. EUPOL needs to get better at measuring this.

It is not just the UK that is pushing for this, other Member States, like France, are also keen for evidence of how EUPOL is having a positive impact on civilian policing. Furthermore there are now 14 CSDP missions globally, with the potential need for more, meaning that EU resources are stretched. Missions need to provide more comprehensive evidence of their effectiveness to Member States to show that funds are being used to deliver maximum impact.

I am pleased to hear that, prompted by the UK, the new EUPOL Head of Mission Karl Age Roghe, is preparing to establish a “pure benchmarking system” for the mission. I look forward to updating the Committee on this in due course.

8 November 2012

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

Thank you for your letter of 8 November which provided an update on the findings of the EUPOL Strategic Review and which the EU Sub-Committee for External Affairs considered at its meeting on 22 November 2012.

Considering the persistence of high levels of insecurity throughout most Afghan provinces, the Committee considers it regrettable that the mission will reduce its provincial presence to 3 or 4 key provinces. That this is the result of the security situation does not bode well for the position after 2014.

We are also concerned about the measurable outcomes of the mission, and that the overall situation may not be as optimistic as your letter indicates. We understand that the Afghan police force has serious weaknesses at all levels of its hierarchy and have noted the reports of possible insurgent infiltration within the Afghan police. Could you give us your assessment of the state of the Afghan police force and how EUPOL is progressing in contributing to establish a sustainable, effective and trusted police force in Afghanistan?

The Committee would also appreciate more information on the resources that are being provided to the mission. Our report on EUPOL was concerned that even the limited human resources that were agreed for the mission were not being met. What is the current situation in terms of deployment versus agreed manpower establishment?

Finally, as you know, the Committee takes a close interest in EUPOL Afghanistan and would be grateful if you would continue to keep them updated of about developments

I look forward to receiving your reply within the standard ten working days.

26 November 2012

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

Thank you for your letter of 26 November which asks a number of follow-up questions on EUPOL arising from the Strategic Review. You raise some important issues. Our apologies for the delay in responding.

PROVINCIAL PRESENCE

The Government believes that as security transition to Afghan control approaches, EUPOL will have to adapt its presence outside of Kabul. The Strategic Review identified the EUPOL sites that should be maintained based on a number of factors. These included cost effectiveness – EUPOL should focus on the areas where it is having - and can have - most impact. Force protection, rather than the overall security situation per se, was also a consideration. Due to duty of care considerations, EUPOL can only operate in areas where there is sufficient international force protection available to support the EUPOL mission. As we approach 2014, troops numbers (including our own) are reducing across Afghanistan. The remaining EUPOL provincial sites are expected to have sufficient international force protection to allow EUPOL to continue to operate through 2013 and into 2014. When determining regional presence, we need to ensure EUPOL continues to work in step with NATO and other international partners in their area of operations. Security in Afghanistan varies from province to province, as do international troop numbers. The security of EUPOL officers is, and will continue to be, paramount.

INSURGENT INFILTRATION

You raise the very important point of possible insurgent infiltration within the Afghan police. The Mission is actively implementing a number of measures to mitigate against this risk. It has increased Close Protection Teams; is advertising for three additional mission security officers; and continues to review its security mitigation measures in consultation with other international partners.

More widely, ISAF initiatives include the four step approach – prevention, education (including cultural training), training and protection; the guardian angel programme and significantly increased vetting (including biometric vetting). Afghan prevention initiatives include improved ANSF vetting (ISAF and NTMA are working with the Afghans to make the process more robust); increased counter-intelligence capacity in Afghan units; an anonymous reporting system across the ANSF; and outlawing the sale of uniforms across Afghanistan.

STATE OF THE AFGHAN POLICE

You ask for our assessment of the state of the Afghan police force. Our view is that the Afghan police have made significant strides forward. Approximately 150,000 police officers have been recruited and trained in a relatively short space of time. But of course significant challenges remain. We are now focused on supporting the Afghans to professionalise those police officers so that they are able to provide the civilian policing services that the Afghan people want and need. EUPOL is working alongside international partners like NTM-A, ISAF and IJC to address this through initiatives such as:

- the Police Staff College Kabul which has trained over 4,000 mid to senior level ranking police officers in a range of civilian policing skills, including crime scene management, leadership and professional standards;
- the International Police Co-ordination Board (IPCB) - that EUPOL funds and is chaired by a senior British diplomat - which is drawing together the various actors on policing to help the Afghans create a sustainable plan for police reform;
- the Policing Plan (devised by EUPOL) being rolled out in Lashkar Gah. (The aim of the plan is to help police precincts develop the ability (at a local level) to disseminate information and intelligence and to deploy resources, both rapidly and efficiently, in order that they can provide a response that will allow them to effectively control policing incidents and engage with the community).

I believe that the EUPOL Mission is working well with the Afghans to deliver its objectives of developing a sustainable police force and achieving a successful and sustainable transition. The continued input of civilian policing is crucial to achieving this. Recent national public survey perception data suggests that the Afghan people's trust and confidence in the police is improving. The Asia Foundation Survey of the Afghan People 2012 suggests that 85% saw the ANP as honest and fair. I am sure that you will agree with me that this in no small part due to the efforts of the EUPOL contingent.

EUPOL RESOURCES

Numbers of international staff, in EUPOL, stand at 353 (the optimum headcount is considered to be 400) with an additional 200 local staff – (June 2012). This is up from 182 at the start of 2009. While there is a shortfall in staffing we judge that this does not have a significant impact on EUPOL's operational capability. Its existing complement of staff allows EUPOL to fulfil its full mandate. As PRT's around Afghanistan are beginning to close and international partners look to reduce manpower the Mission is discussing redeploying staff and the number of staff in country may start to fall. The establishment by the Head of EUPOL of a "pure benchmarking system" will allow EUPOL to determine whether they are sufficiently resourced to deliver their objectives.

You should be aware that EUPOL's operational plan (OPLAN) has been discussed and agreed in Brussels. Our input secured the following improvements to this document:

- To include wording stating that the presence in the provinces will be based on a case-by-case needs assessment of each location taking into account: cost-effectiveness, key enablers (security, life/medical support), security situation, geographical relevance and coherence, sufficient numbers of deployable staff, and what other international partners are doing in that area of operations.
- Benchmarks that are more conducive to creating effective qualitative as well as quantitative evidence of impact of the mission.
- Wording of an exit strategy that does not pre-judge a EUPOL presence post-2014.

7 January 2013

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

Thank you for your letter of 7 January which was considered at the meeting of the EU Committee on External Affairs on 17 January 2013.

We are grateful for the comprehensive information provided in your letter. However, we were

struck by the fact that you do not mention training to tackle illiteracy amongst the Afghan National Police (ANP) – an issue that was drawn to our attention as being of key importance during the course of our inquiry into Afghanistan. Can you please provide us with more information on what steps are being taken by the EU and the Government to boost literacy amongst the ANP?

We were interested in the statistics on the ANP from the Asia Foundation Survey quoted on page 2 of your letter. Could you let us know if you have confidence in these statistics?

I look forward to receiving your reply within the standard ten working days.

24 January 2013

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

Thank you for your letter of 24 January in which you ask some follow-up questions to my letter of 7 January on the Strategic Review of the EUPOL Mission.

Firstly you ask what steps are being taken by the EU and the Government to boost literacy amongst the Afghan National Police (ANP). The international community recognises the importance of improving literacy to increase the capability, quality and accountability of the Afghan Forces, and the NATO Training Mission – Afghanistan (NTM-A) has taken the lead responsibility in providing literacy training to both the ANP and the Afghan National Army (ANA).

Literacy is a mandatory element of training for new and existing recruits. Of the eight week training programme for new ANP recruits, two weeks are dedicated to literacy training. This, along with the ANP Literacy Programme, means more than 21,000 (14%) of ANP recruits have now achieved the UN standard of functional literacy

However, it is unrealistic to expect a fully literate police force in a country where the majority of citizens are illiterate - 90% of ANP recruits are both illiterate and innumerate when they join. To raise ANP literacy rates against this back-drop will take time and the continued support of the international community. NTM-A has a plan in place to ensure this support is delivered.

Your second question is about the statistics in the Asia Foundation Survey on the ANP, quoted in my previous letter. As I am sure you will appreciate, the security situation in Afghanistan and the difficult operating environment mean that it is extremely challenging to obtain survey data. However, the Asia Foundation does endeavour to poll a random, nationally representative sample of the Afghan people, divided between rural and urban households. The Asia Foundation itself rates its data as having a margin of sampling error of +/- 5.1%, at a 95% confidence level .

Within the field we operate, the survey results represent the most reliable data we receive. If we look at the trends in the data, which give a more reliable picture than a single year's figures, it is clear that confidence in the ANP has gradually risen – in December 2008 33% of respondents reported an improvement in the performance of the ANP; by December 2012 this had grown to 48%. On a provincial level, the Asia Foundation Survey statistics are born out of the Helmand Monitoring & Evaluation Programme data (HMEP) as well as the surveys conducted by the Afghan Centre for Socio-Economic Research (ACSOR). Both these support the view that public perception of the ANP is improving.

There are a range of interventions from a number of organisations that will have contributed to an improvement in the perception of the ANP. EUPOL has had a considerable impact as have the professionalisation of the organisation through its leadership programmes, the Police Staff College and development in areas such as investigation standards and community policing.

I enclose a copy of the Asia Foundation 2012 Afghan Survey FAQ for your information.

6 February 2013

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

The above letter was considered at the meeting of the EU Committee on External Affairs on 14 February 2013.

Thank you for the additional information on the literacy levels and the literacy teaching offered to Afghan National Police recruits. The Committee are concerned at the high levels on illiteracy within the ANP and the detrimental impact this is having on the capacity of the ANP.

There is no need to respond to this letter unless, of course, you wish to do so.

14 February 2013

APPLICATION AND ENFORCEMENT OF INTERNATIONAL TRADE RULES (“THE ENFORCEMENT PROPOSAL”) (18079/12)

Letter from the Chairman to Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills

The proposal above was considered by the External Affairs Sub-Committee at its meeting on 31 January. The matter was retained under scrutiny.

We note that the proposal would give the Commission a greater say in the adoption of EU retaliatory measures at the expense of the Council and the European Parliament. We support arrangements that give the Member States the greatest say in the adoption of EU retaliatory measures whilst enabling the EU to act swiftly.

It seems to us that this could best be achieved (and also most nearly replicate the pre-Lisbon arrangements) by conferring the power to adopt implementing legislation on the Council rather than the Commission, as envisaged by Article 291.2 TFEU, in “duly justified cases”. Has this approach been tried?

Subject to this we support, in principle, your negotiation objective of seeking additional Member State engagement in any decisions to take retaliatory trade measures, as a balance to the greater power which the proposal would bring to the Commission. This gives rise to two questions:

- Will adding further Member State involvement to the implementing legislation procedure lead to unacceptable delays?
- Do you consider that it would be legally acceptable to include a provision to this effect in the legislation itself, given that this may be considered as impermissible elaboration of the Comitology Regulation?

Finally, we note that the European Parliament has been informally consulted by the Commission. What is its approach likely to be - either to the proposal as it stands, or to our suggestion of the Council exercising implementing powers, or to your suggestion of additional Member State engagement?

I look forward to receiving your reply within the standard ten working days.

1 February 2013

Letter from Lord Green of Hurstpierpoint to the Chairman

Thank you for your letter of 1 February commenting on and raising some questions on the Department’s Explanatory Memorandum on the enforcement proposal. I will deal with each of your points in turn.

The principle that trade policy regulation should become part of EU decision-making procedures was established by the Treaty on the Functioning of the European Union (TFEU). The enforcement proposal is intended to make changes that are necessary for the EU to take retaliatory or other enforcement action in order to uphold multilateral or bilateral agreements. It seeks to do this by establishing a legislative framework for such action. At the first discussion of the proposal in the Commercial Questions Council Working Group (CQG) on 16 January all Member States (MS) intervening supported the principle of the establishment of a legislative framework for enforcement action.

In our assessment, and taking into account the overall scope and post-TFEU operation of trade policy regulation, it would not be appropriate to create a legislative framework that provided for a Council Regulation for such action based on the ‘duly justified’ provision. It is important to note that any proposal for implementation by Council Regulation would need to be supported by all MS and agreed to by the European Parliament (EP) through the Ordinary Legislative Procedure.

What is proposed here mirrors in most respects the post-TFEU operation of EU trade defence (anti-dumping/anti-subsidy/safeguard) instruments. The basic Regulations are, like this framework proposal, subject to the Ordinary Legislative Procedure. Individual measures are then implemented

under the examination committee procedure, whereby definitive measures proposed by the Commission are subject to a determining vote by MS.

In terms of MS involvement in decision-making our negotiating objective, as stated in the EM, is to ensure “appropriate Member State engagement”. This does not necessarily mean “additional” engagement. It may do so, but it can equally mean maintaining the level of engagement proposed by the Commission, which at first sight seems reasonable. On your two specific questions: we would ensure that any MS involvement did not result in unacceptable delays; and, in the context of the current Trade Omnibus I proposal, it has proved legally possible to provide for appropriate MS involvement in a way consistent with the horizontal Comitology Regulation.

Finally, the EP had not been consulted by the Commission at the time of the CQG meeting on 16 January. A first meeting was due to take place shortly afterwards and the Commission is expected to report back to Member States at the CQG meeting on 13 February. This is not however early enough to include in this letter and to meet your deadline. I will write further if there is anything substantive to report on the Commission’s report.

However, I can say with some confidence that the EP would oppose granting the Council implementing powers. On the question of additional MS engagement, the EP view on the acceptability to them of appropriate MS involvement is likely to depend on the form of that engagement.

11 February 2013

Letter from the Chairman to Lord Green of Hurstpierpoint

Thank you for your letter of 11 February on the above matter. This was considered by the External Affairs Sub-Committee at its meeting of 14 February. We decided to retain this matter under scrutiny pending the view of the European Parliament.

We note that you consider that conferring implementing powers on the Council would not be negotiable with other Member States and the European Parliament, particularly in the light of the approach taken in respect of other trade defence measures.

It appears to us from your response concerning greater Member State engagement, and particularly the parallel you draw with the Trade Omnibus I proposal (which does not include any formal provision to this effect), that any such engagement will remain informal and therefore reliant on Commission goodwill. We would support any steps you can negotiate to bind the Commission, either legally or politically, to greater engagement with Member States.

We should be grateful for an update in due course.

14 February 2013

CARTAGENA ACTION PLAN 2010-2014

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

The Ottawa Convention banning anti-personnel landmines came into force on 1 March 1999. It is a comprehensive treaty that prohibits the use, production and transfer of anti-personnel landmines. It also places obligations on States Parties to assist the victims of land mines, clear mined areas, and destroy their stockpiles. The Convention’s Second Review Conference was held in Cartagena, Colombia in December 2009. There, States Parties adopted the Cartagena Action Plan, which sets out actions and milestones for implementing the Convention’s obligations and promoting it to those States yet to join. The Council Decision is designed to support the implementation of the Cartagena Action Plan.

The draft Council Decision has since been amended to rationalise and focus the activities to be pursued, facilitate their assessment and to ensure value for money. The External Action Service have provided an explanatory note setting out the nature of the changes and explaining the 12 month delay in the Council Decision being taken forward. The budget proposed for the activities is €1,030,000, marginally less than the €1,070,000 stated in the original draft Council Decision cleared through your committee.

It is our firm assessment that the Council Decision changes are not related to any policy change or change of objective, but have been made for good housekeeping reasons. The amended draft Council

Decision is set to be adopted at the Foreign Affairs Council on 13 November. Given the administrative nature of the changes, I hope your Committee will agree that the draft Council Decision can go forward for adoption without needing to clear scrutiny again.

2 November 2012

CHEMICAL WEAPONS CONVENTION

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

On 6 November 2012, the Select Committee on the European Union cleared the Council of the European Union Decision on the position relating to the Third Chemical Weapons Convention (CWC) Review Conference to be held in April 2013. Similarly on 31 October 2012 the House of Commons European Scrutiny Committee cleared the same EU Council Decision. This Committee deemed this to be “politically important” and asked for a report after the Review Conference to assess whether the EU’s objectives were met. The Committee also asked for an assessment of the contribution of the EU collectively, and the UK nationally, to the outcome. The final version of the EU Council Decision (2012/712/CFSP) is at Flag A. I am writing similarly to you to provide an update.

The CWC Third Review Conference concluded on 19 April 2013 and issued a Report which included a Political Declaration and a review of the operation of the Convention (Flag B). It confirms the “unequivocal commitment” of the States Parties to the global chemical weapons ban, represents a comprehensive review of CWC implementation since the Second Review Conference in 2008 and maps out the OPCW’s priorities for the coming five years.

The overarching EU objectives for the Third Review Conference were to strengthen the Convention by building on the progress achieved so far in destroying declared stockpiles of chemical weapons and the prevention of their re-emergence, through, e.g. enhancement of the CWC’s verification regime, improvement of national implementation as well as efforts towards achieving universality. The EU also aimed to strengthen the Convention by adapting its implementation in the light of the changing security environment and developments in science and technology.

The Report of the Review Conference indicated in particular:

- That the Organisation for the Prohibition of Chemical Weapons (OPCW) will continue to receive the required support in order to achieve the object and purpose of the Convention, to ensure the full, effective, and non-discriminatory implementation of its provisions and to deal more effectively with future opportunities and challenges;
- The Conference’s desire to improve interaction with the chemical industry, including with regional and international industry associations, the scientific community, academia, and civil society organisations engaged in issues relevant to the Convention, and cooperate as appropriate with other relevant international and regional organisations, in promoting the goals of the Convention;
- The deep concern by States Parties that chemical weapons may have been used in Syria and that any such use would be reprehensible; support for close cooperation between the Director-General of the OPCW and the Secretary-General of the United Nations on the investigation of alleged use of chemical weapons;
- States Parties should intensify their efforts with all States not Party to encourage them to ratify or accede to the Convention and requested the Secretariat and the Director-General to make full use of all available opportunities and resources to pursue this goal;
- States Parties which are yet to fulfil their obligations by putting in place relevant legislation are encouraged to engage with the OPCW Technical Secretariat on the steps to be undertaken for the national implementation of the Convention;

- Chemical safety and security are the prime responsibilities of States Parties and encouraged the States Parties and the Secretariat to promote the OPCW's role as a platform for voluntary consultation and cooperation among States Parties;
- The verification system should continue to be improved in response to advances in science and technology, that the Technical Secretariat's preparation to maintain a capability to mount a challenge inspection or investigation of alleged use is sustained, and public diplomacy in maintaining the Convention's role as a bulwark against chemical weapons.

EU ROLE

The EU played an important role under the Cypriot and Irish Presidencies. The EU co-ordinated Review Conference preparations in weekly meetings in The Hague. Developments were also discussed in monthly CODUN (Working Group on Global Disarmament and Arms Control) meetings in Brussels. The aim of these meetings was to consolidate the EU position for the Review Conference, and to share information about the approaches of individual EU Member States to the issues expected to arise. At the Review Conference, Ireland, as Presidency, spoke on behalf of the EU and acted to defend the EU position – supported by individual Member States as required to promote specific policies or defend national and/or EU positions. The EU Statement (Flag C) at the Review Conference was made by His Excellency Jacek Bylica, Principle Adviser and Special Envoy for Non-Proliferation and Disarmament of the European External Action Service. It sets out the EU position, in particular:

- The remaining work to bring the remaining eight non-States Parties (Angola, Burma, DPRK, Egypt, Israel, Somalia, South Sudan and Syria) into the Convention while referring to EU financial support;
- Recognise the on-going process by chemical weapons possessor States (in particular Russian Federation, United States of America and Libya) to destroy their remaining stocks;
- The need for States Parties to have comprehensive national implementation in place;
- The need to strengthen the existing mechanisms to prevent the re-emergence of chemical weapons, while taking into account changes to science and technology;
- The EU also expressed its grave concern about the possible use of chemical weapons in Syria and its full support for the UN Secretary General's decision to conduct an investigation into the allegation of use.

A number of EU coordination meetings were held during the Conference. The Presidency's approach throughout was to draw on the November 2012 EU Council decision. Throughout the detailed debates on the draft report in the Conference's Committee of the Whole, the Presidency spoke effectively to promote and defended EU Council Decision objectives.

UK ROLE AND ACHIEVEMENTS

In October 2012, we jointly funded with Canada, The Netherlands and the USA a Wilton Park Conference on Chemical Weapons Convention: Third Review Conference and Beyond. We invited a cross-section of States Parties to ensure a more balanced approach. The conference illustrated that most States Parties were still in the process of defining their positions, both at the national and regional level. It also outlined the areas of convergence and divergence and looked ahead to the preparatory meetings chaired by Algeria, which started discussions on the draft documents.

In June 2012 and March 2013 members of the Cross Whitehall Chemical Weapons Policy Group met with relevant UK civil society and industry to exchange views and expectations on the Review Conference. The latter meeting included Ambassador Krzysztof Patulej (Poland) who subsequently chaired the Review Conference and who outlined his objectives. Engaging with UK Civil Society, including those whose focus is Incapacitating Chemical Agents, provided opportunities to discuss our respective positions in advance of the Review Conference. Having pressed for civil society to be involved in the Review Conference, for the first time in the history of the Convention, NGO representatives were permitted to address conference delegates in an informal plenary session.

The UK submitted two Working Papers on scientific and technological developments in advance of the Review Conference. The UK was active in leading this debate and setting the agenda on issues such as national implementation, universality and incapacitating chemical agents.

The UK together with Germany, France and the USA, lobbied South Sudan, Burma and Somalia prior to the Conference to accede to the Convention. This resulted in positive results including an announcement by the President of Somalia that his country will join the CWC.

The UK delegation's (including representatives from FCO, MOD, DECC and Dstl) considerable experience of the CWC (its original negotiations, Preparatory Commission and previous Review Conferences) and other multilateral arms control and disarmament agreements as well as its scientific and technical knowledge and expertise, were major factors in our ability to secure the outcome we did.

The UK played a key role along with Switzerland in finding suitable language on incapacitating chemical agents and law enforcement for inclusion in the final document, as referred to in the UK Statement made by Mr Burt. Regrettably, agreement could not be reached in time for inclusion of a reference in the documents. We will work to ensure that this issue is taken forward; we believe there is strong support for doing so.

My colleague Alistair Burt MP, Parliamentary Under-Secretary of State, FCO delivered the UK statement (Flag D) on the second day of the Review Conference. He emphasised the need to acknowledge the serious modern day threat from Syria's chemical weapons. He also wrote an article for New Scientist, timed to coincide with the Review Conference.

CONCLUSIONS AND NEXT STEPS

Overall the EU and UK met our objectives for the Review Conference. The EU played a constructive role through participation in the preparatory meetings. The on-going EU Council Decision (2012/166/CFSP of 23 March 2012), in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) will be an important vehicle for EU influence on implementation of the CWC until it is considered for renewal in 2014. The positive outcome achieved should ensure that one of the most successful international treaties on disarmament is able to adapt to the changing world while ensuring the OPCW remains a global repository of knowledge and expertise. We will seek to make full use of the scope of the DG's mandate and will use our long-standing position on the OPCW Executive Council to take this forward.

1 May 2013

CLOSER COOPERATION AND REGIONAL INTEGRATION IN THE MAGHREB: ALGERIA, LIBYA, MAURITANIA, MOROCCO AND TUNISIA (5118/13)

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

The above document was considered at the meeting of the EU Committee on External Affairs on 31 January and cleared from scrutiny. We would like to thank you for the briefing provided by your officials at the meeting.

The EU offers substantial support to the countries of the Maghreb bilaterally and regionally through the European Neighbourhood Policy and through such instruments as Action Plans and Association Agreements. Therefore, we would like to understand in what ways this Communication offers anything qualitatively different to the approach which the EU has previously taken, apart from emphasising regional integration.

On the issue of regional integration, we are concerned that the strained political relations between Algeria and Morocco are likely to pose a serious challenge to many of these regional integration and trade proposals. We would be interested to hear your view on this matter.

Finally, we believe that the priority must be the economic development of the region and we would like to hear if the Government shares this view and, if so, how you intend to pursue this goal through the EU.

I look forward to receiving your reply within the standard ten working days.

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

The Communication was considered at the meeting of the EU Committee on External Affairs on 31 January and cleared from scrutiny. I am writing to provide further information in response to your follow up questions in your letter of 1 February. The Committee asked for our views on the way in which the Communication offers anything qualitatively different to the approach of the EU to date, apart from emphasising integration; on whether strained political relations between Algeria and Morocco pose a challenge to integration; and how the Government intends to pursue economic development in the region through the EU.

THE EU'S APPROACH TO REGIONAL INTEGRATION

Maghreb governments face significant economic challenges, influenced not only by the economic situation in Europe, their main trade partner, but by high youth unemployment and reduced investor confidence during sometimes turbulent democratic transitions. Coupled with rising security challenges in the region, these have brought the need for regional cooperation to the fore.

The present Communication sets out the EU's long term strategy towards supporting Maghreb cooperation in the region and identifies a menu of options for Maghreb countries to explore together with the EU. Whilst the broader framework is contained in the European Neighbourhood Policy document (2011) which defines the overall relationship between the EU and its Southern and Eastern neighbours; sets out EU support for political and economic reforms underway in these regions and the benefits of increased Maghreb cooperation in the region.

The EU's own experiences offer a model for Maghreb partners as to how their economies can benefit from the opening of borders and the development of greater cross-border trade and exchanges.

In their January briefing to the Political and Security Committee in Brussels on the Communication, the EEAS and Commission signalled a greater focus on regional cooperation to support work on addressing the current political and socio-economic challenges in the region. This Communication seeks to generate greater political momentum behind that.

ECONOMIC DEVELOPMENT

As the least economically integrated region in the world, the Maghreb countries pay the cost of non-integration, estimated to be 1-2% of the GDP, forfeiting opportunities for a more prosperous, but also a more stable region, with high youth unemployment.

We agree that regional economic development must be a cornerstone of the UK's engagement on the EU's proposals. Recent events have also shown both the urgency and willingness of Maghreb partners to deepen their security dialogue, which we assess as a positive development.

The Joint Communication contains a number of specific proposals to support economic development, and, of course, encouraging greater regional cooperation should in itself promote this. The 31 January Foreign Affairs Council, in their Conclusions welcoming the Communication, also highlighted inclusive economic development alongside democratic reforms as one of the two key elements in the Communication. We will continue to press this message with the EU institutions, and ensure EU support to the region maintains this focus. UK support for EU efforts in the region continue to be based on the principle of conditionality and rewarding reforming countries to ensure effectiveness.

Promoting employment in the region, particularly for women and young people, is also a UK G8 Presidency priority, which in the Maghreb will include support to Tunisia, Libya and Morocco through the Deauville Partnership.

ALGERIA - MOROCCO RELATIONS

The difficult relationship between Algeria and Morocco is a prohibiting factor to greater Maghreb cooperation. However recent events, both in Mali and in In Amenas in southern Algeria, offer an opening for the EU and bilateral partners to encourage greater dialogue and action from both neighbours to meet shared security

challenges.

The EU consistently passes messages to Algeria and Morocco encouraging closer tie and both the Communication, and January FAC Conclusions signalled EU support for this closer cooperation. In

December 2012 the EU-Algeria Association Council welcomed the recent contacts between Algeria and Morocco and the launch of the constructive dialogue on energy, agriculture and migration, and expressed the hope that the two countries could strengthen and deepen the relationship to achieve fruitful cooperation. Further cooperation between the EU and AMU, as proposed in the Communication, would also help to develop this body so that it can promote closer ties between Algeria and Morocco.

Supporting greater regional cooperation is consistent with the EU's goal of developing a secure, stable and prosperous region and conducive to the UK's interests. It remains a UK priority.

I trust that this information is valuable for the Committee.

15 February 2013

COMMUNITY REGIME OF DUAL USE ITEMS (16726/11)

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

I would like to update the Committee on progress on this dossier since my predecessor, Mark Prisk MP, wrote to you on 9 July 2012.

The European Parliament's International Trade Committee (INTA) had published its draft report on this proposal on 8 May. The report proposed that the Act should be adopted with three minor changes, namely: changes to information that the European Commission should provide to the European Parliament; a change to ensure that Annexes IIa to IIg and Annex IV of Council Regulation (EC) 428/2009 should be updated in line with changes to Annex I; and to limit the duration of the delegation of the power to amend the Annexes to 5 years.

The report was debated in plenary on 23 October. A significant number of new amendments were proposed and adopted by the Parliament at that time. These new amendments include:

- The introduction of a "surveillance equipment" end-use control. This would require Member States or the European Commission to impose controls where the items to be exported are or may be intended for monitoring or surveillance of mobile telephones or of internet use;
- Changes to the operation of the existing Weapons of Mass Destruction (WMD) and Military End-Use controls;
- Changing the text of Article 8 from "A Member State may prohibit or impose an authorisation requirement on the export of dual-use items not listed in Annex I for reasons of public security or human rights considerations" to "A Member State shall prohibit...";
- A requirement that the list of items subject to control in Annex I should be updated in conformity with country-specific sanctions adopted by the Council of the EU.

The most significant of the new proposals relates to the "surveillance equipment" end-use control. I agree that the unrestricted export of equipment or technology that might be used to breach human rights through monitoring and surveillance of telecommunications is a matter of concern. However, this is a technically complex area. The equipment of concern also has legitimate uses in law enforcement, cyber security and in the provision of communications services to the general public. The Government is on record as stating that its preferred approach is to negotiate a "list-based" control with key international partners through the Wassenaar Arrangement. We will be taking forward these negotiations during 2013.

If accepted, the European Parliament's new amendments would fundamentally change the operation of the existing dual-use export control system. As a result, they would have far-reaching consequences both for exporters and for national licensing authorities. No form of impact assessment has been conducted and there has been no consultation with industry. In my view any changes of this kind should be considered carefully as part of the ongoing review of dual-use export controls initiated by the Commission in 2011.

For all of these reasons the Government opposes the Parliament's new amendments. This position is shared by the other Member States and the European Commission, although the Council has yet to

adopt a formal position. The Irish Presidency team are currently conducting informal discussions with the Parliament's Rapporteur for this dossier. I do not want to prejudice those discussions but I am hopeful that the Parliament can be persuaded to drop these amendments in return for the Council and Commission agreeing to consider them as part of the ongoing review referred to above.

I will provide a further update in due course.

9 March 2013

COUNTRY OF ORIGIN OF CERTAIN PRODUCTS IMPORTED FROM THIRD COUNTRIES (5091/06)

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills to the Chairman

I am writing to inform you of confirmation of the withdrawal of the Commission's Origin Marking proposal (5091/06).

The Commission rationale for this withdrawal was the continuing division between Member States, the need to come into line with recent WTO Dispute rulings and the difficulty that any 'voluntary' scheme (an option which they had been considering at the request of the Council) would in effect be compulsory. This raised, amongst other issues, questions about the applicability of any origin marking regime to EU produced goods which in turn raised questions of legal base (e.g. internal market rather than trade policy).

I attach a copy of the formal withdrawal notification for your records. This is a welcome outcome for the UK.

24 April 2013

COURT OF AUDITORS REPORT- KOSOVO- RULE OF LAW (16619/12)

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

The above document was considered at the meeting of the EU Committee on External Affairs on 10 January 2013 and retained under scrutiny.

The Committee considers the European Court of Auditors Report on EU rule of law missions in Kosovo to be of political importance. Unfortunately, we felt that your response did not do justice to either the issue or the criticisms in the report. The Explanatory Memorandum neither engages in any serious way with the content of the ECA report nor is there an indication of the concrete actions that the Government intends to take.

We would like to be kept informed of the negotiations at the Working Group level and would ask that you write to the Committee after the February Council meeting with an update on its Conclusions. We would hope that the findings and recommendations of the ECA report are reflected in the Council Conclusions.

We would also like to raise a point on the status of Kosovo as a "potential candidate" for EU membership and that of Serbia as a candidate. We consider that the outstanding bilateral issues between Kosovo and Serbia are a significant barrier to EU membership for both countries. We would appreciate some clarity as to the position of the Government on this issue.

I look forward to receiving your reply within the standard ten working days.

14 January 2013

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

I am writing in response to your letter dated 14 January regarding the Explanatory Memorandum on the above document. I regret that you felt this did not do justice to the issue or the criticisms in the report and that there wasn't an indication of the concrete actions the Government intends to take. Given the delay in publishing the report, the UK Government had already taken a number of steps aimed at addressing the challenges highlighted in the Report. I have explained both UK Government

and EEAS/Commission actions under the heading of each recommendation below, along with further action the UK Government is taking:

- Objectives should be linked to concrete benchmarks against which progress can be assessed.

The UK is leading a drive for better project management of CSDP missions. We press for missions to be established with clear, timed, costed and realistic objectives. The UK led the charge in introducing benchmarking for all CSDP missions and in 2011 funded and promoted guidelines on benchmarking. Benchmarking for EULEX was included in the most recent Operational Plan following the 2012 Strategic Review. While this was a good result for the UK, improving the effectiveness of CSDP, we continue to push for benchmarking to be more robust, focusing on impact, rather than activity. In negotiations, the UK will push for the Council Conclusions to reflect the progress already made, whilst acknowledging the need for further improvements. The Commission/EEAS have also introduced benchmarking to the new IPA programming due to come online in 2013.

Looking beyond Kosovo we press for prioritisation. At UK instigation, two missions, EUSSR GB and EUPM BiH, were closed to free resources for higher priority work. Our sense remains, however, that the EU still does not close Missions fast enough. The Mali situation illustrates the importance of this. The EU will have resources to intervene in fast-emerging and high priority crises only if personnel and capabilities are brought back from previous crises which have now been resolved or stabilised.

- EEAS and Commission coordination to improve, ensuring procedures are responsive to EULEX's operational needs, along with preparing an exit strategy for EULEX with entails the Commission taking over capacity building functions.

A comprehensive approach by the EEAS and Commission is a personal priority for Baroness Ashton. In Kosovo, the Joint Rule of Law coordination board has improved coordination between EULEX and the EU Office, as has the double-hatting of Samuel Zbogar as Head of the EU Office and EUSR, who can now provide political guidance to EULEX. The EEAS and Commission have launched a feasibility study looking into the possibility of a shared services centre. The UK is following this development closely and welcomes the Court of Auditors highlighting the importance of this issue. During negotiations, the UK will strongly support the Council welcoming this recommendation in the hope this will push forward progress.

Planning for IPA II is already taking into account the likely downsizing of EULEX, particularly for the Mentoring, Monitoring and Advising (MMA) of Kosovo Police. Within EULEX, senior management are also focusing on how to manage a possible end to the executive mandate in June 2014. This includes prioritising cases that will need to be completed within the next 18 months. While the UK Government agrees that an exit strategy should be prepared, we do not support a blind acceptance that EULEX should leave Kosovo or lose its executive mandate in June 2014. Any further downsizing or proposal to exit should be determined by an end-state, rather than an end-date. The EU needs to arrive at a collective view of what this end-state should look like. The UK will urge EU member states and institutions to focus on this crucial issue in the weeks and months ahead.

- Future CSDP missions should operate with the full number of staff, deployed for the necessary time with appropriate skills.

The UK will also strongly support this recommendation being welcomed by the Council. We welcome CPCC's introduction of systematic "force sensing exercises" before deployment of new missions or significant restructuring of existing missions to predict the resources that will be required. Since the 2012 strategic review, EULEX staffing has improved significantly. My Explanatory Memorandum detailed the UK Government's approach to secondments and our recent success in seconding UK officials into key positions such as the Head of the Special Prosecution Office and Head of the Organised Crime and Investigation Unit.

Member State reluctance to provide the gendarmerie capability for the Formed Police Units (FPUs) required in the north still presents a challenge for the mission. The UK is poorly placed to contribute FPU capability for a number of reasons: we do not have a national police force; we do not have a militarised police service - 'gendarmerie' capability - of the type required in Kosovo and is a standard formation in some other member states; and, our Police do not deploy to civil disorders with firearms, as they would need to do in Kosovo. Given domestic pressure on Police Forces it is difficult to find county constabularies willing to second individual officers on overseas deployments, let alone entire units. The FPU shortage not only hinders EULEX operations, but also contributes to tension between NATO and the EU given the impact it has on KFOR drawdown. The UK supported the introduction of Supplementary Police Units (SPUs) in the strategic review that would allow the

remaining FPU to focus on frontline riot and crowd control capability. Given the scale and violent nature of riots when they do occur, it has still been necessary for KFOR to intervene. We continue to advocate the importance of close EULEX/KFOR cooperation on the ground and in Brussels.

— Future CSDP Missions to have a legal personality.

The UK Government view is that this recommendation needs further consideration. The reasons for this view were detailed in my Explanatory Memorandum. There is a Commission proposal to replace the current system to ensure each mission has a legal personality. In consultations, the UK will argue that CSDP Missions need to offer flexibility and cost-effectiveness.

— Allocation of staff in Pristina's EU Office to reflect high priority of rule of law support.

The EAS/Commission aim to use the benchmarking of IPA II to help structure the allocation of resources within the EU Office. There are proposals for improved monitoring systems that will underpin the management of IPA II. At this stage we are uncertain whether the improvements will have any read across to staff resources in the EU Office. During discussions about IPA II, the UK will urge the Commission to ensure its staff complement is aligned to the priorities agreed for Kosovo under the new IPA cycle and that work on Rule of Law is adequately resourced. The UK will support the Court's recommendation during the negotiations on Council Conclusions. The importance the UK places on Rule of Law in Kosovo was reflected by our recent secondment of a Rule of Law Legal Advisor to the EU Office in Pristina.

— EAS/Commission to ensure that their policy dialogues with Kosovo focus particularly on strengthening the rule of law and are linked to incentives and priority conditions.

The EU has improved coordination at a strategic level. The December 2012 Council Conclusions clearly link Kosovo's progress towards opening negotiations on a Stabilisation and Association Agreement with progress made in the EU-facilitated Dialogue between Belgrade and Pristina. During the visit to London of the EULEX, HoM Designate, Mr Bernd Borchardt, he appeared well briefed on plans for the Dialogue and how EULEX will play a crucial role. The EU is also well co-ordinated with other streams of dialogue including the Visa Liberalisation Process, the Structured Rule of Law Dialogue and the recently signed 'Compact on Joint Rule of Law Objectives until June 2014'. The latter will be a key reference document for tracking progress towards agreed rule of law benchmarks. It was signed by the Government of Kosovo, the EU Office and EULEX. During negotiations, the UK will support recognition of this improvement in EU coordination and underline the need for this to continue.

SCRUTINY ACROSS CSDP

The committee will be aware that Missions such as those in Kosovo and Georgia who manage their own budgets are audited every four months. In the most recent EULEX budget, audit costs amounted to €40,000. In addition to this each mission also has an annual Crisis Management and Planning Directorate (CMPD) strategic review. The UK has pushed for these reviews to be as robust as possible, contributing national experts to assist with the review template and, within the CMPD strategic review framework, suggesting Missions self-assess delivery against their mandates. I can assure you that officers in London, Pristina and Brussels (at the working groups and Political and Security Committee) scrutinise the monthly and six-monthly progress reports for CSDP missions and argue for cost-effectiveness and sound management whenever they can.

As mentioned in my Explanatory Memorandum, we welcome the independent scrutiny of the Court of Auditors. While these reports would be useful for all CSDP missions, we would need to assess where they would add value as a matter of course, to avoid duplication with existing audit and review mechanisms. The Court of Auditors is an independent, impartial organisation that has clear criteria to determine the audits they conduct. The criteria includes the amount of money involved, risk involved in implementation, the degree of public interest and when the last audit took place. The Court also commits to follow up in 3-4 years to ensure their recommendations have been implemented. Exercises such as the Court of Auditors report give us valuable opportunities to constructively highlight shortcomings and advocate for a sound management agenda.

KOSOVO/SERBIA BILATERAL ISSUES - BARRIER TO EU MEMBERSHIP?

On 06 December, I stated that the UK would argue for Council conclusions that underline that Serbia still needs to make real progress to deliver a "visible and sustainable improvement" in its relations

with Pristina before accession negotiations can be opened, while noting that this remains in reach if recent progress continues.

The UK's policy was reflected in the Conclusions which state that, "A visible and sustainable improvement in relations between Serbia and Kosovo, is needed so that both can continue on their respective European paths, while avoiding that either can block the other in these efforts. In this context, this process should gradually result in the normalisation of relations between Serbia and Kosovo with the prospect of both being able to fully exercise their rights and fulfil their responsibilities". Crucially, the Conclusions also make clear that Serbia will not be able to take its next step towards EU membership unless it has helped deliver "structures in northern Kosovo which meet the security and justice needs of the local population in a transparent and cooperative manner, and in a way that ensures the functionality of a single institutional and administrative set up within Kosovo." If recent progress in the Dialogue is maintained, bilateral issues between Serbia and Kosovo should not be a barrier to EU membership for either country. Arguably, a greater concern for Kosovo's prospects is the remaining five non-recognising countries within the EU. We will be engaging closely with these countries in the run-up to the June decision on opening negotiations on a Stabilisation and Association Agreement with Kosovo.

NEXT STEPS

The EU is planning working level discussions on the ECA report towards the end of January. We expect conclusions to be agreed at the next FAC on 18 February, for adoption by the Council on 28 February. As requested, we will update both yourself and the House of Commons Scrutiny Committee on the outcome of the February 2013 Council Conclusions on the Court of Auditors report.

28 January 2013

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

Thank you for your full letter of 28 January 2013, which was considered by the EU Sub-Committee on External Affairs at its meeting on 31 January.

The Sub-Committee remain concerned about the amount of funding for this project, which seems to be providing very little result, and retained the documents under scrutiny. In view of the seriousness of the issues, we would like to invite you to give formal evidence on the subject to the Sub-Committee. Perhaps our officials could discuss dates which would be suitable for you.

1 February 2013

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

I am writing to update you on the attached Council Conclusions on the European Court of Auditors Report on "European Union Assistance to Kosovo related to the rule of law". The Conclusions rightly welcome the report and pass comment on the "valuable" recommendations made by the Court.

The Conclusions reflect the UK view on the Court of Auditors Report. I particularly welcome the focus on the need for the EU to examine the impact of its Rule of Law assistance to Kosovo through stronger benchmarking. Recognising the need to further enhance Commission/EEAS coordination and to ensure EU procedures are "fit for purpose" and are able to respond to the needs of CSDP missions is also crucial. For ease of reference, I have attached a table to this letter listing each recommendation, the UK position in negotiations as per my letter in January and the outcome of the Conclusions.

The Conclusions do not make specific reference to an exit strategy for EULEX. The Court of Auditors recommended that there needs to be an "exit strategy for EULEX which entails the Commission taking over capacity building functions". As detailed in my previous letter, planning has already started on the EULEX exit strategy. I look forward to discussing this further in the evidence session scheduled for 25 April 2013.

It may be worth taking this opportunity to brief you on wider changes to the establishment of CSDP missions that may take place at some point after June. The European Commission has indicated that it will not be prepared to continue current arrangements – whereby the Commission appoints Heads of Mission, who resultantly, are personally liable for mission activities and resources - after June. The Commission has also indicated that it wants contracted staff in Missions to be employed under the

Conditions of Employment of Other Servants of the European Union and Staff Regulations. We are evaluating the emerging options and taking legal advice on them. We need to be sure that any proposals for change do not affect the balance of competences or our ability to control expenditure, and still allow for the flexibility required in the unique make-up of CSDP Missions. I can tell you little more at this stage as negotiations are still at an early stage, but want to alert you to an emerging issue, on which we will provide an update in due course.

12 March 2013

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

We would like to thank you, and your officials, for giving evidence on 25 April on EULEX Kosovo and for the update on relations between Serbia and Kosovo. This was greatly appreciated.

While the committee understands the political difficulties which Serbia faces over recognising Kosovo, it would like to reaffirm its view that Serbia should not be allowed to join the European Union if it has not recognised Kosovo as a sovereign state. We trust that the Government will make this message clear to Serbia.

You do not need to respond to this letter unless, of course, you wish to do so.

25 April 2013

CSDP BORDER MANAGEMENT MISSION TO LIBYA

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

In my letter of 11 January 2012, I informed the Committee that the EU was planning a possible mission to Libya. I am now writing to update the Committee on progress.

A fact-finding mission visited Tripoli in November last year and found that the Libyan authorities welcomed EU support, particularly in relation to managing their borders. The focus of the CSDP mission will therefore be on Integrated Border Management.

Securing and managing Libya's vast borders is both a challenge and a priority for the new Libyan government. Its land borders are over 4,300km long, its coastline is 1,770km long, it flanks six neighbours, many of which have been affected by either the Arab Spring or the Sahel crisis. Weak border control is allowing markets in arms, people, and narcotics to thrive alongside everyday trafficking in fuel and goods, with consequences for the security of the region and potentially for Europe.

Border management is important for UK counter terrorism and migration objectives as Libya is increasingly becoming a transit route for goods and people from sub-Saharan Africa and across into Sinai and beyond. Instability in Mali is already spilling over into Southern Libya and the recent attack on In Amenas in Algeria shows the importance of tightening border controls across the region.

Weak borders are common to other countries in the region. Border management can only be addressed successfully by a coordinated international effort. In keeping with our policy of encouraging a comprehensive EU approach, my officials will press for any CSDP mission to be coordinated with all EU activity in the region, including wider work on border management, other CSDP missions in the region (Mali, Niger, South Sudan), the Instrument for Stability, Neighbourhood Policy and work being carried out by other international organisations.

The mission is likely to consist of a team of about 70, based in Tripoli for an initial 2 year mandate. The mission would work with the Libyan authorities to develop border management policies and competences. The mission would be civilian-led but may require some military presence for certain activities, such as engaging with the Libyan ministry of defence.

Tasks for the initial phase of the mission's work would include training in border control for officials in Tripoli. Trained personnel would then be available to lead border control activities, drawing on the coast guard and militarised patrols in the south west desert. A second phase of activities might include providing strategic advice to ministries. Exact mission activities still need to be scoped and negotiated. The UK will have several opportunities to discuss the details of the mission to ensure that it is aligned with our national objectives.

Given the urgency of securing Libya's borders, the EEAS have suggested a potential launch date of June 2013 for the mission. To meet this extremely tight deadline, the EEAS have set out an accelerated timetable, similar to the one used for the Sahel mission, i.e. combining the Concept of Operations and the Operational Plan in one document. While this is clearly not ideal, I understand that it is a reasonable response to an increasingly unstable situation in the region. My officials will be monitoring the process closely to ensure that this accelerated planning does not negatively affect the success of the mission. As well as looking in detail at what the mission will hope to achieve and planning activities, we will be looking to manage Libyan expectations of what the mission can realistically achieve, to build Libyan capacity to identify their priority needs, and to ensure that the mission complements existing support in the region. The timetable now planned is as follows:

- Head of Mission to be selected by 15 March
- The Technical Assessment Mission (TAM) to deploy from 15-22 March
- A core team to form a pre-mission deployment, to prepare for mission launch, following on from the TAM, with the Head of Mission to arrive on 17 April
- The CONOPS PLUS (Concept of Operations and Operational Plan) to be agreed by 16 April
- The draft Council Decision and budget to be agreed by 22 April
- Launch of mission by beginning June

Our EU partners are clear that the final decision on the launch of this mission will be subject to UK Parliamentary scrutiny before a Council Decision is adopted. At this stage we are agreeing to continue preparatory planning for a CSDP mission in Libya.

The cost of this mission is yet to be determined but, it will be small compared to other missions and as a civilian run mission, it will be funded from the CFSP budget. The UK contributes to the EU budget as a whole, not to individual programmes within it. Therefore the only extra cost to the UK would be the cost of funding secondees to the mission, should the UK decide this would be beneficial.

12 February 2013

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

The above letter was considered at the meeting of the EU Committee on External Affairs on 14 February 2013.

Thank you for the information provided about a new CSDP border management mission to Libya. The Committee considers that the mandate set for this mission is extremely challenging. Therefore, we will want to consider in close detail all aspects pertaining to the successful implementation of its mandate. Finally, The Committee would welcome being kept informed in a timely manner as this mission progresses.

You do not have to respond to this letter unless, of course, you wish to do so.

28 February 2013

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

My letters to you of 11 January, 7 February and - most substantively - 12 February set out the political and security background and the planning considerations behind the proposal for a Common Security and Defence Policy mission to Libya, and the timescales within which such a mission might be launched. I noted and agreed with the comments you made in your letter of 28 February - that this mission is challenging and that it will be important for it to receive proper Parliamentary scrutiny.

The planning phase for the mission, now tentatively named EUBAM Libya, has been exceptionally long. Ever since the fall of Qadhafi, some of our partners have seen merit in the rapid deployment of an EU team to Tripoli to provide support to the new authorities' nascent security sector. The UK - with others - took the position throughout 2012 that the Libyans were not quite in a position to engage with a mission, in part because of their natural preoccupation with the elections in July that year and the political uncertainty which followed.

That amber light has, to my mind, now changed to green. Our Ambassador has confirmed that the Libyan government is now more stable; its security organisations are better established. The Libyans

have issued a strong request to the EU for help, advice and support. As we can act, and assess that our action would have impact, I believe we should now authorise deployment of a CSDP mission.

The core expertise of the mission described in the attached Explanatory Memorandum is border management. That is the right focus. Libya's long, largely unguarded borders have proved permeable both to extremists sympathetic to Al Qaida and groups bent on disrupting the new status quo, and to supplies of weapons. Libya has become a transit route for forces which have contributed to destabilising much of Northwest Africa. It is possible that many of the extremists who occupied and brought misery to Mali transited through Libya and obtained their supplies there. The terrorist group which attacked the In Amenas oil facility, targeting among others British workers, is thought to have used Libya for transit and supply.

Finally in Libya itself we have seen the clearest evidence of the threat posed by extremism in the form of the attacks on the US Consulate in Benghazi and on the French Embassy on 23 April. Libya is also increasingly becoming a transit route for people and narcotics from sub-Saharan Africa to the region and into Europe. At the end of August 2012, the total number of refugees and asylum-seekers registered with UNHCR in Libya stood at approximately 10,000.

So I believe it is right that we help Libya and right that we select border management as the area of work on which an EU mission can best support Libya. The UK is backing up this political support with action in support of the mission's work – we have identified a team of expert Britons to join the mission, led by Peter Rundell who would be the Deputy-Head of the CSDP mission overall.

The current planned form of the mission was first set out to us by the External Action Service two weeks ago. I wanted to be sure that all concerned with the Mission had enough time to reflect on what was proposed. Two issues merited particular attention: the increase in the size and budget of the mission over what I described to you as likely in February this year and the apparent prospect of EU personnel deploying outside of Tripoli.

So, acting on my instructions, British officials in Brussels first described our reservations and then blocked approval of the mission on 16 April. It is fair to say that this action caused difficulty for some of our partners, which I regret, but I felt it was essential to insist on more time for planning and scrutiny of the structure, tasking and budget of the mission. We negotiated hard through last week, making use of the fact that others were keen to progress quickly as a lever to secure the amendments we needed to see made. I instructed officials to scrutinise and seek improvements to the mission's Concept of Operations in four areas:

SCOPE

We have obtained clarity on the fact that the mission will not post staff outside of Tripoli in current security circumstances. Any such deployment will require the express approval of Ministers in Council. I will write to you before any such deployment is made. The UK will retain the right to block the travel of any UK secondees if we judge the activity to be too dangerous; that is an option that we would prefer not to exercise of course and, in practice, we expect the EU's mission security plans to be robust and appropriate.

CO-OPERATION WITH THE UNITED NATIONS

I was concerned that an EU mission might not engage properly with others engaged in Libya, particularly UNSMIL which has a broader remit for coordination of security and justice support to Libya. I am now satisfied that the right links with the UN have been made; we have secured the insertion of language in the mission's documentation mandating it to collaborate with the UN and others.

LIBYAN BUY-IN

I was keen to obtain complete reassurance that the Libyan Government would make the best use of an expensive and risky CSDP deployment. Michael Aron, our Ambassador in Tripoli, sent a telegram last week which provided the information I needed on this point. He said:

The Government of Libya (GoL) sees border security as one of its top security priorities. Large swathes of the country's land border are ungoverned, due to the sheer length and ruggedness of terrain and a lack of governmental capacity. In the South, there are large portions of empty land and borders identified on paper do not exist in reality. People, goods and weapons have almost total freedom of movement. In most southern areas, there is no clear designated responsibility for controlling borders and crossings...

There is an urgent need for the GoL to stem the flow of illegal goods, weapons and people into, and out of, the country. It is in the EU's interest that Libya is able to tackle the significant flow of irregular migrants crossing its borders for onward travel across the Mediterranean. The GoL have given top level political support to the planned CSDP mission – they're keen for it to start as soon as possible.

SIZE AND BUDGET

The memorandum sets out the mission's anticipated strength. I appreciate that a team of up to 165 is substantially larger than the mission of 70 which I envisaged earlier this year. British officials have been interrogating this number and have insisted on line-by-line examination of the budget proposed.

I am now satisfied that the mission's strength is justified. Much of the increase in size results from the fact that reliable security cannot be obtained locally in Libya. The mission will therefore deploy with a robust and self-reliant team of contracted security personnel. The car bomb attack against the French Embassy underscores the importance of this careful approach to security of international personnel in Libya. The EAS has also explained that the estimate of 70 personnel related to the number of expert staff seconded to the mission and has pointed out that the number of secondees is now to be 84. This is an increase, but not a dramatic one. The higher number of secondees results from a more exact understanding of what will be required following a Technical Assessment Mission earlier this year. UK officials are continuing to examine the budget closely and push it downwards. You will find an explanation of staffing levels and the budget for the mission, which the UK has been able to negotiate downwards, in the Memorandum.

Having delayed and renegotiated this mission your Committee will, I hope, share my judgement that while this mission will be difficult, its objectives are important. In response to requests for help at the highest levels, it is the right time for the EU to act.

If you share this conclusion it would be most helpful if your Committee could seek to consider and, if you judge it appropriate, to clear this item from scrutiny by 17th May. The EAS hopes to launch the mission at Council that day. I hope that the information provided in this letter and the EM allows for the in-depth and careful scrutiny you will no doubt want to undertake on this mission. My officials are on hand to provide any further information needed, including oral briefings if that would assist you in your consideration.

Finally, it may be worth bearing in mind that a delay in launching the mission in May might well mean that the mission could not in practice arrive until after Ramadan, which this year falls between 9 July and 7 August. This would give an unfortunate negative signal to the Libyans as to the EU's will and capacity to support them in the important work of stabilising their country. I would like to offer any assistance useful to you in considering this issue. My officials are ready to brief you if useful or to provide rapid answers to any questions you may have.

29 April 2013

DEMOCRATIC REPUBLIC OF CONGO

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

I am writing to inform the Committee about operational planning (the 'OPlan') for the CSDP mission, EUSEC in DRC and to update the Committee on the security situation in the east of the country.

OPlans are classified documents and normally put into operation what has previously been agreed in Council Decisions. Therefore I do not usually inform the Scrutiny Committees on operational planning but am happy to do so in specific circumstances.

In this case, the OPlan has been agreed by Member States but unusually requires approval from Council. This is because although Member States agreed to extend EUSEC for 12 months with that expectation that a final 12 months preparing for closure would follow, the Council Decision only extended the mandate for the first 12 months. The OPlan contains references to the final 12 month transition period and so requires approval from Council. A further Council Decision will still be required to extend the mandate to cover the final year when the current mandate expires at the end of September 2013. I will therefore write to you again at that point.

EUSEC is now entering its final phase following decisions taken pursuant to the Strategic Review which recommended a 12 month extension followed by a final 12 month transition phase. The

mission has set up a Security Sector Task Force to prepare for the transfer and handover of activities to the Congolese Authorities or other international actors, including NGOs based in Kinshasa. EUSEC will also deepen its relationship with MONUSCO. The methodology used will be consistent with the Armed Forces Reform Plan and will develop competences and skills necessary for long term sustainability and the transfer of technical know-how through on the job training and follow up activities.

The mission has agreed that its five priority tasks are the following:

- Supporting the Congolese Military Authorities at strategic level – as well as putting in place the Reform Programme for the Military, the Mission will participate in working groups in charge of drafting bye-laws and implementing action plans in the regions through joint EUSEC-Congolese Military mobile teams in Goma and Bukuvu
- Consolidation of systems for administration, human resources management and finance/budget management of the Congolese Military, including consolidation of HR systems for control over biometric payments in the provinces, selection and briefing of personnel and systems for good budgetary and financial practices
- Improving the operational capacity of the Congolese Armed Forces through support to the General Command for Military Schools in putting in place a training system that is sustainable in the long term, supporting the Military Academy, the Administration College in Kinshasa, the training academies in Kitona and Kinshasa in staffing, training manuals and programmes and assistance in recruitment of students
- Modernising logistics in the Congolese Military, putting in place systems, rules and management for the securing of arms and munitions
- Activities to mainstream the fight against impunity, human rights and sexual violence

Activities and measures to create the conditions necessary to fulfil the above objectives are already being undertaken. From December 2012, the mission will start to prepare the parameters of the Task Force and by the beginning of February an inventory of activities to be undertaken by the Taskforce will be prepared. The budget for the final year will be published in June, followed by the Council Decision authorising the final mandate in September.

As I am sure you are aware, the security situation in the East of DRC has deteriorated rapidly over recent weeks. Goma fell under the control of the M23 rebels, until they withdrew. All staff from both EUSEC and EUPOL have been evacuated but are safe and accounted for. EUPOL staff are in Kigali waiting to travel back to Kinshasa. EU offices and vehicles in Goma are under increased guard by the usual private security firm. All sensitive material was removed or destroyed during the evacuation. We are awaiting a report from the EU on the crisis and will update you further on the situation and the effect on both EUSEC and EUPOL as soon as this is received. We will also keep the implications of the current crisis for CSDP missions in the DRC under review.

13 December 2012

DRINKING –WATER AND BASIC SANITATION IN SUB-SAHARAN AFRICAN COUNTRIES (14531/12)

Letter from the Chairman to Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development

The House of Lords EU Sub-Committee on External Affairs at its meeting on 1 November 2012 considered the document above which had been cleared at the sift.

The Committee noted the criticisms by the European Court of Auditors (ECA) of the delivery of EU Development Assistance for drinking-water support and basic sanitation in Sub-Saharan Countries. The Committee is concerned that, according to the ECA, fewer than half of the projects meet needs of the beneficiaries. As you are aware, the ECA has pointed out, that many of the projects surveyed suffered from either poor planning, unclear objectives or unsustainable funding.

We have also noted the Government's response but would like to ask for more detail about the steps that the Government will be taking in response to this report and the practical changes it will be seeking to improve the Commission's performance.

I look forward to receiving your reply within the standard ten working days.

8 November 2012

Letter from Lynne Featherstone MP to the Chairman

Thank you for your letter dated 8 November 2012 asking for further information about the steps that the Government plans to take in response to the above report and the changes we are looking for in the European Commission's (EC's) performance.

DFID works with the EC to improve performance across a wide range of issues and has a particular focus on improving how the EU assesses the impact of its programmes. The DFID Multilateral Aid Review highlighted that the EC needs to be better at communicating and making programme results visible in order to increase accountability and enable programming decisions to build on previous successes and lessons learned.

The EC has already committed, in its Agenda for Change communication, to improving its results framework. We are currently working with EuropeAid, including via an Expert Group on Results, on the development of an institutional results framework which we expect to be put in place over 2013. We will ensure that monitoring results on WASH programmes are considered as part of this broader push on results.

We will also play a greater role in the EU member state WASH Expert Committee. We are concerned that despite having good processes and procedures in place with respect to WASH policy, the Commission's proper use and implementation of them is variable with significant areas for improvement. We will therefore use our membership of this committee to develop closer cooperation among Member States to monitor the performance of EU programmes. In response to the Court Auditors report, we are pushing for the inclusion of a number of important points in the final Council Conclusions, which are expected by January 2013. These are to ensure that:

- there is consultation with beneficiaries during the design stage of projects and that these are designed and implemented to match their demands;
- at the design stage of projects financing is secured that will mean infrastructure is maintained in the long-term;
- technical options selected offer the best value for money, and;
- reporting of results is more effective, timely and transparent.

We plan to work with the WASH Expert Committee to generate a proposed system of monitoring of performance of the Commission WASH projects. We want to work with other Member States to use the data from this monitoring to support the preparation of reports by the Expert Group that will be submitted to the Steering Group of the EU Water Initiative.

5 December 2012

Letter from the Chairman to Lynne Featherstone MP

The House of Lords EU Sub-Committee on External Affairs at its meeting on 13 December 2012 considered the document above. It has been cleared from scrutiny but the Committee continues to be very concerned at the efficacy and delivery of EU water and sanitation assistance and the steps taken to improve the situation.

Your letter does not tell us why precisely so many of the programmes fail to meet their targets and what practical steps are being taken on the ground to improve their delivery. Could you please now tell us why the performance was so bad, what you are doing about it, and what has changed since the ECA report?

We also have doubts about the monitoring systems planned and are concerned that the measures mentioned in your letter are process-driven, too far upstream from the projects and add a further level of bureaucracy to the system. We would welcome your response to these concerns.

I look forward to receiving your reply within the standard ten working days.

17 December 2012

Letter from Lynne Featherstone MP to the Chairman

Thank you for your letter asking for further information about the Government's plans in response to the above report. I am pleased that the Committee takes such a close interest in this important subject.

The Special Report was based on an audit of 23 projects that had been funded under the 7th, 8th and 9th European Development Funds (EDF). The projects all ended between 2005 and 2012, with two-thirds completed before 2010. The report notes several areas of weaknesses in the projects and provides broad conclusions as to why failures in projects occurred.

The exact causes of problems in the projects audited varied depending on context and location, but the report provides useful examples. For instance, in one project in Nigeria boreholes, pumps and distribution networks were installed in 24 small towns in 3 states. However, the pumps relied on an almost non-existent electricity supply and operators found that the cost of diesel to run stand-by generators was prohibitive. This resulted in the water supplies only rarely operating and most people resorting back to their original sources.

Examples of failure to ensure financial sustainability were found in projects in Burkina Faso and Nigeria. In these cases water charges levied by the operators were inadequate to cover costs. In these projects and in another project in Luanda Angola, little attempt was made to collect any fees for water charges once water supplies were completed. In Luanda only half the amount of money billed for water use was actually collected. Not all of these problems are necessarily directly under the control of projects, for example in Tombwa, Angola, the partner Government did not honour its commitments. However, even in such cases we would have expected EU funded projects to secure hard guarantees from partners in advance. The report contains other specific examples of problems in EU funded projects. However, the report does note overall EU funded water and sanitation projects had provided access for many people.

The Council of the European Union has considered the report and the Commission's responses. We have fed into this process and ensured that the Council Conclusions make clear that the Council takes the shortcomings of EU funded programmes in water and sanitation very seriously.

The Council Conclusions make several clear recommendations that we pushed to include. The Conclusions call on the Commission to ensure better dialogue with final beneficiaries during the design stage of projects and to ensure that the projects implemented match beneficiaries' demand to build stronger ownership of projects. The Conclusions also make clear the Commission should ensure that financing will be available to maintain the infrastructure in the long-term and that the technical options selected offer the best value for money. The Conclusions specifically request the Commission to take action on strengthening the results framework and the associated monitoring and reporting to provide confidence that EU funding in the WASH sector delivers expected results and represents good value for money.

The European Commission has welcomed and accepted the conclusions in the report and intends to develop a plan of action to tackle all the recommendations made. The Council recognised that the Commission has already taken steps to strengthen its processes through the establishment of Quality Support Groups to improve the quality of design and delivery of projects.

The monitoring of how the Commission improves results and transparency is a critical element of our work across all the Commission's support to development. We decided in 2012 not to make additional dedicated funding for water and sanitation available to the EU-ACP Water Facility and thus support to WASH comes from our core funding to the EDF. Given this, it is more appropriate for us to focus on improving on-the-ground monitoring in the whole of the EU funded development programme and not just the WASH sectors.

The DFID multilateral aid review (MAR) assessed the EDF as very good value for money and making a strong contribution to UK development objectives, but highlighted the need to strengthen the performance management framework. The Secretary of State and I have both raised this issue with EU Commissioners and DFID will continue to press for an agreed date by which an improved EU results framework should be operational. It must provide clear guidance to EU Delegations on how to define appropriate and measurable results, how to monitor impact on the ground and how to feed that back into programme management. DFID officials will be attending a technical working group on results at the end of January, where the next steps on this will be discussed.

In addition to such broader work on results and transparency we consider that the EU Water Experts Group provides a useful vehicle to apply additional scrutiny on WASH. It also provides an opportunity to work closely with other Member States to ensure that EU funded projects deliver good value for money.

I hope this provides sufficient information to allay the concerns of the Committee.

7 January 2013

EU-RUSSIA SUMMIT 20 – 21 DECEMBER 2012

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

I am writing to update you and your committee on the 30th EU-Russia Summit. The following is drawn largely from the European External Action Service summary who led the EU delegation.

President Putin was accompanied by the Russian Ministers for Foreign Affairs, Energy and Economy. The EU was represented by President Van Rompuy and President Barroso. HR/VP Ashton and Commissioners Oettinger and De Gucht also participated. Although there were no major breakthroughs on any key areas, the atmosphere was described as “constructive”, and the two sides emphasized the importance of this mutually beneficial relationship and the need to keep it on track in the more difficult current environment.

On the economic situation, the EU briefed on the sovereign debt crises. President Putin explained the "satisfactory" macro-economic situation of Russia and noted that the EU remained Russia's most important trade partner. The EU side confirmed its support for Russia's G20 chairmanship in particular growth and jobs, and financial regulation. On the New Bilateral Agreement, President Putin confirmed its importance to Russia though further trade liberalization was a red line. Both sides welcomed progress made in the Partnership for Modernisation with 180 projects underway worth up to 2bn Euros.

On the Eurasian Customs Union, President Putin underlined "the new reality" and urged the EU to take this factor into account also with regard to the New Agreement. President Barroso confirmed that the EU was looking into ways to engage with the Eurasian Economic Commission though for legal and political reasons, could enter into a trade agreement with Russia only and not the two non-WTO members, Belarus and Kazakhstan.

On trade, the EU urged Russia to implement the agreement on Siberian Overflight charges and to lift the live animal ban and the discriminatory vehicle recycling regime. Minister Belousov criticised the EU's Third Energy Package and anti-dumping measures against Russian fertilizers and metals. In order to move forward on Siberian overflights, Russia needed "legally binding guarantees" that the inclusion of aviation in the EU's Emission Trading Scheme would not be "unfrozen". Russia was ready to lift the ban on EU live animals once controls on food safety were established. Russia had to replace half of its 30 million cars and create a new recycling industry but President Putin agreed that Russian and foreign car makers should be treated equally and said Russia would be looking for a way to ensure this.

On energy, President Putin called withdrawal of Baltic States from their electricity system unacceptable: they should have been given a 10-15 year transition period to prepare the necessary investments. On South Stream, Commissioner Oettinger underlined that there was no political opposition, but Russia should provide more information in order to ensure an effective environmental impact assessment. Energy companies operating in the EU had to fully respect EU legislation. President Putin defended the linking of gas prices to global oil prices, while President Barroso said that Ukraine and Moldova must not be pressured on their Energy Community commitments.

On visas, President Putin emphasized the economic benefits of free travel and claimed that practically all technical issues in the Common Steps had been solved. It was now a purely political decision. Lifting the visa requirement by the time of the 2014 Winter Olympics in Sochi was Russia's goal. President Barroso said that substance had to come before speed. On the Visa Facilitation negotiations, President Putin wondered why the EU had given Ukraine and Moldova a waiver for service passport holders but not Russia. President Barroso urged Russia to sign the draft Visa Facilitation Agreement as it currently stood.

President Van Rompuy raised the EU's concerns about human rights and rule of law in Russia. He underlined the role played by NGOs in monitoring the implementation of human rights commitments and welcomed the new joint project against corruption. He also raised the Magnitsky case. Minister of

Justice Konovalov emphasized that Russia was fully committed to promoting human rights in Russia than and that that a sweeping reform of the penitentiary system had been launched. He raised Russian concerns about the rights of former Soviet citizens in the Baltic States and neo-Nazism in the EU. Konovalov strongly defended the new Russian laws on civil society. President Putin added that the Magnitsky case had been tragic but insisted reports of torture were "nonsense".

On the Middle East and North Africa, the EU said that the sometimes difficult transition process would eventually lead to democratic systems in the Arab Spring countries. Russia was more sceptical, recalling experiences with Iran, Hamas and Palestine and Libya. HR/VP Ashton said she had told President Morsi he made a mistake over the referendum. On the other hand, he had been helpful in delivering the ceasefire in Gaza. HR/VP Ashton and FM Lavrov agreed a Joint Statement on the Middle East Peace Process. On Syria the two sides noted their common interest in an ending of the violence. The efforts of Mr. Brahimi had to be supported, and the Geneva Communiqué was a good basis. HR/VP Ashton said the EU had recognized the opposition coalition as "legitimate representatives". Russia warned that NATO was seeking to create legitimacy for an intervention.

The EU thanked Russia for support on the Iranian nuclear programme in the E3+3. On Kosovo, FM Lavrov raised concerns about EULEX and the Marty Report. HR/VP Ashton expressed her confidence in Prosecutor Williamson and gave a positive assessment of talks between Belgrade and Pristina. On Moldova, HR/VP Ashton welcomed the improved cooperation between Chisinau and Tiraspol. It was important to engage on identifying principles for a settlement. Russia insisted that the opening of the third basket could not happen before Chisinau repealed its 2005 Reintegration Law. Russia considered progress sufficient to return to the "Meseberg" proposals, and recalled its proposal for an MoU between the EEAS and the Russian MFA. Ambassador Chizhov welcomed the enhanced agreement on civil protection and suggested that the new centre in Serbia should be used for EU-Russian cooperation. The EU side confirmed its readiness to explore further opportunities for strengthening crisis management cooperation.

The EU expressed concern over possible flights to Nagorno-Karabakh and emphasized its support for the Minsk Group. The EU was pleased that the new Georgian government aimed for improved relations with Russia. Russia said imports of Georgian wine and water and a resumption of regular flights could follow if technical talks were concluded.

These bi-annual Summits can be useful in presenting unified messages from the EU to the Russian side, in particular on trade and human rights issues. I hope we can continue to work together and build on the constructive nature of this December Summit to identify and deliver more tangible results at future summits. We will also ensure that these messages are complemented through bilateral contact.

12 February 2013

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

Thank you for your letter of 12 February, which was considered at the meeting of the EU Committee on External Affairs on 21 March 2013.

The Committee would like to thank you for your comprehensive and detailed letter outlining the negotiations and outcome of the EU-Russia Summit. We welcome this level of information and found it useful.

There is no need to respond to this letter unless, of course, you wish to do so.

14 March 2013

EU SPECIAL REPRESENTATIVE FOR THE SAHEL

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

Since in the past the Committee has shown a keen interest in budget and cost implications of EUSRs, I wanted to write to you as well as to the Commons who have requested further information in respect of the proposal to appoint an EU Special Representative for the Sahel.

This letter follows my Explanatory Memorandum to the Committees of 15 February and the House of Commons Scrutiny Committee's report (ref. 34702) of 27 February. In its report, the House of Commons Scrutiny Committee asks for more detail on "not simply what the final salary is, but also what the overall budget and staff numbers will be. We understand that all of this is still under

discussion. We therefore ask the Minister to provide this further information as soon as possible. In the meantime we shall retain the document under scrutiny.”

As the Explanatory Memorandum noted, there has been little information so far on the likely budget or staffing numbers for EUSR Sahel as budget information was not included in the draft mandate circulated by the Commission.

We understand that the EUSR will be based in Brussels and therefore not “double-hatted” as an EU Head of Delegation. It is unclear what staff the EUSR will require in Brussels, although it is certain he will need a Private Office team. Basing the EUSR in Brussels will avoid some of the problems we have experienced elsewhere with duplication between EUSR offices and EU delegations, e.g. on function, logistics and accommodation.

A draft budget is scheduled to be released on Tuesday 5 March. We expect that it will be in the region of €1.35 million, with four staff (two in Brussels, two in the region) and the expected salary grade of AD16. We also have information on overall budgets and staff numbers for EUSR positions elsewhere in the world:

- EUSR Afghanistan: annual budget €6.7m, 26 staff
- EUSR Horn of Africa: annual budget €4.9m, staff numbers increasing from 8 to 10
- EUSR Human Rights (based in Brussels): annual budget €712,500, 4 staff members
- EUSR South Caucasus, annual budget €2m, 22 staff in total

In its report, the House of Commons Committee also expressed its expectation that “the salary and other VFM aspects of the EUSR role [will] be given full consideration in the review of EUSRs, due this summer, which we look forward to scrutinising in due course.”

I can confirm that my officials are working now on a strategy to address this issue. I will write separately on EUSR future mandates and how both the monitoring and evaluation of EUSRs can be improved.

5 March 2013

EU SYRIA ARMS EMBARGO

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

Further to the Foreign Secretary’s Statements to Parliament on 6 May and 15 April, and Mr. Burt’s briefing to the Sub-committee on External Affairs on 16 April I wanted to write to you with an update on our policy on the EU Syria arms embargo.

I share the Committee’s grave concern at the growing catastrophe in Syria and the substantial humanitarian consequences and security risks facing the region. In one recent week alone, another 100,000 people fled Syria, bringing the refugee total to its current level of over 1.3 million. Millions more are feeling the effects of Assad’s violent oppression.

As the Foreign Secretary has set out, the Government’s priority is a political settlement to the conflict. However, the prospects of an immediate diplomatic breakthrough are slim. We cannot stand by while the situation in Syria continues to deteriorate at an ever more rapid pace. That is why the Government has significantly increased its humanitarian assistance to Syria and neighbouring countries; and why we are stepping up our non-lethal assistance to the Syrian National Coalition, as a means of increasing pressure on the Assad regime to enter negotiations on a political settlement. We will ensure that any Government assistance is a necessary, proportionate, and lawful response to a situation of extreme humanitarian suffering and that there is no practicable alternative. The government’s diplomatic efforts on Syria and practical assistance are mutually reinforcing, and should not be seen as alternative strategies.

THE IMPACT OF THE SYRIA CRISIS ON NATIONAL SECURITY

The conflict is precipitating a growth of extremism in Syria which poses current and future risks to UK national security. As the conflict has progressed, violent Islamist groups have been gaining ground

in Syria and have attracted a large number of foreign fighters of all nationalities, including a substantial number of UK citizens. The overall number of foreign fighter travelling to Syria is greater than for all other arenas of jihad combined. The Government's support for the moderate opposition is aimed at countering the rise of extremist groups within the opposition.

INFORMING PARLIAMENT ON DEVELOPMENTS IN HMG POLICY ON SYRIA

HMG's policy on Syria has been consistent in not ruling out any options for resolving the crisis in Syria. We have to be prepared to do even more to help to save lives. Our policy on Syria cannot be static in the face of this growing calamity.

As the Foreign Secretary said to the House on 15 April, the UK Government has taken no decision that we would like to send arms to the Syrian opposition. However, the UK and France argue that we will need further amendments to the EU arms embargo, or even to lift it altogether. As things stand, we need greater flexibility if we decide that urgent action is necessary, for example in response to a specific incident or continued grave deterioration on the ground, or to create the conditions for a successful political transition.

As you know, I attach great importance to my responsibilities towards Parliament, including ensuring that your Committee has the opportunity to scrutinise these sorts of decisions. Although we unfortunately had to override scrutiny on the last Council Decision and accompanying implementing Regulation, I am grateful for the understanding of the Committee on this matter. I trust that Mr. Burt's recent briefing to the Subcommittee on External Affairs provided a good opportunity for Members to examine our policy on this important issue.

7 May 2013

EU TRAINING MISSION TO MALI

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

My letter of 7 December referred to the proposed CSDP mission to Mali. You asked for more information on the political rationale for the mission, the effectiveness of the mission's planning, and on the longer term strategy. This letter sets out the Government's view on those points, under individual headings.

POLITICAL RATIONALE

The situation in Mali deteriorated rapidly following a coup in March this year. More than half of its territory, mostly in the north, is occupied by a variety of nationalist, terrorist and criminal groups, two of which are affiliated to Al-Qaeda in the Islamic Maghreb (AQ-M). The Malian army is deeply divided, underfunded, poorly led, and unable to retake control of the north. There has been no improvement since March. The security implications of failing to act in Mali could affect not only the Sahel, but wider West-and-North Africa. There is widespread recognition that, left unchecked, AQ-M and its affiliated groups could pose a direct threat to the European mainland. There is already a humanitarian crisis in the Sahel region, with an estimated 440,000 IDPs and refugees. The security situation is exacerbating this. The imposition of sharia law in Mali's northern cities has brought a rise in human rights abuses.

On 10 December the situation in Mali became still more uncertain following the arrest by the Malian army and subsequent forced resignation of Prime Minister Cheick Modibo Diarra. This arose from tensions between Diarra and the military over the proposed AU/ECOWAS intervention in Mali, which was authorised by UNSCR 2071 on 12 October. The Prime Minister's arrest triggered the resignation of the entire Cabinet. President Traoré has since appointed a new Prime Minister, probably influenced by the military. The new Prime Minister, Django Cissoko, has been widely welcomed (in private) as a stronger player than Diarra. But the events of 10 December demonstrate clearly the volatile situation in Mali and the need for action to resolve the continuing instability. I recognise that the Committee will be keen to be notified as soon as there is any news from Brussels, in particular if we appear to be moving towards a potential decision. We will update you accordingly in the coming days.

The October Foreign Affairs Council (FAC) agreed three pillars for EU action in Mali: support to the political process; support to internal political negotiations; and support to ensure a credible threat of

force if other efforts failed. Council Conclusions called on the Malian Government of National Unity to adopt a roadmap towards the restoration of constitutional order and a united Mali. They agreed to proceed with planning for a military CSDP mission to help restructure and train the Malian army. The Conclusions also asked the High Representative and the Commission to explore what additional support to give to regional partners, particularly ECOWAS.

At the November FAC Ministers reaffirmed the need for EU action in Mali. The UK, supported by Germany and Poland, underlined the need for adequate planning, including force protection, having a clear exit strategy and coordination with the ECOWAS operation. Council [Conclusions](#) called for a coherent and comprehensive approach to solving the political and security crises in Mali; stressed the importance of finding additional funding for the Africa Peace Facility (APF), asking the Commission to provide for the mobilisation of additional funding from the 10th EDF; and offered support to other international efforts in Mali, particularly those led by the AU and ECOWAS.

Since the October FAC, an EU Assessment Mission has deployed to Bamako to review the state of the Malian armed forces. The mission reported that Malian support for the mission (this will be a key factor in ensuring that the mission is a success) had strengthened since the Government of National Unity (GNU) first formed in late August. However, the extent of the new Government's support for the mission remains to be seen.

Ministers in Council will need to take a view as to whether the mission can still deploy despite the military's forced removal of the Prime Minister. This will also depend upon on-going discussions on this issue at the UN. As the need for intervention remains, and as the President remains as a legitimate political figure, it is likely that Ministers will agree to continue. If Ministers do wish to proceed, it is important that planning is well advanced to enable as rapid a deployment as possible.

PLANNING PROCEDURE

An EU Crisis Management Concept – the first formal planning document – was agreed at the December FAC and sets out the missions' broad objective. This is to provide military training and advice in the South of Mali to the Malian Armed Forces in order to contribute to increasing their military capacity to engage in combat operations aimed at restoring the Malian territorial integrity. This mission is not mandated to deploy to the area of combat operations of the ECOWAS-led forces and Malian Armed Forces. EU Training Mission (EUTM) Mali will not be involved in operational actions in the north. We support the scope of this action and have been intimately involved in its preparation.

The EUTM would form the first phase of international efforts to return northern Mali to government control. It would train the Malian armed forces to enable them to lead an intervention comprising ECOWAS Member States and other contributing nations. The EU has promised to provide support to the ECOWAS mission through the APF, which is currently funding missions in the Central African Republic (MICOPAX) and Somalia (AMISOM). We have expressed concern that existing funding for the APF will not be sufficient to cover a new, additional mission to Mali, and were pleased that the November FAC Conclusions addressed these concerns. For 2013, it is estimated that the APF would require approximately €270 million to sustain existing missions in Africa, and cover the mission to Mali (AFISMA), which has an indicated need of €50 million in 2013. It will be important for us to work with our EU partners to identify additional funds for the APF to avoid an anticipated funding shortfall in 2014, which will have implications not only for AFISMA, but also for AMISOM. A non-functioning APF will have major repercussions on EU-Africa relations, and will impact negatively on the policies and activities of our African partners.

In view of the situation in Bamako and the need for a swift deployment to address it, and given the general consensus around the parameters of the mission, the EU Military Committee assessed that Military Strategic Options (MSO) were not required. Planning will consequently move straight to the Initiating Military Directive. This will provide the guidelines for the Operations Commander to draw up more detailed planning. There is precedent for such an approach. In planning for the CSDP mission currently underway in Niger, we agreed with European partners to combine the CONOPS and O-Plan phases of planning in to a CONOPS-plus. Whilst an accelerated planning timeline runs the risk of missing important stages in the process the UK, along with a number of other EU Member States, are working to ensure that the planning for Mali covers all necessary stages. We are currently content that the planning work to date and the planned future planning work will ensure a mission in Mali benefits from the necessary planning and preparation.

However, before that action takes place, a Council Decision is needed to establish the mission and its Operation Commander, as well as releasing a small proportion of the mission budget to enable further planning. A further Council Decision will be required to formally launch the mission. The 10

December FAC Conclusions provided generic support for the mission, building on the Conclusions agreed at the October and November FACs, recognising the need for urgent action in Mali and giving formal agreement to proceed with planning for the CSDP mission deployment. Intensive negotiations over the text of the first Council Decision are ongoing in Brussels. There is constant dialogue between officials in London and Brussels to ensure we are fully up to speed with proceedings, and we are mindful that we will need to provide an Explanatory Memorandum (EM) to the Committee as quickly as possible once the Council Decision has been agreed.

We have signalled our wish to give approval once the Council Decision has passed Scrutiny. France is strongly pressing for adoption of a Council Decision before Christmas in order to trigger further planning processes, particularly following the latest events in Bamako and their impact on security and on Malian government interlocutors. Due to our scrutiny obligations, we have made clear that this timing is difficult for the UK. But we remain committed to supporting this Mission and wish to avoid delaying progress for the reasons above. I would be grateful, therefore, if the Committee would be able to consider scrutiny of the Council Decision during its meeting next week, if it becomes available before 17 December. My officials will be available for further questions, in person and in writing as the Committees find most useful, in the coming week (before Parliamentary recess begins), and I trust will be able to assist you if the Council Decision is available and scrutiny therefore takes place.

Finally, I should emphasise that this Council Decision will not definitively launch the mission. A second Council Decision will be required to approve the operational details and deployment of the mission. However, early approval of this Decision will enable planning to continue and ensure that we are better able to advance key enabling activities including force generation and operational planning. I appreciate this is a significant request of the Committee and would be grateful for your understanding given the circumstances.

13 December 2012

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

Thank you for your letter of 13 December 2012 and the EM and draft Council Decision on a European Union military mission to contribute to the training of the Malian armed forces, which the EU Sub-Committee on External Affairs cleared from scrutiny at its meeting on 19 December. We would also like to thank you for the background briefing given by your officials on the subject.

The Sub-Committee were interested to hear about the proposed mission but are also very concerned about the difficulties the mission will face in tackling the serious weaknesses in the Malian security forces. We hope that it will in fact be possible for the mission to be effective in the task it has been set.

The Sub-Committee would be grateful if you would update us on the mission as it moves towards deployment, and keep us informed more generally on the situation in Mali.

I look forward to receiving your updates in the new year, as the situation develops.

19 December 2012

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

Your letter of 19 December requested that we update the Sub-Committee on developments in planning for the EU Training Mission to Mali (EUTM) and on the situation in the country in general.

An Explanatory Memorandum on a Council Decision establishing the EUTM was submitted for Parliamentary Scrutiny on 18 December 2012. On 19 December, the House of Commons European Scrutiny Committee recommended the document for debate. This took place on 16 January and the document was subsequently cleared from scrutiny. Your Committee cleared the document on 19 December.

EVENTS IN MALI

The Government remains deeply concerned by the situation in Mali and the threat that terrorist groups in the north pose to regional stability and international security.

As the Prime Minister said in the House on 21 January, this evolving threat demands an international response. It must be one that is tough, intelligent, patient and based on strong international partnerships – including with and through the EU.

The UK is committed to working with the Malian Government, regional neighbours and international partners to prevent a new terrorist haven developing on Europe's doorstep and to reinvigorate the political process in Mali once the extremist advance has been halted. This means using everything at our disposal - our diplomatic networks, our aid budget, our political relations, our military and security co-operation, and supporting the building blocks of democracy like the rule of law and a free media.

French military action began on 12 January in support of Malian Armed Forces (MAF) and at the request of the Malian Government. There are now around 2,000 French troops on the ground and, with the MAF, have succeeded in recapturing the key towns of Konna, Diabaly and Douentza from the terrorists.

The UK is supporting French efforts through logistical support and the sharing of intelligence. As the NSC agreed on 22 January, the UK will look positively at further French requests for additional logistical and surveillance support. Discussions are on-going with the French Government. UK military planners are also assessing what AFISMA troop contributing countries might require in terms of training.

The UK (and others, including France) are clear that the long-term military effort in Mali must be African-led. Preparations continue for an African-led intervention force (AFISMA) to support the Malian armed forces authorised in line with UNSCRs 2071 and 2085. Some African countries – Chad, Nigeria, Togo, Burkina Faso – have already begun to deploy troops to Mali, but numbers are small so far.

EU ACTIVITY

On 17 January, I attended an extraordinary meeting of the Foreign Affairs Council which agreed to formally establish the EUTM. This gives formal approval to the mandate and establishes the mission. It authorises further operational planning to prepare for deployment, releases some of the budget to allow this to happen, appoints a Mission Commander and allows force generation to begin.

A further Council Decision will be required to approve final details of the deployment. Member States will agree this Decision on 12 February and the EUTM will launch as soon as possible after that. I will be writing to your Committee, and in parallel to the European Scrutiny Committee, with an Explanatory Memorandum as soon as this new draft Council Decision is available, to enable scrutiny to take place. We hope that scrutiny can be cleared before 12 February, and my officials are available to assist your Committee with its consideration of this further Council Decision.

The EUTM will provide basic military training as well as advising the Malian forces on command and control, logistics, human resources as well as on international humanitarian law, the protection of civilians and human rights. The EUTM is mandated to be in Mali for no more than 15 months and is subject to ongoing review. Any decision to extend the mission would be subject to unanimous agreement by EU Member States. The EUTM will not be engaged in combat and will operate under the political control of EU Member States with full UK participation in Brussels. EUTM Mali is separate from AFISMA and from French bilateral assistance, although all three will clearly need to be carefully coordinated.

As you might expect, there has been considerable discussion of Mali in Brussels in recent weeks. In the margins of the 17 January FAC, the Malian Foreign Minister briefed his EU counterparts. During this session, Baroness Ashton called for an assessment of the current capacity of the MAF. I made it clear that there needed to be a hard-headed assessment of the MAF's capability: many will need training, including on human rights (a theme covered in the House of Commons debate on this mission on 16 January) and will require significant logistical support. This assessment will be critical to ensuring that the EUTM is successful.

Following on from the FAC, the Political and Security Committee met on 22 January to discuss a list of potential third-countries who could provide additional support to the EUTM. At the same meeting, the EAS highlighted the following priorities: influencing the political roadmap and negotiations, acceleration of EUTM, further support to the Malian army, support to AFISMA and delivery of public services, particularly when it was possible to do so in northern Mali.

The EAS is also exploring the possibility of deploying two experts to Mali to assess whether an expansion of EUCAP Sahel's advisory and training programmes to Mali might be viable. Any activities in Mali undertaken under EUCAP Sahel in this way would require agreement from all Member States and a new Council Decision – and, of course, clearance by the scrutiny committees in both Houses.

Discussions are also underway to identify ways in which the EU Instrument for Stability could be used to fund activities in Mali. Approximately €5 million is being set aside for activities such as providing civilian expertise and critical equipment, supporting counter-radicalisation measures and socio-economic stabilisation packages to be rolled out in the north of Mali as and when this area becomes accessible.

25 January 2013

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

The Council Decision was considered by the EU Sub-Committee on External Affairs on 7 February 2013 and was cleared from scrutiny. The Committee very much appreciated the briefing provided by Ministry of Defence personnel, which assisted them in their scrutiny of this issue.

We noted that in your EM no mention was made of means of payment to Malian forces once they have been trained by the EU mission. As other missions in Uganda/Somalia and EUPOL Afghanistan have shown, it is essential to make regular payments of stipends to those personnel that have been trained in order to retain them and for the mission to be successful.

We understand from the MoD that the United Nations will be providing stipends through a trust fund committed to Malian armed forces. Could you confirm that these payments will cover those military personnel trained by the EU mission?

We have been following the situation in Mali with great interest and would be grateful if you could continue to keep us informed of how the mission unfolds.

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

11 February 2013

EUROPEAN DEVELOPMENT FUND: FINANCIAL INFORMATION (12391/12)

Letter from Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development, to the Chairman

The House of Lords European Union (EU) Scrutiny Committee considered the above document on 11 October 2012. Further information was requested on two issues:

- In what way would the European Development Fund (EDF) under-spend impact practically on DFID programming and spending? Specifically, how will it be possible to re-allocate such a large sum effectively and maintain its added value in such a short time within the DFID budget?
- Are the criteria for the new budget support guidelines appropriate?

In response to the first point, the EDF under-spend will have a minor impact on DFID programming and spending. The under-spend has been comfortably managed by DFID Accounts Department. More than half (67 per cent) of the EDF under-spend has been re-allocated to existing projects within DFID's policy and global partnerships directorate and 33 per cent has been returned to the central contingency. DFID maintains a healthy pipeline of projects and programmes in order to manage variances to forecasted spend and has not developed more programmes as a direct result of this under-spend.

Since writing the original EM, DFID officials have met with senior officials in Brussels to raise the issue of EDF forecasting and the UK has lobbied hard via the ACP Working Group to improve financial oversight and accountability of EDF forecasting. We have also received a written explanation from the Commission on the under-spend. As anticipated, undisbursed budget support payments account for a large part of the under-spend but overly ambitious forecasting of spend on new programmes under the European Commission's (EC) Agenda for Change has also contributed. As EDF forecasts are currently only adjusted at six monthly intervals, we think this may have accounted for the lag before Member States were made aware. I continue to treat this issue as a priority and DFID is working with other Member States and the EC to look at ways of improving future EDF forecasting and communication with Member States. We have asked the Commission to run a seminar with Member States to discuss this further.

On the second question about the EC's new budget support guidelines, DFID agreed with the main changes proposed by the EC in the recent Budget Support Communication. This included the outlined use of eligibility criteria, which are consistent with DFID's own partnership principles.

Member States have regularly expressed concerns about the EC continuing to provide and disburse budget support even in situations where this is not merited e.g. Kenya, and Malawi, so it would be contradictory to criticise the EC for adopting a more robust approach to assessing whether a country has fulfilled the conditions for disbursement.

The main elements of the new approach include a more robust risk assessment process, greater attention to whether countries continue to meet eligibility criteria both ex-ante and during programme implementation, commitment to EU fundamental values on human rights, democracy and rule of law as a pre-condition for general budget support (now termed and provided under a 'Good Governance and Development Contract' by the EC) and a continuation of a results-based approach, where a proportion of budget support (on average around 40 per cent of total) is provided as a performance-related variable tranche.

These elements of the EU's new approach are consistent with DFID's own strengthened approach to the provision of budget support and also respond to some of the concerns raised in the recent Independent Commission on Aid Impact (ICAI) evaluation of the use of budget support, which actually recommended a more differentiated response to good and poor performance e.g. by making the variable tranche component a larger share of the total financial package.

The implication of this is that there will be cases where disbursements cannot be made (will be delayed or eventually cancelled) if the Government's commitment to the various eligibility criteria is called into serious question e.g. lack of progress with public financial management reforms or a lack of commitment to budget transparency and also where there has been under-performance against the agreed indicators and targets for the variable tranche element of the programme.

In all cases, the EC will engage in dialogue with the partner government on what needs to be done to get the programme back on track and a graduated response to underperformance will be put in place. The EC is also committed to dialogue with other donor partners over determining an appropriate response. The new Budget Support Steering Committee provides a forum for DEVCO (Europe Aid, Development and Cooperation) and External Action Service (EAS) management to review progress and respond to emerging issues and risks.

19 November 2012

Letter from the Chairman to Lynne Featherstone MP

Thank you for your letter of 19 November, responding to mine of 18 October, which the House of Lords EU Sub-Committee on External Affairs considered at its meeting on 29 November.

You say that the under-spend has been comfortably managed by DfID Accounts Department, but do not explain precisely how this has been done. The Committee would be grateful if you would expand on your letter to explain precisely the process by which the EDF under-spend has been reallocated and returned to the central contingency, particularly in the short timescale. Which have been the programmes to benefit from the reallocation?

I look forward to receiving your reply within the standard ten working days. An appearance before the Committee to explain the position would be an acceptable alternative.

3 December 2012

Letter from Lynne Featherstone MP to the Chairman

The House of Lords EU Sub-Committee on External Affairs considered the above EM on 11 October 2012. DFID provided a response to a further information request on the European Development Fund (EDF) underspend and criteria for budget support on 19 November 2012. In your follow up letter dated 3 December 2012, the Committee requested further information around the process by which the EDF underspend had been reallocated and returned to the central contingency and which programmes benefitted from the reallocations.

DFID has a robust financial management framework, which incorporates formal quarterly reviews of planned and forecast expenditure. Once the EDF underspend of £160 million had been confirmed, DFID used its standard financial management procedures as follows.

Firstly, any excess budget is re-allocated to DFID's central contingency funds. Funding is then re-allocated from central contingency to:

- **Areas of emerging pressure** – an example of this is £10 million which was identified as being required to meet the UK's commitment to return its share of the proceeds from IMF gold sales to the **IMF's Poverty Reduction and Growth Trust**, supporting concessional finance for Low Income Countries.
- **Areas of previously unforeseen/increased commitment** – DFID allocated previously unbudgeted funds in order to respond to the Humanitarian Crisis in Syria.
- **Decisions to increase particular areas of programme activity** – an example of this is a £20 million contribution towards the Global Programme to Enhance Reproductive Health Commodity Security.

21 January 2013

EUROPEAN UNION TRAINING MISSION SOMALIA

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

I am writing to inform you that the European Union are in the process of drafting a Council Decision which is likely to be adopted between 18-20 December to amend and extend Decision 2010/96/CFSP on the European Union Training Mission Somalia (EUTM); the EU military mission to contribute to the training of Somali National Security Forces (NSF).

In late September this year, the European Council concluded a review of EUTM, evaluating the effectiveness of the mission in achieving its stated aims and given the changes in the political and security situation, identifying recommendations for any future of the mission. Based on this, the European Council are now drafting a Crisis Management Concept which we expect to set out in detail the costs, aims and structure of EUTM in the next two years.

The current EUTM mandate is due to expire in December, so in order for EUTM to continue to be operational, a new mandate will need to be proposed and agreed before the end of December. Due to the process by which the documents are agreed in advance of the drafting of the Council Decision, we do not expect to receive this before 13 December. I therefore wanted to write to you in advance of this as I realise this will provide a particularly short window for the Scrutiny Committee to consider these proposals.

I am unable to provide the committee with exact details of the Council Decision at this time but we expect it to recommend a two year extension to EUTM's mandate. It will propose to relocate the mission to Mogadishu (dependent on duty of care and security concerns) and to build on previous training of junior officers by shifting the area of focus to more senior levels of the Somali National Security Forces. This is consistent with the UK's Somalia policy to work with the new Somali government to strengthen their security forces in order to stabilise the security situation in the country.

I will write again once the Council Decision becomes available for scrutiny.

3 December 2012

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

I am writing regarding a Council Decision on the European Union Training Mission Somalia (EUTM): the EU military mission to contribute to the training of Somali National Security Forces (SNSF).

The FCO recognises that scrutiny is an important part of open and transparent government and realises that it is the way of connecting British voters to EU decision-making. As the Committee knows, I am committed to an effective scrutiny process.

The FCO has made a genuine and concerted effort to bring this matter to the committee's attention at the earliest opportunity. There are a number of factors which have unfortunately resulted in the short timeline available for Scrutiny.

The situation in Somalia has been in flux, with a new President elected in September and a Cabinet appointed in November. The European External Action Service have told us this has made their planning difficult. Throughout the autumn, there have been continued and detailed negotiations amongst Member States on the proposed changes to the Mission's mandate. This included the Government seeking further detail from the EU on issues such as the cost implications of the mandate changes (detail essential for Parliamentary Scrutiny and UK agreement). Only in the last week or so have we received sufficient detail from the EU and reached provisional agreement on the way ahead for the mission. The Council Decision could not have been drafted until this point.

Furthermore, the Committee will remember our correspondence of July 2011 and December 2011 regarding this Mission and the difficulties in providing classified documents to Parliament for scrutiny. The September review of EUTM and the subsequent Crisis Management Concept were once again classified documents, so as per scrutiny procedures, they could not be submitted to Parliament. We have therefore been unable to share a document with the committee until we received the draft Council Decision itself.

FCO officials in Brussels have made representations at all levels since September to push for an earlier receipt of appropriate documentation as we were conscious of the timelines for Parliamentary Scrutiny.

Unfortunately we were still provided with the documents at short notice, but we have nevertheless endeavoured to provide the Committee with as much detail as we are able in order for the scrutiny process to take place.

It is regrettable that the Committee feels that they may now not be able to satisfactorily scrutinise this document. However, I would like to assure the Committee that in this case the FCO did everything within our power to ensure that these documents were provided to you with sufficient time to allow the Committee to represent its views. We will again make strong representations on this point to the European External Action Service.

Given the importance the Government attaches to ensuring the continued success of this mission, which plays a critical role in supporting the fragile security situation in Somalia, I hope the Committee will give this matter its full and urgent consideration. Whilst the outcome is far from ideal, we have ensured that at a minimum, the Committee has sight of this Decision in advance of agreement.

13 December 2012

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

The above document was considered at the meeting of the EU Committee on External Affairs on 19 December and cleared from scrutiny. The Committee would like thank you and your officials for your assistance in providing the documents necessary to inform our scrutiny process and for the briefing from your officials.

While we have cleared this document from scrutiny, there are several issues which we consider should be watched with care and on which we would appreciate your response.

First, past experience of the EU training recruits in post-conflict societies has demonstrated the importance of ensuring that their stipends continue to be paid. We understand that the stipends are assured for a further year, but could you please inform us what steps are being taken to ensure that the recruits continue to be paid regularly. What structures are in place to ensure that the payment system is sustainable?

We have noted that the Somali recruits being trained by EUTM Somalia are predominantly from the leading Mogadishu clans but that it is important that the Somali armed force should also be representative of the clans outside Mogadishu. We would be interested to hear what steps are being taken to address this issue.

We would also like to know how coordination on the ground takes place between the multiple players in Somalia, both multilateral organisations and bilateral partners such as Turkey in particular. We are concerned that a multitude of players could lead to duplication and overlap in their roles.

We believe that development should be included in the EU's plans for the future and that a gap between post-conflict building and development assistance should be avoided. Can you please inform

us what steps are being taken to ensure that in the crucial post-conflict period in Somalia there are structures in place to facilitate the provision of development assistance?

I look forward to receiving your reply within the standard ten working days.

19 December 2012

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

I am writing with regard to Council Decision 2012/835/CFSP, extending Decision 2010/96/CFSP on a European Union military mission to contribute to the training of Somali security forces (EUTM Somalia).

I was grateful for your Committee's swift response in agreeing to the proposed Council Decision referred to in the Explanatory Memorandum of 13 December 2012, amending and extending Council Decision 2010/96/CFSP on EUTM Somalia. I trust that the oral briefing my officials provided to your Committee was also of use. I will respond separately to the questions raised in your letter of 19 December.

I am writing to you in light of the override which has been required on a separate, but essential, Council Decision (2012/835/CFSP). This Council Decision was agreed by Member States on 21 December and provides for a short (one-month) technical extension to the current mandate for EUTM Somalia. Whilst regrettable, the need to override scrutiny on this separate Council Decision was necessary to keep the skeleton framework of the mission in place following the end of the current mandate on 31 December 2012, and until the debate on the more substantive Council Decision amending the mission and extending it for two years has taken place in European Standing Committee B.

At its meeting on 19 December, the European Scrutiny Committee decided not to clear the Explanatory Memorandum of 13 December from scrutiny and recommended the Council Decision for debate in European Standing Committee B. Our expectation is that this debate will take place in mid-January.

As the current mandate for EUTM Somalia expired at the end of December 2012, it was necessary to negotiate at speed on 20 December, a separate Council Decision to agree a short technical extension to Council Decision 2010/96/CFSP. Had the current mandate expired, the mission would have formally ended, requiring it to be closed whilst a new mandate was negotiated from scratch.

The new and separate Council Decision 2012/835/CFSP, agreed by all Member States on 21 December, extends the current mission's mandate for just one month, to 31 January 2013. It also approves an advance payment of €50,000 to maintain the mission over that time.

I regret that due to the fact that the House was in recess, I found myself in the position of having to agree to the adoption of this second Council Decision before your Committee had an opportunity to scrutinise the documents. I understand from conversations that my officials have had with the Clerks to your Committee, that this would be considered as a scrutiny override during recess.

I enclose an Explanatory Memorandum alongside this letter which explains the new documents in more detail. As usual, I or my officials stand ready to provide further information if required.

I hope that your Committee understands that the decision to approve a short mandate extension was taken in order to allow the European Scrutiny Committee time to consider the substantive issue of EUTM Somalia fully, and for Parliament to debate the matter before a decision on the proposed amendment and long-term extension described in the Explanatory Memorandum of 13 December.

7 January 2013

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

I am writing in response to your letters of 19 December concerning the European Union Training Mission Somalia (EUTM Somalia). I would like to thank the Committee for its understanding and flexibility in ensuring that were able to extend the Mission and for your continued dialogue with us on this issue.

You may recall at the end of 2012, we had to arrange for a quick Council Decision extending EUTM Somalia's mandate by a month, to stop the mission from collapsing and to afford the Commons Scrutiny Committee the opportunity to assess the long term renewal of the mandate. Unfortunately, due to the timing of this temporary Council Decision and start of the Lords recess period, we had no option but to override scrutiny.

You will be aware the European Scrutiny Committee has now cleared the extension of the Mission from scrutiny. On 22 January 2013, the Council of the European Union decided to extend the mandate of EUTM Somalia until 31 March 2015.

Additionally, on 11 January the Prime Minister announced that the UK and Somali governments will co-host an international conference on Somalia on 7 May in the UK. I have attached a copy of the press release for your information. This will build on last year's successful conference in London to help sustain international support for the progress being made by the Somali Government.

I agree it is extremely important that we ensure the newly trained EUTM Somalia troops continue to be paid in a regular and sustainable way. Ultimately, we would like to see the Federal Government of Somalia funding their troops, and President Hassan Sheikh Mohamud has already expressed a desire to do so. Unfortunately, this is not yet possible, due to the limited revenues of the Somali government. Until they are able to fund their troops independently, an alternative solution must be found. The US and Italy currently fund the stipends for the Somali national security forces. However they cannot commit funding more than a year in advance. We are therefore working with the Federal Government of Somalia and other donors to ensure that sufficient funds can be found for this vital support to continue. We are also working with the Federal Government of Somalia to support them in ensuring that they develop reliable sources of revenue and accountable public financial management systems to enable them to make these payments in the future.

You have raised the issue of clan representation in the armed forces. Whilst some of the recruits trained by the EUTM have been from Puntland, I share the committee's concern regarding the current lack of clan representation within the Somali National Security Forces (SNSF). The integration of militia into a national security force is one of the Federal Government's priorities and is an issue that we expect the May conference on Somalia to address. However, this is a delicate area and cuts across the political and cultural spheres, as well as security. The provisional constitution of Somalia, agreed on 1 August 2012, does not resolve the issue of how the centre will relate to the regions in a federal Somalia. The resolution of this issue will affect the final shape and structure of the SNSF. We will urge the EU to keep this issue under consideration in their planning for EUTM Somalia.

The UK Government agrees that coordination of international support to Somalia is essential to ensure that it is coherent and strategic. During the 2012 London Conference on Somalia, we secured agreement on the need for international coordination in the security and justice sector. This was also reflected in UN Security Council Resolution 2036, which urged coordination in this area, leading to the establishment of the Military Operations Coordination Committee (MOCC), a strategic level advisory body to the AU which works on regional coordination of Ethiopian troops and AMISOM troop contributing countries. It has met quite frequently at Chiefs of Defence Staff level. The UK also continues to work with key partners and the Somalis to ensure that the coordination of international support is delivered in practice with key partners, including Turkey, and this is an area we are focussing on ahead of the conference in May.

As you identify, the gap between AMISOM and SNSF taking control of an area from Al Shabaab and humanitarian assistance being provided is a considerable challenge in Somalia. To try to address this issue in the immediate term, the AMISOM mandate passed on the 7 November 2012 authorised 50 further civilians to deploy as part of AMISOM. The AU request outlined that these civilians would be tasked to work with local groups to extend the authority of the state, to serve as catalysts to kick-start the provision of basic services, and to facilitate the work of NGOs and Somali institutions. However, this continues to be a challenge and we expect the AU and UN reviews to look for a longer term and more robust solution to this issue and to ensure that the military force works with the post-conflict and development efforts needed.

15 February 2013

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

Thank you for your letter of 15 February, which was considered at the meeting of the EU Committee on External Affairs on 28 February 2013.

We would like to thank you for candid and informative letter in response to our questions. We appreciate the frankness with which you acknowledge the problems, and that you have also given us full information both on this subject and in response to our other recent letters (your letter on the Counter Terrorism Action Plan for the Horn of Africa of 25 January, and the letter on the challenges of building a literate Afghan National Police Force of 6 February.) These letters were helpful.

There is no need to respond to this letter unless, of course, you wish to do so.

28 February 2013

EUROPEAN VOLUNTARY HUMANITARIAN AID CORPS (14150/12)

Letter from the Chairman to Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development

The House of Lords EU Sub-Committee on External Affairs, at its meeting on 1 November 2012, considered the document above and held it under scrutiny.

The Committee were interested to learn of this project, but does have a number of concerns, as it would seem to be premature to decide on the proposal before any of the pilot projects have as yet reported. The Committee also has concerns about the value of and need for this proposal which do not yet seem to have been demonstrated. It is also unclear how this proposal would work in practice. What value could volunteers, who would possibly be amateurs, add in crisis and conflict scenarios, and where would they be deployed? We are particularly concerned that this proposal merely duplicates structures which already exist in Non Governmental Organisations.

We are aware that your department shares some of our concerns and is currently negotiating the details of the proposal. The Committee would appreciate being kept informed of the results of the pilot projects, the state of play of the negotiations and the progress of this proposal.

I look forward to receiving your reply within the standard ten working days.

8 November 2012

Letter from Lynne Featherstone MP to the Chairman

The Committee Meeting held on 1 November 2012 considered the above Explanatory Memorandum. Further information was requested on results of the Pilot Projects, the state of play of the negotiations and the progress of the proposal.

There are two waves of pilot projects which are being funded in advance of the fully fledged initiative. The majority of first wave projects have been completed, and the second wave will run on into 2013. The pilots have tested out different approaches to deploying volunteers with different levels of prior experience to support humanitarian activities. The primary focus has been on supporting disaster preparedness and capacity building, rather than emergency response. Many NGOs and national Red Cross Societies have participated, including three from the UK (Save the Children, Voluntary Services Overseas and the British Red Cross).

In response to a push from the UK and other Member States for further evidence from the pilot projects, the Commission has since produced and shared fact sheets on eight Pilot Projects. The Commission will hold a further session on the pilots during the 11 December COHAFA meeting.

The negotiations on this proposal are continuing. There have been two discussions in COHAFA on the substance of the proposal covering the all five chapters. The Presidency is due to circulate a revised version of the proposal taking into account Member State comments. COHAFA will then consider the revised version of the proposal.

The proposed scope of the EU Aid Volunteers initiative will be affected by the outcome of the current negotiations on the EU Multiannual Financial Framework for 2014-2020. This will not be finalised before spring 2013 at the earliest, but it is likely that the financial level of the External Actions part of the EU Budget, which will fund the EU Aid Volunteers, will be significantly reduced from the Commission's current proposal.

The European Parliament's Development Committee has appointed Michèle Striffler MEP (French European People's Party) as rapporteur for the proposal. The Committee has held one discussion to date.

10 December 2012

Letter from the Chairman to Lynne Featherstone MP

The House of Lords EU Sub-Committee on External Affairs, at its meeting on 13 December 2012, considered your letter above and decided to continue to retain the Proposal under scrutiny.

The Committee is not satisfied that its questions have been answered: namely, what value could volunteers, who would possibly be amateurs, add in crisis and conflict scenarios, and where would they be deployed, and whether the EU Aid Volunteer programme merely duplicates structures which already exist in Non Governmental Organisations. The Committee would appreciate your now providing an answer to these questions.

The Committee remains unconvinced of the added value of this project. We would appreciate the opportunity to study the fact sheets which you say the Commission has produced on eight of the Pilot Projects, as well as the revised version of the proposal which will issue from the COHAFSA negotiations. I would be grateful if you would make that information available to the Committee.

I look forward to receiving your reply within the standard ten working days.

17 December 2012

Letter from Lynne Featherstone MP to the Chairman

Thank you for your letter of 17 December, following your further information request relating to the Explanatory Memorandum of 14150-12 - Proposal for a Regulation of the European Parliament and of the Council establishing the European Voluntary Humanitarian Aid Corps.

The Committee specifically asked what value EU volunteers could add in crises and conflict situations and whether the scheme duplicates existing structures in Non-Governmental Organisations. As set out in the original EM, DFID also has reservations about the need for such a body and the significant budget proposed. We are also clear that the proposal should complement existing schemes and officials have been in discussion with some of the NGOs involved to understand this better. The Committee can therefore be assured that the UK's position takes into account your views.

The Committee also noted that it remains unconvinced of the added value of this project and would like the opportunity to discuss the fact sheets which the Commission has produced on the pilot projects. Officials are happy to discuss these with you and provide further briefing if this would be helpful. I am also very happy to meet with you in order to discuss a wider range of EU issues.

7 January 2013

EU-IRAQ PARTNERSHIP AND CO-OPERATION AGREEMENT

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

In May 2011, the House of Lords Select Committee on the European Union cleared Council Decisions on signature and provisional application, and conclusion of the EU-Iraq PCA from scrutiny. The House of Commons European Scrutiny Committee has since noted that the Council Decision on conclusion has been updated to include a Title V legal base, and requested deposit of the revised version. I am therefore writing to provide you with the revised version of the Council Decision on conclusion.

I enclose an Explanatory Memorandum alongside this letter which explains the new document in more detail and addresses the questions raised by the House of Commons European Scrutiny Committee about the inclusion of a Title V legal base. As usual, I or my officials stand ready to provide further information if required.

28 January 2013

EU COUNTER TERRORISM ACTION PLAN FOR THE HORN OF AFRICA AND YEMEN

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

Thank you for your letter of 29 October which the EU Sub-Committee for External Affairs considered at its meeting on 8 November 2012.

Thank you the information you provided on the EU Counter Terrorism Action Plan for the Horn of Africa and Yemen. The information provided on the African Mission in Somalia is very detailed and comprehensive.

However, the Committee is not entirely satisfied on the question of the capacity of beneficiary societies as it does not believe that the necessary infrastructures and civil structures are in place to facilitate the EU Action Plan. We note that there are currently two EU scoping exercises taking place in the Horn of Africa this week which will presumably consider exactly these sorts of issues. We would be grateful if you could provide the Committee with an update on the findings of those scoping exercises and the resulting terms of reference for the planned EU programmes.

I look forward to receiving your reply within the standard ten working days.

14 November 2012

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

Thank you for your letter of 14th November in response to mine of 29th October. You asked for an update on the findings of the scoping visits to the Horn of Africa region.

To set the scoping studies into context, the overall objective of the exercise is the identification and formulation of future EU CT programmes in the region. These programmes will focus on two themes: countering violent extremism; and, regional law enforcement and countering terrorist financing. The scoping studies for the two programmes will be carried out over five and ten months respectively. They will include field missions to the region, the first of which, as you know, took place earlier this month. The final reports, which will be delivered to the European Commission, will include a comprehensive and detailed outline of potential activities, together with draft Terms of Reference for the future EU programmes. We are engaging closely with the experts taking part in the studies, both in London and through our Posts, to ensure that UK views are understood and reflected. I would, of course, be happy to update the Committee, as part of any further correspondence, once we have seen the final reports.

The scoping studies are taking place in parallel to ongoing discussions on the EU CT Action Plan. The External Action Service is now aiming for a Political and Security Committee (PSC) discussion of the Plan in early December but this has yet to be confirmed. As you are aware, we had hoped for ministerial endorsement of the Plan at the November Foreign Affairs Council. This was delayed to allow for a more comprehensive PSC discussion of a number of issues relating to the Horn of Africa region. UK officials continue to seek clarity on the process going forwards and urge speed.

29 November 2012

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

Thank you for your letter of 29 November which the EU Sub-Committee for External Affairs considered at its meeting on 6 December 2012.

However, the Committee is not satisfied that your letter answers our question of whether the necessary infrastructure, civil structures and beneficiary organisations are in place to enable the plans of the Action Plan to be put into effect. The Committee would therefore be grateful if you would provide a specific response to that question, which was in my letter of 12 October 2012.

I look forward to receiving your reply within the standard ten working days.

10 December 2012

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

Thank you for your letter of 10th December 2012 in response to mine of 29 November.

I am pleased to inform you that the Political and Security Committee met on 15 January and approved the EU's Counter Terrorism Action Plan for the Horn of Africa. This is expected to be endorsed as part of wider Council Conclusions on the Horn of Africa at the Foreign Affairs Council on 31 January. Unfortunately the Restreint security classification prevents me from formally depositing the text of the Action Plan, as I know you will understand. However its content is virtually identical to the Commission and High Representative's Joint Communication to the Council, which I deposited as an annex to the Explanatory Memorandum (EM) of 27 September 2012 on this issue, and which your committee cleared from scrutiny. I enclose this again for ease of reference. You will recall from that EM that the Communication itself was based on a draft Plan proposed by the Danes, with UK support, in late 2011. As the substance remains largely unchanged from that original draft, we are delighted with the outcome.

In your letter of 10th December, you asked whether the necessary infrastructure was in place in the Horn of Africa to allow for successful implementation of an EU CT programme.

The international community certainly has less experience of working in Somalia, directly and indirectly, than we have elsewhere in the region and we cannot be as confident as we would want to be that delivery partners (be they international organisations or civil society locally) will be able to deliver the outcomes we want there. But that is no reason not to try. If we only work where we collectively have experience we risk losing the opportunity to make an impact where it is most needed. We are keen to see a variety of projects proposed, some of which would build on existing work, with known delivery partners, and some of which would enable us to improve our understanding of what is possible and build the relationships we will need to make a difference.

As you will be aware from our previous correspondence, the scoping studies for designing the EU's future CT programmes in the region are ongoing. Without knowing what specific activity will be proposed, I believe it is premature to pass judgement on whether or not it can be delivered. I understand that the study experts are taking a comprehensive overview of what activity has been delivered in the region to date, what has and hasn't worked and why, and based on this they will make recommendations as to where there are opportunities to deliver effective and useful work. Any EU programme will be fully designed to be delivered with the current infrastructure in mind.

I appreciate the interest that both Houses' scrutiny committees have taken in this issue and will be glad to update the committees again, as part of any further correspondence, when I have more information.

25 January 2013

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

Thank you for your letter of 25 January 2013, responding to mine of 10 December 2012. Your letter was considered by the EU Sub-Committee on External Affairs at its meeting on 31 January.

The EU-Sub Committee would like to thank you for your clear explanation of the issues involved and your frank explanation, which we appreciate, of the uncertainties surrounding this Action Plan, which we fully understand.

There is no need specifically to this letter, but we look forward to receiving an update when you have further information, as mentioned in your letter.

1 February 2013

EUROPEAN DEFENCE AGENCY (15327/12, 15323/12)

Letter from Dr Andrew Murrison MP, Parliamentary Under Secretary of State and Minister for International Security Strategy, Ministry of Defence to the Chairman

I attended the Foreign Affairs Council (FAC) and the European Defence Agency (EDA) Steering Board on 19 November 2012. The confirmed agenda was released to Member States just a few days before the meeting so there was insufficient time to provide the Committees with our policy position on the agenda items prior to the Steering Board. However I know that Ministry of Defence officials did keep your clerks informed. I am now writing to inform you of the positions I took on each of the items and the subsequent decisions taken.

The Steering Board agreed the EDA Work Programme 2013 and the EDA Work Plan for 2013-15. In addition to these Action Points, the Steering Board endorsed a Pooling and Sharing Code of Conduct to be implemented voluntarily at National level and received an update on the interaction between Defence and Wider EU policies.

In more detail, the areas of discussion were as follows:

EDA 2013 BUDGET

The UK was not prepared to accept an increase in the EDA budget. Therefore, the subject was not discussed at the Steering Board but taken later in the morning at the Foreign Affairs Council (Defence Ministers formation) where the UK successfully secured a budget freeze for 2013. I made the point that in the current financial climate, when we are making cuts to the UK Defence (and other) budgets, we must seek to continuously drive efficiency and scrutinise every pound spent on defence. For this reason, I could not accept an increase in the budget. In accordance with procedure, our position in

refusing to agree a budget increase for the third year running resulted in the budget being held at 2010 levels.

EDA WORK PROGRAMME 2013

The work programme for 2013 has been adjusted following UK comments to prioritise funding in promising areas such as the Defence Test and Evaluation Base, important enablers such as the Collaborative Database, and capability development priorities such as Air to Air Refuelling and Counter IED.

EDA WORK PLAN 2013-2015

As with the Work Programme, the Work Plan has been adjusted following UK comments but reflects the EDA's current proposed budget. The proposed activity for 2014 and 2015 is indicative and will be subject to negotiation prior to future budget agreements.

POOLING & SHARING

Ministers noted the EDA's progress and intentions for Pooling and Sharing, as articulated in the Agency's report on Pooling and Sharing. The report gave a progress update of ongoing activity such as the Helicopter Training Programme and Maritime Surveillance Networking, proposed new opportunities for Pooling and Sharing which include Cyber Defence and Route Clearance Counter IED, and included the Code of Conduct for Pooling and Sharing which Ministers agreed to adopt. The Code is a voluntary, non-binding agreement that aims to "mainstream" Pooling and Sharing in Member States' national planning and decision making processes in order to support co-operative efforts to develop defence capabilities. The Code has been prepared with Member States' input and the UK was content to endorse it.

INTERACTION BETWEEN DEFENCE AND WIDER EU POLICIES

Ministers noted this update on EDA work on the interaction between Defence and wider EU policies such as Industry and Market, Research and Innovation and European Space Policy. In general terms, the UK supports the EDA's role in providing the Defence perspective to agencies such as the Commission, and in providing transparency to Member States regarding the issues discussed. However, we are clear that defence is a matter of national sovereignty and there is no substitute for the direct involvement of Member States.

In the margins of the Steering Board and the FAC, Ministers of the concerned Member States signed the following agreements: "Letter of Intent on a European Strategic Multi-Role Tanker Transport Initiative"; "Programme Arrangement regarding the Helicopter Exercise Programme"; and "Technical Arrangement concerning Diplomatic Clearances for Participants' Military Transport Aircraft in their respective National Airspace or Territory". As you are aware, Ministers are still considering the case for UK membership of the European Defence Agency, with the aim of announcing the outcome of the review shortly. If the decision is taken to remain in the Agency, it would be our intention to sign the Helicopter Exercise Programme Arrangement.

29 November 2012

Letter from Dr Andrew Murrison MP to the Chairman

As you are aware, every year following the Autumn Foreign Affairs Council and EDA Steering Board in Defence Ministers formation, the department submits for scrutiny three key documents which address important aspects of the EDA's activity, namely the EDA budget and three-year financial framework, the Head of Agency Report and the Council Guidelines.

In previous years scrutiny has taken place post-adoption due to the fact that the documents have been classified LIMITE prior to adoption, therefore precluding the ability of the Committees to scrutinise. Following representation from both of your Committees on this issue, my predecessor received assurances from Baroness Ashton (see letter attached) that in future the EDA would seek to immediately downgrade the classification of their documents to allow timely UK scrutiny. As a result, two of the three documents (the Council Guidelines and the Head of Agency report) have been released immediately as PUBLIC and we can therefore offer them for scrutiny prior to their adoption at Council. They are currently scheduled for adoption at the AgriFish Council on the 20 December - I would therefore be very grateful if they could be considered in Committees during the week commencing 17 December. I hope you agree that, despite the tight timeframes, this is a preferable approach to post-adoption scrutiny.

Explanatory Memoranda for these two documents are attached. I trust these provide sufficient information to allow thorough scrutiny. The Council Guidelines set the framework for the Agency's work going forward, which the UK endorses, and the Head of Agency Report gives a summary of progress over the last year.

The third document gives a detailed breakdown of the EDA's budget for 2013. You will recall that in my recent letter regarding the outcomes of the EDA Steering Board I explained that I had managed to negotiate a frozen budget for the Agency in 2013. Whilst the total budget was agreed on the 19 November 2012, the detailed budget breakdown has now been proposed in draft for adoption on the 20 December 2012. The budget is still LIMITE in order to protect the anonymity of Member States' negotiating positions, so unfortunately it cannot be scrutinised officially prior to adoption. In order get this detailed budget adopted at the 20 December Council, I therefore intend to recommend adoption of the detailed budget prior to scrutiny. I regret having to do this, but given the situation I have little choice. Once the budget is adopted and released as PUBLIC, I will send a full EM to the Committees. Although I cannot provide you with the detailed budget, I can say that the proposed Operational Budget (OB) (funding for studies and projects) is €7,443,350 and the personnel and functional budget is €23,087,500. The OB is driven by the Work Programme which, as I mentioned in my previous letter on the Steering Board, has been adjusted taking into account UK comments and continues to be prior to its adoption. Regarding the functional budget, the EDA has implemented efficiencies to reduce costs, for example renegotiating facilities contracts.

On the resolution of the LIMITE issue, I intend to write in reply to Baroness Ashton to thank her for her efforts in addressing this problem, and express a desire that this working practice is continued. If you both consider it appropriate I will offer thanks on behalf of both the House of Commons and Lords Scrutiny Committees. On behalf of my Department, thank you for your patience with this issue over the past 12 months and for being consistent in bringing it to our attention for addressing. The responsibility to keep your Committees informed on issues concerning the European Defence Agency is something I take seriously and my department will continue to ensure that best efforts are made to support this process.

11 December 2012

Letter from the Chairman to Dr Andrew Murrison MP

At its meeting on 19 December 2012 the House of Lords EU Sub-Committee for External Affairs cleared from scrutiny the Head of the EDA's Report to the Council and the Draft Council Guidelines. It also cleared from scrutiny the previous guidelines which had been held under scrutiny.

We are grateful for your efforts to secure the earlier release of the latest documents from the limited restriction which has so delayed parliamentary scrutiny in the past, though we regret that the budget and three-year financial framework document could not be sent to us at the same time. We would also like to thank you for the information you provided about the EDA's projects and the UK's policy on participation in them.

We would request that you send us the date by which the decision on the UK's membership will be made as this has been much delayed. Given that the UK has secured a freeze in the EDA's budget for 2013, and your comments approving the overall direction of the EDA and its various projects, the Committee hopes that the decision will be for the UK to stay in the EDA.

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

19 December 2012

Letter from Dr Andrew Murrison MP to the Chairman

Thank you for your letter of 19 December and for your Committee's prompt Scrutiny approval of the Head of the EDA's Report to the Council and Draft Council Guidelines.

You asked about the date by which the decision in the UK's membership will be made. I hope to be in a position to write to you shortly.

8 January 2012

Letter from Dr Andrew Murrison MP to the Chairman

The next European Defence Agency Steering Board will meet in Defence Ministerial formation on 23 April 2013. Set out below are the positions I propose to take for each of the items due to be discussed. I will write to you again after the meeting with details on the debate among the Steering Board members and the outcomes of this meeting.

CODE OF CONDUCT ON POOLING AND SHARING

The Steering Board is invited to note that the Agency will submit an Assessment of the implementation of the Code of Conduct on Pooling and Sharing. The Code is a voluntary, non-binding agreement that aims to "mainstream" Pooling and Sharing in Member States' national planning and decision making processes in order to support co-operative efforts to develop defence capabilities. The Code was prepared with Member States' input and the UK was content to endorse it at the November Steering Board. We continue to support the Agency's work on the Code and we look forward to the assessment of its implementation in November 2013.

CAPABILITY DEVELOPMENT PLAN (COP)

The Capability Development Plan (CDP) guides the substance of the work of the Agency. The CDP is an important tool to drive the development of the credible forces required for Europe to be able to undertake autonomous action for the purposes of defence and security, following the principles outlined in the Common Security Defence Policy (CSDP). The Steering Board is invited to task the Agency to increase the usability of the COP and present an interim report on its revision in November. The UK supports the top-down prioritisation of capability development in line with priorities identified through the EU Defence Planning process which should be the focus of CDP. The UK is keen to be involved in the COP revision to ensure that the process and end-product take into account the UK's view on what constitutes capabilities that will enable the EU to be equipped to carry out civil-military action in support of CSDP operations.

AIR-TO-AIR REFUELLING (AAR)

On 22 March 2012, Defence Ministers endorsed a political declaration on Air to Air Refuelling (AAR), which aims to address the European shortfall identified in recent NATO operations. At this meeting, my predecessor made the announcement that any unallocated Voyager AAR capacity, subject to contracting arrangements, could be made available to other nations to help reduce their shortfall. At this Steering Board, it is my intention to make a statement to elaborate further on our Voyager offer, to start dialogue with interested Member States and will invite nations to take part in the programme of clearing aircraft to use Voyager.

FUTURE GOVERNMENTAL SATELLITE COMMUNICATIONS

Military Satellite Communications (MILSATCOM) are currently fragmented between five operating countries (UK, FR, IT, SP and DE) all due for replacement within a similar timeframe (2018-2025). The Agency's vision that each of the MiiSatCom operating countries should pool their requirements and

develop a solution under the auspices of the EDA Secure Telecommunications by Satellite program (SECTELSAT) with the potential to be opened wider to other Member States who are not MiiSatCom operators. The UK provides SatCom capacity to the EDA's European Statellite Procurement Cell (ESCPC) initiative but is not in a position to commit to the EDA's SECTELSAT initiative whilst a sovereign capability is needed.

REMOTELY PILOTED AIRCRAFT SYSTEMS

Considered as one of the Agency's top priorities ahead of the December Council, the EDA believe that the integration of RPAS in European Airspace has the potential for a genuine cooperative approach between all relevant civilian and military actors. The EDA has initiated work on Air Traffic Insertion (ATI) through their MIDair Collision Avoidance System (MIDCAS) and are also in the process of preparing a Joint Investment Programme intended to be launched in 2013 that will enable ATI which will focus on priorities such as air traffic management interfaces, safe automated monitoring and decision architecture. The UK view ATI as a civilian requirement. Although sub-optimal, the MOD is able to segregate airspace for Unmanned Aerial Systems (UAS) use with national and international arrangements where necessary. Given the UK's budgets constraints, the UK has higher priority UAS research fields, such as stealth technology, that have little or no cross over to the civilian markets. The UK does, however, wish to maintain intelligent customer status in the field of UAS ATI; to help understand the civilian developments and particularly how these could affect or offer opportunities to the MOD

CYBER DEFENCE

Established as a Top 10 priority in the CDP, the EDA have the mandate to organise dedicated activities on Cyber Defence. They have established a dedicated Project Team Cyber Defence and is attended by national representative of 23 participating Member States (including Norway and Czech Republic) and experts from other interested EU institutions and agencies. The EDA are collaborating with third parties in order to achieve synergies and avoid the duplication of effort notably through liaison with the Cooperative Cyber Defence Centre of Excellence in Tallin. The UK considers cyber to be a sovereign capability and would only engage in multilateral research on a case by-case basis. Two potential areas which we feel the EDA could develop is in cyber training and recovery. Whilst we are not in a position to provide direct support to technical work any time soon, we see benefit in the smaller Member States developing national cyber defence capability. We are clear that any proposals the Agency make will need to be de-conflicted and complementary with NATO Centres of Excellence.

CATEGORY A PROGRAMME IN SINGLE EUROPEAN SKY AIR TRAFFIC MANAGEMENT RESEARCH (SESAR)

Single European Skies (SES) objective is to replace the currently fragmented airspace over Europe by one air traffic management system, thereby increasing capacity, reducing pollution and improving safety and security. In 2010, Ministers tasked the EDA to engage with the SESAR Joint Undertaking in order to identify important financial and operational risks as well as emerging opportunities for the Defence community. The EDA has recently facilitated (at State's request) the non-decision making SESAR Military Forum to raise awareness of military issues. At the Steering Board, Ministers will be requested to approve the establishment of a Cat A (all Member States are in unless they opt out) programme on the military implementation of SESAR. The UK is content to endorse this Cat A programme and continues to support the Agency's work in SESAR. We are keen to ensure continued engagement and collaboration with NATO and EUMS to mitigate the significant financial and operational risks. We are clear, however, that the Agency cannot speak or act on behalf of Member States and in order for the work to be effective all European militaries need to be involved so that a single military view can be established.

ACTION PLAN ON SMALL TO MEDIUM ENTERPRISES (SME)

The EDA is in the process implementing the SME Action Plan; this work has focussed on developing and disseminating best practices which will include how to improve the information sharing on business opportunities or facilitating interaction with the European Commission. The UK supports work that will allow Member States to access available EU resources for research and innovation that are in line with identified technological and industrial policies although we would like to better understand the defined roles of the EDA and the Commission in this area.

POOLING DEMAND

To increase interoperability and benefit from economies of scale, a number of concrete Pooling Demand projects have been launched including the procurement of helicopter simulators and training, procurement of Counter-IED training services, framework contract for satellite communication and basic logistic services for an EU Battle Group. The UK considers a key priority for Pooling and Sharing is harmonising requirements and pooling demand. We need to do better in identifying opportunities at the outset of setting requirements to seek opportunities to work cooperatively. The EDA's CODABA tool (a database designed to advertise cooperative project opportunities and feed the COP) could be used more effectively to facilitate the identification of projects where Member States could work together, we see the EDA as having a key role in delivering this.

18 April 2013

FOREIGN AND COMMONWEALTH OFFICE BUSINESS DURING CHRISTMAS RECESS

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

I would like to take this opportunity to alert you to EU activities requiring scrutiny which we expect to progress to decision just ahead of, or during, the forthcoming winter recess. This letter sets out issues under three headings: those on which we hope to be able to complete the full scrutiny process before recess, but where timings may be tight; those on which there is, regrettably, a clear possibility of a requirement for scrutiny override; and those which may come up for urgent decision during recess, but on which we have neither certainty on dates nor formal documents available for scrutiny.

ITEMS WHICH WE HOPE CAN BE CLEARED BEFORE RECESS BEGINS:

EUTM Somalia: As I noted in my letter of 30 November, the mandate for the European Union Training Mission Somalia is due for renewal by the end of December. This process is progressing in Brussels. We expect to receive the draft Council Decision before 13 December. Once the Decision issues, I will seek to deposit it with the Committees as soon as possible in order to give you the opportunity to scrutinise the Decision. However, with the final Council of the year taking place on 20 December, this leaves a very short period for scrutiny. If the UK could not agree to a mandate renewal on 20 December, the Mission would have neither the legal nor financial authority to continue. As you know, the Mission is a high priority for the UK as part of our wider Somalia and CSDP strategies. Whilst a technical extension is, in theory, possible, it is likely to be difficult to persuade other Member States to agree to one. I realise that it is not ideal that the Council is looking to agree this Decision with so little time, and I can assure you that my officials in Brussels have worked hard to bring forward discussion of this mandate renewal.

CSDP mission to Mali: As noted in previous correspondence, the situation in Mali is deteriorating rapidly. In response, we have been working towards a Council Decision to establish a new CSDP training mission (EU Training Mission (EUTM) to Mali by mid-December. We expect the FAC to approve the Crisis Management Concept (CMC) for the mission when it meets on 10 December. The CMC is the first EU planning document and sets out the mission's broad objectives: to provide military training and advice in the south of Mali to the Malian Armed Forces. We support the scope of this proposal and have been intimately involved in its preparation. To ensure a swift deployment, and given the general consensus around the parameters of the mission, it is likely that the Council will agree to overlook the Military Strategic Options phase (MSO) and move straight to an Initiating Military Directive, a document providing the guidelines for the Operations Commander to draw up more detailed planning. A Council Decision to establish a new mission to Mali could therefore happen soon after the agreement of the CMC. However, I recognise the importance of scrutiny and my officials are prepared to explain to EU Member States that the UK will only offer formal agreement after having given appropriate time for scrutiny. We are not counting on adequate time for the Committee to clear this Decision before recess, though this would, if possible, be very welcome.

ITEMS ON WHICH THERE IS A CLEAR POSSIBILITY OF REQUIREMENT FOR OVERRIDE:

Arms Trade Treaty funding: We anticipate a Council Decision shortly which will allocate funding for outreach aimed at securing agreement to an Arms Trade Treaty at the UN Diplomatic Conference in March. As you know, the Arms Trade Treaty is a major priority for the UK, and agreement in March would be the culmination of many years of UK-led effort. My officials in Brussels have pushed hard for

this decision to be brought forward to allow for scrutiny before the recess. We now expect a Council Decision around 17 December – unfortunately too late for scrutiny to take place before recess. As such, there may regrettably be a need for an override to allow this important outreach to start early in the New Year and to be as effective as possible.

Common position on Palestinian evacuees: In 2002, the EU adopted a Common Position to provide the legal basis for the reception in EU countries, on humanitarian grounds, of 13 Palestinians who were evacuated after a siege in the Church of the Nativity in Bethlehem. The UK did not take any of these individuals. The validity of the national permits given to the Palestinians is limited to the territory of the EU Member States concerned. The current Common Position expires in December and is due to go to RELEX in late December for renewal, an annual process that has taken place since 2002. We understand that this decision was considered uncontroversial when last cleared by the Scrutiny Committees. We do recognise that your committee should of course have the opportunity to subject it to full scrutiny regardless. However, on this occasion, I'm afraid that this will not be possible.

ITEMS WHICH MAY REQUIRE URGENT DECISION DURING RECESS:

Discussion on the following items is still ongoing at EU level. No decision has been reached. But there is a possibility that an urgent decision could be required during the winter recess. You may recall that some of these items were also outstanding back in July, when I wrote to you before the summer recess.

CSDP Mission EUAVSEC South Sudan, CSDP Mission EUCAP NESTOR, CSDP Mission EUCAP SAHEL-Niger – Statement of Mission Agreements: There is a possibility that the EU will agree Statement of Mission Agreements with a number of third parties during the recess: South Sudan (EUAVSEC), Djibouti, Kenya the Seychelles and Somalia EUCAP NESTOR) and Niger (EUCAP SAHEL). These would set out the agreement between the mission and the host country and are expected to be based on standard text. There are no resource implications in approving these agreements. If agreement occurs during recess, an Explanatory Memorandum will be submitted, to be considered soon after the Committees return from recess.

On the EU-Australia Framework Agreement, after four rounds of negotiations, the EU has reached agreement with Australia in the majority of areas covered by the text, with some outstanding areas to be resolved between the two parties. The Government supports the agreement: it will facilitate greater cooperation between the EU and this strategic ally. It currently looks likely that negotiations will conclude in early 2013.

Negotiations on the EU-Canada Strategic Partnership Agreement (previously known as the Framework Agreement) started in September 2011. The agreement has now entered its final stages of negotiations. We anticipate that the agreement will conclude during the first quarter of 2013.

I previously wrote to you about Council Decision 2012/635/CFSP of 15 October 2012 which amended Decision 2010/413/CFSP concerning restrictive measures against Iran. In paragraph 4 of Explanatory Memorandum 12453/12 I outlined how this sanctions package still needed to be translated into legally binding language for incorporation into an EU Regulation in the next few months, most likely at the 10 December Foreign Affairs Council. It now seems unlikely that this package will be agreed until 20 December at the earliest. There remains a small chance that agreement on this detail will not be reached until the New Year. In addition to legally binding language on the measures agreed, we are seeking to agree the designation of some additional individuals and entities, within the criteria set out in Council Decision 2012/6335/CFSP which has already been cleared from scrutiny.

I have tried here to anticipate areas in which dossiers might progress to the point of a decision which would normally be subject to scrutiny. As ever, events in the world may lead to other business emerging which may require urgent agreement, such that an override is operationally necessary. We will do our very best to avoid such situations where possible.

7 December 2012

FOREIGN AND COMMONWEALTH OFFICE: EU BUSINESS DURING THE
PARLIAMENTARY HALF TERM RECESS, 14-25 FEBRUARY 2013

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

This letter sets out EU activity requiring scrutiny which I expect to progress to decision just ahead of, during, or shortly after the forthcoming half term recess, compacting the usual timelines for scrutiny. It is divided into three headings: items which we hope can be cleared before recess begins due to their urgency and importance; items which may come up for urgent decision during recess, but on which we have neither certainty on dates nor formal documents available for scrutiny; and items which do not require an urgent decision and could be agreed after recess, but on which you may welcome an update before recess.

ITEMS WHICH WE HOPE CAN BE CLEARED BEFORE RECESS BEGINS DUE TO THEIR URGENCY AND IMPORTANCE.
WITH MY THANKS TO YOUR COMMITTEE FOR THEIR COOPERATION, IF POSSIBLE, IN CONSIDERING CLEARING
THESE IMPORTANT AND URGENT ITEMS FROM SCRUTINY BEFORE RECESS:

- Council Decision on the launch of a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali). This item is currently with the Committees for their consideration. As a result of an Explanatory Memorandum submitted on 18 December 2012 and debated in the House of Commons on 16 January, the Scrutiny Committees cleared an earlier Council Decision establishing the EU Training Mission. I hope that the Committees will be able to clear from scrutiny this week the vital follow-up draft Council Decision explained in my Explanatory Memorandum of 29 January for launch of EUTM Mali on 12 February. (See also item 1, Section B on Mali, below).
- EU Training Mission Mali, Status of Forces Agreement (SOFA). As my EM of January 29 noted, the EU is currently in the process of negotiating and drafting its Status of Forces Agreement (SOFA) with Mali for the EU Training Mission. EUTM is a training mission only. Its remit does not include a combat role for deployed personnel. The SOFA sets out the privileges and immunities of personnel serving under the EUTM Mali. It will require a Council Decision. Whilst the SOFA does not necessarily need to be agreed before the Council Decision to launch the mission (planned for 12 February), it should be agreed as soon as possible to provide the highest level of cover for personnel. In the absence of the SOFA, temporary EU arrangements will be put in place to allow some troop deployments to begin. In addition to EU arrangements, UK contributions will be temporarily covered for deployment through a bilateral note verbale with Mali. I will be submitting an Explanatory Memorandum on the draft Council Decision and SOFA before recess. If at all possible, I would welcome the Committees clearance of this item before recess begins.

I will of course keep the Committees informed of any further developments, and as always my officials would be happy to provide an oral briefing if required.

- Report from the Commission to the European Parliament and the Council on Progress in Romania under the Co-operation and Verification Mechanism (CVM). In July 2012, given the political crisis in Romania, the European Commission promised an interim monitoring report on Romania. The report was published on 30 January 2013 and it is expected that the Council Conclusions on the report will be agreed at the 18 February FAC. The FCO has produced an EM for the Committees before recess, so that your Committee has an opportunity to scrutinise the Commission's report before Council Conclusions are adopted. While there is no formal requirement for scrutiny of Council Conclusions, the Committees requested updates on future developments on Romania and Bulgaria CVM issues. I hope, again, that the Committees will be willing to clear this item before recess begins.

ITEMS WHICH MAY REQUIRE AN URGENT DECISION DURING RECESS, BUT ON WHICH UNFORTUNATELY NO DOCUMENT IS YET AVAILABLE FOR SCRUTINY:

- EU arms embargo on Syria. At the 18 February FAC, the UK is seeking to agree an amendment to the EU arms embargo on Syria that would provide Member States with greater flexibility to support the Syrian opposition and to provide further practical assistance than currently caught by the existing EU arms embargo on Syria. The December European Council tasked the Foreign Affairs Council to come up with options to allow for the greater protection of civilians. Amending the arms embargo would offer the scope to do this. The Syria sanctions must be renewed before 1 March or they will lapse; agreement on the form of sanctions will most likely be reached at the 18 February FAC and set out in council conclusions. Due to the ongoing nature of negotiations and a lack of clarity on the final outcome, we are unfortunately unable to provide a document to the Committees before recess. If the amendments are made and due to be agreed at the 18 February FAC, there will unfortunately be no time for scrutiny to take place. I recognise that this is not a desirable situation; I will provide a further update to the Committees prior to the 1 March roll-over renewal deadline.
- Restrictive measures against Zimbabwe. Council Decision 2011/101/CSFP concerning restrictive measures against Zimbabwe is due to expire on 20 February 2013; a Council Decision renewing the measures in Decision 2011/101/CSFP must therefore be agreed before this date in order to uphold the sanctions package. The Council Decision renewing the sanctions regime may also introduce amendments to the package of measures currently in place. The UK recognises that it is vitally important that existing restrictive measures renewed by the new Decision remain legally robust. All existing measures against individuals and entities must therefore be reviewed to ensure that they continue to meet the criteria for designation under the Zimbabwe sanctions regime, and lifted where they are found to no longer satisfy this requirement. Beyond this, the UK position will continue to be guided by the principle that the measures should respond to concrete progress in Zimbabwe and that a credible and peaceful Constitutional Referendum in Zimbabwe should remain the prerequisite of any substantial suspension of restrictive measures. Discussions between EU Member States began in mid-January. My officials have done their utmost to conclude negotiations and secure a draft Decision in sufficient time for the text to be scrutinised by the Parliamentary Committees before recess, but regrettably this has not been possible, given the sensitivity of negotiations. At the time of writing, negotiations continue; it is thus also unfortunately not possible to set out the detail of the Decision that will be agreed later in February. As the sanctions regime must be renewed before 20 February to prevent restrictive measures falling entirely, I regret that a scrutiny override may be required in this case. I will be writing to the Committees informally before the recess period setting out the background and context of this renewal in detail. My officials stand ready to discuss the issues in more detail, as is helpful.

ITEMS WHICH DO NOT REQUIRE AN URGENT DECISION AND COULD BE AGREED AFTER RECESS, BUT ON WHICH YOU MAY WELCOME AN UPDATE:

- EU Special Representative (EUSR) Sahel. As you are aware, the situation in Mali remains grave and the threat of regional instability across the Sahel is ever present. An EU Special Representative (EUSR) Sahel, working alongside the AU Special Representative, UN Special Representative, French Special Representative and British Special Representative will be a key component of the EU's vital role along with the UN and AU in addressing the humanitarian crisis, including the re-settlement of IDPs and longer-term development assistance. The intention had been for the FAC to agree a Council Decision to deploy an EUSR Sahel on 18 February, however this has now been delayed to the end of February. Candidates for the role are under initial consideration in advance of formal agreement to appoint a EUSR; the UK

would favour the appointment of an individual with appropriate regional experience. Although no decision is now expected during recess I would welcome your Committees consideration of this Council Decision shortly after return from recess.

- Council Decision on the Implementation of the EU-Palestinian European Neighbourhood Policy Action Plan. This Council Decision will be discussed at working group level in Brussels on 11 February. The new Action Plan, which replaces one which expired on 30 June 2012, provides a framework for the continued strengthening of relations between the EU and Palestinian Authorities. A failure to adopt the Action Plan would have negative implications for the UK/EU relationship with the Palestinian Authority. Whilst the UK supports the principles and objectives outlined in the Action Plan, HMG is continuing to consider whether a Council Decision is the most appropriate way for the Action Plan to be adopted. In light of this ongoing consideration, and that this item is still being discussed at working group, I do not foresee that this Action Plan would be adopted during recess. I will ensure the Scrutiny Committees are kept up to date on developments.
- Commission Staff Working Document: review of the functioning of the European Economic Area (EEA). In December 2012, the Secretary-General of the European Commission communicated this report to the Secretary-General of the Council of the European Union. The report summarises the operations of the EEA and how it functions in practice between all parties. No Council Decision or Council document will follow this Staff Working Document and no agreement is required during recess. I will, however, ensure the Scrutiny Committees are kept up to date on any developments.

In this letter, I have tried to predict in which areas dossiers might progress to a decision which normally requires scrutiny. As ever, there are also crisis zones around the world where events may lead to vital business emerging which may require immediate and urgent agreement, and when an override might thus become operationally necessary. But I and my officials will continue to do our very best to avoid such overrides wherever possible.

7 February 2013

FOREIGN AND COMMONWEALTH OFFICE: EU BUSINESS DURING THE PARLIAMENTARY EASTER RECESS

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

This letter sets out EU activity subject to scrutiny, which the FCO expects may progress to decision just ahead of, during, or shortly after the forthcoming Easter recess. For the sake of clarity, it is divided into three headings: items which I hope can be cleared before recess begins due to their urgency and importance; items which may come up for urgent decision during recess, but on which we have neither certainty on dates nor formal documents currently available for scrutiny; and items which do not require an urgent decision, but on which you may welcome an update before recess.

ITEMS WHICH WE HOPE CAN BE CLEARED BEFORE RECESS BEGINS DUE TO THEIR URGENCY AND IMPORTANCE. WITH MY THANKS TO YOUR COMMITTEE FOR THEIR COOPERATION IN CONSIDERING THESE IMPORTANT AND URGENT ITEMS, AND IF POSSIBLE CLEARING FROM SCRUTINY BEFORE RECESS:

- The Council Decision that governs the European Security and Defence College (ESDC) is currently with the Committees for consideration. The ESDC coordinates and oversees courses for personnel from EU Member States, EU institutions, and third country nationals in support of the EU Common Security and Defence Policy (CSDP), ranging from strategic leadership to specialised technical skills. This Council Decision seeks to provide a more modern, relevant and accountable framework for the ESDC to better support CSDP activity and improve the effectiveness of CSDP on the ground, a UK priority. It is hoped that the Council Decision will be adopted at the 22 April Foreign Affairs Council. We would therefore be

grateful if the Committee could consider this before recess, or in the meeting taking place in the first week of your return from recess. If this cannot be agreed by the 22 April FAC, there is a risk that the UK's positive agenda for a more efficient and operational CSDP could be undermined.

- The EU Civil Service Tribunal, established in 2005, consists of seven judges appointed for a period of six years. It is a specialised court that deals with staff disputes involving the EU civil service. As part of the appointment process to the Tribunal, a committee of experts, chosen from among former members of the Court of Justice, the General Court and lawyers of recognised competence, gives an opinion on the suitability of candidates for a judicial role. The term of the previous committee expired in November 2012, and a new committee needs to be formulated before any Tribunal judges can be replaced. This has become a pressing matter due to the unexpected retirement of one of the Tribunal judges. The decision to reappoint the committee will be discussed and agreed at the next available Council, taken by QMV. The UK therefore cannot halt proceedings. Being unable to agree could however risk alienating other Member States and undermining our relationship with the Court.
- Draft Council Decision in support of physical security and stockpile management activities to reduce the risk of the illicit trade in Small Arms and Light Weapons (SALW) and their ammunition in Libya and its region. This Council Decision is complementary to the EU's strategy on SALW. The work it outlines will be funded through the EU. The Decision is also consistent with UK priorities in Libya and the region. The draft Decision is currently at the stage of budgetary negotiations between the Foreign Policy Instruments service and the suggested implementing agency. We expect the Decision to be agreed at a Council in April. Due to the tight deadlines, we would be most grateful if this Decision could be cleared from scrutiny as soon as possible. I would then update the Committees on the budget aspects once the Decision had been finalised.

ITEMS WHICH MAY REQUIRE AN URGENT DECISION DURING OR SHORTLY AFTER RECESS, BUT ON WHICH UNFORTUNATELY NO DOCUMENT IS YET AVAILABLE TO BE DEPOSITED FOR SCRUTINY:

- The previous Council Decision 2010/232/CFSP renewing restrictive measures against Burma will expire on 30 April 2013. A Council Decision amending Decision 2010/232/CFSP must therefore be adopted before this date to renew the EU Burma sanctions package. Following the suspension of the majority of EU sanctions on Burma in 2012, the active elements of the current sanctions regime comprise an arms embargo, and restrictions on the supply of equipment which could be used for internal repression. In April, EU Member States will review all measures, guided by the Burmese government's progress against the EU benchmarks agreed in Foreign Affairs Council Conclusions in January 2012. It is anticipated that the Decision amending Council Decision 2010/232/CFSP will need to be adopted at the Foreign Affairs Council on 22 April, in order that the 30 April deadline not be missed. There is therefore a narrow window for parliamentary scrutiny following the Easter recess. I intend to circulate an Explanatory Memorandum in time for your Committee's first meetings in late April, but it is possible that a document might not be available by then. Officials work hard to ensure timely documents, but I may regrettably be required to agree to override scrutiny on this item.
- EU Restrictive Measures against Zimbabwe, as detailed in my letter to your Committee of 15 March, may require amendment shortly before the Easter recess. EU Ministers agreed in July 2012 that a peaceful and credible constitutional referendum in Zimbabwe should lead to the suspension of the remaining targeted measures, a decision which was set out to your committee in my Explanatory Memorandum of 27 July 2012. The referendum took place on 16 March. Should the EU Heads of Mission in Harare report that the referendum was peaceful and credible, EU Member States will seek swiftly to agree a Decision that will result in the suspension (but not the

lifting) of the majority of the current targeted measures. Discussions on a draft Decision will not therefore begin in Brussels until 19 March. So it will not be possible to deposit the draft for scrutiny before the recess. As you know, the UK has led EU Zimbabwe policy, including the decision to review sanctions following the referendum. Our partners may expect us to be in a position to respond quickly to the referendum. I anticipate therefore that I will, regrettably, find myself in the position of having to agree the Decision before it has cleared parliamentary scrutiny.

- A proposal to exempt the Syrian National Coalition from further provisions of the EU's restrictive measures against Syria has been brought by an EU Member State to the Council, for adoption at the 22 April FAC. This proposal will be subject to further working group discussions. Should this proposal progress to a point where other Member States are able to support its adoption on 22 April, blocking it at the FAC would be very damaging for the UK, and would undercut our significant multilateral efforts to bring the Syria conflict to a close. I may therefore regrettably be required to agree to override scrutiny on this case.
- A Regulation implementing recent changes to the arms embargo provisions of the EU's restrictive measures on Syria is under negotiation. The primary focus of this Regulation is to implement the urgent arms embargo changes agreed on 20 February. Implementing these changes is therefore also urgent. In addition, an implementation provision for changes to the Syrian Arab Airlines sanction, negotiated in October 2012 has been incorporated in to this Regulation. It is likely that this will be approved at the next available Council; and most likely before the end of March. Since we will miss the last opportunity before recess to submit this Regulation for the consideration of your Committees I may, again, regrettably find myself in the position of having to agree the Regulation before it has cleared parliamentary scrutiny.

ITEMS WHICH DO NOT REQUIRE AN URGENT DECISION, BUT ON WHICH YOU MAY WELCOME AN UPDATE:

- Council Decision on Conclusion of the EU-Iraq Partnership and Co-operation Agreement (PCA). The aim of the PCA is to establish a framework for strengthening ties between the EU and Iraq. It provides for further engagement and co-operation across a broad range of areas such as political dialogue, trade and investment, energy, human rights, justice and education. The UK is keen to see conclusion (and hence entry into force) of the PCA, as it supports our own work to develop Iraq's stability and prosperity, and enable Iraq to play a constructive role in the region. Before the Decision on Conclusion can be adopted by the Council, the PCA must be ratified by Member States and Iraq, and approved by the European Parliament. As this is currently ongoing, I do not foresee that the Council will wish to discuss adoption of the Decision during recess. However, I would welcome your Committee's consideration of this Council Decision shortly after your return.

I have tried to predict and summarise in this letter the areas in which dossiers might progress during recess to a decision, on a matter which normally requires scrutiny. However, as ever there are crisis zones around the world and sudden events may lead to a situation which may require immediate and urgent action, when an override might thus become operationally necessary. I would like to take this opportunity to reiterate that my officials and I are committed to doing our very best to avoid such overrides wherever possible, and that my officials are taking practical steps to further improve our internal processes on parliamentary scrutiny, including implementing a series of measures to increase awareness of scrutiny requirements across FCO geographic and thematic departments.

19 March 2013

FOREIGN AFFAIRS COUNCIL (TRADE)

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills to the Chairman

I represented the UK for all issues on the agenda at the Foreign Affairs Council (Trade) in Brussels on 29 November. Please see attached a Post-Council Written Ministerial Statement [not printed] which will be laid in both Houses on Thursday 6 December.

4 December 2012

Letter from Lord Green of Hurstpierpoint to the Chairman

I am writing to the European Union Select Committee to provide an update on the EU-Japan Free Trade Agreement.

On 29th November the Foreign Affairs Council (Trade) adopted negotiating directives for a new Free Trade Agreement between the EU and Japan. It is expected that negotiations will be launched at the EU-Japan Summit in early 2013.

The negotiating directives are restricted documents setting out the mandate granted to the Commission to undertake negotiations with Japan on behalf of the Council. As these directives represent a negotiating position they are not in the public domain and it is not therefore possible for me to submit them for scrutiny. I will, however, submit a full Explanatory Memorandum when a draft Council Decision to conclude the Agreement is submitted to the Council on completion of the negotiations.

The aim of the forthcoming negotiations will be to conclude a deep and comprehensive Free Trade Agreement with Japan. The Commission will inform the Council on a regular basis on progress of the negotiations. The UK position throughout the discussions has been to support an ambitious agreement that address our key priorities such as non-tariff barriers. To this end, we believe that the directives allow for this outcome

14 December 2012

Letter from the Chairman to Lord Green of Hurstpierpoint

Thank you for your letter of 4 December 2012 which the House of Lords EU Sub-Committee for External Affairs considered at its meeting on 13 December.

The Committee would like to thank you for your update on the Foreign Affairs Council (Trade). The Committee noted with interest that the EU's trade relationship with Russia and China were discussed at lunch. Could you please provide the Committee with more details of the substance of those discussions? The Committee also welcomes the opening of negotiations with Japan on the EU-Japan Economic Partnership Agreement (EPA). I would be grateful if you could also give the Committee an estimated time-frame for the conclusion and ratification of the EPA?

I look forward to receiving your reply within the standard ten working days.

17 December 2012

Letter from Lord Green of Hurstpierpoint to the Chairman

Thank you for your letter of 17 December welcoming the launch of the EU-Japan negotiations and asking about the lunchtime discussion at the Foreign Affairs Council (Trade) of 29 November on the EU's trading relationship with China and Russia.

The lunchtime agenda items are intended to allow for frank discussions in confidence with no officials present. While I cannot therefore betray any confidences of which Ministers said what, I am happy to share with you the gist of the conversations.

RUSSIA

The Commissioner recalled the positive mood which had accompanied Russia's WTO accession but that several measures taken by Moscow since accession had a distinct protectionist character - recycling fees on cars, or the ban on live animals were cases in point and were under discussion between EU and Russian officials.

I stated that it is too soon to judge Russia's early behaviour in the WTO. We need to work constructively with Russia, being ready to use the trade disputes mechanism when necessary, but without rushing to use it gratuitously or aggressively.

CHINA

The UK has been pushing for a more coordinated and strategic approach to the EU's relations with China and I was very pleased that this agenda item was tabled.

I and other Ministers supported the Commission's intention to pursue the negotiation of an Investment Agreement, including market access and many believed that suggestions from China of an EU-China FTA was premature.

Most Ministers called for achieving a level playing field in terms of market access and stressed the need for rules-based relations.

EU-JAPAN ECONOMIC PARTNERSHIP AGREEMENT

It is difficult to estimate the time-frame for conclusion and ratification as all these negotiations are different. While I expect the EU-Japan negotiations to be tough, I am hopeful that the political leadership and the size of the potential economic benefits will provide momentum.

The negotiations will formally launch in the spring of 2013 and, I believe, take at the very least two years to conclude. The EU institutions will then need to approve the deal which can take around eighteen months. Provisional application of many elements of the agreement could then come into effect as Member States' legislatures ratify the agreement. An optimistic estimate would therefore be that companies would be able to start benefiting from the provisions of the EU-Japan EPA five years from now. While the politics of the EU and of Japan do of course impact on the timetable but I shall do all I can to urge ambition in terms of depth, breadth and speed of the negotiations.

19 December 2012

INTERNATIONAL WOMEN'S DAY

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

I am writing to you in celebration of International Women's Day on 8 March. It is a day for celebrating progress in the great strides made for girls and women, but also underlining the clear and urgent need to do more.

The UK government has put girls and women at the heart of international development. We know that investing in girls and women is the right thing to do, and the smart thing to do. Because where half the population is locked out, prevented from being productive and from pursuing opportunities, there is no sustainable path to development.

We have made strong progress delivering results for girls and women as part of the UK's international development work. As a result of UK support, last year over 2.5 million girls took their first steps into primary school, with a quarter of a million making the crucial transition to secondary school. We helped nearly three quarters of a million women access financial services; secured property and land rights for nearly a quarter of a million women and supported 1 million additional women to use modern methods of family planning.

But there is much more to do. It is simply unacceptable that around the world one in three girls and women are raped or beaten in their lifetime. The evidence shows that when girls and women can exercise voice, choice and control- over their bodies and over their economic livelihoods- we see incredible returns for girls and women themselves, and for their families, communities, economies and countries.

This is why I am clear that my Department needs to do more. During a speech of women and girls at Amnesty International on 4 March, I announced a package of measures which will help girls and women in the poorest countries have a choice over when and how many children they have; be free from violence; take control over their working lives and incomes, and have a voice in their communities.

This package included building on the commitments made by the Prime Minister at the London Family Planning Summit in July 2012, with funding for contraceptives, which will help to avert around 2.6 million unintended pregnancies, prevent more than 4,500 deaths during pregnancy and childbirth, and avoid almost 65,000 infant deaths.

The focus of the UN Commission on the Status of Women this year in New York, between 5-15 March is on violence against women and girls. My ministerial colleague, Lynne Featherstone, is attending and I, and the rest of the UK Government, have been pushing hard for a successful outcome to demonstrate the international community's solidarity with the millions of girls and women who suffer violence and abuse. My department is also supporting the Foreign and Secretary's vital Preventing Sexual Violence Initiative, a key part of the G8.

I have decided that in Afghanistan, for the first time, our country programme will have as priority focus area greater emphasis on initiatives to tackle violence against women and girls and ensure the gains for girls and women in Afghanistan are not lost but can be built upon. I will also host a high-level summit in the autumn, bringing UN and humanitarian agency principles and donor heads together, to make sure that we up our game.

My Department is also developing an ambitious new programme to combat Female Genital Cutting. In addition, I have established a Research and Innovation Fund to drive forward successful initiatives to tackle violence against women and girls, alongside new programmes responding to the specific needs of women and girls in current emergencies in DRC, and for Syrian refugees.

Finally, the UK will be funding the Leadership for Change Programme that will support the leadership skills and opportunities of a network of girls and women in a number of countries. We are also taking the lead role in building the critical evidence base on what works to enable girls and women access and control economic resources in sub-Saharan Africa.

International Women's Day is just the start of a series of opportunities we have to show international leadership on these issues. Perhaps most importantly, there is the post-2015 agenda, with the High Level Panel chaired by the Prime Minister. Only if we address issues of girls' and women's voice, choice and control in the Post-2015 framework will it have the potential to end poverty on our lifetime. This is why I am determined that we work tirelessly to ensure that girls and women are front and centre on international development.

6 March 2013

Letter from the Chairman to Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development

Thank you for your letter of 6 March 2013 on the above subject, which was considered by the House of Lords EU Sub-Committee on External Affairs at its meeting on 21 March 2013.

We were glad to hear about the Government's action to put girls and women at the heart of development policy. The Committee welcomes this approach but we would also like to know how the UK is engaging with the EU to take this policy forward within EU development assistance.

I look forward to receiving your reply within the standard ten working days.

27 March 2013

Letter from Lynne Featherstone MP to the Chairman

Thank you for your letter of 27 March about women and the EU's development policy.

In June 2010, the previous Secretary of State, Andrew Mitchell, together with Development Ministers from across the EU, agreed a commitment to the EU Gender Action Plan. The objective of the Plan is to deliver a step change in the European Commission's and EU's performance on gender equality in development, through greater policy coherence and coordination between EU institutions and EU Member States, and embed gender in aid delivery. This is in line with the UK's aim to improve the focus on girls and women across all DFID-funded multilateral organisations.

My officials were involved in the Gender Action Plan from its inception, through its role as a key member of the EU Gender Experts Core Group. The Plan provides the UK with a lever to significantly improve the European Commission's and EU's support for girls and women. It offers opportunities to enhance the Commission's and other EU donors' performance on gender, influence

their approach on gender equality – including their work through UN Women, the African Union and other regional organisations; and secure EU support to deliver better results for girls and women in international negotiations. More recently officials raised the importance of mainstreaming gender through EU policy and programming in discussions in Brussels.

15 April 2013

INVESTOR-STATE DISPUTE SETTLEMENT TRIBUNALS (I 1868/12)

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills to the Chairman

Thank you for your letter of 3 October to Jo Swinson. I am replying as this falls within my ministerial portfolio.

I am grateful to the Committee for its consideration of the Commission's proposal and the Government's Explanatory Memorandum. Your letter raises some complex questions, which I have tried to answer as fully as possible.

LEVEL OF CLAIMS

It is very difficult to forecast the likely level of claims arising from future EU investment agreements. The level will depend on, among other things: the countries with which the EU concludes agreements; the levels of investment between those countries and the EU; the precise provisions of these agreements; and the policies towards investment that the EU and its Member States pursue.

The UK's past experience of its Bilateral Investment Treaties (BITs) suggests that few claims are likely to be brought against the UK. The UK has nearly 100 BITs in force and has only ever been subject to two claims, both of which were unsuccessful. This is unsurprising, given our long-standing open policy towards inward investment and our sound legal system.

Despite this good record, future claims against the UK cannot be ruled out. The EU is either negotiating or planning to negotiate investment agreements with countries such as Canada, the USA and Japan, with which the UK does not currently have BITs. These countries' stocks of investment in the UK are much higher than those of countries with which the UK already has BITs. This clearly increases the risk of claims. As a comparison, it is worth noting that the investment protection elements of the North American Free Trade Agreement (NAFTA), have led to a total of around 50 claims against the USA and Canada since 1994. Only a small minority of these claims led to the payment of compensation, but the NAFTA experience demonstrates that certain provisions, combined with litigious investors and high levels of investment, can lead to claims against even the most developed countries.

EU legislation could also be a source of claims under EU BITs. However, it has not led to claims under Member States' BITs in the past and is unlikely to lead to a great number of claims under EU BITs in the future. Furthermore, the Commission has told my officials that it has mechanisms in place to avoid passing legislation that contravenes its international obligations. This would extend to the obligations that it will enter into under its future BITs. My officials will continue to seek assurances that these mechanisms are satisfactorily robust.

The final source of claims under EU BITs will be the actions of other Member States. Most northern and western European Member States' experience of claims under their BITs is similar to that of the UK, with very few claims being brought against them. However, the past activity of some central and eastern European States has led to a significant number of claims. Again, it is impossible to predict the number of claims brought against these countries under future EU BITs, though it is likely to be higher than the number brought against the UK or the EU. It is worth underlining that under future EU BITs, financial responsibility for such action would fall to the Member State responsible.

The sums awarded under BITs vary considerably from case to case. Figures from past cases have often not been made public, but those which have range from hundreds of thousands of dollars to over a billion, with average known awards around USD 30 million. Legal costs of over USD 3 million are also normal.

EUROPEAN COURT OF JUSTICE (ECJ) CASES

It is also hard to say whether the proposal will lead to many cases being brought before the ECJ. Clearly, the potential for ECJ cases will depend on the number of claims that are brought by investors. As outlined above, this is hard to predict. The risk of ECJ cases arises only when the Commission is conducting a defence for which a Member State is to some extent financially responsible. Given that most cases will probably relate to the actions of individual Member States, the Commission does not believe this arrangement will be very common.

When this scenario does arise, the Commission's proposal is intended to reduce the risk of internal disagreements that might lead to ECJ cases. It demands a high level of cooperation between the Commission and the Member State concerned. The risk of cases being brought unnecessarily could be reduced by making the Commission's process for deciding on the division of financial responsibility more transparent. My officials are pressing for the regulation to provide the necessary transparency.

ARRANGEMENTS FOR CASES FOR WHICH SEVERAL MEMBER STATES ARE RESPONSIBLE

It is unlikely that several member states, but not the whole EU, would be financially responsible for a single dispute. If a single investor had claims against different Member States' actions, it would most likely bring separate claims against them. If, however, a case were to be brought against a group of Member states, the arrangements outlined in the proposal would still apply. My officials are currently seeking clarification from the Commission as to how exactly this would work in practice. If the arrangements are not designed adequately to deal with a claim against a group of states, my officials will seek the necessary improvements.

COMPETENCE

The Commission and Member States do not agree about the scope of the EU's competence in investment policy. The Commission argues that both foreign direct investment (FDI) and indirect (i.e. portfolio) investment fall under exclusive EU competence, despite the fact that only FDI is mentioned explicitly in Article 207 of the Treaty on the Functioning of the EU (TFEU). The Commission argues that portfolio investment is covered by Article 63 of the TFEU. The UK's interpretation, shared by most other Member States, is that the EU only has exclusive competence over FDI. It is likely that the issue will eventually end up in the ECJ.

If a case were brought before the ECJ, it is very possible that it would rule against us. Such a case would also delay the EU's development and implementation of its investment policy. We have therefore aimed to avoid confronting the competence debate head on. Our approach to EU investment policy, including this particular regulation, has instead been to push for competence neutral arrangements that preserve the UK's interests and do not prejudice any future ECJ decision on the issue. I believe that a few alterations to the Commission's proposal should allow us to achieve these objectives.

THE REGULATION'S IMPACT ON THE UK'S MANAGEMENT OF ICSID AWARDS

The UK's arrangements for handling awards rendered under the International Centre for Settlement of Investment Dispute (ICSID) Convention will continue to apply to awards arising from the UK's own BITs, until they are replaced by EU BITs. The EU's own procedures, set out in this regulation and in the future texts of its BITs, will apply to awards arising from EU BITs. At present, the EU is not a signatory of the ICSID Convention. It does, however, intend to become a signatory, though this may take some time. Before this happens, investors will have access to other settings for international arbitration, such as the United Nations Commission on International Trade Law (UNCITRAL).

"ALL NECESSARY ASSISTANCE" AND "OVERRIDING INTERESTS OF THE UNION"

I share your concerns over the vagueness of the terms "all necessary assistance" and "overriding interests of the Union". My officials have asked the Commission for clarification of these points. They have been given reassurances that "all necessary assistance" is intended to refer to the information that the Commission will need when it is conducting a defence. The Commission argues that because its needs will vary from one case to the next, it needs to keep the language here fairly vague. The Commission has told my officials that the phrase "overriding interests of the Union" is intended to restrict the Commission's capacity to force a settlement to those cases in which the arguments in favour of settling clearly outweigh those against settling. The Commission suggests that these

overriding interests will normally be financial, but might also relate to interpretations of the provisions of the BITs that could significantly harm the interests of the Union.

My officials will seek further clarification of both phrases. If necessary for the legal certainty of the regulation, they will press for amendments to the text.

I hope the Committee finds these responses to its questions helpful.

8 November 2012

Letter from the Chairman to Lord Green of Hurstpierpoint

Thank you for your letter of 8 November 2012 which the House of Lords EU Sub-Committee for External Affairs considered at its meeting on 22nd November. We would like to thank you for your comprehensive response.

In respect of the issue of competence we note the disagreement over whether portfolio investment is properly a matter of exclusive EU competence or is shared with the Member States. You indicate that the Commission argue that portfolio investment falls within Article 63 TFEU. This appears correct to us, although it is not clear why the Commission believe that this results in exclusive EU competence when Articles 3 and 4 TFEU indicate otherwise. We should be grateful if you would provide further explanation whether you consider the Commission's assertion right on this point. In any event, if portfolio investment is a matter of the free movement of capital, should not Article 64 be added as a legal basis?

We should be grateful for your view on this and details of any alternative alterations to the proposal you consider might be more competence neutral.

26 November 2012

IRISH PRESIDENCY

Letter from Andrew Murrison MP, Parliamentary Under Secretary of State and Minister for International Security Strategy, Ministry of Defence to the Chairman

I am writing to you in advance of the change in EU presidency from Cyprus to Ireland. The Irish will take over the EU Presidency on 1 January 2013. The Irish Presidency will coincide with a busy period for CSDP. The major, primarily operational, issues which will affect the MOD are set out below:

- Continued CSDP interest in the Horn of Africa. If the mandate for EUTM Somalia is extended beyond December 2012, the Irish Presidency will oversee a crucial implementation period. Additionally, EUCAP NESTOR is due to reach full operational capability in the first half of 2013;
- Possible launch of an EU military training mission to Mali;
- Continued scoping by Member States of the potential to launch a border security mission in Libya.

The Irish have an interesting and diverse programme planned for their Presidency. It is our understanding that the following issues are likely to feature:

- European Council 2013 – A key focus running through the Irish Presidency and into the Lithuanian Presidency will be the preparation for the discussion on defence issues at the European Council in December 2013. The Irish plan to host a meeting to discuss defence priorities for the European Council;
- Maritime Security – Ireland will aim to increase EU wide co-operation in relation to security and surveillance in the maritime domain. They are also keen to agree an institutional arrangement that facilitates greater cooperation among EU Atlantic States, particularly in areas such as joint operations, personnel exchanges, research and innovation and information and intelligence. Additionally, the Irish plan to discuss how maritime surveillance and security can be used as an economic enabler. Ireland will host a Maritime Security Seminar during April 2013 which will act as a forum to highlight the importance of building EU cooperation in the maritime security domain;

- Peacekeeping – Ireland still maintain commitments to peacekeeping in Africa as a priority and plan to reconnect the EU with UN Peacekeeping. Ireland also want to take the opportunity to examine how to foster more effective co-operation and build partnerships, not only with the UN but also with regional organisations. In February 2013, Ireland will host a seminar on 'Regional Organisations Cooperation with the United Nations in the area of Crisis Management and Peace Support Operations.' Speakers will range from the UN, EEAS, NATO, African Union and academia;
- Pooling and Sharing – Ireland are expected to seek a discussion in the aligning of defence force planning and procurement cycles in support of EU Pooling and Sharing. Additionally, the impact of the financial crisis on defence is likely to be addressed;
- Conflict Prevention – It is anticipated that the Irish will look to raise the profile of conflict prevention as an EU activity during the course of their presidency; and
- Jobs, Growth and Innovation – Ireland are keen for European defence to support jobs, growth and innovation. Innovation in the security sector will be encouraged through the restructuring of the European Defence Industry and an increased focus on the role of SMEs.

The issues the Irish plan to pursue during their presidency are ones where the UK can clearly seek to engage constructively and cooperatively with Irish counterparts to ensure that the debate on CSDP continues to move forward.

13th December 2012

Letter from the Rt. Hon Vince Cable MP, Secretary of State for Business, Innovation and Skills to the Chairman

I am writing to summarise briefly the areas that we expect to be most active during the Irish Presidency.

TRADE

The main deliverable during the Irish Presidency for the EU's ambitious programme of FTA negotiations is expected to be the potential launch of negotiations with the USA. Assuming a positive report from the EU-US High Level Working Group on Jobs and Growth and the necessary political support from both sides of the Atlantic, negotiations could launch by the summer. The Prime Minister will use our G8 Presidency to maintain momentum on this. In addition, the Irish Presidency will be working towards: concluding negotiations with Canada, concluding technical work on the EU-Singapore FTA following political agreement in December, and the launch of negotiations with Japan and Morocco.

The Irish Presidency has inherited a busy portfolio of proposed trade regulations. Progress will be expected on Trade Omnibus I and II and on a new proposal for a legislative framework for taking measures to safeguard EU rights under multinational and bilateral trade agreements. We expect the Irish to give some time for negotiations on the proposed regulation on the access of third-country goods and services to the Union's internal market in public procurement but with a strong blocking majority we do not expect it to progress. We also expect new proposals from the Commission for modernising the EU's trade defence instruments by April. The proposals could very easily be divisive between Member States and the tone the Irish set for the discussion will be important.

Finally, negotiations on the European Commission's proposal for a regulation establishing financial responsibility in investor-state disputes are in their early stages. The Government supports the main principle underpinning the proposal, that whoever is responsible for the act leading to a claim by an investor under an EU bilateral investment treaty with a third country should bear financial responsibility if the claim succeeds. However, we are seeking certain adjustments to make it more effective and to address concerns about the division of competence in this area.

I hope you find the above information useful. The Department, of course, will keep you updated on progress of all of the key issues for the UK through the Presidency.

22 January 2013

**Letter from Lynne Featherstone MP, Parliamentary Under-Secretary of State,
Department for International Development to the Chairman**

Ireland's EU Presidency began on the 1 January 2013 and will end on the 30 June 2013. The Irish Presidency is the first of a new trio which will last until July 2014. Lithuania will succeed Ireland, with Greece bringing the Presidency Trio to a close. I am taking this opportunity to update the Committees on the Irish Presidency's development priorities and outline the UK's objectives in relation to these, set out below:

In addition to delivering the UK's objectives for the Irish Presidency Priorities, the UK will continue to press for the EU to reform the way that it delivers aid, refocusing its aid on the poorest countries that need it and ensuring that EU aid delivers results and value for money. In the coming 6 months, the UK will work with the EU to mainstream its support for women and girls and will work with other Member States to develop a clear coherent EU position on the UN's Commission on the Status of Women. In 2013, the UK will update its assessment of the value for money provided for UK taxpayers from aid channelled through the EU to assess the changes that have been implemented since the Multilateral Aid Review was undertaken in 2010.

POST 2015 DEVELOPMENT AGENDA

During the Irish Presidency, the Commission will progress development of an EU position by publishing a communication on the post-2015 framework and Sustainable Development Goals. In line with the UK's support of the High Level Panel co-Chaired by the Prime Minister, our aim is to steer the EU and Member States towards an ambitious position and to advocate one single post-2015 development framework. It should retain poverty eradication as its overall purpose but be coherent with work to develop sustainable development goals by building in the importance of natural resources for lasting poverty eradication. Council conclusions are expected in response to the Communication in the May Foreign Affairs Council on Development and the June Environment Council. It will be important at this early stage to avoid a prescriptive EU position in order to enable a flexible negotiating hand for ourselves and other member states in New York.

DEVELOPMENT COOPERATION INSTRUMENT (DCI)

The Commission's draft regulations for the external actions budget instruments for the Multiannual Financial Framework (MFF) 2014-2020, were published in December 2011. Council negotiations on the draft regulations have been underway since January 2012. The Foreign Affairs Council approved a Partial General Approach (PGA) on 25 June 2012. A PGA is a Council version of each regulation with any unresolved issues in square brackets and no inclusion of financial amounts. Council clearance of the PGA gives the Presidency a mandate to enter into informal trilogues with the European Parliament and the Commission.

The UK's top priority for the overall MFF negotiations is budgetary restraint, ensuring that the EU budget contributes to domestic fiscal consolidation. However, the UK sees the EU's external expenditure (Heading 4) as a relative priority and is arguing for a strong development outcome in the negotiations with a focus on protecting or increasing the proportion of Official Development Assistance (ODA) within a restrained overall budget.

The Commission has proposed that the next Development Cooperation Instrument will only provide bilateral development assistance to countries that need it most and where EU assistance will have the most impact. Upper middle-income countries and countries with a large economy will 'graduate' to a new partnership relationship with the EU, based on mutual interests. The UK pressed for this proposal and welcomes the Council's agreed position on this.

The Irish Presidency has the ambition to concluding negotiation of the MFF (including the DCI) by the end of their 6 month Presidency. The UK welcomes this drive, but feels that this is an optimistic goal.

RESILIENCE

Discussions on building resilience to disasters will focus on Council Conclusions to be prepared jointly by the Council working group on Humanitarian Aid and Food Aid (COHAFA) and the Council working group on Development (CODEV) and adopted at the May Foreign Affairs Council (Development). There will also be a joint field visit for representatives of COHAFA and CODEV to Ethiopia to increase awareness amongst members of the two working groups of the disaster resilience agenda and its application in the field. DFID will continue close engagement with the Irish Presidency to seek to influence the Conclusions in line with UK policy.

HUMANITARIAN AID

The Irish Presidency will continue several work streams that progressed during the Cyprus Presidency and add some of their own priorities. They plan to focus their attention on: enhancing coordination between the EU and Member States in disaster response; promoting work on disaster resilience; taking forward negotiations on the EU Aid Volunteers initiative; and championing the humanitarian principles in the light of the 2013 evaluation of the European Consensus on Humanitarian Aid.

We will continue to engage closely with the EU Aid Volunteers legislative proposal and to update Scrutiny Committees as negotiations progress. DFID is supportive of a continued focus on on-going protracted crises in Syria and elsewhere, as well as renewed attention on 'forgotten crises'. The UK supports a push on humanitarian principles and the European Consensus on Humanitarian Aid: in order to influence the direction of the evaluation, we have nominated an evaluation expert to the Steering Committee.

FOOD SECURITY AND NUTRITION

The EU Food Security Implementation Plan is a long awaited follow-up to the EU Food Security Strategy which came out in 2010 and is due to be agreed through Council by the end of the Irish Presidency. The UK has been actively involved in shaping the finalisation of the Implementation Plan. The Plan will provide an overview of what EU member states are doing on food security to meet the commitments in the Strategy. It covers four pillars of production, access (including social protection), utilisation (nutrition) and resilience.

A Communication on Nutrition, also due to be agreed by May 2013, will specifically elaborate pillar 3 of the Strategy and will cover EU policy on nutrition-specific, sensitive and humanitarian interventions. The Communication will be EU wide but will be accompanied by an EC Action Plan which will outline how the EC will prevent stunting for 7 million children by 2025 (a commitment which Piebalgs made at the UK PM's Hunger Event in August 2012). UK Government is fully supportive of a Communication on Nutrition and would like it to be agreed by the end of the Irish Presidency of the EU. The UK are keen to see in the Communication a clear focus on nutrition-sensitive, and nutrition specific interventions, as well as a focus on humanitarian response.

30 January 2013

IRAN SANCTIONS

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

I am writing with regard to the latest round of Iran sanctions. You will recall that the 15 October 2012 Foreign Affairs Council agreed a Council Decision imposing new sanctions against Iran. This political agreement required a new Council Regulation to fully implement it. This was agreed on 20 December 2012 and adopted the following day.

Firstly, I regret that I found myself in the position of having to agree to the adoption of these measures before your Committee had had an opportunity to scrutinise the documents. I take seriously the responsibility to keep your Committee informed on issues concerning sanctions. Unfortunately, the timelines in this case were extremely tight: it had been hoped that agreement on the Council Regulation could be reached at the meeting of EU Ambassadors on 19 December, however final agreement was not possible until after your committee met for the last time before the Christmas recess. The Regulation was formally adopted on 21 December. To ensure that this agreement could come into force immediately the need to override scrutiny was, regrettably, unavoidable.

The measures themselves have been subject to intense negotiation, where the UK Representation to the EU worked hard to secure the tough new sanctions against Iran. I also submit an Explanatory Memorandum on the documents to explain these in more detail.

The measures include action to limit Iran's access to key materials and equipment that could be used in its nuclear programme. The measures also target key industries that help to fund the programme.

The European Union agreed to take action in five main areas: trade, energy, finance, shipping and further asset freezing measures.

The new designations, which impose an asset freeze on further Iranian companies, include subsidiaries of already listed Iranian energy companies, companies involved with circumventing oil sanctions and several companies involved in securing raw materials for the nuclear program by evading existing sanctions.

Importantly, we also reached an agreement to enhance the security of the Rhum gas field in the North Sea. Rhum is a joint Iranian-UK venture that has been temporarily shut-in due to the effect of sanctions. This agreement will permit the Department for Energy and Climate Change to take forward domestic legislation that will allow vital maintenance work to proceed.

We believe it is important that the Council Decision agreed in October 2012 is robustly implemented. This Regulation will help to prevent Iran acquiring the goods needed to develop its nuclear programme and will help halt the trade and financial flows that fund the programme.

Throughout 2012, International Atomic Energy Agency (IAEA) reports highlighted continuing uranium enrichment activities in Iran, along with an expansion in Iran's capacity to produce more enriched material. Despite another IAEA Board resolution in September 2012 – supported by an overwhelming majority of countries on the Board – which stated that Iranian cooperation with the Agency was “essential and urgent,” Iran has still failed to address the issues of concern regarding the possible military dimensions of its nuclear programme. It is clear that Iran is advancing a nuclear programme which is capable of producing quantities of enriched material that can have no plausible civilian use, in a site that the Iranian authorities built in secret. The latest November 2012 International Atomic Energy Agency report said that “the Agency is unable to provide credible assurance about the absence of undeclared nuclear material and activities in Iran, and therefore to conclude that all nuclear material in Iran is in peaceful activities.”

The Government remains clear that the dual track policy of negotiations with Iran and pressure through sanctions remains the best way to resolve the Iranian nuclear issue. Sanctions are necessary given the threat of a nuclear armed Iran, and are having an impact. They are the reason Iran returned to negotiations with the E3+3 in 2012 and, together with our counter proliferation efforts, have slowed the development of the Iranian nuclear programme. The sanctions in place are targeted, proportionate and reversible. Iran's leaders can bring sanctions to an end by taking steps to change their nuclear programme.

Once again, let me reiterate how seriously I take the responsibility to keep your Committee informed on issues concerning sanctions – and my regret that on this occasion an override of scrutiny was unavoidable.

I would of course be happy to answer further questions the Committee may have about these measures.

9 January 2013

KOSOVO: PARTICIPATION IN EU PROGRAMMES

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

I am writing to advise your Committee that on 15 October the Foreign Affairs Council authorised the European Commission to open negotiations with Kosovo on a framework agreement concerning Kosovo's participation in European Union programmes.

It is not clear at this stage how long the negotiations will take. We do know however that once the framework agreement has been agreed and signed, Kosovo will be able to participate in EU programmes that are or will be open to potential candidates benefiting from the EU's pre-accession strategy, provided it meets the criteria for participation. These criteria are specific for each programme and essentially concern administrative and financial capacity. The terms and conditions for Kosovo's participation will be the same as for other potential candidates. Whilst the Commission has yet to present us with a draft of its proposed framework agreement, we fully expect it to be similar to those used for other Western Balkans countries. It is therefore likely to include the following key elements:

- Kosovo shall be allowed to participate in a yet to be defined list of EU programmes as well as any programmes established or renewed after the entry into force of the Framework Agreement.
- Kosovo shall make a financial contribution to the EU budget corresponding to the specific programmes in which it participates.
- Kosovo representatives shall be allowed to observe the management committees responsible for monitoring the programmes to which Kosovo contributes financially.
- The specific terms and conditions regarding Kosovo's participation in each particular programme will be determined by an MOU between the Commission, acting on behalf of the EU; and Kosovo.
- The Framework Agreement will apply for an indeterminate period but will be subject to a review clause.

The Government supports and welcomes this decision. Promotion of stability throughout the Western Balkans, including through progress towards eventual EU and NATO membership, is an explicit HMG priority. Kosovo is a key determinant of regional stability and it is therefore strongly in our interests that Kosovo continues along its EU path. We have long argued that the EU's offer of a European Perspective to Kosovo needs to be credible if the EU is to expect Kosovo to drive with genuine commitment and energy the reforms necessary for its long term security and prosperity. This proposed Council Decision, which for the first time offers Kosovo the very real prospect of international-treaty relations with the EU, provides such credibility.

The Committee may wish to be aware that this decision has been the subject of some difficult negotiation within the EU. Most recently, discussions were put on hold for several months following objections from the five EU Member States which do not recognise Kosovo as an independent state ("the non-recognisers"). They argued that Article 218 TFEU- the Commission's proposed procedural legal basis for being granted the negotiating mandate- prevented the EU from signing agreements with anything other than third countries or international organisations.

Following protracted discussions, the Council Legal Service (CLS) opined in July that Article 218 TFEU was the appropriate legal basis and that the Council Decision would not constitute recognition by the non-recognisers. The non-recognisers have therefore accepted the Commission's proposal subject to the CLS opinion being cited in the preamble to the Council Decision.

The UK will look to contribute in full to discussions at the EU to ensure the UK's interests are protected and enhanced. I will write to you again once the framework agreement has been presented to the Council for decision.

26 November 2012

MEETING OF EU FOREIGN MINISTERS (GYMNICH), 22-23 MARCH 2013, DUBLIN, IRELAND

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

I am writing to inform you about the informal meeting of EU Foreign Ministers (Gymnich) which was held on 22-23 March in Ireland. My Right Honourable Friend the Foreign Secretary attended the meeting.

The informal format of the Gymnich allows EU Foreign Ministers to engage in a free-ranging discussion on a number of issues. In contrast to arrangements in the Foreign Affairs Council (FAC), Ministers do not agree any formal written Conclusions. The next FAC will be held on 22 April.

The Gymnich was chaired by the High Representative of the European Union for Foreign Affairs and Security Policy, Baroness Ashton of Upholland. Her remarks following the meeting can be found at:

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/136485.pdf

The following issues were covered at the Gymnich:

SYRIA

Ministers discussed the EU's sanctions regime against Syria following the Prime Minister and President Hollande's call at the European Council on 14-15 March for the EU to look again at the scope of its arms embargo on Syria, in order to broaden the support allowed for the Syrian opposition. The Foreign Secretary set out the arguments for reviewing the EU's sanctions regime again, given the extreme gravity of the situation, and in particular for exempting all support for the National Coalition from the embargo.

The ensuing discussion was wide-ranging. Some Member States signalled that they were open to discussing further options, whilst others raised their concerns about the impact of any changes. Points of convergence included strong support for a political solution, support for the United Nations and the League of Arab States Joint Special Representative for Syria Lakhdar Brahimi, the importance of helping the Syrian National Coalition, and the need to continue responding to the humanitarian challenge. The discussion on amending the arms embargo will continue as the 1 June renewal date for the Syria sanctions package approaches.

2013 REVIEW OF THE EUROPEAN EXTERNAL ACTION SERVICE (EEAS)

The Chair of the European Parliament's Foreign Affairs Committee, Elmar Brok MEP, and EU Commissioner for Inter-Institutional Relations and Administration, Maroš Šefčovič, joined Foreign Ministers for part of their discussion on the EEAS Review. Baroness Ashton opened the discussion by setting out her vision of the EEAS and highlighted the areas she would be focusing on in her Review: where the EEAS had done well, where it could be improved and how the inter institutional relationship was working.

There followed a round table of contributions from Ministers. The Foreign Secretary set out the UK's priorities, praising the efforts of the EEAS so far and setting out our vision of an EEAS that complements national diplomatic services and supports the UK's foreign policy priorities. Other elements discussed were the possibility of creating a post of Deputy High Representative; budgeting pressures and value for money; coherence between the role of the EEAS and Commission on Development and European Neighbourhood Policy; the management of CSDP Missions and EU delegations; and the Member State/Commission staffing split. Baroness Ashton concluded that she would present her report to the Council in July.

THE EU'S RELATIONSHIP WITH REGIONAL ORGANISATIONS

Ministers were due to discuss the EU's relationship with regional organisations but this discussion was postponed to a later date due to time pressures.

27 March 2013

MULTI-ANNUAL FINANCIAL FRAMEWORK (MFF) FOR SUSTAINABLE DEVELOPMENT

Letter from Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development, to the Chairman

I am writing to you to update the Committee on the recent "trialogue" negotiations between the European Commission, European Parliament and European Council surrounding the Multi-annual Financial Framework (MFF), in particular Heading 4 of the MFF which promotes sustainable development. This letter follows on from the joint letter dated 18 June 2012 from DFID's former PUS, Stephen O'Brien, and Minister for Europe, David Liddington, to the House of Commons and House of Lords Scrutiny Committees regarding the financial development instruments covered under the MFF.

With regard to an update on the 2014-2020 MFF, the informal triologue discussions have been continuing since the agreement by the Council of its Partial General Approach on the Heading 4 instruments in June 2012. Although the European Parliament was expected to produce its first reading of the MFF last autumn, this did not happen and we still await a date for when this will take place.

As you are undoubtedly aware, the European Council reached agreement on the financial levels of the next MFF at its meeting on 7 and 8 February. This yielded a good outcome for development. Heading 4 was allocated €58.67 billion (£50.28 billion), an increase slightly above a real freeze (Heading 4

stands at €57 billion (£48.25 billion) in the current financial framework), while the European Development Fund (EDF) was kept off budget, with an allocation of €26.984 billion (£23.125 billion).

The MFF must now be agreed as a package by the European Parliament. Statements made on the floor by the main party leaders in the European Parliament have been overwhelmingly negative about budget cuts so far. However, the European Parliament's issues are with the overall reduction of the EU budget and we do not expect them to focus on Heading 4 or EDF levels specifically.

MEPs continue to look for greater influence over the next budget programming cycle and are seeking to redefine areas which come under delegated acts (issues which would be subject to agreement by the European Parliament) as opposed to implementing acts (issues subject to agreement by Member States in committee). The European Commission, European Council and the European Parliament will need to reach agreement on this before there can be agreement on the legislation for the Heading 4 external instruments.

The European Commission will come with proposals on the division of the Heading 4 budget between the external financial instruments. The UK will push for a division which protects ODA spending levels, particularly through the Development Cooperation Instrument (DCI) and the Humanitarian Aid Instrument (HAI).

On EDF 11, the UK contribution will stand at 14.33%, a slight decrease (our current contribution stands at 14.82%). Negotiations on the Internal Agreement (EDF volumes and contribution keys) will commence in the coming weeks. Implementing regulations (what the money will be used for) and financial regulations (rules for Member States' contributions and budget implementation) will be debated by the European Council from May 2013.

I will write to the Committees again as these key issues develop.

25 February 2013

RESTRICTIVE MEASURES AGAINST BURMA

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

EU restrictive measures against Burma are due for review by 30 April. The active measures currently comprise an arms embargo and restrictions on the supply of equipment which could be used for internal repression. All other measures were suspended on 23 April 2012 and include targeted travel and financial restrictions on designated individuals and entities, and restrictions on doing business in Burma or with certain sectors of the Burmese economy.

If elements of the sanctions package are to be retained beyond April, a Decision renewing measures must be adopted before 30 April or they will automatically fall away in their entirety. The 22 April Foreign Affairs Council presents the last opportunity to formally adopt a Decision before the current measures expire. As I anticipated in my letter to your Committee of 17 March, if a draft Decision had not been circulated in time to be reviewed by your Committee at its first meeting following the Easter recess, I would be in the position of having to agree the Decision before it has cleared scrutiny. Despite my officials' best efforts, I am now writing to confirm that a draft Decision has not yet been circulated and there will not be enough time to submit the document for your consideration before the Foreign Affairs Council adoption.

As you know, the responsibility to keep your Committee informed on issues concerning restrictive measures is something I take seriously, and the need for the override of scrutiny on this occasion will regrettably be unavoidable. My department will of course deposit the requisite Explanatory Memorandum and Decision for consideration by your Committee once a Decision has been circulated.

9 April 2013

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

Further to my letter of 9 April 2013, I am writing to update the Committees on recent amendments to the EU restrictive measures against Burma.

As set out in my letter, restrictive measures against Burma were due to expire on 30 April. A Decision renewing measures had to be adopted before 30 April to prevent the sanctions regime

automatically falling away in its entirety. The 22 April Foreign Affairs Council presented the last opportunity to formally adopt a Decision before the previous measures expired. However, despite my officials' concerted efforts, a draft Decision was not circulated in time to be reviewed by your Committee at its first meeting following the Easter recess. As set out in my previous letter, a scrutiny override was therefore necessary to adopt the attached Decision at the Foreign Affairs Council. I am now writing to confirm that the Decision was adopted on 22 April without parliamentary scrutiny, and to submit for your Committee's consideration the Decision and Explanatory Memorandum attached.

This Decision repeals and replaces Decision 2010/232/CFSP as the legislative act governing EU sanctions on Burma; it effectively lifts the restrictive measures that were suspended under Decision 2010/232/CFSP in April 2012, whilst maintaining the arms embargo and embargo on equipment that might be used for internal repression. This acknowledges the considerable strides towards reform that have taken place over the previous two years, while recognising the challenges that remain.

As you know, the responsibility to keep your Committee informed on issues concerning restrictive measures is something I take seriously, and the need for the override of scrutiny on this occasion was regrettably be unavoidable.

25 April 2013

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

Further to my letter of 25 April 2013, I am writing to update the Committee on recent amendments to the EU restrictive measures against Burma.

As set out in my previous letter, restrictive measures against Burma were due to expire on 30 April 2013. A Decision renewing measures therefore had to be adopted before 30 April to prevent the sanctions regime automatically falling away in its entirety. This was agreed at the 22 April Foreign Affairs Council. A Council Regulation had to be agreed to give effect to the Decision 2013/184/CFSP. It will permanently lift the restrictive measures that were temporarily suspended under Decision 2010/232/CFSP in April 2012 and Council Regulation (EU) No.409/2012 in May 2012, whilst maintaining the arms embargo and embargo on equipment that might be used for internal repression. This acknowledges the considerable strides towards reform that have taken place over the previous two years, while recognising the challenges that remain.

The underlying Regulation that implements the restrictive measures in respect of Burma was implemented in EU law by Regulation (EC) No.194/2008. Certain elements of those restrictive measures were temporarily suspended under Decision 2010/232/CFSP in April 2012 and this was reflected in EU law in May 2012 by Regulation (EU) No.409/2012. This suspension expired on 30 April 2013. Between 30 April and the new Council Regulation (EU) No.401/3013 coming into force on 3 May, the underlying Regulation 194/2008 had to be briefly re-imposed. This meant that it was technically possible to breach the Regulation, even though the Council agreed on 22 April that such measures should be lifted. British officials subsequently pressed the Commission to prepare a Regulation for adoption as quickly as possible in order to ensure that this anomaly was quickly redressed. The Council agreed the Regulation on 2 May and it came into force the following day.

In order to ensure that these measures were given full legal effect as quickly as possible, and in light of the fact that they implement the previously agreed Council Decision, I agreed to override scrutiny in this case. As you know, the responsibility to keep your Committee informed on issues concerning restrictive measures is something I take seriously, and the need for the override of scrutiny on this occasion was regrettably unavoidable.

7 May 2013

RESTRICTIVE MEASURES AGAINST DEMOCRATIC PEOPLE'S REPUBLIC OF NORTH KOREA

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

I am writing with regard to the Council Decision concerning restrictive measures in view of the satellite launched by the DPRK on 12 December and the nuclear test on 12 February.

The measures with respect to DPRK implement the UN Security Council's response to the DPRK's satellite launch and additional autonomous EU measures in response to both the satellite launch and the nuclear test. The Council Decision that is the subject of this letter will amend Council Decision 800/2010 and will also implement the measures contained in UN Security Council Resolution 2087 (2013).

The measures include enhanced vigilance and a ban on insurance and reinsurance claims relating to already sanctioned individuals and entities. The supplementary EU autonomous measures include financial measures and restrict trade in conventional weapons and the export of components for ballistic usage.

It is important that these measures are implemented quickly to ensure that the European Union acts consistently with the provisions of UN Security Council resolution 2087, that there is a minimal gap in the legal basis for implementing measures and that the EU is seen to respond to the satellite launch and nuclear test in a timely fashion.

I regret that due to the fact that Parliament will be in recess from 14 to 24 February, I find myself in the position of having to agree to the adoption of these Council Decisions and Regulations before your Committee has had an opportunity to scrutinise the documents.

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 is regrettably unavoidable.

15 February 2013

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

I am writing with regard to the Council Regulation concerning restrictive measures which were adopted following the satellite launched by the DPRK on 12 December and the nuclear test on 12 February.

Council Regulation 296/2013 amends Council Regulation 329/2007 and implements Council Decision 2013/88/CFSP, adopted by the FAC on 18 February. This Decision includes the UN Security Council's response to the DPRK's satellite launch and additional autonomous EU measures in response to both the satellite launch and the nuclear test.

The measures include enhanced vigilance and a ban on insurance and reinsurance claims relating to already sanctioned individuals and entities. The supplementary EU autonomous measures include financial measures and restrict trade in conventional weapons and the export of components for ballistic usage.

It is important that these measures are implemented quickly to ensure that the European Union acts consistently with the provisions of UN Security Council resolution 2087, that there is a minimal gap in the legal basis for implementing measures and that the EU is seen to respond to the satellite launch and nuclear test in a timely fashion.

I regret that there were delays in submitting the Explanatory Memorandum covering the original Council Decision to the Committee. You will appreciate that events on this issue have been fast moving. I have however spoken to FCO officials to ensure we avoid a similar situation in the future.

I also regret that due to the fact that the Committee is in recess from 27 March to 22 April, I found myself in the position of having to agree to the adoption of this Council Regulation before your Committee had an opportunity to scrutinise the documents.

DPRK UPDATE

I would also like to take this opportunity to update the Committee on the situation in DPRK.

We are concerned by North Korea's development of nuclear weapons and missile technology, and more recently by its frenetic and bellicose rhetoric. We are also concerned by the danger of miscalculation by the DPRK regime. The international response to this must be clear, united and calm.

UN Security Council Resolution 2094, adopted on 7 March in response to the nuclear test on 12 February, was agreed by consensus. This is a strong signal of the international community's unity and resolve. The measures in this Resolution provide the international community with the enhanced means to tackle the DPRK's illicit proliferation. In addition, the Resolution makes clear that the UN Security Council would take "further significant measures" in the event of another launch or nuclear test by the DPRK.

G8 Foreign Ministers also discussed the international response to the DPRK at our meeting last week. This resulted in a clear joint statement that included condemnation in the strongest possible terms of the DPRK's continued development of its nuclear and ballistic programmes, and we urged the DPRK to engage in credible and authentic multilateral talks on denuclearisation. Foreign Ministers all agreed that the DPRK must address these and other issues and cooperate fully with all relevant UN mechanisms. They made clear our support to the UNSCR commitment to take further significant measures in the event of a further launch or nuclear test by the DPRK.

The statement of the G8 Foreign Ministers also expressed concern over the systematic and widespread human rights violations in the DPRK. This echoed the agreement in the UN Human Rights Council on 21 March to establish a Commission of Inquiry on human rights abuses in the DPRK. The fact that this Inquiry was agreed without a vote again demonstrates the strong international consensus that the DPRK cannot and should not continue on its current course.

We are working to ensure all states fully implement the latest UN Security Council Resolution and have been speaking to international partners about the importance of this. The UK is not a member of the Six Party Talks, but we will remain in close touch with the US, Republic of Korea (RoK), China, Russia and Japan on their approach towards the DPRK. The Foreign Secretary has also spoken to the RoK Foreign Minister Yun Byun-se, where he welcomed the RoK's measured approach to the situation and confirmed that the UK will continue to support our allies in the region.

In this call the Foreign Secretary stressed the importance of not responding to North Korean rhetoric. Our assessment remains that there has been no immediate increased risk or danger to those living in or travelling to either the DPRK or the RoK. We judge there is no immediate need to either change the level of our travel advice or draw down Embassy staff, although we are keeping this under constant review and making regular factual updates to our travel advice.

The UK played a leading role in work to agree a co-ordinated and unified response by EU Member States to the 10 April deadline set by the DPRK for embassies to notify them of what assistance they would require should they wish to be evacuated from the DPRK. We made sure that the EU took this opportunity to remind the DPRK of its international obligations on proliferation. From our discussions with other governments we do not believe any foreign embassy in Pyongyang is currently planning to close.

Our message to the DPRK is clear. It has a choice, between constructive engagement with the international community, or further international action and isolation. The choice it is taking now will lead it to be a broken country, isolated from the rest of the world.

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 is regrettably unavoidable.

17 April 2013

RESTRICTIVE MEASURES AGAINST IRAN

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

I am writing with regard to the Council Decision concerning restrictive measures directed against certain persons and entities in view of the situation in Iran.

Nine individuals and one entity have been added to the list of designations by the EU. Those listed are responsible for serious human rights violations in Iran and include judges, prosecutors, authority figures in state media, and the Cyber Police.

This Government considers that further sanctions on Iran linked to human rights violations strengthens our overall policy on Iran by: supporting our objective of behavioural change in Iran by actively targeting those most guilty of serious human rights violations; increasing pressure on the Iranian regime by taking very visible steps to respond to violations; and providing moral support to human rights defenders both inside and outside Iran, by demonstrating concrete action. Commentary from Iranians via the FCO's online presence, such as social media, has been positive about the EU measures following previous additions to listings, as have comments from NGOs.

Details of these newly agreed designations were not made public until after they were adopted, in order to mitigate the significant risk of asset flight. I have therefore found myself in the position of

having to agree to the adoption of these Council Decisions and Regulations before your Committee has had an opportunity to scrutinise them.

As you know, the responsibility to keep your Committee informed on issues concerning sanctions is something I take seriously. The need for the override of scrutiny on this occasion is regrettably unavoidable.

18 March 2013

RESTRICTIVE MEASURES AGAINST LIBYA

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

The above documents were considered at the meeting of the EU Committee on External Affairs on 17 January 2013. The documents had already been cleared from scrutiny.

The Committee noted that the Organisation for Development of Administrative Centres (ODAC) had been added to the EU autonomous asset-freeze list on 10 August 2011 and has only been delisted now on a proposal by the Libyan authorities. This seems a lengthy delay since the fall of the Qaddafi Regime.

We strongly support the review process which you mention for the other 19 listed Libyan entities. Could you explain further how the Government intends to ensure that the delisting process for EU restrictive measures is appropriate and timely?

I look forward to receiving your reply within the standard ten working days.

23 January 2013

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

I am writing in response to your letter asking how the Government intends to ensure that the delisting process for EU restrictive measures imposed on Libyan entities is appropriate and timely.

As referenced in your letter, the Organisation for Development of Administrative Centres (ODAC) was delisted on 22 January, following a request from the Libyan authorities. There are 18 other entities still subject to an EU autonomous asset freeze under the Libya sanctions regime.

The EU regulation requires the sanctions package for Libya to be reviewed at least every 12 months, with the next review due to take place in February. In advance of this, the FCO's Libya team in London and UK delegation in Tripoli have conducted an internal review of listings. Based on the limited information available, the review identified several entities whose listing should be reviewed at the EU. This is in line with the Government's sanctions policy, which seeks to ensure that all sanctions regimes remain relevant and that individual designations comply with the listing criteria.

As part of the review process, the Government wishes to obtain further information on listed entities from the Libyan authorities. The purpose of this is to ensure that there is sufficient management control to prevent the unlawful diversion of funds, should we move to delist an entity. As the new Libyan Government was inaugurated on 14 November 2012, this process has only begun to take place since this date, beginning with the delisting of ODAC.

In order to acquire the necessary information from the Libyan authorities ahead of the February review, UK officials in Tripoli and Brussels are working with likeminded member states and the EEAS to increase engagement with the Libyans on this issue. The UK has also shared, in confidence, the findings of its internal review with these states in order to create a common basis for discussions with the Libyan authorities. The Government is now awaiting further information from the Libyans.

6 February 2013

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

I am writing to let your Committee know of plans to adopt the above Decision and Implementing Regulation at the Foreign Affairs Council on 22 April 2013. The Decision will amend the UN arms embargo on Libya to remove the requirement to notify the UN Sanctions Committee for the provision of certain non-lethal goods and assistance, as decided in Security Council Resolution 2095

and explained in the accompanying Explanatory Memorandum. The Decision and Implementing Regulation together will also remove an individual from the EU autonomous asset freeze and travel ban, following a decision made at the Mashrek/Maghreb (MaMa) working Group on 11 April 2013.

UN resolution 2095 was adopted on 14 March 2013, however despite my officials' best efforts, the Decision implementing its changes was not agreed by the relevant Council structure until Monday 15 April 2013. This was too late to be considered by your Committee ahead of the FAC on 22 April 2013, which presents the next opportunity for the text to be adopted. 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 is regrettably unavoidable.

Until the changes made by UNSCR 2095 in relation to notification requirements are implemented in the EU, EU countries are required by existing EU obligations to obtain the approval of the UN Sanctions Committee before exporting certain non lethal equipment and assistance to Libya. Following the recent UNSCR however, these obligations in practice can no longer be complied with. This means that the UK, along with other EU countries, cannot licence the export of such non-lethal goods or provide certain types of assistance until the adoption of the amending Council Decision and Regulation. There has already been a time lapse of over one month since the UNSCR was adopted, during which a backlog of export licences have accrued, therefore it is essential that this decision is adopted at the first possible opportunity.

A draft of the Regulation implementing the assistance related aspects of the Council Decision will be available on 22 April 2013, and is scheduled to be adopted at the first possible opportunity after this. We will provide an update on this as necessary.

17 April 2013

RESTRICTIVE MEASURES AGAINST DEMOCRATIC PEOPLE'S REPUBLIC OF NORTH KOREA

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

I am writing with regard to the Council Decision concerning restrictive measures in view of the satellite launched by the DPRK on 12 December and the nuclear test on 12 February.

The measures with respect to DPRK implement the UN Security Council's response to the DPRK's satellite launch and additional autonomous EU measures in response to both the satellite launch and the nuclear test. The Council Decision that is the subject of this letter will amend Council Decision 800/2010 and will also implement the measures contained in UN Security Council Resolution 2087 (2013).

The measures include enhanced vigilance and a ban on insurance and reinsurance claims relating to already sanctioned individuals and entities. The supplementary EU autonomous measures include financial measures and restrict trade in conventional weapons and the export of components for ballistic usage.

It is important that these measures are implemented quickly to ensure that the European Union acts consistently with the provisions of UN Security Council resolution 2087, that there is a minimal gap in the legal basis for implementing measures and that the EU is seen to respond to the satellite launch and nuclear test in a timely fashion.

I regret that due to the fact that Parliament will be in recess from 14 to 24 February, I find myself in the position of having to agree to the adoption of these Council Decisions and Regulations before your Committee has had an opportunity to scrutinise the documents.

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 is regrettably unavoidable.

15 February 2013

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

I am writing with regard to the Council Regulation concerning restrictive measures which were adopted following the satellite launched by the DPRK on 12 December and the nuclear test on 12 February.

Council Regulation 296/2013 amends Council Regulation 329/2007 and implements Council Decision 2013/88/CFSP, adopted by the FAC on 18 February. This Decision includes the UN Security Council's response to the DPRK's satellite launch and additional autonomous EU measures in response to both the satellite launch and the nuclear test.

The measures include enhanced vigilance and a ban on insurance and reinsurance claims relating to already sanctioned individuals and entities. The supplementary EU autonomous measures include financial measures and restrict trade in conventional weapons and the export of components for ballistic usage.

It is important that these measures are implemented quickly to ensure that the European Union acts consistently with the provisions of UN Security Council resolution 2087, that there is a minimal gap in the legal basis for implementing measures and that the EU is seen to respond to the satellite launch and nuclear test in a timely fashion.

I regret that there were delays in submitting the Explanatory Memorandum covering the original Council Decision to the Committee. You will appreciate that events on this issue have been fast moving. I have however spoken to FCO officials to ensure we avoid a similar situation in the future.

I also regret that due to the fact that the Committee is in recess from 27 March to 22 April, I found myself in the position of having to agree to the adoption of this Council Regulation before your Committee had an opportunity to scrutinise the documents.

DPRK UPDATE

I would also like to take this opportunity to update the Committee on the situation in DPRK.

We are concerned by North Korea's development of nuclear weapons and missile technology, and more recently by its frenetic and bellicose rhetoric. We are also concerned by the danger of miscalculation by the DPRK regime. The international response to this must be clear, united and calm.

UN Security Council Resolution 2094, adopted on 7 March in response to the nuclear test on 12 February, was agreed by consensus. This is a strong signal of the international community's unity and resolve. The measures in this Resolution provide the international community with the enhanced means to tackle the DPRK's illicit proliferation. In addition, the Resolution makes clear that the UN Security Council would take "further significant measures" in the event of another launch or nuclear test by the DPRK.

G8 Foreign Ministers also discussed the international response to the DPRK at our meeting last week. This resulted in a clear joint statement that included condemnation in the strongest possible terms of the DPRK's continued development of its nuclear and ballistic programmes, and we urged the DPRK to engage in credible and authentic multilateral talks on denuclearisation. Foreign Ministers all agreed that the DPRK must address these and other issues and cooperate fully with all relevant UN mechanisms. They made clear our support to the UNSCR commitment to take further significant measures in the event of a further launch or nuclear test by the DPRK.

The statement of the G8 Foreign Ministers also expressed concern over the systematic and widespread human rights violations in the DPRK. This echoed the agreement in the UN Human Rights Council on 21 March to establish a Commission of Inquiry on human rights abuses in the DPRK. The fact that this Inquiry was agreed without a vote again demonstrates the strong international consensus that the DPRK cannot and should not continue on its current course.

We are working to ensure all states fully implement the latest UN Security Council Resolution and have been speaking to international partners about the importance of this. The UK is not a member of the Six Party Talks, but we will remain in close touch with the US, Republic of Korea (RoK), China, Russia and Japan on their approach towards the DPRK. The Foreign Secretary has also spoken to the RoK Foreign Minister Yun Byun-se, where he welcomed the RoK's measured approach to the situation and confirmed that the UK will continue to support our allies in the region.

In this call the Foreign Secretary stressed the importance of not responding to North Korean rhetoric. Our assessment remains that there has been no immediate increased risk or danger to those living in or travelling to either the DPRK or the RoK. We judge there is no immediate need to

either change the level of our travel advice or draw down Embassy staff, although we are keeping this under constant review and making regular factual updates to our travel advice.

The UK played a leading role in work to agree a co-ordinated and unified response by EU Member States to the 10 April deadline set by the DPRK for embassies to notify them of what assistance they would require should they wish to be evacuated from the DPRK. We made sure that the EU took this opportunity to remind the DPRK of its international obligations on proliferation. From our discussions with other governments we do not believe any foreign embassy in Pyongyang is currently planning to close.

Our message to the DPRK is clear. It has a choice, between constructive engagement with the international community, or further international action and isolation. The choice it is taking now will lead it to be a broken country, isolated from the rest of the world.

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 is regrettably unavoidable.

17 April 2013

RESTRICTIVE MEASURES AGAINST SOMALIA

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

I am writing to let your Committee know that the above EU Council Decision, which implements UN Security Council Resolution 2093, was adopted on 25 April by written procedure. The resolution amends the UN arms embargo on Somalia in a number of ways, including by partially suspending it for twelve months for the Security Forces of the Federal Government, as explained in the accompanying Explanatory Memorandum.

UN resolution 2093 was adopted on 6 March, however despite active lobbying by UK officials, the draft of the Council Decision implementing its changes was not prepared by RELEX (the relevant Council structure) until Monday 22 April due to the volume of urgent business to be addressed during this period. The Somalia Council Decision was not considered by others to be urgent, because it implements UN, rather than EU autonomous measures. However to avoid such unnecessary delays in the future, the UK is working with the EEAS to ensure that UN resolutions can be more swiftly implemented, and drafts made available with sufficient time for scrutiny. Due to the already substantial time lapse in this case, it was decided by the EEAS, to adopt the text by written procedure as soon as possible after it was finalised. The date of adoption was set by the EEAS to be Thursday 25 April, which was unfortunately too late for us to submit the draft to be considered by your Committee in advance.

Until the changes made by UNSCR 2093 in relation to the arms embargo are implemented in the EU, Member States are required by existing EU obligations to obtain the approval of the UN Sanctions Committee before providing military equipment and assistance to the Federal Government and to the UN Political Office (UNPOS). Following the recent UNSCR however, these obligations in practice can no longer be complied with. This means that the UK, along with other EU countries, cannot license the export of military equipment or the provision of assistance until the adoption of the amending Council Decision and Regulation. In addition, the existing Decision and Regulation do not permit Member States to provide military equipment or assistance to Ethiopia, a strategic partner working with the African Union Mission (AMISOM) or to UN staff working outside of the Political Office, but will do so once they have been brought into line with UNSCR 2093.

There has been a time lapse of more than six weeks since the UNSCR was adopted, during which EU Member States have been unable to provide any military support to the recipients mentioned above, therefore this Decision was adopted at the first possible opportunity. A draft of the Regulation implementing the assistance related aspects of the Council Decision will now be drawn up, as the final stage in implementing these new measures. I will be in touch further with the committees.

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 is regrettably unavoidable.

25 April 2013

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

Further to my letter of 25 April regarding the Council Decision amending Decision 2010/231/CFSP concerning restrictive measures against Somalia (Council Decision 2013/201/CFSP), I am writing to let your Committee know that the above EU Council Regulations, which implement the assistance related elements of this Council Decision, will be adopted on 8 May by written procedure. The regulations implement the elements of the Council Decision which fall within EU competence, as explained in the accompanying Explanatory Memorandum.

Council Decision 2013/201/CFSP concerning restrictive measures against Somalia was adopted on 25 April by written procedure, and following this, the draft of the corresponding Council Regulations were swiftly prepared by RELEX (the relevant Council structure) on 29 April. Due to the substantial time lapse between the UN Resolution being adopted on 6 March and the Council Decision being adopted over six weeks later, it was decided by the EEAS to adopt the Regulation by written procedure as soon as possible after it was finalised. The date of adoption is set to be Wednesday 8 May, which is unfortunately too late for us to submit the draft to be considered by your Committee in advance.

Until the changes made by UNSCR 2093 in relation to the arms embargo are implemented in the EU by the Regulation amending Regulation (EC) No.147/2003, Member States are required by existing EU obligations to obtain the approval of the UN Sanctions Committee before providing assistance to the Federal Government and to the UN Political Office (UNPOS). Following the recent UNSCR however, these obligations in practice can no longer be complied with. This means that the UK, along with other EU countries, cannot license the provision of assistance until the adoption of this Regulation. In addition, the existing Regulation does not permit Member States to provide assistance to Ethiopia, a strategic partner working with the African Union Mission (AMISOM) or to UN staff working outside of the Political Office, but will do so once this document has been brought into line with UNSCR 2093.

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 is regrettably unavoidable.

1 May 2013

RESTRICTIVE MEASURES AGAINST SYRIA

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

I am writing with regard to the renewal of EU sanctions on Syria, which have been agreed by the adoption of a new consolidated Council Decision that repeals the previous Council Decision 2011/782/CFSP.

I regret that I have found myself in the position of having to agree to the adoption of these measures before your Committee had had an opportunity to scrutinise the documents. I take seriously the responsibility to keep your Committee informed on issues concerning sanctions. Unfortunately, negotiations on the nature of this renewal ran right up to the date of their adoption on 29 November. I was therefore forced to override scrutiny in order for the measures to be adopted prior to the expiration date of the previous sanctions package on 1 December.

In addition to renewing the measures for a further three months, these documents also amend the asset freezing measures to allow EU competent authorities to release assets where that release is approved by judicial proceedings begun after the date of designation (where previously the texts only permitted this for judicial proceedings begun prior to that date). Finally, the identifying information of three designated individuals has been updated to ensure the robust implementation of the asset freeze and travel ban measures.

Once again let me reiterate how seriously I take the responsibility to keep your Committee informed on issues concerning sanctions – and my regret that this override of scrutiny was unavoidable.

I would of course be happy to answer further questions the Committee may have about these measures.

13 December 2012

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

I am writing to update your Committee on the recent changes to the EU restrictive measures against Syria. On February 28, the EU agreed to renew its Syria sanctions regime, with amendments as detailed below, for three months. The measures are now scheduled to be renewed on 1 June 2013.

As the Foreign Secretary explained in his speech to Parliament on the issue on 6 March 2013, negotiations on this rollover continued up to the deadline. Substantive amendments to the draft text were being made until the very last minute. Unfortunately, this meant that we had only a few hours between agreement of a draft text at COREPER and adoption of the measures in a subsequent Council meeting. If the Council meeting had been delayed the sanctions regime would have fallen. Therefore there was, regrettably, no time to provide the draft Council Decision as it stood to your Committee for scrutiny. Unfortunately, this meant that an override of Parliamentary scrutiny was required in this instance.

In the course of the rollover, the Council agreed a series of amendments to the arms embargo provisions of the sanctions package to ensure increased flexibility for EU countries, including of course the UK, to provide the opposition with technical assistance and non-lethal equipment in order to protect civilians. These actions are aimed at reducing the suffering of civilians and loss of life, so a negotiated solution is possible.

Specifically, the amendments to the EU restrictive measures against Syria will allow the UK to supply non-lethal equipment to the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians in Syria, as well as armoured non-combat vehicles to the SNC intended for the protection of civilians, and the provision of technical assistance, brokering services and other services for the SNC intended for the protection of civilians.

8 March 2013

RESTRICTIVE MEASURES AGAINST ZIMBABWE

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

In my letter of 7 February outlining EU business during the Half Term Recess, I noted my wish to keep your Committee informed on matters concerning the upcoming renewal of EU Restrictive Measures imposed against Zimbabwe.

The EU Council Decision concerning restrictive measures against Zimbabwe is due to expire on 20 February; negotiation on a Council Decision renewing the measures is therefore underway. A Decision must be agreed before 20 February to prevent Restrictive Measures from lapsing. In parallel, the EU will also review the suspension of restrictions imposed by Article 96 of the EU Appropriate Measures against Zimbabwe (payment of aid through government structures) that was agreed following negotiations in July 2012.

The EU has maintained Restrictive and Appropriate Measures against Zimbabwe since 2002. These Measures are renewed on an annual basis in February and August respectively. At present, the Restrictive Measures comprise a travel ban and asset freeze on 112 individuals (the travel ban on 2 of whom has been suspended) and 11 entities as well as an arms embargo and an embargo on equipment that may be used for internal repression.

Restrictive Measures were last rolled over in February 2012, when the EU removed 51 names from the travel ban and asset freeze list. The Appropriate Measures were subsequently rolled over for 12 months on 23 July 2012, although their application was immediately – and remains – suspended, reflecting progress that had taken place in Zimbabwe. In parallel to this review, the EU also agreed that a peaceful and credible constitutional referendum would represent an appropriate benchmark on which to predicate a significant suspension of the remaining restrictive measures.

Since July, further steps have been taken towards this benchmark. Although the pace has been slower than expected, the Second All Stakeholders Conference was held successfully in October and on 24 January the Principals to the GPA finally agreed the draft constitution that will be put to referendum. This agreement is a significant breakthrough and a Referendum is now expected to take place in late March or early April.

More broadly the situation in Zimbabwe remains finely balanced. Elections will take place later this year (constitutionally they are due to take place by 29 October). There have been important areas of progress – particularly the gazetting of the Electoral Amendment and Human Rights Commission Acts

into law – but this must be weighed in our considerations against other signals of concern, particularly a series of police raids on NGOs and civil society groups.

The UK recognises the central importance that existing restrictive measures renewed by the Decision remain legally robust, and that measures are lifted where they are found to no longer satisfy the legal criteria of the sanctions regime. Our priority in the ongoing negotiations is the maintenance of a legally robust sanctions package, ensuring that the Restrictive Measures are retained as a sustainable and effective foreign policy tool in the long run.

Beyond this, the Coalition Government's position in discussions continues to be guided by the principle that the Measures should respond to concrete progress in Zimbabwe, but that a credible and peaceful Constitutional Referendum should remain the prerequisite of any substantial suspension of Restrictive Measures. While a Referendum has not yet taken place, agreement on a draft constitution in January 2013 was a major step forward and removes the last significant political impediment to a Referendum in the early spring.

As I noted in my pre-recess letter, UK representatives in Brussels are working to secure an agreed text as swiftly as possible. However, our commitment to carefully calibrate any further relaxation of measures in response to – but not in anticipation of – reform means that negotiations on other elements of the Restrictive Measures are still ongoing. I regret to inform you that a draft text will not now be circulated by the EU in time for it to be scrutinised by your Committee before the House rises for Half Term Recess on 14 February. I anticipate that in this case I will find myself in the position of having to agree to the adoption of this Decision before your Committee has cleared it from scrutiny.

11 February 2013

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

With regard to my letter of 11 February concerning the Zimbabwe sanctions regime rollover, I am writing to inform your Committee that Council Decision 2013/89/CFSP amending Council Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe was adopted by the EU on 18 February. I regret that we were not able to provide you with the Explanatory Memorandum for your Committee's consideration before the Decision was adopted. As anticipated in my letter of 11 February, I found myself in the position of having to agree to the adoption of this Decision before your Committee had cleared it from scrutiny.

As you are aware, the Restrictive Measures against Zimbabwe were due to expire on 20 February, and a Council Decision had to be adopted before this date to prevent the sanctions package from falling away entirely. Despite concerted efforts to secure an agreement on renewal in time for the new Decision to be scrutinised before the recess, this was regrettably not possible. The attached Explanatory Memorandum sets out the details of the Decision agreed before the 20 February deadline.

As you know, the responsibility to keep your Committee informed on issues concerning restrictive measures is something I take seriously and the need for the override of scrutiny on this occasion was regrettably unavoidable.

8 March 2013

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

Further to my letter of 11 February, I wish to inform the Committees of possible forthcoming amendments to the EU Zimbabwe sanctions regime.

As you will know, following the renewal of Restrictive Measures on 19 February, 91 individuals and 10 entities continue to be subject to targeted sanctions. As I noted in my letter to your Committee on 11 February, EU Ministers agreed in July 2012 that a peaceful and credible constitutional referendum in Zimbabwe should lead to the suspension of the remaining targeted measures, a decision which was set out to your committee in my Explanatory Memorandum of 27 July 2012. The Constitutional Referendum will take place this Saturday, 16 March. EU Member States are therefore seeking to agree a Council Decision that will introduce the suspension (but not the lifting) of the majority of the current targeted measures, should this referendum prove peaceful and credible.

The UK approach to upcoming discussions is mindful of the commitment made in July 2012 to respond positively to this significant benchmark. During the course of the renewal in February, we reiterated to EU partners that any substantial relaxation of measures must respond to – but not

anticipate – a peaceful and credible constitutional referendum. Contingent on the report of the EU Head

of Mission in Harare confirming that the referendum was indeed peaceful and credible, the UK is now prepared to agree that the majority of targeted measures should be suspended. However, we will seek to ensure that targeted measures remain active on a core group of individuals and entities, including President Mugabe and his key allies within the securocracy.

As agreed in July 2012, any suspension of targeted measures would need to be renewed every 3 months. This renewal must be agreed unanimously by Member States in order to prevent the restrictive measures being automatically re-activated. These conditions ensure a safeguard by which any Member States could trigger the re-imposing of EU targeted restrictions should the situation in Zimbabwe deteriorate, notably in the period before and immediately after elections.

Following discussions at the EU next week, at which Member States will agree on the list of designations that will remain active after the majority of targeted measures are suspended, Member States will seek to swiftly adopt a Decision enacting the suspensions. We judge it important that such a Decision be adopted shortly after a referendum, as it is vital that such a substantial relaxation of measures is clearly linked to the achievement of this significant reform benchmark. A prolonged delay may be interpreted by our partners in SADC, as well as by the parties in Zimbabwe, as a lack of good faith in UK engagement and, ultimately, as further support for the perception that we operate a “regime change” agenda.

Our aim remains supporting the process to free and fair elections, which are expected to take place in the summer (and by law must take place by 29 October). . A post-referendum suspension sends an important signal to SADC and to ZANU-PF that the EU is serious about responding to progress, whilst allowing us the flexibility to respond should the situation deteriorate in coming months. This places the onus on the Government of Zimbabwe to live up to their commitments.

We are not at present able to circulate a draft Decision reflecting these changes to the Committee as discussion at the EU has not yet taken place. I am therefore aware that this Decision is unlikely to be scrutinised by the Committee at its final meeting prior to the Easter recess. Given the substantial time that would elapse before the Committee is next able to clear the Decision, and the damage that such a delay would cause to UK policy on Zimbabwe, I will regrettably find myself in the position of having to agree the Decision before it has cleared parliamentary scrutiny. This is the course of action which ensures that amendments to the restrictive measures best support the process of democratic reform in Zimbabwe, in line with UK interests.

As you know, the responsibility to keep your Committee informed on issues concerning restrictive measures is something I take seriously and the need for the override of scrutiny on this occasion will regrettably be unavoidable.

15 March 2013

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

Thank you for your Explanatory Memorandum of 8 March and your letters of 8 and 15 March explaining the override. The document was cleared at the sift, and your EM and letters were considered at the meeting of the EU Committee on External Affairs on 21 March. The Committee noted the override.

Your letters also gave background to development, for which we thank you. The Committee would welcome a further update with an assessment of the conduct of the constitutional referendum.

We look forward to receiving your response by 15 April.

27 March 2013

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

Thank you for your letter of 27 March 2013, which requested an assessment of the Zimbabwean constitutional referendum on 16 March 2013.

We are pleased that the constitutional referendum held on 16 March 2013 was reported as well-managed and peaceful, including by Civil Society Organisations (CSOs) and the Southern African Development Community (SADC) observers. The SADC Observer Mission, headed by Tanzanian Foreign Minister Membe, assessed that although there were some concerns, they did not ‘affect the

credibility of the overall referendum'. In addition, the Zimbabwe Election Support Network (ZESN) (one of the main CSOs operating in Zimbabwe), which deployed over 600 domestic observers, concurred with this, calling the process generally peaceful and smooth with very few recorded incidents of violations. ZESN commended the Zimbabwe Electoral Commission for putting together the logistical support in a very short timeframe, whilst drawing attention to issues such as inadequacies of voter education, funding delays, and the intimidation of civil society organisations. Although the EU, US and other western observers were not invited to observe the referendum, Embassies were able to send observer teams (limited to 5 per Embassy) and there was close co-ordination and pooling of findings, which were broadly consistent between Embassies. EU Heads of Mission concurred with SADC and civil society that the poll was largely peaceful and credible.

The successful completion of the constitution-making process represents an important achievement for political cooperation between the parties to Zimbabwe's inclusive government, as well as a glimmer of hope for the Zimbabwean people that democracy could be on its way. It also reflects the commitment shown by Zimbabwe's neighbours in the Southern African Development Community to completing the process of reform set out in the Global Political Agreement in advance of elections later this year. The new draft constitution has been gazetted and it is expected that it will be debated when parliament return on 7 May 2013.

As you are aware, EU Ministers agreed in July 2012 that a peaceful and credible constitutional referendum in Zimbabwe should lead to the suspension of the majority of remaining targeted measures. As I set out in my letter to the Committee of 15 March 2013, it was critical to UK policy on Zimbabwe that, once the fair conduct of the 16 March referendum was confirmed, EU Member States were able to respond swiftly by adopting a Decision introducing these suspensions. A draft Decision was not circulated in time to reach the Committee prior to the Easter recess. Given the substantial time that would have elapsed before the Committee was next able to clear the Decision, I anticipated that I would regrettably find myself in the position of having to agree the Decision before it had cleared parliamentary scrutiny. I am now writing to confirm that Decision 2013/160/CFSP amending Decision 2011/101/CFSP, as well as Council Regulation No.298/2013 implementing these amendments in EU law, were adopted on 27 March 2013 without scrutiny. The attached Explanatory Memorandum sets out the scope and policy implications of the Decision and Regulation in full.

As you know, the responsibility to keep your Committee informed on issues concerning restrictive measures is something I take seriously and the need for the override of scrutiny on this occasion was regrettably unavoidable. By agreeing the adoption of both the Decision and Regulation quickly following the referendum, EU Member States ensured that this relaxation of measures is clearly linked to the achievement of a reform benchmark. Furthermore, the UK and other Member States demonstrated good faith with regard to the July 2012 commitments, the swift fulfilment of which ensures that amendments to the restrictive measures best support the process of democratic reform in Zimbabwe, in line with UK interests.

18 April 2013

TRADE NEGOTIATIONS WITH THAILAND AND WITH OTHER COUNTRIES IN SOUTH EAST ASIA (FTA)

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills to the Chairman

I am writing to you to provide updates on developments in trade negotiations with Thailand and with other countries in South East Asia and in the plurilateral services negotiations which have recently been launched.

On 28 February 2013 the Council agreed a mandate for the Commission to open negotiations for a Free Trade Agreement (FTA) with Thailand. These negotiations were formally launched on 6 March 2013 and are expected to take two to three years. An ambitious agreement would have a valuable role in securing improved market access for key UK sectors including alcoholic beverages and pharmaceuticals as well as greater access for the provision of services.

The agreement to launch negotiations with Thailand follows the suspension of negotiations for an EU-ASEAN FTA in 2009. The EU began FTA negotiations with the Association of South East Asian Nations (ASEAN) in 2007. However, minimal progress was made due to a lack of central structure within ASEAN and differing levels of ambition between its members. The 2007 EU negotiating mandate for ASEAN explicitly provided for the Council to authorise the Commission to launch

bilateral negotiations with individual ASEAN countries if a region-to-region agreement was not possible.

I can also confirm that the UK has opted in to the Mode 4 elements of the mandate under the UK's JHA Opt-in Protocol. We will have a further opportunity to opt in (or not) at the close of the negotiations.

The negotiating mandate is a restricted document; as it represents a negotiating position it is not in the public domain and it is not therefore possible for me to submit it for scrutiny. I will, however, submit a full Explanatory Memorandum when a draft Council Decision to conclude the Agreement is submitted to the Council on completion of the negotiations. I will also write to the Committee periodically to update you on progress in negotiations.

There has also been good progress in other FTA negotiations in the region. Negotiations with Singapore were finalised in December and we are now waiting for the internal processes of both sides to be completed to allow for provisional application of the agreement. I would expect this to include the Commission presenting proposals for Council Decisions on signature and provisional application and on conclusion of the Singapore FTA. These documents will be subject to scrutiny and I will write to the Scrutiny Committees accordingly when we have these. On Malaysia, there have been seven negotiation rounds so far; despite good progress within the rounds, formal negotiations have been paused in light of the upcoming domestic elections in Malaysia. A second round of negotiations for an EU-Vietnam FTA took place on 22-25th January with a third round scheduled to commence late April.

I would also like to take the opportunity to inform you of developments with a new plurilateral services agreement. On 18 March 2013, the Council agreed a mandate for the Commission to participate in a new negotiation between a group of WTO Members specifically focussed on taking forward liberalisation in trade in services. The negotiation began in Geneva the same day (18 March). The negotiation has been called the Plurilateral Services Agreement (PSA) but now has a new working title, the Trade in Services Agreement (TiSA). The negotiation gives us a good opportunity to progress some market access issues with those members of the negotiation with which we do not have either FTAs or ongoing FTA negotiations and also to address some of the services trade rules issues on which discussions have been stalled with the lack of movement in the Doha Round. As with the Thailand FTA mandate, I can confirm that the UK has opted in to the Mode 4 elements of the mandate for the plurilateral under the UK's JHA Opt-in Protocol. We will have a further opportunity to opt in (or not) at the close of the negotiations.

25 April 2013

TRADE OMNIBUS II (11762/11)

Letter from Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills to the Chairman

I am writing to provide you with the requested update on the progress of negotiations on the Trade Omnibus II dossier (11762/11).

As you know, the Department's forecast that an agreed Council mandate on this dossier should be possible by November last year proved optimistic. In response to concern from the Commission and the European Parliament (EP) at slow progress the Trade Foreign Affairs Council on 29 November agreed to work to secure agreement from all parties on Trade Omnibus II, and Omnibus I, by the end of the Irish Presidency, ie end June 2013.

The last three months have seen a number of in-depth discussions in the Commercial Questions Council Working Group (CQG) of a Presidency compromise proposal developed in response to Member States views. The discussions benefited from further explanations and constructive contributions from the Commission and generally supporting input from the Council Legal Service (CLS). As a result, COREPER was able to agree towards the end of last month a Council mandate for the Irish Presidency to take into the trilogue process with the EP. The EP, in a change of position, is insisting that the Trade Omnibus I & II proposals should be considered in parallel. A preliminary exchange of views on Omnibus II took place on 5 March which we await a Presidency debrief. I will keep you informed of developments.

Norman Lamb's letter of 16 July highlighted two issues of continuing concern to the UK and other Member States.

First, was the issue of justification for the use of urgency procedures. As set out in earlier letters, the Common Understanding between the Council and the Commission, foresees that urgency

procedures will be used only in exceptional cases such as (but not limited to) security and humanitarian crises. The UK and many other Member States were concerned that, in a number of instances, the Commission had not sufficiently justified its use of such procedures. However, while the Commission accepted some possible shortcoming in this respect it placed the onus on the Council and specifically the Presidency to propose alternative language.

The Cyprus Presidency took up this challenge, working through the Trade Omnibus II Proposal to suggest revised wording in their first compromise proposal. In most cases the justification proposed was the possible effect of delay in Commission action leading to irreparable damage to EU interests. Although some Member States reacted cautiously the Presidency's efforts were largely supported by the CLS and the Commission. After further review the UK suggested some further clarifying revisions which it was felt further improved the text of the proposal. A number of these suggestions were accepted, others were the basis for further revision and the remainder prompted further explanations from the Commission which we were able to accept.

The second issue is the use of delegated powers for safeguard action in the two textiles related Regulations (3030/93 and 517/94). As set out previously, the use of delegated powers to adopt safeguard measures in these two regulations is in contrast to use of the examination procedure (in which MS vote before a Commission proposal) which is more commonly applicable to safeguard action under trade defence regulations.

The Commission have argued that the structure of these Regulations do not allow for the introduction of Implementing Acts such as examination or advisory procedures (which would provide for control by Member States comparable to that in trade defence regulations). They have also argued that as the authority delegated to the Commission in respect of these regulations relates to an annex to the main Regulations, (and therefore, that any amendment would not affect the substance of the Regulation) that the use of the procedure set out in Article 290 of the Treaty on the Functioning of the EU (TFEU) is the most appropriate way of adopting these measures. The Commission were supported in this argument by the CLS. In response the Presidency proposed a joint declaration by the Council, Commission and EP stating that the use of delegated authority for safeguard action does not represent a precedent for other trade defence regulation.

This aspect of the proposal was heavily scrutinised by all of the Member states. After comprehensive consideration (including consideration of advice provided by Cabinet Office European Legal Advisers) the UK concluded that an amendment was required as proposed by the Commission and that the proposed changes would not amend essential elements of the textiles regulations themselves (the test for use of delegated powers by the Commission). In joining a declaration the UK insisted, and other MS and the Commission accepted, that the wording of the declaration had make clear that the approach taken in Omnibus II in relation safeguard measures to the two textiles regulations did not represent a precedent in the drafting of future safeguard provisions, including beyond trade defence safeguards.

We now await the EP reaction on these points.

The third issue mentioned in the July letter, the period for the delegated powers, is one on which Member States, and particularly the UK, and the EP are of one mind. This is the issue of the term for powers delegated to the Commission. The Commission is prepared to accept EP amendments to change the indeterminate period proposed by the Commission (and opposed by the UK) to a 5 year term. This is coupled with a requirement for the Commission to produce a report on operation of the delegated authority not later than nine months before the end of the five month period. After this the delegation will then be extended for a further five years by tacit approval unless opposed by the Council or EP.

I would also remind you that three of the Regulations originally covered by the Trade Omnibus II proposal are to be removed: two because new EU Regulations have been agreed in parallel negotiations and one repealed following Russia's accession to the WTO.

11 March 2013

Letter from Lord Green of Hurstpierpoint to the Chairman

Further to my letter of 11 March I thought your committee might find it helpful to have a copy of the Trade Omnibus II Council mandate for the trilogue process which is now getting underway.

The Council mandate (document 6514/13) is a classified document and is being provided to the Committee under the Government's authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limité marking. It cannot be

published, nor can it be reported on in any way which would bring detail contained in the document into the public domain.

15 March 2013

UPDATE ON CIVILIAN MISSIONS UNDER THE EU'S COMMON SECURITY AND DEFENCE POLICY

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

Civilian CSDP is continuing to expand substantially, primarily in response to the substantial threats in the Sahel and the Horn of Africa. I would like to update you on the latest developments and give you some advanced notice of activities and decisions that we will be submitting to you for scrutiny over the next few months.

Planning for a mission in Libya is continuing. A Crisis Management Concept document has been prepared, which envisages a deployment of 70 civilians to Tripoli by the summer. The focus of the mission will be border management – the extent of uncontrolled movement of extremists and terrorists across Libya's borders into the Sahel indicates how much of a priority this topic is. However there is still work to do as the Libyans' systems of border management are not yet fully defined; it will be essential for the mission to engage with the right agencies in Tripoli and ensure that the training and policy advice which it delivers is absorbed. The next stage will be a Technical Assessment Mission, which will refine the mission's work programme and objectives. I will of course send you an Explanatory Memorandum for this mission once a draft Council Decision and budget are available.

You have approved plans for a military training mission to Mali. Discussions about the role of the separate civilian Rule of Law mission which was launched in Niger last year are continuing. Our French colleagues are suggesting that the mission should be extended to cover Mali and perhaps Mauritania too. This makes some sense given the enormous challenges in Mali. However it is not a step I would want to take without adequate thought and preparation.

There are three risks to expansion of the Niger mission which I expect to be addressed. Firstly, the mission – which is still establishing itself in Niger – might lose focus if its mandate is changed and widened. Secondly, Mali is a more dangerous environment than Niger and it will be most important that civilian personnel are properly protected if the mission does start operating in Bamako. Thirdly, the Malian and Mauritanian authorities have – quite sensibly in my view – insisted that a bespoke approach to their countries should be taken. They do not wish the Niger mission to be simply replicated in their countries. Drawing up sensible mandates for civilian work in Mali and Mauritania will require scarce planning resources.

My officials have insisted that any expansion of civilian CSDP missions to other States in the Sahel should be effected by means of a new Council Decision (or a series of decisions) which would, of course, be the subject of formal scrutiny process.

Other African missions which you approved last year are approaching the end of their launch phases. Operational planning documents for the missions in South Sudan and Niger have recently been agreed and we now expect these missions to start delivering results.

The Nestor mission to the Horn of Africa is, as you know, one to which the UK attaches great importance. The thinking behind the mission is that the states of the Indian Ocean should acquire the ability to police their own waters. An operational plan for the mission fleshing out this regional approach to piracy has now been agreed. However work with Kenya and Tanzania is not progressing as rapidly as I would have hoped. On the other hand it may well prove possible to do more on the ground in Somalia than we initially expected. The UK has deployed another tranche of personnel to this mission. We will remain committed as the mission's work, though it may be difficult, is highly important.

I wrote to you in October 2012 about the establishment of a warehouse for equipment for CSDP missions. At that time the EEAS had decided to establish a warehouse but for legal reasons had not yet awarded the contract to a specific operator. I promised to update the Committee once this had been decided.

I can now report that the Commission received 8 applications for the contract for the CSDP Warehouse Operator and have awarded the contract to a German company on the basis that it

offered the best combination of quality and value for money. Stove International will run the Permanent CSDP Warehouse for a period of 3 years with the possibility of two extensions to the contract, each for the period of one year. It will be located in Borkheide, approximately 50 kilometres south-east of Berlin, and will be responsible for the reception, storage, maintenance, preparation for shipping and freight forwarding of the necessary equipment to crisis areas of the world which are running CSDP missions.

I noted in my pre-recess letter of 6 December that negotiations on Statement of Mission Agreements (SOMAs) between the EU and the Governments of South Sudan, Niger and the Nestor mission were ongoing. This continues to be the case. It is hard to predict when these agreements will be reached with those host governments, though I clearly hope negotiations will not be protracted. Explanatory Memoranda will be submitted once agreements are reached.

Looking much further ahead, some partners including France have circulated ideas for future CSDP work in a post-Assad Syria. Clearly any such work is in its very early stages. However were there to be a decisive change in that country, you could expect discussions of possible CSDP support for a new Government to become more serious.

Given the extensive demands on civilian CSDP, the constraints that we wish to impose on the EU's budget and the limited supply of deployable personnel with expertise, it is essential that we take a sceptical and tough-minded approach to existing missions, making closures and savings wherever we can. As you know we secured dramatic reductions in the small EUBAM mission in the Gaza strip at the last negotiations. My view ahead of the next mandate negotiations is that this mission should close unless a clear and practical role for it can be identified. Some partners are developing ideas to revitalise the mission on the basis of a different set of tasks. I will be ready to look at any useful and practical ideas for EUBAM before taking a final view on its future.

Closures elsewhere are rather more definite. The mission to Iraq will close in December this year. The two missions in the Democratic Republic will close in 18 months time. We must also make sure that missions, such as South Sudan, which have undertaken to meet specific objectives in a fixed time frame, deliver and close on time, freeing resources for deployment elsewhere. The missions in Kosovo, Afghanistan, the West Bank and Georgia are important to the UK, but are large and costly so it will be important to scrutinise their work, assess their impact and make savings wherever possible.

You might also wish to know that Paul Kirwan has secured the post of Deputy Head of the EUJUST LEX mission to Iraq. Mr Kirwan has a track record of working in difficult environments and will make a valuable addition to the UK's slate of personnel in senior positions within CSDP missions. He will also work pragmatically to bring EUJUST LEX's work to a close by December and hand its work on to other international or Iraqi agencies.

Overall, the UK has one Head of Mission and three Deputy Heads of civilian CSDP missions. Though the number of UK staff deployed within civilian CSDP missions varies over time, it is now approaching 200. We will continue to apply for and secure senior positions within CSDP missions where the courage, pragmatism and flexibility of British staff are well-regarded.

7 February 2013

UPDATE ON NEGOTIATIONS ON THE EDF, ACP'S AND OCT'S

Letter from Lynne Featherstone MP, Parliamentary Under-Secretary of State, Department for International Development, to the Chairman

I am writing to update the EU Parliamentary Scrutiny Committees on negotiations on the 11th European Development Fund (EDF), financing EU Cooperation for African, Caribbean and Pacific States (ACPs) and Overseas Countries and Territories (OCTs) for the 2014–2020 period.

This letter follows on from my recent letter dated 25 February 2013 updating the Committees on the outcome of Trialogue negotiations on the Multi-Financial Framework (MFF) of which EMs 18431-11 and 18480-11 from 22 December 2011 were a part of this package. EMs 18431-11 and 18480-11 were in regards to Preparation of the MFF Regarding the Financing of EU Cooperation for ACPs and OCTs for the 2014-2020 period (11th EDF); and the Council Decision on the position to be adopted by the European Union within the ACP-EU Council of Ministers Concerning the MFF for the Period 2014 to 2020 of the ACP-EU Partnership Agreement.

These documents were originally being treated in conjunction with the rest of the external assistance instruments of EU budget Heading 4, in the package entitled 'A new approach to financing EU external

action' which the House of Commons European Scrutiny Committee held under scrutiny, but granted a waiver under paragraph (3) (b) of the Scrutiny Reserve Resolution and further information was requested. Given that the EDF negotiations are progressing at a faster pace than the other instruments, I want to now address this separately. Member States will need to agree the final Internal Agreement at the 28 May Development Foreign Affairs Council, to enable a joint EU-ACP decision to be adopted at the 6-7 June annual joint ministerial.

When the European Council reached agreement on the MFF 2014 - 2020 on 7 and 8 February 2013, the EDF was kept off budget with an allocation of €26.984 billion (£23.125 billion) in 2011 prices (€30.506 billion/£26.143 billion in current prices). In my letter of the 25 February, the UK contribution was set out as 14.33%. With final adjustments, including the contribution of Croatia and adjusting Member State contributions according to MFF allocation criteria such as GNI, the final UK contribution key is now 14.68% or €4.478 billion (£3.836 billion). This remains a slight decrease from our current contribution of 14.82%.

At the beginning of March negotiations resumed on the EDF II Internal Agreement, which sets out overall EDF volumes and Member State contribution keys. The first chapter sets out the relative share of the financing envelope for ACP, OCT and support costs, whilst the second chapter focuses on the implementation of financing. It sets out the process for contributions to the IIth EDF, and the mandate of the EDF Committee as a Member State oversight body for the funds. This second chapter remains largely the same as the last instrument and is uncontroversial.

On the 19 March, the Council Presidency proposed a revised draft Internal Agreement on which negotiations are now based. The allocations for envelopes in Chapter I are proposed as follows:

- €28.943 billion (£24.803 billion) allocated to the ACP States (94.87% total EDFII, compared to 96.74% EDFI0);
- €0.343 billion (£0.294 billion) allocated to OCTs (1.13% total EDFII, compared to 1.26% EDFI0);
- €1.220 billion (£1.046 billion) allocated to the Commission for support expenditure (4% total EDFII, compared to 2% EDFI0);

The amount allocated to ACP states and OCTs has slightly reduced, as the result of a Commission request to increase its support costs. It has argued that EDFI0 levels have been insufficient, leading to a need to finance a disproportionate share of these costs from the EU budget, which will not be possible for the next financial period. The UK has taken a strong line on this and, along with other Member States, we are pushing hard for the Commission to provide a detailed breakdown of proposed increases with sufficient justification, as well as outlining where they intend to make efficiency savings within the current proposal. This has already led to a reduction from the Commission's original proposal of 5% of the EDF. Negotiations are expected to continue up to the end of April until approval of the final package at the Development Foreign Affairs Council on 28 May. I am happy to address any remaining questions of the Committee and would like to reiterate that this is the date when we would request these EDF Communications to have been cleared from scrutiny.

Following on from signing the Internal Agreement, the EDF implementing regulation (describing the programming and monitoring framework) and financial regulation (with rules for Member States' contributions and budget implementation) will be debated in the ACP Working Group. I will be happy to write to the Committees again when these draft regulations are received from the Commission, and as key issues develop.

17 April 2013