



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

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

## EXTERNAL AFFAIRS

### (SUB-COMMITTEE C)

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## AFGHAN CIVILIAN POLICING AND RULE OF LAW POST-2014 (11109/13)

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

At its meeting of 10th October the EU Sub-Committee on External Affairs considered the above document and cleared it from scrutiny.

The Committee has followed the EU Police Mission in Afghanistan closely (the conclusions of our 2011 report are appended) and we would welcome being kept informed as negotiations proceed on the shape of EU engagement in Afghanistan post-2014.

We look forward to hearing from you in due course.

*10 October 2013*

## AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND UKRAINE, OF THE OTHER PART (UNNUMBERED)

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

At its meeting of the 4th of July, the EU Sub-Committee on External Affairs considered the above documents and decided to retain them under scrutiny. The Committee are keen to hear of the progress Ukraine has made in undertaking the desired reforms and resolving the outstanding issues referred to in the December European Council Conclusions in advance of the Eastern Partnership Summit in November 2013. We would be grateful if you would provide us with an update in due time and the consequent next steps with regard to the Association Agreement.

On a related matter, the Committee noted that the focus on democratic reforms and human rights in relation to Ukraine stands in contrast to the apparent emphasis placed on increased economic cooperation over and above human rights issues during the Prime Minister's recent visit to Kazakhstan. How would you respond to suggestions that mixed messages are thus being communicated?

Finally, in due time, we would like to receive your analysis of the legal basis and whether the UK opt-in is engaged.

We look forward to your response.

*9 July 2013*

### **Letter from David Lidington MP to the Chairman**

Thank you for your letter of 9 July in which you requested further information about the Council Decisions relating to the EU-Ukraine Association Agreement.

The Government remains committed to ensuring that Ukraine demonstrates a sustainable momentum for reform and has taken genuine steps to address EU concerns. We are analysing closely Ukraine's progress in implementing the reforms necessary to meet the criteria set out in the December 2012 Foreign Affairs Council conclusions. The British Embassy in Kyiv sends frequent up-dates that will enable us to evaluate the reports by the High Representative and the Commission, and reach our own conclusions. We want to allow Ukraine the maximum time to reform and we do not anticipate reaching a formal decision until the 18 November Foreign Affairs Council. Our recommendation will take account of Ukraine's progress and also the wider implications both in terms of internal EU relations and the regional impact, particularly regarding Russia, as set out in my Explanatory Memorandum.

The latest reporting from the British Embassy in Kyiv suggests that Ukraine's reform continues to be patchy. We have seen some encouraging progress with the introduction of the new Criminal Procedure Code and the Law on the Bar and Practice of the Law; the Ombudsman is active in promoting the National Prevention Mechanism against Torture. The signs have been less positive in

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 4

several areas including electoral legislation and practice, and balanced media access. We repeatedly press the Ukrainians to address the lack of transparency in the judicial system and the business environment. The British Embassy in Kyiv will up-date their analysis when the Ukrainian parliament resumes business after the summer.

You have asked whether the Government's focus on democratic reforms and human rights in relation to Ukraine stands in contrast to the apparent emphasis placed on economic cooperation during the Prime Minister's recent visit to Kazakhstan. Improving Kazakhstan's human rights record has long been a part of our bilateral conversation. The Government's strong interest in both developing our trade and investment relationship, and working closely with Kazakhstan on regional and global security issues, sits side by side with our active engagement on human rights. The Prime Minister raised human rights concerns with President Nazarbayev, and at an event with University Students spoke publicly about the importance of accountable government in Kazakhstan. He was pleased to sign a Strategic Partnership with Kazakhstan that included cooperation on reforms in rule of law, human rights and democracy; the UK is planning to share expertise on judicial issues and legal reform as part of the follow-up to the Prime Minister's visit. The Government will continue to raise human rights concerns with the leaders of all countries where we perceive there to be abuses, and work, where possible, to help them address shortcomings.

I highlighted in my original Explanatory Memorandum of 14 June that this agreement contained JHA content, but that the Government had not at that time been able to reach a view on whether the UK opt-in was engaged. The timetable for consideration of this long and complex document has been driven by the Commission's desire to have the documents ready for signature at the Vilnius Eastern Partnership Summit on 28-29 November, should Ukraine meet the EU's conditions. I can now confirm to your Committee that we consider that the opt-in is engaged and give an indication of the Government's intentions as to whether to exercise its opt-in relation to the various JHA aspects of this agreement.

Given that the UK's opt-in window closes on 3 September, and in the light of the timings of Parliamentary recess, I regret that the Parliamentary scrutiny committees will not have the opportunity to consider the UK opt-in before that date.

We initiated the process for government clearance of our approach in mid-August and it will conclude shortly. We have proposed that the UK should opt-in to the provisions in the Agreement that relate to Mode 4 trade in services; Ministers are still considering other articles. The government's position is that the Mode 4 provisions on the temporary movement of skilled personnel (which concern the admission of third country nationals onto the territory of the United Kingdom) in the agreement fall within the scope of the United Kingdom's Title V opt-in.

Officials will be pressing in September for the relevant JHA legal bases to be cited and for the Council Decisions to be split between (i) non-JHA articles, (ii) JHA articles where we are opting-in, (iii) any JHA articles where we are not opting-in. Where we cannot secure our primary objectives, we will seek to make clear through explicit recitals the extent to which we recognise that the EU has competence to act, and the scope of our Opt-in. Officials are also pressing for all JHA issues, apart from Mode 4, to be excluded from provisional application following signature of the Agreement; we are arguing that they should only be applied following ratification by Member States and conclusion of the Agreement.

The situation will continue to evolve and I will provide further information to your Committee as soon as it is available. I and my officials stand ready to provide any further information your Committee would find helpful.

*2 September 2013*

#### **Letter from the Chairman to David Lidington MP**

Thank you for your letter, dated 2 September 2013, on the above documents, which the EU Sub-Committee on External Affairs considered at its meeting of 12 September 2013.

We note your view that Ukraine's reform continues to be patchy, and note that the British Embassy in Kyiv is due to update its analysis following the return of the Ukrainian Parliament after the summer. We would be grateful to receive further details of its assessment as and when it is available.

On the JHA opt-in, we too regret that it has not been possible for the Committee to consider your decision before the opt-in window closed on 3 September. Notwithstanding that, we welcome the fact that the Government will be pressing transparency in their position by the addition of JHA legal bases and by splitting the decision between its JHA and non-JHA articles.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 5

Noting that a formal decision is expected to be reached at the 18 November Foreign Affairs Council we now clear the document from scrutiny.

We look forward to your response when appropriate.

*12 September 2013*

#### **Letter from David Lidington MP to the Chairman**

Thank you for your letter of 12 September clearing the above documents from scrutiny. I am submitting in parallel with this reply an Explanatory Memorandum to update your Committee on developments in Brussels regarding the scope of provisional application of the agreement, the legal base and the splitting of the each Decision into two new Decisions to take account of JHA content. I have decided to submit these Council Decisions relating to signature and conclusion to your Committee for renewed scrutiny so that you are able to take these changes into account in your Committee's consideration.

The UK informed the Presidency on 3 September that the UK would opt-in to the original proposed Council Decisions insofar as they related to Mode 4 trade in services and readmission. The Government's position is that the Mode 4 provisions on the temporary movement of skilled personnel (which concern the admission of third country nationals onto the territory of the United Kingdom) in the agreement fall within the scope of the United Kingdom's Title V opt-in. The UK also opted-in to the readmission provision: this related to an existing 2007 EU-Ukraine readmission agreement and required the parties to commit to implementing it. The UK has not opted into the new Council Decision with JHA content as regards the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other party.

In your letter you asked for further details of our assessment of Ukraine's progress against the EU conditions. The British Embassy in Kyiv has updated their informal assessment.

The overall picture remains unchanged; reform is still patchy. By-elections arising from cancellation of October 2012 results have now been scheduled for 15 December 2013. However, by-elections arising from court rulings to strip elected MPs of their mandates have not yet been organised. We judge it unlikely that a single Electoral Code will be introduced before the Vilnius Summit on 28/29 November. It is encouraging that no further extra-mural sessions of the Ukrainian parliament have been held to bypass the opposition, and the ruling party and opposition have demonstrated unity over the approval of EU related bills. But a number of bills adopted at the extra-mural session on 04 April have not been re-endorsed by parliament, and there is a low probability that this will happen. In broad definition, selective justice is a problem that continues to affect the lives of numerous Ukrainians. There remain regularly reported instances of court decisions driven by pressure and influence rather than guided by law, and of individuals and businesses (including British investors) who struggle to get a fair hearing in the courts. There is anecdotal evidence that the business climate may be deteriorating.

The development by parliamentary committee of a draft law on Transparency of Use of Public Funds is a step forward; if adopted, it should allow for greater public scrutiny of public finances, budgeting and procurement processes.

The Government will continue to follow Ukraine's progress closely over the coming weeks as a decision-point is now becoming imminent around whether to agree to signature of the Council Decisions on the Association Agreement. We expect to receive an update from the EU institutions at the Foreign Affairs Council meeting on 21 October. Once we have that and can compare it to our own analysis we will be in a better position to reach a recommendation on whether or not the EU should sign an Association Agreement with Ukraine.

I and my officials stand ready to provide any further information your Committee would find helpful.

*9 October 2013*

#### **Letter from David Lidington MP to the Chairman**

At its meeting of 12 October, your Committee considered my Explanatory Memorandum of 14 June on the Proposal for a Council Decision on the signing and conclusion, on behalf of the European Union, and the provisional application of the Association Agreement between the European Union and its Member States and Ukraine, and my letter of 2 September. Your Committee cleared the item from scrutiny, and also asked for additional information regarding the British Embassy's assessment of Ukraine's reform.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 6

Negotiations in Brussels resulted in a narrowing of the scope of provisional application, a change to the legal base and a split of each original Council Decision into two, covering JHA and non JHA matters. I submitted a further Explanatory Memorandum on 9 October seeking clearance of the four Council Decisions that reflected the outcome of these negotiations. You cleared these items at sight on 15 October

In a separate letter on 9 October, I gave an update on Ukraine's progress on reform. For your Committee's information, I wanted to write again to set out more detail on our approach as we move towards the 18 November Foreign Affairs Council.

#### FACTORS IN OUR DECISION ON WHETHER TO SIGN

On the overarching question of whether we will sign this or not, the Government has not yet reached a decision on whether Ukraine has made sufficient progress against the benchmarks set out in the Foreign Affairs Council Conclusions of December 2012 to allow for signature of the EU-Ukraine Association Agreement at the Vilnius Eastern Partnership Summit on 28 / 29 November.

We continue to believe that the closer integration of the EU and Ukraine, of which the Association Agreement and Deep and Comprehensive Free Trade Area agreement (DCFTA) is a concrete manifestation, will be good for the UK and good for Ukraine. It will contribute to security and prosperity on Europe's eastern border, with enhanced cooperation on non-proliferation and conflict prevention. The DCFTA will bring a mutual opening of markets for goods and services, creating increased opportunities for UK business.

However there is still work to be done and we, and European partners, are keen to give Ukraine as much time as possible to demonstrate determined action and tangible progress on (i) improving conduct of elections; (ii) addressing selective justice; and (iii) carrying out reforms agreed in the Association Agenda, as demanded by the December 2012 Foreign Affairs Council. We welcome the fact that the pace of reform has increased in recent weeks, particularly since the start of the current sitting of the Ukrainian Rada on 3 September.

The Government has continued to express concern about systematic flaws in Ukraine's judicial process and selective justice. For several Member States the specific case of Yuliya Tymoshenko is key and it is possible that we shall not know until very close to the Summit itself whether or not she will be freed. A determining factor in their assessment of whether Ukraine has made sufficient progress against the selective justice benchmark will therefore be whether an outcome that is satisfactory to both Mrs Tymoshenko and the Ukrainian authorities can be reached.

Geopolitical considerations are clearly an issue that will play a part in UK, and partners', considerations. There is a delicate balance of interests at play. Our overall Eastern Neighbourhood Policy is based on conditionality and maintaining a European perspective, at least for Ukraine. However, the intensity of Russian pressure on Eastern partners to dissuade them from taking further steps towards economic and political partnership with the EU have made Vilnius into a key geopolitical moment. Some partners are therefore concerned that at this particular moment, we should not play conditionality so hard that it prevents Ukraine from being able to make the strategic choice to opt for Europe. Armenia has already indicated her intention to join Russia's Customs Union.

On the position taken by Russia, I would echo Commissioner Füle's recent statement. Countries have a sovereign choice to determine their own course, including whether to sign association agreements with the EU. Any threats and pressure linked to the signing of agreements from the Russian side are unacceptable. The Government feels strongly that the Eastern Partnership and Association Agreements and Deep and Comprehensive Free Trade Areas are not a threat to Russia. They are an opportunity. Prosperous, stable neighbours are in Russia's interests, which is what Association Agreements and Deep and Comprehensive Free Trade Areas help to deliver.

#### VIEWS OF OTHER MEMBER STATES

We are maintaining close contact with our European partners and sharing assessments of Ukraine's progress. We will clearly take into consideration the assessments of other Member States when making our own judgements. In practical terms, the position we take will be guided by Ukraine's performance against the criteria and to some extent by what is feasible. That will depend, in part, on the positions that certain other Member States take in the run up to and at the 18 November FAC. Overall we would need to think hard about how we would justify a UK Government decision that was not in line with that of the majority of our European partners; it is important that the EU and its

Member States continue to demonstrate a common position towards Ukraine and send clear messages to the Ukrainian authorities that, independent of whether signature takes place at Vilnius, the momentum for reform must be maintained. A relationship with the EU will remain our best tool for reform in Ukraine.

*17 October 2013*

## AMENDING AGREEMENT ON GOVERNMENT PROCUREMENT (7915/13, 7919/13)

### **Letter from the Chairman to Chloe Smith MP, Minister for Political and Constitutional Reform, Cabinet Office**

The Sub-Committee on External Affairs at its meeting on 6 June considered the documents above and decided to clear them from scrutiny. However, we would be grateful if you could continue to keep us informed on the progress of these proposals, specifically at the European Parliament and the World Trade Organisation.

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

*11 June 2013*

## APPLICATION AND ENFORCEMENT OF INTERNATIONAL TRADE RULES (18079/12)

### **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 an update on negotiations on this dossier as we move from the Irish to the Lithuanian Presidency and approach the summer break.

There have been a number of rounds of negotiation in the Commercial Questions Council Working Group (CQG) leading to the Irish Presidency tabling a first compromise proposal in mid-May. There remains some way to go but it may be possible to reach agreement on a Council mandate for trilogue discussions before the end of the year.

The main issues that have emerged in these discussions are:

- The detail of possible procurement market countermeasures. The UK, like a large number of other Member States, is uncomfortable with the two procurement countermeasures cited in the proposed regulation which are, in our view, narrow and prescriptive. We would prefer more flexibility in the choice of procurement market countermeasures available so as to ensure that measures do not have a disproportionately adverse effect on UK/EU interests (e.g. tendering authorities);
- The role of Member States. It is important Member States are kept fully informed on individual proposals to enable them to consult their own business and public authority tendering authorities. Past practice has been good in this respect, but we need to ensure the same good practice in the future. To this end, the UK, with support from a number of Member States has proposed the inclusion of what is known as an information + article. This would confer upon Member States a right to be provided with information and an opportunity to contribute to an exchange of views as specific countermeasure proposals develop. While the Commission – and in due course undoubtedly the European Parliament (EP) – will strongly resist ‘information +’, we do have some reassurance in that any decision on whether or not to pursue countermeasures (as distinct from the detail of the countermeasures themselves) in response to a dispute ruling in the EU’s favour, will continue to be taken by the Commission in consultation with the Council-chaired Trade Policy Committee; and
- Whether Services and Intellectual Property Right (IPR) countermeasures should be covered by the legislative framework. The Commission proposal is that while use of countermeasures in the goods or procurement market fields used in response to disputes arising in services or IPR agreements fall



within the regulation, use of Services and IPR countermeasures do not. The Commission rationale for this is that it has no experience of using such countermeasures and therefore any use should be subject to consideration through the full Ordinary Legislative Procedure. We support the Commission approach and reasoning and because of the likely sensitivity of any such proposed countermeasures.

The EP is co-legislator on this file. Two initial exchanges of view have been held in the International Trade Committee (INTA), the second in mid June. The rapporteur is expected continue discussion before a committee vote before the summer break. The current target is for a September/October Plenary. Initial discussions have highlighted four particular areas of EP focus. These are extending the regulation to services countermeasures, extending the review period from 3 to 5 years, enhancing the EP's role in the consultative process and strengthening provisions on Commission consultation of stakeholder interests.

Finally, to return to point 2 above, in your letter of 14 February you suggested that our intention to press for reassurance about Member States engagement in procedures provided for by the Enforcement Regulation by reference to the Trade Omnibus I proposal was hampered as that proposal did not contain a formal provision providing for Member State engagement. I am pleased to be able to tell you that the political agreement reached in trilogue last month on the Trade Omnibus I dossier, and reported to you by my letter of 18th June, accepted a Council proposal for the inclusion of just such a formal provision. While it is not possible to guarantee that we can achieve a similar outcome in this instance the UK is taking a lead in trying to bind the Commission to greater engagement with Member States.

2 July 2013

#### **Letter from Lord Green of Hurstpierpoint to the Chairman**

I am writing to update you on progress with this dossier in the light of agreement at COREPER last week to a Council mandate for the trilogue process. Taken overall this mandate satisfactorily addresses UK concerns.

You will recall from my letter of on 2 July that three issues arose in early discussion in the Commercial Questions Council Working Group:

- The detail of possible procurement market countermeasures. The UK and a large number of other Member States (MS) were uncomfortable with what were seen as the two overly narrow and prescriptive procurement countermeasures cited in the proposed regulation. However, in discussion it became clear that, in the absence of any significant past experience of implementing procurement market countermeasures, it was not possible to suggest other/additional measures. The alternative in this situation was to give the Commission complete discretion on measures that it could propose. MS, not surprisingly, balked at such a free hand for the Commission.
- Nevertheless, MS concern about procurement countermeasures have been addressed by the proposed introduction of a provision which allows MS to identify, in individual cases, the most appropriate national procurement authorities to implement a proposal given the nature and magnitude of measures to be taken. This enables the different public procurement structures in all of the MS, e.g. between central and regional local government authorities, to be taken into account. While the Commission have had some reservations MS have worked closely with the Council Legal Service to present this in a legally acceptable and coherent way, in particular in the context of EU decision making (comitology) procedures.
- The role of Member States. All MS agreed on the importance of their being kept fully informed on individual proposals to enable them to consult their own business and public authority tendering authorities. To this end, the UK and Denmark, with support from all other MS were successful in arguing for the inclusion of both an overarching and an operational 'information +' provision. These give MS a right to be provided with information and an opportunity to contribute to an exchange of views as specific countermeasure proposals develop.

- The Commission has, however, been resistant to these provisions, particularly the operational provision. The EP approach is uncertain. Previously, it too has been wary of such provisions seeing them as giving a preferential position to the Council compared to the EP. On the other hand, a number of their proposed amendments to the proposal are concerned with ensuring appropriate information flows between the Commission and the EP. We will make sure that the UK concerns remain in the forefront of the Presidency priorities.
- Additionally, on the role of MS, I am also pleased to report that the Council mandate includes a provision that requires individual Implementing Act proposals to secure the support of a Qualified Majority (QM) to go ahead. Usually, and as originally proposed, a QM against is required to block a proposal. We think this is the right approach given the potential sensitivity of countermeasures and the UK has been a vocal supporter of what was an early German proposal. The Commission seem to have acquiesced in this but we anticipate a possible challenge from the EP which may, again, see this as increasing MS influence in the process.
- Whether Services and Intellectual Property Right (IPR) countermeasures should be covered by the legislative framework. The Council compromise on this is to support the Commission proposal that such measures should not be included in the legislative framework but make explicit that the provided for review of the operation of the Regulation will consider the case for subsequent inclusion. The Commission are, subject to some concerns about the timing of a review, comfortable with this. In contrast, the EP is arguing that the framework should cover services (but not IPR) countermeasures. We are, however, hopeful that this can be resolved in the Commission and Council perhaps, through some further strengthening of the review process references.
- You will appreciate from this report that, while we currently have a satisfactory Council position, a challenging trilogue process can be anticipated in relation to both Commission and European Parliament (EP) concerns. This process will begin on 19 November.

20 November 2013

## APPLICATION OF SPECIFIC MEASURES TO COMBAT TERRORISM (UNNUMBERED)

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

The EU Sub-Committee on External Affairs considered the above document at its meeting of 12 September.

The Committee welcomes the listing of the Military Wing of Hezbollah as a terrorist organisation. We do have some concerns about the practical efficacy of such a move. We would be interested to understand how you intend to distinguish between the political and military wing for the purposes of this listing. Also do you consider it a possible risk that this listing could complicate both Lebanese politics and the EU's relationship with Lebanon? Can you also explain why a travel ban was not included?

Given that agreement has been reached on this proposal we now clear it from scrutiny. We look forward to your response within 10 working days.

12 September 2013

### **Letter from David Lidington MP to the Chairman**

I was pleased to note that the Committee welcomes the EU's listing of Hezbollah's Military Wing as a terrorist organisation and that this issue has cleared scrutiny. In your letter of 12 September, you raised some specific questions regarding the practical efficacy of the listing which I will answer in turn.

The definition of the Hezbollah Military Wing is in line with the UK's domestic proscription, that is Hezbollah's "Jihad Council" and all units reporting to it. This is separate from Hezbollah's Political Wing which includes its ministers, MPs and other political representatives and is overseen by a Political Council. The EU agreed that we must respond robustly to attacks on European soil without detracting from the ability of EU Member States to engage with the Political Wing if they wish to. Our national proscription, which has made it harder for the Hezbollah Military Wing to carry out its terrorist activities in the UK, demonstrates the effect of a listing that targets the Military Wing: this effect will now be replicated across the EU.

We saw no reason why designation of Hezbollah's military wing in the EU should contribute to instability in Lebanon or affect the positive EU relationship with Lebanon. I believe that this assessment has been borne out in practice.

In response to your final question, the EU's CP931 regime, under which Hezbollah's Military Wing was designated, does not provide for travel bans.

The Council Decision clearly signals the EU's resolve to stand united against terrorism. In terms of the practical implications, the EU terrorist listing provides the tools to reduce the risk of future attacks by placing all EU Member States on an equal footing for cooperation. For example, this means that law enforcement agencies can now conduct operational investigations connected to the activities of Hezbollah's Military Wing across the EU on the same legal basis from country to country.

*4 October 2013*

## APPROPRIATE MEASURES AGAINST ZIMBABWE (UNNUMBERED)

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

At its meeting of 18th July the EU Sub-Committee on External Affairs considered the above document, which has been cleared from scrutiny. Considering that elections in Zimbabwe are scheduled for 31 July, the Committee would be grateful for an update on the situation in Zimbabwe after the summer recess.

We look forward to your response by 5 September 2013.

*18 July 2013*

### **Letter from David Lidington MP to the Chairman**

Thank you for your letter of 18 July 2013 requesting an assessment of developments, and their implications for EU Appropriate and Restricted Measures.

The Foreign Secretary made statements on 3 and 22 August, citing grave concerns about Zimbabwe's harmonised elections that took place on 31 July 2013. ZANU-PF won 160 out of 210 parliamentary seats and Mugabe was re-elected as President with 61% of the vote. The African Union (AU) and Southern African Development Community (SADC) both sent observer missions. Their preliminary assessments on 2 August welcomed the peaceful conduct of elections but identified numerous flaws - including the failure to produce the voters roll, the large number of voters who were turned away on Election Day and the very high numbers of extra ballot papers that were printed. Neither report said they were fair or credible.

The leader of the MDC-T, Morgan Tsvangirai, called the harmonised elections "null and void" due to a number of irregularities. MDC-T launched multiple legal challenges against the election results. However, on 14 August, the Court postponed 'indefinitely' a ruling on whether to give MDC-T access to the critical election materials they need to prove their case, and on 16 August, the MDC-T withdrew their Constitutional Court case to challenge the Presidential result. The Constitutional Court proceeded with the hearing and on 20 August declared Mugabe the winner of the July 31 elections and dismissed Morgan Tsvangirai's petition for a re-run. Cases against individual constituency results remain. Following the court's ruling, President Mugabe's inauguration was held on Thursday 22 August.

On 17 - 18 August, SADC held its annual Summit of Heads of State and Government in Malawi, where SADC Member States commended the Government and people of Zimbabwe for holding free and peaceful elections, congratulated ZANU-PF and President Mugabe for winning the elections, and reiterated their call for the lifting of all sanctions on Zimbabwe. Although SADC have still not said <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> I I

that Zimbabwe's elections were credible or fair, President Mugabe was made Deputy Chairperson of the SADC Summit; next year's SADC Summit will be held in Zimbabwe in August. Zimbabwe's membership of the SADC Troika increases the influence they will have on SADC's agenda.

Though we welcome the peaceful conduct of elections, the Foreign Secretary has expressed grave concerns at reports of election irregularities. We await the detailed final observer reports of the AU and SADC. Once received, like other EU members, we will need to review carefully UK policy regarding EU Appropriate and Restricted Measures. As you know I am committed to full and transparent scrutiny and I am grateful to the Committee for expressing its interest; I will write to update you in due course.

*29 August 2013*

#### **Letter from David Lidington MP to the Chairman**

Following my letter of 29 August which provided an update on the Presidential and Parliamentary elections of 31 July, I am writing to you concerning an amendment to the EU restrictive measures against Zimbabwe.

As I have explained in previous correspondence with your Committee, EU restrictive measures against Zimbabwe were last renewed by Council Decision 2013/89/CFSP on 18 February 2013. Attached to that Decision was an unpublished Council Declaration which stated that Member States had agreed to delist Zimbabwe Mining Development Corporation (ZMDC) one month after elections took place, unless the Council declared that the elections were not peaceful, transparent and credible, or that there were reasonable grounds to suspect that ZMDC had been involved in undermining the democratic process. Following the Zimbabwean Constitutional Court's declaration of the final result on 20 August, the process in Brussels to fulfil this commitment commenced.

Because the elections took place during the summer Parliamentary recess, I found myself in the position of having to agree the Decision before it could clear parliamentary scrutiny. I am now writing to confirm that Decision 2013/469/CFSP amending Decision 2011/101/CFSP, as well as Council Regulation (EU) No.915/2013 implementing these amendments in EU law, were adopted on 23 September 2013 without scrutiny. The attached [not printed] 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.

Both my letter to you of 29 August and the Foreign Secretary's public statements have made very clear that we have strong concerns about the conduct of the Zimbabwean elections, and underlined that we believe an independent investigation of reported irregularities should take place. On ZMDC, we entered into agreement on the delisting earlier this year in good faith in order to maintain the measures across the electoral period, and it was important to honour it within or as close to the agreed timescale as the Brussels machinery allowed. The draft decision was distributed on 18 September and adopted by written procedure on 23 September.

The UK will continue to work with partners to ensure a robust EU position on Zimbabwe, including when considering the renewal of restrictive measures when they come round for discussion in early 2014. I will keep your Committee informed of developments.

*4 October 2013*

#### **ARMS TRADE TREATY (11841/13)**

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

I am writing with regard to the Council Decision authorising the Member States to sign the Arms Trade Treaty (ATT).

The Arms Trade Treaty was adopted on 2 April following seven years of negotiations, which the United Kingdom led from the start. The final text of the Treaty covers matters that fall within the exclusive competence of the Member States. However, it also covers matters that fall within the exclusive competence of the European Union. As the European Union cannot sign or become a party

to the Treaty, the Member States must be authorised by the Council to sign with respect to the matters that fall within the exclusive competence of the European Union

This Council Decision does not grant any further powers to the European Union. It simply authorises the Member States to sign the Treaty with respect to the matters that fall within the Union's exclusive competence.

It is important that this Decision is adopted quickly to ensure that the Member States can sign the Treaty on 3 June, when it opens for signature in New York. Both Government and Parliament have fought hard for this Treaty, and it is in our shared interest to ensure that European states are able to sign as soon as possible.

I regret that the Commission only brought forward this proposal on 8 May, and submitted it formally to Member States on 13 May – despite requests from the UK to expedite this process. The first version of the Council Decision did not fully reflect our views, and we asked the Commission to amend the Decision to make it clear that authorisation is only required for the matters that fall within the exclusive competence of the European Union.

On 15 May, the Commission confirmed that they would change the Decision in the manner that the United Kingdom and other Member States had requested. Unfortunately, I therefore find myself in the position of having to ask you expedite your processes so that the Decision can be adopted by the Council on 27 May.

If you were able to waive scrutiny in this case, it would enable us to continue to support our European allies' plans for early signature of the Arms Trade Treaty.

As you know, the responsibility to keep your Committee informed on high profile issues is something I take seriously. The team responsible for the Arms Trade Treaty would be very happy to brief the clerk to your Committee or the Committee members on the process for signature and ratification.

The United Kingdom will sign the Treaty as soon as possible. Shortly after that, we will lay the Treaty text before Parliament with an Explanatory Memorandum. There will be another Council Decision authorising the Member States to ratify the Treaty submitted to you later in the year.

*16 May 2013*

COOPERATION BETWEEN THE EUROPEAN COMMUNITY AND ITS MEMBER STATES,  
OF THE ONE PART, AND THE REPUBLIC OF INDONESIA, OF THE OTHER PART  
(UNNUMBERED)

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

Thank you for your Explanatory Memorandum of 9 July which was considered by the House of Lords European Union External Affairs Sub-Committee at its meeting of 18 July.

The Committee welcome the legal clarity and transparency which results from splitting the original proposal into one which binds the UK automatically and one, with a Title V legal basis, to which the UK opt-in clearly applies. We support, in principle, this approach being used in similar cases in future whilst noting that the legal bases chosen for the EU proposals should fully reflect the nature of the underlying international agreement in question.”

We look forward to your response in due time.

*18 July 2013*

CSDP BORDER MANAGEMENT MISSION TO LIBYA (UNNUMBERED)

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

Thank you for the useful informal briefing from your officials on the above subject, which enabled the EU Committee on External Affairs to clear the document from scrutiny at its meeting on 16 May 2013.

The Committee takes an interest in this border management mission in Libya and would welcome being kept informed in on a regular basis as this mission progresses.

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

21 May 2013

## EU SATELLITE CENTRE (UNNUMBERED)

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

I write to inform you of plans to amend the Joint Action of the existing EU Satellite Centre (SatCen). The proposal incorporates necessary amendments to reflect the changing role of the SatCen within the EU framework. It focuses on two main issues. The first is clarification of the rules and guidelines governing the budget, salaries and pensions for the SatCen and the extension of the cost recovery principle. These are both designed to increase the transparency of financial regulations and budgets. The second involves further facilitating the participation of Member States' institutions, third countries, organisations and entities to participate in and/ or task the SatCen.

The proposal will continue to be negotiated at official level at RELEX until it is submitted to final approval by the European Council in September. No substantial changes are expected to arise from this process. Subject to Parliamentary Scrutiny, the amendment to the Joint Action will be adopted as a new legal text in September 2013.

9 July 2013

## EU COMMON SECURITY AND DEFENCE POLICY (UNNUMBERED)

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

In my previous letter of 2 August 2013 to William Cash MP I updated the European Scrutiny Committee on preparations for the December European Council discussion on defence. Now Baroness Ashton's report on CSDP has been published I wanted to write to you in good time for you to consider our analysis and express your views ahead of the Council.

Since 2011, the UK has been fundamental in shaping the direction of CSDP and the agenda for the December Council. Our starting point has been to ensure that the EU should play a complementary and reinforcing role to NATO and not a competing one.

Through our efforts we have successfully moved the debate away from costly new bureaucracy and grand institutional initiatives such as a permanent EU Operational Headquarters. Instead, we have focused the EU on delivering concrete, incremental changes that as a package will deliver more effective CSDP missions, strengthen European capabilities and enhance NATO and EU co-operation.

The EU currently has 16 CSDP missions and military operations around the world including maintenance of the safe and secure environment in Bosnia and Kosovo, supporting rule of law reform in Iraq, armed forces training in Mali to tackle extremism and monitoring the ceasefire in Georgia. EU actions in the Horn of Africa, where military, civilian and development instruments are being used effectively in a co-ordinated way best demonstrates our vision for the useful contribution the EU can make to security through the Comprehensive Approach.

Baroness Ashton's report was published on the 15 October and a copy is enclosed along with an Explanatory Memorandum setting out our detailed analysis of the paper. The report will guide discussions leading up to and including the December Council. The next major step will be the 19 November Foreign Affairs Committee where we expect President Van Rompuy to set out his proposals based on the Ashton report, possibly in the form of draft Conclusions. If necessary, there may be further discussions at 16 December FAC ahead of the December Council itself on 19-20 December.

As soon as possible after the Council, we will inform Parliament of the outcomes in the usual way taking into account that the House will have risen at that time.

It is also worth noting that the December Council is the start of a process, not the end. In 2014 we will be implementing and developing the agreements reached at the Council, and we will have to continue working hard to ensure that they remain aligned with UK thinking.

The UK-hosted 2014 NATO Summit together with the December Council provides a unique opportunity to reinforce the role of NATO and ensure that the EU plays a complementary and reinforcing role. NATO is the cornerstone of our security. No other organisation can offer the same level of deterrence or high-end military capability for Europe's safety. We want strong commitments at the December Council to ensure that those European nations who are members of both organisations step-up and assume a greater share of their responsibilities both in NATO and through the EU. This will prepare the ground for a successful NATO Summit and make the EU a more effective partner to NATO.

I look forward to receiving the views of the ESC and will write again to update you on further developments following the November Foreign Affairs Committee.

28 October 2013

**EUROPEAN COURT OF AUDITORS' SPECIAL REPORT: EU DEVELOPMENT  
ASSISTANCE FOR DRINKING WATER SUPPLY AND BASIC SANITATION IN SUB-  
SAHARAN COUNTRIES (UNNUMBERED)**

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

Thank you for your evidence before our Committee on 20 June 2013 in the context of our examination of the above report. Please find attached [below] our letter to the European Commission.

[Our letter to the European Commission](#)

Although our questions and comments are primarily directed at the Commission, we would be grateful for your response to our findings and recommendations. There are a number of issues which are particularly relevant to the UK, on which we would be especially interested to receive your views.

- We are concerned that WASH is not sufficiently prioritised at the political level. Your own evidence informed us that EU Development Ministers do not discuss WASH regularly at the EU level. We are concerned that neither the Commission nor the Member States are taking a coordinating role or strategic oversight in this sector. How can the UK ensure that the EU is engaged in this issue? How do the Government intend to ensure that WASH in Sub-Saharan Africa is a priority in the post 2015 agenda?
- Building effective and productive partnerships with our counterparts in Africa is critical. Your evidence highlighted how challenging it can be to deliver in this sector when efforts are hampered by political interference. How can EU aid be made more strategic and how can the EU be more muscular in achieving its objectives?
- Delivering WASH requires a systemic approach that delivers across sectors and all levels of the government. How could the EU build leadership in WASH in the countries affected, and encourage and support such an integrated approach?
- There appears to be a dearth of imaginative and viable solutions to securing financial sustainability in this sector. What are your practical recommendations in tackling this problem? In particular, how can economic resilience be built into this system?
- We believe there could be an enhanced role for the Commission staff in EEAS Delegations on the ground. They could be useful to monitor and provide feedback but also invaluable as the public face of EU development assistance. Would you support this recommendation? If so, what practical steps could be taken to engage the Delegations more effectively?

We look forward to your response by 30 August 2013.

29 July 2013

### **Letter from Lynne Featherstone MP to the Chairman**

Thank you for your letter dated 29th July in regards to the European Court of Auditors' Special Report: EU Development Assistance for Drinking Water Supply and Basic Sanitation (WASH) in sub-Saharan countries.

#### **PRIORITISING WASH AT EU LEVEL**

As we discussed during the recent House of Lords EU enquiry (20th June) I am also concerned that WASH is accorded appropriate priority at the political level and I confirmed my intent to raise the WASH profile at future EU events. I noted that there are mechanisms for coordination on WASH through the EU Water Initiative and the EU Water Experts Group but that achieving consensus on different aspects of water, sanitation and hygiene has proved quite difficult. The EU's key policy document the "Agenda for Change" highlights the need to focus on a limited number of areas, instead of spreading efforts too thinly over too many sectors. Water and energy are among the priority sectors but the selection process is carried out at country and regional level. The policy emphasises the need to focus on regions where assistance can have the greatest impact highlighting sub-Saharan Africa. A more recent EU report, "Confronting scarcity: managing water, energy and land for inclusive and sustainable growth", proposes a more integrated approach to managing these elements and deliver more sustainable food security. This places a stronger emphasis on water for production and I am conscious that we must continue to work to help meet the pressing need for drinking water, sanitation and hygiene.

Nonetheless, the EU continues to fund WASH through its support to projects agreed under the European Development Fund (EDF) in those countries prioritising WASH. Drawing on the ECA report, it will be important to monitor value for money and sustainability. How the EU addresses WASH will be discussed at the upcoming World Water Forum in Stockholm which will be attended by members of the Department for International Development (DFID) WASH policy team

As I stated during the session with the Committee, I will be making every attempt to place WASH and in particular European Commission (EC) performance at the country level on the agenda for my next meeting with Ministers in Brussels. Officials from DFID will also be writing to their counterparts in the EC regarding progress against the recommendations in the European Court of Auditors report.

With respect to the post-MDG agenda, there is a growing consensus for the need to have strong water goal and WASH targets in the post 2015 framework. The Report of the Secretary General of the UN High Level Panel, which was co-chaired by the Prime Minister, included an illustrative Goal on Water with associated targets for water supply, sanitation, sustainability, efficient use of water and water quality. We strongly endorse the recommendations of the High Level Panel (HLP), although we are not wedded to the exact language. We are using the HLP recommendations to work with others to ensure that water features in the final post-2015 framework and that WASH is well represented with ambitious goals. We remain confident that water and WASH in particular will feature prominently in the post-2015 framework.

#### **BUILDING EU LEADERSHIP OF WASH AND ENCOURAGING AN INTEGRATED APPROACH**

As I emphasised during the enquiry, there is an increasing level of partnership at country level in line with aid effectiveness principles. These encourage all stakeholders to better coordinate their efforts and support countries' own WASH priorities. These approaches improve transparency of targets and mutual accountability of results, so that policy, strategy, plans, budgets and ultimately outputs, outcomes and impact are in the public domain. Civil servants, politicians, donor advisers, Non-Government Organisations (NGOs) and private sector operators are therefore increasingly bound by a common set of rules which are linked to overall performance. It is this level of transparency and mutual accountability which will stop local politicians interfering with tariffs (for their own political ends) and damaging cost recovery – a problem identified by the Court of Auditors' report. It also provides clear demonstration of an approach that integrates all players – private and public - in the delivery of WASH.

DFID has been experimenting with additional streams of supervision and monitoring through contracts with NGOs who provide real time assessment of progress as well as guidance for corrective action. This may be a model that has wider application. In addition the EU has been

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supporting the development of regional WASH research hubs in South Africa and Senegal to support operational research and ensure that appropriate processes are set in place to achieve results.

As we discussed during the enquiry, it is essential that the EC engages with the country led process at country level and I am pleased to report that EC delegations at country level have been engaged in an extensive consultative process to develop plans which reflect local priorities. Far from encouraging the EU to assume leadership, I urge the Commission to engage actively in the locally led country processes that ensure programmes are aligned with the prioritised needs of the recipient country. This should help sectors to integrate their activities more closely in areas of greatest need and highest priority.

By encouraging WASH, Nutrition, Health and Education sectors to work more closely together leads to a more integrated approach to public health - therefore improving child survival and development. Integration is increasingly recognised as a development imperative. This is high on DFID's agenda, as shown at the Nutrition for Growth in the summer, and is being articulated strongly by our key sector partners notably UNICEF and WaterAid who also work closely with the EU. The Stockholm International Water Week provides a great opportunity of improving consensus around, and commitment to integration with our EU partners and other sector stakeholders.

#### FINANCIAL SUSTAINABILITY AND RESILIENCE

As we learned from the ECA's report, there are a variety of factors impacting on cost recovery ranging from inappropriate tariffs and unsustainable subsidies, to the expectation in some communities that water should be provided free of charge. These scenarios, and many more like them, will take time to change and we will continue to seek imaginative solutions using our own programmes and dedicated operational research focused on building sustainability. Other countries and donors, for instance the Netherlands, are equally focused on this effort.

We recognise that the cost of the installation of a facility must include an assessment of the expected life cycle costs (including operation, maintenance and repair costs). Preparing users to understand the long term cost implications of different technologies is a key part of the project design. We are also through our programmes exploring different financial instruments that allow communities to generate the revenue required to pay for these services. In some cases this will involve paying the local private sector to deliver these services.

#### RECOMMENDATIONS

I would support your recommendation for an enhanced role for the Commission staff. This must be within the context of my earlier comments about the importance of the EC delegation advisers being actively engaged in supporting and strengthening locally led processes. These practical steps should ensure that the Commission and others are engaged fully in national programmes which meet the needs of the recipient country.

*27 August 2013*

#### **Letter from the Chairman to Lynne Featherstone MP**

Thank-you for your letter, dated 27 August 2013, in response to our letter of 29 July 2013 on the above report. The Sub-Committee considered this document at its meeting on 12 September 2013.

We are grateful to you for your response, and will take it into account in conjunction with the Commission's response, once it is received. At your appearance before us on 20 June 2013, we asked what steps you were taking to raise these issues at the political and ministerial level. We welcome your confirmation of your commitment to raise this issue at future EU events. However, we would be grateful for specific details of what steps you have taken to raise these issues since your appearance before us, and what steps you will take to do so in the coming weeks. Can you confirm that this issue is indeed on the agenda at the next development conference?

We would be grateful for your response to these questions within the standard ten working days.

*12 September 2013*

### **Letter from Lynne Featherstone MP to the Chairman**

Thank you for your letter of 12 September regarding the European Court of Auditors' Special Report on EU Development Assistance for Drinking Water Supply and Basic Sanitation (WASH) in sub-Saharan countries.

I remain committed to pressing the European Commission to act on the findings of this report, as I outlined in my appearance before your Committee and subsequent communications. I aim to travel to Brussels during the autumn and I will seek an appropriate opportunity to raise this issue.

In addition, DFID officials have been in dialogue with officials from the Commission to request further information regarding steps they plan to take in response to the Court of Auditors report. At the last European Union Water Initiative teleconference in June, DFID ensured that the status of the EC response to the Court of Auditors' Report was on the agenda. The Head of the Water Section in the Commission clarified that the Report had been discussed in the EU Council and in the EU Parliament. He stated that there was agreement about the need to receive feedback on corrective measures made by the EC Delegations in the six countries covered by the Report.

We had been told by the Commission that the reports from the Delegations were expected by the end of July 2013 and that feedback was expected during the recent Stockholm World Water Week conference. I am very disappointed to report that this feedback was not provided. As a consequence I have asked that this be escalated through a letter from a senior DFID official to the Head of Unit for Climate, Environment, Natural Resources and Water in the Directorate-General for Development and Cooperation in the Commission.

*26 September 2013*

### **Letter from the Chairman to Lynne Featherstone MP**

The Sub-Committee considered the above document at its meeting on 10 October 2013.

Thank you for your update on UK and EU action in the field of WASH. We welcome the steps you have taken so far and urge you to continue to ensure that WASH receives adequate attention at the EU level. We would welcome a further update after your visit to Brussels in the autumn, and once further information is available on the corrective measures taken by the EC delegations in the six countries covered by the report.

We look forward to your response in due course.

*10 October 2013*

### **EU FOREIGN AFFAIRS COUNCIL 18 OCTOBER 2013 - PRE-COUNCIL WRITTEN MINISTERIAL STATEMENT, EU FOREIGN AFFAIRS COUNCIL 18 OCTOBER 2013 - WRITTEN MINISTERIAL STATEMENT (UNNUMBERED)**

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

The EU Sub-Committee for External Affairs considered the above Written Ministerial Statements and accompanying letters at its meetings on 24 and 31 October, respectively. The Committee noted that two items of particular importance to our work were discussed at the Foreign Affairs Council (Trade).

First, we note that the proposal for a Regulation of the European Parliament and of the Council establishing a framework for managing financial responsibility linked to investor-state dispute settlement tribunals discussed, and that a Presidency compromise text was adopted by Member States the week before the Council.

This Committee has not lifted its scrutiny reserve on that proposal, pending a response to our letter of 26 November last year (see enclosed) and it consequently appears that a scrutiny override may have occurred. We invite you to explain why we have not received a response to the letter we sent you 11 months ago, and to indicate whether you gave agreement on behalf of the UK to the Presidency's compromise text before we had completed our scrutiny.

We would ask you to update us on the progress of this proposal, including in regard to the issues we raised last November, and would also invite you to set out what implications, if any, the adoption of this proposal might have for the negotiations on the Transatlantic Trade and Investment Partnership.

In view of our ongoing inquiry into the Transatlantic Trade and Investment Partnership, we note with interest that the mandate for the TTIP negotiations will remain a classified EU document. We invite you to explain what stance the UK took in the Council on the possible de-classification of the mandate.

We look forward to your response within the standard ten working days.

31 October 2013

## EUROPEAN UNION'S POLICY AND SUPPORT TO BURMA (UNNUMBERED)

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

I am writing to you concerning the adoption at the Foreign Affairs Council (FAC) on 22 July of an EU Comprehensive Framework which outlines priorities for the EU's policy approach to Burma over the next three years. This approach was agreed by Foreign Ministers at the 22 April FAC following the lifting of all EU sanctions apart from the arms embargo and restrictions on equipment which could be used for internal repression. The Framework was adopted in the form of Council Conclusions rather than by a Council Decision. In line with normal scrutiny practice, the Council Conclusions were not deposited for formal scrutiny by Parliament, but I am pleased to provide your Committee with this update and a copy of the Council Conclusions.

Over the last two years we have seen remarkable progress in Burma. Many of the developments have been unprecedented. We have witnessed the release of the majority of political prisoners; credible by-elections which led Aung San Suu Kyi and 42 NLD MPs to take seats in Burma's parliament; initial ceasefire agreements with the majority of ethnic groups and steps towards increasing humanitarian access to conflict areas. One historic moment which epitomised the changing political dynamic in Burma, attended by members of your committee, was Aung San Suu Kyi's address to both Houses of Parliament in June last year.

It was in recognition of these positive developments that the EU suspended all sanctions on Burma in April 2012, with the exception of the arms embargo and restrictions on equipment which could be used for internal repression. At the time of this decision, the EU committed to respond positively to further progress, whilst setting out that the EU expected the unconditional release of remaining political prisoners, the end to conflict and substantially improved access for humanitarian assistance, in particular in Kachin State, as well as to addressing the status and improving the welfare of the Rohingya.

There has been encouraging progress on a number of fronts since then. New challenges have also arisen. There was an escalation in the conflict in Kachin at the end of last year. Outbreaks of violence between communities in Rakhine State have led to a grave humanitarian situation. The subsequent outbreaks of violence directed at Muslim communities in Meiktila, which spread to other parts of Burma, point to a troubling trend concerning the tolerance of minority religions.

However, the lifting of sanctions in April did not mean that the EU's expectations for reform in Burma had in any way diminished. Our eyes are open to the continuing problems and challenges in Burma. As was outlined in the Foreign Secretary's Written Ministerial Statement of 17 July, we raised these issues directly with Burmese President Thein Sein during his visit to the UK on 15-16 July.

The UK has pushed to ensure that the Comprehensive Framework sets out how the EU's engagement with the Burmese government will seek to address the many challenges that remain. The Framework covers all of our priority areas: support to the ethnic peace process; addressing inter-communal tensions and the status of the Rohingya in Rakhine State; reviewing the constitution; strengthening parliament, the electoral system, the civil service, the judiciary and the police force; securing the release of remaining political prisoners; strengthening human rights, including ratification of key international human rights conventions and establishing an EU-Burma Human Rights dialogue; encouraging responsible trade; and ratification of non-proliferation instruments. The EEAS has already held positive discussions with the Burmese about establishing an EU-Burma Human Rights dialogue. If successful, this will be a key vehicle for engaging on issues of concern in the months and years ahead.

Given the broad range of issues outlined in the document, we have considered whether its language accurately reflects the balance of competence between the EU and Member States. In the majority of cases the Framework flows from existing Council Conclusions on Burma. Where it does not; for instance in health, tourism and education, the EU either has parallel competence or can play a supporting role to Member States within the EU. The Framework makes clear that 'this is a collective effort involving actions by EU Member States and/or EU institutions'. The document does not establish new areas of EU competence, or place limitations on Member States' ability to act. This latter point is particularly important given the UK has been the largest bilateral donor of humanitarian assistance to Burma for many years.

We will continue to play a leading role in shaping the EU's policy towards Burma. As long as Burma continues to engage with the international community, the UK will continue to support its efforts to develop into a democracy as we head to the 2015 elections and beyond. We will engage with the government and all parties as a constructive, supportive and critical partner, committed to supporting reform moves under the President and Aung San Suu Kyi.

*2 August 2013*

## EU-LEBANON EUROPEAN NEIGHBOURHOOD POLICY ACTION PLAN (UNNUMBERED)

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

The EU Sub-Committee on External Affairs considered the above document at its meeting of 12 September and decided to retain it under scrutiny.

In light of current political events it is possible that the proposals of the Action Plan may need to be revised. Please can you inform us if the Action Plan is revisited and if there are any substantive changes. We would welcome the opportunity to consider the final proposal before releasing it from scrutiny.

Furthermore, we note that there is a dispute as to the legal basis for this Decision. You do not suggest any specific alternative to the Commission's proposed legal basis, which requires the Council to act by qualified majority, although you do suggest that the Council should act by consensus. Is there, in fact, a consensus in favour of the Action Plan? If so, is the legal dispute likely to have policy consequences? Would you please keep us updated on the negotiations and final decision on the legal basis of the Action Plan as well?

We look forward to your response in due time.

*12 September 2013*

### **Letter from David Lidington MP to the Chairman**

Thank you for your letter of 12 September 2013 with regard to the subject above.

In your letter you asked to be updated of any revisions to the EU-Lebanon Action Plan. To date the Action Plan has not been revised. If any changes are made, we will inform you to enable you to review the finalised Action Plan before it is due for adoption.

You also asked about the legal basis for adoption of the Action Plan. The UK position remains that a Council Decision is not the appropriate mechanism for adopting the Action Plan, which does not contain any legally binding obligations. We believe that the Council is being asked to adopt an EU position that is essentially political and therefore should properly be adopted by way of Council Conclusions agreed by consensus. I can confirm that there is consensus over the content of the Action Plan from all Member States.

This Action Plan has been twinned for adoption with the EU-Morocco Action Plan. Following previous (inconclusive) discussions on how to adopt both the EU-Morocco and the EU-Lebanon Action Plans, the Maghreb/Mashrek Working Group discussed the subject of adoption methods on Monday 7 October. We reiterated our position, but no conclusion was reached. The EEAS indicated that as there is no agreement on the mode of adoption, this issue will be passed to COREPER for discussion. I will of course update you of any significant developments.

*10 October 2013*

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## EU–MONGOLIA PARTNERSHIP AND COOPERATION AGREEMENT (7853/11)

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

I am writing to inform your Committee of the recent signature of the EU – Mongolia Partnership and Cooperation Agreement (PCA).

As you will be aware, this was one of the Partnership and Cooperation Agreements that was subject to parliamentary scrutiny in 2011. You will recall that I submitted an initial Explanatory Memorandum (EM) on this PCA in March 2011. This was followed by a Supplementary EM in June 2012 on the Council Decision to sign this PCA, which had been adopted in May 2012. That Supplementary Explanatory Memorandum was sent retrospectively to provide clarity on details around the JHA opt-in that the government was unable to provide in the original EM submitted in March 2011. The actual signing of the EU – Mongolia PCA was delayed until 30 April 2013 so that a suitable occasion for its signature could be found. I trust you will find this update helpful.

This PCA establishes a framework for closer EU and Member State engagement with Mongolia. Before it can be ratified by the UK the agreement will, need to be laid before Parliament in accordance with the provisions of the Constitutional Reform and Governance Act 2010 and specified as an EU agreement in accordance with section 1(3) of the European Communities Act 1972 once it has been signed. My officials will take this forward in due course.

Our view is that the PCA contributes to UK security and prosperity, allowing us to make progress towards our national objectives in Mongolia. The aim of the PCA is to build a solid basis for strengthening ties between Mongolia and the EU, including in political dialogue, trade relations and development assistance. In particular, the PCA will provide an overall framework for closer engagement and cooperation in fields such as trade, energy, transport, investment, human rights, education, science and technology, justice, migration and asylum. Through increasing cooperation, the EU aims to improve trade arrangements, promote bilateral trade relations in accordance with WTO principles, and contribute to Mongolia's development. This is potentially highly valuable to the UK, since Mongolia's economic growth rate continues to be one of the highest in Asia.

Encouraging Mongolia's development as a strong regional force in Asia is an important element of UK strategy and we have pushed hard for greater bilateral and multilateral involvement in Mongolia. Closer EU engagement on Mongolia is in the UK's interest: it will allow us to leverage EU resources and influence to help to deliver UK objectives, including on trade, development and human rights.

*22 May 2013*

## EU RESTRICTIVE MEASURES AGAINST BELARUS (UNNUMBERED)

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

Further to my Explanatory Memorandum of 17 October, I am writing to provide your Committee with further information on the situation in Belarus over the past 12 months, as well as give my assessment of the effectiveness of the suspension of Foreign Minister Makei's travel ban. I have also included a clarification of the legal basis for the Council Decision covered in my 17 October EM. As mentioned in the 17 October EM, both the Council Decision and Implementing Regulation need to be adopted before the current measures expire on 31 October 2013.

As you know, Belarus remains a country of concern in the annual Foreign and Commonwealth Office Human Rights report. For your further information, I have enclosed the Belarus section of the 2012 Annual Human Rights Report, as well as the updates covering the period from January 2013 to the latest available update published in September 2013.

Overall, though, I regret to say that the human rights situation in Belarus has changed little since October 2012. The period saw the release of three political prisoners (Vasil Parfyankow, Zmitser Dashkevich and Aleksandr Frantskevich). Naturally, I welcome these releases. But all three men had reached the end of their sentence and remained bound by various levels of restrictive measure on release. The last 12 months were also marked by a continuation of the harassment of opposition activists, independent journalists and human rights defenders. This most often took the form of arresting such individuals for low-level administrative offences, such as "swearing in public" or "showing resistance to the police". Belarus also continued to hand down death sentences, with at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF 21>

least three given in this period. The authorities continued to refuse to inform Luibou Kavaliouva where her son, Uladzislau, was buried. Uladzislau Kavaliou was executed in March 2012 for his alleged role in the Minsk Metro bombing.

As I outlined in my EM, the UK supports the EU's policy of critical engagement with Belarus. I last met Belarusian human rights defenders on 5 June, after which I issued a public statement calling for the introduction of a moratorium on executions in Belarus, as well as the immediate release and rehabilitation of all political prisoners. I also met Belarusian Deputy Foreign Minister Elena Kupchina in London on 9 September. Mrs Kupchina asked for the meeting, which was the first at Ministerial level between the UK and Belarus for some years, and I agreed to meet with Mrs Kupchina on the basis that this was a good opportunity to underline the UK's concern about the human rights situation in Belarus. I used the meeting to do so.

The UK has, over the last year, also worked with its European partners and others to argue at the UN Human Rights Council for the extension of the mandate of the Special Rapporteur on Belarus. The Council extended the mandate on 13 June with increased international support, allowing the Rapporteur to continue his work on holding the Belarusian authorities to account. The UK and the EU continue to work hard in other areas, such as maintaining support for Belarusian civil society.

As your Committee is aware, the EU agreed the suspension of Belarusian Foreign Minister Makei's travel ban in June 2013. As outlined above, I am unable to point to any concrete improvement in the human rights situation in Belarus as a result of this. The suspension does allow Mr Makei to take part in a wider dialogue with EU leaders, for example as he did by attending the Eastern Partnership (EaP) Ministerial meeting in June. We also expect Mr Makei to attend the Vilnius EaP Summit in November, where he will be able to witness first-hand the progress being made by neighbouring countries. We have been very clear with EU colleagues that we should continue to keep Mr Makei's suspension under close review.

Finally, I would like to make clear the legal base for this Council Decision, which is provided by Article 29 of the Treaty on European Union. The legal basis for the Implementing Regulation is provided by Article 215 of the Treaty on the Functioning of the European Union.

I trust that this information helps you in your consideration. I and my officials stand ready to provide any further information your Committee would find helpful.

*21 October 2013*

## EU SUPPORT FOR SECURITY SECTOR REFORM IN THE DEMOCRATIC REPUBLIC OF CONGO (UNNUMBERED)

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

The EU Sub-Committee on External Affairs considered the above documents at its meeting of 12 September.

Although the Committee is content to clear these documents from scrutiny we do have some concerns about how the EU intends to structure its future engagement in the security sector reform in the Democratic Republic of Congo. We understand that options will be considered in autumn 2013 and we would be grateful for an update at that stage. We also request more information about the findings of the Strategic Review. Would it be possible for the Committee to be informed of the reports of the Heads of Missions regarding the function of the Missions? To inform the Committee's scrutiny of other CSDP missions it would be useful to understand the strengths and weaknesses of these two EU missions. Have officials in charge of the two programmes indicated how the effectiveness of these bodies could be enhanced?

Do you also have any concerns about the lack of co-ordination between EU missions in individual countries? Finally, what plans are there to ensure the stipends of the armed forces are paid?

We look forward to your response within 10 working days.

*12 September 2013*

## Letter from David Lidington MP to the Chairman

Thank you for your letter dated 12 September 2013, regarding CSDP missions EUPOL and EUSEC DRC. I am writing in response to your further questions regarding these missions.

The latest Strategic Review was released in July 2012, ahead of the decision to close both missions in 2014 but before the deterioration of the security situation in the east and the rise of M23. Its main recommendations were that:

- The country is slowly moving from a situation where it had to address immediate and vital security challenges to a more stable and long term reconstruction effort
- As a result of good coordination and cooperation with a variety of stakeholders, a number of synergies have been identified in particular for police reform. Streamlining the scope of CSDP instruments in line with the specificities of the different instruments available for SSR and the evolving situation in the DRC should facilitate a progressive transition to an overall EU engagement less focused on CSDP
- Results have been achieved but much more needs to be done and that tackling the entire Security Sector Reform process is far beyond the capacity of EUPOL and EUSEC
- The exit strategy should be based on a progressive handover of responsibilities to structures that are able to sustain a long term effort

In 2012, Member States decided to extend both mandates for 12 months on the understanding that they would then be extended for a final 12 months before closure in 2014. In line with the recommendations of the Strategic Review, last year the missions focused on optimising synergies with other stakeholders and on ensuring that the key tasks in each mission are sustainable, for example, through “train the trainer” activities. During the final mandate, the missions will continue to focus on sustainability of mission tasks as well as assisting the EU in preparing a nationally owned, managed and conducted SSR process through development instruments.

In general, monthly reports from Head of Missions provide Brussels and Member States with an update on activities and progress against objectives while six monthly reports are more detailed and provide a summary of progress and comments from the Head of Mission, looking back over the last six months and ahead to the next period. Six monthly reports are discussed in working groups in Brussels. This provides Member States with an opportunity to feed in strategic advice to focus mission activities in working groups. In this way, the UK has been active in trying to improve the impact of missions and in the case of the DRC missions have promoted discussions on benchmarking and handover.

In the latest six monthly report for EUSEC, the Head of Mission commented on how the new Ministry of Defence was increasingly engaged in the reform of the armed forces and in EUSEC's activities but that it was difficult to fully engage senior staff in the armed forces in plans for reform. The latest EUPOL six monthly report comments on a couple of lessons learned: the difficulties the mission has had in recruiting visiting experts and the need to work within the institutional framework of the DRC to ensure the sustainability of activities. The Head of Mission's assessment is that progress has been achieved, largely as a result of a new willingness on the part of the government to support Security Sector Reform.

You asked about coordination between the EU missions. The missions have distinct taskings and operate as separate entities. However, wherever possible the missions pool resources to achieve cost efficiencies, for example human rights experts work for both missions. The missions have also established mechanisms for exchange of information and coordination and consultation, including in relation to procurement for procurement in order to significantly reduce costs. Coordination and cooperation with the EU Delegation has also intensified, with increased exchange of information and meetings at all levels. This is particularly important in the final year of the mission when many activities will be transferred to Commission instruments, under the control of the EU Delegation.

I have noted your request to be informed of EU proposals for future engagement in Security Sector Reform in DRC and will write to you once plans have been released, expected to be later in the autumn. I will include information on their plans for stipends to be paid to members of the armed forces.

19 September 2013

EU TRADE DEFENCE INSTRUMENTS (8493/13), PROTECTION AGAINST DUMPED IMPORTS (8495/13)

**Letter from the Chairman to David Willetts MP, Minister of State for Universities and Science, Department for Business, Innovation and Skills**

The Sub-Committee on External Affairs at its meeting on 6 June considered the documents above and decided to retain them under scrutiny.

Considering that negotiations are ongoing on these proposals at the EU level and that both the Government's impact assessment and the European Parliament's debates are pending the Committee has decided to defer its decision until there is more clarity on the final shape of the Regulation. We would be grateful if you would continue to keep us informed on the progress of the Regulation.

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

11 June 2013

EU TRAINING MISSION TO MALI (UN-NUMBERED)

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

I am writing to update you on the activity of the EU Training Mission in Mali, now that the Mission is fully deployed and training of the Malian army is under way. This letter covers two main areas: force generation (i.e. which EU Member States cover which responsibilities), and finance (reflecting the outcome of recent discussions to increase the Mission's budget).

FORCE GENERATION

- EUTM Mali was launched at the EU Foreign Affairs Council on 18 February, but some issues regarding force generation remained outstanding at that time. These were gradually resolved, and over the course of March and April 2013 the various elements were deployed to two locations in Mali: the Mission Headquarters in the capital, Bamako, and the Forward Headquarters and Training Location at Koulikoro, 60 km north-east of the capital.
- The EU Training Mission in Mali is approximately 550 strong, comprising:
  - Approximately 200 instructors, of which approximately 100 are infantry trainers;
  - 150 troops providing force protection, from France (1 company), Czech Republic and Spain (one platoon each);
  - 150 staff officers and NCOs at the Main Headquarters in Bamako and the Forward Headquarters in Koulikoro, responsible for command and control, liaison with the Malian authorities, medical support and logistics;
  - A small cell in Brussels responsible for co-ordination between the Mission and the EU apparatus.
- Twenty-two EU Member States have provided personnel to the Mission. Numbers are set out in the table below: [not printed]
- The UK infantry training team (21) arrived on 27 March 2013, augmented by six soldiers from the Irish Army. The UK mortar & artillery training team (12) arrived on 15 April. The first (UK civilian) human rights trainer arrived on 8 May.
- Training of the first Malian battlegroup began on 3 April. Over the 15 months of the Mission's mandate, four Malian battlegroups will be trained, each over a period of ten weeks. Once trained, each battlegroup will deploy into the field to support the Malian government's effort to restore effective



state control to its territory. The first battlegroup completed its training on 8 June.

- As well as basic military training, EUTM is providing advice and expertise in command and control, logistics and human resources, as well as education in humanitarian law, the protection of civilians and human rights, with a particular focus on preventing sexual violence in conflict. EUTM's work is also supporting the Malian government's effort to reorganise and professionalise its military chain of command.

#### BUDGET

- At launch of the Mission by the Foreign Affairs Council in January 2013, the indicative amount for EUTM Mali was €12.3m for the 15-month mandate. This estimated figure was expected to rise. In mid-April, (French) EUTM Mission Commander Lecointre requested additional funding from the EU, which would have taken the overall cost of the mission to €29.995m – an increase of 143%.
  - The majority of the additional costs proposed were reasonable and could be attributed to:
    - Infrastructure costs arising from the change in location of the training camp from Bamako to Koulikoro at the insistence of the Malian government;
    - An increase in size of the Mission (from 315 to 549) largely due to additional force protection requirements (150);
    - The need for a "Role 1" (emergency) medical facility.
- The UK had concerns over a number of items within this additional amount, specifically on whether they should be funded in common (as opposed to being national responsibility). In addition, provision for contingency funding to outsource helicopter MEDEVAC capability was included, in case the force generation process failed; and for costs for hiring of a Political Advisor (POLAD). Negotiations in Brussels continued through April and May, with the UK raising a range of concerns. The UK's rigorous approach caused a number of other Member States (Germany, Hungary, Ireland, Latvia, Lithuania, Malta, Poland and Portugal) to raise their own concerns with elements of the budget.
- In negotiation the Mission was requested to separate out from the budget those items which would not normally fall to common funds. These exceptional items are detailed at Annex A [not printed]. Of the six items, Member States agreed to exceptionally fund three: security services for the protection of the Mission HQ premises in Bamako; sustainment allowance for the Malian Armed Forces guarding the Mission HQ premises; and the purchase of 4x4 vehicles for the Koulikoro camp. The MEDEVAC contingency was halved (from the original €5.0m to €2.5m), and the cost for the hire of the POLAD was removed.
- On 31 May, Member States agreed a budget for calendar year 2013 of €23.451m (the estimated Mission cost for the full 15 month mandate is €24.714m). The actual cost to the UK for the agreed budget is assessed at £3.022m. Whilst the new figure represents a doubling of the original initial amount of €12.3m, we consider this to be reasonable in the circumstances, and the Mission Commander's initial request in April of €29.995m has been reduced by 17%. This reduction was in large part the result of rigorous financial scrutiny undertaken by the UK. In terms of UK financing, the Peacekeeping Budget is able to cover the increase in EUTM's costs.
- It is still possible that the Mission Commander may approach EU Member States to common-fund the outstanding three items at the Mid Year Review of EUTM in July 2013. We cannot rule out further additional funding requests at that point, but we will continue to monitor and to bear down on costs, to ensure best value for money. We will also push for improvements

in the processes of EU budgeting and forecasting of future requirements for EU military operations.

17 June 2013

### **Letter from David Lidington MP to the Chairman**

Further to my letter to you of 17 June, updating the Committee on the composition and budget of the EU Training Mission in Mali (EUTM), I am writing in response to a particular question from the Committee on EUTM that has remained outstanding since February this year. I apologise for the delay in responding on this particular point; important information relevant to this matter only became available from the UN in September. I am pleased now to be able to pass this on to the Committee.

In your letter of 11 February, in which the Committee gave its assent to the Council Decision to launch EUTM Mali, the question was raised whether the UN-administered trust funds for Mali were being used to pay stipends for the trainees of EUTM. Your letter noted that in the documentation regarding EUTM you had seen no details of

“means of payment to Malian armed 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?”

Now that detailed information on the use of the trust funds has emerged from the UN, I can now confirm that neither of the two trust funds set up in the wake of the Mali Crisis has been used to pay the stipends for Malian soldiers trained by EUTM. Instead, Malian troops are paid by the Malian Ministry of Defence. Details of the arrangements, which have come to us from the EUTM Headquarters, are as follows:

- EUTM trainees receive their basic salaries from the Malian Ministry of Defence’s Finance Department.
- All ordinary-rank Malian soldiers also receive a separate stipend from the Malian MOD, specifically to help them pay for their food. This stipend applies to all soldiers, irrespective of whether they are on operations or based in barracks.
- In addition to this normal stipend, all trainees of EUTM (soldiers, non-commissioned officers and officers), have been granted a further stipend to compensate them for the “hard” nature of the training.

The key point therefore is that the EUTM trainees are paid by the Malian government, rather than by the international community through the trust funds.

#### **BACKGROUND ON THE TRUST FUNDS**

UN Security Council Resolution 2085 (adopted on 20 December 2012) authorised the deployment to Mali of the African-Led International Support Mission in Mali (AFISMA), as a central plank of the international community’s response to the crisis. This Resolution also requested that the Secretary-General:

“establish a trust fund through which Member States can provide earmarked and/or non-earmarked financial support to AFISMA and/or to the training and equipping of Malian Defence and Security forces, also requests the Secretary-General to support, in coordination with the African Union and ECOWAS, the holding of a donors conference to solicit contributions to this trust fund as soon as possible”.

In the event, two UN-administered trust funds were established: one for the purposes of supporting AFISMA and its (non-Malian) troop contributing countries (the “AFISMA Trust Fund”), and the other “for Peace and Security in Mali” (the “Mali Trust Fund”). The two Funds were launched on 29 January 2013 at a Donors’ Conference in Addis Ababa, and pledges were made to both. The UK pledged £3 million for the AFISMA Trust Fund and £2 million for the Mali Trust Fund, and the UK’s payments

into both Funds were completed in March. Total payments to the two Funds to date are some \$26 million (c. £16 million) to AFISMA and \$7 million (c. £4.3 million) for the Mali Fund.

The Terms of Reference for the AFISMA Trust Fund state that its purpose is to provide financial support to the AFISMA Mission, whose troops were drawn from Mali's regional neighbours. Meanwhile the Mali Trust Fund ToRs state that its purpose is to support Malian-led efforts to resolve the crisis, including activities which:

- Assist in the restoration of constitutional order and national unity;
- Provide support to Malian institutions including rule of law and security;
- Facilitate provision of co-ordinated assistance in a range of areas including human rights;
- Support the Malian Defence and Security Forces as set out in UNSCR 2085;
- Support efforts by the international community to resolve the crisis;

To date, neither trust fund has been used to pay individuals or groups within the Malian armed forces. Instead, the UN has been working on how to use the two trust funds to best effect. As mandated by UN Security Council Resolution 2100, adopted on 25 April, AFISMA has been superseded by the UN Multidimensional Integrated Stabilisation Mission for Mali (MINUSMA) with effect from 1 July. With the agreement of the donors, the UN has now earmarked a proportion of the AFISMA Trust Fund to pay for (non-lethal) equipment for troops attached to the MINUSMA Peacekeeping Force. We do not have firm details of the exact equipment that is being supplied to MINUSMA, however in line with normal practice the UN has selected a range of items from its stores in Brindisi (Italy) for transport to Mali, and the AFISMA Fund will be used to replace those items for use in future UN Missions.

Regarding the Mali Trust Fund, the \$7 million donated to the Fund has recently been earmarked to pay for accommodation and other equipment to support the "cantonment" project for the separatist National Movement for the Liberation of Azawad (MNLA), arrangements which were agreed as part of the Interim Peace Agreement signed between the Malian government, the MNLA and its ally the High Council for the Unity of Azawad (HCUA) on 18 June. This agreement, and the implementation of it, is a crucial element in bringing together the two main internal protagonists in the Mali crisis, and an important part of the wider process of dialogue and reconciliation in Mali. I am therefore pleased that the UK contribution to the Mali Trust Fund is being used for this purpose.

I hope that this information will be helpful for the Committee, and I shall be pleased to provide further updates on EU activity in Mali as events unfold.

4 November 2013

## EU TRAINING MISSION SOMALIA- BUDGET INCREASE (UNNUMBERED)

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

You will recall my letter of 15 February 2013, regarding Council Decision 2012/835/CFSP amending and extending Council Decision 2010/96/CFSP of 15 February 2010 on a European Union military mission to contribute to the training of Somali security forces (EUTM Somalia), which I submitted further to my Explanatory Memorandum dated 13 December 2012. I am writing to provide an update for your Committee on the Mission and a budget increase which has recently been agreed. I know that your Committee takes a keen interest in this Training Mission, including on issues of value for money and cost, and thus want to provide a full update. I hope you will find this useful.

#### EUTM MANDATE

The mandate for EUTM Somalia was extended until 31 March 2015 by Council Decision on 22 January 2013, following a debate in European Committee B of the House of Commons on 16 January. This new mandate (cleared by your Committee on 15 January 2013) will shift the centre of operations to Mogadishu and increase the scale of its operations, emphasizing Command and Control, training of the Somali military trainers, and specialist training (such as in logistics and communications). EUTM has been running for two years, training Somali troops in Bihanga camp, Uganda. It has been operating alongside US and Ugandan training of Somali troops. About 3000 Somali troops have been trained by EUTM so far. To date, EUTM has been viewed as a success, providing high quality training

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 27

of Somali forces. Providing support for the development of the security sector through the EU also represents good value for money for the UK compared to bilateral support. The UK was also among those Member States advocating a new EUTM mandate based in Mogadishu.

Advance units started to deploy to Mogadishu from 7 May 2013. Plans for Force Protection, medical capability and mission security are on schedule and continue to progress. The EUTM HQ structure in Mogadishu is due to increase to 46 staff (18 military, 4 medical and 24 security staff) by December 2013 and increase to 60 (14 more military staff) by March 2015. Given the size of the Somali armed forces and the focus of the new mandate, we judge this staffing level to be justified.

We currently provide two UK secondees to EUTM; this should increase to five positions soon. The deployment of UK personnel in EUTM Somalia is funded directly from the tri-departmental (FCO, MOD, DfID) Conflict Programme.

Given our strategic interests in making progress in developing the security sector and in supporting effective CSDP interventions, (and one of the main supporters of CSDP missions generally) we believe that it is important to ensure that the mission has sufficient resources to achieve its mandate. EUTM should also help deliver the security related outcomes of the Somalia Conference in London on 7 May, specifically the development of the Somali armed forces.

#### BUDGET BACKGROUND

Following the initial calculation of the EUTM Somalia budget in December 2012, Mr Simmonds, Minister for Africa, and I agreed the EUTM mission budget at €11.6 million to cover common costs of the Mission and to allow the EUTM Operation Commander to begin activity. This sum was referred to in the 'Financial Implications' section of my Explanatory Memorandum dated 13 December 2012. In April 2013, the Operation Commander submitted a more detailed proposed budget of €13.394 million (approximately £11.3 million) representing an increase of 15.4% on the initial estimate. Although the EU said previously that €11.6 million would be a maximum amount, we have closely scrutinised the new costs and believe that they are justified. The revised UK contribution (based on a cost share of 15.34%) will be some £1.741 million. The cost to the UK for the FY 13/14 is estimated at £1.287 million. In 2012, the UK contribution to cover EUTM Somalia common costs was £240,891, so this is a substantial increase in the UK contribution. The UK funds its contributions to this operation through the tri-departmental (MOD, FCO, DFID) peacekeeping budget, which on current planning has sufficient capacity and flexibility to absorb this relatively small increase.

CSDP military operations are funded on the basis of where the cost falls (i.e. to the Member State that deploys the personnel). However, there are a number of common costs (e.g. provision of HQ facilities, associated communication and transportation costs, and commonly used port and medical facilities) that cannot easily be allocated to one single nation. These common costs are governed by the Athena mechanism (a committee of EU Member State representatives who negotiate common costs of EU military operations). The Athena Special Committee Meeting on 26 April 2013 agreed the EUTM Somalia Budget subject to silence procedure which ended on 2 May (allowing Mr Simmonds and me to review these additional costs). At that meeting the UK challenged a number of price increases (e.g. on armoured vehicles and salary increases) and was the only Member State which did not approve the budget increase immediately.

#### REASONS FOR BUDGET INCREASE

The increase to the proposed budget reflects detailed work on preparing for the expansion and transfer of operations to Somalia from the existing base in Uganda. A detailed break-down of costs is attached (Annex A) [not printed].

The increase is primarily due to the detailed funding requirement of continuing the current EUTM structure in Uganda, whilst establishing a new EUTM deployment into Mogadishu. In addition, the significantly more challenging security environment in Somalia compared with Uganda has required a revision in contractual arrangements, in particular for improved Medical Support Services capability and a medical evacuation system. New funds are required for air transportation between Kampala and Mogadishu and there is also an increase in final price of two armoured vehicles, due to a higher level of specification being required than originally anticipated to provide the protection required.

The 15% salary increase has been justified due to an overall 40% increase in the cost of living over the last three years (whilst the salaries of local engaged personnel in Uganda have not increased since the start of Somalia operations in 2010). The EUTM considered there was merit in retaining the existing (trusted) staff rather than employing new personnel for the remaining months of the Uganda

operation and to employ some of the existing (trusted) staff also in Mogadishu. New staff will also be required in Somalia.

The security and logistical challenges, as well as a limited market from which to purchase goods and services locally (including accommodation, offices, IT, communications), also make a significant difference to the overall costs of goods and services.

We will continue to monitor and to bear down on costs, where appropriate, and evaluate results, including during the next annual review. Based on this experience, I have asked officials to push for improvements in the process for EU budgeting and forecasting of future requirements for EU military operations.

28 May 2013

## EU-US TRADE DISPUTE OVER BEEF IMPORTS (I4369/13, I4372/13)

### **Letter from George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman**

There is a letter dated 14 October 2013 from the Minister, which we couldn't find. I have asked Ed if he has seen it, once we have found it I will include the letter.

### **Letter from the Chairman to George Eustice MP**

Thank you for your letter of 14 October regarding these Council Decisions, and the accompanying Explanatory Memorandum of the same date.

Although we have lifted our scrutiny reserve on these documents, we would be grateful for clarification on a technical point. We understand that the flesh of a bull that has not been treated with growth-promoting hormones may contain more of those hormones naturally than a castrated animal which has been treated. We would therefore ask you to clarify how we determine whether beef imported from the United States has been treated with growth promoting hormones.

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

31 October 2013

### **Letter from George Eustice MP to the Chairman**

Thank you for your letter of 31 October seeking clarification on how it is determined whether beef imported from the United States has been treated with growth promoting hormones.

Under existing legislation, the use of growth-promoting hormones in live animals and their residues in meat products are prohibited within the Community. Council Directive 96/22/EC sets out measures to control the use of these hormones in animal production and Directive 96/23/EC covers the monitoring of their residues in animals and animal products for human consumption. Any third country wishing to export to the EU has to comply with these and other regulations on food safety and hygiene before trade is permitted.

Imported animal products must come from an approved plant in an approved country and must be accompanied by a health certificate confirming that the products meet animal and public health requirements. Each consignment must enter the EU through an approved Border Inspection Post where checks are carried out to ensure import conditions have been met. All consignments are subject to documentary and identity checks and at least 20% of consignments are subject to physical checks.

With regards to imports from the United States under the autonomous tariff quota, the European Commission's implementing legislation provides the administrative rules on how the quota will be managed. Annex II [not printed] to Commission Implementing Regulation (EU) No.481/2012 as amended prescribes how the cattle being imported under this quota are to be fed. Whilst the prohibition on the use of growth promoting hormones is not specifically mentioned in the Annex [not printed], this is assumed under normal trading rules. Under Annex III of the same Regulation, the release into free circulation of beef imported under the quota is subject to presentation of a certificate of authenticity issued by the competent authority of the exporting third country and

requires compliance with the feed requirements in Annex II. Such certificates of authenticity should provide assurance that the imported meat qualifies as high-quality beef as defined in this Regulation.

*13 November 2013*

## **EU-US TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (UNNUMBERED)**

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

The EU-US Transatlantic Trade and Investment Partnership (TTIP) represents a powerful way to create jobs and foster economic growth on both sides of the Atlantic. There is high level political and business buy-in on both sides of Atlantic. EU leaders are in agreement and CEOs of major corporates have called for a deal.

As the Prime Minister has commented, the TTIP stands to be “the biggest bilateral trade deal in history...a deal that will have greater impact than all the other trade deals on the table put together”. The TTIP will bring potential benefits of around £100 billion for the EU and £80 billion for the US. Furthermore, liberalising trade and deepening economic integration between the EU and the US would have a positive impact on worldwide trade levels, increasing rest of the world GDP by approximately €100 billion.

The UK has continued to be one of the leading vocal proponents of launching negotiations, working to ensure that negotiations are as ambitious as possible. Within the European Union, this has meant shaping and agreeing a negotiating mandate for the Commission’s negotiating team. The Foreign Affairs Council (Trade) on Friday 14 June agreed a comprehensive and ambitious negotiating mandate which will empower the Commission to negotiate the kind of deal that can deliver UK interests.

Research suggests that the UK stands to benefit by up to £10 billion, with substantial gains in sectors including vehicles, financial and insurance services and processed foods and the overall removal of non-tariff barriers and increased transatlantic regulatory coherence.

We are working to an ambitious timescale. Both EU and US officials have stated their commitment to concluding the agreement within 18-24 months. This will not be easy, given the numerous politically sensitive issues discussions will cover (e.g. GMOs) and the level of regulatory integration that will be required. But we are optimistic, given the level of ambition on both sides of the Atlantic.

In terms of process, the United States Trade Representative's (USTR) 90 day Congressional consultation period has passed. With the EU mandate agreed, we're free to start talking. The first negotiating sessions are scheduled for July. The Commission will provide more detail on the schedule of negotiations in due course. Our focus is on ensuring that the Commission represents the UK interests as best as possible.

We will keep the Committee informed as negotiations progress.

*25 June 2013*

### **Letter from the Chairman to Lord Green of Hurstpierpoint**

Thank you for your letter of 25 June 2013 on the EU-US Transatlantic Trade and Investment Partnership (TTIP). It was considered by the House of Lords External Affairs Sub-Committee at its meeting of 4 July.

The Committee is grateful for the regular updates. We would like to inform you that we will shortly be launching an inquiry into the TTIP. Therefore, we would indeed welcome being kept informed of the progress of the negotiations.

We do not require a response to this letter.

*9 July 2013*

### **Letter from Lord Green of Hurstpierpoint to the Chairman**

Thank you for your letter of 9 July.

The negotiating mandate for the Transatlantic Trade and Investment Partnership (TTIP) is ambitious and enables Commission negotiators to engage on a wide number of chapters. The mandate will

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 30

enable the TTIP to be ambitious, comprehensive and fully consistent with World Trade Organisation rules.

The negotiations will cover three major themes, namely (i) market access, (ii) regulatory issues and (iii) rules and standards. The market access talks will cover trade in goods, trade in services, investment protection and public procurement. Within the negotiations, the Commission negotiators will aim to eliminate duties, eliminate excessive regulatory barriers to trade and improve rules and standards. The deal will also ensure a continued level of protection for both environmental and labour rights and standards and promote sustainable development.

I am also writing to confirm that the UK 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) when the Council Decisions to sign and conclude the Agreement are published.

Negotiations for the TTIP have now begun. The first round began on 8 July with a strong team of negotiators from across the Commission travelling to Washington. To prepare the ground, Commission officials arrived with a range of concept papers to facilitate discussions at this early stage of negotiations. The Commission had prepared thoroughly for this round.

Discussions covered both process, establishing the structure of the negotiations, and substance, with each side walking the other through initial thinking on the appropriate level of ambition and the approaches taken to issues in the past. On process, negotiations were organised into twelve working groups, plus several sectoral discussions, although this was without prejudice to the shape of the final agreement. USTR (with State Department alongside) and DG Trade led each working group with the exception of the discussion on financial services regulation, where US Treasury led with DG Market. It appears to have been a productive first round of discussions, with both sides coming away happy. Two more negotiating rounds are scheduled for this year.

As previously mentioned, I will write to the Committees to update you on progress in negotiations as developments occur.

29 July 2013

## EUROPEAN DEFENCE AGENCY (EDA) STEERING BOARD (UNNUMBERED)

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

As you are aware, I attended the European Defence Agency (EDA) Steering Board on 23 April. On 18 April, I wrote to your Committee notifying you about the topics to be discussed and the position the UK intended to take on each. This letter provides a post-Steering Board update on the discussions and UK positions taken.

#### CYBER DEFENCE

The Steering Board tasked the Agency to explore ad hoc projects with particular focus on cyber defence training, exercises and testing. The Agency aims to work collaboratively to develop cyber defence technologies and submit recommendations by Autumn 2013. As mentioned in my previous letter, the UK has no plans to participate in these cyber defence activities and maintains that this should remain a sovereign capability. However, we do see merit in the EDA developing a basic introduction and awareness package for smaller Member States and in work on cyber recovery which has the potential for civilian dual use. I stressed the importance of ensuring that any Agency proposals on cyber should be de-conflicted and complementary with NATO's Centre of Excellence in Tallin.

#### MILITARY SATELLITE COMMUNICATION (MILSATCOM)

The Agency was tasked to examine how jointly-funded activities could be launched on Future Governmental Satellite Communications. In particular, the EDA is developing the pioneering project Secure Telecom by Satellite (SECTELSAT), which suggests possible savings that could be achieved through an inter-governmental approach. The UK made no commitment to join this initiative.

#### Remotely Piloted Aircraft Systems (RPAS)

The Steering Board supported the Agency's co-operative approach on RPAS and endorsed a pioneer initiative. As mentioned in my previous letter, the UK does not wish to participate in this programme.

#### AIR-TO-AIR REFUELLING

I made a statement to the Steering Board outlining UK plans to offer unallocated Voyager hours to help meet European capability shortfalls. From late 2013, we aim to commence the process of clearing overseas receiver aircraft to be able to refuel from Voyager. This will initially be prioritised towards those nations and aircraft engaged in operations in Afghanistan. This opportunity is potentially a cost-effective way to share existing capability and allow partner nations to avoid the capital investment and risk inherent in future acquisition projects.

In addition to our statement, the EDA used the meeting as an opportunity to provide an update on the progress made on its Pillar 4 work strand. This is a procurement strand to provide a Multi-Role Tanker Transport (MRTT) capability from 2020. The proposal builds on a Letter of Intent signed by nine Member States, led by the Netherlands. Whilst the UK has no interest in this particular strand of work we continue to act in an advisory role, along with our French counterparts.

#### ESTABLISHMENT OF A CATEGORY A PROGRAMME IN SINGLE EUROPEAN SKY AIR TRAFFIC MANAGEMENT (SESAR)

Defence Ministers agreed to establish a Cat A programme on the military implementation of SESAR. The UK continues to support EDA's work on SESAR and is keen to ensure continued engagement and collaboration with NATO and EUMS to mitigate the significant financial and operational risks.

*16 May 2013*

#### **Letter from Dr Andrew Murrison MP to the Chairman**

I attended the Foreign Affairs Council in Defence formation (FAC(D)) and the European Defence Agency (EDA) Steering Board on 19 November 2013. The confirmed agenda was released to Member States just a few days before the meeting and so there was insufficient time to provide the Committees with our policy position on the agenda prior to the Steering Board. I am now writing to inform you of the positions I took on each of the items and subsequent decisions taken.

The Steering Board agreed the EDA work programme 2014. In addition, the Steering Board endorsed roadmaps on Air-to-Air Refuelling, Governmental Satellite Communications and Remotely Piloted Air Systems.

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

#### EDA WORK PROGRAMME 2014

The work programme for 2014 encompasses projects endorsed by the Steering Board in Air-to-Air Refuelling, Governmental Satellite Communications and Remotely Piloted Air Systems. In addition, it sets the roadmaps for implementation of the Research and Technology Strategy, improved European Armaments Cooperation and European Defence Technological Industrial Base Strategy. While efforts have been made to better prioritise the Work Programme, the UK believes further work is required and will continue to pursue greater cooperation between NATO and EU capability planning.

#### AIR-TO-AIR REFUELLING

The EDA Steering Board endorsed a roadmap on Air-to-Air Refuelling to increase overall European capacity, reduce fragmentation of the fleet and optimise the use of existing assets. UK involvement is limited to the optimisation of existing assets, through the offer of unallocated capacity in the RAF's core fleet of Voyager aircraft, subject to contracting arrangements, to other nations to help reduce their shortfall. Thus far the UK has received offers from all five nations with compatible aircraft (France, Germany, Italy, Spain and Sweden). The UK is now exploring commencing receiver trials with these nations in Spring 2014.



## REMOTELY PILOT AIR SYSTEMS

The UK does not intend to participate in the development of a European Medium Altitude Long Endurance (MALE) Remotely Piloted Air System (RPAS). However, not wishing to block other Member States' intention to pursue this initiative, the UK has endorsed a Common Staff Target as the basis for those Member States who wish to participate in the subsequent programme to develop a Common Staff Requirement. While the UK does not intend to participate in the programme to develop a European MALE RPAS, we do see some merit in shared RPAS research, including Air Traffic Insertion (ATI) to allow the operation/transit of future RPAS through Civil airspace. To that end, I signed the Programme Arrangement for a Joint Investment Programme on RPAS ATI in the margins of the Steering Board.

Governmental Satellite Communications: The Steering Board endorsed a roadmap, developed in cooperation with Member States, the European Commission and European Space Agency to address the disaggregation of existing Member States' capabilities beyond 2018. UK involvement is limited to participation in the GOVSATCOM Users Group alongside Germany, Estonia, France and Italy to exchange lessons learnt. The current UK priority is discussing future SATCOM requirements with France before looking at wider opportunities. It is likely that the UK will be able to encourage other Member States to align with UK-French requirements and timelines through our participation in this forum.

In the margins of the Steering Board, Ministers of the concerned Member States signed the following agreements: "Programme Arrangement on Joint Investment Programme on RPAS ATI", "Programme Arrangement on Helicopter Training Course Programme", "Letter of Intent to establish a European MALE RPAS Community", and a "Letter of Intent to establish a GOVSATCOM Users Group".

## ENCLOSED DOCUMENTS FOR SCRUTINY

The MOD usually submits for scrutiny key documents pertaining to the workings of the EDA, namely the Head of Agency report (which is enclosed with Explanatory Memorandum), the annual budget proposal within a three year Financial Framework and European Council guidelines to the EDA.

This year the Council's guidelines have been replaced by the Foreign Affairs Council (FAC) conclusions, which will be submitted through my colleagues in the Foreign and Commonwealth Office in due course.

There has also been a change in the presentation of the EDA budget proposal. The High Representative (HR), in her capacity as the Head of the EDA, submitted the EDA budget proposal using a different approach, derogating from Article 4(4) of Council Decision 2011/411/CFSP by proposing a one-year budget only. The draft budget report was released on a confidential basis. However, in the interests of transparency I enclose a copy (with Explanatory Memorandum) for scrutiny, on the understanding that this will not be released to the public until such time as I receive the consent of the European Commission.

You should note, however, that this proposed 2014 budget, which called for zero 'real' growth, i.e. an increase of €31.6M to account for inflation, will not now be adopted. Following my intervention at the FAC(D) on 19 November, the UK has successfully frozen the budget for the fifth consecutive year. We have consistently argued that the EDA should be realistic about its budget, given the ongoing decline in defence spending by all Member States.

A new budget will be issued by the EDA shortly based on this decision in FAC(D) and I shall write again once I have received the revised document (which will be releasable).

22 November 2013

## EUROPEAN DEVELOPMENT FUND (11672/13)

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

The EU Sub-Committee on External Affairs considered the above document at its meeting of 12 September 2013.

We are content the clear this document from scrutiny but would be grateful if you could inform us how the 11th European Development Fund will encourage the local private sector in ACP countries, and the possible impact on the UK private sector in turn?

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 33

We would appreciate your response to these questions within the standard ten working days.

12 September 2013

### **Letter from Lynne Featherstone MP to the Chairman**

Thank you for your letter of 12th September and for your questions on the role of the 11th EDF in encouraging the development of the private sector in African, Caribbean and Pacific (ACP) states and the impact on the UK private sector.

The last ACP Council of Ministers 3rd–5th June reiterated the critical role that the private sector has to play in the social and economic development of the ACP States and Regions, and reemphasised their continued commitment to this sector. They have mandated the ACP Committee of Ambassadors to develop a new strategy for private sector development (PSD) in ACP States and Regions, which Member States will be given the chance to comment and input on in the coming months.

The programming processes for national and regional programmes under the 11th EDF are on-going. Whilst country strategy papers and multi-annual indicative programmes will not be agreed until early 2014, early indications are that PSD will feature as a separate focal sector for a number of ACP countries. The Commission have indicated that PSD will be incorporated into other focal sectors as a priority cross cutting issue: for example, in the agriculture sector, support might be provided to help Small and Medium Enterprises (SME) access markets; in the governance sector, actions to address constraints to PSD should be considered.

The Commission have also advised Member States that PSD will be a primary focus of regional programmes, which aim to enhance economic integration and cooperation: building larger markets, the free movement of persons, goods, services and capital, and the gradual integration of ACP States into the world economy. For this, investment will be made in economic infrastructure including transport, energy, and information technology.

A separate instrument aimed specifically at Private Sector Development is the European Investment Bank's (EIB) Cotonou Investment Facility (IF); a revolving fund seeded from the 9th, 10th and 11th EDFs. Through the Investment Facility the EIB targets the development of local private and financial sectors as well as social and economic infrastructure in the ACPs. The EIB can provide low interest rates and longer maturities, enabling it to target private sector clients who would have difficulties raising capital on local financial markets.

You also asked about the impact on the UK private sector. There is clearly a significant scope for impact which may not be directly quantifiable here. However, efforts towards a better business environment in ACP states should be welcomed by UK companies operating there. In addition, as under EDF10, UK companies will be eligible to participate in EDF-funded procurement contracts for services, supplies and works, including those related to PSD.

The UK is also supporting Economic Partnership Agreements (EPAs) which are development-focused trade agreements currently being negotiated between the EU and ACP countries. An EPA provides the best available legally-sound means for ACP countries to continue to benefit from duty-free quota-free access into the EU market. In turn, ACP countries are required to gradually liberalise 80% of their markets over 15-25 years. EPAs can help neighbouring countries to build manufacturing clusters and promote employment, increase international competitiveness and strengthen the role of ACP countries in global supply chains. This should present improved opportunities for UK companies working in ACP country markets.

In general, as under EDF10, UK companies will be eligible to participate in EDF-funded procurement contracts for services, supplies and works, including those related to PSD. Whilst figures are not available for the amount of awards to UK companies under EDF10, there are an important number operating within the development sector and indeed within PSD too.

26 September 2013

## EUROPEAN EXTERNAL ACTION SERVICE REVIEW (UNNUMBERED)

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

At its meeting of 10th October the EU Sub-Committee on External Affairs considered the above document and cleared it from scrutiny. We would like to take the opportunity to highlight our concerns about the functioning of EU Special Representatives (EUSRs) and hope you will take them forward in your discussions on the future of the EEAS.

We reiterate the recommendation we made in our report on the EEAS (11th Report, 2012-13 Session, HL Paper 147) that while the EU Member States have to observe budgetary restraints, there should be zero real growth in the EEAS budget, and that salaries should be rigorously reviewed, in particular the high pay-scales of EUSRs which in our view merit reconsideration. We continue to have concerns about how well this House, and other national parliaments, are able to exercise a scrutiny function over EUSRs. As you will be aware we were given insufficient time to properly scrutinise the renewal of their mandates and at present have little opportunity to judge how the individuals are performing or whether structural changes, such as the amalgamation of the posts for the Horn of Africa and Sudan/South Sudan, are effective. We urge you to encourage the EEAS to engage actively with national parliaments and we reiterate our past recommendation that EUSRs should be able to appear before national parliaments.

We hope you will be able to raise these issues during the course of the review of the EEAS, and look forward to receiving an update on those discussions in due course.

*10 October 2013*

## EUROPEAN UNION SPECIAL REPRESENTATIVE FOR THE HORN OF AFRICA (UNNUMBERED)

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

I promised to provide additional budgetary information on the Council Decision extending the mandate of the European Union Special Representative for the Horn of Africa. This additional information is set out below, and the attached annex [not printed] provides more precise detail on last year's budget and the four-month budget for the proposed extension. The Decision on the extension of the EUSR's mandate is currently under consideration ahead of the mandate expiry date of 30 June 2013.

The UK has scrutinised the budget very closely. We have argued throughout negotiations of this EUSR extension for cost effectiveness and, where appropriate, cost reductions.

#### **EUSR FOR THE HORN OF AFRICA – ADDITIONAL BUDGET INFORMATION**

##### **FINANCIAL IMPLICATIONS**

In June 2012, a Council Decision set a budget of €4,900,000 for twelve months for the EUSR to carry out his mandate. Precise final figures are not yet available for the total expenditure in the past twelve months since the mandate does not expire until 30 June and it will take some time for accounts to be settled. We do know that there is an estimated underspend of €726,201.

Savings have been found in the budget, largely because the original budget allocated included €2,715,030 to pay for the establishment of an EU presence in Mogadishu International Airport. However, the EUSR set up a lease agreement with the UN for office space and accommodation, which led to substantial savings of €683,957. More detail is set out below and the full budget is in the attached annex [not printed]. Other savings totalling €42,244 were found in personnel and accommodation costs.

The Council Decision to extend the mandate for the EUSR by four months will cost €683,957. It will be funded entirely from last year's underspend of the budget. Any funds committed and not used over the next four months will be recovered at the end of the mission's mandate period.

The UK has reserved final approval of the Decision until the UK Parliamentary Scrutiny Committees have considered the proposal and – we hope – cleared the Decision. My officials and I stand ready to

provide any further information required to assist your Committees in their consideration of this item.

Detail of proposed budget for four months, less contingency (July-October 2013 inclusive):

Personnel expenditure - €298,299: this is in line with last year's budget. The budget covers the salaries and daily allowances of the EUSR and ten staff.

Missions - €159,580: this covers travel, accommodation and daily expenses. There is a 21% higher rate of spend anticipated for these four months than in last year's budget. The European External Action Service (EEAS) have confirmed two reasons for the higher rate: the experience of last year has shown that the team spend much more time travelling than first envisaged; and flight and accommodation costs were previously underestimated.

Running expenditure - €177,800: a 12% lower rate of spend compared to last year's budget. This covers costs for office support, including equipment and supplies, IT services and office rent. The decrease is largely because no security costs have needed to be factored in, since the EUSR's office has been co-located with the UN and benefits from their security arrangements. The EUSR's lease agreement costs are reflected in this section; rent of office space and accommodation total €59,500 for four months.

Capital expenditure - €44,677: this will pay for an armoured vehicle and additional communications equipment.

Representation - €3,600: this is in line with last year's budget. This covers costs related to catering and entertainment for functions with host governments.

Contingencies - €151,288: a contingency of 3.19% was been written into the budget. The contingency was not used and will roll over into the next mandate. This is in line with other EUSRs; the contingency reserve can only be used with prior written approval by the EU Commission. We do not judge that this contingency will be used, but will ensure that Member States are consulted before the EU Commission provides written approval.

26 June 2013

### **Letter from David Lidington MP to the Chairman**

In my Explanatory Memorandum of 4 October, I promised to provide additional budgetary information on the Council Decision extending the mandate of the European Union Special Representative (EUSR) for the Horn of Africa. This additional information is set out below, and is supported by the Budgetary Impact Statement attached as an annex [not printed]. Your Committee has already cleared this Council Decision.

The UK has scrutinised the budget very closely, and raised your Committee's concerns with the Commission about the merging of mandates and costs of EUSRs to make sure that the EUSR represents value for money. The total cost for this mandate for twelve months is €2,720,000 which represents a saving of €4,080,000 from last year's respective mandates (€4,900,000 for the EUSR for the Horn of Africa and €1,900,000 for the EUSR for Sudan and South Sudan).

We judge that the significant savings achieved within this budget is a very good result, and is as low as it could realistically go. However, we will keep this under review to ensure the EUSR has the resources required to fulfil the mandate.

### **EUSR FOR THE HORN OF AFRICA – ADDITIONAL BUDGET INFORMATION**

#### **FINANCIAL IMPLICATIONS**

Details of the budget for twelve months (November 2013 to October 2014):

- Personnel expenditure = €1,295,068: The budget covers the salaries and daily allowances of the EUSR and fifteen staff. The EUSR will keep his nine staff from the previous mandate, and take on an additional six staff who were previously deployed under the EUSR for Sudan and South Sudan mandate.

- Missions = €528,560: This covers travel, accommodation and daily expenses. This takes into account lessons learnt from the previous mandate which saw an overspend due to underestimates in the amount of travel staff would undertake, as well as flight and accommodation costs being underestimated. We judge that this is a realistic forecast for the new mandate.
- Running expenditure = €824,880: This covers costs for office support, including equipment and supplies, IT services and office rent for offices in: Brussels, Juba, Khartoum, Nairobi (co-located with the EU Delegation) and Mogadishu (space rented from the UN).
- Capital expenditure = €18,399: This has been earmarked to pay for eventual replacement of communications and security equipment.
- Representation = €14,400: This covers costs related to catering and entertainment for functions with host governments, at a rate of €1,200 per month.
- Contingencies = €38,693: A contingency reserve of 1.44% has been written into the budget. This is in line with other EUSRs; the contingency reserve can only be used with prior written approval by the EU Commission. We do not judge that this contingency will be used, but will ensure that Member States are consulted before the EU Commission provides written approval.

21 November 2013

## EUROPEAN UNION SPECIAL REPRESENTATIVE FOR SUDAN AND SOUTH SUDAN BUDGET (UNNUMBERED)

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

I am writing to share with your Committee the attached budget [not printed] for the EU Special Representative for Sudan and South Sudan, which should be considered along with the explanatory memorandum submitted on 18 June 2013.

I also include below a financial breakdown of the budget which my officials have prepared for your committee's consideration.

#### FINANCIAL IMPLICATIONS

- A budget of €690,000 has been agreed to cover the cost of the EU Special Representative for Sudan and South Sudan, her activities and those of her advisers and other associated staff. The budget covers four months, as the role is to be merged with the EUSR for the Horn of Africa. It includes costs associated with closure of the mission.
- The total of €690,000 represents a reduction of €40,000 on the original proposal put forward by the EEAS. Along with other Member States, UK representatives argued that closure costs were too high, particularly bearing in mind the transfer of responsibilities to the EUSR for the Horn of Africa. Any additional costs relating to the conduct of the mandate in its new format will be included in a revised budget for the EUSR for the Horn of Africa from October 2013.
- If the closure costs are excluded, the budget represents a reduction of around 10% in the cost for an equivalent period of the budget in 2012. There will be a significant overall saving to the CFSP budget from the merger of the two EUSR mandates, although the exact size of this saving will not be clear until a proposal is made on additional costs to the EUSR for the Horn of Africa related to any additional work on Sudan and South Sudan.

#### DETAIL OF PROPOSED BUDGET:

- Personnel expenditure = €291,388: The budget covers the salaries of the EUSR, as well as two members of administrative staff in Brussels and four in Sudan and South Sudan. It also covers the daily allowances of four Political Advisors seconded by EU institutions/ MS, and insurance for the EUSR and travelling members of the team. The salary level of the EUSR was not open to challenge in the negotiation of the individual mandate, but salary levels for EUSRs in general will form part of future horizontal negotiations. An incremental increase in the EUSR's basic salary, and removal allowance on termination, are additional costs related to contractual obligations.
- Missions = €157,032: This item covers transport, accommodation and other costs for duty travel by the EUSR and her staff. We assess that the level of travel envisaged is consistent with the EUSR continuing to carry out her mandate to promote dialogue and provide support to the various international processes relating to conflicts between and within Sudan and South Sudan. Travel is planned to both Sudan and South Sudan, to countries in the region, and to other central actors such as the US and Middle Eastern countries.
- Running expenditure = €90,245: when considered against last year's monthly budget this constitutes a decrease of 23%. It covers costs for areas such as office support, equipment and supplies, IT services, office rent, interpretation, training, security services, financial and audit costs. We welcome the efficiencies anticipated in this figure.
- Capital expenditure = €400: This is earmarked to replace two obsolete phones. We would expect that these items would transfer with the mandate and continue in use beyond the four month period of the budget.
- Representation = €2,400: This is in line with last year's budget of €600/month to cover representational costs. It is appropriate for the EUSR to be able to carry out moderate levels of representational work to support her access and influence with a range of actors.
- Closure costs = €125,639: This is a new budget area in order to close the mandate of the EUSR for Sudan and South Sudan. This area of the budget was looked at closely by the UK and Member States as the original budget draft was higher. For instance, the UK emphasised the need to transfer equipment over to EUSR Horn of Africa or other uses, rather than disposal. This budget area covers severance pay, which is legally required under contracts for local staff, and a financial officer for a fixed period of time to oversee the proper termination of all aspects of the mission.
- Contingencies = €22,896: The contingency reserve has been increased slightly from 2.97% to 3.32% of total costs. Given the possibility of unpredictable changes related to the ending of the mandate, this increase in contingencies may be sensible. In any event, this contingency reserve can only be drawn from by the mission with prior written approval from the EU Commission.

26 June 2013

#### EUROPEAN UNION SPECIAL REPRESENTATIVE FOR SUDAN (UNNUMBERED)

##### **Letter from Chairman to David Lidington MP, Minister for Europe, Foreign and Commonwealth Office**

The Sub Committee on External Affairs at its meeting on 27 June considered the documents extending the mandates of the EU Special Representatives for Bosnia and Herzegovina, Human Rights, the Sudan and South Sudan, the Horn of Africa and the Middle East Peace Process. The Sub-Committee cleared them from scrutiny, with the exception of the document on the EUSR for Sudan and South Sudan, which was retained under scrutiny. The documents on the EUSRs for the Southern

Mediterranean region, Central Asia, the African Union, Afghanistan and the South Caucasus and the crisis in Georgia, which were cleared at the sift, were also discussed at the meeting.

The Sub-Committee would like to thank you for the helpful background provided by your officials at the meeting. However, it expressed dismay that the documents had been received so late, given that the existing mandates expired on 30 June 2013. Members therefore had little time to consider the documents properly in advance of the deadline. We know that you have informed Baroness Ashton of the need to provide draft Council Decisions to ensure sufficient time for parliamentary scrutiny and I am writing also to her to express our disappointment at the way in which the EUSR draft Decisions have been handled.

In the case of Sudan and South Sudan, the Sub-Committee wondered whether the merger of the mandate with that of the mandate for the Horn of Africa was wise, even with a delay of four months, given that both areas remain fragile on the political and security fronts. The Committee has taken a close interest in the region and has published reports on both Sudan and Somalia, and believes that it is premature to decide on a reduction in the EU's coverage of the area. If there is a strong case for maintaining the high level of EU commitment represented by the EUSR in the coming months (paragraph 18 of your EM) then this commitment should remain until it is clear that the situation has indeed stabilised.

I look forward to hearing from you in the standard ten working days.

*1 July 2013*

#### **Letter from David Lidington MP to the Chairman**

I am writing to respond to your letter dated 1 July 2013 regarding your Committee's consideration of the mandate for the EUSR for Sudan and South Sudan.

I regret that the committees were not provided with the necessary information in a timely manner. I take Parliament's entitlement and responsibility to properly scrutinise EUSR mandate renewals extremely seriously, and I share your disappointment with how the EEAS has handled the matter. This mandate in particular was delayed because the High Representative had originally proposed not to extend the current mandate beyond 30 June, and therefore did not put forward a proposal in relation to it. It was only after it became clear that Member States were united in their opposition to the immediate ending of the mandate that a proposal was put forward for discussion and agreement, and that work started on drawing up a budget.

Once the budget was submitted to the RELEX Working Group, a number of items were queried by Member States, requiring further revision and resubmission. This added to the delay and meant the mandate and budget only became available for scrutiny in the week before the EUSR's mandate was due to expire on 30 June.

Turning to the key question put in your letter of 1 July – whether it is wise at this juncture to merge the mandates of the EUSRs for the Horn of Africa and for Sudan/South Sudan, and whether this would result in any lessening of the high level of EU commitment needed in the coming months. In my view, we can merge these mandates and still maintain a high level of attention provided that the EUSR's activities are tightly focused and prioritised.

We believe that the EUSR's focus should be on the remaining issues between the two countries following the South's secession and that internal matters in the two countries should increasingly be led not by the EUSR but by the EU delegations and Member State embassies, now that there is full EU representation in both capitals. It is also worth noting that some policy priorities, such as Darfur, may benefit from this different type of attention by EU resources, with a shift in focus to implementation of agreements rather than internationally-mediated negotiation. Member States will shortly be discussing a revised strategy for Sudan and South Sudan which will help to identify these key priorities for the EUSR, and a sensible division of labour with other actors.

The future mandate and resources of the EUSR for Horn of Africa should take account of how events develop in practice over the coming months, including whether the various international mediation processes relating to Sudan and South Sudan have made more substantive progress. We now have a set of agreements between Sudan and South Sudan signed in September 2012, which if fully implemented would lessen the need for the same level of constant international pressure. Although progress towards that implementation has been slow so far, international engagement on the two sides is already of a different nature to the intensive negotiations that characterised the period between South Sudan's secession in July 2011 and the September 2012 agreements. The African Union, which leads the international mediation, is also reviewing the way it manages its involvement,

and is possibly planning a similar shift to a broader regional focus when the mandate of its mediators expires at the end of July.

The High Representative and her staff will need to consider carefully how the enlarged responsibilities of the EUSR will be managed, so that the EU can maintain its high level of engagement on both Somalia and the Sudans – I strongly agree with you that this is extremely important in both parts of this region, given the political and security situation. I will encourage the High Representative to begin work on this immediately, so that we are well prepared for the decision before the four month extension to this mandate expires, and that the EU institutions give sufficient time for Parliamentary scrutiny. I will ensure that these questions are also fully addressed in a future Explanatory Memorandum on any Council Decision to merge the two mandates.

I thank you and your Committee for your engagement and understanding in this matter. Thorough and timely Parliamentary scrutiny of the EUSRs and their mandates is vital. I am deeply disappointed that the EEAS did not provide the documentation with sufficient time to allow this take place – despite the UK consistently urged them to do so, from very early on in this process.

*5 July 2013*

#### **Letter from the Chairman to David Lidington MP**

Thank you for your letter, dated 5 July 2013, on the renewal of the mandate of the EU Special Representative for Sudan and Sudan. The House of Lords European Union Sub-Committee on External Affairs considered this document at its meeting on 11 July 2013.

We are grateful for your response to our queries, and are now content to clear the document from scrutiny. We are grateful for your commitment to address our concerns in a future EM on any Council Decision to merge the mandates of the EUSRs for the Horn of Africa. In light of the difficulties with the EUSR mandate renewals in recent weeks, we would stress to you the importance of ensuring that we are given sufficient time to scrutinise this proposal.

On the EUSRs more generally, we would also stress the importance of ensuring that the Committee is kept informed of all significant developments.

*15 July 2013*

#### **EUROPEAN UNION SPECIAL REPRESENTATIVES: RENEWING THE MANDATES (UNNUMBERED)**

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

I am writing to let your Committee know of plans to amend the mandates of nine of the current twelve EUSRs that will end on 30 June 2013. Before writing, I wanted to ensure we had made progress in the PSC, where we have been arguing for changes to some of the proposals on EUSR mandates.

On 3 May High Representative for Foreign Affairs Baroness Ashton proposed changes to the current EUSR arrangements for this year's round of mandate renewals. (Her letter is enclosed) [not printed]. I welcome the fact that Baroness Ashton is thinking seriously about keeping EUSR mandates under close review and is willing to flex them with respect to changing circumstances. My officials have made clear it is vital that EUSRs represent value for money and deliver tangible outcomes for the EU - and there should be appetite for ending mandates when objectives have been achieved, or EUSRs are not fulfilling mandates. We have therefore welcomed the broad approach.

However, these proposals were presented at short notice and close to the mandate renewal date. In addition, we and other Member States disagreed with some of the proposals made, for example that certain EUSR mandates should not be renewed. Baroness Ashton did, after due consideration, amend the proposals and agreement on the final set was only reached in the PSC late on 7 June.

I regret this delay in getting draft mandates to you. My officials have made clear, on repeated occasions, the need for all Council Decisions authorising mandate and budgetary renewals to be scrutinised by your committees, and that the EEAS should give you ample time for that. I intend to write to Baroness Ashton once the mandate renewal process is completed, to comment on the process for mandate renewals this year, and specifically to remind her of the need to give Parliament enough time for scrutiny.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 40



On the substance of the mandate renewals, they are currently under discussion by technical and legal experts in Brussels, and you will shortly be receiving the relevant Explanatory Memoranda. I am pleased to report that pressure from the UK has resulted in reductions in proposed budgetary costs. We will continue to ensure value for money in the coming days.

You may recall that we have long pushed for, and the EEAS has long promised, a horizontal review of EUSRs. The PSC has now agreed that a discussion on EUSR policy shall take place in October, including on the procedure for renewing EUSR mandates. Further to that discussion the EEAS will make a proposal for a review of EUSR guidelines.

I hope this is useful. My officials stand ready to brief you in more detail to address your concerns either in writing or in an oral briefing, if that would help with your deliberations.

11 June 2013

### **Letter from David Lidington MP to the Chairman**

On 11 June I wrote to let your Committee know of plans to amend the mandates of nine of the current twelve EUSRs that will end on 30 June 2013. All Explanatory Memoranda (except that for Kosovo, the mandate for which has only recently been agreed in RELEX) have now been provided to your Committee for consideration. I want to thank you for your Committee's flexibility and willingness to look at these at very short notice, so close to the deadline.

As you are aware, the shortage of time has arisen from EEAS handling, despite consistent pressure from the UK to start the process of mandate renewal as early as possible. It remains the case that I intend to write to Baroness Ashton once the mandate renewal process has been completed, to stress the importance of allowing sufficient time for Parliamentary scrutiny.

#### **SUMMARY**

I understand that mandates for the EUSR for Central Asia and the EUSR for Southern Mediterranean have cleared scrutiny in both the parliamentary Scrutiny Committees. The following EUSRs have been submitted and are awaiting clearance:

- Human Rights (following pressure from the UK in particular costs were significantly reduced from 59% to approx 9% increase for the budget for the coming mandate period),
- Horn of Africa (4 month no-cost extension to mandate, funded by an under-spend)
- South Caucasus (proposed 8% increase in costs now negotiated down to 5% at UK request),
- BiH (2% increase in costs which the UK considers justified given that the outreach and media activities will focus on addressing the impact of Croatian accession to the EU and attempt to shift perceptions of the BiH electorate ahead of the 2014 election),
- MEPP (UK negotiated down costs from 15% to 10%. The main increase in cost is due to a horizontal agreement on costs for satellite IT equipment),
- Afghanistan (a small percentage budget increase on personnel and running costs),
- South Sudan (5% savings made),
- Africa Union (100,000 Euro reduction from last year which some MS, led by the UK, pursued on the basis that the mandate should wind down),
- Kosovo (15% proposed budget increase now reduced to 9.9% following UK and French pressure. The majority of the increase is accounted for by the IT costs described for EUSR MEPP).

#### **INDIVIDUAL MANDATE RENEWALS – FURTHER INFORMATION**

On the substance of the mandate renewals, I hope you will find it helpful and timely to have an update on the discussions for those EUSRs which were considered in RELEX on 20 June.

## EUSR KOSOVO

Last year's budget for the EUSR office was settled at €2,410,000 for the 17 month mandate (equating to €1,701,176 for a 12 month period). The UK's assessment is that this represented value for money. When this year's proposed budget was first circulated, it represented a pro-rata increase of 25%. During several weeks of negotiations with the Commission, the UK pushed hard to reduce this, despite only having support from France. We have managed - in a RELEX meeting on 24 June - to drive down the budget to a 9.9% pro rata increase on last year's budget, totalling €1,870,000.

We judge this increase to be fair and representative of value for money. It takes into account a new IT cost which the EUSR has to pay to the EEAS (which accounts for the first 7% of the 9.9% budget increase). As of August 2012, the EUSR has to pay the EEAS a fee of €597.50 per person per month for each staff member to be able to use the EEAS satellite e-mail system, the EU Office network and have full access to the common database. This was agreed by Member States in May 2012, and is therefore an expected increase in running costs.

The remaining 2.9% of the budget increase is due to the enhanced role that the EUSR will play in Dialogue implementation in the north of Kosovo, a key UK priority. The EUSR team now has an increase of two staff for this purpose.

Following this revised budget proposal, an Explanatory Memorandum for this mandate is now close to completion, and will be with the Committee in the coming days.

## EUSR SUDAN AND SOUTH SUDAN

The UK has pushed for further clarity and reduction in proposed costs, particularly as this EUSR position will end in four months time. Negotiations have identified severance costs for locally employed staff which are set by Belgian labour law and cannot be avoided. Negotiations have therefore ended with a slight saving of 5% from the originally proposed budget. We judge that this is preferable to the original proposal to end the EUSR with immediate effect and without sufficient political or practical preparation.

## EUSR AFRICA UNION

UK and German officials have negotiated reductions in the proposed budget. It is now EUR100,000 less than last year, primarily coming from support cost reductions. Budget negotiations have now ended.

## EUSR AFGHANISTAN

This has been discussed in COASI since my last update, and I understand you have received the Explanatory Memorandum for the mandate renewal. In parallel, the Political and Security Committee (PSC) of 21 June endorsed Baroness Ashton's proposed replacement for the current EUSR: Mr Franz-Michael S. Mellbin, who has been nominated to succeed Mr. Vygaudas Usackas. Mr Mellbin's CV is attached [not printed]. PSC endorsement will proceed via RELEX, leading to a Council Decision on the appointment before the new EUSR starts work in September. We will provide you details on these developments as soon as we have them.

Although the announcement of the proposed EUSR Afghanistan replacement does not pre-empt the outcome of Parliamentary scrutiny of this mandate, I would have preferred that the mandate had been extended first. However, the process of identifying a successor to Mr Usackas has had to proceed in order to ensure proper continuity.

*25 June 2013*

## FIIJ- ARTICLE 96 COTONOU AGREEMENT (UNNUMBERED)

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

Last September I submitted an Explanatory Memorandum (EM) to your Committee and the House of Commons European Scrutiny Committee on 7 September 2012 regarding Fiji. The EM covered a Council Decision amending and extending the period of application of Decision 2007/641/EC concluding consultations with the Republic of Fiji Islands, under Article 96 of the Africa, Caribbean,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 42

Pacific – European Union (ACP-EU) Partnership Agreement and Article 37 of the Development Cooperation Instrument. At the time I advised that I would write to the Committee approximately half way through the extension with an update on the political situation in Fiji.

The political situation in Fiji continues to be difficult. In January 2013 the draft constitution, drawn up by the independent constitution commission, was scrapped by the Interim Fijian government and replaced with a new draft, prepared by government lawyers. The government held public consultations on this new draft. These have now closed. At the time of writing, it is not clear whether the people of Fiji had the opportunity to comment and indeed whether the authorities will take their views into account.

Given insufficient political progress against the benchmarks set out in the Council Decision, on issues such as holding parliamentary elections, respect for democratic principles, the rule of law, human rights and fundamental freedoms, the EU has put a halt on programming for Fiji for the next European Development Fund and postponed an Article 96 visit to the country planned for this spring. The EU will resume discussions around a visit when they judge that progress is being made against those same benchmarks.

Fiji has also been listed on the Foreign and Commonwealth Office (FCO) Annual Human Rights Report for both 2011 and 2012 as a country of concern. This is due to continued human rights abuses including allegations of torture and censorship of the media. My department and the British High Commission in Fiji continue to monitor carefully the human rights situation in the country.

UK/Fiji relations remain challenging. The FCO continues to work with international partners, particularly with Australia and New Zealand, to try and encourage a return to accepted democratic standards in Fiji.

30 May 2013

## FOREIGN AFFAIRS COUNCIL: 22 JULY (UNNUMBERED)

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

I am writing to inform you about the Foreign Affairs Council (FAC) held on 22 July, which the Foreign Secretary attended. The FAC was held in Brussels, and was chaired by the High Representative of the European Union for Foreign Affairs and Security Policy, Baroness Ashton of Upholland.

Commissioners Piebalgs (Development), Georgieva (International Cooperation, Humanitarian Aid and Crisis Response), and Füle (Enlargement and European Neighbourhood Policy) were in attendance for some of the discussions.

A provisional report of the meeting and Conclusions adopted can be found at:

[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/138317.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/138317.pdf)

#### INTRODUCTION - WATER DIPLOMACY

In her introduction Baroness Ashton raised the importance of water diplomacy given the increasing security risks that tensions and conflicts over access to water may bring. The FAC adopted Conclusions that welcome the EU water security mapping exercise initiated at the September 2012 Gymnich, highlight existing EU engagement on water security issues, and commit to increased upstream EU diplomatic efforts on the issue.

#### INTRODUCTION - BOSNIA-HERZEGOVINA (BiH)

Baroness Ashton set out EU efforts to overcome Bosnia and Herzegovina's (BiH) stalled progress on reforms, including over implementing the European Court of Human Rights' ruling on the Sejdic-Finci constitutional issue. Conclusions were adopted that give Council backing to the work of the EU Special Representative Peter Sorensen and his continued efforts to resolve the Sejdic-Finci issue with BiH's political leaders.

## INTRODUCTION – BURMA

Baroness Ashton said that the new EU Comprehensive Framework on Burma, on which I am writing separately to your Committee, would steer EU support for the reform process in the run up to the 2015 elections. The Council agreed Conclusions on the Comprehensive Framework. Baroness Ashton said that she would lead an EU-Burma Task Force to Burma in November, with Commissioners Tajani and Cioloş, and a delegation of MEPs and representatives of the EU business community.

## INTRODUCTION - EEAS REVIEW

Baroness Ashton noted that her 2013 Review of the EEAS would issue in the same week as the FAC. It would consist of some short and medium term reflections on the structure and functioning of the EEAS, as required by the 2010 EEAS Council Decision. She said she looked forward to hearing Member States' views on the Review in due course.

## AFRICA

Baroness Ashton said that Somalia continued to make progress, but that it remained fragile; the country would need EU support for some time. Looking ahead, the 16 September conference in Brussels would offer an opportunity to build on the progress made at the London conference, and to agree a New Deal Compact that would provide greater international coordination around the Federal Government's priorities. AMISOM was demonstrating success and would continue to play a critical role in stabilisation, and deserved continued EU support. The Foreign Secretary echoed Ashton's assessment that Somalia continued to make progress, and underlined the need to maintain engagement and momentum if further progress was to be realised: supporting AMISOM was therefore very important, including by identifying new sources of sustainable, long-term funding. Conclusions were agreed.

Turning to Mali, Baroness Ashton outlined the preparations for the country's Presidential elections on 28 July, including the electoral observation that the EU would undertake across the country, including in the north. The EU Training Mission was progressing well, and the EU was working with the UN and the Malian authorities on options for a possible advisory training mission for the country's internal security sector. Conclusions were agreed.

Baroness Ashton said that the EU effort in the Great Lakes Region was focussed on supporting the UN-brokered Peace, Security and Cooperation Framework and UN Special Envoy Mary Robinson. Like Somalia and Mali, the Great Lakes region was fragile. The EU's approach included a focus on security sector reform in the DRC within a widely-framed regional approach. Commissioner Piebalgs said the Commission was defining a solid development programme, including an energy initiative, and highlighted that it was a desperately poor region where donors could make a lot of difference. Conclusions were agreed.

## LEBANON

The UK called for the EU to list Hizballah's Military Wing as a terrorist organisation under Common Position 931/2001. An EU terrorist listing would provide tools to reduce the risk of future attacks and signal EU resolve. Ministers agreed to list Hizballah's Military Wing and published a Council and Commission Declaration reiterating the EU's commitment to Lebanese stability, and clarifying that EU funding and political contact would not be affected.

In taking this measure the EU has matched the UK's decision in 2008 to proscribe Hizballah's Military Wing as a terrorist organisation. An Explanatory Memorandum will be provided for scrutiny by the Committees in accordance with the recess timetable.

## EGYPT

Ministers discussed Egypt, noting recent developments with concern. Conclusions were agreed which call for a transition to a democratically-elected government, underlining the need for an inclusive political process, the release of political detainees, and efforts to address economic challenges, including via engaging the International Monetary Fund.

The Foreign Secretary emphasised the need for an inclusive political process, and the need to address the profound economic challenges. Ministers welcomed Baroness Ashton's recent visit to Cairo, where she met a wide range of actors. Baroness Ashton said that she had underlined the importance

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 44

of getting back to the democratic transition as swiftly as possible; the importance of the release of political prisoners; and the importance of an inclusive process.

#### HUMAN RIGHTS

The FAC noted the EU's increased visibility on human rights since the adoption of the Strategic Framework and Action Plan and the appointment of Stavros Lambrinidis, EU Special Representative for human rights, last year. Successes included last year's UN General Assembly Resolution on the death penalty; the appointment of human rights contacts in EU Delegations; work on Freedom of Religion and Belief; and support for human rights defenders. Baroness Ashton noted the shrinking space for civil society in countries such as Russia, Egypt and Ethiopia. Conclusions were agreed.

#### SYRIA

Over lunch, Baroness Ashton gave an oral report on the political process for Syria, as it had been agreed at the May FAC that she would report back to the Council by 1 August. The Foreign Secretary raised strong concerns over the deteriorating situation. Baroness Ashton reported the lack of progress on the political track and the Commission gave a detailed presentation on the deterioration of the humanitarian crisis and the need for a stepped up co-ordinated international response.

#### MIDDLE EAST PEACE PROCESS

In a short discussion ahead of a FAC video conference with US Secretary of State Kerry, Baroness Ashton updated on the US initiative. Conclusions were agreed which, as well as welcoming the US initiative, focused on reiterating EU messages on a two-state solution and EU support for the process both now, and in the event of a negotiated solution.

Ministers then held a video conference with U.S. Secretary of State John Kerry. Secretary Kerry gave an upbeat assessment of the process agreed with the Israelis and Palestinians. However, he said no date had been set for the initial Washington meeting between the parties. Mr Kerry also committed to coming to Brussels in the future to discuss the EU's role in the process.

#### EASTERN PARTNERSHIP

Ahead of the Eastern Partnership ministerial meeting that evening, Ministers discussed recent developments in the partner countries. They deliberated on the run-up to the Eastern Partnership summit in November and the prospects after it. The Foreign Secretary reiterated the UK's support for the Eastern Partnership as a platform for the promotion of reform and for cementing values and principles across political, economic and social sectors. We all needed to do more to inform the populations in the Eastern Partnership countries about how it could contribute to political, economic and social development, and to openness in their countries. The Vilnius summit would be an important moment; it should be about celebrating broader Eastern Partnership cooperation, not just focussing on signing or initialling agreements.

#### OTHER BUSINESS

Ministers agreed without discussion a number of other measures:

- The Council adopted the EU position for the thirteenth meeting of the EU - Kazakhstan Cooperation Council, to be held in Brussels on 24 July 2013.
- The Council adopted conclusions on Sudan and South Sudan.
- The Council took note of the fifth implementation report for Pakistan, covering the work of the EU and its member states towards greater coherence and complementarity in the EU's overall engagement with Pakistan.
- The Council endorsed the six-monthly progress report on the implementation of the EU strategy against the proliferation of weapons of mass destruction, covering activities from the first half of 2013. The Council also allocated EUR 750 000 from the EU budget to support action against the proliferation of weapons of mass destruction in implementation of UN Security Council resolutions 1540 (2004) and 1977 (2011). Workshops,

country visits, training and public relations efforts can be funded so as to enhance national and regional efforts and capabilities as well as the implementation of the specific recommendations of the 2009 comprehensive review.

- The Council amended the implementing legislation for the EU restrictive measures against the Democratic People's Republic of Korea, to take account of changes introduced by UN Security Council resolution 2094 (2013).
- The Council appointed Mr Franz-Michael Skjold Mellbin as EU Special Representative in Afghanistan.
- The Council amended the implementing legislation for the EU restrictive measures against Syria.
- The Council approved a position on the arrangements to be followed regarding the conclusion by the EU of memoranda of understanding, joint statements and other texts containing policy commitments with third countries and international organisations.
- The Council approved the EU position and draft agenda for the 10th meeting of the EU-former Yugoslav Republic of Macedonia Stabilisation and Association Council, to be held in Brussels on 23 July.
- The Council adopted the Council and Commission decision on the conclusion of the Stabilisation and Association Agreement between the European Communities and their member states, of the one part, and the Republic of Serbia, of the other part. The Council also established the position of the EU and the European Atomic Energy Community within the EU-Serbia Stabilisation and Association Council concerning a decision of that Stabilisation and Association Council adopting its rules of procedure.

I will continue to update Parliament on Foreign Affairs Councils as and when future meetings are held.

2 August 2013

## FOREIGN AFFAIRS COUNCIL: 21 AUGUST (UNNUMBERED)

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

I am writing to inform you about the special session of the Foreign Affairs Council (FAC) held on 21 August, which the Foreign Secretary attended. The FAC was held in Brussels, and was chaired by the High Representative of the European Union for Foreign Affairs and Security Policy, Baroness Ashton of Upholland.

Commissioner Füle (Enlargement and European Neighbourhood Policy) was in attendance for some of the discussions.

A provisional report of the meeting and Conclusions adopted can be found at:

[http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/138599.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/138599.pdf)

#### EGYPT

Discussion focussed on the grave and worrying situation in Egypt. All Ministers agreed that the levels of violence had been unacceptable and shocking, and that it was important that the EU help lead Egypt back towards a democratic path, through an inclusive political process leading to elections, the rule of law and respect for human rights. Ministers explored the range of factors at play and the various parties involved, and how the EU could best use its influence. The discussion then moved to actions that the EU should take in response and the considerations that needed to be weighed up.

The Foreign Secretary pressed for a strong response, highlighting the need for the EU to review the assistance that it provided Egypt to ensure that it was appropriate, whilst ensuring that the EU continues to support Egypt's economy and civil society.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 46

The Council agreed that the EU will review all its assistance, and will adjust its cooperation as necessary. There was also a discussion on export licensing and security assistance to Egypt. Ministers agreed that Member States would suspend export licences for goods that could be used for repression, reassess exports of military technology and equipment and review security assistance. Ministers and the EEAS noted that these were areas where the Member States would act within their own competence.

SYRIA

Baroness Ashton raised briefly the possible use of chemical weapons by the Syrian regime. After the FAC, she made a statement in line with a similar statement by the Foreign Secretary. [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/138601.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/138601.pdf)

28 August 2013

## FOREIGN AFFAIRS, DEFENCE FOREIGN AFFAIRS AND GENERAL AFFAIRS COUNCILS (UNNUMBERED)

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

I am writing to inform you about the Foreign Affairs, Defence Foreign Affairs and General Affairs Councils to be held on 18-19 November. I will attend the Foreign Affairs Council (FAC) on 18 November and the General Affairs Council (GAC) on 19 November. The Minister for International Security Strategy, Dr Andrew Murrison, will attend the Defence Foreign Affairs Council and the European Defence Agency Steering Board on 19 November. The FAC and Defence FAC will be chaired by the High Representative of the European Union for Foreign Affairs and Security Policy, Baroness Ashton of Upholland, and the GAC will be chaired by the Lithuanian Presidency.

FOREIGN AFFAIRS COUNCIL

INTRODUCTION - IRAN

Baroness Ashton is expected to report back to the Foreign Affairs Council on the E3+3 talks with Iran which took place 7-9 November in Geneva.

INTRODUCTION – SERBIA-KOSOVO

Baroness Ashton is likely to update Ministers on the EU-facilitated Serbia/Kosovo Dialogue and the 3 November elections in Kosovo. The UK is clear that Serbia's negotiating framework must ensure full normalisation before Serbia can join the EU. The UK welcomes Baroness Ashton's leadership on this and the progress made. We were pleased to see broadly successful municipal elections in Kosovo, but were disappointed with the violence that ensued in parts of the north. Adequate security in the north is a major concern, especially for election re-runs.

INTRODUCTION – BURMA

Baroness Ashton will brief the Council following the EU-Myanmar Task Force on 13-15 November which she led. In any discussion we will stress the importance of constitutional reform, given the ongoing work of the Burmese Parliamentary Constitutional Review Committee, due to report its recommendations by 31 January 2014.

EASTERN PARTNERSHIP

The Eastern Partnership discussion will focus on the preparations for the Vilnius Summit and will review Ukraine's progress in the areas of reform highlighted in the December 2012 FAC Conclusions. The UK is a firm supporter of Ukraine's European ambitions, and has made clear that progress towards a closer relationship with the EU requires Ukraine to demonstrate its commitment to EU principles including the rule of law. Ukraine is an important EU neighbour and a closer relationship between Ukraine and the EU would benefit both parties economically and politically.

## BOSNIA-HERZEGOVINA

October's FAC Conclusions committed Ministers to a discussion on Bosnia and Herzegovina (BiH) at the November FAC. The EU's current strategy is not working; we have not yet found a way to overcome the vested interests of BiH's political leaders or a political culture that is increasingly dysfunctional. The EUSR-facilitated talks aimed at resolving the Sejdīć Finci constitutional issue are continuing, but prospects for agreement look slim. We are keen to see a discussion that focuses on options for a revised and energetic approach which makes best use of the pre-election period and encourages the new Government to make progress.

## EU-CHINA SUMMIT

Baroness Ashton will provide an update on preparations for the EU-China Summit, scheduled for 21 November. She will hold a Strategic Dialogue with the Chinese on 20 November, with Barroso and Van Rompuy attending the Summit itself. The main deliverables for the Summit will be launching negotiations on an Investment Agreement and an "Agenda 2020" setting out areas for medium term cooperation. Agenda 2020 currently reflects UK priorities: trade, green growth, human rights and global issues.

## SOUTHERN NEIGHBOURHOOD

On Libya, we will encourage Member States to do all they can to support a lasting political settlement and emphasise the need for the Libyan Government and General National Congress to work together in leading Libya to achieve a stable and democratic political transition. We will encourage Member States to support international efforts to respond to Prime Minister Zeidan's request for assistance in addressing the destabilising impact of weapons proliferation. We will also emphasise the importance of the EU Border Assistance Mission in Libya in supporting Libyan efforts to manage its land borders, prevent perilous sea crossings and combat people smuggling and human trafficking.

On Syria, the UK is intensifying focus on convening the Geneva II talks for a political settlement in Syria as soon as possible, including by assisting the moderate opposition in its preparations. We are working with the UN and its Security Council to ensure aid reaches all across Syria, and we will encourage Member States to do all they can to implement the UN Presidential Statement on increased humanitarian access in Syria, and to contribute additional funding for humanitarian aid.

On Egypt, the FAC will discuss the latest developments on Egypt, including the trial of former President Morsi, and the possible lifting of the state of emergency.

Ministers will also consider migration in the Mediterranean, following the discussion at the European Council meeting on 24 October. There was widespread agreement that enhancing cooperation with countries of origin and transit must be central to future action, both to address the root causes of irregular migration and to tackle human trafficking and people smuggling. Steps to reinforce Frontex, the EU agency for managing operational cooperation at the external borders, activities in the Mediterranean were also considered. An EU Task Force has now been established to consider future action to address the problem of irregular migration in the Mediterranean: the UK will play a full part in this.

## JOINT MEETING OF THE FOREIGN AFFAIRS COUNCIL/DEFENCE MINISTERS: CSDP

Foreign and Defence Ministers will jointly discuss preparations for the European Council discussion on defence in December, and agree CSDP Conclusions on recommended outcomes for the European Council discussion of defence and security. We want this to focus on a package of practical measures that improve CSDP's cost-effective delivery and impact as part of the EU's 'Comprehensive Approach' to tackling conflict and its causes, working in a coordinated and complementary way with NATO. We want to maintain commitment to defence spending and progress collaborative projects that will enhance Europe's military capabilities for the benefit of EU and NATO. We also want the European Council to deliver a range of initiatives to improve competition and transparency that will support economic growth, including support for Small and Medium Sized Enterprises and access to EU Research and Development Funds.



## DEFENCE FOREIGN AFFAIRS COUNCIL

The FAC will be followed the next day by the European Defence Agency Steering Board and a meeting in Defence Ministers' format. Ministers will discuss preparations for the December European Council, European Defence Agency work programme and budget for 2014 and CSDP operations.

## GENERAL AFFAIRS COUNCIL

The GAC will focus on the preparation for the 19-20 December European Council; the next stage of the European Semester; follow-up and implementation of European Council conclusions; and the Commission will formally present their work plan for 2014. There will also be a read-out of the annual forum on the Baltic Sea Strategy which took place in Vilnius, Lithuania on 11-12 November and the annual forum on the Danube Strategy which took place in Bucharest, Romania on 28-29 October.

## PREPARATION OF THE 19-20 DECEMBER EUROPEAN COUNCIL

The General Affairs Council will prepare the 19 - 20 December European Council. I expect the agenda to be circulated shortly before the GAC. At this early stage the agenda looks likely to cover: defence, following on from the discussion at the 2012 December European Council; Banking Union; and possibly enlargement, depending on discussion at the December General Affairs Council.

## EUROPEAN SEMESTER

The GAC will also discuss the European Semester, which gives macro-economic and fiscal guidance to Member States, assessing implementation of the Compact for Growth and Jobs agreed by the June 2012 European Council. This particular discussion will consider the preparation for the European Semester in 2014 by looking at the Roadmap on the implementation of the 2014 European Semester. There will also be a presentation by the Commission on the 2014 Annual Growth Survey.

## FOLLOW-UP ON EUROPEAN COUNCIL CONCLUSIONS

The GAC plays an important role in ensuring that the actions mandated in European Council conclusions are delivered. We expect the Lithuanian Presidency to provide an update on progress on the strands of work highlighted in European Council Conclusions from 2013. The current strands of work which will also feature at the December European Council, following from the October European Council, are Economic and Monetary Union and taxation in the Digital Single Market. I will, in particular, be calling for rapid progress on the work to reduce the burden of regulation in the EU highlighted in the October European Council conclusions, but also for the GAC to have a more systematic approach to ensure progress on issues coming out of the meeting of Heads of State and Government.

## PRESENTATION OF THE COMMISSION WORK PROGRAMME FOR 2014

We expect the Commission to set out its recently published Work Programme for 2014. The programme includes live dossiers the Commission wants to prioritise before the end of the current European Parliament term next spring. It also includes a number of new proposals the Commission will introduce before its term ends in autumn 2014.

We welcome elements of the programme that reflect the growth and jobs agenda, such as the focus on continuing negotiations on the Transatlantic Trade and Investment Partnership with the United States and deepening the Single Market. One of our key guiding principles for the UK approach towards the proposals in the programme will be that national parliaments and governments are the primary source of democratic legitimacy across Europe.

## BALTIC SEA STRATEGY AND DANUBE REGION STRATEGY

There are two main macro-regional strategies currently in existence, the fourth Baltic Sea Strategy and the Danube Region Strategy. These macro-regional strategies are comprehensive frameworks for Member State cooperation that have covered a wide range of policy issues from maritime issues to the cross-border delivery of structural and cohesion funded projects.

For this item we expect the Lithuanian and Romanian Europe Ministers to provide an update on the annual forum on the Baltic Sea Strategy which took place in Vilnius, Lithuania on 11-12 November and the annual forum on the Danube Strategy which took place in Bucharest, Romania on 28-29 October.

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13 November 2013

FOREIGN AND COMMONWEALTH OFFICE: EU BUSINESS DURING PARLIAMENTARY  
WHITSUN RECESS 22 MAY TO 3 JUNE (UNNUMBERED)

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

This letter sets out EU activity which is subject to Parliamentary scrutiny and which the FCO expects may progress to decision just ahead of, during, or shortly after the forthcoming Whitsun recess. For the sake of clarity, it is divided into three headings: items which I and my officials hope can be cleared before recess begins due to their urgency and importance; items which may come up for urgent decision during or shortly after recess, but on which we have neither certainty on dates nor formal documents available for scrutiny yet; 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:

The Council Decision and budget establishing the EU Integrated Border Management Assistance Mission in Libya (EUBAM Libya) is intended to be adopted by written procedure on 17 May 2013. The aim of EUBAM Libya is to build the capacity of the Libyan authorities to enhance the security of their borders in the short term, and to develop a broader Integrated Border Management strategy in the longer term. An EM and accompanying letter have been submitted to your Committee. As I set out in that letter, the Libyans have issued a strong request to the EU for help, advice and support. Failing to launch the mission in May might 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. Due to the tight deadlines involved, we would be most grateful for your consideration of this item before the Whitsun recess begins. I and my officials stand ready to provide any further information your Committee would find helpful.

I would also welcome your Committee's consideration of the renewal of the mandate for EUPOL Afghanistan, the policing mission in Afghanistan. As you know, this mission does vital work focused on senior leadership of the Afghan police, a key element of a sustainable Afghan National Security Force. The mandate expires on 31 May and will require renewal before that date to avoid the suspension of the mission. The draft Council Decision for renewal has just been circulated in Brussels with the necessary financial information about the mission, and as communicated by my officials to your Committee Clerks, an Explanatory Memorandum will be with your Committee for consideration this week (commencing 6 May).

Finally, I will this week (commencing 6 May) submit Council Decision amending Joint Action 2008-124-CFSP on the EU Rule of Law Mission in Kosovo (EULEX Kosovo) for your Committee's consideration. The current budget expires on Friday 14 June. I would be most grateful if it is possible for this item to be considered by your Committee ahead of recess, or if that is not possible, immediately after recess.

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:  
SANCTIONS MEASURES AND RECESS

As you are aware, the EU restrictive measures against Syria are due to be renewed on 31 May. Discussions in Brussels on possible further amendments to various provisions of the sanctions regime, including the arms embargo, are due to commence on 6 May. We do not expect political agreement on any amendment to the measures before the start of the Whitsun recess. Rather, it is highly likely that negotiations on further changes will run right up to the deadline for expiry of the current sanctions regime on 31 May. I anticipate that any amendments agreed would, therefore, regrettably require an override of parliamentary scrutiny on this occasion. I am mindful of your close interest in developments in this area of policy, and want to reassure you here that I will this week send to your Committee a detailed update on developments on Syria, including sanctions issues.

As you may know, recent changes to sanctions provisions relating to the Syrian oil and gas industry were approved via Council Decision at the 22 April FAC. I will submit an EM and override letters on this item this week. The accompanying implementing Regulation must now be negotiated in Brussels. It is likely that these discussions amongst Member States may not conclude until just before the sanctions rollover date of 31 May and I anticipate that it is likely that this item may regrettably also require an override of parliamentary scrutiny.

I also wanted to take the opportunity to highlight a likely forthcoming Council Decision amending Council Decision 2010/800 against the Democratic People's Republic of North Korea (DPRK). A package of EU sanctions measures is currently being negotiated in Brussels, in response to the nuclear test carried out by DPRK on 12 February. These measures are currently under discussion, and a draft Council Decision is unfortunately not yet available. If negotiations conclude and a package of EU sanctions measures is agreed during recess, I will unfortunately need to consider overriding scrutiny, and if an override is necessary, I will submit an Explanatory Memorandum and override letters to the Committees shortly after recess. I am grateful for your Committee's understanding of the urgency of sanctions measures.

Finally, another sanctions measure, Council Decision 2012/285/CFSP imposing restrictive measures in response to the situation in Guinea Bissau, must be reviewed by 31 May. We do not expect any proposal to lift these measures, which target 21 members of the "Military Command" responsible for the coup d'état of 12 April 2012. The transitional government is still in place and progress towards returning Guinea-Bissau to constitutional order, re-establishing the primacy of civilian authority and holding national elections remains slow. However, I do expect there to be one change to the identifying information contained in the Annexes to the original Decision imposing restrictive measures. This will require a new Council Decision and Regulation. The timings for those are not yet certain, but if a new Council Decision and Regulation were to be drafted for urgent adoption during recess, I regret that it is likely that it would be necessary for me to override scrutiny.

#### ITEMS ARISING IMMEDIATELY AFTER RECESS

The mandates for EU Special Representatives (EUSRs) for the Africa Union, Horn of Africa, Kosovo, South Sudan, Middle East, Afghanistan, Central Asia, South Caucasus and the Southern Mediterranean, are expected to come up for their annual renewal on 30 June. I anticipate that your Committee will, as in previous years, want to look closely at the terms of each of the new mandates and any associated budgetary documentation. My officials are encouraging the EEAS to let the UK and other Member States have early sight of the relevant documents to enable the Committee to give it its full consideration ahead of the 30 June deadline. The mandates will be submitted to you for scrutiny as soon as possible after Parliament returns from the Whitsun recess.

Finally, I will update you by mid-May on the current resources and work of the EU Training Missions to Mali and Somalia, in which I know your Committee takes a keen interest.

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, sudden events may demand immediate action during recess, and a corresponding scrutiny override. I would like to take this opportunity to reiterate that I and my officials are committed to doing our very best to avoid overrides wherever possible, and that my officials continue to take practical steps to improve our internal processes on parliamentary scrutiny.

9 May 2013

#### FOREIGN AND COMMONWEALTH OFFICE: EU BUSINESS DURING SUMMER RECESS – 30 JULY TO 8 OCTOBER (UNNUMBERED)

##### **Letter from 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 subject to scrutiny that may be affected by the forthcoming summer recess, which the FCO expects may progress to decision ahead of, during, or shortly after recess. For the sake of clarity, this letter is divided into three headings: items which have already been submitted and we hope will be cleared before recess, due to their urgency and importance; items which may come up for urgent decision during or shortly after recess; and items which do not require an urgent decision, but on which you may welcome an update before the start of summer recess.

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ITEMS WHICH WE HOPE THAT BOTH COMMITTEES WILL BE ABLE TO CONSIDER BEFORE RECESS. WITH MY THANKS TO YOUR COMMITTEE FOR THEIR COOPERATION IN CONSIDERING THESE IMPORTANT AND URGENT ITEMS:

- I would welcome your Committee's consideration, if possible, of the renewal of EU measures on Guinea and Guinea-Bissau. Explanatory Memoranda relating to Article 96 Consultations with both countries under the Cotonou Agreement were submitted to Parliament on 1 July. They both propose a second extension for a further 12 months of the measures agreed in 2011. For Guinea, the measures remain in place because of the delay in holding legislative elections. For Guinea-Bissau, the measures were introduced because of a failure to meet agreed benchmarks on governance issues, exacerbated by the coup d'état in April 2012. The Council will vote on these issues on 15 July to avoid the measures lapsing several days after. If scrutiny is not cleared in time, the UK could abstain, as the decision will be taken under QMV, but I would of course like to see the UK exercise its vote where it can.
- Council Decisions on the appointment of the European Union Special Representative (EUSR) in Afghanistan, and the mandate of the EUSR Sudan and South Sudan, have not yet cleared scrutiny and the Committee has requested further information on the latter. This has now been supplied, and I hope that this further information – including my letter on the cross-cutting issues with the EEAS' handling of the process - has addressed all the concerns which the Parliamentary Scrutiny Committee has voiced.
- Proposal for a Council Decision on the conclusion of the Framework Agreement on Comprehensive Partnership and cooperation between the European Community and its Member States, of the one part, and the Republic of Indonesia, of the other part. I submitted an EM on 10 May 2013 which the ESC has not yet considered, but the Lords EU Select Committee cleared at the Chairman's sift on 21 May. This proposal did not have a Title V legal base. In the meantime, in negotiations, the Council Decision on this agreement has been replaced by two Council Decisions, one covering non-JHA areas, and one with JHA content and a JHA legal base. I will send a further Explanatory Memorandum, reflecting these changes, in the week commencing 8 July to the Parliamentary Scrutiny Committees. Adoption of this item is currently scheduled to take place at the FAC on 22 July; your early consideration would therefore be much appreciated.
- I am grateful to both Parliamentary Scrutiny Committees for clearing the mission extension for EUCAP Sahel/Niger. The UK and other member states will also need to agree a Status of Mission Agreement (SOMA) on this mission, and I will submit an Explanatory Memorandum on this issue in the coming days. I would be very grateful for your Committee's consideration of this issue before recess if possible, in order to avoid a possible override during summer recess.
- Finally it may help to summarise which further items have been submitted and are awaiting consideration, and which we will submit in the coming days.

The following items have been submitted and are awaiting your consideration, hopefully prior to recess:

- Participation of Kosovo in Union programmes, where the Committee is considering further information before clearance;
- Council Decision and Regulation on specific measures to combat terrorism, which has not yet been considered by the Committee;
- Council Decision and Regulation allowing Greenland to participate in the Kimberley process, which has not yet been considered by the Committee;
- Appropriate measures on Zimbabwe, which has not yet considered by the Committee;
- UNSCR 1540 on weapons of mass destruction which has not yet been considered by the Committee.

The following items are due to be submitted to the parliamentary scrutiny Committees for consideration in the coming days – but we understand that busy agendas ahead of recess may make it impossible for your Committee to consider them before recess begins:

- Joint Communication: a comprehensive EU approach to the Syrian crisis;
- Change of the Status of Mayotte;
- Ratification of the Arms Trade Treaty;
- Participation of Australia in European Union crisis management operations;
- Council Decision on Lebanon Action Plan;
- 2012 Annual Report on Hong Kong;

ITEMS WHICH MAY COME UP FOR URGENT DECISION DURING OR SHORTLY AFTER RECESS, AND ON WHICH AN OVERRIDE OF SCRUTINY MAY REGRETTABLY BECOME NECESSARY DURING THE LONG RECESS. IF AN OVERRIDE IS NECESSARY IN ANY OF THESE CASES, I WILL SUBMIT AN EXPLANATORY MEMORANDUM AND OVERRIDE LETTERS TO THE PARLIAMENTARY SCRUTINY COMMITTEES FOR YOUR CONSIDERATION ON RETURN FROM RECESS.

The following mission mandates are coming up for renewal in September.

- DRC: EUPOL and EUSEC mission mandates expire on 30 September. The Operational Plan ('O-Plan') is currently being discussed, and once agreed, the budgets and Council Decisions for the final 12 months of both missions will need to be negotiated. It is therefore extremely unlikely that I will be able to submit these items for scrutiny before recess begins – the only opportunity for these to be cleared during recess would be at the sifts and Committee meeting in September.
- CSDP Mission EUMM Georgia mission mandate: The mandate for this mission expires on 14 September. An extension and budget is currently being negotiated in Brussels and will need to be agreed prior to expiry of the current mandate. My officials will endeavour to keep your Committees as up to date as possible, aiming to submit for your consideration at one of your sifts during recess. But should this item fail to clear scrutiny on one of these occasions, I regret that an override is likely to be operationally necessary to allow the mission to continue to operate after 14 September.

The annual renewal of the EU's Moldova sanctions package will be considered during the recess period. Council Decision 2011/573/CSFP concerning restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova is due to expire on 30 September. If Member States decide to maintain the package, which is not yet certain, then a Council Decision renewing the measures would need to be agreed before this date.

A Council Decision and Regulation on restrictive measures relating to Tunisia will be discussed by the Council of Ministers at the end of July. We expect that this will involve an amendment to the Statement of Reason provided for the listing of individuals subject to the restrictive measures, to ensure that the listings remain robust enough to avoid any future legal challenge. However, none of the documentation for this issue has yet been shared with Member States. I therefore have no document available to deposit at this stage and it may be necessary for me to consider overriding scrutiny on this during recess.

Article 96 measures against Fiji are due to be renewed by 30 September at the latest. Negotiations on a proposal for a Council Decision are due to begin in Brussels in early September. We do not expect Fiji to have met its commitments such that the measures could be lifted in September, so I expect the Council Decision to be extended. Negotiations will focus on whether Fiji has made sufficient progress against the current benchmarks, setting the conditions for lifting Article 96 measures, and assessing the current EU development funding situation in Fiji. I anticipate that any amendments agreed, would, given the timings, require an override of parliamentary scrutiny. I am mindful of your close interest in developments in this area of policy, and stand ready to provide any further information your Committee would find helpful after the recess ends.

You will be aware that we are working with EU partners to seek to designate Hezbollah's military wing as a terrorist organisation. We firmly believe that this is an appropriate EU response to events such as those in Burgas, Bulgaria in July 2012. Given the sensitive (classified restraint) nature of the

proposal, an EM will be submitted post-adoption, in line with the usual scrutiny processes for treatment of documents classified at EU restreint.

The EU is likely to respond to recommendations from the International Contact Group on Madagascar (which includes the African U, South ADC, EU, IOC and the UN Security Council P5) which met on 26 June in Addis Ababa. The International Contact Group recommended that international community should consider targeted sanctions on those undermining the smooth running of the electoral process and implementation of the Roadmap designed to return Madagascar to democracy after credible elections. Considering these recommendations might require an urgent decision on sanctions during the recess period.

At the end of May the FCO understood that the EU and Chile had agreed text for an agreement on Common Security and Defence Policy (CSDP). The aim was for the agreement to be adopted by the end of June. However, Chile confirmed it had not yet agreed the new text of the agreement and adoption was put on hold. There is a chance that the EU and Chile may agree the text over the summer/autumn, but it is difficult to say if either side would wish to rush the adoption through if text were agreed. At this stage no timeline is known for definite, and as such there is no text to submit to Parliament for scrutiny.

There are a number of Partnership and Cooperation Agreements (PCAs), where gradual progress is being made and there is a possibility – though no timings are clear – that final agreement on conclusion may be reached during summer recess. These PCAs are:

- Singapore and Thailand PCAs: Negotiations between the EU and Singapore finished in May 2013 and between the EU and Thailand in March 2013. It is possible that the necessary processes for signature will begin during recess, at which point we will submit the proposed Council Decisions for parliamentary scrutiny. It is possible that the process will move too fast for scrutiny to take place, in light of the long summer recess, and in that circumstance I will have to consider overriding scrutiny. At this stage, both texts are being finalised before initialling.
- The purpose of the Singapore PCA is to enhance cooperation between EU member states and Singapore in areas including economic development, sustainable development, trade and investment, education, and culture. The PCA will include clauses dealing with cooperation on counter terrorism, countering proliferation of weapons of mass destruction, the International Criminal Court, small arms and light weapons, illicit drugs, and energy. The EU-Thailand PCA provides a framework for the EU and its Member States to conduct a structured and more effective relationship with Thailand across our foreign policy and economic interests. It is a mixed agreement, covering areas such as counter terrorism, justice, migration, humanitarian cooperation, organised crime, human rights, environment, agriculture, labour, and social affairs.
- Over recent months, the EU-Central America PDCA has been debated in Council working groups, with particular focus on JHA provisions and the legal base for the Council Decision on conclusion. This has resulted in the splitting of the Council Decision to conclude the PCA into essentially two separate decisions, one in respect of the JHA obligations and the other in respect of the other obligations in the Agreement. (The same arrangement as that reached on the EU-Indonesia PCA mentioned above.) The Agreement is due to be discussed at working group level on 16 July – and may progress onward to Council Decision during parliamentary recess. It is therefore possible that I would need to consider overriding scrutiny.

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

Ahead of the EU-China Summit in the autumn, the EEAS has proposed an EU-China agreement setting out common objectives to 2020. The draft text of this agreement, entitled "Green Growth in a Safer World: EU-China 2020 Agenda for Security, Prosperity and Sustainable Development" has been presented to the Chinese side for negotiation, following consultation with member states. The priority areas on which the EU is seeking agreement include enhanced cooperation on global and

international issues, contributing to growth and sustainable development. The UK is a strong supporter of this ambitious agenda, which supports our own relationship with China.

9 July 2013

**FRAMEWORK PARTNERSHIP AGREEMENT BETWEEN THE EU AND INDONESIA, AND  
COUNCIL DECISION ON AN ASSOCIATION AGREEMENT BETWEEN THE EU AND  
UKRAINE (UNNUMBERED)**

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

Thank you for your supplementary Explanatory Memoranda concerning these two Agreements.

We were pleased to note that the Decisions in these cases have been split so that appropriate legal bases are established for the various elements of each agreement and, in particular, that it is now clear that the UK opt-in is engaged in relation to those elements which fall within the subject matter of Title V of the TFEU. As you know, this Committee has consistently recommended that a legal basis for the operation of the opt-in should be provided for in such cases.

We hope that future Decisions of this kind will make similar provision where it is necessary to make clear that the UK opt-in applies, and would be grateful if you could confirm this is expected to be the case. We would also be grateful if you could clarify whether the change in relation to these Agreements was solely the result of agreement within the Council or whether the Commission is also persuaded of the need for change.

The timing of the changes to the Decision in these cases prevented the Committee from making a timely comment on the issue of the opt-in. While this was understandable in the present cases, we trust that you will give us appropriate notice of any such changes or prospective changes in future.

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

17 October 2013

**Letter from David Lidington MP to the Chairman**

Thank you for your letter of 17 October in which you requested further information about the Council Decisions relating to these two Agreements.

We agree that splitting is an appropriate approach when the EU is entering into JHA obligations, thereby clearly identifying our right to assert the JHA opt-in; whilst splitting has occurred in these particular cases our primary concern is to seek the appropriate legal basis and procedure on a case by case basis. Splitting has only been introduced comparatively recently – there is no guarantee that Council will always adopt this approach and the Commission has the right of initiative to present these proposals.

The Commission continues to propose a single Decision rather than split Decisions. But it is important to note that whilst splitting was agreed by the Council on this occasion, that will not necessarily always be the case in future. We will continue to press for the most appropriate legal base on a case by case basis.

We will continue to make every effort to keep your Committee informed in a timely fashion of any changes to Decisions such as these, and press in Brussels for appropriate timescales to allow this to happen. I and my officials stand ready to provide any further information your Committee would find helpful.

30 October 2013

**INVESTOR-STATE DISPUTE SETTLEMENT TRIBUNALS (11868/12)**

**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 26 November 2012 and your further letter of 31 October. I am sorry for the delay in responding. Your questions sparked further analysis by my officials, who have sought <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 55

guidance from Cabinet Office European Legal Advisors (COELA). This analysis has taken some time. I am confident that the approach we have been taking, and on which I have written previously, is the correct one.

The UK Government view is that, while the EU has exclusive competence over foreign direct investment and much competence over portfolio investment is shared, there are parts of portfolio investment which are exclusive Member State competence. I agree with the position you outline in your letter on the nature of EU competence over portfolio investment: any competence over portfolio investment that the EU has as a result of Article 63 TFEU is not exclusive. Building from this analysis, my view is that the EU has competence to make a regulation to deal with investor-state claims relating to foreign direct investment (FDI), whether the claim is made against an act of the EU or of a Member State, and claims relating to portfolio investment, except those against an act of a Member State that relate to areas portfolio investment that fall under Member State competence.

I have considered again the legal base that could provide for such a regulation. Given the relative volumes of claims that are likely to relate to FDI and portfolio investment, I believe that the predominant purpose of the measure is to deal with claims relating to FDI. I therefore consider that it is acceptable to cite Article 207(2) as the only legal base for the regulation, even though it does not provide competence for portfolio investment. I do not believe that it is necessary to add any further legal basis to the proposed regulation.

In order to prevent the regulation being used against us in any future court case, the UK is seeking language in the text of the regulation that makes it clear it only covers areas falling under EU competence. This is important to avoid the assumption that all investor-state claims come under EU competence. My officials have secured such language in the Presidency's text for the trilogue negotiations with the European Parliament and the Commission, which are due to begin soon. I shall make sure that you are kept up to date with progress in the trilogues.

Finally, in response to the questions you raise in your letter of 31 October, I would first like to explain that I am still seeking your clearance of this file from scrutiny. The position agreed at Coreper on 9 October, on which Trade Ministers were updated at the Trade Foreign Affairs Council on 18 October, was a mandate for informal trilogues. We have not reached a point at which the Council needs to take a formal position on the text. I therefore do not believe that a scrutiny override has occurred. Second, on the question of the implications of this file for the Transatlantic Trade and Investment Partnership, my position is that this regulation should enter into force before any EU investment protection agreement. This regulation is likely to be agreed significantly before the conclusion of negotiations on the Transatlantic Trade and Investment Partnership.

*5 November 2013*

## MANDATES FOR EU-CHINA AND EU-ASEAN NEGOTIATIONS ON INVESTMENT (UNNUMBERED)

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

### MANDATES FOR EU-CHINA AND EU-ASEAN NEGOTIATIONS ON INVESTMENT

I am writing to you to provide updates on developments in investment negotiations with China and with the Association of South-East Asian Nations (ASEAN).

#### EU-CHINA INVESTMENT AGREEMENT MANDATE

On 18 October 2013 the EU Foreign Affairs Council (Trade) agreed a mandate for the Commission to open negotiations for an Investment Agreement with China. These negotiations are expected to be formally launched at the EU-China Summit taking place in Beijing later this month. Any eventual agreement should secure improved market access for UK investors in China as well as strengthening protection for UK investors established in China.

The initial proposal to launch negotiations with China was made by the Commission in May of this year. I judge that such an agreement will help the UK to strengthen its trade and investment relationship with China and have supported the initiative. China is of great importance to the UK's trade and investment strategy and this proposal has received support from UK businesses.

The Commission aims to complete these negotiations within two and a half years.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 56



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. My successor will write to the Committee periodically to update you on progress in the negotiations and submit a full Explanatory Memorandum when a draft Council Decision to conclude the Agreement is submitted to the Council on completion of the negotiations.

#### EU-ASEAN FREE TRADE AGREEMENT MANDATE EXTENSION

The same Council also agreed an extension to the EU-ASEAN Free Trade Agreement (FTA) mandate to include investment protection within future agreements. This mandate extension will help the EU to negotiate comprehensive agreements with ASEAN members and benefit UK investors in the region.

The initial EU-ASEAN FTA mandate was agreed in April 2007, although these negotiations did not produce an agreement with the ASEAN region as a whole the mandate remains in place as a "building block" from which to launch bilateral FTA negotiations with the individual nations. In 2010 negotiations with Singapore and Malaysia were launched and later negotiations were begun with Vietnam (in 2012) and Thailand (earlier this year).

Now that the EU has competence over foreign direct investment (FDI) investment protection chapters have been included within wider FTAs. Extending the EU-ASEAN mandate to include investment protection will bring this mandate into line with other negotiations, including India, Japan and the US, agreed since the Treaty of Lisbon was brought into force. The mandate for negotiations with Singapore was extended to cover investment protection separately; this extension will allow the Commission to negotiate on investment protection with the other ASEAN members.

*12 November 2013*

### MARKET ACCESS REGULATION (15025/11)

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

Following Ed Davey's Explanatory Memorandum of 18th October 2011, I would like to update you on progress with this file.

This file relates to Economic Partnership Agreements (EPAs), the development-friendly trade agreements between the EU and African, Caribbean and Pacific (ACP) countries. EPAs aim to create a shared trade and development partnership backed up by development support which will, through gradual and controlled liberalisation of trade in goods over a reasonable period of time, contribute to development, growth and job creation.

Since 2007, ACP countries have benefited from temporary duty-free quota-free access to the EU market granted under the Market Access Regulation (MAR) while they continue to negotiate these EPAs. Following votes in the European Council and Parliament, it has now been confirmed that if ACP countries have not taken necessary steps to ratify their EPAs by 1 October 2014 they will lose these temporary preferences.

We supported the setting of a deadline as there was a need to put EPAs on a sound legal footing and minimise the risk of a challenge in the WTO due to the indefinite prolongation of the temporary preferences. Initially the Commission proposed a deadline of 1 January 2014, which Member States agreed to during negotiations. The European Parliament took an opening position of 1 January 2016 to allow more time for ACP countries to work towards ratification, but wider dynamics in the Parliament and pressure from Member States brought about a compromise in favour of a deadline closer to the Commission's original proposal.

17 countries are set to lose their temporary preferential access currently provided by the MAR. However, they all have the opportunity to conclude an EPA before the deadline. There are also other preferential EU schemes for 15 of the countries to fall back on. Nine Least Developed Countries

would retain duty-free quota-free market access through the Everything But Arms scheme, and six others would retain some (less favourable) trade preferences under the EU's Generalised System of Preferences (GSP). Zimbabwe has ratified its EPA since the Commission's original proposal and will not lose market access.

Since the deadline was proposed we have seen increased momentum in the EPA negotiations. We are stepping up our engagement with the Commission and EPA countries to ensure the swift conclusion of development friendly EPAs.

*18 June 2013*

## PARTICIPATION OF GEORGIA IN UNION PROGRAMMES (12735/13, 12737/13)

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

This document was the subject of my Explanatory Memorandum (EM) dated 22 August concerning a protocol to the Partnership and Cooperation Agreement (PCA) establishing a Framework Agreement between Georgia and the EU to enable Georgia to participate in Union programmes. I am now submitting, in parallel with this letter, a further (supplementary) EM to update your Committee on a development in HMG's interpretation of the substance of the Framework Agreement. This letter is to update you on further analysis, and is to be considered in conjunction with the supplementary and original EMs on this issue. It covers both the draft Council Decision on the signing and provisional application of the Framework Agreement, and the draft Council Decision on its conclusion.

I appreciate that your Committee has already cleared this document from scrutiny. I am now re-submitting this item for renewed scrutiny, in light of the Government's further consideration of these proposals. I hope that this will enable you to take this revised position into account by considering this item again in the coming days, although I do appreciate that much earlier notification of the Government's position on this would have been preferable.

My officials have been working hard to ensure that UK interests are protected in this Protocol. At the time of submitting our EM, the Government had not reached a conclusive position as to whether these measures contained JHA content in relation to which the UK should assert its opt-in. The programmes, to which Georgia may be eligible, under the Framework Agreement, are in the process of being renegotiated as part of the Multi-annual Financial Framework.

Once further clarity on the relevant programmes had been obtained this necessitated detailed analysis as to the applicability of the opt-in. In particular, in relation to two programmes, currently under renegotiation (Customs 2020/Fiscalis 2020), the UK has opted-into the proposed EU instruments seeking to establish them.

I can now confirm to your Committee that the UK's JHA opt in has been triggered in relation to the proposed Decisions which seek to make Georgia, inter alia, eligible to participate in Union programmes that we assess as having JHA content.

The timings have created a regrettable situation in terms of your Committee's opportunity to examine the issue of the UK opt-in in this case, for which I apologise. All language versions of this document were published on 25 July; this triggered the usual 8-week window for enhanced parliamentary scrutiny of JHA issues to commence, under the JHA Code of Practice. Unfortunately, Government had not reached the conclusion that the JHA opt-in had been triggered at that point owing to uncertainty regarding precisely which Union Programmes Georgia would be eligible to participate in pursuant to the Framework Agreement. Consequently, this has meant that the Parliamentary Scrutiny Committees have not had the proper opportunity to consider and opine on the JHA aspects.

All language versions of the draft Council Decision on conclusion of the Framework Agreement, the second relevant Council Decision here, were published on 3 September – meaning that the usual 8-week window for enhanced parliamentary scrutiny of JHA issues within that Decision on conclusion runs until 29 October, and is thus still 'open' for your Committee to opine.

I am now resubmitting a supplementary EM to your Committee to allow your Committee to scrutinise the opt-in aspects of this agreement specifically – with regards to the proposed Council Decisions both on (i) signing and provisional application and (ii) conclusion of this Agreement. In all other points of substance this Supplementary EM mirrors our original EM of 22 August. We would welcome a view from your Committee on the JHA aspect specifically of these two Council Decisions.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 58

The two documents follow in sequence, but to set out their slightly separate timings clearly:

- The three-month window for the Government to indicate its final decision on whether to opt-in on the Council Decision on signing and provisional application closes on 25 October. Although the 8-week window for scrutiny has closed, we would welcome a view from your Committee before that date. I appreciate that this is a short timescale, but am keen to offer your Committee some opportunity to give a view on this point.
- The three-month window for the Government to indicate its final decision on whether to opt-in on the Council Decision on conclusion closes on 3 December. The usual 8-week window for Parliament to opine on this document started on 3 September with the publication of the last language version (all language versions of this document were published on the same date), and thus ends on 29 October. Again, I regret that Parliament was not notified sooner, but here there is a marginally longer window for your Committee to give Government its view on the opt-in.

I regret that this notification that the opt-in is engaged comes so late, and would like to assure you that my officials continue to work to ensure that analysis regarding the JHA opt-in is completed and decisions are taken as early as possible. I and my officials stand ready to provide any further information your Committee would find helpful.

*8 October 2013*

#### **Letter from David Lidington MP to the Chairman**

This document was the subject of an Explanatory Memorandum (EM) dated 22 August, and a supplementary EM dated 8 October concerning a protocol to the Partnership and Cooperation Agreement (PCA) establishing a Framework Agreement between Georgia and the EU to enable Georgia to participate in Union programmes.

The three-month window for the Government to indicate its final decision on whether to opt-in on the Council Decision on signing and provisional application closed on 25 October. The UK asserted its opt-in, and opted in to the JHA provisions of both Council Decisions on 25 October.

*18 November 2013*

#### **PARTICIPATION OF KOSOVO IN UNION PROGRAMMES (8775/13, 8776/13)**

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

The Sub Committee on External Affairs at its meeting on 6 June considered the documents above and decided to retain them under scrutiny.

Considering that there are outstanding issues on the legal basis of the Framework Agreement and that negotiations have not yet been opened at the EU level, the Committee considered it appropriate to retain the documents until a more definite position is established. We would be grateful if you could keep us updated on the negotiations as they proceed. In particular, what further action do you intend to take, including whether you intend to take the issue to the European Court of Justice? Could you also explain why neither the Erasmus Programme nor the Leonardo Programme were included in the Framework Agreement.

I look forward to hearing from you in the standard ten working days.

*11 June 2013*

#### **Letter from David Lidington MP to the Chairman**

I am responding to your letter of 11 June regarding the Explanatory Memorandum on the above documents.

You asked what actions the FCO intends to take regarding the legal basis of the Framework Agreement. I should first clarify that the disagreement between us and the EU Institutions concerns the question of which legal basis should be cited in the Council Decisions required for signature and

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 59

conclusion of the Framework Agreement, not the Agreement itself. Negotiations on a Framework Agreement have still yet to open at the EU level. However, we continue to make clear to the Commission and to Member States that we do not accept the use of Art 212 TFEU as an appropriate legal basis for the Council Decisions, for the reasons I set out in my Explanatory Memorandum. I am confident that we will be able to resolve this issue through political negotiation, particularly because the proposed Art 212 legal base requires a decision of unanimity, and will therefore not require recourse to the ECJ.

You also asked why neither the Erasmus Programme nor the Leonardo Programme are included in the Framework Agreement. Under the 2007-13 MFF, these programmes, along with a number of other independent programmes in the field of education and training were subsumed into the Lifelong Learning Programme, which is included in the Framework Agreement.

I will update your Committee on the negotiations as they proceed.

I am aware of the Committee's continued interest in the June European Council's consideration of Serbia opening accession negotiations and SAA negotiations for Kosovo. I will write separately to the Committees on these points.

24 June 2013

### **Letter from David Lidington MP to the Chairman**

I am writing to update you on the progress of the above documents.

Firstly, we continue to make clear to the Commission and to Member States that we do not accept the use of Art 212 TFEU as an appropriate sole legal basis for the proposed Council Decisions, for the reasons I set out in my Explanatory Memorandum. Discussions on the above documents have already opened in the Western Balkans Working Group (COWEB) and are focussing on the appropriate legal bases. The Commission claims, in support of Article 212 TFEU, that the practice for extending participation in Union programmes to third countries is inconsistent and that in some previous cases multiple substantive legal bases were cited whereas in others only article 217 (TFEU) was cited. However, they have not yet provided examples. The Commission also argues that where existing EU programmes provide for their extension to a third country, there would be no need to cite the legal base under which it was adopted as part of the legal base – this would be covered by Article 212 TFEU. In other words, the Commission has argued that citing only Article 212 TFEU henceforth would streamline the Framework Agreement. We are continuing to argue our case. However, with debate in Brussels soon to be focussed on the opening of Stabilisation and Association Agreement (SAA) negotiations with Kosovo, it is probable that these programmes will continue to be pushed back until January 2014 (when the current programmes will expire, and the successor programmes, currently being negotiated as part of the new Multi-Financial Framework, will be in force).

This situation, in which existing Union programmes overlap with a new proposal, is complicated and one that Government has not previously had to consider. Following significant analysis and consideration involving a number of Departments, we are now of the view that two of the programmes in which Kosovo would be eligible to participate in future, Fiscalis 2020 and Customs 2020, cause the UK's JHA opt-in to be triggered, as these programmes are pursuant to Title V TFEU. Further, the Kosovo Framework Agreement contains an Annex listing the programmes in which Kosovo will be able to participate and this list contains a number of proposed Decisions relating to 'Solidarity and Management of Migration Flows' programmes that cite Title V legal bases. This second point remains complicated by the fact that the proposed Decision for Kosovo does not precisely correspond with existing Decisions that seem to have actually established these programmes, and which do not appear to permit the participation of third-countries in such programmes. Nevertheless, we now consider that our opt-in was triggered.

Unfortunately, the opt-in deadline expired on 22 July 2013 and as such the UK has missed the opportunity to opt-into these measures pre-adoption. However, discussions remain on-going regarding the legal bases of these agreements and we do not expect these proposals to come forward for adoption for some time. We will continue to press for citation of all appropriate legal bases, including the relevant Title V legal bases.

I regret that this notification that the JHA opt in was triggered comes so late to your Committee. It is an unfortunate circumstance and I wish to assure you that I and my officials will continue to work to ensure that this issue does not arise again. I and my officials would be happy to provide further information that your Committee might find helpful.

Of course, I also undertake to keep your Committee updated as negotiations continue in Brussels on this dossier.

8 October 2013

## POLICE MISSION FOR THE PALESTINIAN TERRITORIES (UNNUMBERED)

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

At its consideration on 20 June 2013 of the above documents, which have been cleared from scrutiny, the EU Sub-Committee on External Affairs requested further information on the Middle East Peace Process. We would be grateful if you would provide us with an update of developments in the Process and the EU's engagement in it.

We look forward to your response in the standard ten working days.

26 June 2013

### **Letter from David Lidington MP to the Chairman**

I am writing in response to your request of 26 June for an update of developments in the Middle East Peace Process and the EU's engagement in it.

My Honourable Friend, the Parliamentary Under-Secretary of State, Alistair Burt, recently updated Parliament on his and the Foreign Secretary's visits to Israel and the Occupied Palestinian Territories.

As Mr Burt set out in his written ministerial statement of 24 June 2013, the Middle East Peace Process remains an urgent global priority in 2013. The British Government welcomes the leadership which the US, and particularly Secretary John Kerry, are showing on this issue. Secretary Kerry is currently on his fifth visit to the region since his appointment as Secretary of State. Britain stands fully behind these efforts to revive the peace process, and Ministers remain in close contact with the United States. On 12 June in Washington, the Foreign Secretary discussed with Secretary Kerry the prospects for progress on the peace process, and stressed UK support for his efforts.

I attended the Foreign Affairs Council on 24 June, at which EU Foreign Ministers and I discussed the Middle East Peace Process. As I set out in my written ministerial statement of 1 July 2013, Member States agreed on the importance of U.S. Secretary of State Kerry's current efforts and discussed the best ways for the EU to support these. Member States' views varied as to the most effective use of Conclusions this month, which were not agreed. Following the debate, the High Representative reaffirmed the EU's commitment to a two-state solution, and stressed that the EU fully supports the current efforts of the United States in support of the resumption of direct and substantial negotiations. The Foreign Affairs Council will revert to the issue in July.

EU High Representative Baroness Ashton visited Israel and the Occupied Palestinian Territories in June, where she met Israeli Prime Minister Netanyahu and then Palestinian Prime Minister Ramdallah. During her visit, EUHR Baroness Ashton expressed support for Secretary Kerry's work and reaffirmed the EU's commitment to supporting the peace process and a two state solution. EUHR Baroness Ashton also highlighted the importance the European Union attaches to providing economic support for the Occupied Palestinian Territories. In 2012, the EU provided EUR 358.5 million in assistance to the Palestinian people.

1 July 2013

## REPUBLIC OF KOREA- MATTERS RELATED TO READMISSION (UNNUMBERED)

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

Further to the Explanatory Memorandum I submitted to Parliament on 28 August, I am writing to update you on negotiations on the Council Decision on EU ratification of the EU-Republic of Korea Framework Agreement.

Two revised Council Decisions (MD 124/13 COASI) were issued on 10 October 2013 splitting the original Decision into two, with one Decision covering readmission of nationals illegally present in another State, and the other Decision covering the other provisions of the Framework Agreement. This approach is consistent with the approach taken in the EU-Indonesia Partnership and Cooperation Agreement.

In my Explanatory Memorandum of 28 August, I indicated that the Agreement contained JHA content and that the process and timings of enhanced JHA scrutiny should apply. Given the last language version of this draft Council Decision was published on 29 July the Explanatory Memorandum specified that the Government's opt-in decision will need to be taken by 28 October 2013. I have submitted the Explanatory Memorandum on the revised Council Decision within the required 10 working days of the decision being published. However, given the UK's JHA opt-in window expires on 28 October, I appreciate this does not give the Committee time to further consider the JHA elements before the expiration of this opt in window.

The Explanatory Memorandum provides full details of the position we are minded to take, which is consistent with the approach taken with the Indonesia PCA. Subject to progress on negotiations, the EU is likely to seek agreement to the Council Decisions in the Foreign Affairs Council on 18 November 2013.

*23 October 2013*

## RESTRICTIVE MEASURES AGAINST IRAN (UNNUMBERED)

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

I am writing to update the Committee on recent further amendments to the EU restrictive measures against Iran.

On 6 June the Council agreed to introduce restrictive measures against 5 companies ultimately owned by the National Iranian Oil Company. The Council also took the opportunity to update the information for several other designation listings at the same time. The designation took effect on the same day. The above Council Decision and Council Implementing Regulation give effect to these measures.

I originally expected the Council to agree these listings in July. However, in order to give effect to this listing ahead of the Iranian elections on 14 June the date was moved forward. This meant that the substantive discussions of the listing occurred during recess and I regret that due to this fact I found myself in the position of having to agree to the adoption of the Council Decisions and Implementing Regulation before your Committee 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.

*14 June 2013*

### **Letter from David Lidington MP to the Chairman**

I am writing with regard to Council Decision 2013/497/CFSP concerning restrictive measures against Iran. As you know, extensive EU restrictive measures exist on Iran, including the ability to designate individuals and companies the EU assess breach specific sanctions criteria. The UK remains committed to maintaining existing sanctions pressure on Iran in order to persuade it to negotiate seriously about its nuclear programme.

You may already be aware of litigation brought by a number of Iranian entities against their designation under EU Iran sanctions at the EU General Court. On 6 September, the EU's Council of Ministers won cases at the EU General Court concerning Iranian banks Melli and EIH, but lost eight other designations. On 16 September, the EU Council also won a case covering seven designations and lost a case regarding the Islamic Republic of Iran Shipping Lines (IRISL; the Iranian state shipping company) and 17 associated entities designated for their links to IRISL.

The EU General Court gave the Council 2 months and 10 days from the date of judgment to take any remedial action or to lodge an appeal before the annulment of the listings came into effect (16 and 24 November respectively). The process for the Council to relist includes informing the relevant entities by letter of the Council's intention to relist them, allowing these entities a number of weeks to

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contest the grounds for their relisting. The EU is considering re-designation for the designations lost on 6 September based on the existing Decision and Regulation. However, some of the entities currently proposed for relisting relating to the judgment on 16 September can only be relisted if we make minor amendments to the relevant wording of the Iran sanctions Council Decision and corresponding amendments to the Council Regulation.

Since the IRISL-related judgement was released on 16 September, it has taken time to study the judgement and consider a solution; a draft Council Decision and Regulation were made available by the EEAS on 27 September, and first discussed by EU Member States on 1 October. A Decision and Regulation needed to be agreed by 10 October, as otherwise there would not have been sufficient time to give notice to the entities and relist them before the annulment came into effect. I regret that due to these tight timings, I find myself in the position of having had to agree to the adoption of this Council Decision and Regulation giving effect to this solution before your Committee has had an opportunity to scrutinise these documents.

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

*25 October 2013*

### **Letter from David Lidington MP to the Chairman**

I am writing with regard to Council Decision 2013/661/CFSP of 15 November 2013 concerning restrictive measures against Iran. As you know, extensive EU restrictive measures exist on Iran, including the ability to designate individuals and companies the EU assess breach specific sanctions criteria.

You will recall the litigation brought by a number of Iranian entities against their designation under EU Iran Sanctions at the EU General Court. On 06 September 2013, the EU's Council of Ministers won cases at the EU General Court concerning Iranian banks Melli and EIH, but lost eight other designations. The EU General Court gave the Council 2 months and 10 days from the date of these judgements to take any remedial action or to lodge an appeal before the annulment of the listings came into effect on 16 November 2013.

The process for the Council to relist includes informing the relevant entities by letter of the Council's intention to relist them, allowing these entities a number of weeks to contest the grounds for their relisting. These entities only responded at the start of November 2013, meaning the Council Decision and Council Regulation had to be agreed within a very short timescale. As stated above, a Decision and Regulation needed to be agreed by 16 November 2013, as otherwise there would not have been sufficient time to give notice to the entities and relist them before the annulment came into effect.

I regret that due to these timings and the Committee's short recess during the week beginning 11 November 2013, I find myself in the position of having had to agree to the adoption of this Council Decision and Regulation before your Committee has had an opportunity to scrutinise these documents.

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

*28 November 2013*

## **RESTRICTIVE MEASURES AGAINST LIBYA (UNNUMBERED)**

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

Further to my letter of 18 April regarding the Council Decision amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya (Council Decision 2013/182/CFSP), I am writing to let your Committee know that the above EU Council Regulation, which implements the assistance related elements of this Council Decision, will be adopted at the Foreign Affairs Council on 27 May. The above Regulation also amends an exemption to the EU-autonomous asset-freeze and adds language which allows the Treasury to share information on frozen assets directly with the

Libyan government to facilitate the return of misappropriated funds to the Libyan State, as explained in the accompanying Explanatory Memorandum.

Council Decision 2013/182/CFSP concerning restrictive measures in view of the situation in Libya amended 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 by UN resolution 2095. It was adopted on 22 April at the Foreign Affairs Council, however despite my officials' best efforts, the corresponding Council Regulation was not prepared by RELEX (the relevant Council structure) until 21 May. Due to the substantial time lapse of more than two months between the UN Resolution being adopted on 14 March and the Council Regulation implementing the aspects of it which fall within EU competence being prepared, it was decided that the Regulation should be adopted as soon as possible. This was too late to be considered by your Committee ahead of the FAC on 27 May, which presents the next opportunity for the text to be adopted. It also falls within your Committee's recess period. As you know, the responsibility to keep your Committee informed on issues concerning sanctions is something I take seriously, but the need for the override of scrutiny on this occasion is regrettably unavoidable.

Until the changes made by UNSCR 2095 in relation to notifying the provision of certain types of military-related assistance are implemented in the EU, EU countries are required by existing EU obligations to obtain the approval of the UN Sanctions Committee before providing such 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 provide certain types of assistance until the adoption of the amending Council Regulation. There has already been a time lapse of over two months since the UNSCR was adopted, during which a backlog of export licences have accrued, therefore it is essential that this regulation is adopted at the first possible opportunity.

*24 May 2013*

## RESTRICTIVE MEASURES AGAINST THE LEADERSHIP OF THE TRANSNISTRIAN REGION OF THE REPUBLIC OF MOLDOVA (UNNUMBERED)

### **Letter from David Lidington MP to the Chairman**

I am writing with regard to the Council Decision concerning restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova. You will recall that I explained in my pre-recess letter to you of 9 July that these measures were due to be agreed before the end of September.

The restrictive measures in place consist of a suspended travel ban against persons responsible for the campaign against Latin-script schools in the Transnistrian region. In order to encourage progress on this issue, in September 2012 all persons included in the annex to the Council Decision were removed, resulting in no individuals being targeted by the measures. These measures expire on 30 September 2013 and at the Competitiveness Council on 26 September, EU Member States agreed to the formal adoption of the Council Decision.

A new Council Decision has been agreed by EU Member States which will maintain the current measures for a further period of 12 months. Unfortunately, the first draft of the Council Decision was only made available by the EEAS on 18 September, and discussed by EU Member States on 19 September. The Decision needs to be adopted before 30 September, when the current measures will expire. I have asked my officials to raise our concerns with the EEAS that the late consideration of a new Council Decision has prevented the proper scrutiny procedures by the UK Parliamentary Committees. I regret that due to above and the fact that the Committee is in recess I find myself in the position of having to agree to the adoption of this Council Decision before your Committee has had an opportunity to scrutinise the documents.

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 is regrettably unavoidable.

*1 October 2013*



## RESTRICTIVE MEASURES AGAINST SYRIA (UNNUMBERED)

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

I wrote to you late last week to provide a comprehensive overview of the Government's policy on Syria, further to recent changes to the EU's Syria arms embargo that allow for the provision of non-lethal equipment to the Syrian National Coalition.

In that letter, I mentioned that the Council Regulation which implements these changes had been adopted. This Regulation also implemented two earlier changes to the EU's Syria sanctions regime: i) an expansion of the previous ban on Cargo flights from Syria to the EU to now cover all flights operated by Syrian Arab Airlines, and ii) a derogation to asset freezing provisions to allow for the recovery of any assets that may have been misappropriated by the Syrian regime.

In my 19 March letter to your Committee summarising issues that may arise during Easter recess, I flagged the possibility that this implementing Regulation would be discussed and possibly agreed during Parliament's Easter recess. The draft Regulation was agreed at a technical working group level on 9 April, and - due to its urgent nature -- was adopted on 10 April. Unfortunately there was, therefore, no time to provide the draft Council Decision to your Committee for scrutiny. This meant that an override of Parliamentary scrutiny was required in this instance.

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.

*10 May 2013*

### **Letter from David Lidington MP to the Chairman**

I am writing to inform your Committee of recent amendments to EU Restrictive Measures on Syria. The UK and other Member States have been looking at ways to adjust EU restrictive measures on Syria to further support the Syrian National Coalition (SNC). In particular, we would like to amend these provisions to assist the SNC in providing humanitarian relief and civilian services on the ground in liberated areas. To this end, the EU agreed in April to amend for certain restrictions on trade related to the Syrian energy sector.

A draft Decision amending oil and gas trade restrictions was first discussed in political and technical groups on 15 April 2013, passed silence procedure on 16 April, and was adopted at the 22 April Foreign Affairs Council. The tight timescale for discussion and adoption of these measures reflects the gravity of the humanitarian situation in Syria, and the appetite amongst EU partners to ensure that the measures continue to evolve in line with the situation on the ground. The UK is committed to increasing support to the moderate opposition and to maintaining sanctions as a responsive and flexible tool that best supports the protection of civilians and the resolution of the conflict.

In addition, at the 22 April Foreign Affairs Council, Member States adopted Council Implementing Decision 2013/185/CFSP and accompanying Council Implementing Regulation (EU) No 363/2013, which removed one individual from the list of persons and entities designated for targeted financial and travel sanctions. An EU review of this individual's listing found insufficient grounds to maintain his designation. Given the UK's firm commitment to ensure that targeted measures continue to be legally robust and compatible with fundamental rights, it was necessary that restrictions on this individual be lifted without delay.

As these draft Decisions and Regulation were first circulated in Brussels only very shortly before the intended date of agreement, my officials were unable to submit an Explanatory Memorandum on these amendments for the consideration of your Committee before the 22 April FAC. In light of the importance in this instance that the amendments were introduced swiftly, I unfortunately found myself in the position of having to agree to their adoption before they had cleared scrutiny. 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.

Additionally, an administrative oversight meant that in this instance the Implementing Regulation was not identified and deposited with Parliament as quickly as it should have been. Cabinet Office and FCO are working together to tighten up post-adoption scrutiny processes so that items agreed are

identified and deposited quickly. I trust that the EM submitted, and this letter, will assist your Committee at this juncture in their work of post-adoption scrutiny of these urgent measures.

*17 May 2013*

### **Letter from David Lidington MP to the Chairman**

I am writing to inform your Committee of recent amendments to EU Restrictive Measures on Syria. Council Decision 2012/739/CFSP, the legislative act which governed EU sanctions on Syria, expired on 1 June. In order to maintain restrictive measures in any form beyond 1 June, a Decision amending or replacing Council Decision 2012/739/CFSP had to be adopted before this date.

Decision 2012/739/CFSP was amended in February (Decision 2013/109/CFSP of 28 February 2013) and April (Decision 2013/186/CFSP of 22 April 2013), in order to allow EU Member States greater flexibility when seeking to support the Syrian National Coalition (SNC) in its protection of civilian life and redevelopment of key oil and gas infrastructure in Syria. At the Foreign Affairs Council of 27 May, EU Ministers were able to agree further amendments to the Restrictive measures; in a Declaration issued by the Council, member states committed to extending sanctions on Syria without renewing certain provisions restricting the export of arms and related materiel and of equipment which might be used for internal repression to Syria, and related restrictions on technical assistance, financing and financial assistance.

Owing to the very brief window between this ministerial-level agreement and the expiry of the existing package of measures, a draft Council Decision renewing and amending the measures in line with the Council Declaration of 27 May was swiftly drafted for working group level negotiation on 29 May, and was adopted by written procedure on 31 May. Given the compressed timescale for negotiating the text and the vital importance of adopting a Decision before the measures fell away entirely, I found myself in the position of having to agree a scrutiny override in this instance. 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.

*11 June 2013*

### **Letter from David Lidington MP to the Chairman**

Further to my Explanatory Memorandum of 4 July, I am writing to update your Committee regarding draft Council Regulation amending Regulation No. 36/2012 – in light of the fact that negotiations are now concluded and I am able to present you with the final form of the text (attached) [not printed].

As your Committee is aware, the draft Regulation implementing changes to the Syria sanctions regime was recently negotiated at the EU. Negotiations were concluded on 4 July – on the same date that my EM was submitted to you, so developments were unfortunately too late to be reflected in that EM – and I am pleased to now provide an update on the final state of the Regulation. The Regulation is due to be adopted at the 22 July Foreign Affairs Council (FAC).

I trust that this information assists your Committee in its consideration of this item, and would be grateful if there is an opportunity for your Committee to consider this issue again in the final week before recess, ahead of adoption at the 22 July FAC – although I do recognise that this is a tight timeframe.

The amendments introduced by this Regulation implement changes to the Syria sanctions regime introduced by Council Decision 2013/186/CFSP of 22 April and Decision 2013/255/CFSP of 31 May. Explanatory Memoranda were submitted setting out the background and policy implications of each Decision on 17 May and 10 June respectively, and both EMs have now cleared scrutiny. However, many of the changes introduced by these Decisions require further implementation in EU law before they come into full effect. A Regulation amending Regulation No. 36/2012 is therefore required, in order to bring Regulation No. 36/2012 into line with Council Decision 2013/255/CFSP.

The key additions and amendments to the draft deposited are as follows:

- Addition of provisions for optional export controls. Added provisions enable Member States – on a state-by-state basis – to optionally place export controls or prohibitions on some items and services that would have been controlled or prohibited before the lifting of the embargoes on arms and internal repression equipment. These include some equipment that may be used for internal repression, as well as non-military or dual use items which

have nonetheless been identified as having a military end use in Syria. Adding these enabling provisions has the effect of repatriating to Member States the policy decision to embargo or control the export of certain equipment and assistance, and that Member States are able to fulfil the commitments made in the 27 May Council Declaration.

- Amendments to articles 6a, 9a, 13a and 25a. These articles set out exemptions to the bans on oil imports, export of key equipment for the oil and gas industries, participation or investment in Syrian oil and gas enterprises, and the opening of a bank account, branch or subsidiary in Syria respectively. The amendments to the Commission's initial draft ensure that when an authorisation is sought under these exemptions, there is clarity on the role and responsibilities of Member States' licensing authorities and the Syrian National Coalition of Opposition and Revolutionary Forces (SNCORF). Moreover, they ensure that an authorisation cannot be granted until the SNCORF have formally designated a person or group who will be responsible for undertaking the consultation process. This enhances the safeguards set out in the Commission's initial draft, which aim to ensure that any transaction authorised will be for the benefit of the Syrian civilian population.
- Additions to Annex XI [not printed]. Annex XI [not printed] sets out a list of chemical warfare-related equipment and materials that are subject to an authorisation requirement regime under Syria sanctions. The items on this Annex [not printed] would not normally be subject to export control to most destinations, but their export to Syria is controlled (i.e. requires a licence). The new additions to this Annex [not printed] comprise chemicals that the Australia Group have recommended should be controlled with respect to Syria, as well as some additional chemicals and equipment proposed by Member States. A 'decontrol' for packaged consumer or retail goods introduced by this draft regulation ensures that export controls do not inappropriately restrict the supply of household items that may be important for basic needs.

12 July 2013

## RESTRICTIVE MEASURES IN TUNISIA (UNNUMBERED)

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

I wrote to you on 9 July setting out some of the items we expected would require an urgent decision during the recess period, but for which the formal documents had not yet been made available for scrutiny by the Committees. One of the items I referred to in that letter was a proposal to make an amendment to the restrictive measures concerning Tunisia. I am now submitting an Explanatory Memorandum with the Council Decision and Regulation which were first circulated on 17 July, and we expect to be adopted by written procedure on 31 July.

As I explain in my Explanatory Memorandum, if action is not taken before the end of July to amend the listings, the two month period for the European Council to appeal the European Court of Justice decision would expire, and the three listings would be withdrawn. Unfortunately, due to the timing of the publication of the documents and recess I have found myself in the situation of having to agree to these documents before your Committee had the time to consider them.

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 is regrettably unavoidable.

2 August 2013

## ROLE OF THE EUROPEAN UNION IN THE FOOD AND AGRICULTURE ORGANISATION (FAO) AFTER THE TREATY OF LISBON (UNNUMBERED)

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

At its meeting of the 11th of July, the EU Sub-Committee on External Affairs considered the above document and cleared it from scrutiny.

While the Committee supports the negotiating position of the Government we believe that the Commission makes a strong case that it is essential that the Union is coherent in its external representation and able to act effectively in international organisations. We would be grateful if you would keep us updated on the negotiations as they progress and their final outcome as well.

We look forward to your response in due time.

*15 July 2013*

## RULE OF LAW MISSION FOR IRAQ (UNNUMBERED)

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

The EU Committee on External Affairs considered this document at their meeting of 20 June 2013 and cleared it from scrutiny.

The Committee would be interested to hear your assessment of the achievements of EUJUST-LEX Iraq. Please can you also inform us about what measures are being planned to bridge the gap between the closure of the EUJUST-LEX Iraq mission and the commencement of the Commission's development programme, and whether these measures will be deposited for parliamentary scrutiny. Finally, the Committee would be grateful for more information about how the Commission intends to continue the EU's rule of law engagement with Iraq.

We look forward to your response to the first three questions within the usual 10 working days, and for the last question, when you have the relevant information.

*26 June 2013*

### **Letter from David Lidington MP to the Chairman**

Your letter of 26 June requested further information regarding the EUJUST LEX Iraq mission: our assessment of the achievements of the mission, measures to bridge the gap between mission closure and commencement of the Commission's development programme and whether these measures will be deposited for parliamentary scrutiny. You also requested more information on how the Commission intends to continue the EU's rule of law engagement with Iraq.

#### MISSION ACHIEVEMENTS: UK ASSESSMENT

EUJUST LEX has succeeded in bringing a critical mass of Iraq's Criminal Justice Sector leaders together to examine and debate international best practice. It has enabled Iraqi judges, police officers and penitentiary managers - men and women, from Sunni, Shiite, Kurd and other ethnic backgrounds to discuss important issues of rule of law important to their country's future in a safe, neutral and supportive environment.

The UK played a key role in convincing the Commission that a monitoring and evaluation methodology should be embedded in the mission's training activities from the outset. The Monitoring and Evaluation (M&E) capacities of the Iraqi Police Training and Qualifications Directorate will mean that good practice in monitoring and evaluation continues in rule of law training after the EU mission leaves Iraq. The mission's evaluation officers exchanged M&E methods with international organisations including UNDP Iraq, USAID and the Red Cross, to improve the mission's assessment of outcomes and impacts.

As of December 2012, the mission has run more than 500 courses and trained more than 5,700 senior law enforcement practitioners. Key achievements include delivering innovative activities such as training of an Iraqi law enforcement training cadre ("training the trainers"), mainstreaming human

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 68

rights and gender issues into training, and increasing the frequency and quality of contacts at the highest level between the European experts working within the mission and Iraqi officials. I would like to highlight in particular three areas of concrete achievement that have made a difference to rule of law for Iraqis: the establishment of Rule of Law Committees; the delivery of a Police Federal Investigation Training course and the delivery of a penitentiary International Standards of Audit Programme. The mission also leaves behind bespoke training manuals, audit programs and other technical literature.

The technical assistance offered by the mission has complemented the efforts of others who have provided equipment and resources in this sector. The US Embassy, French Embassy and UNDP (operating from Amman) have cooperated well with the mission, and we have collectively avoided duplication of activities.

The mission has also generated positive media coverage, giving a strong political signal of EU engagement to the Iraqi public and political class. Our Embassy's assessment is that Iraqis understand and appreciate this effort, and the investment for the future it represents.

#### EU SUPPORT TO IRAQ AFTER CLOSURE OF THE MISSION: COMMISSION AND EEAS PLANNING

The Commission have produced plans for the mission's work to be taken on by Development instruments. Unfortunately, this planning took the Commission longer than they anticipated, and DG Development and Cooperation (DevCo) have designed an action planning document which will pick up certain strands of the EUJUST LEX mandate. However, Commission procedures mean that the activity outlined in that document is unlikely to come into effect until late in 2014. The Commission reported at the start of 2013 that a gap between EUJUST LEX and DevCo activities looked likely. The UK followed this up immediately by calling a meeting of likeminded Member States (MS) to explore options for addressing this gap, and requesting a Special Report from the EEAS to explore options for either limiting, or managing it.

This ensured that the EEAS refocused on ensuring that the mission closes effectively, and their recent work to address the gap looks promising. They are exploring funding a core team to stay in-country and continue many of the activities of EUJUST LEX, until the DevCo programme starts. Funding options for bridging the transition are also being explored.

Ultimately, the handover plans have not been developed in as satisfactory a way as we and other MS would have hoped, but we are pressing for them to be improved and we are encouraged by the EEAS recent progress on planning to bridge the gap.

You asked whether these measures will be deposited for parliamentary scrutiny.

We expect that a working group level document will deal with the handover measures and as such will not be subject to parliamentary scrutiny, but seeing the Committee's interest in the process I will keep the Committee informed of progress in this area. If the outcome of the discussions is for action requiring additional spending from the CFSP Budget, this will of course necessitate scrutiny.

#### CONTINUATION OF EU'S RULE OF ENGAGEMENT WITH IRAQ: COMMISSION NEXT STEPS

Regarding the question for more information about how the Commission intends to continue the EU's rule of engagement with Iraq – officials are seeking further clarity from the Commission and I will update you in due course and by end November at the latest. In the meantime, the Commission is working up a matrix of existing activity to explore how other parties can help with the aim of a smooth transition from the mission into the DeVCo programme at some point in 2014.

*12 July 2013*

#### SOUTH SUDAN: GENERALISED SYSTEM OF PREFERENCES (UNNUMBERED)

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

I would like to let you know of a recent positive development regarding South Sudan's eligibility for the EU's main preferential trading scheme for developing countries, the Generalised System of Preferences (GSP). GSP allows developing country exporters to pay lower duties on their exports to the EU, giving them vital access to EU markets and contributing to their economic growth.

On 29th May, South Sudan was added to the beneficiary list of the GSP scheme following the United Nation's classification of the country as a Least Developed Country (LDC) in December. This is an important step which ensures that South Sudan will not have to pay tariffs on its exports to the EU following its independence from Sudan in 2011.

I attach a copy of the Commission Implementing Regulation (EU) No 496/2013 [not printed] which amends the beneficiary list to include South Sudan and also updates it to reflect the dissolution of the Netherlands Antilles. These changes will apply retroactively from 1 January 2013.

*18 June 2013*

## TOWARDS A MORE COMPETITIVE AND EFFECTIVE DEFENCE AND SECURITY SECTOR (12773/13)

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

Thank you for your Explanatory Memorandum 12773/13 of 22 August on the above Communication. The House of Lords European Union Sub-Committee on External Affairs considered this document at its meeting on 10 October.

We note that there are many proposals in the Communication which the Government support. As indicated in our report on European Defence Capabilities published last year (31st Report, 2010-12 Session, HL Paper 292, Para. 101) we too welcome efforts to promote a strong and efficient European defence sector, and in this Communication welcome in particular proposals to encourage greater opening of defence markets, to support defence SMEs, and to increase synergies between the EU civil research programme and defence research.

We note your concerns in regard to other aspects of the Communication, and would ask you to elaborate further on some issues. For example, in view of your concerns about possible duplication of effort with the work of NATO and the EDA, what is the attitude of those organisations to the Commission's agenda? Is there any merit in the Commission's proposals to achieve synergies with the work of the EDA? What is your sense of the views of other Member States, including the Letter of Intent partners that you cite? As regards the risk of unnecessary regulatory interference, why do you judge that "there remains a risk that [the Commission] could interfere with the defence market" bearing in mind that the Commission appears to have ruled out legislation in the near term?

Taking the proposals as a whole, do you see any merit in the Commission's justification for the actions it proposes to take, and in particular its assertion that "it is increasingly unlikely that Member States can bear this burden [of security and defence] in isolation"? What is your view in regard to its suggestion that "decisions on investments and capabilities for security and defence should be based on a common understanding of threats and interests...Europe therefore needs to develop, in due course, a strategic approach covering all aspects of military and non-military security"?

We would also be grateful for further detail on your concerns regarding the Commission's intention to come up with a proposal for which capability needs, if any, could best be fulfilled by assets directly purchased, owned and operated by the Union. What risks do you believe would arise from EU involvement in this area? How would you respond to the Commission's assertion that it is necessary "to go one step further in order to ensure that Europe disposes of the full range of security capabilities it needs; that they are operated in the most cost-efficient way; and that interoperability between non-military and military capabilities is ensured in relevant areas"?

We would be grateful for a response to these questions by 24 October 2013. In the meantime we are content to clear the document from scrutiny.

*10 October 2013*

### **Letter from Dr Andrew Murrison MP to the Chairman**

Thank you for your 10 October letter, clearing the above Explanatory Memorandum from House of Lords Scrutiny. You ask for additional detail on our views (in particular our concerns) on some aspect of the Commission's Communication.

We see some merit in the Commission's justification for action, no least that there are clear benefits to removing some of the barriers to competition. Similarly, in the current security and financial climate, we agree there is a compelling argument for Member States to work more closely together <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 70

to develop critical capabilities, exploit efficiencies and avoid duplication in defence spending, and we believe we need to take advantage of the available institutional tools to do this – whether through NATO, the EDA or the Commission. However, we continue to have concerns around the role the Commission appears to be trying to assume in tackling some of these issues, particularly with regards to interference by the Commission in Member States' sovereign security and defence responsibilities.

On capabilities specifically, we broadly agree that it is necessary to address the critical gaps, which is why we continue to encourage NATO in particular to address the key capability gaps and address the issue of burden sharing. The EU can have a role in addressing capability gaps, as long as it is coordinated and complementary with NATO. The Commission could help this process through encouraging competition in the EU defence market, which should ensure more efficient delivery of capability; encouraging SMEs to work in the defence sector through access to EU SME finance; and increasing the synergies between the EU civil research programme and defence research.

23 October 2013

## TRADE AND WORST FORMS OF CHILD LABOUR (9198/13)

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

The Sub-Committee considered the above document, which had been cleared at the sift, at its meeting on 13 June 2013.

We are concerned that the EM is too complacent about the use of child labour and we question whether trade, to the extent that it could be, is in fact being used to combat child labour given that, for example, Uzbekistan has a preferential trade agreement, but no real progress has been made to lessen forced labour in the cotton fields. We would be grateful if you could let us have examples of where this EU policy has been effective.

Paragraph 25 of the EM states that the European Parliament and Commission continue to discuss measures that would place obligations on EU-based multinational enterprises to promote fundamental rights of child workers in their supply chains. Could you let us know what is the UK input to these discussions?

We were surprised that there had been no external consultation on this communication (paragraph 28 of the EM), given the number of NGOs active in the field.

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

20 June 2013

### **Letter from Lynne Featherstone MP to the Chairman**

Thank you for your letter dated 20 June requesting further information on whether EU trade could be used to combat the worst forms of child labour, making reference to the example of Uzbekistan, and what the UK contribution is to discussions with EU based multi-national enterprises to combating child labour.

The EU builds incentives to tackle child labour into its trade policies, for example, through its use of sustainable development clauses in trade agreements and in the conditions attached to its Generalised System of Preferences (GSP) scheme. The EU's GSP Plus scheme provides incentives for countries to sign up to core human rights conventions and demonstrate that they are effectively implementing them. The UK was at the forefront of arguing for the expansion of the scheme from 2014 so that additional countries would be eligible to apply as a way of incentivising implementation of human rights conventions.

The UK also argued strongly during the recent revision of the GSP Regulation for increased monitoring and scrutiny against core conventions such as the Convention on the Rights of the Child and the Convention on the Elimination of the Worst Forms of Child Labour. Reporting requirements have now been clarified and the EU is able to draw from wider sources of information for monitoring implementation. If a country is found to be failing in its implementation, this would be grounds for the withdrawal of preferences.

GSP provides an opportunity for dialogue with a country which might not otherwise be available. Uzbekistan introduced a ban outlawing the use of children aged under fifteen in this year's cotton

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2012R0481:20130319:EN:PDF> 71

harvest which is a step in the right direction. The UK continues to monitor the situation and to encourage further efforts towards full implementation of Uzbekistan's obligations under International Labour Organisation (ILO) conventions. The UK continues to press for the concerns we share with other Member States about the worst forms of child labour to inform EU trade policy.

Although DFID does not itself have an explicit focus on child labour, we support other organisations, including the EU, UNICEF, the ILO and NGOs, that are working to tackle the issue of child labour. DFID also supports a number of civil society projects that aim to prevent and tackle child labour.

DFID continues to work with organisations that seek to improve working conditions in industries that have global supply chains. DFID continues to provide support to and work with the UK's Ethical Trading Initiative and to encourage firms to follow, and adhere to, the Organisation for Economic Co-operation and Development (OECD) guidelines for Multinational Enterprises, which includes provisions on responsible business obligations of multinationals in respect of their business partners (including suppliers), as well as a Chapter on Employment. As part of this, the UK is one of forty-six countries adhering to the OECD Guidelines for Multinational Enterprises. The Guidelines provide detailed voluntary standards for responsible business behaviour, including standards relating to promoting development and encouraging suppliers and other business partners to act responsibly.

Governments adhering to the Guidelines are required to promote them to multinationals operating in or from their countries, and to provide National Contact Points to consider complaints against its multinationals from people affected by their operations.

Officials from the Department for Business, Innovation & Skills (BIS) assisted in the writing of this response.

*16 July 2013*

#### TRADE FOREIGN AFFAIRS COUNCIL (UNNUMBERED)

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

The Trade Foreign Affairs Council will take place in Nusa Dua, Bali on 3 December 2013. The Council meeting is being held in the margins of the 9<sup>th</sup> WTO Ministerial Conference which is being held from 3 to 6 December. I will be representing the UK at both and I will be acting as a Vice-Chair at the Ministerial Conference.

Please see attached [not printed] a Pre-Council Written Ministerial Statement which is being laid in Parliament.

*26 November 2013*

#### TRADE OMNIBUS II (7455/11, 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 inform you that political agreement has been reached in the trilogue negotiations on these two Trade Omnibus proposals. We expect them to go forward for formal adoption by Council in the Autumn. Copies of the revised texts will be forwarded to you as soon as they are available.

The outcome in both dossiers is in line with UK objectives.

#### TRADE OMNIBUS I

You will be aware from previous correspondence (resting with my letter of 20 November) that there were three main areas of concern with this dossier, all related primarily to the basic EU anti-dumping (AD) and anti-subsidy (AD) regulations. These concerns were about the extent of Member State consultation, investigation timescales and Union (public) interest. There is a satisfactory outcome on all of these issues in the political agreement.

The extent of Commission consultation with Member States was, as expected, the main issue during the trilogue discussions. The EP challenged some of the levels of Member State involvement



presented in the Council proposal. In particular, the EP was opposed to the inclusion of Article 15(6) in the AD regulation (and Article 25(6) in the AS regulation) which was proposed by the Council and which confers upon Member States a right to be provided with information and an opportunity to contribute to an exchange of views as investigations develop. This became known as the 'information+' article.

The political agreement has accepted inclusion of Article 15(6), with only a minor amendment ("The Committee may examine..." changing to "The Committee may consider...") at the cost of a joint declaration which states that the view of the three institutions (ie Council, Parliament and Council) is that the inclusion of an information+ provision will only be justified in exceptional circumstances (note 1). Before agreeing to join this declaration we obtained assurance from the Council Legal Service that this does not prevent the Council from proposing, with appropriate justification, the use of a similar 'information +' article in future trade policy regulation, and that neither the EP nor the Commission could reject such a justified proposal from the Council simply on the strength of this declaration. While there was inevitably some trade-offs between the various levels of Member State involvement in AD and AS decision-making in no instance has that involvement been removed. This represents a very good outcome for the UK and Member States as a whole.

Overall Investigation timescales remain largely unchanged from the present requirements with a welcome increase of the time available for interested parties to register their interest in cases and respond to questionnaires. As part of the overall package agreement was reached on one timescale compromise: the time for interested parties to respond to disclosure in relation to the imposition of provisional measures is to be reduced from the current one month to 25 days (as against the 15 days originally proposed by the Commission).

Finally, the changes to Article 21(5) of the AD regulation on

Union (public) interest that had been proposed by the Council after agreement between Member States was accepted without debate by the EP.

#### TRADE OMNIBUS II

This is also a very satisfactory outcome in terms of UK concerns. As explained in my letter of 11 March these related to the justification for the use of urgency procedures and the use of delegated acts for textiles safeguard action.

The EP accepted without debate the Council's proposed amendments, some of them UK drafted, providing the justification for the use of urgency procedures in individual regulations. And while there was some debate about the use of delegated acts for textiles safeguard measures, the Parliament agreed to join the joint declaration proposed by the Council (note 2).

The UK's initial concern about the term for delegated authority was satisfactorily resolved with agreement on an amendment to change the indeterminate period proposed by the Commission (and opposed by the UK) to a 5 year term.

I hope you will agree with me that these outcomes represent a satisfactory outcome for the UK within the parameters for Member States involvement in trade policy decision-making established by the Treaty on the Functioning of the EU.

*18 June 2013*

#### TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (10069/13)

##### **Letter from Viscount Younger of Leckie, Parliamentary Under Secretary of State for Business, Innovation and Skills**

I am writing to you to explain why we had to override the scrutiny grounds with regards to the attached [not printed] Explanatory Memorandum on the European Union document; the Proposal for a Council Decision establishing the European Union position within the TRIPS Council of the World Trade Organisation on the request for an extension of the transition period under TRIPS Article 66.1 for least-developed countries (LDCs).

As you will see from the EM, the current transition period for LDCs is due to expire on 1st July 2013 and as such this has become an issue of intense debate. Informal negotiations on the extension of the transition period under TRIPS Article 66.1 for least-developed countries have been ongoing in Geneva since April. The UK has been advocating strongly for a progressive solution to the current debate,

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which highlights the economic value of intellectual property without requiring LDCs to act outside their economic interests.

TRIPS falls under the Common Commercial Policy so the European Commission negotiates on behalf of the EU. We have therefore pressed for an EU position to be agreed at the earliest opportunity to allow the Commission to take an active part in negotiations in Geneva. A draft Council Decision was finally released on 28th May, however this draft did not fully incorporate the views of the Member States and as such an amended Presidency compromise was released (as a *limité* document) on Monday 3 June.

Unfortunately the proposed Council Decision that was submitted to Parliament was the initial Council Decision and not the amended Presidency compromise which is attached [not printed]. This document 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.

The amended Presidency compromise proposal includes an element of more efficient monitoring of progress by the TRIPS Council and separates the issue of a different exemption for LDCs regarding pharmaceutical patents (which is not due to run out until 2016). In policy terms, more regular and transparent review by the TRIPS Council of progress by all parties will incentivise better compliance, including by developed countries on our technical assistance obligations. Separating the question of pharmaceutical patents helps to allay concerns over access to medicines in LDCs. We can therefore support this amended proposal. However, the delays in reaching this stage have left very little time before the next TRIPS Council on 11-12th June 2013 at which this issue is due to be decided.

As such, the amended Presidency compromise proposal was approved as an 'I' point at COREPER on 5th June 2013 and listed as an 'A' item to the agenda of the Council of 6th June 2013. Due to the extremely tight timeframe and the urgent need for an agreed EU position in the form of this Council Decision before 11th June 2013 to enable the EU to take part in the discussions, we have unfortunately had to override the scrutiny grounds on this occasion.

I would like to apologise for this and I hope that this letter helps to explain the reasoning behind this decision.

*6 June 2013*

## UKRAINE ASSOCIATION AGREEMENT (UNNUMBERED)

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

I am writing to provide further context on the Explanatory Memorandum on the draft Council Decisions for provisional application, signature and conclusion of the EU-Ukraine Association Agreement, which I am now submitting to Parliament for your Committee's consideration. I submitted the original Explanatory Memorandum on two Council Decisions on 14 June 2013. I subsequently wrote to the Chairs of both Parliamentary Scrutiny Committees on 2 September to update you on the Government's intentions with regard to the JHA Opt-in decision, and on Ukraine's political progress more broadly. Your Committee then cleared the Council Decisions from scrutiny on 12 September.

This further Explanatory Memorandum follows detailed negotiations on the text of the proposed Council Decisions; these negotiations have led to a narrowing of the scope of provisional application, a change to the legal base, and a split of each of the original draft Decisions into two new separate Council Decisions. This latest EM therefore covers four draft Council Decisions.

The Council Decisions are likely to be brought forward at the November Foreign Affairs Council. The Government has not yet reached a decision on whether to agree signature and the FCO continues to analyse Ukraine's progress against the EU's benchmarks. I have written to you in parallel to this letter with another update on Ukraine's political progress. I will send a further update on the Government's view in the coming weeks, taking full account of the timetable required to allow Parliamentary scrutiny of the Government's decision.

*9 October 2013*

### **Letter from the Chairman to David Lidington MP**

Thank you for your letter of 30 October in respect of the above agreement, and your previous letters of 9 and 17 October. The EU Sub-Committee on External Affairs considered them at its meetings on 7 November and 24 October, respectively.

As you know, the original Explanatory Memorandum and your Supplementary Explanatory Memorandum on the Association Agreement between the European Union and Ukraine have already been cleared from scrutiny. We note that your latest letter of 30 October does not indicate whether the Government have reached a final decision on whether to sign the Agreement with Ukraine. We would ask you to inform us of the stance you propose to take at the 18 November Foreign Affairs Council, when we understand ratification of the Agreement is planned.

We look forward to your response before the Council meets.

*7 November*

### **Letter from David Lidington MP to the Chairman**

Thank you for your letter of 7 November 2013, in which you asked what position the Government would take at the 18 November Foreign Affairs Council (FAC) on signature of the EU-Ukraine Association Agreement. To some extent we covered this ground in my appearance before your Committee on 12 November but I hope that you will also find this written response helpful.

Consideration of this issue will clearly be a key agenda item on 18 November. This will be an important meeting in shaping the views of EU Member States. It now seems less likely than we previously envisaged that the November FAC will make the decision on whether or not to go ahead with signature at the Vilnius Summit. The UK, together with European partners, is keen to give Ukraine the maximum time to demonstrate their commitment to deep and sustainable reform. This may mean that the final decision is taken very close to the Summit itself.

As the Committee is aware, this Government has consistently been a firm supporter of Ukraine's EU aspirations, but we have always made clear that signature of the Association Agreement depends on Ukraine demonstrating a sustainable momentum for reform. Our European partners have taken a similar position.

As I set out to the Commons Scrutiny Committee during the 11 November debate on this issue, the Government recognises that Ukraine has made a great deal of progress on reform in the last few months, but there is still more to do. We have yet to take a final decision on whether Ukraine has done enough and we have urged Ukraine to use the short time left before Vilnius to improve their record on reform. The Foreign Secretary made this clear to Ukrainian Deputy Prime Minister Gryshchenko when he met him in London on 31 October.

I wrote to you on 17 October setting out the factors which the Government would take into account when reaching the final decision on whether to sign the EU-Ukraine Association Agreement, with Deep and Comprehensive Free Trade Area, at the 28-29 November Eastern Partnership Summit in Vilnius. Our position on signature will be guided by our latest assessment of Ukraine's progress on reform, the views of other Member States, the geopolitical situation, and the view of Parliament.

We continue to make clear to Ukraine that reform is a continuous process and that whenever signature of the Association Agreement takes place, whether at Vilnius or not, this is simply a milestone, not the end of the road. The Government, and our European partners, need to be reasonably satisfied that reform will continue after signature, during the period of provisional application pending full ratification.

As we have noted to the Ukrainian authorities, all national parliaments and the European Parliament will need to ratify the Agreement before it can come into force and take full effect. National parliaments will need to be satisfied that there is clear evidence of Ukraine's continued commitment to deep and sustainable before taking a decision on ratification.

We very much hope that Ukraine will be ready to sign at Vilnius. The EU has done its part to prepare for signature of the EU-Ukraine Association Agreement; Ukraine must act now to deliver on reform. If we cannot sign at the Vilnius Summit, the Agreement will still be available to Ukraine when they are ready.

*13 November 2013*

UPDATE ON EU-SINGAPORE PARTNERSHIP AND COOPERATION AGREEMENT  
(UNNUMBERED)

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

I am writing to let your Committee know that on 14 October the EU-Singapore Partnership and Cooperation Agreement (PCA) was initialled by both sides. We expect the necessary processes for signature and conclusion of this Agreement will begin early next year, at which point we will submit the draft Council Decisions for Parliamentary scrutiny.

The Agreement establishes a framework for strengthening ties between Singapore and the EU and Member States. It covers cooperation on issues including climate change and energy, trade and investment, science and technology, and maritime and aviation transport. It also addresses illegal migration, money laundering, illicit drugs, organised crime and corruption.

The establishment of the PCA is a necessary precursor to the Free Trade Agreement (FTA) with Singapore, on which negotiations have almost concluded. Together these agreements will support the UK's wider prosperity objectives with Singapore. Benefits to the UK include some progress in retail banking for UK banks; improved intellectual property protection for Geographical Indicators such as Scotch whisky; removed duplicate testing for cars, electronics and green technologies; and recognition of respective national standards for meat exporters.

In 2012 Singapore was the UK's largest trading partner in South East Asia and the UK is the third largest foreign direct investor. Over 700 UK companies are based in Singapore. Singapore is also an important investor in the UK, primarily through the sovereign wealth funds, GIC and Temasek. GIC is a major investor in BAA and recently concluded a \$1.6bn commercial real estate deal, while Temasek holds 19% of Standard Chartered bank.

25 November 2013

UPDATE ON THE LITHUANIAN PRESIDENCY DEVELOPMENT PRIORITIES  
(UNNUMBERED)

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

Lithuania's EU Presidency began on 1 July 2013 and will end on 31 December 2013. The Lithuanian Presidency is the second of a trio which will last until July 2014. Greece will bring the Presidency Trio to a close. I am taking this opportunity to update the Committees on the main development files in the Lithuanian Presidency's work programme and outline the UK's objectives in relation to these, set out below:

POST 2015 DEVELOPMENT AGENDA

Council Conclusions on an overarching post-2015 Agenda were adopted on 25 June 2013 following Council discussions on the basis of the Commission Communication "A decent Life for All: Ending poverty and giving the world a sustainable future". In line with the UK's support for the UN High Level Panel co-Chaired by the Prime Minister, we secured language in the Conclusions that placed eradicating extreme poverty as the objective of a post-2015 framework, brought together development and environment communities and placed an emphasis on open economies and open societies. The conclusions equip the EU well for the next stages of international discussions and emphasise that the EU should engage constructively and openly with international partners to prepare the Post-2015 agenda. An important objective will be to avoid further prescription at this stage to allow the EU and Member States a flexible negotiating hand in New York.

The Lithuanians will follow the debates and progress on developing a Post-2015 agenda in the UN and other international fora, reviewing the EU approach as necessary. They will devote particular attention to EU preparations for the UN High Level MDG Review Event in September and will continue to work jointly with other interested Council working groups such as WPIEI (Global) and CONUN.

The major milestones upcoming are the publication of a Commission Communication on post-2015 development finance (separate section below), and the UN High Level MDG Review Event in September. That event will review progress on meeting the MDGs and hopefully set out a roadmap for developing a Post-2015 agenda.

#### FINANCING FOR DEVELOPMENT COMMUNICATION

Building on the EU's "Decent Life for All" Communication on the post-2015 agenda the proposed Communication will provide elements of a possible common EU approach to financing for development beyond 2015.

Our overarching priority for the communication is maintaining in it a clear EU commitment to development financing. This will be vital to maintaining the EU's credibility in the wider UN negotiations on the post-2015 development framework.

We particularly support the intended references in the communication to the need for co-ordination and complementarity between the different approaches to financing poverty eradication and sustainable development. It is important that the overarching post-2015 financing framework can include funding from a range of sources. The annual accountability report will take stock of progress in implementing EU commitments on financing and other means of implementation in respect of global policy goals. We will again push for this to be a robust and transparent report which clearly reports on the level of EU and Member States' actions in the context of Financing for Development, and analyses the relative importance of various financing sources available to developing countries (domestic/international, public/private).

In terms of process, the Commission documents are expected during July 2013. CODEV will prepare Council Conclusions, but these will not be agreed until after the High Level UN event on the MDGs on 25 September, to ensure they reflect the conclusions of that meeting. The Lithuanian Presidency will continue to work jointly with other interested Council working groups such as WP/IEI (Global) and CONUN.

#### DEVELOPMENT COOPERATION INSTRUMENT (DCI)

The Council CODEV working group will be leading on the new Development Cooperation Instrument (DCI) for 2014-2020. In June 2012 the Council adopted its partial general approach, which provides the Council's position in negotiations with the European Parliament. The EP Committee on Development (DEVE) adopted 288 amendments in September 2012. Informal negotiations with the EP started at technical and political level on a limited list of articles during the Cypriot Presidency and continued during the Irish term. The Lithuanian Presidency will seek to finalise negotiations on DCI. They hope that the pace of negotiation can increase in the second semester.

The key priority for the DCI is to maintain the very positive elements in the Council's position during the Presidency's negotiations with the EP. These include a focus on the poorest countries, increased country ownership, and a focus on results.

With regard to the MFF External Actions more generally, of which the DCI negotiations form part, there has been good progress in informally agreeing large parts of the substance of several of the instruments with the European Parliament (EP). However, formal progress has been held up by the EP's insistence that it should have a right of veto over individual EU country and regional aid programmes through the use of 'Delegated Acts'. However, the EP has recently asked to re-open these locked negotiations, so there is now some possibility of an agreement by the autumn. The Lithuanians have said that horizontal issues across Heading IV instruments, such as the 'Delegated Acts' question, will continue to be addressed under the lead of the FoP/Heading IV Working Party. The UK's key objective is to avoid the EP gaining a veto over individual EU aid programmes.

#### EUROPEAN DEVELOPMENT FUND (EDF)

The EDF Internal Agreement has now been signed by Member States and work will commence on the Implementation Regulation, describing the programming and monitoring framework, and the Financial Regulation, which includes rules for Member States' contributions and budget implementation. The ACP working group will also follow the ratification process of the EDF Internal Agreement, which is expected to take up to 18 months for all Member States to complete, and agree the transitional arrangements to be in place until this has entered into force. A follow-up on the national and regional programming process for EDF II is also envisaged.

A new Overseas Association Decision is expected to be finalised and adopted by December which will set the framework between the EU and Overseas Territories. The UK's key objectives are ensuring favourable trade preferences and development cooperation for UK Territories as well as access to a range of additional EU programmes.

The Lithuanians will possibly propose a Council Decision on the conclusion of the second revision of the Cotonou Agreement and launch discussions on a possible third revision of the Agreement in 2015.

#### HUMANITARIAN AID AND RESILIENCE

The Lithuanian Presidency will continue with existing work. Lithuania hopes to finish off the EVHAC work done under the Irish Presidency and concentrate more on the other topics they have listed around the European Voluntary Humanitarian Aid Corps (EVHAC) trilogue procedures and resilience (the latter in conjunction with CODEV). We do not expect them to bring too many additional work streams to the table. They have also said they will aim further to strengthen COHAFAs links to the geographical working groups. The UK will continue to apply pressure on other Member States and the Commission to reduce the scale of EVHAC and to keep activities focused on areas where volunteer safety and added value can best be guaranteed. We have placed an SNE with the Lithuanian Presidency to assist them with COHAFAs reform.

*8 July 2013*

#### **Letter from the Chairman to Lynne Featherstone MP**

Thank you for your letter of 8 July on the development priorities of the Lithuanian Presidency. It was considered by the House of Lords EU External Affairs Sub-Committee at its meeting of 18 July.

We note that trilogue procedures for the European Voluntary Humanitarian Aid Corps (EVHAC) is also on the work stream. As this is a proposal currently held under scrutiny by our Committee we would be grateful for an update on negotiations as they proceed.

*18 July 2013*

#### WEAPONS OF MASS DESTRUCTION (UNNUMBERED)

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

I am writing to confirm that the FCO is submitting a draft of the above mentioned Council decision that is due to be adopted on a date between 8th and 10th December 2013, for your Committee's consideration. This draft Decision was circulated by the EEAS on the 25 November but, as we stress in the accompanying Explanatory Memorandum, the UK is not happy with large parts of the proposal and our colleagues in Brussels are currently negotiating important amendments.

As you know, I am committed to full and transparent scrutiny which is why I planned to submit the draft even though the Decision had yet not been finalised. On 27 November, the UK delegation in Brussels reported that the EEAS have taken on board UK suggested amendments (as outlined in the Explanatory Memorandum) to the draft Decision. The draft reflecting these amendments is unfortunately not yet available for deposit in Parliament. The EEAS intend to circulate a revised draft Decision amongst Member States on Friday 29 November – I thus expect this version of the draft Council Decision to be available on Monday 2 December. At that point, I would be happy to provide that later draft to your Committee and submit a Supplementary EM noting the changes. However, as you will appreciate the timings in this instance are extremely tight, and that later draft may not arrive with your Committee for its consideration before its meetings in w/c 2 December. As such, I was keen to ensure that your Committee was sighted on the current, available draft – even though we know it will be superseded in the coming days. I hope that this give your Committee the opportunity to scrutinise this dossier in advance of its adoption on 8-10 December, although I appreciate that sight of the final text would of course have been preferable, had it been available earlier.

*28 November 2013*

## WOMEN IN THE AFGHANISTAN NATIONAL POLICE FORCE (UNNUMBERED)

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

The EU-Sub Committee on External Affairs considered the above document at its meeting on 16 May 2013 and decided to clear it from scrutiny.

The Committee commented that it will be necessary for the Mission's objectives to be reviewed regularly as the process of transition in Afghanistan takes place, and looks forward to being updated regularly on the progress of the Mission. We would also welcome a progress report on the training of women and their incorporation into the police forces in Afghanistan.

We look forward to your response on the latter question within the usual ten working days.

22 May 2013

### **Letter from David Lidington MP to the Chairman**

I am writing in response to your letter of 22 May 2013. Following the extension to the Common Security and Defence Policy policing mission in Afghanistan, EUPOL, you requested further information regarding the training and incorporation of women into the police force. One of EUPOL's six objectives is to strengthen respect for gender equality and human rights within police forces.

The number of female police officers in Afghanistan make up 0.98% of the overall Afghan National Police Force (approximately 1,489 as of April 2013). This number increased from 180 in 2005 through to 1,195 in September 2011. The Ministry of Interior (MoI) has set an ambitious goal of 5,000 female police officers by the end of 2014, but has acknowledged that it is unlikely to meet this objective. The UK believes that recruitment of women has not been a high enough priority for the Afghan government or international donors.

In response to this, the MoI has set up a working group (to which EUPOL provides specialists) to come up with a comprehensive approach to the role of females in the police. Its aim is to increase the number of police women by adjusting selection procedures, improving working conditions and providing better training.

EUPOL are working with the MoI to improve working conditions for women in the police. EUPOL recently commissioned a survey of female police officers in Kabul. 85.7% of respondents agreed or strongly agreed that their job was very rewarding. 100% of respondents agreed or strongly agreed that they liked their job as a police officer. 81% agreed or strongly agreed that women are accepted within the police system. However, 33.3% of respondents reported being sexually touched, stroked or pinched at least once during working hours. EUPOL plan to use the survey as a baseline against which to measure progress – and to motivate the MoI to sign a general order on maintaining specific gender standards within the Kabul Police Districts.

EUPOL supports the Family Response Units of the Afghan National Police which, in addition to responding to domestic crime, run a helpline for female police officers. EUPOL also funds the trial of community police units in seven provinces with the aim to bring the community closer to the police. Each of these community police units will include female officers.

In Helmand, the UK Ministry of Defence Police (MDP) are providing support and training to the 16 female police officers in the province. The MDP also provide a female officer mentor at the UK-led Provincial Reconstruction Team (PRT) based in Helmand. The women have their own training facility at Provincial Headquarters and the PRT Rule of Law team also fund a scholarship programme to support the next intake of women to the Afghan Uniformed Police.

It should be noted however that in order to introduce more women into the Afghan police, strong Afghan cultural reservations must be overcome. As Sidiqi Sidiqi, the spokesman for the MoI observed, "The government should be given credit for overseeing the difficult transition of bucking cultural traditions to recruit women to police forces in Afghanistan. This has been quite an achievement."

6 June 2013

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