



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 December 2008 to April 2009.

## **FOREIGN AFFAIRS, DEFENCE AND DEVELOPMENT POLICY (SUB-COMMITTEE C)**

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#### AFRICA: EU AFRICA STRATEGY UPDATE (11326/07)

**Letter from Ivan Lewis MP, Parliamentary Under Secretary of State, Department for International Development and the Rt Hon Lord Malloch-Brown, Minister of State, Foreign and Commonwealth Office, to the Chairman**

We are pleased to be able to write to your Committee with an update on implementation of the Joint Africa EU Strategic Partnership, following the joint AU-EU ministerial troika which took place in Addis Ababa on 20-21 November 2008. While it is not long since we last updated the Committee (see letter of 6 November 2008), there have been important steps taken in the implementation process in the last two months.

Each of the eight thematic Partnerships which make up the First Action Plan for the Strategy held its first Joint Experts Group (JEG) meeting between African and European partners in November (with the exception of the Energy Partnership which took place in October). The Joint Strategic Partnership places great emphasis on the importance of strengthened dialogue between the two continents, built on a process bringing together experts from both sides to discuss issues of mutual concern. We are therefore very pleased to be able to report that this dialogue has now begun in earnest.

The JEG meetings have also begun to produce tangible results, although it is still very early days for the Groups and for the most part the first meetings were exploratory discussions. The proposed joint Africa EU Declaration on Climate Change to which we referred in our last letter was announced by Jean Ping, Chairman of the African Union Commission, and European Commissioner for Development and Humanitarian Aid Louis Michel, at the UN Conference on Financing for Development in Doha on 1 December, having been prepared through the JEG process. The Declaration outlines Africa and the EU's common concerns for global warming and their shared interest in an ambitious post-Kyoto international agreement. It demonstrates the intention of the EU and Africa to work together towards common climate change approaches, and underlines their joint commitment to the objectives and principles of the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol. The Declaration was further discussed at the UN Climate Change Conference in Poznan in December, where both sides agreed to identify future cooperative activities.

Within other Partnerships, European and African partners agreed fruitful possible areas for joint work on Governance and Human Rights, including Election Observation, the Charter on Democracy and Elections, and the Africa Peer Review Mechanism. The first joint meeting of the Migration Partnership made a strong commitment to the transparent exchange of information, and agreed to establish smaller working groups on specific priorities, including remittances, work with the African Diaspora, and employment issues.

Following a productive Peace and Security JEG meeting, Peace and Security issues were considered at the highest level at the AU-EU ministerial troika in November, which was attended by Defence Ministers for the first time.

Forthcoming key events on Peace and Security include the AMANI Contributor's Conference on 6 February. The ongoing programme of AMANI exercises is designed to lead to the operationalisation of the Africa Standby Force by the target date of 2010. The UK has pledged £400,000 for 2008-2010. We continue to support this process and to encourage partners to do so, to ensure it keeps to schedule.

A workshop on the EU-sponsored Training Centres project is planned for the first quarter of 2009. This will identify needs, and match these with possible EU assistance.

#### MDG PARTNERSHIP

A number of key events have happened since we last wrote in November with regard to the priority actions of the MDG Partnership:

- Ensure the finance and policy base for achieving the MDGs;
- Accelerate the achievement of the food security targets of the MDGs;
- Accelerate the achievement of the health targets of the MDGs;
- Accelerate the achievement of the education targets of the MDGs.

The Doha Conference on Financing for Development on 28 Nov-2 Dec 2008 was an important milestone in terms of securing the finance and policy base for achieving the MDGs. UN Member States adopted the Doha Declaration on Financing for Development, reaffirming the Monterrey Consensus, and recommitting themselves to pledges made on increasing ODA, despite the current global financial crisis. They also called for a United Nations Conference at the highest level to examine the impact of the world financial and economic crisis on development.

In Doha, donors took the opportunity to make a statement in support of the Comprehensive African Agricultural Development Programme (CAADP) to increase inclusive agricultural growth. The donor community also undertook to make special efforts to strengthen policies and strategies on food security through Global Partnership for Agriculture and Food (GPAF) activities to support CAADP.

The Network of African Parliamentarians on Health and Gender Development and Financing was launched at the Abuja Conference of African Finance and Health Ministers in November 2008. This will help ensure quicker parliamentary awareness of, and policy and budget support for implementation of continental and global health frameworks.

I (Ivan Lewis) met with other European Ministers at the High Level Group Meeting on Education on 16-18 December 2008 in Oslo. We agreed a Declaration reaffirming the centrality of education for development, and focusing on equity, governance and the need for increased financing targeting the most in need. The Declaration outlined new commitments to integrate health, nutrition and education programmes, coordinate advocacy, and encourage innovative financing mechanisms. The meeting also agreed an Action Plan for recruiting, training, deploying and retaining teachers; and agreed to establish an international Task Force on 'Teachers for Education for All'.

The Partnership will carry out its role in the context of, and in coordination with, the wider actions being taken to achieve the MDGs in Africa.

#### FIRST JOINT EXPERTS GROUP

As the European lead for the MDG Partnership, the UK worked with the European and AU Commissions to prepare for the first JEG meeting. Tunisia is taking a lead on implementation for the African side, and the first joint meeting was co-chaired by His Excellency Hatem Atallah, Tunisian Ambassador to Ethiopia, and Mark Mallalieu, Head of Africa Directorate, DFID. In addition to the UK and Tunisia, the meeting was attended by representatives of eight African Member States and four European Member States, as well as the European and African Union Commissions. This first stage in the dialogue process laid the foundations for constructive cooperation on the priority actions.

The meeting formally acknowledged a number of initiatives undertaken in 2008 which contributed to the achievement of the MDGs in Africa and globally, and to the four priority actions of the MDG Partnership. In particular Co-Chairs highlighted the UN High Level Events in September, the Accra High Level Forum on Aid Effectiveness, and the EU Agenda for Action (which we highlighted in our last letter to the Committee).

African partners presented a list of projects where the Partnership process could usefully contribute, and outlined the process they had undertaken to identify these possible focus areas. The projects proposed covered the three thematic priority actions, and included: Expanding area under sustainable land management and water control irrigation systems; Programme to address the niche aspects of

the Africa human resources for health crisis; and “Open and Distance learning for teachers training and development programme”. These projects will be considered in more detail and focus areas identified as the Partnership process moves forward.

The UK Chair informed the meeting of the mapping exercise the UK has led to create a shared point of reference covering the wealth of existing work at the regional/continental level aimed at achieving the MDGs in Africa. This mapping will provide a basis for identifying gaps which might be addressed by the Partnership. The meeting agreed that this mapping should be completed and kept up to date, and would be useful in informing discussions at the next JEG meeting. Action related to Disability is one gap which stands out based on work so far. The UK will start a five year cross cutting research programme in January 2009 to increase the availability of robust data clearly demonstrating the links between disability and poverty in developing countries.

The next JEG meeting will be held in March 2009. It was agreed that three sub-groups of African and European experts on the priority actions will meet in advance of the full meeting, to consider possible focus areas. The full JEG will consider input from the sub groups and agree follow up actions.

We were encouraged by the shared understanding among participants about the approach to implementation of the Strategy. All partners were agreed that the Partnership must not establish parallel processes or additional projects that do not add value to existing work. Instead it must be a mechanism for strengthening dialogue among a wide range of actors, in order to better achieve our common objectives; and it must concentrate on areas where it can have the greatest impact, focusing on current gaps or blockages in implementation. The first discussion laid a good foundation for doing this in the future.

We look forward to being able to update you further following the next ministerial troika on 28 April, by which time the next round of JEG meetings will have taken place.

*5 February 2009*

## AGENCY FOR RECONSTRUCTION: ANNUAL ACCOUNTS FOR THE FINANCIAL YEAR 2007 (15341/08)

### **Letter from the Chairman to Mike Foster MP, Parliamentary Under Secretary of State, Department for International Development**

The House of Lords European Union Sub-Committee C considered the Court of Auditors Report on the Annual Accounts of the European Agency for Reconstruction (EAR) for the Financial Year 2007 at its meeting on the 4 December 2008, and cleared the document from scrutiny.

The Sub-Committee welcomed the overall positive assessment of the report, in particular the statement of assurance that the Agency's accounts are 'in all aspects reliable' and 'taken as a whole legal and regular'. However, we share your concern regarding the European Commission Liaison Office in Kosovo, which, as you mentioned in your Explanatory Memorandum, will be managing the remaining EAR funds for Kosovo as well as funding through the Instrument for Pre-Accession (IPA). You noted that while the volume of European Community funding for Kosovo through the IPA has been more than doubled, there are concerns about adequate supervision of these funds. We share these concerns and have written to the President of the Commission seeking an assurance that steps are being taken by the Commission to ensure adequate oversight of these funds.

*9 December 2008*

## ARCTIC REGION AND THE EUROPEAN UNION

### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

Sub-Committee C considered this document on 15 January 2009 and decided to hold it under scrutiny.

The Sub-Committee discussed the increasing strategic importance of the Arctic region resulting from the hydrocarbon reserves, its growing role as a route for maritime navigation and shipping and the unresolved disputes about the extent of Arctic countries' Exclusive Economic Zones. Against this background, the Sub-Committee had a number of concerns and believe that the document is not adequate in addressing the challenges.

We would welcome your comments on the following:

- Russia has recently claimed rights over the seabed. The Communication seems to adopt an approach of accommodation. For example, under “Hydrocarbons”, the Commission proposes (p.7) that the EU “work to strengthen the foundations for long-term cooperation, particularly with...the Russian Federation...” Is the Government satisfied that a sufficiently robust position is being proposed by the Commission? Does the EU propose to challenge the Russian claims, or do you believe this a question for the UN?
- What is the applicable legal framework in the Arctic, in particular with regards to access to natural resources? To what extent could the principles of the Antarctic Treaty be applied to the case of the Arctic?
- What issues arise regarding shipping and navigation through the North-West passage? Is the Government satisfied with the Commission’s Communication in this respect?

The Sub-Committee will continue to take a keen interest in this subject and I look forward to hearing from you.

*23 January 2009*

**Letter from Rt Hon Caroline Flint MP to the Chairman**

Thank you for your letter of 23 January on the points raised by Sub-Committee C in its initial scrutiny of the above paper.

I should explain that this Communication provides a general framework and is a first step towards a more detailed EU Arctic policy. We expect the latter policy to be published in draft later this year, at which stage the UK and other Member States will have an opportunity to engage in more detailed negotiations with the Commission and other EU bodies.

The EU regularly undertakes dialogue with the Russian Federation as part of its bilateral relationship. However, issues relating to continental shelf claims are handled solely through the Commission on the Limits of the Continental Shelf (CLCS), a technical body established by the UN Convention on the Law of the Sea (UNCLOS).

UNCLOS provides that a coastal State shall exercise sovereign rights over its continental shelf for the purposes of exploring and exploiting its natural resources. A coastal State’s continental shelf extends, by definition, to 200 nautical miles from its coastline, but this limit may be extended, under certain defined geological conditions, and on the recommendation of the CLCS.

The Russian Federation first submitted data to the CLCS in 2001, including information which supported their claim to an extended shelf in the Arctic. The CLCS judged the scientific evidence to be incomplete, and asked for further data to be supplied. To this date, there has not been a re-submission of data by the Russian Federation to the CLCS.

*9 February 2009*

**Letter from the Chairman to the Rt Hon Caroline Flint MP**

Thank you for your letter of 9 February which was considered by Sub-Committee C at their meeting on 26 February.

Members were grateful for the information contained in your letter, and cleared the Communication from scrutiny. They would be grateful if you could continue to keep them informed of developments on the subject.

*2 March 2009*

**ARMS TRADE TREATY**

**Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

The EU Sub-Committee C considered the above document at their meeting on 15 January and cleared it from scrutiny.

The Sub-Committee, however, were not entirely convinced by the programme and questioned the rationale for holding the seminars referred to in the documents when there was so much opposition by major sceptical or hostile countries. They also queried the effectiveness of holding the seminars in the locations named in paragraph 6 of the annex to the document, rather than in the capitals of arms producers.

Nonetheless, the Sub-Committee expressed their interest in the subject and would be grateful if you would continue to keep them informed about developments.

23 January 2009

### **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am responding to your letter of 23 January on the points raised by EU Sub-Committee C in its initial scrutiny of the Council Decision on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy, and Decisions on adoption of a Joint Action Plan for regional meetings in support of an Arms Trade Treaty commencing in 2009.

I very much welcome the Sub-Committee's interest in an ATT. As the Foreign Secretary has stated publicly, it is remarkable that there is currently no international regulatory framework covering the arms trade. The effect is that arms are able to flow into zones of conflict and into the hands of insurgents, criminals and terrorists, thus greatly complicating international efforts to prevent conflict and seriously undermining the ability of some of the world's poorest countries to achieve the Millennium Development Goals. The human cost in terms of loss of life and human rights abuse is all too visible in the world's media.

I agree with the Sub-Committee that we need to engage the sceptics and the US, who have emerged as the single opponent to an Arms Trade Treaty (ATT). We are taking this forward both in the UN and bilaterally with each country.

We also maintain close contact with those countries that have expressed support for an ATT (the Foreign Affairs Committee recently commented that they see this is a priority) and we are developing further our relations with those countries that have not yet fully engaged in the ATT dialogue. We are doing this with our NGO partners and in conjunction with our international colleagues. The EU Joint Action Plan is part of this process and is aimed at locations where receptive groups of countries can be targeted or where awareness is low. The overall aim is to bolster support for our work towards an ATT.

We currently have a good base of support but as more detail emerges the potential complexity of an ATT is becoming more apparent. It is a new concept that addresses the global nature of the arms trade and recognises that nearly all countries become arms suppliers when they dispose of obsolete or surplus stock. An ATT will impact on a wider range of 21<sup>st</sup> century problems such as conflict prevention and sustainable development. These are potentially contentious areas if misunderstood.

As we move into these more detailed discussions of the substance of the proposed treaty we need to encourage stakeholders such as the arms industry itself to speak up in support as they are increasingly doing. We also need to widen and deepen understanding amongst supportive states of the detailed processes of export control and how an ATT will operate in a global market place so as to retain, and widen, support for an ATT in the UN. This is where we see the EU Joint Action providing real added value, by taking the discussion to areas where supporters need to become accustomed to the details and where we can influence those countries that have not yet started to consider an ATT.

The EU Joint Action Plan of international seminars is part of a larger programme of action towards achieving our goal of securing a robust ATT that states will want to implement as being in their best interests. We continue to engage with those countries that are sceptical and with the US, and with other large arms producing countries but we judge that the EU seminars will be most effective in regional locations where we can leverage support and influence new thinking on an ATT. Engagement with major arms producers and with sceptical countries is, we think, more effectively carried out by more direct means, such as bilateral discussion and within the UN framework.

We shall, of course, continue to take the matter forward as rapidly as possible and we would welcome the Sub-Committee's continued engagement with Parliamentary colleagues both here and overseas.

I attach a background note on the progress of the ATT within the UN and my officials stand ready to provide you with a more detailed briefing about what we are doing to secure this important treaty if it would be of help. We will, in any case, ensure that the Sub-Committee remains informed of our work in this area.

## BACKGROUND NOTE ON ATT IN THE UN

Work in the UN was formally launched by the UN General Assembly 2006 with an overwhelming majority of states voting in favour of creating a Group of Government Experts (GGE) under the UN Secretary General (UNSG) to examine the feasibility, scope and draft parameters of a treaty.

In parallel the UNSG requested states to submit their views on an ATT. Over 100 states submitted views. This is an unprecedented number.

The GGE completed its work last year and recommended further discussions in which all members of the UN could participate. At the end of 2008 the UNGA voted to establish an Open Ended Working Group (OEWG) to consider in greater detail those areas where consensus could be achieved on the elements that would form part of an eventual treaty and to report back to the UNGA in the autumn of 2009.

The OEWG which will meet from 2-6 March and 13-17 July this year will be the core work on the ATT in the UN during 2009.

## BORDER ASSISTANCE MISSION FOR THE RAFAH CROSSING POINT (EUBAM RAFAH)

### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

I am writing in response to Lord Grenfell's letter of 27 October, requesting further information on the mission personnel in EUBAM Rafah. I apologise for the delay in replying.

We note the Committee's concern that the figure of 18 personnel currently in the mission was high. The figure of 18 was recommended to the Political and Security Committee (PSC) by the EU Council Secretariat in April as a suitable figure to ensure that the mission retained sufficient personnel and expertise for command, administration, reconnaissance and planning of the mission in order to be able to manage a rapid reinforcement and full redeployment should operations restart. We keep the figure under review, and will look for opportunities to reduce personnel if possible, while ensuring the mission maintains the ability to take advantage of any positive movement in the border being reopened.

Because of terms and conditions by which staff are seconded to the ESDP mission, and the nature of their expertise, it is unlikely that it would be possible for personnel to be employed elsewhere in the region except in the EU's Police Mission to the Occupied Palestinian Territories (EUPOL COPPS).

As Lord Grenfell noted, Israel does not allow these personnel to assist with EUPOL COPPS. They have maintained a longstanding position on this. Israel argues that under their invitation for the mission to continue and the mission's legal basis (the Joint Action) the mission is limited geographically to the Rafah crossing point. We do not judge this policy likely to change.

4 December 2008

## BOSNIA AND HERZEGOVINA: MANDATE OF THE EUSR

### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

In the Explanatory Memorandum of 12 March on the appointment of the EUSR in Bosnia and Herzegovina (BiH), I explained that there is an evolving debate at the moment amongst EU Member States on the strengthening of the EUSR's mandate for any future reinforced EUSR, as and when the Office of the High Representative closes.

I attach – in confidence – a copy of a UK non-paper which the Foreign Secretary recently sent to EU colleagues (not printed). The non-paper sets out the need for a strong and clear mandate for the future reinforced EUSR and outlines a strategy on how to achieve this.

I hope the non-paper helps in explaining to the Committee the direction of UK thinking and will endeavour to keep the Committee up to speed as this issue progresses.

*19 March 2009*

**Letter from the Chairman to the Rt Hon Caroline Flint MP**

The EU Sub-Committee C considered the above document at their meeting on 19 March and cleared it from scrutiny. They noted that this was an override.

The Sub-Committee expressed their continuing interest in the complex and difficult situation in Bosnia and Herzegovina and would be grateful if you would continue to keep them informed of developments. In particular they would be interested to hear whether and when Bosnia attains the five objectives and two conditions required for closure of the Office of the High Representative, as outlined in paragraphs 18 and 19 of your EM, which could lead to proposals to strengthen the mandate of the EUSR. We understand from your EM that the possibility of strengthening the mandate is under discussion.

*24 March 2009*

**Letter from the Chairman to the Rt Hon Caroline Flint MP**

Thank you for your letter of 19 March which was considered by Sub-Committee C at its meeting on 26 March.

The Sub-Committee would like to express their thanks to you for sending the paper on the reinforced EU Special Representative which they found very interesting. They commented that a key test will be how well the agenda is implemented at European level.

*31 March 2009*

**BURMA: RENEWING CURRENT RESTRICTIVE MEASURES**

**Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

As part of my commitment to keep the Scrutiny Committees better informed on matters concerning sanctions, I am writing to inform you that the Council Common Position imposing sanctions on Burma is due to expire on 30 April.

We remain deeply concerned about the situation in Burma. Over 2,100 political prisoners continue to be detained, and the military government is resisting the UN's efforts to facilitate an inclusive process of national reconciliation and political reform. EU sanctions against Burma, amongst the toughest autonomous measures imposed by the EU, send a strong message to the Burmese regime about our determination to see democracy and respect for human rights in the country.

Since 1996 the EU has adapted and strengthened its sanction regime against Burma in response to deteriorating circumstances on the ground, failure by the government of Burma to make progress on human rights and national reconciliation, and the use of forced labour. The EU has worked to achieve positive change in Burma by placing pressure on those responsible for its policies whilst minimising any adverse impact on the general population. The aim of the pressure is to bring an end to human rights abuses in Burma and encourage an early transition to civilian, democratic rule.

We remain fully committed to maximising international pressure for a peaceful transition to democracy and respect for human rights in Burma. The EU Common Position is an important part of our policy. Its annual renewal requires unanimous support from Member States. Views in the Council on the efficacy of sanctions against Burma vary, however in the absence of any real progress, the UK sees no ground for weakening sanctions.

The European Scrutiny Committee also expressed an interest in efforts the UK is making to secure change in Burma by engaging with China. We believe that China has an important role to play in encouraging political change in Burma and frequently encourage them to bring their influence to bear as firmly as possible on the Burmese regime. We recently welcomed the support of the Chinese government for the UN Secretary-General's Good Offices Mission.

The Foreign Secretary last raised Burma with the Foreign Minister Yang at the UK/China summit which took place between 31 January and 2 February.

*31 March 2009*

## CONFLICT PREVENTION FUNDING

### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office to the Chairman**

David Miliband, with Douglas Alexander and John Hutton, today issued a Written Ministerial Statement on the Government's international conflict resolution resources. He has also written to the Chair of the Foreign Affairs Committee setting out spending proposals in more detail. I enclose both texts. Given the close interest your committee takes in our efforts to prevent and resolve conflict in the Balkans and the Russia/CIS region I wanted to give you further details of the difficult decisions on priorities that we have had to make and the rationale for these.

As the Foreign Secretary has explained, we face a large projected increase in assessed peacekeeping contributions because of an increase in peacekeeping activity in Africa and movements in exchange rates. This has meant that we have had to prioritise rigorously discretionary conflict prevention activity in order to manage expenditure within the limit set in the CSR settlement.

A new programme has been created which will fund peacekeeping and conflict prevention activity in the Balkans and in Russia/CIS Region. This Wider Europe Conflict Prevention Programme has been allocated £33 million for the 2009-10 financial year. We have decided to set a 5% reserve.

#### PEACEKEEPING

- We will continue to fund two military peacekeeping requirements and draw down a third:
- the UK contribution to UN force in Cyprus (UNFICYP) will continue to be fully funded;
- we will continue to make a small UK contribution to the EU force in Bosnia and Herzegovina (EUFOR); and
- we will fund the draw down of the UK task force which forms part of the NATO force in Kosovo (KFOR). This is being withdrawn at the end of March, following a decision by SACEUR that the capability it provides is no longer required. It will take several months to draw down the support elements and undertake any required base remediation work.

#### CONFLICT PREVENTION ACTIVITY

Once we have funded these peacekeeping activities, we will have a programme of £11.4m. This programme will replace the Conflict Prevention Funds for both the Balkans and Russia/CIS Region and will be the source of funding for UK international secondments including ESDP missions and the OSCE.

We have chosen to retain the current 3:2 balance of spend in the Balkans and the Russia/CIS Region and the three Departments (FCO, MOD and DfID), have conducted a rigorous prioritisation exercise in consultation with UK Heads of Mission and their teams on the ground.

This enables us to fund nearly half of planned international secondments in the Balkans and our current secondee commitment in CIS. We will also be maintaining conflict prevention spending in both regions at roughly half of the 2008-09 level. We are actively exploring options for planned projects to be funded from other UK or international donor resources.

#### BALKANS PRIORITIES

We have decided to end conflict prevention programme activity in Albania and Macedonia, and to concentrate funding on the priority countries of Kosovo, Bosnia and Herzegovina (BiH), and Serbia because the risk of instability in these three countries is greater. Whilst the risk of a return to armed conflict similar to that experienced in the 1990s, which killed 250,000 people and displaced a further million, is unlikely, there continue to be tensions which could escalate if not addressed. Continuing international engagement to reduce instability and prevent tensions escalating is therefore vital if progress is to be made in building effective states in the region, able to complete the EU accession process.

We will fund the following secondments to civilian peacekeeping and other priority International Missions:

- 32 secondments (currently 63) to the EU's Rule of Law Mission in Kosovo (EULEX);
- 4 secondments to the International Civilian Office in Kosovo;
- the equivalent of 3 secondments (currently 9) to the EU Police Mission in BiH;
- 1 secondment to the War Crimes Prosecution Office in BiH; and
- 1 secondment to the Office of the High Representative in BiH.

Unfortunately, we have decided that we will no longer fund 7 secondees to OSCE Missions in Albania, Macedonia, Serbia and Bosnia and Herzegovina.

Our conflict prevention programme in Kosovo, BiH and Serbia will include a range of activity targeted to support our conflict prevention policy priorities. These focus on strengthening the governance and performance of the security and justice sectors as these continue to be significant factors in generating renewed instability in the region.

We feel that the UK has a significant comparative advantage in security and justice sector reform compared to other international actors and is able to draw on a wide variety of technical resources and expertise which has been developed through engagement in this area over the past ten years.

On the basis of the programmes we intend to fund, our indicative planning figures for CPP projects for each country are as follows:

- Kosovo: £1.3 million;
- Bosnia: £0.9 million; and
- Serbia: £0.6 million.

#### RUSSIA/CIS PRIORITIES

As with the Balkans programme, the Russia/CIS tri-departmental board has reviewed in detail current and future priorities. The Russia/CIS programme is concentrated in four countries, Russia, Georgia, Azerbaijan and Moldova. Much of our conflict prevention work in the region focuses on the region's unresolved conflicts: Transnistria in Moldova, Nagorno-Karabakh in Azerbaijan, the North Caucasus Region of Russia and, of course, Georgia and in the promotion of democracy or democratic institutions.

We have prioritised our legal obligations to fund ongoing conflict prevention projects, many of which are in the second year of a three year contract cycle, although we will examine the scope for operational efficiencies or other savings. We will also fund secondees – who are making a significant contribution - to the peacekeeping missions in Georgia and to other EU and OSCE programmes in the region, specifically:

- 11 secondments to EUMM in Georgia, including three headquarters staff (our contribution was reduced from 22 to 11 in January 2009);
- 5 secondments to UNOMiG in Georgia;
- 1 secondment (70% funded) to the office of the EU Special Representative for the South Caucasus;
- 5 secondments to the OSCE in the region (2 in Georgia, 1 in Nagorno-Karabakh, 1 in Moldova and 1 in Kyrgyzstan); and
- 1 secondment to EUBAM Moldova.

Additional priorities are Security Sector Reform work in Georgia and Moldova, our Regional Conflict Advisor and the UK Special Representative for the South Caucasus.

Unfortunately we will no longer fund:

- Security Sector Reform work in Armenia and Azerbaijan;
- The Transnistrian Dialogues in Moldova (although DfID will fund this in 2009/10); and
- Additional conflict prevention work in Georgia (including in South Ossetia and Abkhazia).

On the basis of the programmes we intend to fund, our indicative planning figures for CPP projects for each country are as follows:

- Georgia: £2.6 million;
- Azerbaijan (NK): £0.9 million;
- Russia: £0.5 million;
- Moldova: £0.16 million; and
- Kyrgyzstan: £0.08 million.

#### ESDP CIVILIAN MISSIONS

You will also be interested in how we plan to prioritise spend on civilian ESDP missions across the globe since changes in conflict funding will also have an impact on this. The UK remains committed to the importance of civilian missions as a means to resolve and prevent conflict. We have chosen to prioritise spend on missions which meet key EU and UK external objectives. In particular, we have endeavoured to maintain our contributions to the crucial police reform and rule of law mission in Afghanistan at a minimum of 14 personnel. As explained above, we are contributing 11 secondees to the monitoring mission in Georgia and 32 to EULEX Kosovo. We hope to mitigate the effect of a 50% reduction in overall numbers by concentrating on key areas where UK secondees can add real value. We will fund a minimum of 70 secondees in ESDP missions and in the EU central civilian planning body next year.

#### OSCE ELECTION MONITORING

Although we will no longer fund OSCE election monitoring from the conflict prevention fund, the FCO will continue to fund these missions on an ad-hoc basis from the other resources we have available to us.

25 March 2009

### COTONOU AGREEMENT: GUINEA (6543/09)

#### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

The EU Sub-Committee C considered the above document at their meeting on 12 March 2009 and cleared it from scrutiny.

The Sub-Committee support the opening of article 96 consultations with Guinea under the Cotonou agreement and the Commission's proposals for securing a peaceful, orderly and democratic transition in Guinea.

The Sub-Committee would be grateful for further information about several aspects of the EU and UK response to the crisis in Guinea. We are concerned that the junta currently in power might seek to appropriate assets belonging to the state and people of Guinea, including development funding, and invest the capital in financial institutions in EU-based financial institutions or elsewhere. What is your assessment of the risk of this happening? What action can the EU and the UK take to prevent the misappropriation and loss of public Guinean funds and assets; and to identify, freeze and/or recover these funds and assets with a view to returning them to the Guinean state once democracy has been re-established?

Another major concern is drug trafficking. A recent article in the Times<sup>1</sup> stated that: "Five years ago the amount of cocaine shipped to Europe via West Africa was negligible. Today 50 tonnes a year worth £1.4 billion pass through the region. Interpol estimates as much as two thirds of the cocaine sold in Europe this year will reach the Continent via West Africa". What is your assessment of the effect of the recent coup on the drug trade to the EU through Guinea? To what extent is drug trafficking an obstacle to the EU's objective of establishing a corruption-free Guinean democracy? What intelligence does the Government have on the question of where drug traffickers are investing their "profits"? What can and should the UK and the EU do to address these concerns?

The mining industry, including for precious stones and bauxite, provides nearly 80% of Guinea's foreign exchange earnings, according to figures available on the FCO website. What consultations have the UK and the EU had with UK-based and other mining companies about the situation in Guinea? Are revenues from the extractive industries flowing into the hands of the new junta, and

<sup>1</sup> "The African Connection: how the drug gangs found new routes for their trade; West Africa", The Times, 28 February 2009.

should the Government and the EU be concerned about this? What, if anything, could these companies do to contribute to, or at the least not undermine, democracy and good governance, as well as provide a source of livelihood to people in extreme poverty?

Finally, the Sub-Committee would welcome an assurance that the UK and the EU will continue to take account of the UN's Millennium Development Goals in its policies towards Guinea. We are concerned that instability in Guinea will impact most severely on the poorest in Guinean society. Can the Government confirm that both the Department for International Development and the EU will continue to provide funding for humanitarian assistance to the most needy in Guinea?

*13 March 2009*

### **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am responding to your letter of 13 March 2009 on the points raised by the EU Sub-Committee C in its initial scrutiny of the above paper.

#### **MISAPPROPRIATION OF ASSETS**

You asked for my assessment of the risk that the junta currently in power might seek to appropriate assets belonging to the state and people of Guinea, including development funding, and invest the capital in EU-based financial institutions or elsewhere.

We cannot entirely rule out the risk that members of the junta currently in power might seek to benefit from their position by appropriating assets belonging to the state and people of Guinea. However, the junta has pledged to tackle corruption and is pursuing a high-profile campaign to address the issue, recently resulting in the detention of former ministers accused of embezzlement. We will, of course, need to monitor the situation to see if they live up to their pledge. Our focus must remain the respect of human rights and pressing for a peaceful and transparent democratic transition in 2009.

To mitigate the risk of misappropriation of development funding the EU has taken conservatory measures with regard to Guinea, such as suspending all new contracts providing direct support to government ministries. The EU continues to support Guinea through social and humanitarian projects implemented by private companies, civil society organisations and NGOs. It will also provide support for the preparation of legislative and presidential elections proposed for October and December. New projects on food security in urban and rural areas are also being formulated.

The direction of the future EU funding (10th EDF) will be decided in the light of the results of the consultations between the EU and the Guinean authorities under Article 96 of the Cotonou Agreement. These consultations are due to start in Brussels on 29 April. The UK will not support disbursement of the 10th EDF whilst a military regime remains in de facto charge of the country.

The UK does not have a bilateral assistance programme in Guinea. A small programme fund run by the British Embassy in Conakry currently supports only projects implemented by civil society and NGOs.

We will also need to consider the outcome of Article 96 consultations with regard to possible action the EU may take to identify, freeze and/or recover any misappropriated funds and assets. In theory, the EU could impose sanctions - including financial restrictions - on individuals and entities related to the military junta. These restrictive measures could have the effect of freezing funds and economic resources held in the EU by (and prohibiting funds or economic resources being made available to) listed individuals or entities.

However, such measures would require the unanimous agreement of all 27 Member States and strong justification, backed up by good and reliable evidence, before restrictions could be imposed. Any such measures would not control assets or funds controlled within Guinea, or transferred to other countries outside of the EU.

#### **DRUG TRAFFICKING**

You also asked for my assessment of the effect of the recent coup on the drug trade to the EU through Guinea, the extent to which drug trafficking is an obstacle to the EU's objective of establishing a corruption-free Guinean democracy, where drug traffickers are investing their profits and what the UK and EU could and should do to address these concerns.

The UK and EU are deeply concerned about the direct and growing threat that drugs – especially cocaine trafficking transiting through West Africa – represents to the development and security of the states of West Africa and to the EU.

Tackling this threat is a priority of the EU Action Plan on Drugs 2009-12. In November 2008 the EU's Justice and Home Affairs Council adopted conclusions which emphasised tackling drugs trafficking through West Africa as a common EU priority. The UK took a proactive lead in getting West Africa included in the Council Conclusions and is continuing to take a lead in taking forward work in this area and keeping it on the EU agenda. The UK is engaged in work to identify the most effective ways for the EU to step up capacity building and the exchange of information to support West African states in the fight against drugs. The EU holds regular discussions with the Economic Community of West African States (ECOWAS) on drugs issues.

The UK is working with international partners to improve our knowledge and understanding of the threat posed by drug trafficking in West Africa. This will enable us to reduce harm to the UK from drug trafficking, decrease the threat to UK interests in the region, and raise awareness in West Africa of the threat posed by the drugs trade. We are already collaborating with a number of West African states and have achieved some early successes.

There is considerable reporting in the public domain indicating that the previous administration in Guinea was working with Latin American criminal groups to facilitate drug trafficking through the region. The change of administration in Guinea may provide an important opportunity to engage with Guinean law enforcement agencies on drug trafficking and related issues. SOCA is making arrangements to visit Guinea to assess the extent to which engagement with Guinean law enforcement agencies might be possible.

In the UK, we have established a cross-Whitehall West Africa Strategy Group in order to maximise the impact of our counter-narcotics work in West Africa. The Group is in the process of producing a counter narcotics strategy for the region that will allow us to maximise our response to this issue and to learn from and then replicate our successes across the region.

#### MINING INDUSTRY

You asked what consultations the UK and the EU have had with UK-based and other mining companies about the situation in Guinea. Our Ambassador in Conakry has met with representatives from Rio Tinto and BHP Billiton. The junta has said it will re-negotiate all mining contracts. For the meantime existing contracts remain valid but we can expect them to be re-negotiated.

I am not able to say if revenues from the extractive industries are flowing into the hands of the junta. However, given that the junta is in de facto control of the government ministries we cannot discount the possibility. The junta has pledged to tackle corruption and we will judge it on its actions.

The mining industry brings in much needed foreign direct investment to Guinea and is a good source of employment for people living in poverty. The UK Government is committed to promoting human rights, democracy, and good governance standards amongst UK companies operating abroad. We have, for example, fully endorsed the OECD Guidelines for Multinational Enterprises and, two years ago, thoroughly reviewed and strengthened the UK National Contact Point responsible for promoting awareness of the Guidelines amongst UK companies and for implementing the Guidelines' unique complaint procedure.

The UK Government is a strong supporter of the Extractive Industries Transparency Initiative (EITI). The EITI sets a global standard for companies to publish what they pay and for governments to disclose what they receive. Increasing transparency and knowledge of revenues from the extractive sectors empowers citizens to hold governments to account, so that mismanagement of funds away from sustainable development purposes becomes more difficult. Guinea is currently a candidate country for the EITI and has until 9 March 2010 to undertake Validation. The EITI Secretariat has noted the junta's claim to make transparency a priority and is following the situation in Guinea closely.

The Government also supports the Kimberley Process Certification Scheme, a joint government, industry and civil society initiative to stem the flow of conflict diamonds, of which Guinea is also a participant country.

#### HUMANITARIAN ASSISTANCE AND MILLENNIUM DEVELOPMENT GOALS

I can assure you that the UK will continue to take account of the UN's Millennium Development Goals in its policies towards Guinea both domestically and in the EU. I can also confirm that the Department for International Development will continue to provide funding for humanitarian assistance to Guinea. DFID are currently providing a very limited amount of funding to Guinea through the International Committee for the Red Cross (ICRC). This will continue in spite of recent developments.

EC Humanitarian Aid (ECHO) provided €10 million in aid across West Africa in 2008 and will continue to support Guinea regardless of any Article 96 deliberations. ECHO is responsible for ensuring that its humanitarian relief reaches the most vulnerable, and is not siphoned off. Accordingly, ECHO channels its aid exclusively through trusted UN, Red Cross and NGO partners.

20 April 2009

#### **Letter from the Chairman to the Rt Hon Caroline Flint MP**

The EU Sub-Committee C considered the above document at their meeting on 12 March 2009 and cleared it from scrutiny.

The Sub-Committee support the opening of article 96 consultations with Guinea under the Cotonou agreement and the Commission's proposals for securing a peaceful, orderly and democratic transition in Guinea.

The Sub-Committee would be grateful for further information about several aspects of the EU and UK response to the crisis in Guinea. We are concerned that the junta currently in power might seek to appropriate assets belonging to the state and people of Guinea, including development funding, and invest the capital in financial institutions in EU-based financial institutions or elsewhere. What is your assessment of the risk of this happening? What action can the EU and the UK take to prevent the misappropriation and loss of public Guinean funds and assets; and to identify, freeze and/or recover these funds and assets with a view to returning them to the Guinean state once democracy has been re-established?

Another major concern is drug trafficking. A recent article in the Times<sup>2</sup> stated that: "Five years ago the amount of cocaine shipped to Europe via West Africa was negligible. Today 50 tonnes a year worth £1.4 billion pass through the region. Interpol estimates as much as two thirds of the cocaine sold in Europe this year will reach the Continent via West Africa". What is your assessment of the effect of the recent coup on the drug trade to the EU through Guinea? To what extent is drug trafficking an obstacle to the EU's objective of establishing a corruption-free Guinean democracy? What intelligence does the Government have on the question of where drug traffickers are investing their "profits"? What can and should the UK and the EU do to address these concerns?

The mining industry, including for precious stones and bauxite, provides nearly 80% of Guinea's foreign exchange earnings, according to figures available on the FCO website. What consultations have the UK and the EU had with UK-based and other mining companies about the situation in Guinea? Are revenues from the extractive industries flowing into the hands of the new junta, and should the Government and the EU be concerned about this? What, if anything, could these companies do to contribute to, or at the least not undermine, democracy and good governance, as well as provide a source of livelihood to people in extreme poverty?

Finally, the Sub-Committee would welcome an assurance that the UK and the EU will continue to take account of the UN's Millennium Development Goals in its policies towards Guinea. We are concerned that instability in Guinea will impact most severely on the poorest in Guinean society. Can the Government confirm that both the Department for International Development and the EU will continue to provide funding for humanitarian assistance to the most needy in Guinea?

27 April 2009

#### **COTONOU AGREEMENT: LOANS TO HIGHLY-INDEBTED ACP COUNTRIES (6810/09)**

##### **Letter from the Chairman to Gareth Thomas MP, Parliamentary Under Secretary of State, Department for International Development**

The House of Lords European Union Sub-Committee on Foreign Affairs, Defence and Development considered the above document on 19 March 2009 and cleared it from scrutiny.

The Sub-Committee would be grateful for some further information about the interest rates the European Investment Bank (EIB) is currently applying to its loans to highly-indebted ACP countries, and the extent to which this would change under the revised annex II to the Cotonou agreement. How does the reduction in interest rates, including those of the European Central Bank in the past year, impact on the rates applied by the EIB?

23 March 2009

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<sup>2</sup> "The African Connection: how the drug gangs found new routes for their trade; West Africa", The Times, 28 February 2009.

## Letter from Gareth Thomas MP to the Chairman

Thank you for your letter of 23 March clearing from Scrutiny the above-mentioned explanatory memorandum. Your Committee has requested some further information on the following issues:

- i. What interest rates the EIB is currently applying to its loans to highly-indebted ACP countries and the extent to which this would change under the revised annex II to the Cotonou agreement.

The current Cotonou Agreement limits interest rates subsidies on Own Resources lending to 3% maximum. The subsidy applies to the final rate charged on a given loan, which is based on the Bank's reference rate. This is the rate at which the Bank can raise funds on the market or cost of funding; the Bank then adds a small administrative margin and the risk pricing mark-up. This mark-up depends on a number of factors, including the local project partner, the local economic, political and security environment and the nature of the project itself.

For a number of highly indebted countries, a 3% subsidy is often not sufficient to bring the final interest rate to a low enough level to be compliant with the concessionality requirements under multilateral debt sustainability frameworks such as the Heavily Indebted Poor Countries Initiative (HIPC). Hence the Bank has requested a modification of Annex II to the Cotonou Agreement.

The increased flexibility which would result from the above-mentioned change would allow the Bank to finance more projects in highly indebted countries.

- ii. How does the reduction in interest rates, including those of the European Central Bank in the past year, impact on the rates applied by the EIB?

Any change in market rates will have an impact on the rates at which the EIB can raise funds, and will therefore affect the rates applied by the Bank on its loans. The prevailing situation is characterised by a larger reduction in fixed interest rates for short-term maturities than for long-term maturities. For example on average, the 3-year fixed lending interest rate in the 1<sup>st</sup> Quarter 2009 has decreased around 2.25% when compared with the benchmark 3<sup>rd</sup> Quarter 2008; whereas the 20-year fixed lending interest rate has decreased only around 0.65% when compared with the benchmark 3<sup>rd</sup> Quarter 2008.

30 April 2009

## COTONOU AGREEMENT: MAURITANIA (6963/09)

### Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Defence Equipment and Support, Ministry of Defence

Sub-Committee C considered the above document at its meeting on 19 March 2009 and decided to hold it under scrutiny pending further clarifications from the Government.

The Sub-Committee agreed with the general objective of the Commission proposal, but were concerned about certain aspects of it. We would be grateful for clarification of the following points.

It is not clear to us by how much the Commission's funding for Mauritania will be cut compared to the original plans, and we would be grateful if you could summarise the figures for the benefit of the Committee. More specifically, page 10 of the Commission document mentions two projects relating to Nouadhibou port worth 45m and 23m euros respectively. Does the Government believe these projects should go ahead?

The Committee would be grateful for the Government's views on the impact of the proposed cuts on the Mauritanian population. Can the Government provide an assurance that EU humanitarian aid to the population will continue; and that the aid will go to the intended beneficiaries and not be siphoned off?

We are concerned about the sources the Government relies upon for its assessment of the situation in Mauritania. Given that HMG does not have an embassy in Mauritania, on what basis has the Government carried out its assessment?

The Committee understands from your Explanatory Memorandum that the Council intends to adopt the proposed Decision on 5 April. In order to be able to consider lifting scrutiny before that date the Committee would need to receive your reply by the 1 April so that it can take the necessary decision at its meeting on the 2 April.

23 March 2009

## **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am responding to your letter of 23 March on the points raised by Sub-Committee C in its initial scrutiny of the above paper.

The Commission has proposed to freeze a range of development projects and budgetary support totalling €253.45 million. Release of these funds will be staggered, based on the Junta meeting specific benchmarks towards democracy as set out by the Council. The Commission however, will be honouring payments for contracts already in place (totalling €135.33 million) and will continue to provide funding for a number of recently agreed projects (totalling €28.58 million) relating to humanitarian aid or direct support to the people and civil society in Mauritania.

With regards to the projects planned for the port at Nouadhibou, the Government supports the Commission's view that these should not be honoured until a mutually acceptable solution is agreed. This solution should be established under an inclusive and open political dialogue and provide a framework towards the holding of presidential elections that are both transparent and representative. Most importantly the proposed solution should be acceptable to the majority of relevant parties in Mauritania, political and civil.

The Commission's proposals have been designed precisely to exert maximum pressure on the Junta whilst limiting as far as possible the impact on the people. The Government firmly supports the Commission's position that the proposed restrictive measures on development funding should not affect humanitarian aid or direct support of people and civil society in Mauritania. During 2008, ECHO (EC Humanitarian Aid) provided €10 million in aid across West Africa, including Mauritania, to deal with the humanitarian issues surrounding drought, epidemics and displacement. ECHO aid continues to West African countries, regardless of any Article 96 deliberations. ECHO is responsible for ensuring that its humanitarian relief reaches the most vulnerable, and is not siphoned off. Accordingly, ECHO channels its aid exclusively through trusted UN, Red Cross and NGO partners.

Officials from the British Embassy in Rabat have discussed the proposals at length with the Commission Charge d'affaires in Nouakchott, Mr Geza Strammer. The Commission in Nouakchott closely monitors humanitarian aid expenditure, which is delivered through NGOs. The quality of assistance provided by the NGOs is also regularly reviewed and all NGOs that receive EU funds are periodically audited.

Members of Sub-Committee C rightly point out that the UK currently has no diplomatic representation in Mauritania. The British Ambassador in Rabat is however accredited to Mauritania and continues to monitor the situation closely. Embassy officials from Rabat have visited Nouakchott seven times since July 2006, most recently in September 2008 and January 2009. During such fact-finding visits they met a wide range of interlocutors, including government officials, NGOs and members of the international community. Good links have been established with the European Commission, the US and French Embassies, and the World Bank in particular. Since the coup, EU Heads of Mission resident in Mauritania (France, Germany and Spain) have provided regular reporting on the situation to EU Member States. The international community, including the EU, African Union and US has remained united in its condemnation of the coup and calls for the prompt restoration of democracy. The British Embassy in Rabat also closely monitors the Mauritanian, regional and international media. We intend to deploy an officer to Nouakchott later this year on a permanent posting.

26 March 2009

## **DEVELOPMENT FUNDS: ACTIVITIES FUNDED BY 6TH, 7TH, 8TH AND 9TH EUROPEAN DEVELOPMENT FUNDS (OJC 286-02)**

### **Letter from the Chairman to Gareth Thomas MP, Department for International Development**

The House of Lords European Union Sub-Committee on Foreign Affairs, Defence and Development considered the above Annual Report and cleared it from scrutiny.

The Sub-Committee noted your assessment of the Annual Report as set out in your Explanatory Memorandum of 8 January 2009 and welcomed your overall positive view of the Report. However, we were concerned about the Court of Auditor's statements under the heading "Opinion on the reliability of the accounts" (p.281-2), including its statements that:

- "...the validity of the assumptions used for the estimate of the provision for costs incurred has not been demonstrated by the Commission..."  
(para VII.)

- "...the Court draws attention to the high fiduciary risk with regard to budget support resulting from the Commission's 'dynamic interpretation' of the eligibility criteria..." (para X.)

We would be grateful for your comments on these points.

The Committee would like to invite you or one of your Ministerial colleagues to give evidence on EU development policy, most likely in late spring. The Clerk of the Sub-Committee will in due course be in touch with your officials to arrange a convenient date. We hope that this would be an opportunity to discuss some of the issues related to European Community financial management of development funds in more detail.

6 February 2009

## EASTERN PARTNERSHIP (16940/08, 16941/08)

### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

Sub-Committee C considered the above document at its meeting on 18 December 2008 and cleared it from scrutiny.

The Committee supports the principle of building stronger ties with the EU's eastern partners and therefore welcomes the Commission Communication. We will follow developments closely, and note that the European Council is due to consider the Eastern Partnership at its meeting in March 2009. We would be grateful for further details of the Government's position on the following aspects of the Commission proposals.

- The Commission proposes that the Partnership operate on the basis of both a bilateral and multilateral approach. The multilateral approach puts together countries with very different characteristics in terms of level of respect for democracy and human rights, economic development, and implementation of existing ENP commitments. In the light of this diversity, what is the Government's assessment of this approach?
- What is the Government's assessment of the level of implementation of existing commitments entered into by the six partner countries, including on good governance, democracy and human rights?
- The Committee believes that the proliferation of international meetings should be avoided. What is the Government's view of the proposal to hold summits of heads of state or government every two years and annual spring meetings of foreign ministers, bearing in mind that these meetings would involve the leaders of undemocratic countries such as Belarus? What value would they add and are they preferable to bilateral summits between the EU and individual countries?
- In your Explanatory Memorandum you stated that it was not yet clear how the Eastern Partnership would be funded. We would be grateful for information on where funds will come from and what they would be used for.
- Despite the UK's non-membership of the Schengen area, we would be grateful for your detailed views on the proposed "mobility and security" aspects of the Commission proposals (under heading 3.3. in the Communication).
- We support the Government's position, as expressed in paragraph 15 of your Explanatory Memorandum, that the geographical scope of the EU's Cohesion Policy and the funds associated with it should be limited to the EU and not used to support
- projects outside the EU as proposed by the Commission. We would welcome reassurance from the Government that it will stand firm on this point.
- We would also welcome your views on whether the involvement of Norway in some aspects of the Partnership is envisaged.

We would be grateful if you could keep the Committee informed of developments and submit for prior parliamentary scrutiny any documents on the Eastern Partnership due to be considered by the European Council in March 2009

18 December 2008

### **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am responding to your letter of 18 December 2008 on the points raised by Sub-Committee C in its initial scrutiny of the above paper. I am pleased that the Committee is taking a close interest in the Eastern Partnership initiative and supporting the efforts of the Government to develop its thinking on the proposals set out in the Commission's Communication on 3 December.

As you will be aware, the European Council on 12 December concluded that the Eastern Partnership will bring about a significant strengthening of EU policy with regard to the Eastern ENP partners and help them make progress in their reform processes, thereby contributing to their stability and helping to bring them closer to the EU. The Council welcomed the Commission's proposals and instructed the Council to report back with a view to approving the Partnership in March and launching it at a summit meeting with the partner countries. The Czech EU Presidency has said that EU approval of the initiative will be a flagship item at the March European Council.

Perhaps I could address each of your questions in turn:

- We believe that both the proposed bilateral and multilateral elements of the Eastern Partnership can potentially add value to the development of this ambitious policy framework, enabling the EU to develop a bilateral relationship with each partner that responds effectively to the various ambitions of partner countries for integration with the ED. In practice, you are right to note that the diversity of this group of countries has the potential to complicate implementation. But we think multilateral working groups for officials will be of benefit to all countries, including those further behind in their reforms, as they will enable the sharing of experience and information and offer guidance on EU standards and regulations which partners' reforms will need to meet. We will work with the Commission and Member States to ensure that where cross country programmes are drawn up, they explicitly factor in the challenges and opportunities presented by diversity.
- The European Commission presented its comprehensive assessment of progress under the European Neighbourhood Policy in its Communication of April 2008 (COM 2008/164; SEC 2008/391- 403). The Government's assessment, broadly agreeing with the Commission's country and sectoral progress reports, was laid out in its Explanatory Memorandum of 15 May 2008, which was cleared by the Committee at the Chairman's sif on 20 May 2008. We are pleased that the Commission has taken on board some of our advice on improving the progress reports, and look forward to the next ones in April, reporting progress made in 2008.
- We believe that Ministerial meetings, where they have a substantive agenda and are well-prepared, are an important part of the process of the ED's engagement with its neighbours. These meetings will also help guide the future development of the Partnership and assess progress made. The Czech Presidency's planned launch Summit for the ED 27 leaders and the Eastern neighbours will give real political impetus to the Partnership. Belarus will be invited to attend such meetings only if the country makes real progress towards democracy and human rights. The GAERC will discuss this issue in February or March 2009.
- On financing, the Commission estimates that €600m will be required to fund the activity envisaged under the Eastern Partnership. This will be drawn from existing sources. The Commission is re-prioritising programming within the Regional East ENPI envelope for 2010-2013 in order to allocate €250m for the Eastern Partnership. It has also informed us that it wants to allocate €350m of funds left in the margins of the External Spending heading of the ED budget, for the period of 20 10-20 13 to be spent on comprehensive institution building, including work towards the deep and comprehensive free trade areas with each country; as seed money for flagship initiatives under the four thematic platforms

(democracy, good governance and stability; economic integration and convergence with ED policies; energy security; and people-to-people contacts); and for pilot projects on regional development. The Commission plans will be discussed as part of the Mid-Term Review of the ED Financial Instruments and will need Council agreement. We continue to work closely with the Commission to help strengthen the strategic management of ED assistance programmes, including systems to improve resource allocation and evaluate the impact of programmes and the outcomes. I can reassure the Committee that the Government remains firm on the use of cohesion funds.

- We are not yet in a position to give you more detailed views on the "mobility and security" aspects of Partnership. Much will depend on where the balance of opinion lies within the ED, and a number of Schengen Member States have informally noted their concerns with the Commission's proposals.
- There is no formal proposition that Norway should be involved in the Eastern Partnership. Its participation in projects would need to be on the same basis as any third country, namely by mutual agreement.

Let me thank you again for your interest in the Eastern Partnership. I shall be pleased to inform the Committee of any subsequent documents on the Partnership which may require its attention.

*15 January 2009*

#### **Letter from the Chairman to the Rt Hon Caroline Flint MP**

Thank you for your letter of 15 January in which you updated us on developments on the Eastern Partnership and responded to the questions in my letter of 18 December.

Your letter was discussed by Sub-Committee C at its meeting on 22 January when Members expressed appreciation for the information provided. They did however voice a general concern about the numbers of Ministerial meetings (page 2, second point). While each might be worthwhile in itself, we believe that the proliferation of such meetings risks causing damage to foreign relations and bringing the process into disrepute when overcommitted Ministers are in the event unable to attend.

*23 January 2009*

#### **EASTERN PARTNERSHIP: SPRING EUROPEAN COUNCIL**

##### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office to the Chairman**

I am writing to update the committee on the Eastern Partnership following discussion at the Spring European Council, which endorsed the Partnership in its Conclusions.

The Spring European Council's endorsement was an important step forward. The Council also gave the go-ahead for preparation of the Eastern Partnership launch Summit on 7 May. The adopted Conclusions, which included a detailed Declaration setting out the aims, principles and process involved for the Eastern Partnership, were helpful and broadly reflect our objectives. We were pleased that the Declaration set a high level of political ambition in line with the Commission's Communication of 3 December 2008. The Eastern Partnership has the goals of significantly strengthening EU policy with regard to the Eastern partners, including supporting reforms and facilitating approximation with EU law and convergence with EU standards. We were also pleased that the Declaration contained a reference to partners' participation being without prejudice to their aspirations for their future relationship with the EU; this safeguards our concern that the EU should keep the door open to potential membership for those partners who have such aspirations and who might meet the membership criteria in the future.

We will continue to support the Presidency in its preparations for the Eastern Partnership Summit on 7 May. The Summit gives us the opportunity to highlight the contribution that the Eastern Partnership will make in offering support for the political and economic reforms that will help partners in the current economic difficulties. It may be possible to prioritise practical support through fast-track projects. We should also highlight the medium term benefits to partners of closer economic integration with the EU.

The full details of the Commission's financing proposals have yet to be discussed. Our approach will be to balance our political support for the Partnership with our wish for budget discipline and improvements in the delivery of EU assistance including better resource allocation based on needs and absorption capacities. My officials will be exploring with HMT, DFID and the Commission what scope there might be for further redeployment of financing from the existing ENPI envelope and for ensuring that adequate budget margins are maintained, in line with the Council's conclusions.

We have concerns about human rights and democracy in a number of the partners. Belarus has been the focus of particular concern (my letter to you of 20 March refers). The issue of whether to invite President Lukashenko to the Summit will be given further consideration by the Presidency and EU partners in the coming weeks.

More broadly, the Summit will provide an opportunity to encourage governance and human rights reform in the region through engagement.

30 March 2009

## ECHO OPERATIONAL STRATEGY (16277/08)

### **Letter from the Chairman to Mike Foster MP, Parliamentary Under Secretary of State, Department for International Development**

The EU Sub-Committee C considered the above document at their meeting on 5 February and cleared it from scrutiny.

The Members expressed concern at the grave humanitarian situation described in so many countries in the document and in particular in Somalia which is of particular interest to Members as they intend to take evidence from the Government on Operation Atalanta. We note that you consider that piracy can only be eradicated permanently through the establishment of appropriate conditions for combating the roots of piracy on land, which includes Somalia.

In view of this, we would welcome information on the following:

- is your assessment of the humanitarian and political situation in Somalia consistent with that set out in the Commission document;
- if so, do you believe that the Commission humanitarian strategy for Somalia is sustainable given the huge need for humanitarian assistance and the deteriorating political outlook;
- do you agree that the implementation of a long-term strategy for achieving peace, reconciliation and political stability, as well as fundamental rights and freedoms, backed up with appropriate resources and a determination to act ("political will"), is the right way to address the humanitarian crisis and to combat piracy off the Somali coast;
- if so, what is the EU's strategy for achieving this goal, and to what extent is it consistent with the UK's strategy for achieving peace in Somalia.
- what efforts the EU is making to encourage its international partners, including the United States, to search for a durable solution to the civil conflict in Somalia.

We would be grateful if in future EMs could indicate a precise date for the meetings which are expected to consider the documents which you deposit.

6 February 2009

### **Letter from Ivan Lewis MP, Parliamentary Under Secretary of State, Department for International Development**

In its meeting on 5 February 2009 the EU Sub-Committee C cleared the above EM, signed by my colleague Mike Foster, but in your letter of 6 February you asked for further information on the European Commission's humanitarian operational strategy, including follow-up questions on Somalia. I am replying as the DFID Minister leading on Africa.

Firstly, on your point about when communications will go to Councils, DFID officials will endeavour to provide dates in the EMs, but they are sometimes not fixed at the time they are submitted to Parliament.

I welcome your members' interest in Somalia, and share their concern about the grave situation. The UN currently estimates that just over three million Somalis (approximately 40% of the population) require assistance.

DFID, the EC (through ECHO) and other humanitarian actors work very closely together through the Inter-Agency Standing Committee (IASC) on Somalia. ECHO published the assessment you refer to (on page 8 of the Operational Strategy) in October 2008. At the time, DFID and other donors shared this assessment. However, we are all hopeful that recent political developments offer an opportunity for improvements in security and the humanitarian situation in 2009.

We understand the severe constraints that ECHO and our implementing partners face when working in Somalia. It is important that we do not push partners to operate when they do not feel it is safe to do so. ECHO and DFID are confident that with the resources available in 2009, the humanitarian needs can be met, particularly if the security situation and thus access improves.

No situation where such a high proportion of the population is dependent on international humanitarian aid is sustainable. We agree that it is our political engagement and international efforts in support of Somali-led political reconciliation that will make a lasting difference. The UK has worked closely with the rest of the international community, led by the UN's Special Representative to the Secretary-General (SRSG), to forge a promising peace process in Djibouti. As a result of this, the political outlook is no longer deteriorating. With an expanded Parliament and a new President and Prime Minister, there are grounds for cautious optimism that a new Government of National Unity will be able to gradually restore stability to the country. Political progress, combined with our development work, is the best opportunity to deliver sustained benefits, such as a reduction in the need for humanitarian assistance, and the end of piracy off the coast of Somalia.

At the political level, the UK, the European Commission, EU Member States, the USA and other countries work closely together in various fora, such as the International Contact Group on Somalia (which is meeting in Brussels on 26-27 February). Somalia has also been the subject of significant recent discussions in the UN Security Council. The focus of all these meetings is to work towards a durable political solution to the conflict in Somalia, which we recognise is a prerequisite for improving humanitarian delivery and tackling poverty. The UK plays a leading role in shaping EU policy. We are also working closely with the new US Administration on Somalia (although pending confirmation of relevant political appointees, the scope for high-level dialogue with Washington is currently limited).

DFID and EU partners' humanitarian work supports the UN-led Consolidated Humanitarian Appeal. We have jointly set out our development plans in the EU/EC/Norway Joint Strategy Paper (JSP) for Somalia (2008-13). DFID's current Country Engagement Plan for Somalia, which supports the aims of the JSP, is focused on supporting peace, and improving governance, security, livelihoods, health, education, and future arrangements for funding emergency humanitarian relief.

*5 March 2009*

#### **Letter from the Chairman to Ivan Lewis MP**

Thank you for your letter of 5 March 2009 relating to the above document, which the European Union Sub-Committee on foreign affairs, defence and development of the House of Lords considered at its meeting on 19 March 2009.

The Sub-Committee appreciated the additional information you provided about the humanitarian situation in Somalia. The Committee was, however, struck by your remarkably optimistic statement that "ECHO and DFID are confident that with the resources available in 2009, the humanitarian needs can be met, particularly if the security situation improves and thus access improves". Given the difficulty of obtaining reliable statistics about a country like Somalia, we would be grateful for a clarification of the basis on which you were able to make this statement.

A recent United Nations assessment of the situation in Somalia, contained in the UN Consolidated Appeal for 2009 of 19 November 2008, was as follows:

"At the time of writing the 2009 Consolidated Appeal Process (CAP) for Somalia, the humanitarian crisis that has engulfed the country for the better part of nearly two decades had reached a new low point. Nearly half the Somali population is in dire need of humanitarian assistance from a combination of conflict, economic crisis and deepening drought. The number of people requiring humanitarian and emergency livelihood support almost doubled during 2008, increasing by 77% from 1.8 million in January to more than 3.2 million by July. The increase in scope and funding size of the 2009 CAP ... reflects not only the dramatic increase in the number of people in need but also the sharp rise in commodity and delivery costs for Somalia".

We would be grateful if you could provide the Committee with figures on the extent to which the UN Consolidated Appeal for Somalia in 2009 has been fully funded, broken down by sector. To what extent have ECHO and DFID contributed funding to the Appeal?

23 March 2009

#### **Letter from Ivan Lewis MP to the Chairman**

Thank you for your letter of 23 March 2009 requesting further information on how humanitarian needs can be met in Somalia during 2009, and also on the UN Consolidated Appeal for Somalia 2009.

The Committee is right to note the difficulty of obtaining reliable statistics for Somalia with regards to the delivery of effective humanitarian assistance. The main constraint to humanitarian operations is getting access and the statement to which you make reference in your letter was attempting to emphasise the increased potential for an improved operating environment in light of recent political developments, and was not intending to convey a sense of complacency. The President, Sheikh Sharif, publicly emphasised the importance of addressing humanitarian needs soon after his appointment in January 2009. The UK is hopeful that this will facilitate a safe operating environment in which relief agencies and the government can work together to assist the most vulnerable.

The UN Consolidated Appeal for Somalia in 2009 is \$900m and to date \$278,412,601 has been committed and a further \$3,905,154 has been pledged by all donors. Included in this commitment is \$952,224 from ECHO. To date DFID has not contributed to the 2009 appeal due to our financial year ending in March but we are currently considering our humanitarian programme of support for financial year 2009/10. DFID contributed \$40,353,406 to the 2008 Consolidated Appeal.

With regards to your question on how funding to the UN Appeal has been broken down by sector for 2009, please see the table attached to this letter. In addition this information is continually updated you can obtain the latest information on-line at Relief Web at the following address:

<http://www.reliefweb.int/rw/fts.nsf/doc105?Openform&rc=1&cc=som>.

27 April 2009

#### **EU EXTERNAL SERVICE: IMPLEMENTATION OF MEASURES FOR 2008 (5289/09)**

#### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office to the Chairman**

Sub-Committee C considered the above document at its meeting on 26 March and cleared it from scrutiny.

We would be grateful if you could let us know if there are any barriers to the UK in fulfilling its quota. How many British diplomats have been seconded to the external service? What proportion of the external service is staffed by British diplomats? How are people prepared for the external service?

31 March 2009

#### **EUROPEAN DEFENCE AGENCY BUDGET (EDA) 2009**

#### **Letter from the Chairman to the Rt Hon Baroness Taylor of Bolton, Minister for International Defence and Security, Ministry of Defence**

Thank you for your Explanatory Memorandum of November 2008 on the above subject. The document was submitted to Sub-Committee C at the time but consideration deferred in the absence of the document (No 15096/08) which was apparently only available in French and therefore, under Cabinet Office rules, could not be deposited in Parliament.

The French version of document 15096/08 has now been received and Sub-Committee C discussed it, together with the related documents, at its meeting on 26 February. We have seen that at the bottom of the document there is a note "FR/EN" which would normally imply that the document was also available in English. If so, it could presumably have been deposited.

Members were very disappointed to learn that it had been impossible to reach consensus on approval of the financial framework for the EDA. They expressed support for the EDA and agreed that Dr Solana's proposed course of action was appropriate in the circumstances. They hope, however, that in future a three year Financial Framework can be established.

2 March 2009

### **Letter from the Rt Hon Baroness Taylor to the Chairman**

Thank you for your letter of 2 March with reference to the Explanatory Memorandum I submitted to the Committee in the absence of document (No 15096/08). I do believe that scrutiny is important that is why I submitted the Explanatory Memorandum even though an official translation of the text was not available.

Usually "FR/EN" at the bottom of a document would normally mean that it was available in both languages, officials have extensively searched for an English version of the text without success. We believe in this case the letters at the bottom of the document refer to the fact that the document has both English and French parts to it. Whilst the main decision was in French the detail of Javier Solana's proposal was attached in English. Unfortunately without an official English version we are unable to deposit a document for scrutiny but in these circumstances we were advised by the Cabinet Office that an Explanatory Memorandum with the reference "OTNA" (Official Text Not Available) was the correct procedure for undertaking scrutiny. I am sorry that your Members found this unacceptable but we have liaised with your staff throughout the process.

Whilst the Members may have been very disappointed that we did not reach consensus on a three year financial framework for the Agency I would like to point out that Derek Twigg wrote to the Committee on 9 June (D/MSU/3/5/sb) to inform them that one of the decisions taken at the May Ministerial Steering Board was to postpone the setting of the three year financial framework for one year to allow the Agency time to work on a three year work programme. This was also discussed with officials who appeared before Sub Committee C on 26 June.

18 March 2009

### **From the Chairman to the Rt Hon Baroness Taylor**

Thank you for your letter of 18 March which was considered by Sub-Committee C at its meeting on 26 March.

The Sub-Committee pointed out that they had made clear that they were fully prepared to see documents in French. The problem in this case lay in Cabinet Office guidelines which prevented the deposit of documents which are not in English.

31 March 2009

## **EUROPEAN DEFENCE AGENCY: GUIDELINES FOR AGENCY WORK IN 2009 (15442/08)**

### **Letter from the Chairman to the Rt Hon Baroness Taylor, Minister for International Defence and Security, Ministry of Defence**

Sub-Committee C considered these two documents at its meeting of 11 December and decided to clear them from scrutiny.

The Sub-Committee would like to thank you once again for giving evidence on the European Defence Agency and the European Security and Defence Policy. At the beginning of the session the Sub-Committee raised the question of the timely submission of documents for parliamentary scrutiny, which you agreed to look into. You asked us to set out where there had been difficulties.

We noted recently, in connection with the two documents above, that your Explanatory Memorandums were submitted on 26 November 2008, more than two weeks after the Council noted or adopted them at its meeting on 10 November 2008. It was therefore not possible for the Committee to scrutinise them before they were considered by the Council. Your Explanatory Memorandum on the Council decisions on the European Defence Agency's budget and three-year financial framework was also submitted well after the Council meeting of 10 November.

In future we would be grateful if documents could be submitted to the Committee at the earliest possible opportunity, irrespective of whether they are in draft or final form. In exceptional cases where you are unable to submit a document for scrutiny before it is considered by the Council or the European Defence Agency Steering Board, we would be grateful if the Committee could be kept informed.

17 December 2008

### **Letter from the Rt Hon Baroness Taylor to the Chairman**

Thank you for your letter of 17 December clearing the two documents from scrutiny.

Firstly let me explain the delay in depositing the two Explanatory Memoranda on the Council's guidelines for the EDA work in 2009 and the Head of the Agency's report to the Council.

We aim to submit such documents for scrutiny as soon as possible, and before they are seen by the Council where we can. It was not possible to get you these documents before they went to the Council on 10 November. The first date we had a text of Council Guidelines for the Agency work in 2009 was 6 November 2008, but this was only available in French. We did not receive copy of the Head of The Agency report to the Council until it was presented on 10 November 2008. We did not deposit the documents for scrutiny until 19 November 2008 because we were waiting for an English Language version of the Council Guidelines from the Council Secretariat. I hope you will agree that while the documents themselves were not deposited until 19 November 2008 the substance was covered in my letters of 6 and 18 November 2008, on which the Committee was given opportunity to comment.

Whilst I accept your offer to look at early drafts of the documents, and we will attempt to provide these for scrutiny wherever possible, these non-legislative documents are particularly difficult to provide prior to the Council meeting. The Head of the Agency's report to the Council is an internal Agency document; there is no requirement for it to be provided prior to the Council. In fact we only saw this document on the day of the Council. The Council guidelines for the Agency work in the following year forms part of the Council conclusions. We press for these to be delivered in sufficient time to allow for scrutiny but unfortunately they are not usually a priority amongst the plethora of documentation produced as part of the Council conclusions. We may be able to do slightly better this year since both the Czech Republic and Sweden will issue drafts in English, not French.

I recognise that this is not the ideal situation but in absence of the documentation for scrutiny prior to the Council I hope that you consider my letters provided both before and after the EDA Steering Board – which forms part of the Council – as the best way to keep the Committee informed. However, if it would help the Committee for me to deal with these issues at the earliest point we have an understanding of the content of the documents by way of an unnumbered Explanatory Memorandum we would of course consider that approach – though the content of the EM would be no different to the information we can put in a letter. And I am afraid that I cannot promise that you will get these documents much earlier than now.

*24 January 2009*

### **GENERAL AFFAIRS AND EXTERNAL RELATIONS COUNCIL (GAERC), FEBRUARY 2009: GEORGIA**

#### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

The next GAERC will be held in Brussels on 23 February. I will represent the UK. The agenda items are as follows:

#### **GENERAL AFFAIRS**

##### *Preparation of the European Council, 19-20 March*

The GAERC will discuss the Presidency's draft agenda for the Spring European Council (SEC). The SEC will once again focus on the EU's response to the next stage of the economic downturn, continuing discussions from the Informal European Council on 1 March. It will also discuss options for the climate finance offer ahead of the Copenhagen Climate Change conference in December and an 'Action Plan' for EU energy security in accordance with the Second Strategic Energy Review. In addition, the SEC will examine the Eastern Partnership, with a view to launching the initiative at a summit in May, while taking stock of the Union for the Mediterranean.

The Government supports the Presidency's priorities for the SEC. We welcome a continued coordinated response to the economic and financial crisis and look forward to the SEC providing credible options for an ambitious climate finance offer and securing agreement on a practical 'Action Plan' on EU energy security.

*European Recovery Plan*

The Council will discuss proposals within the European Economic Recovery Plan (EERP). The Government is a firm supporter of timely, targeted and temporary measures taken at national level under the framework of the EERP to stimulate growth in the EU. We also expect the Council to discuss the financial aspects of the Commission's proposals for energy and broadband projects to be funded through the EU Budget. The UK will continue to scrutinise the Commission's proposals in detail.

## EXTERNAL RELATIONS

### *Afghanistan*

EU Foreign Ministers will debate the EU's strategy for the next 12-15 months, without adopting Conclusions. The opportunities and challenges facing Afghanistan in this period require a concerted, prioritised and improved contribution in support of the Government of Afghanistan by the international community, including the EU. Ministers will consider how to coordinate the EU's support with other international partners, particularly the US, as they review their policy on Afghanistan and the region, and seek to increase their engagement. We support a reassessment of EU policy and delivery given the importance of the upcoming period and the new US administration's increased engagement.

The EU's support for elections, currently scheduled for August, will be a priority for discussion. Credible elections with wide participation are vital for re-establishing the link between ordinary Afghans and their government, and should provide the next Afghan government with a strong mandate to work on reconstruction and development. The Council will discuss financial and logistical support to the electoral process, as well as its intention to send an Observation Mission, which will be important for assessing the credibility of the elections.

Providing sufficient security and rule of law for elections to go ahead, and for the government of Afghanistan to operate effectively, will be another key issue. We expect Ministers to look at what EU Member States can deliver at the NATO Summit in April, and to discuss improving the effectiveness of the EU policing mission (EUPOL). In addition, the Council is likely to discuss counter-narcotics activities, which underpin security, good governance, anti-corruption and development efforts, as well as prospects for increased regional cooperation, looking forward to the Regional Economic Cooperation Conference on Afghanistan, scheduled for 1-2 April.

### *MEPP*

The substance of the discussion will depend in part on whether there are any concrete announcements from the ongoing Egyptian efforts to broker a longer-term ceasefire agreement. However, we expect the Council to reaffirm the EU's readiness to respond quickly to developments in the region, particularly with regard to the EU's Border Assistance Mission (EUBAM) at Rafah.

Ministers are also likely to discuss the Cairo Reconstruction Conference scheduled for 2 March; and to consider key messages for the EU to deliver.

### *Eastern Partnership*

The Council will discuss the Eastern Partnership, one of the Presidency's priorities for the Spring European Council on 19-20 March, and plan a launch summit in Prague on 7 May. We support the Eastern Partnership, and will continue to work closely with the Presidency, Commission and EU Partners to develop the initiative. There will be no Conclusions.

### *Western Balkans*

We expect Ministers' discussion of the Western Balkans to focus on Bosnia and Herzegovina (BiH), Serbia's progress towards the EU, and applications for EU membership. There will be no Conclusions.

Discussion of BiH will review progress towards meeting the conditions for closure of the Office of the High Representative (OHR). Ministers may discuss how to strengthen the role of the EU Special Representative (EUSR) following eventual OHR closure, in order to tackle effectively the political challenges in BiH. Depending on completion of the selection procedure, Ministers may be asked to endorse CFSP High Representative Solana's nomination of a candidate to succeed Miroslav Lajcak in his double-hatted role as High Representative and EUSR.

On Serbia, we would be ready for the EU to recognise Serbia's significantly improved cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague, including by allowing entry into force of Serbia's "Interim Agreement" with the EU. However, full cooperation with ICTY remains the condition set by the EU for ratification of Serbia's Stabilisation and Association Agreement.

Ministers may also discuss how best to handle Montenegro's application for EU membership. We believe that the Council should forward Montenegro's application to the European Commission in a timely manner. The Commission should then produce an Avis ("Opinion") on the merits of the application, based on the rigorous criteria governing the conditions-based accession process. We will need to consider any further applications from Western Balkan countries as and when they are put forward.

*Sri Lanka*

We expect Ministers to adopt Conclusions, which are likely to express concern at the humanitarian crisis arising from the fighting in northern Sri Lanka; and call upon the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam to comply with international humanitarian law.

*Iraq*

We expect Ministers to adopt Conclusions, which are likely to welcome the provincial elections of 31 January as an important step towards democratisation and reconciliation.

*18 February 2009*

#### **Letter from Chairman to the Rt Hon Caroline Flint MP**

Thank you for your letter of 18 February which was considered by Sub-Committee C at their meeting on 26 February.

The Sub-Committee noted that Georgia was not included among the agenda items for the 23 February GAERC listed in your letter and would be grateful for your comments on the reasons why the subject was not included on the agenda.

Georgia is particularly important in the context of the Georgia Russia conflict and the success or otherwise of the EUMM in fulfilling its role as agreed in the ceasefire arrangement by the French Presidency. In particular the Sub-Committee felt that the ability of the EUMM to gain access to South Ossetia and Abkhazia should be under discussion in the GAERC.

*2 March 2009*

### **GEORGIA: FUNDING OF THE EUROPEAN UNION INDEPENDENT INQUIRY INTO THE CONFLICT**

#### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

I am writing to inform the Committee of plans to adopt a Council Decision, regarding the Independent Inquiry into the conflict in Georgia, to be adopted at the Economic and Finance Council on 2 December.

There are still considerable discrepancies over how the conflict between Georgia and Russia started in August. It was decided at the General Affairs and External Relations Council on 15-16 September 2008 to set up an independent inquiry to be funded by the EU. This will help establish the origins and course of the conflict in Georgia as well as investigate accusations of war crimes and human rights abuses from both Georgia and Russia.

The Inquiry will be led by Mme Heidi Tagliavini, a Swiss diplomat who served as the UN Secretary General's Special Representative to Georgia from 2002-2006. It is imperative that she can prepare for and start the Inquiry without delay. The estimated cost is £1.2 million (1.6 million euros) and it will be funded from the Common Foreign and Security Policy budget of which the UK contributes 17%.

My officials have raised the issue of national parliamentary scrutiny and asked if the Council Decision might be postponed to a later Council. However, given the pressing need to launch this investigation I may need to agree the Council Decision at the 2 December Council, before scrutiny has been completed.

*1 December 2008*

## GEORGIA: INQUIRY INTO THE CONFLICT

### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

The EU Sub-Committee C considered the above document at their meeting on 15 January and cleared it from scrutiny.

In commenting that this constituted an override, the Sub-Committee also noted that there had been a delay of nearly two weeks after the document was adopted in the Council before it was sent to the Committee. Although the EM was dated 15 January neither it, nor the document, seem to have been updated to take account of developments.

On a point of substance, the Sub-Committee would be interested to hear how much access the EU Monitoring Mission has to South Ossetia and Abkhazia, and how much cooperation is being obtained from the Russian Federation.

*23 January 2009*

### **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am responding to your letter of 23 January on the points raised by the EU Sub-Committee C in its initial scrutiny of the above paper.

On the question of the delay in sending the Council Decision to the Committee I would like to repeat the regret I expressed about this in my letter of 16 January 2009 to Michael Connarty, which was copied to you. It had been intended to submit the Decision as part of the Explanatory Memorandum which should have accompanied my letter of 1 December to the Scrutiny Committees of both Houses. This explained the circumstances in which I had decided to override the Scrutiny procedure on this occasion. Unfortunately the Explanatory Memorandum became detached from the letter and there was, as you rightly point out, a delay in its delivery to both Committees.

You note that the Explanatory Memorandum, when it arrived, had not been updated to take account of developments on the inquiry. This is because we did not want to make a public comment on the Inquiry at such an early and sensitive stage. There has been great concern that the EU Independent Inquiry should very carefully safeguard its independence in order to maintain the confidence and co-operation of the various parties to the dispute. This will be crucial to obtaining the access, both to documents and terrain, without which the Inquiry will be unable to fulfil its mandate. Accordingly, as you may recall from the Explanatory Memorandum, the Head of the Inquiry, Ambassador Heidi Tagliavini has been given a free hand in choosing her team and taking forward the Inquiry within the mandate and terms of reference set by the Council decision. She has been asked to deliver a full report no later than 31 July 2009, but has not been asked to give regular progress reports as the Inquiry proceeds.

However I am now able to say that the Inquiry team has been formed and has started work. Visits have already been made to Moscow and Tbilisi and are planned imminently to both Abkhazia and South Ossetia. Ambassador Tagliavini has confirmed that she had experienced no problems so far in gaining the co-operation of any of the parties to the dispute in taking the Inquiry forward.

I hope that you will also be reassured to learn that although the report will be delivered in the first instance to the EU, the United Nations and the Organisation for Security and Co-operation in Europe, it will be made public in full. I expect that members of your own Committee and others in both Houses will welcome the opportunity to examine and discuss its findings.

You also inquired about the access the European Union Monitoring Mission (EUMM) has had to South Ossetia and Abkhazia. The Mission has had only the most cursory access to South Ossetia. The UN Observer Mission in Georgia, whose mandate was renewed for a further four months on 13 February by unanimous vote of the UN Security Council, has access to Abkhazia. With our partners we continue to call on Russia to grant the EUMM full and free access, particularly to South Ossetia, so that it can fulfil its mandate and monitor compliance with the Sarkozy-Medvedev ceasefire agreement.

*25 February 2009*

## HEALTH SERVICES IN SUB-SAHARAN AFRICA (5886/09)

### **Letter from the Chairman to Ivan Lewis MP, Parliamentary Under Secretary of State, Department for International Development**

The House of Lords European Union Sub-Committee C considered the Court of Auditors' Special Report on European Community (EC) Development Assistance to Health Services in Sub-Saharan Africa at its meeting on 5 March 2009 and cleared it from scrutiny.

The Sub-Committee welcomed the Court's report and recommendations, but were disturbed by the mixed picture in the report regarding both general lack of progress on health in Sub-Saharan Africa and the effectiveness of the EC's health interventions.

The Court's assessment of the health situation in the five countries in which it conducted field visits (Kenya, Lesotho, Malawi, Mali and Swaziland) was generally grim. For example, the Court noted that Swaziland has the highest prevalence rates of HIV/AIDS and tuberculosis rates in the world, whereas in Kenya "all the major health indicators declined in the 1990s and health indicators continued to show a downward trend under the first National Health Sector Strategic Plan (1999-2004)".

The Court's assessment of the effectiveness of EC interventions is also decidedly mixed. Of the projects evaluated by the Court (listed in annex IV) approximately equal numbers of EC projects were rated "satisfactory" and "unsatisfactory", with a large number only achieving a "partially satisfactory" rating.

The Court also expressed concerns about the effectiveness of General Budget Support (GBS) in improving health outcomes. For example, the Court's assessment of GBS in Kenya is that it "cannot be considered to have been very effective in Kenya in improving health services". We agree with the Commission (executive Summary of the Commission replies, para IV., annexed to the report) that GBS is better assessed in the longer term and must be seen in the overall context of improving national systems of financial accountability and public management. We are also sympathetic to your comment (para 20 in your Explanatory Memorandum) that the Court's analysis of budget support could have been more usefully set in the broader context of why budget support is provided and the challenges faced in attributing budget support to health results, which as you note, is an issue for all donors. Notwithstanding the above caveats, we are concerned by the serious shortcomings in European Community GBS highlighted in the report.

These shortcomings seem to exist despite the accountability mechanisms that are in place. For example, we note that the Commission halted assistance under the 8th European Development Fund (EDF) and did not provide GBS to Lesotho under the 9th EDF due to the Lesotho government's lack of commitment to public finance management reform. We are pleased that the Commission insisted on certain conditions being fulfilled for Lesotho to receive this form of assistance. We would be grateful for your comments on the question of the contribution of European Community GBS to improving health outcomes and would appreciate if you could inform the Committee about the action DFID is taking to address the shortcomings highlighted in the report.

Lack of expertise on health matters in EC delegations is another issue highlighted in the report. We are pleased that DFID is working with the Commission and other Member States to address this, as you mentioned in para 22 of your Explanatory Memorandum. You commented that this could include the use of secondments and the development of more systematic arrangements for donors to share advisers. We welcome these ideas for improving EC delegations' capacity and would be grateful for further details of the steps DFID is taking to address this challenge, including the scope for DFID and the EU to work more closely with NGOs as well as for enhancing cooperation between NGOs working in the area of health.

One important issue raised in the report is the extent to which the EU should be focusing on building up the healthcare systems of African countries rather than fighting specific diseases. We would be grateful for your views on this matter.

Finally, we were interested to learn that the EDF mid-term review will take place in 2009-2010, and would be grateful for some further details of its timing and the main issues that it is expected to cover.

*6 March 2009*

## INFORMAL MEETING OF EU FOREIGN MINISTERS (GYMNICH)

### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

I am writing to inform you of the outcome of the informal meeting of EU Foreign Ministers that took place in Hluboká Castle, Czech Republic, on 27 and 28 March. My Right Honourable Friend the Secretary of State for Foreign and Commonwealth Affairs (Mr. David Miliband) represented the UK.

The agenda items were as follows:

#### MIDDLE EAST

Ministers considered the progression of the EU-Syria Association Agreement. The Foreign Secretary said Syria was moving in the right direction and should continue to ensure that their action in the region is conducive to signature.

On the building up of EU-Israel relations, which Ministers had supported in principle at the December GAERC, there was broad agreement that if the new Israeli government did not sign up to the peace process and a two-state solution, the EU would need to respond. The Foreign Secretary said the EU should insist that all sides sign up to previous commitments.

High Representative Solana welcomed President Obama's recent message to Iran, and called for the EU to be ready to support the US approach.

#### BELARUS

The Presidency and Solana argued that Belarus should participate in the Eastern Partnership, as a means of engaging with it and promoting political reforms. Ministers discussed whether Belarus should be invited to the Eastern Partnership launch summit on 7 May, and at what level.

#### ESDP

The Presidency introduced a discussion of ESDP civilian capabilities, to which a number of Member States contributed. The Presidency concluded that civilian capabilities were an important part of the EU's efforts in security and defence and asked the Council Secretariat to develop further the ideas that had been discussed.

The Foreign Secretary noted the UK had to reduce by around 40 its total number of secondees to EU civilian missions and explained that this was mainly because of increases in expenditure for peacekeeping, especially in the UN; however, we remained committed to ESDP.

#### WESTERN BALKANS

Ministers had a discussion on the future of enlargement in the Western Balkans. The Presidency stressed that enlargement was the principal engine for reform in the region, although this did not lessen the need for conditionality. The Commission supported, as did the Foreign Secretary, who underlined the great success of enlargement, adding that the economic crisis posed a real danger to the region.

Ministers broadly agreed to let Montenegro's application for EU Candidate Status move forward, a decision that the Government welcomes.

Ministers also briefly discussed Serbia's cooperation with the International Criminal Tribunal for the former Yugoslavia; the EU's presence in Bosnia and Herzegovina; elections in the former Yugoslav Republic of Macedonia; and relations between Croatia and Slovenia.

*2 April 2009*

### **Letter from the Chairman to the Rt Hon Caroline Flint MP**

Thank you for your letter of 2 April, with its useful information about the Gymnich meeting. The letter was considered by Sub-Committee C at its meeting on 23 April.

We would like to raise one point. Under the Western Balkans you state that "Ministers broadly agreed to let Montenegro's application for EU Candidate Status move forward, a decision that the Government welcomes." Could you let us know what form of decision this was, since such decisions should normally be made at Council meetings and the Committee would expect them to be deposited

in Parliament for scrutiny prior to any decision? We are concerned that informal meetings of EU Foreign Ministers may be developing into decision making forums not subject to formal parliamentary scrutiny and would welcome an assurance from the Government that this is not the case.

*27 April 2009*

**INSTRUMENT FOR PRE-ACCESSION (IPA) ANNUAL REPORT 2007 AND MULTI-ANNUAL INITIATIVE FINANCIAL FRAMEWORK FOR 2010-2012 (15620/08, 17210/08)**

**Letter from the Chairman to Mike Foster MP, Parliamentary Under Secretary of State, Department for International Development**

The EU Sub-Committee C considered the above documents at their meeting on 5 February and cleared them from scrutiny

- However Members were particularly interested to understand, given the large budget involved, and the administrative challenges within some of the states concerned:
- how the Commission monitored both the use of the funds and how effective such funding was; and indeed whether the Government was satisfied with those procedures;
- what formal auditing procedures there were, and again whether the Government was satisfied with such arrangements.

The Committee particularly noted that one of the funding streams was specifically aimed at anti-corruption programmes, which suggested the programmes themselves could be vulnerable.

*6 February 2009*

**INSTRUMENT FOR PRE-ACCESSION (ISPA): STRUCTURAL POLICIES 2000-2006 (6380/09)**

**Letter from the Chairman to Mike Foster MP, Parliamentary Under Secretary of State, Department for International Development**

The EU Sub-Committee C considered the above document at their meeting on 12 March 2009 and cleared it from scrutiny.

We note that the Court of Auditor's report identified a number of shortcomings, including inadequate preparation and implementation of ISPA projects. We would therefore be grateful for some further information about the specific steps that the Government is taking, including through its country offices in the region, to ensure that these weaknesses are being addressed.

The Sub-Committee also enquired as to whether the EU has considered privatising the management and audit of EU-funded projects in the accession countries as a way of reducing delays and financial irregularities. We would be grateful for your views on this matter.

Finally, please could you inform the Committee of the outcomes of any EU Council deliberations on the report.

*13 March 2009*

**MONTENEGRO: PROGRESS TOWARDS MEMBERSHIP OF EUROPEAN UNION**

**Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

I am writing to update the Committee about developments concerning Montenegro's progress towards membership of the European Union.

I mentioned to you in my letter of 18 February 2009 (see General Affairs and External Relations Council (GAERC), February 2009: Georgia), prior to the General Affairs and External Relations Council, that Ministers would be discussing how best to handle Montenegro's application for EU membership which was formally submitted on 15 December 2008. With support from most Member

States at the GAERC, I argued that we should maintain the momentum of enlargement to ensure stability in the Balkans and that we should ask the Commission for its detailed advice on the reforms needed before we could open accession negotiations. Following further discussions in Brussels on 7 April, agreement was reached on referral of the application to the Commission for an Avis. The referral will be agreed at the Agriculture and Fisheries Council on 23 April.

The Avis from the Commission will take approximately 16-18 months to complete, and will consider, in detail, the situation in Montenegro on both the political and economic criteria for membership and their capacity to adopt the obligations of membership (i.e. the *acquis*). The Avis will then advise the Council whether, in the Commission's opinion, Montenegro is ready, or what further reforms are necessary before they would be ready, to begin accession negotiations.

*29 April 2009*

## NUCLEAR SAFETY AND SECURITY (10049/08)

### **Letter from Mike O'Brien MP, Minister of State, Department of Energy and Climate Change, to the Chairman**

Thank you for your letter of 17 July to Malcolm Wicks about our engagement with EU Member States on development of a UK-led multinational (nuclear) fuel assurance. I am replying as the matter now falls within my portfolio.

Let me first of all say that am sorry that, due to the summer Parliamentary recess and the recent changes in Departments' responsibilities, your query to my predecessor Malcolm Wicks on the above has only just been brought to my attention. This is an important area and the Committee asked about Government action to engage EU Member States in the development of a uranium enrichment 'bond' – a proposal to help provide assurances of nuclear fuel supply to states with new or expanding nuclear power programmes - that was mentioned in the National Security Strategy Statement in March.

I am pleased to report that we have indeed been actively engaging with EU Member States in developing the 'bond'. I should first of all say that, as partners in the tripartite uranium enrichment company Urenco, we are working closely with both Germany and The Netherlands. Our plans are still at the early stages but we are nevertheless exploring with these two states fundamental issues such as the differences in ability to offer long term or 'open' export licences for such supplies and the role that Parliamentary procedures in different countries will play in getting the 'bond' arrangements formally approved. We have also been working closely with the EU Presidency, currently France, on the role the bond will play alongside other proposals.

More widely, we have been sharing emerging thinking on the bond with other EU states, not least in for such as the General Conference of the International Atomic Energy Agency, the major conference on fuel assurances hosted by the three Urenco partners in Berlin earlier this year, and the OECD's Nuclear Energy Agency. The UK has also taken the opportunity to engage more specialist groups with European membership, for example the Institute of Nuclear Materials Management (INMM), to invite feedback and help secure support. Discussions with the European Commission and EU Member States on the bond continue within the framework of the EU's eTask Force on fuel assurances, set up in September 2008, to coordinate and take forward views. The UK will also host a major high level conference on fuel assurances in March next year, by which time we hope to have a detailed and pragmatic plan for the 'bond' that will be genuinely well received by potential recipient states.

*8 December 2008*

### **Letter from the Chairman to Mike O'Brien MP**

Thank you for your letter of 8 December to my predecessor, Lord Grenfell, replying to his letter of 17 July.

The EU Sub-Committee C considered your letter at their meeting on 18 December. Members found the delay in your response unacceptable and expressed surprise at your explanation.

*18 December 2008*

### **Letter from Mike O'Brien MP to the Chairman**

Thank you for your letter of 18 December. I am sorry to learn that the Committee was unsatisfied with my explanation as set out in my letter of 8 December.

My last letter apologised for the delay and truthfully set out for you that I had responded as soon as I had become aware of the situation. Your response was to briskly say that was “unacceptable”.

Despite the date of it, it seems the Committee’s enquiry of 17 July 2008 was not dispatched until after the summer Parliamentary recess. It was only received by my Department in the second week of October, four months after it was dated.

As the Committee’s query concerned UK engagement of EU Member States on sensitive international policy issues, we had to consult with the Foreign & Commonwealth Office. I regret that this took longer than we would have liked and my reply was on the 8 December, two months later.

I also apologise for not formally replying sooner to your own letter, but I was keen to be able to report the progress that the Department has made on setting up its own Scrutiny co-ordination function.

The unit has now been established with Bryan Payne as Scrutiny Co-ordinator.

The unit will be assessing the lessons that can be learnt from this specific scrutiny case and ensuring that systems are in place to ensure that similar delays do not occur in the future.

*3 April 2009*

### **Letter from the Chairman to Mike O’Brien MP**

Thank you for your letter of 3 April in response to my letter of 18 December.

The EU Sub-Committee C considered your letter at their meeting on 23 April. They still have difficulty in accepting the explanation provided. Our records show that Lord Grenfell’s letter of 17 July was dispatched to you at the time, though we accept that you might not have received it until later.

The handling of this correspondence has clearly not been very satisfactory. However, we welcome your assurance that your new parliamentary coordination unit will be assessing the lessons that can be learnt and ensuring that systems are in place to make sure that similar delays do not occur in the future, and we feel that a line should now be drawn under this issue and correspondence.

*27 April 2009*

## **PIRACY: OPERATION ATALANTA**

### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

Thank you for your letter of 19 November to Lord Grenfell which EU Sub-Committee C considered at their meeting on 4 December.

This issue is one of great concern to the Members of the Sub-Committee who have noted the answers given by Lord Malloch-Brown in the House. They would be grateful for further clarification on the following issues:

- Given the unprecedented scale of the problem, is the EU adequately monitoring the whole coast line?
- Does the Government believe that the NATO response is adequate to deal with the threat?
- Have enquiries been made as to who is behind the piracy? Is there any state involvement or connivance, as it appears unlikely that the pirates could be acting on their own?
- Are the Government or the EU seeking approval at the UN for the granting of powers to follow the pirates on shore?
- You note in your paragraph 7 that there is a lack in UK law of clear arrest and evidence gathering powers for Royal Navy officers. What is the Government proposing to change in the law to correct the situation? We note that there was no specific mention of legislation on the subject in The Queen’s speech.

- What progress is being made on trial and custody? If caught, where will pirates be kept in custody and tried and who will pay? Has consideration been given on how to avoid a “European Guantanamo”?

9 December 2008

#### **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am writing in response to the Committee’s request for further information following my letter of 17 November. I should also like to bring to the attention of the Committee three draft Council Decisions to be adopted by the EU under the framework of the Common Foreign and Security Policy which will be critical to the success of the EU military operation against acts of piracy and armed robbery off the coast of Somalia. The EU Presidency is asking that these be agreed under Written Procedure on 19 December. As these decisions are important operationally, I hope you will understand the need to agree these Decisions during the recess period, thus overriding scrutiny.

The UN Political Office for Somalia (UNPOS) co-hosted a conference on piracy with the Kenyan Government on 10 / 11 December 2008. Lord West attended the Ministerial day of the conference in Nairobi. In his well received national statement Lord West stressed the need for a co-ordinated and comprehensive international response to the increased levels of piracy. The UK has continued to insist that all military activity is fully co-ordinated to ensure that the response is effective in dealing with the threat. However, the vast size of the geographical area means that it is impossible to effectively monitor the whole region. To reduce this risk the EU is seeking contributions from Non Member States, including those in the region, amongst other things to improve the gathering and sharing of information on pirate activity. The International Maritime Organisation is considering the establishment of a regional centre that will help in this regard. Once established this will need to work closely with other regional and international bodies.

In the margins of the Nairobi conference Lord West was able to sign a Memorandum of Understanding with the Kenyan Foreign Minister that will enable the UK to transfer captured pirates for prosecution in Kenya. With support from British legal advisers the EU is also seeking similar arrangements with Kenya. The draft Council Decision on the required exchange of letters, to action this agreement, is one of the attached documents which need the Committee’s approval. Discussion continues on potential strengthening of UK legislation in this area, but with agreements in place with regional countries this is now less of an operational priority.

The UN Security Council adopted on 16 December a US drafted resolution (UNSCR 1851) on piracy, which the UK co-sponsored. This calls for the establishment of an International Contact Group to all aspects of counter piracy as well as calling for the establishment of a regional information co-ordination centre. The resolution also authorises land operations against pirates. At all times the UK has pressed for relevant international human rights legislation to be upheld and this is reflected in the resolution. We are satisfied that the UN Convention on the Law of the Sea 1982 provides an adequate legal framework for counter piracy military operations and we are keen to maintain a distinction between piracy and other criminal or terrorist activity. The ICG will focus on the proposals made by experts at the Nairobi conference specifically attempting to address the cause of piracy to ensure that any response is comprehensive, effective and with a long term impact. The ICG will need to consider measures to build regional capacity to ensure that those States agreeing to accept and prosecute pirates are able to do so to internationally acceptable standards.

The other draft Council Decisions relate to Status of Forces Agreements (SOFA) with Djibouti and Somalia. These are relatively standard EU drafts, with some necessary amendments to reflect the maritime nature of the operation. Member States are being asked to agree these three documents, by written procedure, on 19 December. It is consistent with the incredibly rapid progress of this operation that I am forced again to ask the Committee’s approval for override action. I can confirm that full scrutiny process will be carried out on all the relevant EU processes as soon as we are able to do so.

18 December 2008

#### **PREVENTION OF NATURAL AND MAN-MADE DISASTERS**

##### **Letter from Tom Watson MP, Parliamentary Secretary, Cabinet Office, to the Chairman**

The European Commission has issued a Communication proposing Community level activity to enhance prevention of natural and man-made disasters, excluding conflict-or terrorism-related events.

I enclose a draft Explanatory Memorandum on the Communication's proposals. This has been prepared in consultation with Government Departments and the Devolved Administrations.

The forthcoming Swedish Presidency envisage Council Conclusions for November. This timetable may enable Parliamentary Scrutiny of the Communication to inform the Government's approach to its discussion and to any draft conclusions arising before this deadline.

30 March 2009

## PROLIFERATION OF WEAPONS OF MASS DESTRUCTION (WMD) (17184/08, 17172/08)

### **Letter from Bill Rammell MP, Minister of State, Foreign and Commonwealth Office, to the Chairman**

The European Council endorsed the following text on 8-9 December 2008:

*Six Monthly Progress Report on the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction.*

I am writing to submit this document (not printed) to your committee for information, in response to your request of 18 November 2005 to Douglas Alexander.

The progress report focuses on relevant developments and trends in EU Counter Proliferation work rather than repeating all the items mentioned in the original Strategy.

Your Committee has previously shown interest in the EU Weapons of Mass Destruction Monitoring Centre and requested that we provide updates on its progress. You will note from the Progress Report that during the last six months the Centre has continued its work through regular meetings called by the Personal Representative of the High Representative for the Common Foreign and Security Policy. The meetings, which brought together various experts from the Council Secretariat and the Commission, included discussions on a number of subjects including Chemical, Biological, Radiological and Nuclear (CBRN) risks, bio-preparedness, multilateral nuclear approaches and export controls. Also included in the discussions was mainstreaming non-proliferation into relations with third countries, on which successful negotiations have been concluded so far with almost 100 states.

The Progress Report draws attention to the EU's continuing support for various international organisations and multilateral treaties through a number of specific projects. In order to strengthen the security of nuclear and radioactive materials, a series of assistance projects have been undertaken in the Balkans, Caucasus, Central Asia, the Mediterranean region, Africa and Southeast Asia. The EU also strengthened its role and visibility within the Conference on Disarmament in Geneva, the IAEA, and UN First Committee, contributing jointly to all items on the agenda.

The EU continues to apply pressure on Iran with the so-called "dual-track" approach through effective transposition of UNSCR 1803 (Common position and EU regulation) and expansion of the list of individuals and entities subject to EU sanctions. There have also been various contacts between HR Solana and Iranian interlocutors in order to assess Iranian readiness to enter into negotiations based on the offer presented in Tehran in June 2008.

The EU has carefully monitored the situation regarding the nuclear programme in DPRK and implementation of relevant UNSC Resolutions.

The Council has also published new lines for action in combating the proliferation of weapons of mass destruction and their delivery systems. Its aim is to raise the profile of non-proliferation measures and to encourage better coordination of Member States. It suggests stepping up efforts to combat trafficking in CBRN substances and strengthening systems for intercepting proliferation flows as well as efforts to combat against tangible transfers of technology, goods and equipment.

We think that these are useful papers, which show reasonable progress and development against the initial EU WMD strategy. They reflect substantial UK input and in general supports our Counter-Proliferation goals.

30 January 2009

### **Letter from the Chairman to Bill Rammell MP**

Thank you for your letter of 30 January with its useful update on the above subject and enclosing the six-monthly "Progress Report on the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction" (17184/08) and "Council Conclusions and new lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery

systems” (17172/08). Sub-Committee C considered the documents at their meeting on 26 February and found them interesting.

The Sub-Committee noted that the second document attached to your letter was different in kind from the first. Whereas the first was a routine progress report, the second described new lines for action by the EU. Your letter states that the Council has published new lines for action in combating the proliferation of WMD and their delivery systems, but document 17184/08 states that the Council has adopted the document. Given that this subject is at the heart of some major disputes in the EU, and internationally, the Sub-Committee consider that this document should have been deposited in Parliament.

We would be grateful if you could explain why this was not the case, and if you could assure us that documents embodying similar changes to policy will be deposited for the Committee’s consideration in future.

*2 March 2009*

#### **Letter from Bill Rammell MP to the Chairman**

I am responding to your letter of 2 March on the points raised by Sub-Committee C in its consideration of the above papers.

I am pleased that the Committee found the documents of interest. The EU Strategy against the Proliferation of Weapons of Mass Destruction is at the heart of our engagement with the EU on counter-proliferation.

You are correct that the second document was different in kind from the first; the new lines for action were agreed through the Council Conclusion process at the December GAERC as a more detailed, forward-looking plan for implementation of the EU WMD Strategy.

Council Conclusions are not legally binding and are also, when draft, subject to a “limité” classification, which restricts their circulation. For these reasons draft Council Conclusions are not deposited with the Parliamentary Committees responsible for scrutiny of EU documents.

However, in light of the Committee’s interest in the EU WMD Strategy and its importance in the EU, we would be happy to provide Explanatory Memoranda in the future on any additional, and substantial, documents attached to the six-monthly updates when they are published.

The new lines for action aim to further develop the EU Strategy against the Proliferation of Weapons of Mass Destruction (2003), in particular through supporting the universalisation of the main treaties, agreements and verification arrangements on disarmament and non-proliferation. Introduced during the second half of the French Presidency, the document provides a framework through which to improve the implementation of the ED WMD Strategy by targeted actions.

The new lines for action will continue to be discussed in the appropriate ED working groups and have the flexibility to evolve as circumstances dictate. We will monitor developments against this framework closely and report progress in subsequent six monthly updates.

*24 March 2009*

#### **RUSSIA: REVIEW OF EU-RUSSIA RELATIONS (15299/08, 15300/08)**

#### **Letter from the Chairman to the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office**

The EU Sub-Committee C considered the above documents at their meeting on 4 December and cleared them from scrutiny.

The Sub-Committee would like to thank you for continuing to provide a full explanation of developments in Brussels on the subjects of the EU-Russia relationship and Georgia through your Explanatory Memorandums and letters, whilst expressing regret that it was not possible to see the Commission document earlier.

We would be grateful if you would continue to keep us in touch with developments, in particular on the issue of human rights and on the extent to which the EU team will have access to South Ossetia.

*9 December 2008*

## **Letter from the Rt Hon Caroline Flint MP to the Chairman**

I am responding to your letter of 9 December 2008 on the points raised by EU Sub-committee C in its initial scrutiny of the above paper.

As you will have seen, negotiations on a new mandate for the OSCE Mission in Georgia collapsed on 22 December. The Foreign Secretary commented that "Unfortunately the Russian Federation's refusal to accept [a] compromise package, or to agree a short-term rollover of the current mandate, mean that negotiations have now collapsed due to Russian insistence on a revised mandate recognising the independence of South Ossetia. The Mission's activities will therefore come to an end on 31 December 2008. I share Foreign Minister Stubb's [Finland; the then OSCE Chair] deep regret over this outcome. As the Chairmanship has made clear, among the 56 participating States of the OSCE, only Russia was unwilling to agree to a rollover of the mandate. It is especially difficult to understand when those who aspire to reform European Security architecture are unwilling to use existing mechanisms constructively. Despite this disappointment I was heartened by the very strong support among OSCE participating States for the Chairman's approach. Russia has isolated itself on this issue. The UK joins its international partners in calling on all parties to refrain from provocations in the weeks and months ahead. In particular we hold Russia responsible for security in the separatist regions and for ensuring instability does not spread from those regions into the rest of Georgia."

Currently only the UN Observer Mission in Georgia (UNOMIG) has reasonable access to Abkhazia. UNOMIG's mandate will expire in mid-February; we are discussing with partners how best to effect a renewal. We call on Russia to avoid self-isolation; to act constructively over UNOMIG renewal and give the EUMM (EU Monitoring Mission) immediate access to Abkhazia. We are in close touch with EU partners and the USA on these issues. The Russians are also still denying all but the most cursory access for the EUMM (EU Monitoring Mission) to South Ossetia.

Since the Russian military action from 8 to 12 August 2008 the security situation in Georgia remains fragile. In particular the position of ethnic Georgians in Abkhazia and South Ossetia is precarious. Human and minority rights violations continue to be reported from the two breakaway regions and the Russian-occupied areas of the rest of Georgia. We hold Russia responsible for protecting human rights in all the areas under its control. However there is little sign of Russia wishing to bring those responsible for illegal acts to justice. Of the international humanitarian aid organisations, only the ICRC has been able to gain access to South Ossetia.

*9 January 2009*

## **RUSSIA: THE EU AND RUSSIA: FOLLOW-UP REPORT**

### **Letter from Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office to the Chairman**

I am grateful for the opportunity to provide a further contribution to the follow up report that Sub-Committee C is preparing to its May 2008 report on the European Union and Russia. Since Sir Mark Lyall Grant gave evidence to the Committee on 20 November there have been further developments as the effects of the global financial crisis on Russia have become clearer.

The initial impact of the global financial crisis in Russia was felt by the banks. Most banks relied on the international money markets and, like many since autumn 2008, have faced severe liquidity shortages. At the same time, Russian equity prices have fallen significantly as foreign investors moved to less-risky assets. The Russian government sought to stabilise the banking system by injecting money, offering direct lending, and by placing unspent budget funds on deposit at banks.

In late October, the collapse in global commodity prices dealt Russia a second shock. Oil, gas and metals account for 85% of Russia's exports – and oil alone contributes 50% of federal budget revenues. By the end of October, Urals oil prices had fallen from \$123 a barrel in July to just \$60.

Banking sector problems have spread into the real economy, particularly in the most highly-leveraged sectors, notably real estate, construction and retail. In November, industrial production fell by 8.7%. In December, it fell by 10.3%. Early government estimates indicate that Russian GDP contracted by 0.7% in December. This compares to 7% annual growth averaged between 1999 and 2007.

December saw net capital outflows of \$130 billion. This level of capital flight alongside the fall in global commodity prices has placed downward pressure on the rouble. The Russian government has sought to defend the currency given the likely social impact of a rapid devaluation.

In the [mal quarter of 2008 the Central Bank of Russia (CBR) adopted a strategy of regular and managed devaluations, spending an average of \$2 billion a day on the currency markets. Last week the

Central Bank of Russia (CBR) allowed the rouble to weaken by around 10% against the dollar. Between August 2008 and mid-January, Russia's foreign currency reserves fell by \$200 billion from their \$597 billion all-time high.

The Russian Government has responded to the global economic crisis by announcing a series of measures including assistance to companies to refinance foreign debt, assistance to priority sectors in the real economy, increased benefits to the unemployed and a cut in profit tax by 4% to 20%. In the last few weeks, the Ministry of Finance has recast its 2009 budget to better reflect the oil price.

29 January 2009

## SECURITY STRATEGY REVIEW 2008

### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

Following my evidence session with you and Sub-Committee C on 16 October 2008 on the review of the European Security Strategy, I am pleased to be able to enclose a copy of the final version which was approved at the European Council on 12 December.

As you know the Review report is intended to complement not replace the 2003 Strategy which was the EU's first high-level security strategy and whose fundamental analysis remains valid. Like the 2003 Strategy, the Review was drafted by Javier Solana's policy unit, though the UK fed into the drafting process. The Review focuses mainly on what has been achieved through European Security and Defence Policy over the last five years, and the new or altered threats that Europe now faces. We believe that it is a good, balanced document. The Government welcomes its key policy conclusions – greater coherence, engagement with the neighbourhood and capabilities – and the focus on the new challenges that have become clearer since 2003, such as climate change, energy security and longer term stabilisation.

The European Union Committee's 31<sup>st</sup> Report of the 2007-08 Session made a number of recommendations as to the contents of the Review report on which I will respond in full early in the new year. In the interim, I would like to highlight a number of areas within the Strategy Review Report that you raised with me when I gave evidence in October and which, I believe, go some way to meeting the Committee's recommendations.

The Review identifies Climate Change as a threat multiplier and, while stopping short of prescribing greater budgetary resources, acknowledges the need for the EU to step up its work with countries most at risk by strengthening their capacity to cope. This must be set in the wider context of limiting the threat through preventing dangerous climate change.

The importance of Russia as a partner in resolving issues which threaten the security of the EU (e.g. Iran, MEPP) is clear from the report. However, the Review rightly also recognises that EU relations with Russia have "deteriorated" in the wake of the Georgia conflict last summer.

On Energy Security I hope that the Committee will be pleased with the report's references to the need for greater diversification of energy sources, a more unified energy market and transit routes into Europe. The report too notes that energy is a major factor in EU-Russia relations.

The Review underlines the importance of peace-building and long-term poverty reduction, flagging up that Security Sector Reform and Disarmament, Demobilisation and Reintegration have been a focus of the EU's civilian missions to Guinea-Bissau and DR Congo.

Finally, I hope that the Committee will welcome the language in the Review which underscores the need for the EU to do more to develop both its military and civilian capabilities. On this subject, you will note that the European Council last week adopted a Declaration on greater Civilian-Military Coordination and Planning.

17 December 2008

### **Letter from the Chairman to the Rt Hon Caroline Flint MP**

Thank you for your letter of 17 December which the EU Sub-Committee C considered at their meeting on 15 January and for your Explanatory Memorandum of 21 January which the Sub-Committee considered at their meeting of 29 January.

The Sub-Committee noted that the Report emphasised some of the concerns which they expressed in their own report, "Adapting the EU's approach to today's security challenges – the Review of the

2003 European Security Strategy.” In particular, as you say, energy security is mentioned, and this is becoming increasingly important.

The Sub-Committee would be interested to hear why the document was not deposited earlier in Parliament, particularly given the publication of their report on the subject in November last year. They have also noted that the 11 December European Council issued a “Statement on strengthening international security” and a “Declaration on strengthening capabilities” which are linked to the review but do not seem to have been mentioned in your letter.

*3 February 2009*

## SERBIA: STABILISATION AND ASSOCIATION AGREEMENT (SAA)

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

I am writing to update you further on the progress on the Interim Agreement (IA) for Serbia.

As you know, my predecessor, Jim Murphy, sought to keep the Committee fully updated on developments with regards to Serbia’s SAA, including writing to the Committee on 23 January, 13 February, 28 April, 12 May and 23 May 2008. I have noted the Committee’s interest in this issue and wanted to alert you to the possible developments ahead of the forthcoming General Affairs External Relations Council (GAERC) on 8 December.

Following the arrest of Karadzic in July, Serge Brammertz, the Chief Prosecutor for the International Tribunal for the former Yugoslavia (ICTY), visited Belgrade on 9/10 September. He subsequently told EU Foreign Ministers at the GAERC on 15 September, that there had been a “significant” improvement in Serbia’s co-operation with his office, but it was too soon to conclude full co-operation had been achieved.

Serge Brammertz visited Belgrade on 17/18 November, and will report on Serbia’s level of ICTY co-operation to the United Nations Security Council on 12 December. We do not expect a detailed discussion of Brammertz’s report to occur at the GAERC, as the latter will precede his 12 December presentation to the UNSC. But it is possible that there will be discussion amongst EU Member States of Serbia’s co-operation with ICTY, including the potential implications of Brammertz’s upcoming report.

The Government’s existing policy is that the UK is content to implement the IA on the basis of significantly improved co-operation (which in our judgement Serbia has been demonstrating since September), and to keep ratification of the SAA conditional on Serbia’s full co-operation with the ICTY. In our view, ‘full co-operation’ would mean committed and sustained activity from the Serbian Government, demonstrating 100 percent effort and political will. Co-operation with the Tribunal covers efforts in a range of areas including: tackling support networks; meeting requests for documents; allowing access to archives; ensuring protection of witnesses; as well as locating and transferring remaining indictees.

While there has not been EU consensus on this issue so far, we cannot rule out the possibility that GAERC discussion on 8 December might lead to EU consensus on implementation of the IA. Implementation of the IA requires a Council Decision, and is therefore subject to Parliamentary scrutiny. In the event of agreement at the GAERC on the issue, the UK may need to override scrutiny. I will endeavour to keep the Committee up to speed as the debate unfolds.

*4 December 2008*

## SYRIA: EU: SYRIA ASSOCIATION AGREEMENT

### **Letter from the Rt Hon Caroline Flint MP, Minister for Europe, Foreign and Commonwealth Office to the Chairman**

I am writing to inform you about the upcoming EU-Syria Association Agreement (AA), which will require Parliamentary scrutiny. Although this will not be until late April at the earliest, as part of our effort to work more closely with the Parliamentary Scrutiny committees, we wanted to give you early notice. We will ensure that the Explanatory Memorandum is submitted sufficiently ahead of a political decision at Ministerial level, so that the Committee can report to the House.

## HISTORY OF TALKS BETWEEN THE EU AND SYRIA

In 1998 talks began on an Association Agreement between Syria and the EU, although these progressed slowly. During 2003, the main disagreements were on human rights and non-proliferation, particularly as language on non-proliferation had only become standard in November that year. The Commission and Syria finally initialled the draft text of the AA on 17 October 2004 and the agreement then required signature. However due to the political context at the time, including Syrian involvement in Lebanon, the EU decided that a further deepening of the EU/Syria relationship should await a positive Syrian contribution to regional stability.

Recently however, Syria has taken positive steps. These include beginning indirect peace talks with Israel, establishing diplomatic relations with Lebanon and appointing an Ambassador to Baghdad. Consequently, under the French Presidency, efforts were made to re-open negotiations with Syria on the text of the AA. This followed President Sarkozy's decision to invite President Assad Bashar to the Union of the Mediterranean Summit in July 2008 and to visit Damascus in September 2008. After several meetings between Commission and Syrian negotiators, a revised AA text was initialled in December 2008.

## UK POLICY TOWARDS SYRIA

As a result of the steps taken by Syria, a number of other states, including the UK, began to increase engagement with Syria. Following a series of meetings between the Foreign Secretary and the Syrian Foreign Minister spanning the previous 18 months, the Syrian Foreign Minister visited London in October 2008 and the Foreign Secretary visited Syria in November 2008. UK policy is to urge Syria to act as a force for stability across several regional issues of concern: Lebanon, arms transfers, counter-proliferation, counter-terrorism, Middle East Peace Process and human rights. Our continued engagement with Syria remains primarily directed at encouraging further substantial progress on these issues. The Association Agreement is part of this.

## THE DRAFT AGREEMENT

The proposed revised Association Agreement between the EU and Syria will establish a new, closer relationship within the context of the Euro-Mediterranean partnership launched by the 1995 Barcelona Declaration. The proposed AA is similar in pattern to other Euro-Mediterranean Association Agreements, and contains far-reaching and substantial provisions in a number of areas including non-proliferation, counter-terrorism, comprehensive tariff dismantlement on agricultural products, technical barriers to trade, sanitary and phyto-sanitary measures, trade facilitation, right of establishment and services, government procurement, intellectual property rights and trade dispute settlement mechanisms. The provisional application of trade and trade related provisions is also foreseen.

The positive action taken recently by Syria goes some way to address previous political considerations and allows engagement to progress. Through signature of the draft Association Agreement the EU can signal its intent to engage constructively with Syria. It will help to build confidence, develop dialogue and will encourage further positive steps by Syria.

This progress will be facilitated by regular political dialogue at all levels and co-operation across the full range of political, environmental, economic and social issues, including on terrorism. This can additionally contribute to peace and security in the region and will also enable the EU and Syria to discuss all topics of mutual concern, including human rights and democratic principles, terrorism and non-proliferation. An EU-Syria Association Council will be established to take all appropriate measures to facilitate cooperation and is aimed at supporting economic and political reform in Syria, preparing Syria for integration into the world economy and promoting regional peace and integration.

In addition to this political signal the agreement will also benefit the UK and the EU in general. The proposed agreement will stimulate trade and economic relations between Syria, the EU and our Mediterranean partners, through the progressive establishment, over a maximum period of twelve years, of a free-trade area between the European Community and Syria.

Inclusion of Syria will be the last piece in building the Euro-Mediterranean Free Trade Area in 2010 as set up in the Barcelona Declaration. The Barcelona Declaration underlines the EU's priority to strengthen its security, economic and social relations with the partners of the southern Mediterranean Basin. Agreements with Tunisia, Morocco, Algeria, Egypt, Israel, the Palestinian Territories (PLO), Jordan and Lebanon have already been signed; only Syria remains.

Finally, the text on the two essential element clauses on non-proliferation and human rights has also been agreed. Respect for the principles of democracy and human rights will constitute an essential element of the Agreement. Additionally, in line with the Council Decision of 17 November 2003 on

the fight against the proliferation of weapons of mass destruction, the Agreement also contains as an essential element a commitment to fulfilling existing obligations under disarmament and non-proliferation instruments. If Syria does not fulfil its obligations in either of these two areas the EU can decide to suspend part or all of the Association Agreement.

#### TIMESCALE OF THE PROPOSED ASSOCIATION AGREEMENT

The proposed AA text was initialled on the 14 December and is now being translated. This should be completed by the end of March. As certain technical provisions have been updated in discussions last year between the Commission and Syria, the Council would then need to consider the substance of the proposed Association Agreement again at working group level. Following this technical examination the text will then be checked over by Lawyer Linguists. This process is expected to take two or three months. There will also be a discussion in the Gymnich on 27 March. Once the Member States' experts are satisfied with the text, a political decision at Ministerial level will be needed to sign the Association Agreement. If signed the economic sections of the trade act will be enacted immediately but further sections will be enacted following ratification by all EU Member States, a process which could take up to 3-4 years.

As a result of this process, signature is unlikely before mid 2009 at the earliest. At a capital-based working group discussion on 28 January, the Presidency concluded that work on the proposed Association Agreement would progress, but that the time would need to be right before it was signed. We will continue to review Syrian progress against a number of issues. We will continue to keep you informed of progress towards the Association Agreement in order to ensure that there is adequate time for parliamentary scrutiny.

*26 March 2009*

#### TRANSFER OF DEFENCE-RELATED PRODUCTS WITH THE COMMUNITY (16534/07)

##### **Letter from Ian Pearson MP, Economic and Business Minister, Department for Business, Enterprise and Regulatory Reform, to the Chairman**

I am writing to update your Committee, as you last requested in your letter to my predecessor Malcolm Wicks of 7 July, on the negotiations that have been taking place on this proposal. I understand that my officials updated your Clerk, in response to your letter, to explain that we were not in a position to do so at that time.

The negotiations are continuing in the relevant Council Working Group in Brussels but have now reached a sufficiently mature stage to allow me to inform you of developments. On the key issues relating to the potential for loss of national discretion and the extension of Community competence under this proposal, together with the further issue of the potential for limitations on intergovernmental cooperation, the Government is satisfied that amendments have been secured which safeguard these positions. In this regard, I hope you will have received a copy of my recent letter to Michael Connarty (not printed) that provides further detail on these and other key areas of significance which you will appreciate was provided to give specific answers to the European Scrutiny Committee concerns raised with us earlier this year.

As you will recall from our Explanatory Memorandum (16534/07), there are few practical implications in this Directive for HMG as it permits the UK to operate a licensing system very close to our current arrangements. Simplified licensing arrangements are generally proposed which has been a feature of the UK licensing system for sometime. One of the aims in the negotiations has been to preserve this way forward while keeping burdens on companies as low as possible. This has also been achieved.

As negotiations continue, my officials will continue to keep the specific points of both Houses in mind and to maintain the amendments that we have achieved which we believe satisfactorily safeguard UK interests.

*8 December 2008*

ANNEX A

#### HMG FURTHER RESPONSE TO THE EUROPEAN SCRUTINY COMMITTEE ON INTRA-EU TRANSFERS OF DEFENCE-RELATED PRODUCTS

**“We share the concerns the Minister has raised over the loss of national discretion occasioned by this proposal and the extension of external Community competence**

**which may be derived from it. It seems to us that there is considerable risk that the UK would find itself no longer able to rely on Article 296 EC to justify the making of bilateral agreements with third countries (including NATO Members) in relation to the licensing of exports of military equipment and supplies. We ask the Minister to explain how the proposal could be amended to avoid this consequence”.**

The Government has already stated that these important aspects would be paid special attention during the future negotiations of the Council Working Group. In our previous response to the Committee, it was explained that it would be important to reduce the scope for conflict between the Directive and bilateral treaties, in particular to allow the UK to conclude bilateral treaties containing provisions on re-export. The Government is satisfied that it has achieved this objective by securing amendment of Article 7 to allow individual licensing “where it is necessary for compliance with international obligations and commitments of Member States” and through the deletion of the constraint that related only to obligations relating to non-proliferation.

Furthermore, the addition of textual amendments aimed at preserving the effect of Article 296 has been made to Article 1 and in the recital language. Article 1(3) now states;

*This directive shall apply subject to Articles 30 and 296 of the Treaty.*

As the Government stated in its previous reply to the Committee, it is important to remember that, where essential security interests are at stake, Member States will remain able to invoke Article 296. The danger is that the Commission will become more likely to challenge inappropriate use of Article 296. The amendment above therefore does not have any legal significance but might be of some symbolic value to Member States.

**“The first is to ask if any limitation on Member States’ freedom to engage in intergovernmental cooperation is intended by Article 4(4)”.**

The Government has already acknowledged the Committee’s concern about Article 4(4) potentially limiting intergovernmental cooperation among Member States. The relevant text has now been changed following discussion in the Council Working Group and is given below;

*“This directive does not affect the possibility for Member States to pursue and further develop intergovernmental cooperations, whilst respecting the provisions of this directive”.*

The Government is satisfied that this amended text now provides enough flexibility and reassurance to Member States on intergovernmental cooperation. In particular, the apparent limitation contained in the Commission proposal to “existing intergovernmental cooperation” has been removed, therefore allowing the pursuit of both existing and future cooperation.

**“The second is to ask what is meant by the requirement in Article 4(8) to “determine the recipients of transfer licences in a non-discriminatory way” and, in particular, what is meant by discrimination in this context”.**

Following discussion in the Council Working Group, Member States have agreed to delete Article 4(8).

**“Thirdly, we ask if any assessment has been made of the consequences of reproducing the Common Military List of the European Union, which has been adopted intergovernmentally under the EU Treaty, as an Annex to a measure adopted under the EC Treaty. In this context, we ask if the objective of defining the material scope of the Directive could not have been better achieved, simply by a reference to the EU instrument”.**

The Government has already recognised the Committee’s concerns about properly defining the scope of the Directive. During negotiations in the Council Working Group, the UK highlighted the issue raised by the Committee about the potential for cross-pillar contamination issues of adopting an Annex agreed intergovernmentally under the EU Treaty as an Annex to a measure adopted under the EC Treaty. The UK can report that these concerns did not receive any support in the Council Working Group and the suggestion to simply make reference to the EU instrument containing the CML was ruled out on the basis of legal advice from the Commission Legal Services. The UK, is however satisfied, that despite this position that the amendments agreed by Member States to Article 13(1) - which is set out below - is a satisfactory way of solving this difficult issue and of defining the scope of the defence-related products under the scope of the Directive.

*“The Commission shall update the list of defence-related products set out in the Annex so that it strictly corresponds to the Common Military List of the European Union”.*

**“Fourthly, we draw attention to the wide delegation of powers to the Commission, which is empowered, not only to amend the list of defence-related products in the Annex, but also to amend “non-essential” parts of the Directive, with the Commission –**

**apparently – the judge of what is essential for these purposes. We ask the Minister if the Government is content with such a wide delegation of legislative authority”.**

The Government has previously noted the Committee’s views. On the important issue of amending the list of defence-related products, the amendment to Article 13(1) – see above – has served to limit the scope of the Commission’s powers. On the wider “non-essential” parts of the Directive, the reference has been deleted.

#### **Letter from Ian Pearson MP to the Chairman**

I am writing further to my letter of 8 December, to update you on the negotiations on this Directive in Brussels.

As a result of intensive “behind the scenes” negotiations over the past few weeks (driven by the French Presidency) a First Reading deal has been agreed with the European Parliament. This now heads for a vote in the European Parliament on the 16 December.

In view of the difficulties with the Directive expressed by some Member States and the European Parliament such rapid progress could not easily have been foreseen. This has implications for us in that there is now likely to be a vote at a Council of Ministers meeting sometime this month (I do not have further details at this stage). This requires that I ask you to consider lifting your scrutiny reserve to enable us to vote in favour of the amended Directive. That is something which we feel able to do in view of the amendments made to the text of the Directive some of which I described to you in my letter of 8 December. I would therefore appreciate your urgent consideration of this matter at your meeting next week before the recess.

I also need to inform you of a late change made to the Directive in the final negotiation process. This relates to the fourth question of the supporting Annex of my letter to you of 8 December. In the final negotiations, the reference to “non-essential” parts of the Directive that I had informed you had been deleted – with UK support – was subsequently re-instated in Article 13.2 of the Directive. This late change is something we consider to be broadly acceptable however, in that it can be argued that the text of Article 13(2) can only relate to Article 13(1) – that specifically covers the annex – and does not extend more broadly to other measures in the Directive on which your Committee had expressed concern.

*12 December 2008*

#### **Letter from the Chairman to Ian Pearson MP**

Thank you for your letters of 8 and 12 December.

The EU Sub-Committee C considered the letters at their meeting on 18 December and decided to clear the above documents from scrutiny.

Members expressed concern that the Department had apparently been taken by surprise at the rapidity of the conclusion of the negotiations after such a long delay, and would be grateful for an explanation of the way in which your officials were tracking events. They would in future like to be given full information earlier on the progress of negotiations.

*18 December 2008*

#### **Letter from Ian Pearson MP to the Chairman**

Thank you for your letter of 18 December in which you cleared the above draft Directive from scrutiny but also asked for some further information arising from your Committee’s consideration of my letters of 8 and 12 December.

Firstly, I would like to reassure your Committee that my officials, in conjunction with UKREP representatives, closely monitored the discussions in Brussels as they unfolded.

Secondly, on the question of updating your Committee, I would also confirm that this is something that I take very seriously indeed. On this occasion, however, it was only as a result of intensive “behind the scenes” negotiations in late November and early December that such rapid progress to a First Reading Deal became possible. The first discussion on this subject at Coreper was held as recently as 19 November. That discussion revealed a number of issues on which substantial further work appeared still to be needed before agreement could be reached with the Commission and Member States. This meeting also gave a mandate to the Presidency to begin a Trilogue with the Parliament starting on 24 November and proceeding on an exceptionally tight timescale. Finally, it was

only after the outcome of this process was known, that I was finally in a position to write to you and Michael Connarty with confidence on the specific issues that had been raised by your Committee.

I am extremely grateful to you and the Committee for giving the requested scrutiny at such short notice.

*31 December 2008*