



The European Affairs Committee of the House of Lords was appointed to consider matters relating to the United Kingdom’s relationship with the European Union and the European Economic Area, including the implementation and governance structures of any agreements between the United Kingdom and the European Union; and to consider European Union documents deposited in the House by a Minister. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published below.

This edition includes correspondence from 1 July 2021 – 30 April 2022

EUROPEAN AFFAIRS COMMITTEE

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SCRUTINY OF EU DOCUMENTS

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON CERTAIN ASPECTS OF RAILWAY SAFETY AND CONNECTIVITY WITH REGARD TO THE CROSS-BORDER INFRASTRUCTURE LINKING THE UNION AND THE UNITED KINGDOM THROUGH THE CHANNEL FIXED LINK (13443/20)

Letter from the Chair to Rachel Maclean MP, Parliamentary Under Secretary of State Department for Transport

Thank you for your letter dated 15 February 2021 responding to questions from the former EU Goods Sub-Committee. It was considered by the European Affairs Committee at its meeting of 21 July 2021.

We apologise for the time it has taken us to consider your detailed response. We retain an interest in this subject and look forward to considering an update on the progress of these negotiations, in due course, when you have developments to report to the Committee.

22 July 2021

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL CONCERNING THE RESPECT FOR PRIVATE LIFE AND THE PROTECTION OF PERSONAL DATA IN ELECTRONIC COMMUNICATIONS AND REPEALING DIRECTIVE 2002/58/EC (REGULATION ON PRIVACY AND ELECTRONIC COMMUNICATIONS) (5358/17)

Letter from the Chair to the Rt Hon John Whittingdale OBE MP, Minister of State for Media and Data Department for Digital, Culture, Media and Sport

Thank you for your letter dated 16 April 2021 on the proposed Regulation referenced above. It was considered by the European Affairs Committee at its meeting of 21 July 2021.

We apologise for the time it has taken us to respond. We understand that the proposal continues to make slow progress through the EU's legislative process but we retain an interest in this matter. We therefore look forward to considering an update from the Government in, due course, once a text emerges

22 July 2021

RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS FOR AN AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART, IN RESPECT OF GIBRALTAR (COM(21) 411)

Letter to the Chair from Wendy Morton MP, Minister for the European Neighbourhood and the Americas, Foreign, Commonwealth & Development Office

I am writing to update your Committee on the forthcoming negotiations between the European Union (EU) and the UK in respect of Gibraltar.

As you will recall, on 31 December 2020, the UK Government, together with the Government of Gibraltar, reached a political agreement (the Framework) with the Kingdom of Spain on how a future agreement between the UK and the European Union in respect of Gibraltar would function in the interests of all parties.

The Framework set out a pragmatic model to secure the future prosperity of the people of Gibraltar, and the surrounding region, while respecting the United Kingdom's legal position on territorial sovereignty and jurisdiction. This Framework, whilst not legally binding, set out agreed expectations

and a mutual understanding from the UK and Spain that this would provide a clear foundation for a UK-EU treaty.

At the UK-Gibraltar Joint Ministerial Council held in Gibraltar on 29 March 2021, the Foreign Secretary, the Rt Hon Dominic Raab MP and the Chief Minister of Gibraltar, the Hon Fabian Picardo QC agreed our joint approach to the upcoming negotiations on a treaty between the EU and the UK in respect of Gibraltar. They were clear that Gibraltar's British identity, and the UK's sovereignty, must be preserved, and that the operation of front line border checks in Gibraltar by Spanish officials would not be acceptable.

On 20 July, the European Commission published its draft guidelines for the negotiations. These draft guidelines are extremely problematic and the Foreign Secretary has commented that:

"The UK, with Gibraltar, and Spain carefully agreed a pragmatic Framework Agreement, in full consultation with the EU Commission. The Commission's proposed mandate, published today, directly conflicts with that Framework. It seeks to undermine the UK's sovereignty over Gibraltar, and cannot form a basis for negotiations.

We have consistently showed pragmatism and flexibility in the search for arrangements that work for all sides, and we are disappointed that this has not been reciprocated. We urge the EU to think again."

The draft guidelines diverge from the commitments made by Spain in the Framework on a number of critical parts of the deal. They do not reflect the agreed role for Frontex in carrying out border checks, they propose an unacceptable role for Spain in Gibraltar in various different areas – for example on visas, residence permits, asylum, law enforcement, customs and SPS checks - and they take a wholly disproportionate approach on application of EU law and the role of the CJEU, across the mobility and the trade provisions.

The Foreign Secretary spoke to European Commission Vice President Maroš Šefčovič to make clear that the Framework must be respected and that there can be no compromise on UK sovereignty. The Foreign Secretary has also spoken to the new Spanish Foreign Minister Jose Manuel Albares, who will visit the UK on his first trip overseas today. Foreign Minister Albares reiterated Spain's commitment to the Framework agreed in December, and in particular provided assurances that Spain will seek assistance from Frontex as per the Framework.

The UK Government, together with the Government of Gibraltar, remains committed to seeking an agreement that serves the interests of the people of Gibraltar and the surrounding region. But we will not compromise on issues of sovereignty, and the careful balance set out in the Framework must be preserved.

I will provide a further update after the summer recess. I would also be happy to meet and discuss the mandate in more detail. In the meantime, the UK Government will continue to work closely with the Government of Gibraltar to ensure we are in the best position for negotiations, while also prepared for any eventuality. I shall be visiting Gibraltar in September for talks with the Chief Minister and his team to demonstrate further our support to the Government and people of Gibraltar.

21 July 2021

Letter from the Chair to Wendy Morton MP, Minister for the European Neighbourhood and the Americas

Thank you for your letter dated 21 July 2021 which was considered at the meeting of the European Affairs Committee on 14 September 2021.

As you know our predecessor Committee took a keen interest in Gibraltar and we are grateful for your update on the latest developments. We note your assessment of the Commission's proposed negotiation mandate as "extremely problematic" and your summary of the Foreign Secretary's views, in particular his argument that "We have consistently showed pragmatism and flexibility in the search for arrangements that work for all sides, and we are disappointed that this has not been reciprocated. We urge the EU to think again".

Your letter highlighted three ways in which the Commission's mandate diverged from the "commitments made by Spain" in the framework: (i) it does not reflect the "agreed role for Frontex in

carrying out border checks”; (ii) an “unacceptable role for Spain in Gibraltar in various different areas”, including, on visas, residence permits, asylum, law enforcement, customs and Sanitary and Phytosanitary (SPS) checks; and, (iii) a “wholly disproportionate approach” on the application of EU law and the role of the Court of Justice of the EU “across the mobility and the trade provisions”.

We would welcome a more detailed explanation of your concerns in this regard, in particular, how the approach suggested by the Commission in its proposed mandate differs from that suggested in the (non-binding) framework agreed by the Parties in December 2020. We would also welcome an update on the proposed mandate’s progress through the EU’s legislative process; details of the Government’s preparations and assessment of the consequences of no agreement between the UK and EU on Gibraltar; and, what steps are being taken to ensure that the governments of the UK and Gibraltar remain aligned in their policy objectives?

Finally, we remain disappointed that you were unwilling to deposit the Commission’s draft negotiating mandate in Parliament with an accompanying Explanatory Memorandum. We take this opportunity to remind you that we were appointed by the House with the consent of the Government “to consider matters relating to the United Kingdom’s relationship with the European Union ... including the implementation ... of any agreements between the United Kingdom and the European Union [and] to consider European Union documents deposited in the House by a minister”.

In our view, the Commission’s draft negotiating mandate on Gibraltar is precisely the sort of EU document that falls within our formal remit as agreed between the Government and the House and should be deposited in Parliament, accompanied by an EM, in order to enable us to fulfil our obligations to the House.

We retain an interest in this subject and look forward to considering your response when the House returns in October.

15 September 2021

**Letter to the Chair from Wendy Morton MP, Minister for the Europe and the Americas,
Foreign, Commonwealth & Development Office**

Thank you for your letter of 15 September in response to mine of 21 July regarding negotiations between the European Union (EU) and UK in respect of Gibraltar.

On 5 October 2021, the EU concluded its internal processes necessary to begin the UK-EU negotiations. Formal negotiations began in Brussels on 11 October with both sides setting out positions on a range of issues. While the EU mandate has not been published, we understand it has been amended from the Commission’s draft mandate published on 20 July 2021. Importantly it now references the role of the European Border and Coastguard Agency (Frontex) in delivering the fluid movement of people between Gibraltar and the Schengen area. You will recall that both the UK Government and Government of Gibraltar have been clear that the operation of front line Schengen external border checks on the territory of Gibraltar by Spanish officials would not be acceptable. It is therefore welcome that the role of Frontex is acknowledged.

However, there remain areas where the opening EU position directly conflicts with the Political Framework agreed between the UK and Spain on 31 December 2020. In your letter, you expressed interest in the detail of our concerns with the 20 July draft mandate.

- The mandate proposes that Spain be responsible for issuing or renewing residence permits for Gibraltar upon request from the UK authorities, and that Spain has the ability to veto such requests. The Political Framework is clear that the Gibraltarian authorities would be responsible for issuing residence permits, taking account of any opposition/ concerns from Spain
- The mandate proposes that Spain be responsible for issuing all short and long stay visas in respect of Gibraltar. The Political Framework outlines Spain should only issue visas for entry into Schengen through Gibraltar. Gibraltar authorities would retain responsibility for issuing visas for individuals whose sole destination is Gibraltar.
- The mandate proposes that Spain, ‘in cooperation with the UK’, be responsible for asylum claims made in Gibraltar. The Political Framework is clear that the Government of Gibraltar

should make decisions on asylum in line with its domestic law. Gibraltar currently processes asylum claims made on its territory in line with international law.

- The mandate also proposes law enforcement measures going well beyond what is in the Political Framework which would have direct implications for UK sovereignty.
- On mobility of goods and on the level playing field the mandate is wholly disproportionate to what is needed to deliver the objectives of the Political Framework. The UK is willing to support appropriate arrangements to underpin the legitimate protection of the EU's Single Market, but any such provisions must reflect the very small size of Gibraltar economically and geographically and not result in a disproportionate legal and administrative burden.

Although this is not an exhaustive list these are some of the issues that will need to be addressed in UK-EU negotiations to ensure the pragmatic and careful balance of the Political Framework is maintained. The UK is committed to working constructively to address these issues with the objective of concluding a treaty in line with the Political Framework.

The Committee was also interested in the steps being taken to ensure the governments of the UK and Gibraltar remain aligned in our policy objectives. The UK Government continues to work side-by-side with the Government of Gibraltar. As you are aware, we agreed our joint approach to negotiations at the UK-Gibraltar Joint Ministerial Council held in Gibraltar on 29 March 2021. At the core is a shared aim to secure future prosperity for Gibraltar and the surrounding region. This can be delivered through a treaty which brings confidence, legal certainty and stability to the lives and livelihoods of the people of Gibraltar and neighbouring communities, without prejudice to legal positions on sovereignty and jurisdiction.

While fully committed to seeking a treaty based on the Political Framework, the UK Government and Government of Gibraltar are also working closely to ensure robust plans are in place for all eventualities, including a no negotiated outcome. Although we are confident an agreement can be reached it is only prudent to prepare for all eventualities. The UK will stand fully behind Gibraltar, its people and its economy in any scenario. We remain steadfast in our support for Gibraltar and will not agree to anything that compromises UK sovereignty.

You mentioned your disappointment that an explanatory memorandum was not provided for the Commission's draft mandate. What was published on 20 July was a draft and part of the internal EU process to agree its final mandate. While the EU has not published its adopted mandate the Government will ensure the House is updated as matters progress, including through Explanatory Memoranda in line with scrutiny commitments.

13 October 2022

**Letter from the Chair to Wendy Morton MP, Minister for the Europe and the Americas,
Foreign, Commonwealth & Development Office**

Thank you for your letter dated 13 October 2021 which was considered at the meeting of the European Affairs Committee on 17 November 2021. We are grateful for your response to our questions and look forward to considering your promised updates in due course.

We do not accept, however, your explanation for failing to deposit in Parliament the EU's draft negotiating mandate without an Explanatory Memorandum. What you describe as "scrutiny commitments" remain the subject of ongoing discussion between the House and the Government. If we are to fulfil our Terms of Reference, as agreed by the House with the consent of the Government "to consider matters relating to the United Kingdom's relationship with the EU [including] documents deposited in the House by a minister", it cannot be the case that we receive notification of such an important EU document so late in its journey and after it has been agreed by the Council of the European Union.

We do not expect a response to this letter.

18 November 2021

PROPOSAL FOR A COUNCIL DECISION ESTABLISHING THE POSITION TO BE ADOPTED ON BEHALF OF THE EUROPEAN UNION IN THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FROM THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY AS REGARDS THE ADOPTION OF A DECISION TO AMEND THE AGREEMENT (12271/21)

Letter from the Chair to Wendy Morton MP, Minister for European Neighbourhood and the Americas, Foreign, Commonwealth and Development Office

Thank you for your EM dated 19 October 2021, summarising proposed amendments to Part I of Annex I to the Withdrawal Agreement by adding 5 decisions and two recommendations of the Administrative Commission for the Coordination of Social Security Systems, and by withdrawing two extant decisions. The House of Lords European Affairs Committee considered this document at its meeting on 17 November 2021.

You state in Paragraph 13 of your EM that “some of these decisions and recommendations were inadvertent omissions from the Withdrawal Agreement”. However, it is not clear which specific decisions and recommendations fall within this category; nor do you set out the rationale behind those decisions and recommendations that do not rectify inadvertent omissions.

Accordingly, the Committee requests a summary of each of the five decisions and two recommendations, including the rationale for each, and a summary of the two decisions to be withdrawn, including a reference to which new decision they are to be replaced by.

In addition to these specific substantive issues, the Committee is also concerned that it has so few opportunities to scrutinise legislation that appears to fall squarely within its remit. This is one of the very first EMs deposited with Committee since the Committee was formed earlier this year.

Given that this EM concerns amendments to the Withdrawal Agreement, the Committee is surprised that this is the first it has heard of these proposed changes and concerned that other, more consequential changes may be being proposed without any scrutiny by this Committee.

The Committee therefore requests a specific commitment that you will ensure that the Committee is advised of all potential legislative developments and amendments to the Withdrawal Agreement at the earliest possible opportunity; that each such developments is recorded in a comprehensive and high-quality EM for the Committee as soon as they are formally proposed; and that the rationale for each such amendment is clearly set out for the Committee.

We would be grateful for a response to this letter within the usual 10 working-day deadline. In the meantime, the Committee continues to retain an active interest in these documents.

18 November 2021

Letter to the Chair from Chris Heaton-Harris MP, Minister for Europe and the Americas, Foreign, Commonwealth & Development Office

Thank you for your letter of 18 November 2021 to my predecessor Wendy Morton MP about the EM (Doc 12271/21) on proposed amendments to Part I of Annex I to the Withdrawal Agreement relating to recommendations and decisions of the Administrative Commission of Social Security Coordination Systems.

You requested additional information in relation to each of the five decisions and two recommendations which I am now pleased to provide in the enclosed Annex.

In addition, your letter also requested that your Committee be advised of all potential legislative developments and amendments to the Withdrawal Agreement at the earliest possible opportunity; that each such development is recorded in a comprehensive and high-quality EM and that the rationale for each such amendment is clearly set out.

I, as Lord Frost did, attach great importance to the accountability and transparency in how the Withdrawal Agreement is being implemented. In terms of advising your Committee at the earliest

possible opportunity to potential legislative developments and amendments to the Withdrawal Agreement, I understand that Lord Frost as the previous UK co-chair of the Withdrawal Agreement Joint Committee, wrote in September last year to you and the Chair of the House of Commons European Scrutiny Committee on EU related scrutiny arrangements. I look forward to engaging with you on these arrangements as we seek to conclude those discussions.

Currently, as the offer stands, I believe we have struck a reasonable balance between formal and informal processes for sharing information with you about the governance and implementation of the Withdrawal Agreement and I am committed to ensure that future EMs provide the necessary detail that you require.

I look forward to working with you and your Committee on these important matters arising from our new relationship with the EU.

2 February 2022

Annex

Summary of the Administrative Commission of Social Security Coordination Systems recommendations and decisions adopted by the Specialised Committee on Citizens' Rights on 16 September 2021 to be recommended for adoption at the Withdrawal Agreement Joint Committee

Recommendation A1 of 18 October 2017 concerning the issuance of the attestation referred to in Article 19(2) of Regulation (EC) No 987/2009.

Recommendation A1 recommends safety features for A1 documents issued by social security authorities (HMRC in the UK) that evidence which country's social security legislation applies to an individual. These documents were routinely falsified in the past; therefore, the Recommendation proposes, among others, unique identification numbers, declarations and disclaimers by the individual and notification of issuance to foreign authorities.

Decision E6 of 19 October 2017 concerning the determination of when an electronic message is considered legally delivered in the EESSI system.

This is a technical decision to clarify when a message is considered delivered within the Electronic Exchange of Social Security Information (EESSI) system. EESSI is the system the EU and UK use to exchange information about customers covered by social security coordination regulations.

Decision H9 of 17 June 2020 regarding the postponement of deadlines mentioned in Articles 67 and 70 of Regulation (EC) No 987/2009 as well as in Decision S9 due to the Covid-19 pandemic.

This decision extends the deadlines for the introduction of healthcare reimbursement claims between participating states by 6 months up to the end of June 2021. This is to acknowledge operational delays caused by the Covid-19 pandemic.

Decision H10 of 21 October 2020 concerning the methods of operation and the composition of the Technical Commission for Data Processing of the Administrative Decision for the Coordination of Social Security systems (replaced Decision H8).

This decision establishes a subgroup of the Administrative Commission and its ways of working: the Technical Commission which leads on data processing in the field of social security coordination, including EESSI.

Decision H11 of 9 December 2020 regarding the postponement of deadlines mentioned in Articles 67 and 70 of Regulation (EC) No 987/2009 as well as in Decision S9 due to the Covid-19 pandemic.

This decision extends decision H9, on the deadlines of the reimbursement of healthcare claims, by a further 6 months, to the end of December 2021 due to the ongoing Covid-19 pandemic.

Recommendation H2 of 10 October 2020 concerning the inclusion of authentication features to Portable Documents issued by the institution of a Member State and showing the position of a person for the purpose of the application of Regulations (EC) No 883/2004 and (EC) No 987/2009.

Recommends certain safety features for the documents that evidence which country's social security legislation applies to an individual but also their entitlement to healthcare and unemployment benefit (AIs, SIs, EHCs & UIs respectively). For example, it proposes ink signatures and stamps, unique identification numbers and notification of issuance to foreign authorities.

Decision S11 of 9 December 2020 concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004 (replaced Decision S9).

The decision establishes the circumstances under which a healthcare reimbursement claim can be rejected by the state receiving the claim. Further, it introduces a deadline of 18 months by which reimbursement claims can be contested. The decision also introduces deadlines for the contestation of unsettled reimbursement claims that were introduced between 1 May 2010 and 31 December 2017.

The two decisions to be withdrawn are:

Decision H8 of 17 December 2015 (updated with minor technical clarifications on 9 March 2016) concerning the methods of operation and the composition of the Technical Commission for data processing of the Administrative Commission for the coordination of social security systems.

This decision is no longer relevant as it has been replaced by Decision H10 which amends H8 to clarify the Technical Commission's voting procedure including the process for written procedure.

Decision S9 of 20 June 2013 Concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004

This decision is no longer relevant as it has been replaced by Decision S11, which amends S9 to include deadlines to introduce a contested claim

CLEARANCE OF SCRUTINY DOSSIERS

Letter from the Chair to the Hon Lord Frost CMG, Minister of State, Cabinet Office

As you will recall, in April, responsibility in the House of Lords for scrutinising the UK's relationship with the EU including document-based European scrutiny, passed from the European Union Committee and its four Sub-Committees to the European Affairs Committee which will be assisted in its task by the Sub-Committee on the Protocol on Ireland/Northern Ireland.

As a consequence, during the summer recess the secretariat that supports the European Affairs Committee undertook an audit of the many scrutiny dossiers that remained on 'our books'. As a result of this audit we no longer retain an interest in the following documents, and you can consider the correspondence between us on these matters closed:

Council Number	Name	Department
8980/20	WHITE PAPER on levelling the playing field as regards foreign subsidies	Department for Business, Energy & Industrial Strategy
6237/20	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions: <i>Shaping Europe's digital future</i>	Department for Digital, Culture, Media & Sport
6266/20	WHITE PAPER on Artificial Intelligence—A European approach to excellence and trust	Department for Digital, Culture, Media & Sport
8354/20 and 8357/20	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of the Agreement between	Department for Environment,

	the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications / Proposal for a COUNCIL DECISION on the conclusion of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications	Food & Rural Affairs
15088/19 and 15090/19	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 654/2014 of the European Parliament and of the Council concerning the exercise of the Union's rights for the application and enforcement of international trade rules REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Review of the scope of the Regulation No 654/2014 of the European Parliament and of the Council of 15 May 2014	Department for International Trade
9974/20 9976/20	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL empowering France to negotiate an agreement supplementing its existing bilateral Treaty with the United Kingdom concerning the construction and operation by private concessionaires of a Channel Fixed Link Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2016/798, as regards the application of railway safety and interoperability rules within the Channel Fixed Link	Department for Transport
14866/17	COUNCIL DECISION establishing Permanent Structured Cooperation (PESCO) and determining the list of Participating Member States	Foreign, Commonwealth & Development Office
9736/18	Proposal of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for Council Decision establishing a European Peace Facility	Foreign, Commonwealth & Development Office
COM(20) 280, 281, 282, 283, 284	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/65/EU as regards information requirements, product governance and position limits to help the recovery from the COVID-19 pandemic et al	HM Treasury
7011/20 7048/20 7141/20 7142/20 7144/20 7145/20 7146/20	Draft amending budget No 1 to the general budget for 2020: Assistance to Greece in response to increased migration pressure - Immediate measures in the context of the COVID-19 outbreak - Support to post-earthquake reconstruction in Albania - Other adjustments, et al	HM Treasury

7147/20 7159/20 7161/20		
10084/18	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Fund	Ministry of Defence

We will continue to publish regularly our report *Progress of Scrutiny* which will list the documents that remain of interest to the European Affairs Committee and its Sub-Committee.

13 December 2021

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS COMMISSION WORK PROGRAMME 2022 MAKING EUROPE STRONGER TOGETHER (13003/21)

Letter from the Chair to the Rt Hon Elizabeth Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office

Thank you for the Explanatory Memorandum, from the former Minister of State Lord Frost. This was considered by the European Affairs Committee at its meeting of 22 February 2022.

We are very grateful for this overview of the Commission’s plans for the next year and your initial assessment of their significance for UK/EU relations. Like you, we paid particular attention to the measures highlighted by the Commission in the areas of: climate change; digital policy; and the “rules based international system”.

By their nature, Commission Annual Work Programmes (AWP) lack detail. However, outside of proposals submitted for scrutiny to our Protocol on Ireland/Northern Ireland Sub-Committee, we are keen to monitor EU legislative developments that are likely to have implications for wider UK/EU relations. For example, the measures highlighted in the Commission’s AWP in the sections headed: “The European Green Deal” and “A Europe fit for a Digital Age” could have significant implications for UK/EU relations, including impacts on UK domestic policy; engaging the so-called level-playing field provisions of the TCA; for regulatory divergence; and, the potential imposition of non-tariff barriers to trade.

Leaving aside Northern Ireland, the problem for us as scrutiny arrangements remain subject to discussion, is how we as the Committee responsible for monitoring post-Brexit relations with the EU are kept informed.

We welcome the statement in the EM that “Parliament will have further opportunities to consider individual proposals as the Commission publishes them”. A significant example of such a measure that appears in the AWP is the proposed European chips act. We note that the Commission brought forward a range of measures on 8 February 2022 designed to “ensure the EU’s security of supply, resilience and technological leadership in semiconductor technologies and applications”. When the package was announced Thierry Breton, the Commissioner for the Internal Market, said: “Without chips, no digital transition, no green transition, no technological leadership. Securing the supply in the most advanced chips has become an economic and geopolitical priority”. This appears to be a suite of significant proposals raising profound questions for the UK/EU relations and for UK policy, yet it is unclear how you intend to tell this Committee (aside from our Sub-Committee) about its ramifications.

Outside of proposals falling within the scope of the Northern Ireland Protocol, we therefore take this opportunity to urge you to keep us abreast of Commission proposals in the two areas of the European Green Deal and digital market reform that raise significant questions about UK/EU relations. To that end, we ask that you deposit in Parliament, with an accompanying Explanatory Memorandum (EM), important EU proposals in these areas so that we can adequately fulfil our role of overseeing UK/EU

relations. If you are unable or unwilling to do so we ask you to explain why in your response to this letter.

Other important measures that drew our attention include the EU's plan to develop its Global Gateway Strategy; an EU space-based global secure communication system; its review of the CO₂ emission standards of heavy-duty vehicles; and, proposals for a safe and secure internet. (The Commission's proposed Regulation on Artificial Intelligence is also a significant matter but we acknowledge that the Government submitted an EM last year which was considered by our Sub-Committee.)

We were also interested in the Commission's plans aimed at fostering "A Stronger Europe in the World". When it was negotiating Brexit, the Government was clear that it would not engage the EU in discussing a formal relationship addressing cooperation in international relations. How UK/EU relations develop without a formal avenue for cooperation is of particular interest to us. We would therefore welcome EMs from you setting out the Government's views, including on the implications for UK policy, on the Commission's plans to develop the European Defence Union and bring forward a EU/NATO joint declaration. Again, if you are unable or unwilling to provide us with this information when the Commission's acts on these intentions, we ask that in your response to this letter you explain why.

Turning to the section of the AWP called "Promoting our European Way of Life", the Commission commits to finding "swift agreement" on the so-called New Pact for Migration and Asylum and promises to "take steps to improve the secure exchange of key information with third countries to those providing security on the front line". Given the difficulties the Government is facing regarding migration across the Channel, to what extent, if any, do these measures offer you an opportunity to engage directly with the EU to find mutually favourable solutions to the problem?

Finally on a related theme, we were disappointed to note that neither the AWP or your EM made any direct reference to the UK or the EU engaging directly with each other formally to achieve any common policy goals. How do you explain this paucity of ambition?

We look forward to considering your response within the usual 10-day deadline.

23 February 2022

COMMISSION DELEGATED REGULATION (EU) .../... OF 14.7.2020 SUPPLEMENTING
REGULATION (EU) NO 648/2012 OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL WITH REGARD TO THE MINIMUM ELEMENTS TO BE ASSESSED BY ESMA
WHEN ASSESSING THIRD-COUNTRY CCPS' REQUESTS FOR COMPARABLE
COMPLIANCE AND THE MODALITIES AND CONDITIONS OF THAT ASSESSMENT
(9657/20)

**Letter to the Chair from the Rt Hon John Glen MP, Economic Secretary to the
Treasury, HM Treasury**

Follow-up response to European Union Committee Letter of 21st January 2021 on Commission Delegated Regulation (EU) of 14.7.2020, supplementing Regulation (EU) No 648/2012.

You asked that I keep you and your Committee updated on the regulation of Central Counterparties (CCPs) following the UK's exit from the EU. I am writing to bring a number of developments to your attention following our last exchange of letters in June 2021.

First, as you may be aware, on 8 February 2022, the European Commission adopted¹ a decision to extend equivalence for UK CCPs until 30 June 2025. This replaces the existing temporary equivalence decision, which, as you know, was due to expire on 30 June 2022. Alongside the announcement, the Commission also launched a targeted public consultation and a call for evidence on ways to expand central clearing activities in the EU and improve the attractiveness of EU CCPs. The explicit aim of the EU's consultation is to seek stakeholders' views on measures designed to reduce the EU's reliance on

¹ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_665

systemic UK CCPs. The Commission also seeks views on changes to supervisory arrangements for EU CCPs.

The consultation document includes a range of possible options, legislative and non-legislative, focusing on both the supply of and demand for clearing services. These have been grouped into the following five buckets: broadening the scope of clearing participants and products cleared; measures towards market participants; measures towards CCPs; measures for monitoring progress towards reduced reliance of EU participants on UK CCPs; and measures to strengthen EU-level supervision of EU CCPs. The consultation closes on 22 March 2022, and the Commission has stated that it intends to come forward with measures to develop central clearing activities in the EU in the second half of the year. I will provide a further update to the Committee when there is greater clarity as to what these measures might be. So far, there has been limited movement of activity from UK to EU-based clearing houses.

You may also be aware that, before this update to the equivalence decision was made public, on 17 December 2021 ESMA published² the results of its assessment of whether certain UK CCPs that have been classified as "Tier 2" (i.e. systemically important to the EU) under the EU's EMIR 2.2 framework are of such systemic importance that they should be classified as Tier 3 and not be recognised to provide certain clearing services or activities from outside of the EU. Two UK CCPs (LCH and ICE Clear Europe) have been classified as Tier 2. ESMA identified three clearing services as being of substantial systemic importance for the European Union's financial stability, one provided by LCH (interest rate derivatives denominated in euro and Polish Zloty) and two by ICE Clear Europe (euro denominated credit default swaps and short-term interest rate derivatives). However, it concluded that it would not recommend that the European Commission should derecognise these systemically important UK central counterparties (or any of their services) at this point in time.

Whilst recommending that the EU should not withdraw recognition on the basis of its report, ESMA identified four areas that the relevant EU institutions and authorities could consider to mitigate the risks and vulnerabilities identified. These include: appropriate incentives to reduce exposure to UK Tier 2 CCPs; revision of the framework for comparable compliance; expansion of ESMA's supervisory and crisis management toolbox; and enhancement of cooperation with UK authorities on CCP recovery and resolution. As you will appreciate, ESMA's recognition decisions for UK CCPs depend on continued equivalence being in place.

In your letter from 21 January 2021, you also asked to receive updates on how the Government envisages the framework for CCP regulation in the UK developing, and the proposed timescale for changes. As you know, HM Treasury has delegated responsibility to the Bank of England to specify how the UK's EMIR 2.2 regime will work in practice (within the parameters set by onshored EMIR), following the revocation of the onshored EMIR 2.2 delegated acts. On 8 November 2021, the Bank of England published two consultation papers: the first³ focuses on its approach to 'tiering' non-UK CCPs based on the level of systemic risk they could pose to UK financial stability. The second⁴ sets out the Bank of England's proposed approach to assessing comparable compliance for non-UK CCPs that have been designated as Tier 2 by the Bank of England.

The Bank's approach to overseeing non-UK CCPs is set out in detail in the consultation papers. In summary, it is built upon the principle of deference to other authorities - where justified - and a proportionate approach to overseeing the risks channeled from overseas CCPs. Through this approach, the Bank aims to maximize the benefits from access to cross-border clearing while ensuring the risks are appropriately mitigated. Both consultations closed in February 2022, and the Bank proposes that the implementation date for the final policy will be 1 July 2022.

More broadly, the government remains committed to high levels of resilience and robust standards for the UK's regime for central counterparties. As the Chancellor said on CCPs in his Mansion House speech in July last year, "our plan is not to weaken but strengthen that regime, because we believe in

² <https://esma.europa.eu/press-news/esma-news/esma-publishes-results-its-assessment-systemically-important-uk-central>

³ <https://www.bankofengland.co.uk/paper/2021/boes-approach-to-tiering-incoming-central-counterparties-under-emir-article-25>

⁴ <https://www.bankofengland.co.uk/paper/2021/boes-approach-to-comparable-compliance-under-emir-article-25a>

high-quality regulation". As part of that, the government consulted last year on strengthening our CCP resolution regime⁵ and on introducing a Senior Managers and Certification Regime for CCPs⁶.

The government has also set out proposals⁷ for how the Future Regulatory Framework Review will affect the regulatory framework for CCPs, in line with the UK's commitment to robust, high-quality standards in this area. The government proposes an updated framework that would see more extensive delegation of regulation to the Bank, with the Bank overseeing regulatory standards as the expert, independent regulator, working within an overall policy framework set by government and Parliament. As such, the government has proposed granting the Bank a general rule-making power in relation to CCPs (modelled on the FCA and PRA's general rule-making powers in the Financial Services and Markets Act 2000). This expansion of the Bank's powers would be accompanied by an updated set of statutory objectives to guide the Bank's regulation of CCPs, as well as strengthened accountability and transparency requirements.

I hope this letter is helpful in updating the Committee on this important set of issues. I look forward to continued dialogue and would be happy to answer any further questions you may have.

10 March 2022

GENERAL CORRESPONDENCE

PRIORITIES OF THE FRENCH EU PRESIDENCY, JANUARY-JULY 2022

Letter from the Rt Hon James Cleverly MP, Minister of State for Europe, Foreign, Commonwealth and Development Office

I am writing to inform you of the priorities of the French Presidency of the Council of the European Union (EU).

On 1 January 2022, France assumed the Presidency of the Council of the EU, the first of a trio of presidencies including Czechia followed by Sweden, which will run until the first half of 2023. France last held the Presidency in 2008.

In light of French Presidential elections in April, France has scheduled all informal Ministerial Councils in the opening three months of the year and is holding bi-weekly Permanent Representatives (COREPER) meetings to drive forward their policy agenda.

France is running its Presidency under the slogan of *Relance, Puissance and Appartenance* (Recovery, Strength and a Sense of Belonging). Its policy ambitions are split under three broad headings: a more sovereign Europe, a new European growth model, and a humane Europe. Together these cover the full EU policy spectrum. Running through the programme as a common theme is an emphasis on 'Strategic Autonomy'.

France will hold three summits during its Presidency including an EU-African Union Summit (17-18 February), EU Leaders Defence Summit (March tbc) and a Conference on the Future of Europe Summit (May tbc).

French Presidency Priorities:

A More Sovereign Europe:

EU Leaders will seek to agree a 'Strategic Compass', the EU vision for defence and security collaboration for the next decade. The French Presidency has stated that a more capable EU defence would complement and contribute to strengthening NATO.

⁵ <https://www.gov.uk/government/consultations/expanded-resolution-regime-for-central-counterparties-ccp-consultation>

⁶ <https://www.gov.uk/government/consultations/senior-managers-certification-regime-smcr-for-financial-market-infrastructures-fmis-consultation>

⁷ <https://www.gov.uk/government/consultations/future-regulatory-framework-review-central-counterparties-and-central-securities-depositories>

Borders and migration is another element of this pillar. The Presidency will propose controlling EU borders through a more political management of the Schengen area (based on the Eurozone model, where responsible Ministers meet regularly), a new mechanism for emergency support in case of border crises, and a continuation of EU cooperation with source and transit countries to reduce numbers of incoming migrants.

The French Presidency argues that the EU should continue to support security and stability in the Western Balkans, as illegal migration, organised crime and malign influence in the region are perceived as threats to European security and values. The French presidency aims to use a joint summit between the African Union and the EU in February to build a closer relationship between the EU and Africa.

On trade, the Presidency supports greater conditionality in EU trade deals, including 'mirror clauses', aimed at ensuring reciprocity in enforcement as well as market access. The Presidency will prioritise the Carbon Border Adjustment Mechanism (CBAM) in future deals.

A New European Growth Model:

The second priority is what the Presidency's calls a vision for an innovative and technologically excellent EU. Central to this is economic development that supports the green and digital transitions, while creating a 'just' society for EU citizens. France's Presidency will coincide with the deployment of the EU's €750bn recovery fund, with the EU's economic recovery from Covid remaining a focus.

'Strategic Autonomy' will continue to frame the Presidency's approach to economic policy, including a drive for Europe to invest in industrial. The Presidency will seek to advance the European Chips Act, where the EU is looking to re-shore production of semi-conductors to Europe.

The Presidency will continue to steer the 'Fit for 55' climate package through the EU's legislative process. This sets in law, a goal for the EU to reduce greenhouse gas emissions by 55% by 2030, on the way to climate neutrality by 2050. This will require progress on the Renewable Energy Directive and Energy Efficiency Directive revisions.

The Presidency will progress trilogues on the Digital Markets and Digital Services Acts, seeking to adopt the Digital Services Act (DSA) by the end of the Presidency.

The Presidency will also advance negotiations on Directives on minimum wages, and measures to fight gender-based discrimination in the workplace.

A Humane Europe:

The Presidency will hold the final event on the Conference on the Future of Europe in May. As the Committee knows, the Conference is a means of gathering EU citizens' views on how the EU should tackle future challenges and opportunities. The Presidency intends to use the Conference recommendations to inject momentum into reform of the EU.

23 February 2022

GOVERNMENT'S RESPONSE TO THE INTERNATIONAL AGREEMENTS REPORT 'WORKING PRACTICES: ONE YEAR ON

Letter from the Chair to the Rt Hon Elizabeth Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office

I write on behalf of the European Affairs Committee, following the letter that Baroness Hayter, Chair of the International Agreements Committee, sent to you on 8 February 2022, regarding the Government's response to that Committee's report, Working Practices: one year on, to which I was copied.

As you will be aware, the scrutiny of those international agreements concerning the EU, the EEA, and the member states of both, fall within the remit of the European Affairs Committee. In addition, parliamentary scrutiny has been a matter of ongoing deep concern for the European Affairs Committee since its establishment last year. Although we believe that we are close to an agreement on a framework

for ongoing scrutiny by my Committee, this framework is significantly less generous than that in place prior to the UK's exit from the European Union.

In that context, the European Affairs Committee has now considered Baroness Hayter's letter and is equally disappointed by the Government's response to the report. The Committee has therefore asked me to write to you to add its full support to the sentiments expressed in Baroness Hayter's letter, and to her call for a Concordat between Parliament and the Government to establish a reliable framework for the scrutiny of trade agreements and indeed of all agreements 'involving international obligations of a serious character', whether or not they fulfil all of the requirements of a formal treaty.

My Committee urges the Government to reconsider its response to the International Agreements Committee's report and ensure that it will provide full reassurance to that Committee that its very reasonable requests will be honoured.

2 March 2022

TIME ALLOCATED TO APPEAR BEFORE THE COMMITTEE

Letter from the Chair to the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

Thank you for coming to see the European Affairs Committee on 26 October 2021. The Committee found the session very helpful and a useful opportunity to explore the many significant issues of current relevance to the UK's relationship with the EU

However, in discussions afterwards, the Committee felt that the time allocated for the session by you and your officials was insufficient. It had been nearly six months since your last appearance in front of the Committee and a single hour denied us the chance to discuss several areas that we wished to raise with you. We also felt unable, in the limited time available, to explore in sufficient depth many of the subjects that we did discuss with you.

Whilst the Committee notes that discussions about arrangements for post-Brexit scrutiny remain ongoing (including the frequency of your appearances) we hope you agree that in future, when you come to give evidence to us about UK/EU relations, you will be available to answer our questions for at least 90 minutes.

I look forward to considering your reply within the usual 10-day deadline.

5 November 2021

Letter to the Chair from the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

1. Thank you for your letter of 5 November about my appearance before your committee on 26 October.

2. I have agreed to appear before both your committee and the European Scrutiny Committee every three months. On this occasion there were just over five months between the two hearings, but I think it is only fair to point out that I appeared before your sub-committee on Northern Ireland on 14 July too. On this basis I would expect to hear again before your committee early in the New Year. I will be as flexible as I possibly can on timing on each occasion but it will obviously depend on precise commitments at the time.

15 November 2021

UPDATE ON EU RELATIONS – 10 NOVEMBER STATEMENT

Letter from the Chair to the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

I write following your statement to the House on the morning of 10 November 2021 during which you provided an update on a number of matters concerning the United Kingdom's relationship with the European Union.

I was grateful for the opportunity to read an embargoed copy of your statement prior to your appearance on the floor of the House. I noted that it covered a number of areas of concern for our Committee. In particular, I noted your readiness, “to explain [the case for invoking Article 16 and how this would be consistent with the UK’s legal obligations] to any interested party – not just [to] signatories to the Treaty but to those with a broader interest in relations with the EU and the UK.”

The European Affairs Committee clearly falls squarely within the category of interested parties. As the key forum for scrutinising the operation of the Withdrawal Agreement and Trade and Cooperation Agreement, the Committee would expect to be at the front of the queue for such an explanation if and when you decide to invoke Article 16. The Committee hopes that you will take this opportunity to make a firm commitment to provide an explanation to the Committee at the earliest possible opportunity in those circumstances.

I look forward to receiving your reply within the usual 10 working-day deadline.

12 November 2021

Letter to the Chair from the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

1. Thank you for your letter of 12 November.
2. I can certainly reassure you, that if we were to take safeguard measures under Article 16 of the Protocol, I would ensure that your Committee, and the European Scrutiny Committee in the Commons, would be properly briefed.

15 November 2021

**FREE TRADE AGREEMENT BETWEEN THE UNITED KINGDOM, AND NORWAY,
ICELAND AND LIECHTENSTEIN**

**Letter to the Chair from Lord Grimstone of Boscobel, Kt, Minister of State for
Investment, Department for International Trade**

Further to my Written Ministerial Statement made on 8 July, I am pleased to inform you that we have laid a copy of the Free Trade Agreement (the “Agreement”) between the United Kingdom, and Norway, Iceland, and Liechtenstein in Parliament today.

The Agreement text is accompanied by an Explanatory Memorandum. An impact assessment of our trade deal, and a parliamentary report providing an overview of the deal, has also been placed in the Library of the House. All the documents will be published on GOV.UK in parallel.

This is the first time the final Agreement text will be published, helping us to preserve the convention that Parliament should be the first to see the final text of any trade agreement that the United Kingdom signs. The copy of the Agreement text that the Government of Norway had published on 4 June when we reached Agreement in Principle had not yet completed legal scrub. We understand the Governments of Iceland and Liechtenstein plan to present the Agreement to their Parliaments in the autumn.

I look forward to working with your committee as you consider this trade deal, one of many we are negotiating around the world as part of our sovereign trade policy, alongside the International Agreements Committee in this House, and the International Trade Committee in the House of Commons

16 July 2021

**Letter to the Chair from Lord Grimstone of Boscobel, Kt, Minister of State for
Investment, Department for International Trade**

I write to you following the UK-Norway, Iceland and Liechtenstein Free Trade Agreement (FTA) debate held in European Affairs Committee on 14 October where I undertook to write on the points that I was not able to cover during the debate. Once again, I would like to thank the Earl of Kinnoull for tabling the motion for this debate, and for the insightful contributions throughout.

Northern Ireland Protocol

I spoke during the debate about the **Northern Ireland Protocol**. As stated, the Protocol addresses the need to keep an open border between Northern Ireland and Ireland whilst ensuring Northern Ireland's place in the UK's customs territory. The Government negotiates trade agreements in the interests of all four nations of the UK.

The Government accounts for the Protocol in FTAs to ensure they operate in a way that is consistent with the Protocol. The Protocol currently sets out that EU rules on goods, and sanitary and phytosanitary regulations, apply in Northern Ireland. Through the course of negotiations, we have reached a shared understanding with Norway, Iceland and Liechtenstein on how the Protocol operates alongside the FTA and set this out in an exchange of letters. The UK is committed to the rules based international system and meeting its international obligations. This includes the Protocol on Ireland/Northern Ireland, and the UK published a communication to WTO Members in January 2021 following the end of the UK-EU transition period, which includes reference to the Protocol.

The Government is clear that the UK must function as a single customs territory in practice as we operationalise the Protocol. As I said in the debate, this means exports from Northern Ireland will be handled in accordance with these principles and Northern Ireland businesses will benefit from preferential tariffs in our FTAs, just as the rest of the UK will. The liberalisation of tariffs as a result of our FTAs mean that Northern Ireland exporters absolutely stand to gain from those agreements.

Cumulation

Baroness Ludford and Lord Purvis queried how **diagonal cumulation** would work between the UK and our partner countries. The UK, Iceland and Norway share the view that a trilateral approach to rules of origin involving the EU is the preferred outcome, captured in a previous Joint Declaration signed by the parties to the earlier agreements between the UK and the EEA-EFTA zone. Such an arrangement would require the express agreement from the EU. During the UK-EU TCA negotiations, the UK proposed third party cumulation provisions which would have enabled UK and EU businesses to cumulate materials from mutual FTA partners (such as Iceland and Norway). However, the EU said it could not agree to this under any circumstance, which we regret.

Nevertheless, the UK secured Product-Specific Rules (PSRs) of origin with the EU that are tailored to the needs of UK businesses in sectors such as automotive, aluminium, chemicals, machinery and food and drink. Furthermore, with Norway, the UK secured ambitious rules of origin with Norway that will support UK business, including the ability to cumulate material from the EU and other mutual FTA partners, higher tolerance thresholds and more facilitative PSRs. We will continue to engage with the automotive business to understand their needs and the impact of these arrangements.

Norway remains a valued trading partner of the UK. Total trade in goods and services (exports plus imports) between the UK and Norway was £20.8 billion in the four quarters to the end of Q1 2021. Norway was the UK's 13th largest trading partner in the four quarters to the end of Q1 2021 accounting for 1.8% of total UK trade. Total UK exports to Norway amounted to £7.8 billion in the four quarters to the end of Q1 2021.

Sanitary and phytosanitary standards

During the debate, Baroness McIntosh of Pickering questioned **sanitary and phytosanitary standards** divergences with the EU. Great Britain is neither harmonised with the EU nor Norway and Iceland. Norway and Iceland are harmonised with the EU in relation to sanitary measures, with limited exceptions for Iceland. The text helps to ensure continued alignment between the EU and Norway and Iceland on harmonised sanitary measures in the event that UK-EU sanitary arrangements change in the future. It does this by requiring that the UK, Norway and Iceland each be afforded treatment no less favourable than that which is afforded to the UK and EU under the terms of any future amendment to current UK-EU sanitary arrangements.

Technical Barriers to Trade

In terms of **marking and labelling**, I can confirm that Norway and Iceland require applicable products to be marked with the CE conformity assessment mark, to show that the relevant EU regulatory requirements with which those countries align to have been met. Conformity assessment needs to be carried out by an EU-recognised conformity assessment body.

The UK now has in place its own robust regulatory framework and has introduced the UKCA marking to replace CE marking. To make the transition to UKCA marking easier for businesses, most CE-marked goods can be placed on the market in Great Britain until 1 January 2023. Under the new UKCA regime, products requiring third-party conformity assessment will need to be assessed by a UK approved body before they can be placed on the market in Great Britain.

Geographical Indications

The FTA provides continued bespoke, high-standard protection for UK **geographical indications** (GIs), including wines and spirit drinks in Norway and Iceland, and agri-food products in Iceland. The agreement is not a reduction in protection for UK agri-food GIs because Norway has never protected any EU agri-food GIs, nor any UK agri-food GIs. The reason for this is that Norway does not participate in the EU registration systems for agricultural products and foodstuffs, because agriculture falls outside the scope of the EEA Agreement. It is also worth highlighting that the FTA builds on the provisions on GIs in the previous Agreement on Trade in Goods between Iceland, Norway and the UK by securing protection of a number of additional GIs in Iceland, subject to their domestic processes. Liechtenstein GIs were out of scope of the FTA.

Mutual Recognition of Professional Qualifications

I would like to take the opportunity to respond to the Baroness of Ludford on **mutual recognition of professional qualifications**. In the UK-EU Trade and Cooperation Agreement (TCA), the UK and the EU agreed a framework under which regulatory and professional bodies from both territories may enter into arrangements to facilitate the recognition of professional qualifications covering the UK and all 27 EU Member States. Such arrangements will be implemented on a profession-by-profession basis and depend upon reciprocal cooperation from both sides. Once an arrangement is adopted under the framework in the TCA, UK professionals will be able to use the terms outlined in the arrangement to secure recognition of their professional qualifications within EU Member States. Recognition arrangements can also be reached directly between UK and EU regulators, independently of the TCA process.

In BEIS, a team has been established to support and encourage regulators and professional bodies to facilitate the agreement of recognition arrangements both through the TCA and independently. This includes technical guidance published on Gov.UK and a pilot grant programme to provide financial support to professional and business services regulators looking to negotiate and agree recognition arrangements. Across government, we will continue to engage with UK regulators and professional bodies to help progress discussions with EU counterparts, so that the recognition of professional qualifications does not act as a barrier to trade for UK businesses.

Legal Services

We have agreed ambitious provisions on **legal services** that improve the clarity and certainty of market access for UK lawyers. The Agreement will guarantee UK solicitors, barristers and advocates the right to advise their clients across Norway, Iceland and Liechtenstein on UK (encompassing all UK jurisdictions) and international law using their home professional titles, except where specific limitations have been stated.

Our approach in negotiations with Norway, Iceland, and Liechtenstein was to build on the ground-breaking legal services provisions that were agreed as part of the UK-EU TCA. These innovative commitments have allowed us to lock-in practice rights in these jurisdictions for UK solicitors, barristers and advocates using their home professional title. This is a beneficial outcome for the UK legal services sector.

Procurement

Lord Purvis made some insightful points on **procurement**. The UK secured significant additional market access to Norway, Iceland and Liechtenstein above the level set in the WTO Agreement on Government Procurement (GPA). For example, the FTA secures additional services and access to concessions contracts. Furthermore, UK suppliers already enjoy access to Norway, Iceland and Liechtenstein's procurement of ships (excluding warships) through the GPA, which reciprocates the coverage that their suppliers have in the UK.

Human Rights

During the debate, Lord Grantchester and Baroness Ludford spoke of the importance of **human rights**, which I took considerable note of. The UK remains committed to the promotion of universal human rights – it is the right thing to do, legally and morally. It is also the rational thing to do: human rights violations and abuses and the absence of the rule of law lead to unstable, less prosperous societies. In doing so we draw on the full range of diplomatic and development tools that are available. This includes, through direct bilateral engagement and lobbying, formal dialogues, projects and programmes, programmes of cooperation and capacity building, as well as support to civil society and human rights defenders. We also work with allies and partners through the multilateral system, including the UN, OSCE, and CoE, to stand up for and defend these universal principles, and hold to account states and individuals who challenge them.

The Government supported amendments to recent legislation to enact Section 3 of the Trade Act 2021 which allows Parliament to act quickly and decisively on the issue of genocide where it arises in the context of international trade agreements. It also places a specific duty on Government to act where the responsible Committee has published its concerns. This approach underscores the Government's commitment to continuing to work closely with Parliament on this vitally important issue.

The Government is committed to universal human rights, the rule of law, free speech and fairness and equality. These essential values guide all aspects of our international policy, including our approach to trade. This work includes:

- taking a very strong stand against forced labour and modern slavery,
- ensuring a high level of protection of labour standards,
- using our export controls regime and our trade relationships to raise human rights concerns,
- limiting trade promotion activity where appropriate,
- and ensuring that British businesses have access to the best information to manage the risks in their supply chain.

Above all, it is our experience that having secure and growing trading relationships can increase UK influence and help us to have open conversations with partners on a range of issues, including human rights.

A copy of this letter will be deposited in the House of Lords Library.

3 November 2021

Letter to the Chair from Lord Grimstone of Boscobel, Kt, Minister of State for Investment, Department for International Trade

I am pleased to inform you that the new arrangements for trade with Norway, under the Free Trade Agreement between the United Kingdom, and Norway, Iceland, and Liechtenstein (the "Agreement") will come into effect from today.

The Agreement, which the European Affairs Committee reported on, and we debated in Parliament on 14 October, creates a new services and investment relationship between the United Kingdom and Norway, whilst also lowering tariffs and establishing exclusive duty-free quotas for British exporters.

Cutting-edge digital provisions mean British businesses exporting to Norway can now benefit from commitments that limit unnecessary paperwork. Electronic documents, contracts and signatures mean goods can move seamlessly across borders, saving exporters both time and money.

British firms looking to set up or expand operations in Norway can now transfer staff and their families for four years; business travellers can benefit from guaranteed visa processing times and with the removal of residency requirements for senior management and directors, British nationals can sit on Norwegian company boards without having to relocate there.

In addition, British artists, performers and entertainers will now be able to tour and perform for up to 90 days every six months without needing a permit, supporting the music industry.

We will be building on this new relationship when commitments on professional qualification recognition and international mobile roaming take effect after the legislation in these areas has been agreed by Parliament too.

Accordingly, we are provisionally applying the Agreement so that businesses and consumers can benefit from the vast majority of the new commitments, whilst we await completion of legislation to support implementation of new market access provisions on procurement. We expect this legislation to conclude early next year, paving the way for entry into force of the Agreement.

We also await confirmation from Iceland and Liechtenstein about their readiness to implement the Agreement.

1 December 2021

Letter to the Chair from Lord Grimstone of Boscobel, Kt, Minister of State for Investment, Department for International Trade

I am pleased to inform you that the new arrangements for trade between the UK and Liechtenstein under the Free Trade Agreement between the United Kingdom, and Norway, Iceland, and Liechtenstein (the “Agreement”) will come into effect on 1 January.

The Agreement, which the European Affairs Committee reported on, and we debated in Parliament on 14 October, creates a new services and investment trade relationship between the UK and Liechtenstein, complementing the coverage provided for trade in goods between the two countries via the UK-Swiss trade agreement.

As with Norway with whom the arrangements came into effect on 1 December, British businesses will benefit from cutting-edge digital provisions that limit unnecessary paperwork. Electronic documents, contracts and signatures will also mean goods can move seamlessly across borders, saving exporters both time and money. Business travellers can also benefit from guaranteed visa processing times, innovative FinTech firms will be able to provide novel financial services into Liechtenstein, without having to provide that service elsewhere first, helping the United Kingdom to maintain its status as a financial services hub.

We are provisionally applying the Agreement so that businesses and consumers can benefit from the vast majority of the new commitments whilst we await completion of secondary legislation to support implementation of new market access provisions on procurement. We expect these regulations to conclude early next year, paving the way for entry into force of the Agreement.

We look forward to implementing the Agreement with Iceland in the coming months once their internal procedures are completed following the appointment of a new government.

31 December 2021

CONCLUSION OF UK-EU FISHERIES NEGOTIATIONS

Letter from the Chair to Victoria Prentis MP, Parliamentary Under Secretary of State, Minister for Farming, Fisheries and Food, Department for Environment, Food & Rural Affairs

Thank you for your letter of 10 June 2021 confirming that the UK and EU have concluded bilateral annual fisheries consultations and reached an agreement on Total Allowable Catches (TACs) for 70 fish stocks and other fisheries management measures for 2021. The letter was considered by the European Affairs Committee at its meeting of 21 July 2021.

The Committee notes that the annual fisheries negotiations with the EU were not concluded until June of this year, which you say “has taken longer to conclude than I had hoped.” We understand that this reflected the late conclusion of the negotiations last year, with quotas rolled over from the previous TAC agreement. In light of this, what steps are the Government taking to ensure that next year’s TACs are settled with the EU by the beginning of 2022, rather than halfway through as this year? While we acknowledge that the circumstances this year were exceptional, we are concerned that this year’s timing risks setting a poor precedent.

We note that scientific advice on catch opportunities provided by the International Council for the Exploration of the Sea (ICES) relates to 66 of the 70 TACs negotiated. We are deeply concerned that, under your own preliminary assessment, only 23 of these 66 TACs – 35% – are in line with ICES' scientific advice on sustainability. Although you point out that the UK will have an estimated £27m additional quota under this agreement, we are also concerned that this apparent 'win' has only been achieved by ignoring the scientific advice on sustainability and will lead to overfishing. We request an explanation as to why much of the ICES advice has been ignored this year, and whether the Government plans to follow the advice more closely in future TAC negotiations. On environmental grounds, we would urge the Government to ensure that the agreed TACs for 2022 are more closely in line with the ICES advice.

Please can you also make available to the Committee the report mentioned in your letter outlining the revised assessment method for TACs in relation to the Maximum Sustainable Yield, and a comparison of this year's negotiated outcomes against previous years.

We retain an interest in these matters and look forward to further updates, in due course, when you have further developments to report.

23 July 2021

**Letter to the Chair from Victoria Prentis MP, Parliamentary Under Secretary of State,
Minister for Farming, Fisheries and Food**

Thank you for your letter of 23 July concerning the conclusion of the UK-EU fisheries negotiations.

The outcomes of the UK-EU bilateral negotiations are a result of necessary compromises by both parties, taking into account the respective needs of our industries and the long-term sustainability of our fisheries and sustainability objectives as set out under the Fisheries Act 2020. It was important to seek agreement on fishing limits with the EU as the joint management of shared fish stocks is the only way to ensure their long-term sustainability. To this end the agreement includes a commitment for the UK and EU to work together via the new Specialised Committee on Fisheries across a number of fisheries management issues. This includes addressing sustainability challenges in the Celtic Sea mixed fisheries as well as on vulnerable deep-sea stocks. Achieving this commitment was important to the UK.

I share the view that the circumstances surrounding the fisheries negotiations for 2021 were exceptional, and it is not the intention of the UK for the timing of those negotiations to set a precedent. In the first meeting of the Specialised Committee on Fisheries on 20 July, the agenda included 'preparing the annual negotiations for 2022'. The Parties agreed the need for the efficient conduct of the annual negotiations for 2022 and committed to using best efforts to reach agreement by 10 December 2021 as per the requirements of the Trade and Cooperation Agreement.

I note your concerns about the setting of sustainable Total Allowable Catches (TACs). As an independent coastal State, the UK has taken a more rigorous approach to assessing the sustainability of negotiated outcomes. The preliminary figure of 35% of TACs being set consistent with ICES advice sets a new benchmark for the UK. This means that this year's results are not directly comparable with previous published assessments. It should be noted that a preliminary assessment of the negotiated outcomes for 2020 also found that 35% of TAC were set consistent with ICES advice. This highlights that the annual negotiations for 2021 were no less sustainable than the previous year's when using this new metric.

A more detailed report will be published during the autumn, outlining the UK's new assessment method and a full comparison between this year's negotiated outcomes and the previous year. Defra officials and fisheries scientists from Cefas would be willing to provide a detailed briefing session on this new methodology and assessment following the publication of the report.

The UK's approach in fisheries negotiations is to be guided by the best available scientific advice, whilst considering the socio-economic impacts of management decisions. ICES advised zero catches for multiple stocks in UK waters. Following this advice within mixed fisheries, where it is difficult for vessels to avoid the zero advice stocks, would close economically important fisheries and have a significant impact on the associated coastal communities. For these stocks, a TAC to permit a low level of bycatch has been set while still promoting stock recovery. In UK waters, for example the Celtic Sea, these

TACs will be accompanied by fisheries management measures that further promote selective fishing to alleviate these difficulties in mixed fisheries.

I would like to clarify the cause of the estimated £27m increase cited in both of our letters. The estimated increase in quota this year compared to 2020 is predominantly driven by the share uplifts agreed in the EU-UK Trade & Cooperation Agreement. Without these share uplifts, the UK would have instead seen a fall in quota overall across these 70 stocks compared to last year.

6 August 2021

INTIATION OF 2022 ANNUAL FISHERIES NEGOTIATIONS

Letter to the Chair from Victoria Prentis MP, Minister of State for Farming, Fisheries and Food, Department for Environment, Food & Rural Affairs

I am writing today to set out the Government's overall approach across the range of annual fisheries negotiations taking place this autumn.

The UK will conduct bilateral negotiations with the EU, Norway and the Faroe Islands as well as negotiations with Coastal States, trilateral UK-EU-Norway negotiations and negotiations with Regional Fisheries Management Organisations (RFMOs).

Coastal State negotiations started on the 18th October and trilateral UK-EU-Norway negotiations began on 28th October. UK-EU negotiations under the Trade and Cooperation Agreement (TCA) are expected to start shortly once a date has been agreed for an exchange of positions with the EU and are expected to conclude by 10 December as foreseen in the TCA. Bilateral negotiations with Norway have begun and the Faroe Islands will start at the end of November; these will be under their respective bilateral fisheries framework agreements signed last autumn. Whilst we are optimistic about reaching agreements, any agreement must be balanced, with the UK receiving a fair return for any access granted to our waters.

The UK will continue to be a pragmatic, forward-leaning negotiating partner, working on an equal footing with sovereign States to agree the best outcomes for the whole of the UK: seeking sustainability improvements, supporting the UK fishing industry and demonstrating the benefits of our status as an independent coastal State.

Across the full suite of annual negotiations, the UK will seek to agree total allowable catch (TAC) limitations for 2022 for a range of species, and any quota 'exchanges', arrangements on access to waters, and related management measures. Our aim will be to secure a package of fishing opportunities and access arrangements for 2022 which is consistent with the shared UK fisheries objectives set out in the Fisheries Act 2020, and which are led by scientific evidence. We aim to deliver sustainability improvements, including increasing the overall number of TACs set in line with scientific advice. We will continue to support the fishing industry in the short and long term, including addressing ongoing 'choke' risks, and ensuring stock-rebuilding initiatives take appropriate account of socio-economic considerations. Finally, we will also ensure that we continue to realise the benefits deriving from our status as an independent coastal State, including maintaining our regulatory autonomy in the control of access to, and management of, fisheries operating in our waters; and representing UK fisheries and conservation interests in international fora.

The UK will also participate in multilateral negotiations in two key RFMOs: The North East Atlantic Fisheries Commission and the International Commission for the Conservation of Atlantic Tunas. Our objectives for negotiations in RFMOs will be to seek to ensure that fisheries for RFMO stocks are managed sustainably, that RFMOs adopt measures that protect ecosystems and combat Illegal, Unreported and Unregulated fishing, and to maximise fishing opportunities for the UK within sustainable limits.

In developing and refining negotiating positions, my officials will continue close working with Devolved Administrations, as well as the full range of stakeholder interests.

I welcome comments on these broad principles and objectives as they relate to negotiations for 2022, recognising the need for some flexibility to ensure we can secure an outcome in the best interests of the UK. Should you wish to discuss these issues with me directly, I am of course available.

8 November 2021

Letter from the Chair to Victoria Prentis MP, Minister of State for Farming, Fisheries and Food, Department for Environment, Food & Rural Affairs

Thank you for your letter dated 8 November 2021, which was considered at the meeting of the European Affairs Committee on 14 December 2021.

The Committee has asked me to pass on to you its gratitude for your thorough and very helpful letter.

The Members were pleased to learn of the subsequent successful and timely conclusion of the tripartite negotiations between the UK, Norway, and the EU. They did, however, express some disappointment at the apparent stalling of the negotiations between the UK and the EU under the Trade and Cooperation Agreement.

The Committee retains a keen interest in this area and therefore requests a full update of progress on all fisheries matters that concern the UK and its European partners at the earliest possible opportunity in the new year.

16 December 2021

Letter to the Chair from Victoria Prentis MP, Minister of State for Farming, Fisheries and Food, Department for Environment, Food & Rural Affairs

Thank you for your letter of 16 December 2021. I am writing to inform you on the outcome of fisheries negotiations with the European Union (EU), Norway, and Regional Fisheries Management Organisations (RFMOs).

Conclusion of UK-EU fisheries negotiations for 2022

The UK has now concluded bilateral annual fisheries consultations with the EU and reached an agreement on Total Allowable Catches (TACs) for 69 fish stocks and other fisheries management measures for 2022.

The negotiations between the UK and EU were productive and at times challenging. However, throughout the negotiations, my Department officials, alongside Scottish, Welsh and Northern Irish colleagues, have worked closely as part of the UK delegation to secure a balanced and positive outcome for the whole of the UK fishing industry.

The resulting outcome is one which provides much needed stability for the UK fishing industry, while delivering sustainability improvements and setting a good platform for our continued future relationship with the EU on fisheries management. For example, the agreement includes new and continued commitments by the UK and EU to work together via the Specialised Committee on Fisheries (SCF) across a range of issues including the challenges presented in the Celtic Sea mixed fishery and combined TACs in the North Sea as well as for Non-Quota Species (NQS).

Value and sustainability

The total value of the fishing opportunities for the UK in 2022 across the 69 agreed EU-UK TACs is approximately 140,000 tonnes, worth around £313 million. For these stocks, the UK fleet will have around 12,000 tonnes less quota available than year, estimated to be worth about £18 million. However, the UK has around 28,000 tonnes more quota from these negotiations than it would have received with its previous shares as an EU Member State. This is estimated to be worth around £45 million based on historic landing prices.

As in previous years, the UK negotiated this year's TACs and quotas taking full account of sustainability principles. A full assessment on the number of individual TACs set consistent with the International Council for the Exploration of the Sea (ICES) advice on catch opportunities will be published shortly and after the conclusion of all the UK's annual fisheries negotiations and the setting of consultative TACs.

Quota exchanges

On exchanges of quota with the EU, both the UK and EU agreed to the continuation of the interim exchange mechanism which has operated successfully since July this year, enabling voluntary exchanges between the UK and EU Member States. We agreed to continue using this mechanism until the SCF can agree a permanent replacement, as envisaged by the Trade and Cooperation Agreement (TCA). We did explore the possibility of making quota exchanges within the annual consultations but did not get any engagement from Member States on this. Instead, the UK and EU agreed to hold a final round of exchanges on 21 January 2022 to allow for the wrapping up of this year's exchanges of 2021 quota.

Non-Quota Species

For Non-Quota Species (NQS), the UK and EU finalised the 2012-16 baseline tonnage figures provided for in the TCA. Exceptionally, it was agreed not to apply these figures for 2022. In the event either Party reaches 80% of their total, a discussion will be held in the SCF to consider next steps. Non-quota data exchanges at EEZ level will continue monthly, with further discussions to take place in 2022 to ensure the robustness of exchanged data.

The UK and EU committed to work at pace to develop multi-year strategies for shared NQS as set out under the TCA, with the aim of developing the first of these by 31 July 2022 to ensure the sustainable management of NQS stocks from 2023 onwards.

The UK and EU agreed to roll forward the previously agreed measures for seabass. In addition, it was agreed that further adjustments would be introduced in 2022. These include an increase in the annual limits for landings of bass from hook and lines and fixed gillnets, as well as an amendment to the commercial trawl/seine flexibility.

UK-Norway Bilateral Negotiations

The UK also concluded bilateral annual fisheries consultations with Norway on fisheries access and quotas for 2022.

The agreement includes reciprocal access to each other's waters. We will gain access to 30,000 tonnes of whitefish stocks such as cod, haddock and hake. There will also be access to fish pelagic stock. The UK industry will be able to fish its full quota of Atlanto-scandian herring in Norwegian waters, and up to 17,000 tonnes should it swap in additional quota from the EU in 2022. In return, Norway will be able to fish up to 17,000 tonnes of North Sea herring in UK waters. This is less than a third of the level of access for North Sea herring enjoyed by Norway while the UK was a member of the European Union. We also agreed some quota exchange, estimated to be worth just over £5m. This includes bringing in stocks such as North Sea whiting, hake and anglerfish, and arctic cod.

The agreement puts in place a process which ensures that the fishing arrangements do not have detrimental consequences for fish stocks and the wider marine environment. The mutual access will also allow respective fleets more flexibility to target the stocks in the best condition throughout the fishing year, supporting a more sustainable and economically viable fishing industry.

In parallel to the conclusion of these negotiations, we have secured from Norway an allocation of 6,550 tonnes of cod around Svalbard. Together with tonnage secure in the bilateral agreement, this means the UK can fish over 7,000 tonnes of cod in the arctic in 2022, estimated to be worth around £16 million. This is 1,500 tonnes more than in 2021, despite a 20% cut in the Total Allowable Catch.

UK-EU-Norway Trilateral Negotiations

We also concluded negotiations trilaterally with the EU and Norway on catch limits for shared North Sea stocks for 2022. With this agreement, the UK has struck a balance that will benefit both our fishing industry and the long-term sustainability of our marine environment. As with our other fisheries negotiations, my department's officials worked closely with Northern Irish, Scottish and Welsh officials as a joined-up UK Delegation.

Regional Fisheries Management Organisations (RFMOs)

The UK is a Contracting Party to five RFMOs. We have played a central role this year in securing important new measures for 2022 and beyond in all five. Key examples include a new rebuilding plan for North Atlantic shortfin mako shark in the International Commission for the Conservation of Atlantic Tunas (ICCAT) and a measure to protect juvenile haddock at the North East Atlantic Fisheries Commission (NEAFC). The UK also confirmed its 2022 shares in the four ICCAT stocks negotiated

with the EU under the TCA. We aim to build on these successes in our RFMO work in 2022 and beyond.

24 December 2021

FISHING OPPORTUNITIES FOR SANDEEL IN THE NORTH SEA IN 2022

Letter to the Chair from Victoria Prentis MP, Minister of State for Farming, Fisheries and Food, Department for Environment, Food & Rural Affairs

We have recently concluded a negotiation with the EU to establish fishing opportunities for sandeel in the North Sea in 2022. As your committee has an interest in UK fisheries negotiations with the EU, I am writing to you about its outcome.

In the North Sea, sandeels are a forage species for commercially important predator species of fish that are targeted by UK vessels, including cod and saithe which are currently in a depleted condition. The removal of forage fish like sandeel also has a detrimental impact on the wider ecosystem including vulnerable species of seabirds like kittiwakes. The UK does not have directed fisheries for industrial species and we did not allocate our sandeel quota in 2021. However, sandeels are important to the EU, and Denmark has a large fleet of vessels that fish for industrial species including sandeel in UK waters. Their catch is processed into animal feed.

We made the point to the EU at the start of the negotiation that the UK is not supportive of industrial fishing, and that we are looking into its longer term management in UK waters. For 2022, like us the EU were supportive of setting fishing opportunities that are in line with the scientific advice from ICES. This includes a zero Total Allowable Catch (TAC) figure recommended for four sandeel management areas which are wholly or partly within UK waters, while allowing a monitoring TAC in two of the four areas not exceeding 5,000 tonnes. Monitoring TACs will be used to gather scientific evidence that will feed into the next ICES stock assessment. The EU and UK differed on their interpretations of 'banking rules', that is when quotas can be carried forward from one year to the next. We impressed upon EU Commission that ICES had observed in their advice that catches in 2021 from sandeel management area SA1r (central and southern North Sea, Dogger Bank) were 16,944 tonnes, which exceeded the TAC for this sandeel management area by 11,593 tonnes and that this was predominantly due to banking of quota from 2020.

At the conclusion of the negotiation we agreed to follow the ICES advice for 2022 for the TAC across all seven management areas. This means there will be a total UK-EU TAC of 88,844 tonnes, which includes a 5,000 tonne monitoring TAC each in sandeel areas 1r and 4. The EU agreed with the UK position that banking quota should only occur within management areas and should not be based on the aggregate TAC. This is a move away from previous EU practice, where they have banked the aggregate TAC across management areas and took the additional amount from a single management area.

Moreover, we clarified that as per the Written Record, a maximum of 10% of the allocated quota could be banked for each management area. We also decided that the joint agreement on how banking should be implemented should apply retrospectively from the 2021 quota into 2022 and that we should agree legal text in the Written Record to clarify this. Finally we clarified that any quota being carried forward from one year to the next can be used in addition to each of the party's quota in the following year, but it cannot then be carried forward into subsequent years. The EU noted that this was an historic issue and that the Written Record was clear that this should not be allowed. A link to the Written Record for the outcome of the sandeel negotiation is here:

[Written record of fisheries consultations on 11 March 2022 between the United Kingdom and the European Union about sandeels in 2022 \(publishing.service.gov.uk\)](#)

Overall, this is a sustainable and positive outcome for 2022 and puts in place more a sustainable practice for future years.

7 April 2022

GOVERNMENT RESPONSE TO THE CONSULTATION ON GOVERNMENT ENGAGEMENT WITH BUSINESS AND CIVIL SOCIETY GROUPS ON THE IMPLEMENTATION OF THE TRADE AND COOPERATION AGREEMENT

Letter to the Chair from the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

1. As the Trade and Cooperation Agreement (TCA) is a broad Agreement that touches on the lives of people across the UK, the Government ran a public consultation on Government engagement with business and civil society groups on implementation of the TCA. The consultation was open for seven weeks from 9 August 2021 to 21 September 2021. It focussed on how to best use the Domestic Advisory Group and Civil Society Forum, the two formal engagement channels provided for in the Trade and Cooperation Agreement.
2. Today, the Government has published its official response to the consultation after considering comments received from various stakeholders, including business associations and civil society groups. The Government's response has been laid before Parliament and will be published on GOV.UK⁸.
3. The Government has also launched an Expression of Interest campaign to determine membership of the Domestic Advisory Group and Civil Society Forum. The Expression of Interest, which launched today, can be found on GOV.UK and will run until 9 November.
4. Finally, we are preparing for the Domestic Advisory Group to meet for the first time this year shortly after the closure of the Expression of Interest campaign. The Government is in discussions with the European Commission to finalise the date for the first Civil Society Forum. We are prepared for the Forum to meet at the end of this year but acknowledge that it can take place in February 2022 if both parties agree.

19 October 2021

PUBLICATION OF A NOVEMBER UPDATE TO THE BORDER OPERATING MODEL

Letter to the Chair from the Rt Hon Michael Ellis QC MP, Paymaster General, Cabinet Office

I am writing to let you know that today the Government has published an updated Border Operating Model. This has been made to reflect the revised timetable for introduction of the next stage of UK import requirements. It also provides some additional detail on specific areas including the detailed implementation of Sanitary and Phytosanitary (SPS) controls and changes to the Goods Vehicle Movement Service (GVMS). This update to the dates will bring the Border Operating Model in line with other guidance available on GOV.UK.

This updated Border Operating Model will continue to help businesses which trade with the EU to understand the approaching new requirements and those which are already in effect. We are also encouraging businesses to access the resources available at

<https://gov.uk/guidance/help-and-support-if-your-business-trades-with-the-eu>

Future updates to the Border Operating Model will be made online through gov.uk:

<https://www.gov.uk/government/publications/the-border-operating-model>

A copy of the updated Border Operating Model has been deposited, alongside this letter, in the Library of both Houses.

18 November 2021

⁸ https://www.gov.uk/official-documents?content_store__document_type=command_papers&order=updated-newest

REVIEWS INTO THE SUBSTANCE AND STATUS OF RETAINED EU LAW

Letter to the Chair from the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

I am writing to draw your attention to my written statement, issued today and attached⁹, which provides an update on the reviews of Retained EU law (REUL) which I have set in motion.

As you will remember, on 16 September 2021 I foreshadowed these reviews in my statement to Parliament and they are now under way. The WMS sets out the detail, principally, of the "status" review, the ground it will cover, and next steps.

I would be happy to update you and the committee on the progress of these reviews early next year.

9 December 2021

PUBLISHING EXPLANATORY MEMORANDA ON EU DOCUMENTS

Letter to the Chair from the Rt Hon James Cleverly MP, Minister of State for Europe and North America, Foreign, Commonwealth and Development Office

Since 2012 the Government has published Explanatory Memoranda (EM) submitted to your Committees on a dedicated website, hosted by an external company that Cabinet Office paid for. This website has now closed for new publishing.

This provides us with an opportunity to improve value for the taxpayers' purse and overall transparency by aligning our future approach with our existing cross-Government approach. From 31 March, new EMs submitted to your Committees will be published on a dedicated page on GOV.UK, and your teams will be notified each time a new EM is published on GOV.UK. EMs will remain accessible and your Committees can continue, if they wish, to reference them in reports and correspondence with Ministers and other stakeholders.

Historical EMs published on the old website have been archived, and will remain accessible through the National Archives. Officials have issued guidance to your teams on how to search for EMs on the archived website.

My officials will continue to liaise with your teams to ensure this transition runs smoothly and that the website is as user friendly and accessible as possible.

6 April 2022

MINISTERIAL APPEARANCES BEFORE THE EUROPEAN AFFAIRS COMMITTEE

Letter to the Chair from the Rt Hon Elizabeth Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office

Following the decision to transfer EU exit responsibilities to the FCDO, I am writing to reaffirm the importance my department places on parliamentary scrutiny.

I value highly the substantial expertise your Committee possesses on the various aspects of the UK's relationship with the European Union and the essential role it plays in scrutinising the work of the FCDO in this area.

As you know, the FCDO already has a commitment to a number of select committees in both Houses. Due to my official travel and other departmental obligations, I hope you will understand that it will not be possible for me to commit to the frequency of appearances agreed to by Lord Frost shortly before his departure. I hope, however, that with the support of the Minister for Europe and North America and other members of my team, we can fulfil our obligations to your Committee in a way that meets your needs.

⁹ Not published here.

So that I can be sure that the FCDO provides equivalent support to each Committee with an interest in its work, and subject to any unforeseen commitments, I would like to undertake to appear before your Committee a minimum of once a year. I realise that this alone is unlikely to meet the Committee's expectations, but I can confirm that the Minister for Europe and North America (and other members of the FCDO ministerial team if appropriate) will also be available to give evidence when invited.

I would also like to propose that the Department supplements those more formal evidence sessions with the offer of more informal briefing at ministerial and senior official level where that would be helpful. In this way, you are kept up-to-date on policy developments that would be of interest.

I look forward to working with your Committee in the future and welcome your views on FCDO policy. I would be delighted to hold an introductory meeting with you to discuss the work of your Committee, at your earliest convenience

10 March 2022

Letter from the Chair to the Rt Hon Elizabeth Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office

Thank you for your letter of 10 March, in which you set out your proposal for regular appearances before the Committee. This was considered by the Committee at its meeting on 5 April 2022.

The Committee is grateful for the commitments you make in your letter and will be delighted to welcome you to the Committee in September this year for the first of your annual visits.

With respect to additional appearances by your colleague, the Minister for Europe and North America, the Committee would ask for a commitment of two appearances a year, which would be in addition to your own appearance. This would reassure the Committee that it was in no worse a position than under its previous arrangement with Lord Frost.

I was grateful for the opportunity to meet the Minister for Europe and North America on 30 March, when we discussed these matters in greater depth. In the spirit of that meeting, we look forward to welcoming him shortly after the State Opening of Parliament in early May.

The Committee gratefully accepts your offer to supplement these more formal sessions evidence sessions with more informal briefing at ministerial and senior official level and would be keen to understand in more detail how this would work in practice. I have asked our Clerk to pursue this further at official level.

6 April 2022

UPDATE ON JULY IMPORT CONTROLS ON EU GOODS

Letter to the Chair from the Rt Hon Jacob Rees-Mogg MP, Minister for Brexit Opportunities and Government Efficiency, Cabinet Office

Today I am laying a Written Ministerial Statement in the House today to set out that the remaining import controls on EU goods will no longer be introduced from July 2022. This means that we will not be introducing the following controls:

- A requirement for Sanitary and Phytosanitary (SPS) checks currently at destination to be moved to a Border Control Post (BCP);
- A requirement for safety and security declarations on all EU imports; and
- A requirement for health certification for SPS imports

As part of our Border Strategy, the Government has committed to harnessing the use of data and ensuring that our checks are proportionate to risk. We are now faced with a range of new challenges including ongoing supply chain issues - partly as a result of Russia's invasion of Ukraine - and wider cost of living pressures.

New administrative burdens, and the risk of disruption to ports and supply chains would compound this situation for the public. This has led the Government to conclude that we need to implement these improvements together with a proportionate, risk based, and technologically advanced approach to controls before we make any further changes.

Instead the government is accelerating work to digitise Britain's borders, harnessing new technology and data to reduce friction and costs. This will be a new approach for a new era as Britain maximises the benefits of leaving the EU that will apply to our trade with the whole world.

We will publish a Target Operating Model in the Autumn that will set out how and when we will introduce an improved regime of border import controls. This new regime will apply equally to goods from the EU and goods from the Rest of the World. It will be based on a proper assessment of risk, and will harness the power of data and technology. This includes the Single Trade Window which will start to deliver from 2023, and other transformational projects as part of our 2025 Borders Strategy.

Our new controls regime will come into force from the end of 2023.

Now is the right time to make this decision. Having the freedom to have border controls that are effective and efficient and work best for the UK is a key benefit of leaving the EU. It is critical we realise those benefits sooner rather than later.

The controls that have already been introduced will remain in place. Traders will continue to move their goods from the EU to Great Britain as they do now.

As part of this work, we will be looking to consult with industry and produce an updated Target Operating Model for the border, complete with a timetable for implementation.

I will ensure that Parliament is kept informed of how this work is progressing.

28 April 2022

DATA EXCHANGE UNDER THE TRADE AND COOPERATION AGREEMENT

PRÜM DATA EXCHANGE WITH THE EU: EXTENSION TO THE EVALUATION PERIOD

Letter to the Chair from Damian Hinds MP, Security Minister, Home Office

I am writing to notify you that by mutual written agreement of the co-chairs of the Specialised Committee on Law Enforcement and Judicial Co-operation (LEJC SC), the Prüm evaluation period has been extended by 9 months until the end of June 2022. This came into effect on 28 September and I have included a copy of the decision for your reference¹⁰. This decision will be recorded in the minutes of the first meeting of LEJC SC, which will be published on GOV.UK and shared with your Committee Clerk in due course.

As your Committee will be aware, under the terms of the UK-EU Trade and Cooperation Agreement (TCA), the UK's existing connections to DNA and fingerprint exchange capabilities (Prüm) must be re-evaluated. This is because we are operating on a new legal basis having left the EU. The initial deadline for completion of that evaluation was 30 September, but the TCA provided for a single extension of a further 9 months.

UK implementation of Prüm has not changed since entry into force of the TCA and I believe that the UK is compliant with our obligations in relation to Prüm. The 9-month extension to the evaluation period will allow DNA and fingerprint exchanges to continue, providing continuity for operational partners and keeping the public safe.

Given there can be no further extension to the evaluation period my officials are in regular contact with the Commission to determine the specifics of the evaluations which we expect to start shortly. I understand that they will follow a similar format to the pre-connection evaluations, and indeed the TCA

¹⁰ Not published here.

requires that they take the results of those evaluations into account. I will provide an update once the evaluation procedures have been concluded.

4 October 2021

Letter from the Chair to the Rt Hon Damian Hinds MP, Minister of State for Security and Borders, Home Office

Thank you for your letter dated 4 November 2021 which was considered by the European Affairs Committee at its meeting of 17 November.

We note your confirmation that the Specialised Committee on Law Enforcement and Judicial Cooperation (SCLE&JC), which oversees the operation of Part Three on the Trade and Cooperation Agreement (TCA), decided by “mutual written agreement” to extend the nine-month window within which the UK’s compliance with the arrangements in the TCA covering the exchange of so-called Prüm data can be evaluated.

You will recall that in February this year, Kevin Foster MP on behalf of the Home Office, told the Security and Justice Sub-Committee repeatedly during its inquiry into Part Three of the TCA that it could have “real confidence” that the Government would satisfy the EU’s evaluation in this area. In its subsequent report, “Beyond Brexit: policing, law enforcement and security” (25th Report of Session 2019-21) published in March, the Sub-Committee expressed doubts about the Government’s confidence in this area.

In October, before we received your letter, we asked Lord Frost about these developments and he suggested we put our questions to the Home Office. Unfortunately, neither your letter nor Lord Frost’s answer to our questions provide an explanation as to why this action has proved necessary. We note, in this regard, that Kevin Foster MP told the Sub-Committee in February that “we are confident that our operating processes are still fully in line with the Prüm requirements” (Q 41). Why, therefore, has it now proved necessary to extend the evaluation period by nine months?

You will be aware that under the terms of the TCA the window for extending the Prüm evaluation period can only be extended once. Leaving aside Government expressions of confidence, what will happen to the Prüm data sharing arrangements set out in the TCA if the Government does not satisfy the EU’s evaluation by June 2022?

Turning to the process by which this decision was taken. The Commission brought forward its legislation dealing with this matter on 27 August 2021. While you do not specify the precise date when the SCLE&JC took its decision, we know that under the procedural rules governing written agreement by the Specialised Committees (Rule 9), the Government had a one-month window to agree to this matter. You confirm in your letter that the decision came into effect on 28 September 2021 two days before the initial nine-month window expired. Yet, you waited until 4 November to tell the Committee. Why did it take so long to inform us about this significant matter?

We look forward to considering your response within the usual 10-day deadline.

18 November 2021

Letter to the Chair from the Rt Hon Damian Hinds MP, Minister of State for Security and Borders, Home Office

Thank you for your letter of 18 November regarding the extension to the Prüm evaluation period.

I apologise for the delay in replying and for the late notification of the extension. The extension should have been communicated sooner to give the Committee ample time to carry out its role in scrutinising all aspects of UK-EU cooperation arrangements. I will ensure that future developments are reported in a timely fashion.

Regarding the extension to the Prüm evaluation period, the TCA envisaged a 9-month period for this to be completed. However, despite the willingness of both sides to complete these processes, it became clear that as we approached the summer more time was required. This reflected the fact that an evaluation requires detailed planning in advance, followed by written material and a visit, the preparation of a report for Council, discussions at Council working level and then a vote by EU Ministers. The UK

and EU teams therefore mutually agreed to trigger the provisions in the Trade and Cooperation Agreement which had foreseen that a further period might be necessary.

You ask what will happen if the Government does not satisfy the EU's evaluation by June 2022. To confirm, there is no further possibility of extension under the TCA and a successful evaluation is necessary to retain access to Prüm. If the Council does not conclude that we have passed the evaluation by the end of June the UK will therefore be disconnected from the Prüm systems. However, following the visit of the EU evaluation team to the UK on 23-25 November, I remain confident that the UK will satisfy the requirements of the EU evaluation in this area and retain access to DNA and fingerprint exchange capabilities.

15 December 2021

Letter from the Chair to the Rt Hon Damian Hinds MP, Minister of State for Security and Borders, Home Office

Thank you for your letter dated 15 December 2021 which was considered by the European Affairs Committee at its meeting of 8 February 2022.

We are grateful for your response to our questions and note your apology regarding the time taken to inform us about this matter. We share the Government's view that the UK should continue to participate in the Prüm data exchange system and therefore welcome your promise to notify us of developments in this field "in a timely fashion". In that spirit, we ask that you update us in April on the progress made by the Government towards satisfying the EU that the UK complies with the requirements of the Trade and Cooperation Agreement in relation to the exchange of so-called Prüm based data.

We look forward to considering your response in due course.

9 February 2022

PARTNERSHIP COUNCIL DECISION – PASSENGER NAME RECORDS

Letter to the Chair from the Rt Hon Lord Frost CMG, Minister of State, Cabinet Office

I'm writing to inform you that the Partnership Council is expected to agree to a decision shortly relating to Title III 'Transfer and Processing of Passenger Name Record Data' of Part Three of the Trade & Cooperation Agreement (TCA), namely the extension of the interim period for UK processing of EU Passenger Name Record (PNR) data.

The TCA sets out specific requirements for handling EU PNR data, namely that the UK shall delete PNR data of passengers after their departure from the UK unless a risk assessment indicates the need to retain such PNR data. The UK is currently in the process of a major redevelopment of its border security systems. As part of this wider programme of work, adjustments will be made to systems which were designed to process PNR data in line with the arrangements which exist between EU Member States in order that they can process PNR data in line with the different arrangements agreed under the TCA. For this reason, the TCA provided that the UK can apply specific safeguards for an interim period expiring no later than 31 December 2023, pending the completion of these technical adjustments.

The interim period is subject to annual renewal via the UK-EU governance structures set up under the TCA. The TCA provides that the interim period shall be renewed for a further year where the 'special circumstances' persist: meaning the 'special circumstances' of the UK's PNR processing systems pending completion of work to make technical adjustments to meet the requirements of the TCA.

On 19 October 2021, the Specialised Committee on Law Enforcement and Judicial Cooperation considered the UK's assessment that the 'special circumstances' persist and that the interim period should therefore be extended by a year. The decision on extension is, however, for the Partnership Council.

The Partnership Council's decision to renew the interim period for a further year is required by the end of this year and given that the Partnership Council is not scheduled to meet for the remainder of

2021, the decision will be adopted via written procedure. This requires the co-chairs of the Partnership Council, myself for the UK and Vice-President Maroš Šefčovič for the EU, to sign the decision. This is expected to take place following confirmation of the EU's agreement to the decision by the European Council on 21 December 2021. The Partnership Council decision will then be signed by the co-chairs and published by the UK and EU respectively ahead of the end of year deadline. I am therefore informing you of the upcoming Partnership Council decision ahead of publication and before both Houses of Parliament rise for Christmas recess.

16 December 2021

Letter from the Chair to the Rt Hon Elizabeth Truss MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office

Thank you for the letter dated 16 December 2021 from the former Minister of State Lord Frost. It was considered by the European Affairs Committee at its meeting of 8 February 2022.

We are grateful for the update regarding the Partnership Council's decision to extend for a further year the interim period within which the UK may derogate from the obligation to delete all Passenger Name Record (PNR) data after individuals leave the UK. We share the Government's view that the UK's continued participation in the PNR system is in the national interest. We, therefore, ask that you continue to offer us periodic updates on the progress made by the Government towards compliance with the provisions of the Trade and Cooperation Agreement dealing with CJEU Opinion 1/15 of July 2017 on the legality of the similar PNR agreement between the EU and Canada.

We look forward to considering your response in due course.

9 February 2022

Letter to the Chair from the Rt Hon James Cleverly MP, Minister of State for Europe and North America, Foreign, Commonwealth and Development Office

Thank you for your letter of 9 February asking for periodic updates on matters relating to our arrangements with the EU under the Trade and Cooperation Agreement (TCA) on the transfer of passenger name record (PNR) data. We very much appreciate your interest in this important topic. The Foreign Secretary has asked me to respond in my capacity as the Minister for Europe.

As co-chair of the TCA Partnership Council, the Foreign Secretary will of course be happy to provide you with updates on relevant discussions and decisions taken in that forum.

With regards to PNR, the Home Office will be best placed to continue to provide you with timely updates, as the lead Department for this policy area. I have forwarded on your letter to Home Office Ministers, who have agreed to provide you with future updates on PNR related matters.

17 March 2022