



Department  
for Exiting the  
European Union

**Rt Hon Dominic Raab MP**  
Secretary of State for  
Exiting the European Union  
9 Downing Street  
SW1A 2AG

+44 (0)20 7004 1234  
[psdominicraab@dex.eu.gov.uk](mailto:psdominicraab@dex.eu.gov.uk)  
[www.gov.uk](http://www.gov.uk)

Lord Boswell of Aynho  
Chair, EU Committee  
House of Lords  
London  
SW1A 0PW

Sir William Cash  
Chair, European Scrutiny Committee  
House of Commons  
London  
SW1A 0AA

5 September 2018

Dear Sir William and Lord Boswell,

Thank you for your letter of 24 July expressing both of your committees' resolve to maintain a strong and effective scrutiny system during the implementation period.

I would firstly like to acknowledge the longstanding and important scrutiny role played by the European Scrutiny Committee and the European Union Committee. I recognise the considerable amount of time invested by both committees in the scrutiny of EU documents and also the vital contributions that you continue to make to wider parliamentary scrutiny. The commitment made by the Government to continue to fulfil its obligations in supporting parliamentary scrutiny for as long as the UK is a Member State remains steadfast.

DEXEU officials wrote to all departments – as outlined in the letter sent to the Lords EU Committee by the Minister for the Cabinet Office on 16 April – on this very issue to reinforce the importance of scrutiny of ongoing EU business and government undertakings to Parliament while we remain a member of the EU. More recently, on 25 July, scrutiny coordinators in departments were reminded of good practice points to follow when submitting Explanatory Memoranda (EMs) and letters to the Committees. My officials are also working with departments to review all of the outstanding business in each Committee.

Clearly once the implementation period has started, and the UK is no longer a member of the European Union, our processes will need to adapt. I have therefore noted with great interest the principles which you have outlined in the letter regarding the scrutiny of EU documents during the implementation period and I will seek to address each of the areas upon which you have sought confirmation of the Government's approach.

### Continued provision of information and documentation

Where available, as per the terms of the Withdrawal Agreement, it is our intention to continue to be able to provide the committees with a wide range of proposals and other documents during the implementation period, subject to any changes we might agree on the scope of documents which will continue to be subject to scrutiny.

It has been the Government's working assumption that we would continue with the current model for providing written evidence to the committees through Explanatory Memoranda (EMs). Over the years the Government has worked with the committees to adapt the structure and content of EMs, and the criteria for the deposit of documents, to ensure that the process concentrates on what is important and relevant. That should be the principle which underpins any considerations of further streamlining. We will of course continue to provide guidance and training to government departments to ensure that they can properly fulfil the Government's scrutiny commitments, and we welcome the support you and your clerks have given in the provision of that guidance and training.

### Scrutiny of EU legislative proposals

We will work closely with Parliament to agree upon a scrutiny system which, in the first instance, facilitates Parliament's role in scrutinising EU proposals that may affect the UK during the implementation period. The Government has always been committed to the principle of effective scrutiny and I can reaffirm that the Government fully recognises the value of such scrutiny.

Given the way the EU's legislative process works, most Council directives and regulations which will come into force during the implementation period have already been agreed or are being negotiated now, while the UK is still a Member State. The UK Parliament will therefore already have scrutinised in draft much of this new legislation that will apply to the UK during this period.

Whilst the UK will have been heavily involved in most legislative proposals before our exit, the draft Withdrawal Agreement additionally provides for a range of UK influence during the implementation period, including possibilities of participation in comitology committees and meetings of bodies and agencies.

Furthermore, as part of our positive new relationship with the EU following our exit, we will continue to be closely diplomatically engaged with the Institutions and the EU Member States regarding all issues of interest to the UK, beyond March 2019. We envisage that these diplomatic networks, alongside the possibilities of participation described above, will continue to provide the UK with the means to address any issues, through dialogue, at the earliest opportunity.

Mechanisms for parliamentary considerations

I note with particular interest your statement that you envisage establishing a new mechanism to enable either House (acting on a recommendation from the relevant scrutiny committee) to require the Government, in good time, to raise concerns about specific EU legislative proposals which may have a detrimental impact on the UK, and to place a particular issue on the agenda of the Joint Committee (or a specialised committee) for discussion.

Mechanisms for scrutiny are a matter for Parliament but the Government agrees that any mechanism should enable Parliament to express views on laws that affect the UK and for those views to inform the representations made by the Government at EU level. In circumstances where the Government agrees with the concerns raised by Parliament, we agree that the Government should use appropriate channels to raise such concern with the EU. This could include discussion in the Joint Committee or a specialised sub-committee, if that is the appropriate mechanism to resolve the concerns.

The exact procedures and ways of working for the Joint Committee are yet to be agreed between the EU and the UK. I recognise that Parliament will rightfully expect that it will be able to undertake informed scrutiny of the Government's approach and as your letter notes this will naturally need to be underpinned by full and proper ministerial accountability to Parliament.

The degree of scrutiny Parliament wishes to give to ongoing EU business will of course be for both Houses to determine on the basis of the detailed arrangements for the implementation period agreed between the UK and the EU. Nevertheless I would like to reiterate that the Government will continue to support and facilitate a strong parliamentary scrutiny process for as long as EU legislation will continue to affect the UK. I am happy, as you suggest, that detailed discussions of these principles should be taken forward with the staff of both your committees to build on the official-level meetings that have already taken place.

I am copying this letter to the Leader of the House of Commons and the Leader of the House of Lords.

A handwritten signature in blue ink, reading "Dominic Raab". The signature is stylized and cursive, with a long horizontal stroke at the end.

**RT HON DOMINIC RAAB MP**  
**SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION**