



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 10 May 2022 to 6 November 2023

## EUROPEAN AFFAIRS COMMITTEE

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## SCRUTINY OF EU DOCUMENTS

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

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

Thank you for your 23 February letter noting specific policy areas of interest. The Minister for Europe and I look forward to working with you and your committee on these matters.

You have asked us to keep you abreast of Commission proposals on the 'European Green Deal' and digital reform. The EU is reluctant to share information on proposed regulatory or legislative reform with third countries, other than on public websites.

As we noted previously, even when the EU was drafting legislation on medicines that was to apply to Northern Ireland it refused to share these proposals until after they had been finalised. They may therefore be reluctant to share EU-only legislative proposals. However, I can confirm that a recent Green Deal proposal to revise the EU Construction Products Regulation has been deposited and an EM is being prepared.

I would be happy to respond to specific questions you see arising from the Commission's plans to develop the European Defence Union and on a new EU/NATO joint declaration.

Your interest in the EU's efforts aimed at "Promoting our European Way of Life", covering migration and asylum, is noted. The most significant thing we can do to stop dangerous migration across the English Channel is to stop boats from leaving in the first place. Many other countries are facing difficulties on this front, with Frontex and several Mediterranean EU Member States taking a very different approach from the UK. Our repeated attempts to come to mutually favourable solutions have not been able to stop small boats leaving France (where individuals are safe and can claim asylum). This is despite providing approximately £54 million to the French last year. France have cited personnel issues yet have been unwilling to accept UK or UK-funded personnel to help them prevent dangerous crossings from several well-known beaches commonly used by criminal gangs. Our door is always open to finding a solution – but for now we must act to reduce incentives for this illegal and dangerous practice.

I note your disappointment that the AWP made no reference to EU and UK engagement. There is no reason why the UK - or any third country - should expect to see such a reference. I agree that where our objectives are aligned, engagement will be helpful. Once policy areas are developed, we will be able to understand where our interests aligned and can calibrate engagements.

More broadly, it is clear that disagreements on the implementation of the Northern Ireland Protocol are causing EU intransigence in other, unrelated, areas. One example is Horizon, where the EU has been refusing to formalise the UK's association as agreed under the TCA - despite the relevant EU legislation underpinning the programmes being in place since May 2021. In June 2021, we raised the issue at the inaugural UK-EU Partnership Council and since then have continued to press the EU on this issue. At the Specialised Committee for Participation in Union Programmes on 21 December 2021, the EU formally confirmed that the delays were due to wider issues in the UK-EU relationship. The EU's approach, politicising mutually beneficial science and research cooperation and drawing links to the Northern Ireland Protocol is deeply disappointing. The Northern Ireland Protocol is an entirely separate issue and is contained in a different agreement. As this demonstrates, the suggestion that the EU has taken this stance in response to the Foreign Secretary's 17 May statement is incorrect - the truth is that they have been holding back on Horizon since at least December 2021.

We believe this is a strong basis for reformed Protocol arrangements that would protect both parties, restore the balance of the protocol and represent a stable, durable solution. The EU has not been willing to give its negotiators a wide enough mandate to address the full range of issues faced. We continue to engage with them.

26 May 2022

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

Thank you for your letter dated 26 May 2022, it was considered by the European Affairs Committee at its meeting of 5 July 2022.

In asking the Government to deposit in Parliament the Commission's Annual Work Programme (AWP) with an accompanying Explanatory Memorandum (EM) we sought, as the Committee tasked with scrutinising UK/EU relations post-Brexit, to be able to consider EU action falling specifically within our remit. This was particularly important given the significantly reduced formal undertakings by the Government to provide information to us post-Brexit due to the fact we are no longer an EU Member State. We hoped that this process would in turn, enable us, if necessary, to engage the Government in correspondence on UK/EU related matters.

However, your disappointing response to our reasonable requests to be informed about important EU legislative proposals that might have implications for UK/EU relations and engage the level playing field aspects of the Trade and Cooperation Agreement (TCA) – the European Green Deal and digital reform - does little to take that process forward. We do not accept your argument that you are unable to do so because the EU does not share documents with third countries.

You will be aware that aside from sensitive areas such as sanctions policy, whenever the Commission submits a legislative proposal to the Council it publishes all relevant documents on its website. For example, all the documents relating to the proposed European Chips Act (which in our letter to you we described as a "significant suite of proposals raising profound questions" for UK/EU relations and UK policy) were published on the Commission's publicly accessible website on 8 February 2022, the very same day they were sent to the Council. You could, if you wished, prepare an EM and deposit it in Parliament on the basis of these documents which would enable us to scrutinise the Government's policy.

We note also your dismissal of our request for EMs on the European Defence Fund and the EU/NATO joint declaration inviting us instead to submit any questions we have to your department. This ignores the purpose of an EM which is to provide us with an explanation of the specific EU proposal and the Government's views thereon.

On migration, we sought to explore with you the extent to which the AWP represented an opportunity to engage with the EU on mutually beneficial solutions. Instead, your response focusses on the failings of bilateral arrangements with the French Government. You say that the UK's door remains open but offer us no information on how or when you might engage with the EU on this matter to find potential, mutually beneficial solutions. We note that this lack of engagement with the EU is also reflected in your answer to our question about the failings of both the EU and the UK Government to mention future cooperation on matters where our interests align.

We remain concerned by the Government's apparent unwillingness to use its wider influence and diplomatic resources in order to engage with the EU and its institutions to further the UK's interests as other third countries do.

The European Affairs Committee was established by the House to consider UK/EU relations and relevant documents deposited in the House by a minister. To that end, it is a matter for us to decide which EU documents are of interest, we are therefore disappointed that your response to our reasonable requests for information makes it far harder for us to fulfil our role in holding the Government to account.

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

*6 July 2022*

**Letter to the Chair from Graham Stuart MP, Minister of State for Europe, Foreign,  
Commonwealth and Development Office.**

Thank you for your letter of 6 July, with further comments arising from your consideration of the European Commission's 2022 Annual Work Programme (AWP) and the recent exchange of letters on the Commission's Programme. The Foreign Secretary has asked me to reply on her behalf.

The Foreign Secretary values the important role of your Committee in considering the landscape of the UK's new relationship with the EU, and she has supported officials' engagement with both EU Select Committees to reach agreement on a new set of scrutiny arrangements which are proportionate to the UK's new relationship with the EU. The Foreign Secretary has written to you to seek your agreement to those revised scrutiny commitments, and she looks forward to receiving your reply shortly.

The revised scrutiny arrangements include a commitment that the Government will provide explanatory memoranda (EMs) to the EU Select Committees on the AWP, as we recognise that the Committees retain an interest in the wider EU policy direction and potential implications on both the Withdrawal Agreement (WA) and Trade and Cooperation Agreement (TCA). We will also consider requests from the Committees for the deposit of documents of direct relevance to their work that might fall outside the WA and TCA.

Whilst we await formal agreement to these arrangements, the Foreign Secretary wanted to reiterate that your Committee has the right of initiative to engage the Government on EU proposals you see as relevant to the Committee's work. The Government will continue to respond as fully as possible to requests for information by the Committee through correspondence with the relevant lead policy minister. This includes matters relating to the AWP, such as the European Chips Act.

Turning to your point around the publication of Commission proposals, and as set out in the Foreign Secretary's previous reply, the EU does not openly seek input from the UK during the earlier stages where it develops legislative proposals. These are only made available in public when they have been adopted by the Commission.

On migration, the UK has demonstrated global leadership to find new, innovative solutions to this global challenge, demonstrated most recently in the Migration and Economic Development Partnership with Rwanda. The UK remains open to exploring solutions with other international partners including the EU, and we have been clear on this with the European Commission at all levels. We continue to press for mutually beneficial solutions on this shared challenge, noting that compromise and collaboration will be required on both sides.

Regarding your broader concerns around the Government's use of influence and diplomatic resources to engage with the EU and its institutions, we can assure you that the FCDO engages regularly and constructively with the EU and its institutions at all levels to deliver the Government's priorities and further UK interests. The Foreign Secretary and her predecessor met with Vice President Šefčovič 26 times over the past year – more than any other international partner. She is also in regular contact with High Representative Josep Borrell. The previous Minister for Europe and North America visited Brussels twice this year, and Minister Ford was in Strasbourg on 5 July to meet Members of the European Parliament. Officials in the UK Mission to the EU in Brussels, the FCDO and other departments in London also engage with EU counterparts regularly across the full range of government business.

We would like once again to thank you for the valuable work the European Affairs Committee does and the careful scrutiny it conducts of our relationship with the European Union.

1 August 2022

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Your predecessor wrote to us on 1 August 2022, in response to a letter to the Foreign Secretary dated 6 July 2022. This letter was considered by the European Affairs Committee at its meeting of 1 November 2022.

The Committee is pleased that an agreement has now been reached with the Government regarding future scrutiny arrangements for EU-related business. This was formally accepted through a letter to the Foreign Secretary on 12 October 2022.

The Committee is, however, disappointed by your predecessor's response to our request for the Government to keep us informed about important EU legislative proposals that might have implications for UK/EU relations. We remain unpersuaded by the argument that this is not possible because "the EU does not openly seek input from the UK during the earlier stages where it develops legislative proposals".

As set out in our previous letter to the Foreign Secretary, whenever the Commission submits a legislative proposal to the Council, relevant documents are made public. Moreover, the Committee believes that the Government ought to be pro-active in engaging with the EU where EU legislation could have implications for the UK and/or UK/EU relations. Your predecessor's response has not eased our concern at the Government's apparent unwillingness to use its influence and diplomatic resources to engage with the EU and its institutions to further the UK's interests, as other third countries do.

We do not expect a response to this letter and are content to clear the 2022 Commission Work Programme from scrutiny.

*10 November 2022*

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE  
COUNCIL ON THE IMPLEMENTATION AND APPLICATION OF THE TRADE AND  
COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND | JANUARY – 31  
DECEMBER 2021- COM (22) 126**

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Thank you for the Explanatory Memorandum (EM) dated 12 August 2022 which was considered by the European Affairs Committee at its meeting of 1 November.

We are grateful that the Government submitted an EM on this important Commission report considering the first year's operation of the Trade and Cooperation Agreement (TCA). Understanding the EU's position on the operation of the TCA, and the Government's views thereon, is central to helping us fulfil our responsibilities to scrutinise UK/EU relations and the operation of the Agreements negotiated by the Government to facilitate post-Brexit UK/EU cooperation.

Unfortunately, the EM was submitted only after we asked the (then) Minister responsible, the Rt Hon James Cleverly MP, to do so when he appeared before us in June. To avoid a similar misunderstanding in the future, we take this opportunity to put on record our desire to receive an EM on similar Commission reports as and when they are produced. Please confirm in your response to this letter that you agree.

**Publication of the report**

We note that this particular report was produced by the Commission as part of its legal obligations to do so (Article 2(4) of Council Decision (EU) 2021/689 of 29 April 2021). As a consequence, we ask the following questions:

- (i) Does the Government intend to produce, on a regular basis, its own report on the operation of TCA? If not, could you explain to us why?
- (ii) If you do produce your own report, do you intend to submit it to this Committee for our consideration?
- (iii) In its report the Commission promises to continue monitoring UK regulatory reform in the areas covered by the TCA (subsidy control, taxation, labour and social standards, the environment and climate) because it "is of vital importance to ensure that it does not conflict with the TCA provisions and that EU businesses are not put at a competitive disadvantage". Does the Government share this view? Do you plan to undertake your

own similar exercise with regard to developments in EU law? If so, when do you intend to share the outcome of such an exercise with this Committee?

The Government has, on occasions, sought to portray UK/EU relations post-Brexit as similar to, or no more significant than, any other international bilateral arrangement. Nevertheless, when considering the questions set out above, we note that that you describe the TCA in your EM on this report as: the “world’s largest zero-tariff, zero-quota free trade deal” securing “market access across a broad range of key service sectors”.

### **The report’s contents.**

The Commission’s report and your EM make interesting reading. It seems, based on the contents of your EM, that there is a great deal of common ground between the Government and the EU. The TCA is, in your words, “generally proceeding well”. However, we note that both sides have “outstanding issues which need to be addressed”; this is no surprise. Broadly speaking, these focus on for the Government, access to Horizon Europe and for the EU, implementation of the Protocol on Ireland/Northern Ireland. We have engaged you in correspondence on these matters separately so do not wish to raise them further here.

However, despite the positive picture of UK/EU relations painted by your EM, we note that both sides have now initiated formal disputes to resolve the points of contention highlighted above. Given this context, we remain to be convinced that UK/EU relations are as healthy as your EM seeks to portray them. Over recent years, various Ministers have sat in front of us and sought to reassure us that UK/EU relations will shortly settle down. In February 2021, the then Chancellor of the Duchy of Lancaster, the Rt Hon Michael Gove MP, looked forward to the “gin and tonic and peanuts” stage of the relationship, Lord Frost repeated similar sentiments later in the year.

We would suggest however that multiple disputes currently being undertaken by both Parties to the TCA portray a very different context and we remain concerned that a settled relationship between the Government and the EU still appears a long way off.

### *Governance structures*

We note that you praise the current operation of the TCA’s governance structures, describing them as “functioning as expected”. You add that “all (18) TCA Specialised Committees” have met at least once, with some meeting more regularly; you also predict that “all will meet again over the course of this year”. Of course, expectations will differ, but there remain ongoing problems in the implementation of the TCA which, were relations between the UK and EU ‘healthy’, we would expect a programme of vigorous work in the various Committees aimed at finding solutions.

For example, our Report “One year on—Trade in goods between Great Britain and the European Union” (4th Report of Session 2021-22, 16 December 2021, HL Paper 124) called on the UK and EU to show “flexibility” and work hard on reaching a “comprehensive agreement” on Sanitary and Phytosanitary rules. The report also highlighted evidence from numerous businesses that cited the inconsistent application of customs rules by EU Member States. In August, at the beginning of the summer holidays, there were widely reported significant delays at Dover and the Eurotunnel terminal in Folkestone. Finding solutions to all these problems will not be achieved if the ambition is nothing more than annual TCA Committee(s) meetings; as our report said, “it is clear that there is still much to do if the UK is to develop a mutually beneficial and efficient trading relationship with its neighbours in the EU”.

In June, the (then) Minister Rt Hon James Cleverly MP, told us that the TCA’s institutional architecture constitutes “new structures and there will always be the opportunities to learn, adjust and improve, but any improvement that we make will be from a pretty good starting point” (Q 11). In light of the Minister’s comments, we ask:

- (i) What lessons has the Government learnt so far from the operation of the TCA’s committee structure?
- (ii) What suggestions have you made for improvements?
- (iii) How were these suggestions received by the Commission? And,
- (iv) Which have been adopted?



### *Trade in goods*

With regard to Trade in Goods you say in your EM that “UK-EU trade is rebounding overall” adding that the latest monthly data from the Office for National Statistics “shows that UK goods exports to the EU reached their highest value (in current prices) since records began in January 1997” - a very positive view. In contrast, the Commission’s report is slightly more downbeat, highlighting the problems EU businesses face (pages 6 – 7 of the report), concluding that its “latest data shows that trade flows between the EU and the United Kingdom have partially stabilised in 2021 after an initial drop following the end of the transition period. However, they remained lower than in 2019 and earlier”.

As we noted in our December 2021 report, the pandemic casts a long shadow over any statistical analysis of UK/EU post-Brexit trade. In your EM on this report, you offer a single line (quoted above) on the Government’s latest interpretation of UK trade flows to the EU. We would welcome a more detailed analysis and explanation of the current state of play on UK/EU trade.

### *Relevant EU legislation*

On page three of your EM, you say that the Government is “committed to transparency and parliamentary scrutiny of TCA implementation”. We note that on page five of the report the Commission refers to legislation it has brought forward designed to govern the adoption of unilateral and enforcement measures under the TCA. Unfortunately, we have heard nothing from you about this EU legislation which appears to have implications for UK/EU relations and the operation of the TCA. We ask that you rectify this omission.

### *Conclusion*

Based on the contents of the Commission’s report and your EM we cannot avoid drawing the disappointing conclusion that the UK and EU’s inability to resolve their differences over the Protocol on Northern Ireland and access to the Horizon Europe programme illustrates that relations are being allowed to stagnate with very significant implications for wider UK/EU relations. On this basis the Committee does not share your claim in the EM that implementation of the TCA is “generally proceeding well”. We retain an interest in this matter and look forward to considering your response within the usual 10-day deadline.

3 November 2022

## **Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

Thank you for your letter of 3 November responding to my Department’s Explanatory Memorandum (EM) on the European Commission’s report regarding implementation of the UK-EU Trade and Cooperation Agreement (TCA). I am happy to commit the Department to submit EMs on similar reports in the future.

Your letter asked several questions which I will consider in turn. First, I’d like to address your conclusion that the TCA is not functioning as it should by reiterating what I said to the TCA’s Parliamentary Partnership Assembly on 7 November: our view is that the TCA is broadly functioning well and fulfilling its overarching objective of establishing clear and mutually advantageous rules governing trade and investment to the benefit of British businesses and consumers. This includes eliminating tariffs and quotas on qualifying goods, guaranteeing market access in key service sectors, establishing close cooperation in areas like transport, digital services, and law enforcement. Its committee architecture is fully operational, as is the Civil Society Forum and the Parliamentary Partnership Assembly, and we are currently preparing to sign a memorandum of understanding with the North Seas Energy Cooperation forum on offshore wind, delivering on an important TCA commitment.

Of course – as you highlighted in your letter – there are still some key TCA implementation issues which need to be resolved, including the UK’s association to Union programmes and delivering the electricity trading arrangements envisaged by the agreement. We are pressing the EU to resolve these issues through the formal TCA structures, and it is true that we think the link the EU has drawn with the Northern Ireland Protocol in some areas is not justifiable.

### **UK TCA implementation report**

You asked whether the Government plans to produce a report on TCA implementation.

I can confirm that the Government intends to produce its own report next year – and every two years thereafter. This will include an overview of our progress in delivering the agreement’s core provisions, and a summary of the work of the TCA’s specialised committees. We will of course share that report with your Committee in due course.

### **EU regulatory developments**

You noted the EU’s commitment to monitoring UK regulatory reform in the areas covered by the TCA. I can confirm the Government closely monitors regulatory developments in the EU for compliance with the TCA. This is an ongoing process. Where we become aware of potential compliance issues, we raise these with the EU, including through the formal TCA governance structures as below. As you will see from the published agendas, some of the issues already taken up include EU subsidies and export restrictions.

### **TCA governance**

You asked a series of questions on the TCA’s governance structures. Since implementation, we have used the agreement’s committees to:

- exchange updates on major legislative developments, such as the discussion at the Goods Trade Specialised Committee on the EU Chips Act and Carbon Border Adjustment Mechanism.
- accelerate delivery of the TCA’s provisions, such as our exchanges with the Commission at the Specialised Committee on Energy regarding the North Seas Energy Cooperation forum and electricity trading arrangements.
- and scrutinise compliance of EU and Member State policy measures with the TCA, such as our exchanges with the EU regarding their measures on live bivalve molluscs and seed potatoes at the Trade Specialised Committee on Sanitary and Phytosanitary measures, and on France’s Cloud doctrine at the Trade Specialised Committee on Public Procurement.

We are now preparing for a forthcoming meeting of the agreement’s senior committee on UK/EU trade, the Trade Partnership Committee.

You also asked about lessons learned. While we have only had two cycles of the agreement’s committees, my officials are already discussing with the EU how to improve the sequencing of the agreement’s governance throughout next year – as one conclusion has been that the heavy autumn schedule may not be the best way to organise ourselves.

More fundamentally, one lesson, though not a surprise, has been that, while important, the Specialised Committees are but one element of our engagement with the EU. I’m struck looking at some of the academic commentary by people arguing that they should be the fora for deciding on significant changes to the relationship – that is wrong. First, because they are official meetings and those decisions are rightly for ministers, but more prosaically because the EU is rather narrow in interpreting their scope as dealing with the implementation of the existing Treaty. That doesn’t mean other conversations are not happening – they are – it is simply that I think some of the expectations of the Committee structure in itself is probably wide of the mark. I note that the same is true for other third countries working with the EU.

### **Trade in Goods**

You highlighted the Commission’s comments on trade flows in their report and have requested a more detailed analysis of UK-EU trade in goods. The EU’s report incorporates total trade flows (imports and exports of both goods and services trade) between the UK and EU in 2021. Trade during this period was particularly affected by the Covid pandemic. The EU also takes a different approach to recording trade statistics with third countries, compared to the method used for trade between Member States, which makes comparison over time more difficult.

UK trade in goods with the EU has largely recovered from lows observed towards the start of 2021. In Q2 2022, the value of UK goods trade with the EU was £19.8 billion (18%) above pre-COVID levels (the 2018 quarter average), adjusting for inflation shows an increase of £1.7 billion compared to pre-COVID levels. UK services trade with the EU is increasing but remains below pre-COVID levels, due

in part to travel continuing to recover from the pandemic. In Q2 2022, UK services imports from the EU increased by 31% in current prices from 2021 average levels and services exports to the EU grew by 15% from 2021 average levels.

### **EU legislation on TCA enforcement**

You raised the EU's proposed regulation on the enforcement of the TCA and Withdrawal Agreement. This sets out the EU's internal procedures for taking enforcement measures under both Agreements. As such, it does not have a direct effect on the operation of the TCA. The regulation was proposed by the Commission earlier this year and we expect it to complete the ordinary legislative procedure by the end of 2022. I am happy to write to you when the regulation comes into force, or to produce an EM if desirable.

*17 November 2022*

### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

Thank you for your letter dated 17 November 2022 which was considered by the European Affairs Committee at its meeting of 31 January 2023. We apologise for the time it has taken us to reply.

We welcome your promise to deposit future similar Commission reports for scrutiny; and your confirmation (and promise to share with this Committee) the outcome of the Government's own plan to undertake a similar biennial exercise which will include an "overview of our progress in delivering the agreement's core provisions" and a summary of all the work undertaken by the Specialised Committees. We also look forward to considering your Explanatory Memorandum detailing the EU proposals mentioned in the Commission's report dealing with unilateral and enforcement measures taken by the EU under the Trade and Cooperation Agreement. We suggest that the texts be deposited once they are adopted by the Council.

We said in our letter dated 3 November 2022 on this matter, that expectations over the implementation and operation of the TCA will differ. Nevertheless, there is clearly a difference of opinion between us on the question as to whether the implementation of the TCA is "generally proceeding well". But we note that you have engaged with our questions on this issue which will form a key aspect of our forthcoming report on UK/EU relations which will be published once we have finished taking evidence.

Finally, we asked you to provide a "more detailed analysis and explanation of the current state of play on UK/EU trade" - we read your update with interest. We note that in contrast to the Commission which concluded in its report that despite the TCA "trade and cooperation between the EU and the United Kingdom have become more complex and challenging, as compared to the situation when the United Kingdom was an EU member", the figures you quote offer a more positive view, focusing instead on statistics that highlight growth when compared to pre-COVID levels of trade as measured in 2018. We note that on 2 February 2023, two days after the meeting at which your letter was discussed, the House will debate our Trade in Goods report published on 16 December 2021 (4th report, session 2021–22, HL Paper 124). We look forward to this opportunity to debate the report as it will enable Committee Members speaking to return to points which have been pursued in that report and in European Affairs Committee House of Lords London SW1A 0PW Tel: 020 7219 6083 [hleuroaffairs@parliament.uk](mailto:hleuroaffairs@parliament.uk) our subsequent correspondence. We also anticipate, with great interest, the Minister responsible, Lord Ahmad of Wimbledon's, response.

We have decided to bring our scrutiny of this matter to a close and do not expect a response to our letter.

*1 February 2023*

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 2023 A UNION  
STANDING FIRM AND UNITED- COM (22) 548

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Thank you for your Explanatory Memorandum (EM) dated 17 November 2022, it was considered by the European Affairs Committee at its meeting of 20 December 2022.

We welcome this opportunity to consider the Commission's Annual Work Programme (AWP) and your views thereon. Like you, we note that by its nature the Commission's AWP offers only a glimpse of its plans which will develop as the relevant proposals and policies are brought forward over the forthcoming year.

We note your comment in the EM that the AWP "is of interest to the UK ... in the same way that agenda of other allies is significant". In these difficult economic times, according to recent figures produced by the House of Commons Library, the EU's Single Market remains the UK's single biggest export market accounting for, in 2021, exports of goods and services totalling £636 billion (42% of UK exports of goods and services) and imports totalling £654 billion (45% of imports). The UK/EU relationship is defined by a formal agreement, the Trade and Cooperation Agreement (TCA), which seeks to impose a so-called level-playing field between the Parties in certain areas of cooperation and establishes a formal framework for UK/EU discussion and cooperation through the creation of the Partnership Council and the numerous Specialised Committees. Within this context, legislation emanating from the Commission and signposted in its AWP has the potential for significant implications for UK/EU relations. These factors alone place the UK/EU relationship in a class of its own and add a significant level of importance to the Commission's forthcoming plans; particularly, in those areas you define in your EM as "thematic areas of interest to the UK".

*Climate and Environment*

We welcome your statement that you share the EU's focus on the climate and note your two examples of UK engagement with the EU - on the European Emissions Trading Scheme and the EU wide review of the so-called REACH Regulation - through the relevant Specialised Committees created by the TCA. This work is of interest to us, as is the EU's plans for a Carbon Border Adjustment Mechanism (CBAM) which was recently agreed by the EU institutions and could have considerable implications for the UK's trade with the EU whether or not CBAMs are actually applied to the UK's exports to the EU. These issues have arisen as part of our current inquiry on the Future UK/EU relationship, and we would welcome a more detailed explanation of this cooperation.

*Digital Services and Data*

We note your statement that the AWP contained "significant proposals for digital services and data" and welcome your commitment to "securing the enormous potential the digital and tech sectors can bring to the UK". In our view, EU legislation in this area could have a significant impact on UK/EU relations, including your plans to develop the UK's digital and tech sectors, for regulatory divergence, and the potential imposition of non-tariff barriers to trade. You say, for example in relation to the Commission's planned "EU critical raw materials act" that you "must consider any effects on supply chains or UK access to critical raw materials". We agree and welcome your reassurance that you are discussing this matter with the EU in the TCA's Trade Specialised Committee. Can you tell us, therefore, how these discussions are developing and whether it includes the possibility of greater UK/EU cooperation in the important field of digital services and data; particularly, on the adoption of common regulatory standards and/or investment in digital infrastructure?

You also highlight the Commission's work towards a standard essential patent. We acknowledge that this work appears at an early stage with the detail yet to emerge. We are pleased to note that the UK Intellectual Property Office is engaging with the Commission and international partners on this matter and would welcome periodic updates as and when this issue develops. Please indicate in your response to this letter that you are happy to do so.

Foreign Policy and Development

We welcome the examples you highlight in your EM of the Government's work with the EU in coordinating support for Ukraine following Russia's invasion in February 2022. As you say, coordination on sanctions will increase their impact, but the imposition of sanctions alone is not sufficient, their restrictions must be policed and enforced. We note in this regard that the Commission plans to draw on the "experience of the current EU export control regime" in the context of the imposition of Russian sanctions "to strengthen our strategic export controls" while working closely with "our international partners". You say nothing in your EM about the Commission's plans; do you intend to engage with the Commission on this aspect of its AWP? If so, given the lack of a structured framework between the UK/EU in this policy area, in what forum might this work take place?

You also say nothing in your EM about the Commission's stated intention to "update [the EU's] sanctions toolbox" to cover corruption. While the AWP lacks detail, broadly speaking this will bring the EU into line with the UK's post-Brexit sanctions regime (specifically the Global Anti-Corruption Sanctions Regulations 2021) under which, as you know, the Secretary of State may impose restrictions on individuals engaged in serious corruption. (As of early December 2022, we note that 32 individuals are currently listed as subject to the UK's anti-corruption sanctions regime.) Do you welcome this development and, will you plan to coordinate with the EU on the future imposition of anti-corruption sanctions? As, surely, the wider the area within which restrictions apply improves the effectiveness of the specific sanctions regime which, in turn, assists with the achievement of UK foreign policy aims.

The Commission also mentions its intention to contribute to the work of the European Political Community (EPC) which meets in Spring next year in Moldova. What are the Government's objectives for this meeting?

#### *Economy trade and competitiveness*

We note your focus on the Commission's plan to bring forward a 'digital Euro' and welcome the Bank of England's maintenance of "regular contact with counterparts in the ECB" in an effort to monitor progress. Like you, we also anticipate that the Commission's proposed action on the recognition of third-country qualifications may have an impact on UK qualification holders. We would welcome therefore an undertaking from you to deposit for scrutiny any Commission proposal in this area when it is brought forward. (We ask that you confirm that you are willing to do this when you respond to this letter.) Further, has the issue of UK/EU qualification recognition been discussed in the relevant TCA Specialised Committee (presumably, Services, Investment and Digital Trade) and/or the Partnership Council?

#### *Justice and Home Affairs*

The Commission's plans in this area make for interesting reading, aspects of them, for example the proposal dealing with reform of the so-called Prüm II system (the system that provides for the automated exchange of specific data including DNA profiles, fingerprints and vehicle registration information between authorities responsible for the prevention, detection and investigation of criminal offences) overlap with the formal UK/EU relationship established by the TCA, while others on migration fall outside.

With regard to the former, the Commission's proposal was brought forward in December 2021 and, as you acknowledge in your EM, engages directly with provisions of the TCA (Article 541) and raises fundamental questions about the ongoing operation of key security related UK/EU cooperation. Yet, to date, you have told this Committee which has the responsibility for overseeing the TCA's operation, nothing about the Commission's proposal or whether you intend to 'dynamically align' with the EU's changes to the Prüm system so that UK authorities can continue to exchange this important data with their equivalents operating in the EU. We ask you to rectify this oversight and deposit for scrutiny with a Government EM the EU's proposed Regulation on Prüm II.

Turning to migration and asylum, we note your comment that the Commission's plans "align with our 'whole of route' approach" and that you continue to work with the "EU and its Member States to ensure that migration is better managed, productive and safe"; adding later, that you remain committed to "working with European and international partners to increase cooperation on this challenging and multifaceted issue". We agree with these sentiments and welcome your desire to work with the EU and international partners on solutions to this problem. We therefore ask if you could provide us with specific examples of the cooperation you have engaged in, specifically with the EU and, in which forum this work is undertaken given that the subject falls outside the TCA's provisions.

6 January 2023

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth & Development Office**

Thank you for your correspondence of 6 January in response to my Explanatory Memorandum, dated 17 November 2022, on the European Commission's Work Programme (CWP). I am replying as the Minister for Europe.

I am happy to reiterate that HMG continues to exercise interest in the CWP as well as the European Commission's broader work, commensurate with its significance to and impact on the UK and its interests. This work is grounded in the friendly cooperation between sovereign equals that underpins our wider relationship with the European Union. The FCDO will continue to update the European Affairs Committee in line with the agreed scrutiny arrangements.

Whilst the implications of individual policy proposals in the CWP will be assessed by HMG on a case-by-case basis as the Commission develops them and are liable to change as usual during that process, I am happy to expand on the specific areas you raise.

Climate and Environment

On 18 December, the European Parliament, Council, and Commission reached provisional agreement on the implementation of the EU's Carbon Border Adjustment Mechanism (CBAM). However, the final text is yet to be published. The Government – including BEIS, DIT and my department - continues to monitor the EU's CBAM to build a full understanding of its implications for the UK, engaging European Member States, third countries and trade associations to share UK perspectives alongside offering support to UK business as they prepare for the policy's initial implementation in October 2023. The Government has been appointed as an observer of the EU's informal expert group on the analytical methods for the monitoring, reporting, quantification and verification of embedded emissions in goods under the scope of the CBAM, which will address important outstanding technical questions.

Digital Services and Data

The Department for Digital, Culture, Media & Sport (DCMS) works closely with EU counterparts on shared digital priorities. While our engagement is not limited to the formal committee structures established by the Trade and Cooperation Agreement (TCA), they do provide a useful forum to ensure mutual understanding and explore areas of cooperation. Joint minutes from the most recent meeting of the Trade Specialised Committee on Services, Investment and Digital Trade (20 October 2022), can be found on GOV.UK. This meeting covered many of the developments raised in your letter, including the Online Safety Bill (UK) and the Digital Services Act and Digital Markets Act (EU). There was a positive discussion showing that there were areas of digital competition where the EU and UK are aligned and included a commitment for further cooperation.

On the Commission's work on standard essential patents, the UK Intellectual Property Office will issue updates on any relevant developments relating to engagement with the Commission and other international partners.

Foreign Policy and Development

On cooperation with the EU on foreign and security policy, while the UK does not have a formal dialogue with the EU, regular official level and ministerial conversations allow us to coordinate effectively – a notable example being Russia-Ukraine.

Turning to the specific areas you raise; the Government welcomes the EU's work to explore a sanctions tool to address corruption. International cooperation is at the heart of UK sanctions policy. The UK will seek to coordinate sanctions with partners, including the EU, whenever it is in our interests to do so. Sanctions are most effective when multiple countries act together to constrain or coerce a target's ability to carry out unacceptable behaviour, or to send a political signal that such behaviour is intolerable.

With regard to the UK's involvement in the European Political Community (EPC), the Government believes it should be an informal, intergovernmental grouping that regularly brings European leaders together to focus on cross-cutting issues such as (but not limited to) energy security or migration. You will have received my separate letter concerning the EPC alone, sent last week. The opportunity for

candid discussions between leaders representing the breadth of the continent does not exist in other comparable European institutions and we consider that a valuable opportunity in itself – for example it presents the opportunity for the Prime Minister to meet many of his opposite numbers. The Government looks forward to the next summit hosted by Moldova in June 2023 which we will seek to support, followed by Spain later this year. The former Prime Minister agreed to host the fourth meeting in the UK in 2024. The summit in Moldova will act as a high-profile demonstration of support to Ukraine and Moldova, and of European unity in the face of Russian aggression.

#### Economy, Trade, and Competitiveness

On professional qualifications, the TCA outlines a framework through which regulators from the UK and EU may come together to submit a joint recommendation for an arrangement to facilitate recognition (or 'recognition arrangement'). In its first meeting on 11 October 2021, the Agreement's Services, Investment and Digital Committee discussed implementation of Article 158 of the Agreement. At its second meeting on 20 October 2022, the Committee noted the technical discussions that had taken place after its first meeting to implement a workable process. The Committee took note of the first joint recommendation from regulators for a recognition arrangement to be developed to cover architecture between the UK and EU. Published minutes from both meetings can be found on GOV.UK.

When the European Commission's proposals on the recognition of third-country qualifications have been put forward, the Government will consider their impact on UK professionals and BEIS, as owners of this policy, will take a proportionate approach to updating the Committee.

#### Justice and Home Affairs

With regard to your Committee's scrutiny of the EU's proposed reform of the Prüm system for automated sharing of data between authorities in relation to the prevention, detection and investigation of criminal offences (as published in 2021), the FCDO will arrange for formal deposit of the text and the Home Office will prepare an accompanying Explanatory Memorandum (EM). However, the Government will only consider the UK's position once the EU has completed negotiations on the text and we are clear on what it will require.

You requested specific examples of HMG's cooperation with the EU on migration and asylum. The UK engages European partners, including the EU, regularly, to discuss the shared challenges of and risks posed by illegal migration. This includes through the recent inaugural meeting of the EPC on 6 October 2022 in Prague and the Calais Group meeting of Interior Ministers on 8 December 2022. Published records of both meetings can be found on GOV.UK. These engagements reinforce our operational links with the EU (including EU agencies such as Europol and Eurojust) as well as with Member States and are an important step in combatting people trafficking and people smuggling. The UK also participates, along with other third countries, in EU-led platforms focused on greater coordination and cooperation on legal pathways, specifically the Ukraine Solidarity Platform and the High-Level Forum focusing on providing protection to Afghans at risk.

*18 January 2023*

#### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

Thank you for your letter dated 18 January 2023 which was considered by the European Affairs Committee at its meeting of 7 February 2023.

The Committee finds the Commission's Annual Work Programme a useful indicator of policy proposals which are still in gestation, many of which will inevitably have consequences for the UK's own relationship with the EU. The fact that the work programme is in the public domain long before the proposals in it reach final form provides a valuable opportunity to promote and safeguard British interests in respect to them. We would welcome your confirmation that that too is how you see it; and that the Government will be active while the proposals remain in gestation.

We are grateful for your promises to deposit for scrutiny, with an accompanying Explanatory Memorandum, future EU proposals dealing with the recognition of third country qualifications and, the EU proposal (brought forward in December 2021) aimed at reforming the so-called Prüm mechanism for data exchange (we have recently received the EM dated 2 February on the latter). We also look

forward to considering the Intellectual Property Office's promised updates on any EU work towards a standard essential patent.

We note your welcome of the EU's plan to introduce a sanctions regime aimed at combatting corruption which, as we said in our letter of 30 January, will bring the EU into line with UK sanctions policy. We also welcome your view, which echoes sentiments expressed by this Committee previously, that international sanctions "are most effective when multiple countries act together to constrain or coerce a target's ability to carry out unacceptable behaviour".

However, you left unanswered those aspects of our letter that sought greater detail on UK/EU cooperation on: (i) the European Emissions Trading Scheme and the EU wide review of the so-called REACH Regulation; (ii) on the adoption of common regulatory standards and/or investment in digital infrastructure; and (iii) on UK/EU cooperation on migration. With regard to item (iii) we note that you cite discussions within the European Political Community and the Calais Group of interior Ministers, neither of which are EU bodies, and UK participation in "EU-led platforms focused on greater coordination and cooperation on *legal pathways*" (emphasis added). These are all streams of work that we welcome but our question was aimed at UK/EU cooperation to address the current problems caused by the small boats crossing the Channel and the steps the Government has taken in conjunction with the EU to secure solutions; given the fact that the 2 subject falls outside the TCA's provisions, we also asked in which forum this work is undertaken. We would be grateful if items (i) – (iii) above could be addressed.

8 February 2023

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Thank you for your correspondence of 8 February 2023 in response to my letter of 18 January 2023 regarding the European Commission's Work Programme (CWP). I am replying as the Minister for Europe.

I am happy to reiterate His Majesty's Government (HMG)'s ongoing interest in the CWP as well as the European Commission's broader work, commensurate with its significance to and impact on the UK and its interests. Since I last wrote, my department remains engaged on the CWP's objectives and its potential implications.

As set out in my letter of 18 January, HMG will consider the impact of the European Commission's proposals on the recognition of qualifications of UK professionals. The Department for Business and Trade (formerly BEIS), as the policy-owning department, will endeavour to keep your officials informed when proposals emerge and discuss scrutiny handling.

Your letter asked for greater detail on the CWP proposal concerning the EU REACH regulation. This regulation does not apply to Great Britain, but the proposal will have implications for Northern Ireland, where EU REACH continues to apply under the Northern Ireland Protocol. We anticipate the EU's draft legislative proposal will be published in late 2023 and we will continue to monitor this file and consider any implications for UK businesses, including by way of our regular engagement with the EU institutions.

I am also happy to draw your attention to Defra's exploration of an Alternative Transitional Registration model for Great Britain. This will aim to reduce the cost to business of transitioning from EU REACH to UK REACH, while ensuring high levels of protection for human health and the environment. The UK and EU continue to exchange views on developments in the regulation of chemicals including, where appropriate, through the Specialised Committee on Technical Barriers to Trade under the UK/EU Trade and Cooperation Agreement (TCA). You can find further information on the Alternative Transitional Registration model in the Consultation on Extending the UK REACH Submission Deadlines on GOV.UK.

As requested, I have provided further detail below to the information I provided in my letter of 18 January on the adoption of common regulatory standards and investment in digital infrastructure, and on UK/EU cooperation on migration.



On the former, HMG works with EU counterparts on a range of shared digital priorities, including through the committee structures established by the TCA. The UK's exit from the EU allows HMG to set its own direction on digital regulation and we are implementing a proportionate, pro-growth regulatory regime that protects citizens, while encouraging investment and innovation. HMG is committed to working collaboratively with international partners, including the EU, to develop a more open, diverse and innovative telecoms equipment market. This has the potential to bolster digital infrastructure supply chain resilience and improve security through innovative approaches to wireless infrastructure.

On the latter, we want a positive and constructive relationship with the EU and its Member States. The UK clearly sees, and advocates for, the benefits of strengthening cooperation on illegal migration, and we are therefore engaging with the European Commission and individual Member States to that end. Our ambition is to maximise and build on existing operational cooperation between our law enforcement, criminal justice and border guard agencies to tackle trafficking and smuggling and to remove illegal immigrants. This will include exploring opportunities to share expertise, training and resources on a formal basis in addition to arrangements for cooperation in migrants' countries of origin and transit. We will continue to make the case to the EU that cooperation between the UK and EU is of mutual benefit. The form, shape, and structure of any agreements with the EU or member states would be subject to negotiations.

While the UK does not currently have a structured legal relationship with the EU covering the issue of illegal migration, we have strong relationships with both Europol and Eurojust by virtue of the TCA. Through these relationships, we will continue to work on the ground to tackle illegal migration and bring perpetrators of organised crime to justice. In one example, the National Crime Agency (NCA) led Operation Punjum in July last year. This was the biggest ever international operation of its kind, alongside Operation Thoren in Europe, to target an organised crime group suspected of smuggling up to 10,000 people across the Channel in the last 12-18 months.

Furthermore, the UK continues to build on important operational work with France to prevent channel crossings of migrants in small boats. The UK and France prevented over 23,000 small boat crossings in 2021 and over 38,000 by October 2022. Alongside this, 55 organised crime groups were dismantled and over 500 arrests were made. This was supported by the work of the UK-France Joint Intelligence Cell, in which UK and French officials collate and analyse operational intelligence to prevent crossings from taking place and to dismantle the gangs behind them. In November, the Home Secretary and her French counterpart, Gérald Darmanin, agreed arrangements that would – for the first time ever – see UK officers embedded in French operations. A 40% uplift in the number of officers patrolling French beaches was also agreed.

22 February 2023

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office,**

Thank you for your letter dated 22 February 2023 which was considered by the European Affairs Committee at its meeting of 21 March 2023.

We note your answers to our questions regarding the UK's collaborative work with the EU across two of the "thematic areas of interest" highlighted in your Explanatory Memorandum: (i) the climate and the environment; and (ii) digital services and data. Since its establishment, this Committee has repeatedly advocated early engagement by the Government with the EU's institutions on relevant shared interests and legislative proposals. As we said in our most recent letter to you on this subject, the Commission's Annual Work Programme offers a valuable opportunity for the Government to promote and safeguard British interests while EU proposals remain in gestation, and we sought your reassurance that you agreed. We are disappointed, therefore, that you decided not to engage with this aspect of our reply and would request that you now respond to our point.

On the question of migration, an issue which is currently a key priority for the Government, we are grateful for the insight you provided into UK/EU and UK/French cooperation. In so doing, you referenced the "strong relationships with both Europol and Eurojust" established by the Trade and Cooperation Agreement (TCA) which you say have been utilised to help tackle the so-called small boats

problem. We note that you added: “Through these relationships, we will continue to work on the ground to tackle illegal migration and bring perpetrators of organised crime to justice”.

As you know, the law enforcement arrangements established by the TCA are based on the Parties’ “longstanding respect” for democracy, the rule of law and the protection of fundamental rights and freedoms of individuals. These include those set out in the Universal Declaration of Human Rights and in the European Convention on Human Rights (ECHR) and on the “importance of giving effect to the rights and freedoms in that Convention domestically” (Article 524 TCA). The TCA’s law enforcement arrangements can be ended immediately if the UK denounces the ECHR or can be suspended (in whole or in part) following a “serious and systemic” deficiency within the UK as regards “the protection of fundamental rights” (Articles 692(2) and 693(1) TCA).

We are concerned, therefore, by the potential dangers to the ongoing smooth operation of these law enforcement arrangements posed by the Government’s recently announced Illegal Migration Bill (the Bill). Leaving aside the merits (or otherwise) of the Bill, which fall to other Committees in Parliament to consider, we note, for example, the following factors which give rise to concern:

- (i) in introducing the Bill to Parliament, the Home Secretary was unable to certify that it was compatible with the ECHR (section 19(1)(b) of the Human Rights Act 1998 (HRA) requires Government Ministers to make a declaration of compatibility with the ECHR when introducing legislation).
- (ii) Clause 1(5) of the Bill specifically disapplies Section 3 of the HRA (which requires anyone interpreting UK law to do so in a way that is compatible with human rights, whether they are a court, tribunal or public authority).
- (iii) Clause 4(2) and (5) remove an individual’s right to make a claim in the UK pursuant to section 6 of the HRA (section 6 of the HRA makes it unlawful for a public authority to act in a way that is incompatible with a person’s rights under the ECHR); and,
- (iv) that, on 21 February 2023, the Secretary of State for Justice and Lord Chancellor, Rt Hon Dominic Raab MP, told the House of Commons:

“We have made it clear that we would not rule out ever withdrawing from the ECHR in the future. We certainly need to make sure that we have a viable legal regime that allows us to tackle illegal immigration”. In light of these factors and the rights safeguards built into the TCA, before bringing forward the Bill, did the Government specifically weigh its potential negative impact on the ongoing operation of Part Three of the TCA? If so, what was the conclusion? Has the Government undertaken any political and/or legal analysis of the Bill’s impact on the operation of Part Three of the TCA? Would, for example, Clauses 1(5) and 4(2) and (5) of the Bill, which all seek to limit an individual’s access to key aspects of the HRA, represent a “serious and systemic” deficiency within the UK as regards “the protection of fundamental rights”?

*21 March 2023*

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth & Development Office**

Thank you for your correspondence of 21 March 2023 in response to my letter of 22 February 2023 regarding the European Commission’s Work Programme (CWP).

Your letter opened on the point about utilising the CWP as a valuable opportunity for the Government to seize legislative and other developments and promote British interests. I am sorry that you did not consider that our previous correspondence addressed your original point, it was certainly not our intention. I would simply add that the point is broader – we need to be engaging as early as possible which is often before issues are outlined in the CWP. Moreover, I think those exchanges on upcoming policy issues are valuable for both sides.

You asked further questions about migration and the intersection of the recently proposed Illegal Migration Bill and our EU engagement. As you note, migration is one of the Prime Minister’s five priorities and one we are committed to delivering. The Bill is an ambitious piece of legislation designed to prevent further loss of life by disrupting the business model of people-smuggling networks which put

lives at risk through dangerous and illegal crossings. Our view is, as you know, that these reforms are targeted, necessary, reasonable and proportionate.

You raise the interaction and impact of the Bill on the UK-EU Trade and Cooperation Agreement (TCA). Specifically, you asked whether the UK had considered the impact of the Bill on the ongoing operation of Part III of the TCA. I can confirm that the Government has carefully considered whether the Illegal Migration Bill is compliant with the UK's international legal obligations and is satisfied that the measures in the Bill are capable of being applied compatibly with the rights set out in the ECHR and the UK's other international obligations. We do not consider that cooperation under Part III of the TCA would be affected by the passage of the Illegal Migration Bill.

12 April 2023

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth & Development Office**

Thank you for your letter dated 12 April 2023 which was considered by the European Affairs Committee at its meetings of 16 and 23 May 2023.

We note your apology regarding our question about the extent to which the Commission's Annual Work Programme (AWP) offers the Government an opportunity to influence the Commission's plans. We agree that the Government should be engaging with the EU early and look forward, in future, to hearing about your efforts to that end.

Turning to the potential negative impact of the Illegal Migration Bill on UK/EU relations and the ongoing operation of Part Three of the Trade and Cooperation Agreement (TCA), we touched on this issue in our most recent report on "The Future of UK/EU Relations" (4th Report of session 2022-23, 29 April 2023, HL Paper 184) and our most recent letter to you raised a range of specific concerns about the content of the Bill and its interrelationship with the TCA. We also asked a series of questions about the extent to which the Government has assessed the Bill's potential impact on Part Three. In so doing, we noted Article 693(1) TCA which, as you know, states that Part Three can be suspended (in its entirety or any of its individual Titles) following a "serious and systemic" deficiency within one Party as regards "the protection of fundamental rights or the principles of the rule of law".

You make two brief statements in your letter in response. First, you say that as far as the Government is concerned, it is "satisfied that the measures in the Bill are capable of being applied compatibly with the rights set out in the ECHR and the UK's other international obligations". We are unable, however, to reconcile this assertion with the following factors:

- (i) on 7 March, when the Home Secretary introduced the Bill to Parliament, she expressed confidence that it was "compatible with international law" but in describing the Government's approach as "robust and novel" she was unable to "make a definitive statement of compatibility" with the ECHR as required by section 19 of the Human Rights Act.
- (ii) on 29 March, the Council of Europe's Expert Group on Action Against Trafficking in Human Beings (GRETA) expressed "deep concern" over the Bill warning that it would "constitute a significant step backwards in the fight against human trafficking and modern slavery in the UK" and "run contrary to the United Kingdom's obligations under the [Council of Europe] Anti-trafficking Convention, to prevent human trafficking, and to identify and protect victims of trafficking, without discrimination"; and,
- (iii) on 10 May 2023, the day that the Bill began its Second Reading in the House of Lords, we note that 176 civil society organisations published an open letter stating that it "attacks the very core of human rights" and "will almost certainly" breach multiple international conventions and agreements including the UN Refugee Convention and the ECHR.

In your second statement, you say that the Government does "not consider that cooperation under Part III of the TCA would be affected by the passage of the Illegal Migration Bill". Given the ECHR based concerns cited above and the conditionality built into the operation of Part Three of the TCA (the Parties' adherence to the rights protected in the ECHR) we are not persuaded. We note also that the impact of the Bill is of concern to the EU. The new EU Ambassador to the UK, Pedro Serrano, in an

interview with the Guardian, expressed specific concern about the Illegal Migration Bill, stating that the EU “considers that this is a fundamental issue, and we do hope that our partners also will continue supporting both the European Court for Human Rights and, of course, the Council of Europe, which is one of the backbones for the respect for human rights in the European continent”.

We are disappointed by your lack of engagement with our concerns about the potential impact of the Illegal Migration Bill on UK/EU relations broadly, and specifically in relation to Part Three of the TCA. As a consequence, we await your reassurance that the Bill will have no impact on UK/EU relations.

We retain an interest in this matter and look forward to considering your response to this letter within the usual 10-day deadline.

24 May 2023

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth & Development Office**

Thank you for your correspondence of 24 May 2023 in response to my letter of 22 February 2023 regarding the Illegal Migration Bill.

Firstly, I am glad to hear that the Committee shares our view on the need to engage early with the EU on legislative and other proposals.

Your letter also raised questions about the Illegal Migration Bill, and the UK’s international obligations. The UK has a strong tradition of both ensuring rights and liberties are protected domestically and fulfilling our international human rights obligations. The Prime Minister attended the Council of Europe Summit in Reykjavik because the UK is committed to working with our European partners to defend our common values and support freedom, democracy and the rule of law across the continent.

Turning specifically to the Bill, the Government has concluded that radical solutions are required to put a stop to small boats crossing the Channel. The approach adopted is therefore new and ambitious, but there is nothing in the Bill which requires the UK to act incompatibly with its international obligations, and therefore, we do not consider that cooperation under Part III of the TCA would be affected.

The Government has published detailed ECHR analysis already, including memoranda of 7 March and 26 April which address the issues you raise, including those related to Clause 1(5) and Clause 4(2) and (5).

As regards the Refugee Convention, there is nothing in the Bill that requires the UK to breach its international obligations. We have always made it clear that no one will be returned or removed to a country where they may be persecuted – this will not change.

I note also your comments regarding The Council of Europe’s Group on Action Against Trafficking in Human Beings (GRETA). The UK is committed to supporting victims of modern slavery, indeed has led the world in the legislative framework we have applied to these issues and will continue to do so through the National Referral Mechanism. But it is vital that the Government takes steps to reduce or remove incentives for individuals to enter the country illegally. Where someone has entered the UK illegally and is identified as a potential victim of modern slavery, we will ensure they are returned home or to another safe country, away from those who have trafficked them.

Thank you again for your letter, and I hope you find this response useful.

14 June 2023

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth & Development Office**

Thank you for your letter dated 14 June 2023 which was considered by the European Affairs Committee at its meeting of 27 June.

We note your response to our concerns about the potential impact of the Government’s Illegal Migration Bill on UK/EU relations broadly and on the continued operation of Part Three of the Trade and Cooperation Agreement dealing with post-Brexit arrangements for crime and law enforcement. As you know, on 11 June 2023 the Joint Committee on Human Rights published its report on the Bill, we

have noted its contents and look forward to the Government's response. In the light of that, we will consider whether there are further points we wish to pursue.

We have one remaining question: has the Government received any submissions from the EU expressing concerns about the contents of the Illegal Migration Bill, if so, what are they?

We retain an interest in this matter and look forward to considering your response to this letter within the usual 10-day deadline.

*28 June 2023*

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth & Development Office**

Thank you for your correspondence of 28 June 2023 in response to my letter to the Committee of 14 June 2023 regarding the Illegal Migration Bill.

Your letter asked about any submissions from the EU expressing concerns about the content of the Illegal Migration Bill. The Government has not received any formal submission from the EU on the matter since the Bill's publication.

There remains considerable appetite to discuss new and innovative solutions to the challenge of illegal migration at a Europe-wide level. The Prime Minister led discussions with European leaders on the matter at the Council of Europe Summit in Reykjavik on 16- 17 May and European Political Community in Chisinau on 1 June.

European leaders and officials have taken note of the UK's approaches to tackling illegal migration and organised immigration crime, including the Illegal Migration Bill. We share the same objectives of breaking the business model of traffickers and smuggling networks and tackling the root causes of illegal migration to avoid people taking dangerous journeys. This is why the UK and EU are negotiating a UK-Frontex Working Arrangement so we can work together to strengthen Europe's external border. We need to go further with an ambitious UK-EU Migration Agreement that includes readmissions, to send a strong message there is nothing to be gained from dangerous and illegal movement into and across the EU, will be to no end.

Thank you again for your letter, and I hope you find this response useful.

*10 July 2023*

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Thank you for your letter dated 10 July 2023, which was considered by the European Affairs Committee at its meetings of 18 and 25 July.

We are grateful for your clear response to our question regarding the Illegal Migration Bill and note that the Government has not received any "formal submission from the EU on the matter since the Bill's publication". As, of course, you know the Bill completed its passage through Parliament on Monday 17 July and has now received Royal Assent. This Committee will keep under review the implementation of the Act while monitoring its impact on UK/EU relations broadly and, given the human rights conditionality included within the Trade and Cooperation Agreement (TCA), its implications for part Three on law enforcement and judicial cooperation in criminal matters. We also continue to await the Government's formal response to the Joint Committee on Human Rights' June report on the Bill.

We welcome your confirmation that the UK and EU are in the process of negotiating a UK-Frontex Working Arrangement and ask that you provide us with a progress report on its aims, contents, and its negotiation.

You also shared the Government's desire to "go further" and conclude an "ambitious UK-EU Migration Agreement". This was one of the Government's aims when it was negotiating the TCA but, at that time, the EU would not engage. In earlier correspondence on the Commission's Annual Work Programme (AWP), we addressed the question of UK/EU based cooperation designed to address the current problems caused by small boats crossing the Channel (see, in particular, our letters dated 6 January and

8 February 2023). In response, you cited the inaugural meeting of the European Political Community (EPC), the Calais Group meeting of Interior Ministers and various operations pursued through Europol and Eurojust as examples of European cooperation designed to address the problem. In your letter of 23 February, you also pointed to UK/French cooperation adding that the “UK continues to build on important operational work with France to prevent channel crossings of migrants in small boats”.

Your confirmation in this latest letter that the Government wishes to pursue a UK/EU solution to the problem appears to signal a significant change in policy. What has changed? Given that the EU was unwilling to discuss such an agreement with the UK during the negotiation of the TCA, are you confident that it is willing to engage now? If so, why?

Most of the examples of European cooperation you cited to this Committee in previous correspondence on the AWP were either intergovernmental (the EPC) or based on bilateral cooperation with individual Member State governments with a focus, for obvious reasons, on 2 France. Why has the Government now decided to pivot away from a bilateral approach and seek an agreement with the EU? What more do you hope to achieve? Have you raised your change of policy with the French Government? If so, what was its response? Have you canvassed the views of any of the other individual EU Member State governments? If so, did they welcome this change?

We retain an interest in this matter and look forward to considering your response when the House returns after the summer recess.

*26 July 2023*

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Thank you for your correspondence of 26 July 2023 in response to my letter to the Committee of 14 June 2023 regarding the Illegal Migration Bill, now Act.

Your letter asked about talks with the EU on a UK-Frontex working arrangement. You will appreciate that I wish to avoid prejudicing the outcome of negotiations so will refrain from commenting at this stage. The Government would be happy to update you further once negotiations have concluded.

Illegal migration is a pan-European issue, and international fora such as the European Political Community provide a crucial opportunity to discuss trends and geopolitical impacts, as well as enhancing operational and upstream cooperation. That is why, as you note, the Government is engaging extensively with through a range of multilateral fora, including the Calais Group, United Nations, the G7 and G20.

In addition to the close cooperation that you recalled as stemming from the UK-France Summit, the Prime Minister has since agreed new migration partnerships with Italy, Bulgaria and Turkey. We are also working to strengthen cooperation to tackle people smuggling with several other countries.

Our commitment to bilateral arrangements to stop illegal migration is not at odds with the value this Government places on a UK-EU Migration Agreement. I note that the UK-France Joint Leaders' Declaration (March '23) references the need for closer EU-UK cooperation to improve migration management which I hope addresses your question about our relationship with French counterparts. I also draw your attention to the recent UK-Italy Memorandum of Understanding (April '23) and UK-Sweden Joint Leaders Statement (June '23) which similarly underlines the importance of UK-EU cooperation on this matter.

We have raised, and will continue to raise, through bilateral and multilateral channels, the value of closer UK-EU collaboration on illegal migration.

Thank you again for your letter, and I hope you find this response useful.

*5 September 2023*

## Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office

Thank you for your letter dated 5 September 2023 which was considered by the European Affairs Committee at its meeting of 17 October.

Our most recent letter to you sought further information from the Government in relation to two significant developments that you brought to our attention in your letter dated 10 July 2023: (i) the negotiation of a UK/Frontex Agreement; and, (ii) in the context of potential solutions to the so-called small boats problem in the Channel, the Government's apparent pivot away from a bilateral approach to seeking, in your words, "an ambitious" migration agreement with the EU. In relation to the latter, we noted that the EU had refused to discuss this issue during the negotiation of the Trade and Cooperation Agreement.

With regard to your response to issue (i) we note that that you are unable to provide us with an update because you would not wish to prejudice ongoing negotiations and your promise to update this Committee once the negotiations have concluded. As you know, the negotiation and agreement of third country arrangements with Frontex is governed by its founding legislation (Regulation 2019/1896 (the Frontex Regulation) in particular Articles 68 – 78). These provisions were augmented in 2021 when the Commission issued a Communication setting out the "Model Working Arrangements" (MWA) that would apply to the negotiation of third country arrangements with Frontex. We note that the Communication acknowledges that each arrangement is context specific, but it also predetermines formulaically, across 14 specific areas, the contents of these arrangements and how they will work. Do you expect, therefore, that any prospective UK/Frontex agreement will be discussed within the limits of the framework set down by the Commission in its 2021 Communication or are you hoping to achieve a bespoke UK arrangement?

If the negotiations are to take place within the confines of the Commission's MWA, we would welcome your answers to the following questions:

(i) What is the scope, nature, and purpose of the cooperation you envisage between the UK and Frontex (Articles 1 – 3 of the MWA)?

(ii) How do you anticipate that a UK/EU Frontex arrangement will contribute to a reduction in Channel crossings?

(iii) How do you anticipate that the funding arrangement will work; do you expect that the UK will be required to make a financial contribution to Frontex (Article 11 MWA)? And,

(iv) One of the Commission's "Model Working Arrangements" seeks to ensure that "fundamental rights are fully respected at all times in relation to the application of the working arrangement" and it provides for the "Agency's fundamental rights officer and fundamental rights monitors to ensure such respect" (Article 4 MWA). How do you expect this principle to be applied to a UK/EU Frontex arrangement? Do you anticipate any difficulties given further recent statements by members of the Government that it may consider withdrawing from the European Convention on Human Rights? And is this provision compatible with the Illegal Migration Act which precludes the UK from considering the validity of individual asylum claims?

Further, in light of your promise to share the details of any UK/EU Frontex arrangement with the Committee "once negotiations are concluded", you will recall, despite the UK's decision not to participate in Frontex when it was an EU Member State, that the Frontex Regulation requires the Agency to "provide the European Parliament with detailed information as regards the parties to the working arrangement and its envisaged content", crucially, "before any such working arrangement is concluded" (emphasis added) (Article 76(4)). Do you intend to extend the same courtesy to Parliament and this Committee?

We note also that earlier this year the Council agreed a General Approach to its 'New Pact on Migration and Asylum', what implications are there in these arrangements for the UK?

We also raised questions about what we saw as a significant policy change by the Government to pursue an "ambitious" migration agreement with the EU. Having noted that the EU would not discuss this issue with the UK as part of the negotiation of the Trade and Cooperation Agreement we asked whether you were "confident" that it was willing to engage now. You left this question unanswered. What

progress have you made in persuading the EU to discuss this issue? And when do you anticipate formal discussions of a UK/EU migration agreement will begin?

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

*18 October 2023*

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development Office**

Thank you for your correspondence of 18 October 2023 in response to my letter of 5 September concerning the Commission's Annual Work Programme 2023.

I note that you will have received a copy of the letter of 16 October from the Minister of State for Immigration to the Rt Hon Dame Diana Johnson MP concerning the prospective working arrangement between Frontex and the UK.

Your letter asked about talks with the EU on a UK-Frontex working arrangement. Our priority is finalising the deal and starting cooperation as soon as possible once the Working Arrangement has been signed. As per my previous reply, we will refrain from commenting on the content of the Working Arrangement while discussions are ongoing. We note the requirement on Frontex set out in Article 76(4) of its Regulation and will provide further details on the working arrangement soon.

You asked about the EU's Migration and Asylum Pact and what the implications are for its arrangements with the UK. Whilst we understand that some elements have been agreed, the overall Pact is still under negotiations within the EU. We continue to monitor progress.

We benefit from our ever-improving cooperation with the EU and its member states on illegal migration. We continue to engage with both our European partners and the EU institutions to address issues like organised immigration crime, and to strengthen our respective borders. We want to build on this momentum and progress operational cooperation and political partnership, essential if we are to truly disincentivise and prevent the most dangerous illegal migration across Europe.

At the recent European Political Community Summit in Granada, we agreed new initiatives to tackle organised international crime and migration with Bulgaria and Serbia. The Prime Minister also co-chaired a leaders' meeting with Italian Prime Minister Meloni, joined by France, the European Commission, the Netherlands, and Albania. We reached a clear political agreement, through a set of 8 principles, to take stronger action on smuggling gangs and strengthen European cooperation.

*26 October 2023*

**MEMORANDUM OF UNDERSTANDING ON OFFSHORE RENEWABLE ENERGY  
COOPERATION – UNNUMBERED**

**Letter from the Chair to the Rt Hon Graham Stuart MP, Minister of State for Energy  
and Climate, Department for Business, Energy, and Industrial Strategy**

At its meeting on 20 December, the European Affairs Committee noted the Memorandum of Understanding on offshore renewable energy cooperation between the UK and the participants of the North Seas Energy Cooperation, which you signed on 18 December.

In line with arrangements recently agreed with the Government concerning scrutiny of EU related matters, the Committee considered that its scrutiny of this agreement would benefit from it being deposited in Parliament with an accompanying Explanatory Memorandum. We ask you to confirm that you would be willing to do this in response to this letter.

We look forward to receiving a response within the usual 10-day deadline.

*21 December 2022*



**Letter to the Chair from the Rt Hon Graham Stuart MP, Minister for State for Energy and Climate, Department for Business, Energy & Industrial Strategy**

Thank you for your letter regarding the Memorandum of Understanding on offshore renewable energy cooperation between the UK and the participants of the North Seas Energy Cooperation.

I hereby confirm that the Department for Business, Energy and Industrial Strategy (BEIS) will deposit the Memorandum of Understanding in Parliament with an accompanying Explanatory Memorandum.

*9 January 2023*

**Letter to the Chair from the Rt Hon Graham Stuart MP, Minister for State for Energy and Climate, Department for Business, Energy & Industrial Strategy**

I am writing to you to inform you of the Memorandum of Understanding ('MoU') on offshore renewable energy cooperation between the UK and the participants of the North Seas Energy Cooperation ('NSEC') that I signed on 18 December 2022. This MoU has been agreed following Article 321 of the UK-EU Trade and Cooperation Agreement which commits the UK and EU to cooperate in the development of offshore renewable energy and will provide the framework for regional cooperation with our North Seas neighbours.

It was a great privilege to sign the MoU alongside fellow Energy Ministers and representatives from Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Norway, Sweden, and Energy Commissioner Kadri Simson.

The North Sea is a core component of the UK's energy transition strategy. We have ambitious targets to increase offshore wind to 50GW and deliver 18GW of electricity interconnector capacity, all by 2030. In order to deliver these targets in an efficient and sustainable manner, we need to work together across the region to develop a future vision for offshore low carbon infrastructure. Whilst the UK will not be a full member of NSEC, as a third country, we will be invited to attend NSEC meetings to discuss specific topics or projects of "direct common interest" to the UK and NSEC participants.

I look forward to the UK resuming our participation in those discussions. The importance of collaborating on renewable technologies and reducing our reliance on fossil fuels has only become more acute following Russia's invasion of Ukraine. Alongside this letter, the Department for Business, Energy and Industrial Strategy (BEIS) is depositing the MoU in Parliament with an accompanying Explanatory memorandum for examination by the EU Scrutiny Select Committees in each House.

*30 January 2023*

**Letter from the Chair to the Rt Hon Graham Stuart MP, Minister for Energy Security and Net Zero, Department for Energy Security and Net Zero**

Thank you for your letter dated 30 January 2023 regarding the Memorandum of Understanding on Offshore Renewable Energy Cooperation between the UK and the Participants of the North Seas Energy Cooperation (NSEC), and for the accompanying Explanatory Memorandum. These were considered by the Committee at its meeting on 7 March 2023.

The Committee was disappointed by the brevity of the EM, which did not contain much additional information beyond that included in the MoU.

Cooperation between the UK and the NSEC was raised during evidence sessions held by the Committee in November 2022 as part of its current inquiry into the future UK-EU relationship. The consensus among witnesses that we heard from was that it was essential for the UK to re-engage with the NSEC, given the scale of the respective plans of the UK, EU Member States and Norway to develop offshore renewables in the North Seas, and the importance of these plans in the context of emissions reduction targets. Witnesses emphasised, in particular, the need to cooperate on plans to develop Multi-Purpose Interconnectors.

The Committee considers it to be regrettable that there were no arrangements for the UK to engage with the NSEC between January 2021 and December 2022. We therefore welcome the resumption of cooperation between the UK and the NSEC provided for under the MoU, including the intention to

work together on joint projects and share information. We agree that cooperation in this area has only become more essential following Russia's invasion of Ukraine.

We note that the MoU does not provide for the UK to rejoin the NSEC as a full member, and that it is not guaranteed that UK representatives will be invited to attend every meeting. The UK's involvement in the NSEC will therefore be more restricted than was the case before 2021. Given that the NSEC is not an EU body, and that it already has a non-EU member (Norway) among its membership, we ask you to clarify why the UK is not rejoining as a full member, and whether this possibility was raised during the discussions with NSEC members that led to the MoU. We also ask that, in reply to this letter, you indicate what factors the Government took into account when considering the status of the UK's engagement with the NSEC.

We welcome the intention, expressed in your letter, to "work together across the region to develop a future vision for offshore low carbon infrastructure". We ask you, in reply, to provide 2 some further detail on the sort of projects on which the UK intends to engage in collaboration with the participants of the NSEC. In particular, we would be interested to hear about any plans to cooperate on plans to develop Multi-Purpose Interconnectors in the North Seas.

We note that in September 2022 the participants of the NSEC agreed a new target to build a minimum of 260GW of offshore wind in the North Sea region by 2050, with intermediate targets of at least 76 GW by 2023 and 193 GW by 2040. We acknowledge that the UK has its own, separate, targets for the development of offshore wind. We ask you to indicate, in response to this letter, whether the Government supports the NSEC's targets and, if so, how they relate to those of the UK.

Although energy policy is reserved in Scotland and Wales, the development of renewable energy in the North Sea is a matter of significant interest to all of the devolved governments. We therefore ask, firstly, whether the devolved governments were consulted during the development of the MoU. We note that the EM indicates that the devolved governments will "play a key role" in engagement with the NSEC. In reply to this letter, we ask you to provide a more specific indication of what this is expected to involve. Will representatives of the devolved governments be invited to meetings of the NSEC where matters relevant to them are on the agenda?

Finally, we note that the MoU will operate for an initial period until 2026 and will thereafter be subject to the continued application of the Energy Title of the TCA. Given the long-term nature of the NSEC's plans, including targets to develop offshore renewable energy up to 2050, we consider it to be essential that cooperation between the UK and the NSEC continues beyond 2026. We therefore ask you to confirm that the Government intends to seek an extension to the provisions of the Energy Title of the TCA to ensure this.

We retain an interest in this matter and look forward to considering your response within the normal 10-day deadline.

8 March 2023

**Letter to the Chair from the Rt Hon Graham Stuart MP, Minister of State at the  
Department for Energy Security & Net Zero, Department for Energy Security & Net  
Zero**

Thank you for your letter dated 8 March regarding the Memorandum of Understanding (MoU) on offshore renewable energy cooperation between the UK and the participants of the North Seas Energy Cooperation (NSEC). I noted the evidence sessions and the stakeholder interest in this important agenda, which represents an opportunity for the UK to shape and influence regional approaches in areas critical to expanding the deployment of renewable energy in the North Seas.

You ask about the UK's status under the MoU. Whilst it is correct that the UK is not a full member of NSEC, we will be invited to attend NSEC meetings to discuss specific topics or projects of "direct common interest" to the UK and NSEC participants. We expect this to include a substantial proportion of the meetings under the NSEC work programme, with the only ones not open to us being those where future EU policy will be discussed. The Government's key priorities for the UK's NSEC participation include developing frameworks for Multi-Purpose Interconnectors (MPIs); coordinating with NSEC members on maritime spatial planning, ensuring the high volumes of offshore infrastructure needed to deliver our visions are constructed with the minimum impact on the environment;

coordinating the delivery of wind and grid infrastructure. We are engaging closely with the European Commission and the Dutch NSEC presidency on setting out the details of UK participation in NSEC.

As you mention, NSEC does already include a non-EU member (Norway). However, the key difference between the UK and Norway is that, as an EEA member, Norway is bound by EU energy market rules, whereas the UK is not.

As you note, NSEC members have agreed a new target to build a minimum of 260 GW of offshore wind in the North Sea region by 2050, with intermediate targets of at least 76 GW by 2023 and 193 GW by 2040. The UK is a world leader in offshore wind with the most installed capacity in Europe and the British Energy Security Strategy increased our ambition to 50 GW including 5 GW of floating by 2030. The UK welcomes the ambition set out by NSEC members and looks forward to working with them, through the MoU, to accelerate the deployment of offshore wind in the North Sea to help us reach our respective offshore wind targets.

In order to deliver these targets and ambitions in an efficient and sustainable manner, it is necessary to work with our North Seas neighbours to develop a shared future vision for offshore low carbon infrastructure with a focus on new innovative technology, and specifically multi-purpose interconnectors (MPIs). These connect offshore windfarms directly with interconnectors, thus facilitating more coordinated development of offshore infrastructure, whilst reducing capital and operational costs and lowering impacts on the environment and local communities.

Ofgem has received four applications to their MPI Pilot Scheme, two to Norway, one with Belgium, and one with the Netherlands. Discussions and cooperation within NSEC will help us progress these. To support the delivery of these projects and to realise their full potential we are working in parallel with our European partners under the Trade & Cooperation Agreement to develop more efficient trading arrangements.

Regarding your question about engaging with the Devolved Governments, the UK Government has involved the Devolved Governments throughout the process of agreeing the MoU. We also expect the Devolved Governments to be invited to NSEC meetings where appropriate.

Finally, the agreement on energy is beneficial to both the UK and the EU in helping to support our security of supply, make energy more affordable for consumers, and achieve our respective climate change ambitions. Article 331 of the Trade and Cooperation Agreement allows the Energy Title to be extended, on an annual basis, from 2026. The Government's current priority is ensuring full implementation of our existing commitments in the TCA; we are working closely with the EU to ensure cooperation mechanisms such as the NESC MoU are established and equipped to deliver, and the rest of the energy provisions are implemented in full.

Thank you again for taking the time to write.

*21 March 2023*

**Letter from the Chair to the Rt Hon Graham Stuart MP, Minister of State at the Department for Energy Security & Net Zero, Department for Energy Security & Net Zero**

Thank you for your letter dated 21 March 2023, in response to our letter dated 8 March 2023 regarding the Memorandum of Understanding on Offshore Renewable Energy Cooperation between the UK and the Participants of the North Seas Energy Cooperation (NSEC). This was considered by the Committee at its meeting on 23 May 2023.

Your response to our questions was helpful overall and we are grateful to you for your engagement with them. We are pleased that UK priorities for engagement with the NSEC, including the development of frameworks for Multi-Purpose Interconnectors, are consistent with areas for cooperation identified by witnesses to our inquiry into the future UK-EU relationship. Nevertheless, there are some aspects of the UK's new relationship with the NSEC about which we would like to seek further clarification.

We acknowledge that the existing participants of the NSEC, including Norway, have committed to comply with EU internal market rules. However, you did not directly address our questions about whether the possibility of the UK rejoining as a full member was raised during the discussions that led

to the MoU, or what factors the Government took into account when considering the status of the UK's engagement with the NSEC. We ask you to address these in response to this letter.

We are pleased that the Government anticipates that the UK will be invited to a substantial proportion of the meetings under the NSEC work programme. Ministerial meetings are the key forums for political-level engagement between the members of the NSEC, often leading to joint statements or conclusions. While technical cooperation is important, we consider that engagement at the political level between the UK and the NSEC is essential if the mutual benefits to be gained from cooperation are to be maximised. We ask that, in response to this letter, you confirm that the Government expects the UK to be invited to participate in future NSEC ministerial meetings and to contribute to joint outputs.

We acknowledge that, as a third country, the UK cannot expect to be a party to the EU's decision-making process. Nevertheless, we consider that that the UK has a strong interest in future EU policy in respect of renewable energy in the North Seas, which is likely to have significant implications for the UK. We are therefore disappointed that the Government expects that the UK will be excluded from NSEC meetings where "future EU policy will be discussed". We ask you to clarify that there will be opportunities within the UK's new relationship with the NSEC for the UK to engage with NSEC members about the potential implications of EU policy proposals for the UK.

We note that the EM received in January 2023 indicated that it was the Government's expectation that "the UK will resume cooperation with NSEC as set out in the MoU in early 2023", but to our knowledge this has not yet happened formally. We ask you to provide an update on the timetable for resumed cooperation in response to this letter.

We would also be grateful if you could update us on the progress of the engagement with the European Commission and the Dutch NSEC presidency on the details of UK participation referred to in your letter. We were pleased that the Secretary of State for Energy Security and Net Zero attended the North Sea summit in Ostend, Belgium on 24 April 2023. We ask you to clarify how this forum relates to the NSEC and to provide us with a summary of the key outcomes of that meeting in response to this letter.

We retain an interest in this matter and look forward to receiving your response within the normal 10-day deadline.

24 May 2023

**Letter to the Chair from Rt Hon Graham Stuart MP, Minister of State for Energy Security & Net Zero, Department for Energy Security & Net Zero**

Thank you for your letter dated 24 May regarding the Memorandum of Understanding (MoU) on offshore renewable energy cooperation between the UK and the participants of the North Seas Energy Cooperation (NSEC).

You asked whether the possibility of the UK re-joining as a full member of NSEC was raised during discussions that led to the MoU. When the UK exited the EU, we ceased to be a member of NSEC. The UK negotiated with the European Commission to secure a framework for extensive cooperation with North Seas neighbours in the UK-EU Trade and Cooperation Agreement (TCA), recognising that full membership of NSEC was not possible as the UK had left the EU's Internal Energy Market.

Furthermore, Political Declarations in 2016 and 2021 relating to NSEC stipulate that all work should be "in line with relevant EU legislation". As you know, Article 321 in the TCA includes a commitment for the UK and EU to cooperate on the development of offshore renewable energy. The article references the creation of a specific forum for technical discussions between the EU Commission, ministries and public authorities of the UK and Member States, transmission system operators and the offshore energy industry and stakeholders more widely, in relation to offshore grid development and the large renewable energy potential of the North Seas region. The reference to the "creation of a specific forum" makes clear that re-joining as a full member is not in scope of the TCA. The MoU between the UK and NSEC participants gives effect to the cooperative framework agreed in Article 321 of the TCA.

In my last letter to the Committee, I noted that the UK will be invited to attend NSEC meetings to discuss specific topics or projects of direct common interest. Since then, we have agreed a non-

exhaustive list of these topics with the EU Commission and the Netherlands, which is holding the Co-Presidency of NSEC this year. This list includes topics across all four NSEC work streams. When a NSEC meeting covers a topic in this list, the UK will formally be invited for those agenda points, and we have already seen this taking place; cooperation has resumed, and the UK has been invited to participate in the majority of the agenda items of every NSEC meeting that has subsequently taken place. The next ministerial NSEC meeting will take place in November, and we have been informed that a UK Minister will be invited and contribute to joint outputs.

We also welcome the progress made at the Ostend Summit on 24 April. The Secretary of State, Grant Shapps, led a delegation of ten leading British businesses and organisations to the Summit. Alongside our key partners in the North Seas region, the UK signed two declarations highlighting the political commitment to accelerate the green transition in Europe and provide green, affordable energy through harnessing the potential of offshore renewables in the North Seas. The ministers' declaration underlines the importance of delivering cross-border projects, anchoring the renewable offshore industry in Europe and sets out ambitious targets for offshore wind (120 gigawatts in 2030 and a minimum of 300 gigawatts in 2050 in the North Sea).

At the summit, Dutch Energy Minister Jetten and Secretary of State Grant Shapps jointly announced plans for a first-of-its-kind electricity link "LionLink" to connect offshore wind between the Netherlands and the United Kingdom. LionLink is a proposed multi-purpose interconnector (MPI) connecting Leiston, England, and the Netherlands. It is designed to transmit up to 1.8 GW of electricity. The UK also used this opportunity to sign an MoU with Denmark on cooperation in the energy transition, formalising our existing strong cooperation with Denmark in areas such as offshore renewables, multipurpose electricity interconnection, energy islands, carbon capture and storage, green hydrogen, heat networks, industrial decarbonisation, and energy efficiency.

The Ostend Summit is an excellent example of how the UK is working with European counterparts to accelerate the clean energy transition and boost energy security through all available fora. The Ostend Summit was an initiative by the Belgian Prime Minister DeCruo and did not take place under the NSEC framework. However, it is clear that NSEC will play a key role in delivering the ambitions set out in the Declarations and we look forward to working closely with our North Seas neighbours – both bilaterally and through NSEC - to unlock the vast renewable potential of the North Seas.

Thank you again for your interest in this important subject.

*7 June 2023*

**Letter from the Chair to the Rt Hon Graham Stuart MP, Minister of State for Energy Security and Net Zero, Department for Energy Security & Net Zero**

Thank you for your letter dated 7 June 2023, in response to our letter dated 24 May 2023 regarding the Memorandum of Understanding on Offshore Renewable Energy Cooperation between the UK and the Participants of the North Seas Energy Cooperation (NSEC). This was considered by the Committee at its meeting on 20 June 2023.

Your response to our questions was helpful and we remain grateful to you for your engagement with us on this matter. We welcome your confirmation that UK engagement with the NSEC has now resumed, that the UK has so far been present for the majority of agenda items at NSEC meetings and that a Minister will participate fully in the next NSEC ministerial meeting. We are also pleased to hear about the outcomes from the Secretary of State for Energy Security and Net Zero's attendance at the North Sea summit.

We acknowledge your response on the question of whether full membership was considered. Nevertheless, we reiterate the view expressed in our April 2023 report on the future UK-EU relationship that the Government should keep under review whether the MoU provides for sufficiently close cooperation with the NSEC.

We retain an interest in this matter and ask to be kept updated on developments relevant to the UK's relationship with the NSEC, including after the next NSEC ministerial meeting in November 2023.

We do not expect a response to this letter.

*21 June 2023*

PROPOSED EU REGULATION ON AUTOMATED DATA EXCHANGE FOR POLICE COOPERATION (“PRÜM II”), AMENDING COUNCIL DECISIONS 2008/615/JHA AND 2008/616/JHA AND REGULATIONS (EU) 2018/1726, 2019/817 AND 2019/818 - COM (21) 784

**Letter from the Chair to The Rt Hon Tom Tugendhat, Security Minister, Home Office**

Thank you for your Explanatory Memorandum (EM) dated 2 February 2023 on the Commission’s proposed reforms to the so-called Prüm based system of data exchange. It was considered by the European Affairs Committee at its meeting of 21 March 2023.

We welcome its deposit in Parliament (which this Committee has repeatedly requested since the Commission brought forward its proposal in December 2021) because it potentially has significant ramifications for the UK’s continued participation in the Prüm system as established by Part Three of the Trade and Cooperation Agreement (TCA). Given this context, we welcome and endorse the Minister’s view, expressed in the EM, that “Prüm is a vital investigative tool for [UK] law enforcement”. The most important issue, therefore, for this Committee is the potential impact that EU reform in this area will have on the UK’s ability to participate in Prüm II in the future.

As you know, a provision in the TCA (Article 541) seeks to deal with the implications for the UK’s continued participation in Prüm where the EU decides to undertake “substantial” reform of the EU law governing its operation. It appears to us that the nature of the Commission’s proposed reforms (for example, its name, Prüm II; the Commission’s reference to establishing a “new architecture”; and the expansion of the included data categories to cover facial imagery) is sufficient to constitute substantial reform and thereby trigger Article 541. We note your acknowledgment that UK participation in Prüm cannot be guaranteed “indefinitely using the existing infrastructure and processes”; what are the precise implications of this statement for the UK’s continued participation in the system and what plans do you have to address this matter proactively with the EU?

In 2021, as part of its inquiry into Part Three of the TCA, the EU Justice Sub-Committee considered these questions. At that time, the Government was keen to emphasise that the UK would have a choice “as to whether or not to move its standards to meet the requirements under the Prüm system” adding that there is “no compulsory requirement for us to align with the EU Prüm system”. On this point, the Sub-Committee concluded that: “... by their nature, the data sharing arrangements [contained in the TCA] are reciprocal. The Prüm system ... is supported by an Annex to the TCA containing 91 pages of legislation. The Government told us that it will be a matter of ‘choice’ whether or not it remains aligned to EU legislation as it evolves. If it does not, the UK could lose access to vital policing and law enforcement data”. It appears, however, based on the Minister’s statements in the EM quoted in this letter that the Government now takes a more realistic approach to this issue.

We note that the proposal continues its journey through the EU’s legislative institutions, and we ask that you provide us with an update on its progress towards adoption, including if possible, any changes to the proposed text; in addition, once the final text emerges, we would request that it be deposited in Parliament with an EM; this will enable us to consider the agreed text and to comment on it before the TCA’s process begins.

There is, as far as we are aware, currently no time pressure while the EU institutions discuss the proposal, but the Government will inevitably, once the EU adopts it, have to decide: do we participate in an amended Prüm system or is post-Brexit collaboration with the EU on the exchange of this important data over. What factors will the Government weigh when considering whether or not to engage with the EU on adapting the TCA to cover these EU reforms? With whom will you consult on this matter?

*21 March 2023*

### **Letter to the Chair from the Rt Hon Tom Tugendhat, Security Minister, Home Office**

Thank you for your letter of 21 March regarding Prüm II and the potential impact of the proposed reforms on UK participation in biometric exchange with EU Member States. I do not have any further detail on amendments being made within the EU's consideration of this legislative proposal at this stage but will deposit the final text with an EM once it is adopted. We continue to plan on the basis that the EU text may be adopted before the end of this year, but that timetable is not guaranteed and may slip into 2024.

Whilst the Government's focus during negotiations on the UK-EU Trade and Cooperation Agreement (TCA) was on the mutual benefit to be gained from the effective exchange of DNA, fingerprint and vehicle registration data with EU Member States, which recognised the value of continued access to Prüm in its existing form, Article 541 of the TCA was crafted with the possibility of future changes to the EU's internal Prüm arrangements in mind. That sets out the process for engaging with the European Union on the UK's continued participation in the system which we expect to commence once there is clarity on the EU position. Pending the start of that process, my officials are actively engaged with EU partners in relation to the operation of the existing Prüm arrangements, and we continue to have ongoing dialogue with the European Commission on relevant developments, including via Specialised Committee structures.

The Government position on whether or not to participate in an amended Prüm system will be developed through close engagement with users of the current systems and other interested stakeholders. The precise nature of this engagement will depend on the content of the proposals once finalised but will consider the views of the law enforcement community, devolved governments, forensic science practitioners and the Forensic Information Database Strategy (FINDS) Board, which governs the National DNA Database and the National Fingerprint Database (IDENT1). The FINDS Board, chaired by Deputy Chief Constable Ben Snuggs, provides independent oversight of Prüm exchanges in accordance with commitments made to Parliament during the 2015 Prüm opt-in debates. Board membership includes the Forensic Science Regulator, the Biometrics Commissioner, the Scottish Biometrics Commissioner, the Office of the Information Commissioner and representation from the Biometrics and Forensics Ethics Group. I note your ongoing interest in this matter and will keep the Committee abreast of any developments when known.

*13 June 2023*

### **Letter from the Chair to the Rt Hon Tom Tugendhat, Security Minister, Home Office**

Thank you for your letter dated 13 June 2023 on the Commission's proposed reforms to the Prüm based system of data exchange. It was considered by the European Affairs Committee at its meeting of 27 June 2023.

As we noted in our letter to you dated 21 March 2023 the key issue for us is the implications of EU reform in this area for the UK's continued participation in the Prüm arrangements agreed in the Trade and Cooperation Agreement. We are therefore pleased to accept your promise to deposit the agreed text for scrutiny once it emerges from the EU's institutions. Once received, we will all be better placed to consider its implications for the UK's continued participation in this "vital investigative tool for law enforcement".

We note, however, that you did not address our request for an explanation of the implications of your statement that UK participation in Prüm cannot be guaranteed "indefinitely using the existing infrastructure and processes".

This letter brings our consideration of the Commission's proposal to an end, and we look forward to considering, in due course, your EM on the agreed text once it has completed its passage through the EU's legislative institutions.

*28 June 2023*

**COUNCIL REGULATION (EURATOM) 2023/1479 OF 14 JULY 2023 LAYING DOWN  
RULES FOR THE EXERCISE OF THE COMMUNITY'S RIGHTS IN THE  
IMPLEMENTATION OF THE TRADE AND COOPERATION AGREEMENT BETWEEN**

THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
REGULATION (EU) 2023/657 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 15 MARCH 2023 LAYING DOWN RULES FOR THE EXERCISE OF THE UNION'S RIGHTS IN THE IMPLEMENTATION AND ENFORCEMENT OF 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 AND OF THE TRADE AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND - UNNUMBERED 2023/1479 & UNNUMBERED 2023/657

**Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

Thank you for your Explanatory Memorandum (EM) dated 29 August 2023 on the two EU Regulations referenced above. It was considered by the European Affairs Committee at its meeting of 12 September.

As you know, as part of our chain of correspondence (beginning in November 2022) on the Commission's first report on the operation of the Trade and Cooperation Agreement, we asked for the Regulations to be deposited for scrutiny once they had completed their journey through the EU's legislative procedure. We found the information contained in the EM helpful.

We do not expect a response to this letter.

*14 September 2023*

**GENERAL CORRESPONDENCE**

**FOLLOW UP CITIZENS' RIGHTS REPORT**

**Letter to the Chair from Lord Murray of Blidworth, Parliamentary Under Secretary of State for Migration and Borders, Home Office**

**Debate in Grand Committee on citizens' rights - 11 September 2023**

Thank you for securing the debate on the report of the European Affairs Committee on Citizens' Rights (1st Report, Session 2021-22, HL Paper 46), which took place in Grand Committee on 11 September.

While I was able to address most of the points raised by noble Lords in their contributions, there were time constraints which limited my ability to respond to all of them. I therefore committed to follow up on those issues in writing and am pleased to address them below.

Please note that my responses are grouped thematically, and the information regarding UK nationals in the EU has been provided by the Foreign, Commonwealth & Development Office (FCDO). Given that a number of these points were raised more than once, I have not attributed my responses to a specific contributor to the debate.

**UK nationals in the EU**

**Funding**

Citizens' rights continue to be a priority for the UK Government, and we are determined to ensure that UK nationals in the EU receive the right support. There is a dedicated team in London at the FCDO which monitors implementation of the citizens' rights provisions of the Withdrawal Agreement (WA) across Member States. This team provides guidance and regularly engages with our network of Embassies and High Commissions, with Member States and with the European Commission to address issues faced by UK nationals, including through forums such as the Specialised Committee on Citizens' Rights (SCCR) and the WA Joint Committee. This is informed by extensive work conducted by our



Embassies and High Commissions in Member States, including with local groups representing UK nationals.

As residency application deadlines have passed in all Member States with constitutive systems (aside from Denmark), certain programmes - such as the UK Nationals Support Fund – have come to their planned end. However, ongoing assistance to UK national's resident in the EU continues to be provided as described above.

#### Progress since the last SCCR meeting and planned bilateral discussions.

Since the last SCCR meeting on 25 May 2023, we have continued our regular engagement with the EU and Member States on a range of issues to ensure they understand and address our concerns. This includes making clear to the European Commission and Member States our concerns about the general lack of sufficient guidance and communication on both family reunification and reasonable grounds for UK nationals submitting late applications in constitutive Member States.

A further meeting of the SCCR is planned before the end of the year.

#### The Justice and Home Affairs Network of Attachés

The Justice and Home Affairs Network of Attachés comprises staff employed in our diplomatic and development offices worldwide, who represent the UK and help promote UK interests abroad.

#### HMG discussions with the Portuguese Government

The British Embassy in Portugal continues to work with the Portuguese Government to support their roll-out of WA residence cards. More than 32,000 UK national's resident in Portugal have attended a biometrics appointment and paid to receive their card. This means that the vast majority of eligible UK nationals have now completed the process.

The Embassy understands that just over 38,000 UK nationals had initially registered on the “Brexit Portal” provided by the Portuguese Immigration and Borders Agency (Serviço de Estrangeiros e Fronteiras – SEF) since 2020. We encourage those UK nationals and eligible family members who remain in Portugal and are yet to commence or finalise the process to do so as soon as possible.

Our “Living in Portugal” guide on GOV.UK has up-to-date information on each stage of the process as well as relevant contacts for support. Our consular teams in Lisbon and Portimão continue to work to support UK nationals with complex cases who have faced challenges in completing the registration process, such as being unable to provide biometric data due to disability. The Embassy will continue to follow this closely with the SEF border agency and the Portuguese Interior Ministry.

We are aware of some cases where UK nationals have received a residence card with a shorter validity period than they expected or understood they had paid for. We have raised this issue with the Portuguese authorities; those affected who wish to request a replacement card should contact the SEF directly for advice.

#### **Implementation of the High Court judgment in the judicial review proceedings brought by the Independent Monitoring Authority for the Citizens' Rights Agreements (IMA)**

##### Expiry dates for pre-settled status

A number of peers asked why pre-settled status under the EU Settlement Scheme (EUSS) continues to have an expiry date and why this is not considered unlawful in light of the judgment. It was also suggested that this may give unlawful information to employers and landlords.

As you know, the judgment found that the WA right to reside of a person with pre-settled status does not expire for failure to make a further application to the scheme. By virtue of our domestic EU exit legislation<sup>1</sup>, WA rights are directly effective meaning that WA beneficiaries now have an underlying right to reside in the UK under UK law. This, coupled with our approach to extending pre-settled status by two years, ensures that individuals will not lose their residence rights for failure to make a second application to the EUSS, as per the judgment, and ensures that they can continue to easily prove these rights.

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<sup>1</sup> [European Union \(Withdrawal Agreement\) Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk/uk/acts/2020/23/section/1)

We do not agree that extending pre-settled status is unlawful in light of the judgment and do not consider this approach to be different in practice to that in Member States where relevant documents contain an expiry date. Furthermore, the fact that we are automatically extending pre-settled status before it expires will avoid any practical difficulties rights holders might otherwise face in proving their rights to third parties.

Pre-settled status continues to have an expiry date because there is no concept of ‘indefinite temporary leave’ in our domestic immigration system meaning that we cannot dispense with the expiry date. The judgment did not hold that pre-settled status cannot expire; instead, it states that the WA right to reside is not lost by virtue of its expiry. Therefore, in order to ensure that implementation of the judgment is consistent with that wider system, the extension of pre-settled status will continue to have an expiry date. We believe that a two-year extension provides sufficient additional time for the person to switch to settled status, once they are eligible for it, should they wish to do so. Settled status under the EUSS, which provides secure evidence of that right, remains the best way for an individual to evidence their right to remain in the UK indefinitely.

The first extensions of pre-settled status have already taken place, and will continue to be applied automatically, around a month before the pre-settled status is due to expire. This ensures that individuals are given the maximum time possible to obtain settled status before we need to extend their pre-settled status. As the extension will be applied automatically, there is no need for individuals to contact the Home Office and they will be notified once the extension has been applied.

Should we find that an individual no longer meets the eligibility criteria for pre-settled status, we will take steps to cancel or curtail it, with a right of appeal. In the course of 2024, we intend to take steps to automatically switch as many eligible pre-settled status holders as possible to settled status without them needing to make a further application.

We have comprehensive guidance for employers and landlords on the EUSS which we are in the process of updating to reflect our response to the judgment. The revised guidance will explicitly note our plans to automatically extend pre-settled status holders’ immigration status by two years shortly before their current grant of pre-settled status expires, where they have yet to obtain settled status.

In respect of the Right to Work and Right to Rent schemes, employers and landlords are required to carry out checks before they employ, or (in England) let a property to, a person. Any valid period of leave returns a positive verification notice which employers and landlords are obliged to act on and thus not discriminate against those with temporary leave. The Home Office also issues guidance to make clear that checks on eligibility to access work, benefits and services as part of the UK’s immigration system must be carried out in a non-discriminatory manner. We are considering whether the wording that employers and landlords see when checking an individual’s immigration status needs to be amended to better reflect the judgment.

We note that the UK approach in this regard is more advantageous than the treatment of UK nationals in certain Member States who, as far as we understand, are not able to access employment if their residence card has expired, a matter which FCDO colleagues are investigating.

#### Encouragement to apply for settled status.

During the debate, it was asked why the Home Office is still encouraging pre-settled status holders to apply for settled status once they are eligible for it and how this complies with the judgment.

Continuing to encourage pre-settled status holders to apply to switch to settled status is entirely compatible with the judgment. Indeed, Mr Justice Lane, in paragraph 181 of his judgment,<sup>2</sup> states:

“Insofar as the individual concerned may wish to rely upon the right of permanent residence as such (for example, because they are no longer a worker), they may apply to the defendant for indefinite leave to remain. Indeed, I can see no reason why the defendant should not continue to encourage those who have been granted pre-settled status to apply for indefinite leave to remain.”

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<sup>2</sup> [The Independent Monitoring Authority for the Citizens' Rights Agreements, R. \(On the Application Of\) v Secretary of State for the Home Department \[2022\] EWHC 3274 \(Admin\) \(21 December 2022\) \(bailii.org\)](#)

We therefore continue to encourage pre-settled status holders to apply for settled status as soon as they are eligible for it, as this provides secure confirmation of their right to remain in the UK indefinitely. We are continuing to send pre-settled status holders whose status is approaching its original expiry date an email encouraging them to apply for settled status and highlighting the benefits of doing so.

A range of help remains available to applicants who wish to apply to switch from pre-settled to settled status. We have announced a further £2.5 million of grant funding until 31 March 2025 for organisations across the UK working to support vulnerable citizens in applying to the EUSS, including those applying for settled status. This brings the total amount of grant funding for such organisations to £32 million. Alongside the grant-funded network, there is help available through the Resolution Centre which provides telephone and email assistance to applicants, and 'We Are Digital' which provides technical support for applicants completing the online application process.

### **Home Office capacity to cope with settled status applications**

I was asked to provide assurance that the Home Office is prepared for the influx of settled status applications from pre-settled status holders.

Our most recent statistics show that overall – to 30 June 2023 – 608,380 people have already moved from pre-settled to settled status. UK Visas and Immigration works closely with Home Office analysts to forecast intake across all immigration routes, including the EUSS. Resources are aligned to forecast demand and prioritised accordingly.

### **Automation of pre-settled to settled status.**

I was asked why the planned automation of the conversion to settled status of eligible pre-settled status holders is not being introduced until 2024. We note that automatic conversion from pre-settled to settled status is not a requirement of the judgment, just as Member States are not required automatically to issue permanent residency cards to UK nationals.

However, it is our aim to align people's EUSS status with their underlying WA rights where possible and moving eligible people from pre-settled to settled status as soon as possible is key to achieving that. We therefore intend to take steps to automatically convert as many eligible pre-settled status holders as possible to settled status without them needing to make a further application. To do this, we plan to undertake automated checks of pre-settled status holders against government-held information - for example, in respect of their ongoing continuous residence in the UK. This will mean that we are making one automated decision to either convert an individual to settled status or extend their pre-settled status. We are aiming to have this automated process in place during 2024.

Our main concern throughout our planning has been to implement the judgment in such a way that it continues to be easy for citizens, government departments and third parties to evidence or check rights are in place. It is therefore crucial that the highly innovative work needed to give effect to automation is technically accurate and accompanied by the relevant safeguards, and this will necessarily take some time.

### **Electronic Travel Authorisation (ETA)**

There were some concerns raised over the introduction of the ETA scheme, including how individuals will prove their immigration status, and possible disruption to travel.

Advance Passenger Information (API) systems already exist and are used today. However, once the Universal Permission to Travel (UPT) requirement is fully in place, including the ETA scheme, we will require carriers to check that all passengers have a valid permission before travel to the UK, using API. Carriers will provide API and, in turn, receive confirmation from the Home Office in respect of each individual that they have permission and may be carried to the UK; that they do not have permission and may not be carried to the UK; or that their permission needs to be determined by the carrier.

The ETA scheme and wider UPT requirement will not be enforced until the ETA scheme has been fully rolled out to all non-visa nationals by the end of 2024. It will be initially introduced to Qatari nationals from 25 October 2023, followed by nationals of Saudi Arabia, Bahrain, Kuwait, Oman, United Arab Emirates and Jordan from 16 February 2024. The scheme will then be rolled out in a phased manner to all other non-visa nationalities, including EU nationals, by the end of 2024.

As we have been clear, those with an existing UK immigration status, such as presettled or settled status under the EUSS, will not be required to obtain an ETA. Visa nationals, who are required to provide evidence that they have obtained the appropriate permission in advance of travel, currently do so by using physical documents, such as a vignette or biometric residence permit. The decommissioning of these physical documents for those who need to prove to carriers that they have a permission will not begin until carriers are able to receive the new UPT responses via the existing API systems.

We are also aware that some carriers are choosing to make additional status checks on non-visa nationals' travel documents for their own purposes (e.g. to avoid potential removal costs if an EU national travels to the UK using a national identity card instead of a passport when they are not entitled to do so). Therefore, as an interim measure, we have issued carriers with guidance on how to use 'View and Prove' to confirm whether a person is covered by the EUSS and, for example, is entitled to continue to use a national identity card in travelling to the UK. This will continue to be an option for such carriers until they receive this confirmation via the API they provide.

The introduction of the ETA scheme will support our ambition to expand the use of automation in passenger clearance in the longer term. Our intention is to significantly increase the use of automation, so that the majority of arrivals at main UK ports will pass through some form of contactless corridor or automated gate for identity and security checks, with only those who need to see a Border Force Officer being directed to our staffed controls.

### **Removal of administrative review from the EUSS**

I was asked how removing the scope for individuals to request an administrative review of their EUSS decision, where this is made on or after 5 October 2023, may impact the Tribunal and vulnerable individuals.

We are committed to maintaining a good standard of initial decision-making for those applying to the EUSS. An appeal right is required under the WA and will continue to be provided. The WA does not require that applicants for residence status have a dual right of redress, via administrative review. It is fair that more than two years since the main application deadline, we align the EUSS with other immigration routes where a dual right of redress does not exist. Only a small proportion of EUSS refusal decisions result in an application for administrative review, so the effect on the Tribunal is expected to be manageable.

We do not consider that the change will have a significant impact on vulnerable individuals, for whom, as I have described above, significant support in applying to the EUSS remains available. An appeal on the papers carries the same fee as an administrative review, which is £80. HM Courts and Tribunals Service has published guidance on GOV.UK on the assistance available in paying immigration appeal fees.

### **Estimates of EUSS application volumes**

I was asked to explain the apparent disparity between the 7.4 million EUSS applications received to 30 June 2023, and the estimates made by the March 2019 Impact Assessment (IA) for the EUSS.

The published quarterly statistics for the EUSS also contain information on the number of applicants rather than applications. To 30 June 2023, an estimated 6.2 million people had applied to the EUSS, of whom an estimated 5.6 million had obtained a grant of status.

By comparison, the March 2019 IA estimated that 3.5 to 4.1 million EU citizens (excluding Irish citizens, who are included in the EUSS statistics) and their family members might be eligible to apply by the end of the transition period. The IA discussed the assumptions, risks, uncertainties and exclusions surrounding this estimate and made clear it should be considered as indicative and not as a minimum and maximum estimate. It was primarily based on Office for National Statistics Annual Population Survey data (which estimates the resident population), adjusted to estimate how the resident population would change in the future, and therefore cannot be directly compared to applications made to the EUSS.

### **Certificates of Application**

I was asked to set out why the Home Office has not accepted the recommendation made by the IMA in the recent report of its inquiry into the issuing of Certificates of Application (CoAs), which confirm the making of a valid EUSS application, that we should introduce a service standard for this.

We welcome the IMA's report and have given full consideration to its recommendations, which focused on two historical periods: June 2021 (when there were unique demands on the EUSS ahead of the 30 June 2021 application deadline) and June 2022. As the report acknowledged, CoAs are generally issued quickly, via the online application process for the EUSS.

In addition, as you are aware, we have recently made important changes to the EUSS, consistent with the VA, to maintain the integrity and effective operation of the scheme. Those include making the need to demonstrate 'reasonable grounds' for the delay in applying a requirement for a valid late application. As this change was announced in July 2023, it was not considered as part of the IMA inquiry, but it is necessarily part of the context in which we considered the IMA's recommendations. We will continue to monitor closely our performance in validating EUSS applications and issuing CoAs.

My thanks again for securing the debate on these important issues.

*18 October 2023*

## SUPPLEMENTARY INFORMATION FOLLOWING 7 MARCH EUROPEAN AFFAIRS COMMITTEE SESSION

### **Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign, Commonwealth & Development Office**

Thank you for the opportunity to appear before your Committee on 7 March, and for the insightful questions raised by the members of the Committee. During the session, the Committee requested follow-up information on three points, which I have addressed here.

Baroness Ludford requested further information on the FCDO's understanding of the competence of Member States to grant visas and work permits to their own territories. As we noted during the session there are some tensions here. Whilst the EU can conclude treaties that include commitments that Member States must adopt on trade-related issues, like work permit regimes, Member States retain exclusive competence to determine the volumes of third country nationals entering their territories to work. The legal basis for this is Articles 79 and 80 of the Treaty on the Functioning of the European Union. This means that Member States have competence over the design of visa and work permit rules relevant for UK touring artists, though if the EU had accepted the mode IV proposals we suggested during the TCA negotiations that would have addressed the work permits aspects of the problem.

You also asked in which committee within the TCA governance structure could the issues relating to movement of equipment for touring artists be raised. The UK Government has previously raised the mobility challenges faced by touring artists and cabotage issues faced by specialist hauliers at the Services, Investment and Digital Trade Specialised Committee and Road Transport Specialised Committee respectively. I should also note that we have raised these issues at the most senior level of the TCA framework – most recently at last week's Partnership Council.

Baroness Anelay sought clarification on the List of Travellers Scheme. The List of Travellers Scheme is an EU scheme based on a 1994 Council Decision, which obliges EU Member States to waive the usual passport and/or visa requirement of non-EU children resident and studying in an EU Member State and travelling as part of an organised school trip. In July 2020, the European Commission announced they would cease acceptance of the List of Travellers from UK schools effective from 1 January 2021. The British Government ceased acceptance of the List of Travellers from EU schools from 1 October 2021, which aligned with the date of phasing out the use of EU ID cards for travel to the UK.

We have no specific evidence that the List of Travellers Scheme was being used as a route for illegal entry. However as discussed in the session, ID cards were some of the most abused documents seen by Border Force officials and accounted for almost half of the false documents encountered at the border in 2020. This change in travel document policy was announced in October 2020 which provided notice to enable those affected to obtain a passport and, if needed, a visa for travel to the UK.

At the recent UK-France summit, the UK and France agreed, among a number of initiatives, to put an emphasis on developing people-to-people initiatives, and encourage bilateral mobility, culture and exchanges, within the framework of the UK-EU relationship. In this context, the UK and France agreed to establish a Mobility Dialogue to address bilateral mobility issues; and on school groups, the UK committed to ease the travel of school groups to the UK by making changes to documentary requirements for schoolchildren on organised trips from France.

Work is now underway to consider how best to operationalise these arrangements, including through the new UK-FR Mobility dialogue. France committed to ensuring appropriate mechanisms are in place for visa free travel for children travelling on organised school trips from the UK and to facilitating the passage of those groups through the border. The Government is not ruling out extending similar arrangements to other Member States who express an interest in these measures.

I hope this provides you with some clarification and look forward to appearing before your Committee in the future.

*30 March 2023*

## WITHDRAWAL AGREEMENT JOINT COMMITTEE ANNUAL REPORT FOR 2021

### **Letter to the Chair from the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs**

Please find enclosed the 2021 Withdrawal Agreement Annual Report, issued pursuant to Article 164(6) of the Agreement. The Report has been jointly prepared by the UK and EU and was adopted at the Joint Committee meeting on 24 March 2023.

I would be grateful if you could treat the Report in confidence until its publication on 5 April 2023.

*31 March 2023*

## WITHDRAWAL AGREEMENT JOINT COMMITTEE ANNUAL REPORT FOR 2022

### **Letter to the Chair from the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs**

Please find enclosed the 2022 Withdrawal Agreement Annual Report, issued pursuant to Article 164(6) of the Agreement. The Report has been jointly prepared by the UK and EU and was adopted at the Joint Committee meeting on 3 July 2023.

I would be grateful if you could treat the Report in confidence until its publication on 17 July 2023.

*11 July 2023*

## UPDATE ON JULY IMPORT CONTROLS ON EU GOODS

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

Thank you for your letter of 28 April 2022, which was considered by the European Affairs Committee at its meeting of 17 May 2022.

The introduction of import controls on EU goods entering Great Britain is a key area of interest for the European Affairs Committee, and was covered at length in our December 2021 report, 'One Year On: Trade in Goods between Great Britain and the European Union'. The Committee has therefore asked me to write to you with a number of questions arising from the Government's announcement that it will not be introducing the remaining import controls this year, as set out in your letter to us.

### ***The rationale for the decision***

The Committee notes that you cite the fallout of the Ukraine war and wider pressures on the cost of living as the primary drivers of the Government's decision not to introduce further controls this year. Although the Committee's report previously concluded that there should be no further delays, we recognise the changing circumstances since December that have driven the Government's decision. We note, though, that the Government's response to our report, received on 16 February, stated that it intended "to implement all remaining border controls with the EU as set out in the EU-GB Border Operating Model and previously announced." Though the timing of this statement predated the Russian invasion of Ukraine, it came after energy prices began to rise and affect the cost of living. Nor is this the first time that the Government has insisted it will implement controls on time before changing course; in our inquiry, we heard that the repeated pattern of delay had undermined business confidence in the Government's timetable.

- **As the Government reviews its plans for the introduction of import controls, how will it ensure that businesses can trust that the Government's new timetable, once announced, will be adhered to?**
- **Was the state of Government preparedness a factor in the decision not to introduce import controls this year?**

The Committee has also noticed that there are key differences between this decision and previous delays to the timetable. We note that your letter states that the Government will be reviewing "how" controls will be introduced, as well as "when". We also note that, at 18 months, this delay is much longer than the previous delays (which were mostly between 3 and 6 months). We also note that the introduction of import controls is now explicitly linked to the Government's longer-term plans for a more light-touch and digitised border (plans which this Committee welcomed in its report). We look forward to further details when the Government publishes its Target Operating Model in the autumn.

- **Can you confirm that this latest decision is not simply another delay, and instead reflects a more fundamental change in the Government's approach to import controls?**

#### ***Asymmetry at the GB-EU border***

In the wake of the previous delay, concerns were raised by some businesses that an "asymmetric" border could put GB exporters at a competitive disadvantage, as they faced more onerous controls than EU exporters. At the time, the Government responded to these concerns by stressing that this situation was only temporary, as the controls would be introduced shortly, an argument with which this Committee expressed some agreement in its report. However, the asymmetry between GB and EU exporters is now set to last for a much longer period.

- **In the light of the Government's decision not to include controls until at least the end of 2023, what steps will it take to mitigate the impact on GB exporters of the asymmetric implementation of checks and controls at the GB-EU border?**

This Committee has previously urged the Government to seek a further agreement with the EU to reduce the burden of SPS controls, particularly on exporters, including in a recent letter to the Foreign Secretary (dated 29 April 2022).<sup>3</sup> With this latest decision, the UK is now effectively applying similar rules to imports from the EU as if a further SPS agreement was in place, but without obtaining for our exporters the easements that such an agreement would provide.

- **Do you agree that, while unilateral easements to SPS imports may have some benefits, it would be preferable to reach an agreement with the EU so that importers and exporters alike can benefit from lighter-touch controls?**

#### ***Physical infrastructure at ports***

This decision means that port authorities have spent considerable time and money on preparing new physical infrastructure for import controls, which will now not be used for 18 months, if at all. The

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<sup>3</sup> Letter from Lord Kinnoull to the Foreign Secretary, dated 29 April 2022:  
<https://committees.parliament.uk/publications/22106/documents/164126/default/>

Committee notes that representatives of the ports have called for compensation for this. The Government itself has also invested considerable money in supporting these preparations. In the Government response to our report, we were told that as of December 2021, the Government had disbursed £95.5m in grants from the Port Infrastructure Fund to support spending on port infrastructure, that the Department for Transport had spent a further £292.2 million on inland border infrastructure, and that HMRC had spent a further £77 million on inland border facilities.

- **Does the Government intend to compensate port authorities for the resources they have invested in physical infrastructure that now may not be needed?**
- **How much in total did the Government spend on new physical infrastructure in preparation for the now defunct July 2022 deadlines, and to what extent was this expenditure wasted in the light of the new plans?**

### **Biosecurity**

The Committee notes that concerns have been raised in some quarters over the potential animal health, food safety and biosecurity implications of the decision not to introduce SPS checks this year, particularly now that the UK is outside EU veterinary surveillance structures.

Both the British Veterinary Association and the National Pig Association have raised specific concerns over African Swine Fever, which is widespread in parts of Europe.<sup>4</sup> In addition, the Government website warns that bluetongue virus, which affects cattle, is “circulating widely” in France and Belgium, and “could also spread into the UK if infected animals, or germinal products, are imported from countries where bluetongue is circulating.”<sup>5</sup> According to the Financial Times, an imported German cow was fortuitously discovered last year to have Bluetongue virus when it was sent for slaughter in Britain.<sup>6</sup>

The Committee also recalls comments made by Sam Lowe, then a Senior Fellow at the Centre for European Reform, during its previous inquiry into these matters:

*“It is also important to take a step back and ask why these controls exist in the first place. Why do most countries impose some form of checks on products from outside, particularly on products of animal origin? Why are Sanitary and Phytosanitary controls so intrusive? Why do they nearly always happen at the border? It is because you are guarding against pestilence and disease.”<sup>7</sup>*

- **In the absence of the remaining SPS controls, what alternative steps is the Government taking to safeguard the UK’s biosecurity and prevent the entry of dangerous, contaminated or illegally smuggled SPS products into the UK, particularly now that the UK is outside EU veterinary surveillance mechanisms?**

### **International legal obligations**

The decision also raises anew the question of the UK’s international legal obligations at the World Trade Organization (WTO). In reference to the last decision to delay, in September 2021, the Government told this Committee that it was confident in the UK’s compliance, stressing in particular that this was merely a “short, further time-limited delay to some controls”. Indeed, this Committee’s report concluded that “so long as the situation is time-bound, there is a low risk of adverse legal consequences flowing from this delay. We remain to be convinced, however, that this would remain the case if the status quo persisted indefinitely, without these checks and controls being introduced.”

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<sup>4</sup> Statement by the British Veterinary Association, 28 April 2022: <https://www.bva.co.uk/news-and-blog/news-article/vets-say-government-decision-to-delay-import-checks-requirement-by-up-to-18-months-flies-in-the-face-of-common-sense/>; Statement by the National Pig Association, 30 April 2022: [http://www.npa-uk.org.uk/NPA\\_warns\\_of\\_ASF\\_risk\\_from\\_Government\\_decision\\_to\\_abandon\\_checks\\_on\\_EU\\_imports.html](http://www.npa-uk.org.uk/NPA_warns_of_ASF_risk_from_Government_decision_to_abandon_checks_on_EU_imports.html)

<sup>5</sup> Department for Environment, Food and Rural Affairs, ‘Bluetongue: how to spot and report the disease’, 11 August 2021: <https://www.gov.uk/guidance/bluetongue>

<sup>6</sup> Financial Times, ‘UK farmers sound alarm on lack of border checks’, 10 May 2022: <https://www.ft.com/content/35f54034-6551-49d9-bf36-ed463477cbca>

<sup>7</sup> European Affairs Committee, Oral Evidence: Trade in Goods, 19 October 2021, Q7: <https://committees.parliament.uk/oralevidence/2861/pdf/>



Now, however, the Government has delayed these controls for much longer. While we note that the new regime will apply equally to goods from the EU and the rest of the world when it is eventually introduced, we are concerned that the unequal treatment of EU and non-EU imports in the 18 month interim could increase the risk of legal challenge at the WTO.

- **Is the Government confident that this latest, longer delay is compliant with its international legal obligations at the World Trade Organization, and that the risk of legal challenge remains low?**

#### **Parliamentary scrutiny**

The Committee welcomes your promise to keep Parliament informed of how the Government's work in this area is progressing. We request that you write promptly to this Committee when you have any updates to announce, particularly when the Target Operating Model is published.

We would welcome a response to our letter within the usual ten working days.

18 May 2022

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

Thank you for your letter of 18 May, regarding our new approach to the introduction of import controls on EU goods entering Great Britain. I have laid out the Government's position in response to questions in your letter below.

- **As the Government reviews its plans for the introduction of import controls, how will it ensure that businesses can trust that the Government's new timetable, once announced, will be adhered to?**

We want the process for importing goods to be safe, secure and efficient and we want to harness innovative new technologies to streamline processes and reduce frictions. We will publish the Target Operating Model in the Autumn. We will work across departments and with business to target the end of 2023 as the revised introduction date for our control's regime. We will keep business and other stakeholders informed.

- **Was the state of Government preparedness a factor in the decision not to introduce import controls this year?**

No.

- **Can you confirm that this latest decision is not simply another delay, and instead reflects a more fundamental change in the Government's approach to import controls?**

Yes. We will set out in more detail in the Target Operating Model but our new approach to controls will aim to create a seamless new 'digital' border, where technologies and real-time data will cut queues and smooth trade. The new Target Operating Model will be based on a better assessment of risk and will harness the power of data and technology. This new approach will ensure that we implement controls in a way which supports businesses.

- **In the light of the Government's decision not to include controls until at least the end of 2023, what steps will it take to mitigate the impact on GB exporters of the asymmetric implementation of checks and controls at the GB-EU border?**

The Government would, of course, hope that the EU would implement their own controls in an efficient and pragmatic manner. However, we do not accept the premise that increasing burdens for importers and increasing costs for British consumers will help our exporters.

- **Do you agree that, while unilateral easements to SPS imports may have some benefits, it would be preferable to reach an agreement with the EU so that importers and exporters alike can benefit from lighter-touch controls?**

HM Government is open to discussions with the EU on additional steps to further reduce trade friction trade between the UK and EU on agri-foods safely, but these cannot be on the basis of future alignment with EU rules. This would compromise UK sovereignty over our own laws.

- **Does the Government intend to compensate port authorities for the resources they have invested in physical infrastructure that now may not be needed?**

We are currently working with ports to assess the impact of this decision, and to address any issues or concerns they may have. This includes seeking to identify ways of preventing unnecessary additional capital cost and minimising ongoing costs.

- **How much in total did the Government spend on new physical infrastructure in preparation for the now defunct July 2022 deadlines, and to what extent was this expenditure wasted in the light of the new plans?**

It would be premature to draw any conclusions as to the future need for the infrastructure built at the border.

As regards spending, in July 2020 the Government announced a £705 million package of investment in border infrastructure, staff and technology to ensure Great Britain border systems would be ready for the transition period. This included the £200 million Port Infrastructure Fund (PIF) and £270 million for inland infrastructure.

As of 17 May 2022, £150.9 million in grants from the PIF had been disbursed to ports to cover verified expenditure to date. Additionally, by 31 March 2022, the Department for Transport had spent £326.8 million on inland border infrastructure (Sevington Inland Border Facility, Dover Inland Border Facility, Manston Airport Inland Border Facility and Waterbrook Inland Border Facility) and the running of Information and Advice sites.

HMRC has ongoing funding to deliver the key priorities for EU Exit. As of May 2022, HMRC had spent £85 million on Inland Border Facility development.

This spending relates both to the physical infrastructure which was successfully delivered across all PIF ports and inland sites in time for the introduction of customs checks in January 2022 and the construction of Border Control Posts ahead of July 2022.

- **In the absence of the remaining SPS controls, what alternative steps is the Government taking to safeguard the UK's biosecurity and prevent the entry of dangerous, contaminated or illegally smuggled SPS products into the UK, particularly now that the UK is outside EU veterinary surveillance mechanisms?**

From 1 January 2021, the UK put in place biosecurity controls on the highest risk imports of animals, animal by-products, plants and plant products from the EU. These controls on the highest risk goods will remain in place and we will still be able to respond to changes in biosecurity risk. We also have established mechanisms in place to stop products from being exported to GB in cases where it has been assessed there is a significant pest or disease threat.

Given we have close alignment and strong knowledge of the EU rules, we can continue to have a high degree of confidence in biosecurity associated with those imports.

We still have powers to check and seize non-compliant products and deal with any pest or disease risk identified.

- **Is the Government confident that this latest, longer delay is compliant with its international legal obligations at the World Trade Organization, and that the risk of legal challenge remains low?**

The UK acts in compliance with its international obligations. We take our WTO obligations very seriously and consider the implications of what we do, taking legal advice.

I hope the committee finds this information of use and we will, of course, keep your Committee updated on our progress.

26 May 2022

## NORTHERN IRELAND PROTOCOL

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

Our first priority in Northern Ireland will always be the preservation of the Belfast (Good Friday) Agreement, and peace and security in Northern Ireland. So much of the progress we have seen rests on the Agreement. It represents a triumph of compromise and tolerance after decades of instability, and is the foundation on which the modern, thriving Northern Ireland is built.

We want to see the return of the Executive and will work with them in the best interests of Northern Ireland. The reality, however, is that the power-sharing institutions have not been fully functioning since 3 February, as a result of the Northern Ireland Protocol and the strain it has put on businesses and communities in Northern Ireland.

All parties agree that the current arrangements are not working. The Protocol has not yet been implemented in full due to the operation of grace periods and easements. The practical problems are clear for all to see:

- EU customs procedures for moving goods within the UK have already meant companies are facing significant costs and paperwork. Some businesses have stopped this trade altogether.
- Rules on taxation mean that citizens in Northern Ireland are unable to benefit fully from the same advantages as the rest of the UK, like the reduction in VAT on solar panels.
- Sanitary and Phytosanitary (SPS) rules mean that producers face onerous restrictions, including veterinary certification, in order to sell food stuffs in shops in Northern Ireland.

These challenges have been sharpened by the challenges of post-COVID economic recovery.

I have had six months of negotiations with Vice-President Maros Sefcovic. This follows a year of discussions by my predecessor. The UK has proposed what we believe to be a comprehensive and reasonable solution to deliver on the objectives of the Protocol. This includes a trusted trader scheme, with strict enforcement, to provide the EU with real time commercial data, giving them confidence that goods intended for Northern Ireland are not entering the EU Single Market. With robust penalties for those who seek to abuse the system. We are already sharing over 1 million rows of goods movement data with the EU every week. Our solution would meet both our and the EU's original objectives for the Protocol. It would address the frictions in East-West trade, while protecting the EU Single Market and the Belfast (Good Friday) Agreement.

The challenge is that this solution requires a change to the Protocol itself, but the EU's mandate does not allow the Protocol to be changed. That is why the EU's current proposals are not able to address the fundamental concerns.

We will always take the necessary decisions to preserve peace and stability in Northern Ireland. That is why the Government will introduce legislation in the coming weeks to make the required changes to the Protocol and put it on a sustainable footing. We intend to deliver a durable and lasting solution that commands the broadest possible cross-community support.

I want to be clear that this is not about scrapping the Protocol. Our aim is to deliver on the Protocol's objectives. We will cement those provisions which are working in the Protocol, including the Common Travel Area, the Single Electricity Market and North-South cooperation, whilst fixing those elements that aren't: on the movement of goods, goods regulation, VAT, subsidy control, and governance. We are clear that the Bill is consistent with international law – and in support of our prior obligations in the Belfast (Good Friday) Agreement.

Our preference remains a negotiated solution with the EU. In parallel with the legislation being introduced, we remain open to further talks if we can achieve the same outcome through a negotiated settlement. However, no outcome can restore the delicate balance of the Belfast (Good Friday) Agreement if it does not address the real-world problems facing Northern Ireland. The scale of change needed means this is only possible by changing the Protocol itself.

The urgency of the situation means that we cannot delay further. Only by taking this measured and proportionate action can we live up to our commitments to all communities of Northern Ireland and restore the primacy of the Belfast (Good Friday) Agreement.

17 May 2022

## NORTHERN IRELAND PROTOCOL BILL

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

Today I introduced the Northern Ireland Protocol Bill to fix parts of the Northern Ireland Protocol-making the changes necessary to uphold the Belfast (Good Friday) Agreement.

As Chair of the European Affairs Committee, you will agree on the problems that the Protocol presents given the unsatisfactory proposals made to-date by the EU, and the consequent challenges facing Northern Ireland.

The Bill will allow the Government to address the practical problems the Protocol has created in Northern Ireland in four key areas - burdensome customs processes, inflexible regulation, tax and spend discrepancies and democratic governance issues.

These problems include disruption and diversion to trade and significant costs and bureaucracy for business. They are undermining all three strands of the Belfast (Good Friday) Agreement and have led to the collapse of the power-sharing arrangements at Stormont.

Our preference remains for a negotiated solution with our European partners. However, the European Union has not so far agreed to change the Protocol - and that is needed to secure the improvements we need for Northern Ireland. For example, the Protocol bakes in the need to implement the EU's customs code on trade between Great Britain and Northern Ireland, and the rigid application of EU VAT and subsidy rules.

We have extensively explored the EU's proposals which fall short of amending the Protocol. After more than 300 hours of discussions between October and March, we have regrettably not been able to find a way forward. The suggestions they have presented do not address the core problems created by the Protocol. They would be worse than the status quo, requiring more paperwork and checks than today because the Protocol is not fully in force.

Our door remains open if the EU recognises the need for more fundamental change - and the provisions of the Bill I am introducing today allow any agreement to be incorporated. But that will mean providing their negotiators with a new mandate.

As the Government of the whole United Kingdom, it is our duty to take the necessary steps to preserve peace and stability. We cannot allow this to drift.

The legislation enables the government to bring forward durable solutions in each of the four key areas - while safeguarding the EU Single Market so the EU is not left any worse off - and ensuring there is no hard border on the island of Ireland.

The Bill provides for:

- Green and red channels to remove unnecessary costs and paperwork for businesses trading within the UK, while ensuring necessary checks are done for goods entering the EU.
- Businesses to have the choice of placing goods on the market in Northern Ireland according to either EU or UK goods rules, to address divergence between goods produced in Northern Ireland and Great Britain.
- NI businesses and consumers to benefit from the same support and subsidies as the rest of the UK.
- Normalised governance so disputes are resolved by independent arbitration and not by the court of one of the parties.

These changes will be underpinned by a Trusted Trader scheme and real-time data sharing to give the EU confidence that goods intended for Northern Ireland are not entering its market. The legislation also ensures goods moving between Great Britain and the EU are subject to EU checks and customs controls.

The UK's solution protects the elements of the Protocol that are working, including maintaining free flow of North-South trade, the UK's commitments to no diminution of human rights and the Common Travel Area.

This Bill is lawful and justified under the international law and a statement of the Government's legal position has been published alongside the Bill.

A summary of the main provisions of the Bill is annexed, and we have published a 'UK Solution' explainer document setting out each of the proposals in detail.

*13 June 2022*

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

Thank you for your letter dated 13 June 2022 addressing the Northern Ireland Protocol Bill. This was considered by the European Affairs Committee at its meeting of 21 June 2022.

As you know, the European Affairs Committee is not directly involved in the scrutiny of the Ireland/Northern Ireland Protocol of the Withdrawal Agreement (the "NI Protocol") as this function is carried out by our sister Committee, the Sub-Committee on the Protocol on Ireland/Northern Ireland, chaired by Lord Jay of Ewelme.

Scrutiny of the rest of the Withdrawal Agreement, the Trade and Cooperation Agreement (TCA) and the various Declarations of December 2020 falls to us. We are most concerned that the impasse where the NI Protocol is concerned has directly resulted in a cessation of normal work on many other areas unrelated to the NI Protocol, where the UK and the EU need to act together.

There is plenty of evidence for this concern, including a recent letter to us of 29 April from the European Commissioner for Innovation, Culture, Research, Education and Youth, Mariya Gabriel, writing in response to our letter regretting the non-implementation of the UK's participation in the Horizon Europe programme. Explaining the impasse, Commissioner Gabriel said that "there are at present serious difficulties in the implementation of the Withdrawal Agreement and parts of the Trade and Cooperation Agreement between the European Union and the United Kingdom". We note also in this regard the minutes of the December 2021 meeting of the Specialised Committee on Participation in Union Programmes during which the EU cited the provision in the TCA setting out its relationship with other agreements (Article 775 TCA). (This article reaffirms the Parties' obligations to implement other bilateral agreements between them, which would include the Withdrawal Agreement.) In addition, at the recent Parliamentary Partnership Assembly, Commission staff and MEPs were open about this state of affairs.

It is clear therefore that any hold up in resolving the impasse over the NI Protocol has the inevitable consequence of causing collateral damage, such as with regards to the UK's participation in the Horizon Europe programme. We cannot see how matters can be resolved except through negotiation.

Can you confirm that you are aware of the linkage between the impasse over the NI Protocol and collateral issues affecting the whole UK under other UK/EU agreements and declarations, and what plans do you have to take those matters forward from here?

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

*22 June 2022*

## SUPPLEMENTARY INFORMATION FOLLOWING 21 JUNE 2022 EVIDENCE SESSION AND THE NORTHERN IRELAND PROTOCOL BILL

### **Letter to the Chair from Graham Stuart MP, Minister of State for Europe, Foreign, Commonwealth & Development Office**

On behalf of my predecessor, thank you for the opportunity to appear before your Committee on 21 June and for your letter of 22 June to the Foreign Secretary about the Northern Ireland Protocol Bill.

Please accept my apologies for the delay in replying, which is in part as a result of the ministerial portfolio changes.

With your leave, I would like to respond to both the requests for further information following my predecessor's appearance and to the points in your letter, on behalf of the Foreign Secretary.

#### Engagement with the EU

Lord Faulkner and Lord Hannay asked for clarification on the points around regular engagement with the EU.

The Foreign Secretary (and her predecessor before her) met with Vice-President Šefčovič 26 times over the past year – more than with any other international partner. This includes multiple, long negotiating sessions. To support these discussions, UK officials engaged in 18 weeks of technical discussions with their EU counterparts.

Together, this totalled over 300 hours of official and Ministerial meetings, with hundreds more hours spent analysing and engaging with the four non-papers the EU published in October.

That is just on the Northern Ireland Protocol. We have a significant amount of further engagement within the Withdrawal Agreement and Trade and Cooperation Agreement structures. We also cooperate closely outside that framework with our European allies, on critical international issues such as the Russian invasion of Ukraine and our fight against climate change. We also continue to negotiate and cooperate with the EU on Gibraltar.

I hope this reassures the Committee that there has been extensive engagement on both the Protocol and wider issues. What ultimately matters, however, is delivering results.

#### EU linkages

Lord Tugendhat asked for other examples of the EU holding off or going slow on cooperation in the present context. I should underline that our view is that TCA implementation is generally proceeding well, but there are clearly a set of areas where that is not the case.

First, and as you say in your letter of 22 June, the EU is drawing links between our differences over the Protocol and TCA issues. The EU has so far refused to formalise the UK's participation in Horizon Europe and other EU programmes as agreed under the TCA. I refer you to the letters the Foreign Secretary sent to your Committee on 9 May and 26 May, which I have re-attached. As the Foreign Secretary stated in those letters, we have done everything that is legally required on our side. The Northern Ireland Protocol is an entirely separate issue, contained in a separate agreement, and we consider the EU's approach to be contrary to its obligations under the TCA and accompanying agreements – and to the detriment of scientists on both sides. Your Committee will be aware that Switzerland is also facing a similar issue over the use of scientific collaboration as perceived leverage in their relationship with the EU.

Second, the TCA also commits us to agreeing a Memorandum of Understanding (MoU) on Financial Services Regulatory Cooperation. As my predecessor said on 21 June, this is another area where the EU has drawn links with unrelated issues. We stand ready to sign and implement the text we agreed in March last year, once the EU decides to do so, but in the meantime, we do not believe that the lack of an MoU between HMT and the Commission has impacted the strong supervisory relationships that UK regulators have with their European partners.

Third, we are disappointed in the delays to progressing the new electricity trading arrangements set out in the TCA. These arrangements are important for opening up opportunities for renewables development in the North Sea – supporting our respective ambitions to deliver net zero ambitions and

reduce our reliance on Russian hydrocarbons. We welcomed the meeting of the Specialised Committee on Energy on Wednesday 30 March. At the meeting, the UK called for accelerated engagement on this issue, and both parties confirmed their commitment to cooperate to implement these next steps at pace. It remains to be seen if this is delivered upon by the EU side. This must be seen in the broader context of EU member states showing willingness to seek leverage by making links across unconnected areas; in autumn 2021 France politicised energy by threatening to disrupt the energy supply to Jersey and Guernsey in an attempt to seek a more favourable outcome on fisheries licenses.

Last, on a related note but not strictly about implementation of existing commitments, we have repeatedly proposed to the European Commission that we amend the TCA's VAT and Debt Protocol, to avoid the need for GB businesses to appoint a fiscal representative should they wish to use the EU's e-commerce platform that streamlines VAT collection (this follows changes to EU rules since the TCA was agreed). Amending the threshold is in our mutual interest - it would lessen burdens on businesses operating in Great Britain and benefit EU consumers. However, the EU has refused to agree.

We continue to work with the European Commission to resolve the issues above, including through the formal structures.

#### Northern Ireland Protocol Bill

My predecessor spoke to your Committee about the Northern Ireland Protocol and the Bill that was introduced on 13 June, and the Lords will of course undertake detailed scrutiny of the Bill once it has completed its Commons stages.

In your letter of 22 June, you express a preference for a negotiated solution on the Protocol. That is also the Government's position. The challenge we have is that, despite extensive discussions, the EU has not so far been willing to move beyond its proposals from last October and are ruling out any changes to the Protocol as precondition for talks. In the meantime, the Northern Ireland Executive has collapsed, and the Protocol has become the primary obstacle to re-establishing power sharing after May's elections. Nonetheless, our door remains open, and, as my predecessor mentioned to the Committee, the Foreign Secretary proposed a meeting of the Withdrawal Agreement Joint Committee to Vice President Šefčovič early last month. That offer has not been taken up. Looking forward, the negotiating teams are in touch and our Bill contains explicit provision to incorporate any agreement with the EU directly.

We will continue to work closely with the EU on the crisis in Ukraine, and on our wider agenda of cooperation. We have always said we want to fix the problems created by the Protocol, and the other outstanding issues listed above, in part so we can focus our full collective energy on global challenges. We want a productive relationship with the EU, and we are fundamentally on the same side in the battle for democracy, freedom, and the defence of our values.

*13 July 2022*

#### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth & Development Office**

I write in response to the letter of your predecessor, Graham Stuart MP, dated 13 July 2022, in which he provided supplementary information promised by his predecessor, Rt Hon James Cleverly MP during the latter's appearance before my Committee on 21 June, and also responded to our letter to the then Foreign Secretary, Rt Hon Liz Truss MP, regarding the 'collateral damage' being caused to UK/EU cooperation by the problems concerning the operation of the Protocol. This was considered by the European Affairs Committee at its meeting of 11 October 2022.

The Committee thanks you for the response to Lord Tugendhat's request to for a list of areas being affected by the impasse over the Protocol on Ireland/Northern Ireland. However, we felt that our legitimate questions regarding the recent history of Ministerial engagement with the EU, and the wider collateral damage to UK/EU relations caused by the Protocol, merited a more detailed response than that provided by Mr Stuart.

During Mr Cleverly's appearance before the Committee in June, we sought a more detailed explanation of the programme of meetings undertaken this year relating both to the Protocol and wider cooperation "across the withdrawal agreement, TCA, the Northern Ireland protocol, Gibraltar and others", as Mr

Cleverly put it in his evidence to us. We feel that Mr Stuart's letter adds nothing to the information already laid before the Committee by the Minister in June and does not engage with our specific request for information about the precise content of the various meetings and ask that you provide this information in your response to this letter.

In terms of the areas currently adversely affected by the impasse over the Protocol, as a result of correspondence between the Committee and the Government, and of our recent inquiry into Financial Services, we are familiar with the problems facing the Horizon Europe programme and the failure to agree the Memorandum of Understanding on financial services. It is the first time, however, that we have been alerted to the fact that efforts to establish the new electricity trading arrangements set out in the TCA and your attempts to amend the provisions dealing with the VAT and Debt Protocol are also being negatively affected. We would welcome an undertaking that you will, from now on, endeavour to keep the Committee updated on these and all similar matters.

All of these factors are difficult to reconcile with your predecessor's claim that, beyond Northern Ireland, the Government is engaged in a "significant amount of further engagement within the Withdrawal Agreement and Trade and Cooperation Agreement structures". If this were the case, the EU would not, in our view, be hampering the operation of the TCA and rejecting your attempts to amend it with regard to the VAT and Debt Protocol.

It is clear from Mr Stuart's letter that the Government and my Committee agree on the need for a negotiated settlement to the current dispute regarding the operation of the Protocol. However, we feel that Mr Stuart did not fully engage with our request for an explanation of the Government's plans for how this can be achieved. We ask that you provide a full explanation in your response to this letter.

We ask that you address the matters highlighted above and look forward to considering your response within the usual 10-day deadline.

*20 October 2022*

## PUBLICATION OF A NOVEMBER UPDATE TO THE BORDER OPERATING MODEL

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

This is to let you know that today the Government has published an updated Border Operating Model. This has been made to reflect the latest announcement on border controls. It also provides some additional detail on further facilitations for safety and security declarations. This update 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 how to interact with the border.

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

*16 June 2022*

## UK-EU RELATIONSHIP IN FINANCIAL SERVICES

### **Letter to the Chair from the John Glen MP, Minister of State (Economic Secretary), HM Treasury**

I am writing to thank the European Affairs Committee for their hard work and for the publication of their report into the UK-EU relationship in financial services. The Committee's recognition of the dynamism, optimism and strength of the UK financial services sector post-Brexit is most welcome.

The government will respond to the recommendations of the report in due course. However, in the interim, I would like to note my surprise at the Committee's criticism of the level of UK engagement with the European Union and its member states, on financial services issues.



Over the last twelve months, the government has pursued an ambitious programme of engagement with the EU, its member states, and the European Economic Area and Switzerland.

I have personally travelled to Madrid, Luxembourg, Brussels and Berlin, to engage with my counterparts, financial services industry, and in cases, regulatory and supervisory authorities. I have also travelled to Lichtenstein and to Switzerland to discuss our ambitious agenda in financial services.

My officials have developed relationships with their counterparts across the EU and its member states and are in regular contact to discuss matters of policy. The Foreign, Commonwealth and Development Office as well as the Department for International Trade have teams across their European network of posts engaged in promoting the country's financial services priorities.

The Chancellor has been clear that the government has an abiding interest in a prosperous and productive Europe, and on financial services, our engagement with the EU clearly demonstrates this.

*1 July 2022*

## EU RELATED SCRUTINY ARRANGEMENTS

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

1. I am writing to seek your agreement on future scrutiny arrangements, following the conclusion of discussions between officials on a formal framework for scrutiny arrangements, which provides a balanced approach to parliamentary oversight of our new relationship with the European Union. I am grateful to the officials involved in these discussions for arriving at an agreed approach.

2. I agree with Lord Frost's position when he wrote to you on 23 September 2021, that we should be as open as possible in how we work with your committees, whilst noting that our new relationship with the EU requires a new approach to scrutiny and a move towards a more flexible approach.

3. The scrutiny offer enclosed in the Annex seeks to reflect this and takes into account the clear representations made by your officials, including some reasonable additional requests since Lord Frost wrote to enhance the commitments in several areas. I should note that the additional requests made by the Northern Ireland Protocol Sub-Committee in their report on scrutiny have been responded to separately through the Government's response to the Sub-Committee's report.

4. I am aware that the offer does not go as far as the European Affairs Committee in particular would have liked in terms of automatic deposit of EU documents on a broader range of issues. These arrangements are proportional to our new relationship with the EU and are part of an evolving process to be kept under review. As set out in the offer, it is sensible to conduct an interim review of these arrangements in nine months' time, and then a full review after two years (or at the end of this Parliament, whichever is sooner), to ensure the process remains relevant and manageable for both sides.

5. I hope that the offer enclosed is acceptable to you, and I look forward to implementing it as quickly as possible. I am grateful to you both for your continued engagement and for the valuable role that your Committees play.

## **ANNEX**

### **Final Government Offer on Scrutiny of EU-related Business by the EU Scrutiny Committees**

#### **I. Scrutiny of the Withdrawal Agreement (excluding the Northern Ireland Protocol)**

We are committed to:

- Issuing WMSs before and after WA Joint Committee (WAJC) meetings.
- Providing EMs on European Council Decisions that establish the EU position for the WAJC, before meetings wherever possible.

- Providing official-level briefings to the Committee teams in advance of all Joint Committee meetings, setting out a more in-depth UK position on agenda items and our approach to the discussion. We can also provide a post-WAJC meeting read-out.
- Ministerial appearances before the Committee and ad hoc official-level briefing as required.
- Sharing provisional agendas of WA Specialised Committee meetings in advance (on a confidential basis, unless co-chairs agree to publish them).
- Sharing the WA Annual Report before publication, subject to co-chairs agreeing to publish. The first report was shared with both Committees on 18 June.
- Automatic deposit of EMs on new or amended EU law that has a direct effect on the UK under the WA.
- A Ministerial oral statement following publication of the two reports by the Commission and the Independent Monitoring Authority on the implementation of the citizens' rights chapter of the WA in mid-2022.
- Reporting on the UK's outstanding financial liabilities under the financial settlement and on payments to the EU each year through the annual European Union Finances Statement.
- Writing to the chairs in advance of requesting the establishment of an arbitration panel under the Agreement.
- Issuing WMSs following the establishment of an arbitration panel and after any CJEU rulings made under the WA and issuing an annual report on disputes raised at the WAJC.
- Providing a quarterly summary of each Specialised Committee's activities, to the extent that there is agreement by both co-chairs of the Committee to make that activity public (for example through joint statements).

## **2. Scrutiny of the Northern Ireland Protocol**

We are committed to:

- Continuing the submission of EMs on EU proposals which amend or replace existing proposals that fall under scope of the NI Protocol (including tertiary legislation)
- Automatic submission of EMs on new EU proposals falling under the scope of Protocol when agreed by the Joint Committee.
- Automatic submission of an EM when the UK is informed of any draft EU legislation through the JCWG which the EU have indicated they would like to add to the NIP Annexes under the Article 13(4) processes. Any agreement to share an EM is on the understanding that we would not be able to share anything that might reveal our negotiating position ahead of the relevant Joint Committee meeting.
- Officials will work with the Committees' Clerks on tailoring our EM guidance and template used by Departments to better reflect the information the Committees would find helpful to receive.
- We will share Ireland/Northern Ireland Specialised Committee (INISC) agendas, on the same basis as the approach to sharing provisional agendas of WA SC meetings in advance (on a confidential basis, unless co-chairs agree to publish them).

## **3. Scrutiny of the Trade and Cooperation Agreement**

We are committed to:

- Issuing WMSs before and after TCA Partnership Council meetings, using best endeavours to do so seven days in advance for pre-meeting WMSs.

- Automatic submission of EMs on European Council Decisions that establish the EU position for the Partnership Council, before meetings where possible.
- Automatic submission of EMs on EU Council Decisions that establish the EU position for meetings of Specialised Committees, before meetings where possible. For the avoidance of doubt, not all Specialised Committees will require an EU Council Decision to establish the EU's position.
- Providing official-level briefings to your Clerks in advance of all TCA Partnership Council meetings and offering post-meeting readouts.
- Sharing provisional agendas of TCA Specialised Committee meetings in advance.
- FCDO Ministers will write to the Committees periodically with a summary of activity in the Specialised and other Committees established under the TCA.
- Writing to the chairs before requesting the establishment of an arbitration panel or if it is likely that the EU will initiate dispute settlement, adopt a remedial, safeguard, or other unilateral measure, or operate the TCA “rebalancing” clause.
- Ad hoc Ministerial appearances as appropriate.

#### **4. Miscellaneous**

We are committed to:

- Sending EMs on the EU’s annual Work Programme as we recognise that the EU Select Committees retain an interest in the wider EU policy direction and potential implications on both agreements.
- Continuing the practice of writing to the EU Committees about incoming EU Presidency priorities every six months, before the start of each Presidency where possible.
- HMG will consider requests from the EAC, NIPC and ESC for the deposit of documents of direct relevance to the work of the Committees that might fall outside the WA and TCA agreements.
- There will be an interim review of arrangements after nine months and then a full review after two years or at the end of this Parliament (whichever is sooner).

#### **5. Ministerial appearance before the Committees**

- The Foreign Secretary will appear at least once a year before the ESC and EAC and the Minister for Europe and North America twice a year, with other ad hoc Ministerial appearances as appropriate. In respect of appearances before the Lords Committee and its sub-committee, Government officials and Committee clerks should work together to determine how appearances will best meet the needs of the main Committee and sub- committee according to the issues prevailing at the time. Parity in the number of appearances before each House should underpin this commitment.

*8 July 2022*

#### **Letter from the Chair to the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs**

On behalf of my Committee, I would like to welcome you to your new role.

As you will be aware, your predecessor, Rt Hon Elizabeth Truss MP, wrote to me and to the Chair of the Commons European Scrutiny Committee on 8 July 2022 seeking our collective agreement to revised arrangements for the scrutiny of UK-EU affairs. This letter was preceded by over a year of discussions. I am grateful to all of those involved for their time and determination to reach a settlement that

facilitates parliamentary scrutiny of the Government's dealings with the EU while being appropriate to the new UK/EU relationship.

The Committee believes that the Government's offer strikes this balance and, as such, we formally accept. I have informed the House of these revised arrangements. The Clerk will be in contact with your officials shortly to discuss consequent changes to document handling practices, for example, concerning the information provided in Government Explanatory Memoranda on EU documents. As our revised arrangements relate mainly to the types of EU documents the Government will facilitate scrutiny of, our reporting practices will remain largely unchanged.

As suggested, we will review these arrangements with you in nine months' time. This new settlement is without prejudice to our powers to send for persons, papers and records. We must also make clear that we expect Ministers to appear before either Committee when they are called, irrespective of how frequently this is.

Finally, while these arrangements have been negotiated and agreed in conjunction with the Commons European Scrutiny Committee, they are entered into separately by each Committee and will remain in force for as long as a Committee in the House of Lords continues to hold these scrutiny functions.

*12 October 2022*

### **Letter to the Chair from Leo Docherty MP, Minister for Europe, Commonwealth and Development Affairs**

#### **Interim review of the October 2022 scrutiny commitment agreement**

I am writing to conclude the recent interim review of EU-related scrutiny arrangements completed by officials, in line with our commitment to "complete an 'interim' review nine months after agreeing the arrangements, and then a 'full' review after two years or at the end of this Parliament, whichever is sooner."

Officials jointly agreed that the interim review should be in the form of a general stocktake and should not seek to renegotiate the formal agreement reached in October 2022. I am grateful to the officials involved for the constructive way they have worked together to implement the scrutiny arrangements and also for the pragmatic way they have completed this review.

I am pleased to report that both teams felt the arrangements were working well and that no substantive changes were required. This was without prejudice to new processes, or commitments that might be needed in the future.

I am also pleased that our teams have been able to work together to revise the guidance for EU scrutiny Explanatory Memoranda (EMs). I can confirm that the revised templates and guidance have been issued to departments and we hope this will result in higher quality EMs submitted to your Committees. We are grateful to your officials for the continued pragmatic and flexible approach they take to engagement on EMs with departments.

Your officials welcomed FCDO engagement in providing official level briefings on a range of matters, including on the Withdrawal Agreement Joint Committee and Partnership Council meetings and more recently on the European Political Community. It was agreed that we would continue to provide briefings to your Committee teams on issues that were of interest, where possible.

Our officials agreed to meet twice yearly to undertake a stocktake as we prepare for the full review of scrutiny arrangements in due course.

I continue to value highly the work of your Committees on the various aspects of the UK's relationship with the EU and look forward to my continued engagement with you and your Committees.

*19 July 2023*

## PRIORITIES OF THE CZECH EU PRESIDENCY, JULY TO DECEMBER 2022

### **Letter to the Chair from Graham Stuart MP, Minister for Europe, Foreign, Commonwealth and Development**

#### **Priorities of the Czech EU Presidency, July to December 2022**

I am writing to let you know the priorities of the Czech Presidency of the Council of the European Union (EU).

The Czech Republic took up the Presidency of the Council of the EU on 1 July 2022, which it will hold until 31 December 2022. Its motto is *'Europe as a task: strengthen shared freedom, responsibility, security and prosperity'* ('task' is a quote from Vaclav Havel) and has five priorities, outlined below. The crisis in Ukraine will dominate the agenda as the most pressing issue for European security, prosperity, and stability. The Czech Republic will emphasise the need for the EU to work closely with allies and NATO, notably in the Indo-Pacific, and we will work closely with it on this and other areas of shared interest.

#### **Managing the refugee crisis and Ukraine's post-war recovery**

The Presidency will support EU efforts to assist Ukraine using all the tools available to the EU, including strengthening sanctions. A priority will be the response to the refugee crisis, particularly ensuring support for the most affected Member States, of which the Czech Republic is one. The Presidency will also focus on post-war reconstruction and will host a conference to which the UK has been invited.

#### **Energy security**

Linked to Ukraine, the Czech Republic will prioritise energy security, with a particular focus on ending EU reliance on Russian fossil fuels. The Presidency will work towards quick implementation of the REPowerEU programme and more support for Member States to manage the economic and social impacts of rising energy prices. The impact of energy prices has a direct bearing on Member State support for sanctions against Russia. The UK will continue to encourage and support the EU to end energy dependency on Russia.

#### **Strengthening Europe's defence capabilities and cyberspace security**

The Presidency will work to enhance European defence capabilities while emphasising the centrality of NATO, which it too believes must remain the bedrock of Euro-Atlantic security. It will focus on intra-EU cooperation for the development of strategic military systems. The UK has a clear interest in this work as Europe's most active security player. The Presidency will focus on cyber threats, and particularly on enhancing the cyber security of EU institutions and related bodies. They will also work on these issues in the Indo-Pacific region – where there are synergies with our own cyber and digital capacity-building programmes. The Presidency will stress that the democratic world including the EU must actively shape international debate to improve the security and stability of cyberspace. We will continue to engage on this shared priority with the Presidency and European partners.

#### **Strategic resilience of the European economy**

The Presidency will work to address vulnerabilities in the supply chains of critical goods, including food, medicines, and semi-conductors. It will emphasise the need for targeted support to develop EU production capacity alongside deepening free trade with democratic nations. The Czech Republic is free-trading and anti-protectionist like the UK, and we look forward to working in concert with it.

#### **Resilience of democratic institutions**

The final priority will be strengthening the institutions of democracy and rule of law in the EU. The Presidency will work towards implementing relevant ideas from the Conference on the Future of Europe. As part of European Year of Youth 2022, the Presidency will focus on improving dialogue with, and political participation by, young people. It will also work on delivering European values online, pushing for the protection of fundamental rights in the digital environment and encouraging the EU to set high standards.

*1 August 2022*

## THE UK'S PARTICIPATION IN THE HORIZON EUROPE PROGRAMME

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

I am writing to you regarding the UK's participation in the EU's Horizon Europe Programme, in your capacity as UK co-chair of the Partnership Council of the UK-EU Trade and Cooperation Agreement (TCA).

#### **Context**

As you are no doubt aware, the UK and EU reached agreement in principle alongside the TCA that the UK would associate to Horizon Europe, the EU's flagship funding programme for research and innovation. However, although over a year has passed since the conclusion of the TCA, association has still not been finalised. Appearing before our Committee on 26 October 2021, Lord Frost confirmed that there "seems to be a problem" on the EU side regarding the finalisation of the UK's association to Horizon Europe. We note that the relevant TCA forum, the Specialised Committee on Participation in Union Programmes, went many months without a meeting being scheduled, and only met for the first time on 21 December 2021 (for 45 minutes).

In this context, the European Affairs Committee held an evidence session on 1 February 2022 with the following witnesses, representing both the UK and EU science and research sectors:

- Professor Robin Grimes, Foreign Secretary, the Royal Society.
- Peter Mason, Head of International Engagement, Universities UK.
- Professor Kurt Dekelelaere, Secretary-General, League of European Research Universities.

The Committee also received supplementary evidence in writing from the Royal Society and Universities UK, as well as a written evidence submission from the Russell Group of UK universities. A detailed summary of the evidence we received is set out in Annex 1 of this letter.

#### **The importance of Horizon Europe**

We strongly endorse the view of our witnesses that securing the UK's association to Horizon Europe is critical for the UK science and research community. The benefits of Horizon Europe go beyond the direct funding opportunities; it also represents a long-standing and prestigious evolution of programmes, which unlocks opportunities for research collaboration and wider commercial, scientific and cultural benefits. We also agree that, notwithstanding the need for continuing financial contributions, Horizon Europe represents good value for money.

UK association would also be beneficial to the EU, as is demonstrated by the overwhelming support for UK association in the EU science and research community.

Overall, we endorse the clear message we received that UK association to Horizon Europe would be a "win-win" for both parties. We note, and welcome, that this appears also to be the Government's position, as set out in the open letter from the Minister for Science, Research and Innovation of 30 November 2021.

#### **The consequences of the delay**

The delay to finalising the UK's association with Horizon Europe is already causing uncertainty and eroding confidence among researchers. Our witnesses identified a chilling effect whereby EU researchers are reluctant to collaborate with their UK counterparts, to the detriment of both sides.

Moreover, the longer association is delayed, the worse this situation will get. We are also concerned that a 'non-association' outcome would disrupt the funding stability that UK researchers rely on; diminish the UK sector's attractiveness to global talent; and render the Government's stated desire for the UK to become a 'science superpower' far more difficult to achieve.

The experience of Switzerland was highlighted as an instructive comparison. Switzerland's exclusion from Horizon 2020 between 2014 and 2017 disrupted collaboration networks and damaged that country's reputation as a destination for talent and a partner for research. We are deeply concerned

that a similar fate could befall the UK if the impasse is not resolved soon. We therefore urge the Government to do all it can to secure the UK's effective association to Horizon Europe as soon as possible.

### **The need to de-politicise the issue.**

There was consensus among the witnesses that the causes of the current impasse are political, not functional, with Horizon Europe association being treated as a negotiating pawn in the context of wider difficulties in the UK-EU relationship. While one of our witnesses suggested that this delay was on the EU side, another argued that both sides have been treating Horizon Europe as a “bargaining chip”. We note that, per the recently published Minutes of the first meeting of the Specialised Committee, the EU has told the UK that “the completion of EU procedures in the current political setting does not seem opportune as there are serious difficulties in the implementation of the Withdrawal Agreement (WA) and the TCA”.

Whatever the allocation of blame, we view the politicisation of scientific research as a highly unwelcome development, which will be to the detriment of research communities on both sides of the Channel. We note the recent launch by the European research community of the cross-border #StickToScience campaign, which calls for science collaboration to be depoliticised and appears to have widespread support on both sides of the Channel.

Given that the cause of the impasse appears to be political, we also agree with our witnesses that unblocking the question of association requires high-level political intervention, which is why we are addressing this letter to you. We urge you to work with the EU to unblock the political impasse and secure the UK's association to a programme which is of great importance to researchers in the UK and the EU alike.

### **Alternatives to Horizon Europe**

We are aware that, as the delay has continued, the Government has been stepping up contingency plans for a non-association outcome – known as “Plan B”. While our witnesses said these contingency efforts were necessary, they stressed that securing association should remain the core priority. There was some unease that the Government had been “talking up” a Plan B outcome, and it was stated that it was still too early to switch the focus wholly to Plan B.

The Committee welcomes the Government's recent guarantee of funding to the first wave of those who have already successfully applied to Horizon Europe. However, we heard support for extending this guarantee beyond the current deadline of 30 April 2022. We also heard that, crucially, the guarantee does not provide the same long-term certainty for the sector as securing association.

Although we share our witnesses' support for improving collaboration with non-EU partners, we also agree that these efforts should be seen as complementary to Horizon Europe association, rather than being any kind of adequate replacement.

We also note that association would itself unlock collaboration with non-EU partners. 9 non-EU countries, stretching from Iceland to Israel, are already associated with Horizon Europe; a further 7 have concluded negotiations on or signed association agreements that are not yet in force; and the EU is also in association negotiations with other partners, including Canada. In this context, it would be even more regrettable if the UK were to be locked outside.

### **Questions**

In the light of the evidence we received, we request that you address the following questions in your reply to this letter:

1. What steps are the Government taking, together with the EU, to unblock the UK's association to Horizon Europe, given its view that association would be a ‘win-win’ for both parties?
2. When will the Specialised Committee on Participation in Union Programmes next meet?
3. Does the Government agree that scientific collaboration should not be politicised?
4. How does the Government respond to the argument that both parties, rather than only the EU, have been treating association to Horizon Europe as a “bargaining chip” in the context of

wider political disputes, particularly negotiations over the Protocol on Ireland/Northern Ireland?

5. Does the Government agree that the potential for collateral damage from political disputes, seen both in this area and elsewhere, underlines the importance of a UK-EU relationship based on stability and cooperation?

6. Does the Government share the concerns expressed by our witnesses that the delay to the UK's association with Horizon Europe has already caused mutual harm for the UK and EU, which will worsen the longer the delay continues?

7. Is securing the UK's association to Horizon Europe still the Government's "Plan A"? If so, when, and under what circumstances, might this position change?

8. In the absence of association, can the Government provide further details on its so-called "Plan B" option? How will the Government seek to ensure that "Plan B" matches as many of the benefits of Horizon Europe as possible, and mitigates against the costs of non-association?

9. Does the Government have plans to extend its funding guarantee to existing applicants to Horizon Europe?

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

3 March 2022

**Letter to the Chair from 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 3 March 2022 setting out a number of questions regarding the UK's participation in Horizon Europe. I am grateful to you, and to those individuals who presented evidence to the Committee on 1 February, for your interest in this important topic.

The Government stands ready to formalise the UK's association to Horizon Europe, as agreed by both the UK and the EU under the TCA. However, the EU has so far refused to deliver the commitments it made in 2020. To be clear, the UK is not using Horizon association as a bargaining chip. We have done literally everything that is required on our side – all that is required is for the EU to fulfil its commitment to adopt the draft Protocols agreed under the TCA. There are no legal or technical barriers preventing the EU from immediately formalising UK association. At no point have we ever 'held out' anything on Horizon in order to get some collateral gain.

As you have articulated in your letter, the value of collaboration between UK and EU scientists and researchers on shared challenges, such as climate change and global public health, is unquestionable. I therefore agree that it is concerning to see science and research cooperation politicised in this way by the EU, and I (and my predecessor, Lord Frost) have consistently expressed our disappointment to the EU directly. Now, more than ever, it is important that like-minded nations work together to uphold our shared values and priorities – including through cooperation on research and innovation.

While association is our priority, we must prepare for all scenarios; we cannot wait for the EU indefinitely. The Government is committed to the UK's position as a science superpower, and we cannot allow the EU's decision to delay the UK's participation in Horizon to unduly impact our excellent science and research community. I am pleased that we have been able to extend a financial guarantee for successful UK applicants who cannot receive funds from the EU while delays persist. This will ensure important individual and collaborative projects can go ahead as planned and provide reassurance for those who are about to apply.

Should the EU fail to fulfil their treaty commitments and formalise the UK's association to Horizon soon – and in good time to make full use of the opportunity that association offers – we will be ready to support the UK's science and research community with ambitious alternative programmes; the guarantee will provide stability during the transition to them. We are actively developing an ambitious, longer-term offer that delivers many of the benefits of the Horizon association and even stronger industry and SME engagement. This will include a strong and attractive offer to encourage talented individuals to build their careers here, developing the skills and workforce the UK needs.



We will continue to engage with stakeholders on these plans. The great strength of the UK's university sector is its openness to employing academics from overseas – a feature shared with North America, for example, and reflected in the fact that the world's top universities are found in countries that are open to talent from around the world.

As you know, the Specialised Committee for Participation in Union Programmes met on 21 December during which the UK expressed our concerns around ongoing and unjustified delays to the UK's association. The EU signed up to the Joint Declaration on Participation in Union Programmes, where the EU and UK confirmed their 'firm intention ... to allow their implementation as soon as possible, in particular with the ambition that United Kingdom entities would be able to participate from the beginning of the programmes and activities identified, ensuring relevant arrangements and agreements are in place, insofar as possible and in accordance with Union legislation'. The UK is obviously unwavering in its intentions on this matter – and we have done everything we can. The delays rest solely with the EU. While another meeting of the relevant Specialised Committee has not been scheduled at this time, we continue to engage with the EU at all levels on this important issue. As you will be aware, until the Commission is willing to formalise the UK's association to Horizon, the EU delegates in the Specialised Committee will not be able to adopt draft Protocols I and II from the TCA. Rest assured, both in this meeting and on many other occasions we have pressed the case for the EU to formalise the UK's association.

Thank you once again for writing and for your ongoing support as we do all we can to press the EU to progress UK's participation in Horizon Europe. The UK stands ready to become a significant financial contributor to Horizon, for the benefit of UK and EU scientists and researchers alike – and it is the EU which is preventing this. It is good, therefore, that you copied the letter addressed to me to the EU Ambassador; however, in light of the above it might be worthwhile you writing to the EU Commission directly to get their answers to the questions you have posed.

9 May 2022

**Letter from the Chair to 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 9 May 2022 on the UK's participation in the Horizon Europe Programme, which was considered by the Committee at its meeting of 5 July 2022.

Thank you for answering the questions that the Committee put to you in its letter of 3 March 2022. The Committee welcomes your confirmation that the UK Government is not using association to the Horizon Europe Programme as a "bargaining chip" and welcomes your agreement with the Committee's view that the politicisation of scientific research is a concerning development. The Committee also welcomes the Government's decision to extend the financial guarantee for existing UK applicants to the Horizon Europe programme.

We remain, however, deeply concerned by the impact of the ongoing delay to the UK's association to Horizon Europe, and the increasingly detrimental effect this is having on UK scientists and researchers. The Committee notes your statement that it is the EU, not the UK, which is responsible for this delay. However, as we set out in our separate letter to you of 22 June 2022, this impasse is clear evidence that the ongoing disagreement between the UK and the EU over the implementation of the Protocol on Ireland/Northern Ireland is causing wider collateral damage in other areas of the relationship.

The Committee also notes the recent comments made by the Minister for Science, Research and Innovation before the House of Commons Science and Technology Committee, where he stated that the Government will set out further details on its domestic alternative to Horizon Europe ('Plan B') from September. The Committee would be grateful if the Government could write to the Committee with an update on its plans in this regard in due course.

Finally, regarding your suggestion that "it might be worthwhile you writing to the EU Commission directly to get their answers to the questions you have posed", the Committee would point out that it did write directly to Mariya Gabriel, European Commissioner for Research, Innovation, Culture, Education and Youth, on 3 March 2022, at the same time as we sent our original letter to 2 you. This

letter has been published on our Committee's website. I The Committee received a reply from the Commissioner on 29 April 2022.

*6 July 2022*

**Letter to the Chair from the Rt Hon Kwasi Kwarteng MP, Secretary of State,  
Department for Business, Energy & Industrial Strategy**

**The UK Government's alternative offer to Horizon Europe, Copernicus And Euratom.**

I have taken note of your letter of 6 July 2022 to the Foreign Secretary on the UK's participation in the Horizon Europe programme. I am pleased to confirm that today my department will publish details of how the UK will transition to a new R&D programme, should the EU's delays to our association to Horizon Europe continue.

As you know, the UK remains ready to associate to Horizon, Copernicus, Euratom Research & Training, and Fusion for Energy as was agreed in December 2020 through the Trade and Cooperation Agreement (TCA). Yet we have seen persistent delays from the EU in finalising our association, which is causing significant uncertainty for both UK and EU researchers and industry.

The UK has taken unprecedented steps to support the UK and EU R&D sectors throughout this period, but time is running out. The Government has made clear that if the EU does not finalise the UK's association soon, the funding allocated to Horizon Europe association will go to new R&D programmes instead. Today, I am pleased to provide reassurance to our R&D sector by setting out details of our transitional measures and an overview of our longer-term alternative plans.

Our proposed package of transitional measures will keep funding flowing to researchers and industry based in the UK while longer-term measures are established. It includes the Guarantee which is already in operation. It would also include support for successful current applicants, uplifts to existing prestigious UK talent and innovation schemes and funding for research institutions most affected by the loss of Horizon Europe's talent funding. We would ensure continued access to multi-lateral partnerships in Horizon Europe through Third Country Participation to allow important UK-EU collaborations to continue.

It is also disappointing that it has not yet proven possible for the UK to associate to the other three programmes in scope of the TCA: Euratom R&T, Fusion for Energy, and Copernicus. Associating to these programmes provides clear benefits to the UK, the EU and Rest of World partners. We are also developing a comprehensive plan of alternatives to these programmes, including interim measures, and will release details of these measures in due course.

*20 July 2022*

**Letter to the Chair from Graham Stuart MP Minister of State for Europe, Foreign,  
Commonwealth & Development Office.**

Thank you for your letter to the Foreign Secretary of 6 July on the UK's participation in the Horizon Europe programme.

The UK stands ready to associate to Horizon, as agreed under the TCA. It is the Government's clear position that it is improper for the EU to refuse to formalise the UK's participation in Horizon Europe (and other EU programmes) and to draw links between our differences over the Northern Ireland Protocol and implementation of the TCA. We consider the EU's approach to be contrary to its obligations under the TCA and accompanying agreements – and detrimental to scientists on both sides. This is why the government has initiated formal consultations with the EU, with the aim of finalising UK participation.

The delays to participation are causing intolerable uncertainty for our research and business community. While our preference remains to associate, we have been forced to consider putting in place domestic alternatives, which the Business Secretary has outlined in his letter to you of 20 July.

*1 September 2022*

**Letter to the Chair from the Rt Hon Kwasi Kwarteng MP, Secretary of State,  
Department for Business, Energy & Industrial Strategy**

**Further extension of the horizon Europe guarantee**

As you are aware, the UK's association to EU Programmes (including Horizon Europe) was agreed under the TCA but could not be finalised at the point of signing in December 2020 as underpinning EU legislation was not in place at that time. The agreement was clear, however, that UK association would take place at the earliest opportunity. That legislation has now been in place for more than 14 months, and the EU has still not finalised our association, linking UK participation to the unrelated issue of NI Protocol implementation.

The EU's delays to UK association to Horizon Europe have led to uncertainty for researchers, businesses and innovators based in the UK, and are detrimentally affecting important R&D collaborations between the UK and European partners.

Association to EU programmes remains the UK's preference and we continue to do everything we can to secure this including extending the Horizon Europe guarantee while we enter into formal consultations with the EU with the aim of finalising UK association. Consultations are a mechanism in the TCA to resolve issues between the UK and EU. We hope the EU will engage constructively.

Today we are announcing an extension of the guarantee to a third wave of calls that close before 31st December 2022, with the majority of grant signature dates expected before the end of August 2023. This will cover calls that UK researchers and businesses are applying for now and in the near future. Eligible, successful awardees do not need to leave the UK to receive this funding but will receive the full value of their funding at their UK host institution or as part of their consortia for the lifetime of their grant.

The Government's priority remains to support the UK's research and development sector through this period. This extension protects UK researchers whether we associate to Horizon Europe, or not. Whilst we continue to do all we can to secure association, we cannot wait indefinitely. In parallel to these measures, we continue to develop plans for a bold and ambitious package of alternatives. The Government released a [publication](#) on 20 July setting out further detail on these plans. If the delays continue, we will be forced to consider putting in place these arrangements.

In such a scenario our transitional measures package would follow on seamlessly from the guarantee, ensuring there is no gap in funding, and no eligible successful UK applications would go unfunded.

Further details regarding the scope, terms and eligibility of the guaranteed extension are available on the [UKRI website](#). We will of course keep the committee informed of any further developments.

*1 September 2022*

**Letter to the Chair from George Freeman MP, Minister for Science, Research and  
Innovation Department for Business, Energy & Industrial Strategy**

**Further extension of the horizon Europe guarantee**

As you are aware in the Trade and Cooperation Agreement signed in December 2020 the UK and EU agreed the UK's association to EU Programmes (including Horizon Europe). UK association could not be finalised at the point of signing the TCA as underpinning EU legislation was not in place at that time. That legislation has now been in place for more than 18 months, and the EU has still not finalised our association.

The Government continues to push for association, but our priority remains supporting the UK R&D sector both by providing the funding guarantee for existing applications and if needed a package of alternative support, including for international collaboration as set out in July. In November 2021, the Government announced a guarantee for the first wave of eligible, successful applicants to Horizon Europe. In March and September 2022, the Government extended the guarantee to cover a second and third wave of eligible, successful applicants, covering calls until the end of this year.

The Government has today (19 December 2022) announced a further extension to the support provided to Horizon Europe applicants. The extension will ensure that eligible, successful UK applicants will continue to be guaranteed funding, supporting them to continue their important work in research and innovation. The guarantee will now be in place to cover all Horizon Europe calls that close on or before 31st March 2023. Eligible, successful applicants to Horizon Europe will receive the full value of their funding at their UK host institution for the lifetime of their grant. Successful awardees do not need to leave the UK to receive this funding, which will provide reassurance for future collaborations, and support UK researchers whether association is confirmed, or otherwise.

It remains the government's preference to associate to EU programmes, but we cannot wait forever. Earlier this year we [published](#) details of alternatives proposals which we will implement in the event that association is no longer possible. Further details of these plans will be published shortly.

If we are unable to associate, we will fund applications that are submitted to a Horizon Europe funding call with an EU final call deadline date before the point of non-association, are successful in the EU evaluation and meet the eligibility criteria of the guarantee. This would pick up where the current guarantee has left off, so there is no gap, and no eligible successful applications would go unfunded.

Details regarding the scope and terms of the extension are available on the [UKRI website](#). We will of course keep the committee informed of any further developments.

*19 December 2022*

### **Letter to the Chair from the Rt Hon Michelle Donelan MP Secretary of State for Science, Innovation and Technology**

#### **Horizon Europe association and pioneer – the government's alternative offer**

We are discussing association to Horizon Europe with the EU and hope our negotiations will be successful. That is our preference. But association would need to be on the basis of a good deal for the UK's researchers, businesses and taxpayers. If we are not able to secure association on fair and appropriate terms, we will implement Pioneer – our bold, ambitious alternative.

The Government is committed to science and research collaboration – that's why we agreed to participate in Horizon Europe in 2020 under the Trade and Cooperation Agreement (TCA). This is also why I travelled to Brussels this week for an introductory meeting with Research & Innovation Commissioner Mariya Gabriel to set out the UK's expectations around association to Horizon Europe.

The programme provides a valuable shared platform for collaboration with European counterparts. Unfortunately, despite the UK making every effort to unlock progress, including launching formal consultations last summer, our association has been delayed for two years.

Today the Government is publishing its prospectus on Pioneer, its proposed alternative to Horizon Europe should we be unable to reach an agreement with the EU around association. By publishing now, we are giving UK researchers and businesses the opportunity to provide feedback on these proposed plans, as well as to provide reassurance that the government is fully prepared for all future scenarios.

The Pioneer prospectus sets out our proposals for alternatives to Horizon Europe, developed with input from researchers and businesses across the UK. Pioneer would deliver four interconnected programmes covering offers for Talent, Global, Innovation and R&D infrastructures to boost the UK's R&D system; supported by the Horizon Europe Guarantee and a transitions package that would ensure there is no gap in investment flowing to the sector. Because the UK would have been a net contributor to Horizon Europe, UK researchers would be expected to receive more funding from Pioneer than they would have from Horizon had we associated in 2021. My officials and I will continue to engage with and seek further input from researchers and businesses as we develop these proposals.

Regardless of whether we reach an agreement with the EU on association, or whether we launch our proposed alternative, the Government will ensure that UK researchers and businesses continue to benefit from world-leading collaboration opportunities with colleagues from Europe and beyond.

*6 April 2023*

**Letter to the Chair from The Rt Hon Chloe Smith MP, Secretary of State for Science, Innovation and Technology**

**FURTHER EXTENSION OF THE HORIZON EUROPE GUARANTEE**

As you are aware the Government is moving forward with discussions on the UK's involvement in EU programmes and hopes that these negotiations will be successful. Our priority remains to support the UK R&D sector by providing funding for existing applicants and as of the end of April 2023, UKRI has issued over 2,000 Grant Offer Letters for grant awards of £1.05 billion.

In November 2021, the Government announced a guarantee for the first wave of eligible, successful applicants to Horizon Europe. In December 2022 and March 2023, the Government extended the guarantee to cover a fourth and fifth wave of eligible, successful applicants, covering calls until the end of June 2023. We established the Horizon guarantee to ensure there is no loss in funding for the UK sector.

The Government has today (8 June) announced a further extension to the support provided to Horizon Europe applicants. The extension will ensure that eligible, successful UK applicants will continue to be guaranteed funding, supporting them to continue their important work in research and innovation. The guarantee will now be in place to cover all Horizon Europe grant calls that close on or before 30 th September 2023. Eligible, successful applicants to Horizon Europe will receive the full value of their funding at their UK host institution for the lifetime of their grant. Successful awardees do not need to leave the UK to receive this funding, which will provide reassurance for future collaborations, and support UK researchers whether association is confirmed, or otherwise.

This guaranteed extension is independent of discussions on the UK's involvement in EU research programmes. While the UK hopes negotiations on Horizon Europe will be successful, and that is our preference, we are prepared to support the R&D sector in all scenarios. Extending the guarantee supports the sector regardless of the outcome of negotiations and does not commit the UK to either association or non-association.

If we are unable to secure association on fair and appropriate terms, we have set out our bold, ambitious alternative to Horizon Europe, Pioneer.

Details regarding the scope and terms of the extension are available on the UKRI website. We will of course keep the committee informed of any further developments.

*8 June 2023*

**MOVEMENT OF CREATIVE PROFESSIONALS BETWEEN THE UK AND THE EU**

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

**UK proposals on touring performers during negotiations on the Trade and Cooperation Agreement**

Thank you for inviting me to appear before your committees last month. During these sessions, Members raised questions about the Government's approach to touring performers during negotiations on the UK-EU Trade and Cooperation Agreement. The Government has already set out our approach in general terms, but I thought it would be useful to provide a more detailed account in writing. Given the wider interest in these issues, I am copying this letter to the Chair of the Digital, Culture, Media and Sport Select Committee Julian Knight MP, and Lord Strasburger.

**Context**

It is important to understand first of all that the negotiation dealt with two main types of mobility restriction relevant to touring performers: (i) visas, which regulate the ability of nationals from one party to enter the territory of another party and (ii) so-called market access issues, such as work permits and economic needs tests, that place restrictions on what nationals from one party can do once they are present in the territory of the other party. Work permits and economic needs tests do not widely feature in the UK's immigration regime; our visa and visitor arrangements set out the permitted activities and what work, if any, can be done by individuals coming to the UK by the various entry

routes. In many Member States, however, these issues are treated separately (i.e., work permits can be imposed independently of visa requirements).

In leaving the EU and ending free movement, we moved from a situation in which the right to move and work within the EU was dealt with, and guaranteed, under the EU Treaties, to one in which the ability of a UK national to work in the EU became primarily the responsibility of each Member State individually. Whilst the EU can agree treaties that impose legally binding commitments on Member States including in respect of trade-related issues like work permit regimes (due to the Common Commercial Policy), it does not have competence for the determination of volumes of admission of third country nationals seeking to enter Member States to work, whether employed or self-employed (e.g., visas for work purposes). Consequently, in the wake of the UK's decision to end freedom of movement, Member States are now principally responsible for deciding the rules governing what work UK visitors can undertake in the EU.

### **Visa-free travel**

The EU's draft text for the Trade and Cooperation Agreement included a visa waiver agreement, which would have prohibited the parties from introducing visas on visitors from the other party unless those visitors were carrying out a paid activity during their short-stay visit. Accompanying this proposal was a Joint Declaration which would have set out a common interpretation of "persons carrying out a paid activity". Under this Declaration, "sportspersons or artists performing an activity on an ad hoc basis" would have been excepted from the requirement to have a visa when being paid to perform whilst undertaking a short-stay visit.

### **From our perspective the difficulty with the Joint Declaration was twofold.**

- (i) First, the Joint Declaration was dependent on the UK accepting the EU's proposal on a permanent visa waiver. We could not agree to a permanent, legally binding commitment not to impose visit visas (including for paid engagements) because this would have been inconsistent with the Government's manifesto commitment to take back control of our borders. Moreover, the EU's proposal would have prevented the UK from introducing visit visas on any future EU Member State, not just on existing ones.
- (ii) Even if it had not been tied to the EU's broader proposal on a visa waiver, there were still substantive problems with the Joint Declaration. The Joint Declaration would only have excepted "artists performing on an ad hoc basis" from the requirement to have a visa when being paid to perform. It would not have covered touring activity; support staff or work permits. In addition, these commitments on paid activity were declaratory - they were not legally binding on Member States. Indeed, according to the Commission's own materials, a number of Member States require visit visas for, to take one example, Canadian nationals undertaking paid activity in the EU, despite the EU-Canada visa waiver agreement.

Recognising the potential difficulties likely to be created by this situation, towards the end of the negotiations we proposed a time-limited agreement on mobility. This would have involved a temporary visa waiver agreement on both sides and temporary facilitations at the border for UK and EU nationals entering each other's territories (e.g., use of e-gates). In the EU's case this would have involved derogations from the Schengen Borders code. The expectation was that these temporary arrangements would expire once the EU's new border technology came online. We believe that this would have been a useful means of avoiding practical problems as travel resumed after the pandemic, without requiring us to accept a permanent commitment not to require visas. The Commission did not accept this package.

Accordingly, there are no provisions in this area in the Trade and Cooperation Agreement, and Member States are entitled to require visas from service providers in this or any other area.

### **Work permits.**

Recognising this problem with visas, we nevertheless hoped to secure legally binding commitments from Member States on work permits and other market access issues relevant to touring.

The EU's Free Trade Agreements normally include a standard list of activities which short-term business visitors are permitted to engage in without facing work permit requirements or other

market access restrictions (this falls under the so-called “Mode 4” provisions). During the negotiations, we proposed that the EU expand this list to cover a wider range of activities to reflect the importance of the creative sector to UK-EU cultural cooperation. We specifically proposed that, for artists, entertainers and musicians and their support staff, permitted activities should include: (a) giving performances or attending rehearsals as an individual or as part of a group; (b) taking part in competitions or auditions; (c) making personal appearances; and (d) taking part in promotional activities.

We also proposed that some short-term business visitors could be paid ‘in country’ (i.e., the country in which they deliver their service) in a limited number of scenarios. These activities would represent one-off, occasional engagements (e.g., performing at a concert) in a limited number of sectors, including creative and cultural industries. We recognised this would need to be for a time-limited period to prevent distorting the local labour market. We therefore proposed 30 days – whereas all other short-term business visitor activities would be allowed for 90 days – as was consistent with the UK’s existing immigration rules for incoming visitors.

The Commission argued that Member States had no interest in going beyond precedent on short-term business visitor activities, and that the UK’s proposals on paid engagements were equivalent to replicating the free movement of service suppliers - which was a red line for the EU. Due to the strength of the EU’s concerns, it became clear that we would not be able to progress with these proposals. Accordingly, the final list of permitted activities that can be carried out by short-term business visitors mirrors those agreed in the EU’s most recent FTAs.

### **Cabotage**

The creative industries also face a set of challenges regarding the market access granted to UK hauliers who support the touring sector. The EU’s initial offer on road haulage was to allow only bilateral journeys (i.e., movements between the UK and the EU). The Commission argued that cabotage (i.e., movements by UK hauliers within a Member State) and cross-trade (i.e. movements by UK hauliers between Member States) rights should be restricted to operators established in the EU Single Market. We nevertheless were able to negotiate a set of additional rights for UK operators to enable them to both transit through the EU to a third country, and to undertake up to two additional movements within the EU (with a maximum of one cabotage movement outside Ireland).

While the Trade and Cooperation Agreement will ensure that the vast majority of haulage journeys are able to continue as they did before the end of the transition period, the touring sector will need to adapt to this new environment. During the negotiations the UK pressed for a special derogation from the restrictions on hauliers carrying equipment within the EU for the purpose of concert tours and similar activities, but the EU rejected this proposal. We are now engaging with the creative and haulage industries to further consider the options at our disposal.

I am aware of calls from the industry for a unilateral easement of cabotage rules for UK hauliers who are established in the EU. The Department for Transport is working closely with the industry alongside other government departments to examine the feasibility of introducing such measures.

### **Conclusion and next steps**

Ending freedom of movement was an important commitment in the Government’s 2019 General Election manifesto, and accordingly this ended with the conclusion of the Transition Period. Hence, while the negotiations could never have replicated in full the mobility arrangements that existed during our membership of the EU, the proposals we tabled would have addressed many of the challenges that performers and artists currently face, and we are disappointed that the EU did not agree to them, despite the mutual benefits to the creative industries on both sides.

Now that the negotiations have concluded and the Trade and Cooperation Agreement has been ratified, our focus is on helping the creative industries adjust to our new relationship with the EU. Following our engagement with European capitals, we have established that some touring activities are possible in at least 17 Member States without needing visas or work permits. We will continue to engage with Member States bilaterally on the clarity of their visa and work permit requirements and Oliver Dowden and DCMS are doing everything they can to support our great creative industries.

We will also continue to address market access issues for the creative industries through future FTA negotiations. The agreement we have now reached with Norway, Iceland and Liechtenstein includes the permitted activities for artists, entertainers and musicians and their support staff that we tabled with the EU. To increase transparency, the agreement with Norway, Iceland and Liechtenstein will also outline the existing immigration routes, requirements, and relevant benefits for touring artists, performers and entertainers.

I am grateful for the contribution you have made to these discussions to date and would welcome your support in convincing EU Member States to match the generous arrangements we provide for incoming creative professionals ourselves.

9 June 2021

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

##### **UK proposals on touring performers during negotiations on the Trade and Cooperation Agreement**

Many thanks for your letter dated 9 June 2021, setting out the Government's approach to the issue of touring performers during the negotiations on the Trade and Cooperation Agreement.

Thank you also for the update about the Government's ongoing engagement with Member States concerning future touring arrangements for the creative industries, including those countries where this may be possible without the need for visas or work permits.

These matters are yet to be resolved, causing significant concern and anxiety for those working in this important sector of the UK economy. Therefore, the European Affairs Committee is planning to take evidence on this subject after the summer recess. Once we have done so, I will write to you with some questions about the issues arising from that evidence.

28 June 2021

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

##### **UK proposals on touring performers during negotiations on the Trade and Cooperation Agreement**

Thank you for your letter of 9 June 2021, in which you set out the Government's approach to the issue of touring performers during the negotiations on the Trade and Cooperation Agreement. At its meeting on 14 September 2021, the European Affairs Committee took evidence on this matter from:

- Noel McClean, National Secretary of the Arts and entertainment, BBC and Independent Broadcasting Divisions at the Broadcasting, Entertainment, Communications and Theatre Union.
- Craig Stanley, Chair of LIVE Touring Group and promoted at Marshall Arts Ltd; and
- Deborah Annetts, Chief Executive of the Incorporated Society of Musicians (ISM).

Their evidence is summarised in the Annex attached to this letter.

##### **Context**

The creative industries comprise one of the UK's most important export industries. The sector is of comparable size to the UK's construction industry, with the music industry alone valued at £5.8 bn per annum and employing in excess of 100,000 people. It is a sector in which the UK excels, both in terms of our performers and musicians, and in terms of the technical and logistical support for performances. Indeed, prior to Brexit, the UK enjoyed an 80% market share of the European contemporary music haulage industry. Collectively, the UK's creative industries not only punch well above their weight in terms of their economic power, but they also form an integral part of Europe's common cultural heritage, which is entirely distinct from our membership of the European Union.

The sector has been particularly badly affected by the COVID-19 pandemic and is now in the first stages of its recovery. It was clear from the evidence provided to the Committee that this recovery is critically threatened by the restrictions on touring and performing in Europe resulting from the UK's departure



from the EU and the regime introduced by the Trade and Cooperation Agreement (TCA), the impact of which has hitherto been delayed by COVID-19 restrictions.

In your letter of 9 June, you state that, following the signing of the TCA, “[the Government’s] focus is on helping the creative industries adjust to our new relationship with the EU”. All three witnesses agreed that adjustment is far from simple: there is insufficient work within the UK to sustain performers’ careers, and there is no capacity within the EU to pick up the specialist haulage work that can no longer be provided by UK hauliers. All three witnesses were clear that these restrictions posed an existential threat to the entire industry and that, for legal or viability reasons, much of the sector could no longer adhere to its pre-Brexit business models.

The Committee found the witnesses compelling and persuasive and were deeply concerned by the evidence presented. It is clear that the impact of the lack of provisions in the TCA on creative professionals is so severe as to force many performers out of the sector and to pose a serious threat to sections of the industry. We fear that this not only risks substantial damage to an important sector of the UK economy but may also undermine the Government’s vision of a global Britain using its soft power to advance its interests internationally in the post-Brexit era. In the words of Craig Stanley, “the UK’s premier position as the exporter of great music and technical expertise is seriously at risk”.

In the view of the Committee and of the witnesses, it is important to recognise that this is a complex issue, with multiple actors. There are three main strands to the engagement work required for the Government to support the industry’s adjustment to the post-Brexit world. First, there is the work that can only be undertaken at the EU level. These are primarily issues of cabotage and cross-trade affecting the haulage industry but may also include certain visa waiver arrangements. Second, there are the issues of visas and work permits, which can be resolved bilaterally with each Member State. Finally, there is work that falls entirely to the Government. This mainly concerns arrangements for creative professionals, support staff and hauliers coming to the UK to perform and tour. A lasting solution to the challenges facing the industry can only come if all three strands are given due attention. We therefore urge the Government to use its best endeavours to work with the EU and the Member States, and on its own initiative, to find mutually beneficial solutions to the problems identified, to step up coordination across the many Government departments and agencies involved, to implement a coherent and unified approach, and to resist the temptation to overstate progress made in any discussions and negotiations with EU Member States and the members of the European Economic Area. The Committee hopes that, by doing so, the Government can rebuild trust with the creative industries and provide the support they need to adjust to the post-Brexit era.

## **Questions**

### **HM Government engagement and co-ordination**

On the basis of the evidence we received, the Committee is concerned that the Government is failing to engage with the industry in a constructive way, continuing to pursue headlines rather than deal with the very serious issues accurately and substantively, that it is putting performers at risk by providing inaccurate guidance, and that it is failing to take the decisions and steps necessary to support the creative industries. There is the appearance of a lack of coordination across the multiple departments and agencies involved in supporting and regulating the activities of the creative industries, and of a reluctance to engage with the industry or the government’s 3 counterparts in the EU to find ways to resolve these problems. These matters affect each of the main strands we refer to above.

1. Will you commit to coordinating Government announcements and guidance on these matters to ensure accuracy and transparency?
2. Will you commit to taking an active role in coordinating policy across all relevant departments to ensure that everything possible is done to take the steps necessary to support our creative industries?
3. What steps will you take to support and promote ministerial engagement with the sector across all relevant Government departments?

### **Visas and Work Permits**

The bureaucratic burden and loss of opportunity under the post-Brexit regime is critical for the future of the industry: music is built on touring, for which the EU is an essential market. Indeed, for some

sectors, such as classical musicians, it may be even more important than the domestic market. Without the opportunities provided by easy travel to the EU, and the ability to continue to participate fully in the EU's cultural life, musicians and creative professionals will be forced out of the sector. This will result in significant losses to the UK economy, and to the UK's international standing as a cultural force and the significant soft power that this affords the UK. All three witnesses disagreed strongly with your assertion that agreeing the EU's proposed visa waiver would have, in any way, undermined the UK's ability to take back control of its borders, viewing it very much as an issue of trade, rather than of immigration.

4. How would an EU-wide visa waiver scheme for touring creative professionals undermine the UK's ability to take back control of its borders?
5. What precisely was the Mode 4 proposal the Government envisaged would apply to the movement of creative professionals?
6. What steps is the Government taking to engage in bilateral discussions with the 8 EU Member States identified by DCMS as not permitting visa-free touring, in particular with Spain? What are the timelines for these discussions, and will the Government share these timelines with industry stakeholders?

## **Transport**

All three witnesses stressed that the industry faced challenges not only from the restrictions on the movement of people, but also from the restrictions on the movement of goods, such as the requirement for carnets and cabotage rules. This is principally an EU competence so is largely an EU strand matter. The Committee urges the Government to work with the EU and Member States to find solutions to these significant problems. It is difficult to countenance a regime that not only poses potentially existential challenges to a successful UK industry, but also ensures that no alternative industry is functionally able to take its place. It is similarly unconscionable to force the UK's brightest young artists to abandon their careers because of such restrictions.

7. What steps is the Government taking to clarify whether a carnet is required to take musical instruments into the EU?
8. In your letter of 9 June 2021, you stated that the Department of Transport was "examining the feasibility" of mitigation measures such as a unilateral easement of cabotage rules. Could you provide an update on this process?
9. What progress has the Government made in putting in place arrangements to allow the dual registration of lorries in the UK and the EU?
10. What, if any, engagements have you had with the European Commission's Directorate-General for Mobility and Transport in connection with these matters?
11. Will the Government commit to assessing the feasibility of granting CITES designation to Eurostar to assist the movement of musicians' instruments?

## **Inbound EU Artists**

The Committee found that, while the regime for creative professionals entering the UK to perform was, overall, more generous than those for UK performers heading to EU Member States, there continues to be a marked lack of clarity in the information available for such performers. In addition, the Committee heard of inconsistencies and troubling discrepancies in the approach of Border Force Officials, which exposed both EU performers and their UK sponsors to legal risk. Dealing with this area is principally part of the unilateral and/or bilateral strands we refer to above.

12. What steps is the Government taking to clarify the visa regime for incoming performers from the EU?
13. What steps will the Government take to ensure that the Home Office website is navigable for EU nationals applying for a visa to perform in the UK or seeking information to assist them with this?
14. How will the Government ensure that Border Force officials are trained to apply the regime for incoming creative professionals fairly and consistently?

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

## **Appendix – Summary of the witness evidence**

### **HM Government engagement and co-ordination**

A common perception among the witnesses was that the Government lacked a sufficient understanding of the issues facing the industry because of Brexit and the implementation of the TCA. Of particular concern was the response and level of engagement from the Department for Digital, Culture, Media and Sport. Witnesses highlighted particular concerns regarding the accuracy of the DCMS announcement on 4 August 2021 that 19 EU states had confirmed that visas and work permits would not be required for UK performers undertaking short tours in their countries. Deborah Annetts told us that, “as far as [is the ISM is] aware, there are no new arrangements in place. All the press release did was state, quite erroneously, what DCMS considered the current position was in relation to touring.”

In addition to the failure of DCMS to highlight the extent to which many of these arrangements diverged from the EU’s normal practice of allowing 90 days visa-free travel in any 180-day period, a key example of the inaccuracies identified by our witnesses was the failure to distinguish the significant differences in the visa-free regimes in each of the 19 countries identified in the announcement. By way of example, Deborah Annetts explained how in Austria, there is an exemption from the requirement to obtain a work permit if the performer is employed for a single day within an overall production while, in Poland, “it is 30 days in any calendar year, and in Sweden it is 14 days in a 12-month period... Every single state is different, which is why we need to be absolutely precise.” She added that, although DCMS was now referring to the 4 August announcement as misreporting, it remained on the website without any warning, clarification, or correction.

Deborah Annetts expressed grave concern at the inaccuracies in the DCMS guidance regarding touring in the EU, highlighting the risk posed to performers in following the Department’s advice. She told the Committee how, in addition to writing to DCMS in detail to explain the inaccuracies and seek corrections, the ISM had felt compelled to prepare its own comprehensive guidance for performers wishing to travel to the EU for work. The Committee was concerned to learn “the findings of [the ISM’s] research do not align with some of the countries on the DCMS list of 19 countries. There are four countries on the DCMS list that we believe do not offer short-term visa and/or work permit exemptions for touring: Czech Republic, Hungary, Latvia and Slovenia.” Following DCMS’ more recent announcement on 12 October 2021, titled ‘Visa-free short-term touring allowed in 20 member states’, Deborah Annetts told us in writing that “The only difference between the two statements is the addition of Romania” and described it as “another misleading press release... despite promises having been made that such announcements would not be made again.”

Deborah Annetts also expressed concern at the department’s use of generalist consultants to prepare the relevant guidance, even though this was a highly technical area and there is only a very small number of specialists with the expertise necessary to get the guidance right. Craig Stanley further explained that both he and Deborah Annetts were part of a working group set up by the then Secretary of State for Digital, Culture, Media and Sport, Rt Hon Oliver Dowden MP, and chaired by the then Minister for Digital and Culture, Caroline Dinenage MP. He explained that the Minister had failed to attend recent meetings, leaving this to officials. As a result, “the fact is that [the working group goes] through the same agenda, and every single meeting is Groundhog Day”.

Summing up his concerns regarding DCMS’s approach to the problems faced by the industry, Noel McClean told the Committee that the Department seemed to be more concerned about managing 6 headlines than dealing with the issues facing the livelihoods of those in the industry, which “...just shows the lack of seriousness in tackling the issue.”

However, the problems with the Government’s engagement with the creative industries appear to go further than just DCMS. Craig Stanley praised the level of engagement he had received from officials at the Department for Transport since 1 January 2021. However, he bemoaned the lack of engagement at ministerial level and the Secretary of State’s continued delay in making the necessary decisions regarding reverse easement and dual registration of lorries, which would reduce the impact of the cabotage and cross-trade rules on UK specialist hauliers. The Minister’s failure to make these decisions was resulting in the disintegration of the sector, which means, in turn, “no trucks...[and]...no tours.”

On a similar note, Deborah Annetts spoke of her engagement with the Department of International Trade, having been appointed to its Trade Advisory Group for the Creative Industries in 2019. She spoke of continued attempts to engage with the issue of mobility and was told “not to worry because everything would be dealt with via Mode 4.” She received independent advice at that stage that Mode 4 (by which route individuals are permitted to enter a country to provide a commercial service for consumption within that country) would not work for the movement of creative professionals and this has been borne out by subsequent events. Despite repeated requests, she has still not been able to see the Government’s original Mode 4 proposal.

Deborah Annetts also pointed to an ongoing lack of clarity regarding merchandise and VAT, adding HMRC and HMT to the list of departments failing to provide the necessary level of support and clarity.

### **Visas and Work Permits**

All three witnesses disagreed strongly with Lord Frost’s assertion that agreeing the EU’s proposed visa waiver would have undermined the UK’s ability to take back control of its borders. Deborah Annetts and the ISM did “not believe that a visa waiver agreement would undermine any of the Government’s red lines in relation to immigration”. Craig Stanley agreed with this position, adding, “it is a trade issue, not an immigration issue”.

This lack of a visa waiver scheme is having a significant impact on creative professionals. The new regime for travelling to the EU for performances poses considerable problems for performers and support staff. Creative professionals are now required to navigate 27 separate visa regimes on a country-by-country basis, with fees to be paid and lengthy documentation procedures for each. The greatest impact is felt by those in the early stages of their careers. Deborah Annetts spoke of the common practice for opera singers early in their careers to gain experience and a reputation through so-called “jump-ins”, where they travel overseas at extremely short notice to fill in for a performer who had been indisposed.

We heard that the onerous immigration processes required regularly take longer than 24 hours, making jump-ins logistically impossible, but that even where this is not the case, the cost of obtaining the necessary paperwork invariably means that the singer would make a loss. Without jump-ins and similar practices in other parts of the industry, performers and support professionals are unable either to sustain themselves or to build the reputation necessary for a career. Deborah Annetts also spoke of performers losing the ability to audition in EU countries and of others who had had their employment with EU orchestras terminated due to no longer holding an EU passport.

Craig Stanley was concerned not only by the complex situation facing professionals wishing to travel to the 19 countries identified by DCMS as allowing visa-free touring, but also by the fact that no 7 such arrangements were in place at all with the remaining 8 EU Member States, which include some of the most significant destination countries for touring musical professionals. He singled out Spain as being of particular concern, as it is the largest EU market for DJs. Professionals wishing to travel to Spain for work now face not only an onerous visa application process, but one for which different interpretations of the Spanish regulations are applied by each of the three Spanish Consulates. Mr Stanley was concerned not only by the Government’s lack of progress in negotiating visa-free access with Spain (and its apparent refusal even to provide any timeline for those negotiations), but also by its failure to reach agreement with Spain for a standard, streamlined and uniform application process.

On the question of finding solutions to these challenges, Deborah Annetts stressed that the issue of visas could “be sorted out only at EU level”, via a visa waiver agreement, whereas work permits are a Member State competence and could be dealt with on a bilateral basis.

While the witnesses welcomed the signing of the free trade agreement with Norway, Iceland and Liechtenstein, they stressed that it would not make up for the loss of the EU as an accessible market. As Noel McClean put it, the entire population of Liechtenstein would fill only a fraction of a concert stadium: “the scale of impact [of the agreement] is miniscule.”

### **Transport**

In their evidence to the Committee, all three witnesses stressed that the industry faced challenges not only from the restrictions on the movement of people, but also from the restrictions on the movement of goods. As mentioned, the UK has hitherto enjoyed an 80% share of the European contemporary music haulage market. With the introduction of the cabotage and cross trade restrictions under the TCA, no lorry would be able to transport musicians and their equipment for any tour with more than

three stops. Given that most tours last weeks or months, the UK's participation in this lucrative market is rendered practically impossible.

The witnesses noted the government's advice for hauliers to establish subsidiaries in the EU to overcome these restrictions. However, this does little to resolve the problem as lorries registered in the EU by any such subsidiary would be caught by similar restrictions in the other direction, placing identical barriers to their operations in the UK.

The witnesses further explained that, in addition to the loss of market share for the UK industry, this was not a sector in which the shortfall could be picked up by EU operators. In an industry so heavily dominated by the UK, "[t]here are simply not enough trucks in Europe to pick up the slack". Thus, even if the issues surrounding the restrictions on the movement of performers are resolved or ameliorated, the touring industry still faces the loss of its logistics infrastructure, which imposes significant further barriers to the sector's continued prosperity.

In addition, the witnesses pointed to the continued opacity regarding the need for a carnet to take a musical instrument into the EU. Again, this exemplifies the lack of clarity and engagement coming from DCMS, whose website in respect of this issue "keeps changing, which is really unhelpful". Moreover, the cost of obtaining a carnet from the London Chamber of Commerce effectively prices out most early-career musicians, who simply cannot afford the £400-500 annual cost involved, compounding their already dire predicament in terms of the expense of obtaining work permits and visas.

A further problem identified by Deborah Annetts regarding the transport of musical instruments was that Eurostar was not a designated port for the purposes of export clearance under the Convention on International Trade in Endangered Species (CITES), which is required for instruments 8 made from materials taken from endangered species, such violins and cellos made from rosewood. This would be a simple step that would remove yet another impediment to performing in the EU for classical musicians.

### **Inbound EU Artists**

Given the red lines you identify in your letter regarding agreeing to any restrictions on the UK's ability to introduce visas and work permits for inbound creative professionals, the Committee was surprised to learn from Deborah Annetts that the "touring routes in are now more favourable than they are for UK musicians in many EU states". This has created "an un-level playing field against the interests of our own UK musicians, so we have scored an own goal." However, the Committee recognises this comparative generosity on the part of the UK and agrees that it justifies Lord Frost's previous statements to the effect that Member States should aim to reciprocate the UK visa-free regime in terms of the arrangements they apply to UK performers.

However, Deborah Annetts and Craig Stanley pointed to confusion and inconsistencies that caused substantial issues and legal risks for inbound performers. The first was that many performers coming to the UK lawfully to take up a paid engagement lasting up to 30 days found it difficult, in practice, to persuade Border Force to grant them entry under the visa free route. This raises further questions about the government's clarity, consistency and coordination in its approach to creative professionals.

Perhaps of even greater concern was Craig Stanley's evidence regarding documented examples of artists attempting to enter the UK with Tier 5 visas, being forced by Border Force staff to use the electronic gates. As it is a condition of entry that the visa is endorsed at the border, Border Force's refusal to stamp invalidates the visa, rendering the performer's visit unlawful, also making the UK sponsor of the visa liable for a breach over which they have no control and which the visitor has done everything possible to avoid.

*19 October 2021*

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

#### **UK proposals on touring performers during negotiations on the UK-EU Trade and Cooperation Agreement.**

Thank you for your letter of 19 October 2021 regarding the Government's approach to touring performers during negotiations on the UK-EU Trade and Cooperation Agreement (TCA). I have of course set out significant detail on this issue in my letter to you of 9 June, but I will try to answer your questions as fully as I can, recognising that the lead Department on these issues is DCMS.

## **HM Government engagement and coordination**

Question 1. Will you commit to coordinating Government announcements and guidance on these matters to ensure accuracy and transparency?

Question 2. Will you commit to taking an active role in coordinating policy across all relevant departments to ensure that, everything possible is done to take the steps necessary to support our creative industries?

Question 3. What steps will you take to support and promote ministerial engagement with the sector across all relevant Government departments?

As set out in the evidence I gave to the House of Commons Digital, Culture, Media and Sport Committee in July, it is the Government's agreed position that Secretaries of State are responsible for their own Department's business relevant to the TCA. This is the only sustainable division of responsibilities between the Cabinet Office and other Departments given the unusual breadth and depth of the TCA - which covers not just issues related to trade, but also topics like fisheries and social security coordination. Accordingly, the Department for Digital, Culture, Media and Sport (DCMS) is the lead Department responsible for touring creative professionals and is indeed organising the coordination activity to which you refer.

For example, DCMS have established a Touring Working Group for the creative and cultural industries and relevant Whitehall Departments. This group has formally met six times so far, with the next meeting scheduled for November. There has also been a range of sub-group meetings on particular issues: for example, DCMS recently brought together industry stakeholders, including LIVE and the Incorporated Society of Musicians (ISM), with relevant Departments for detailed discussions on customs and inward mobility arrangements respectively. In addition, DCMS ministers have met with creative and cultural sector representatives frequently this year, such as DCMS Secretary of State's engagement with UK Music on 25 October.

Ministers across Whitehall are aware of the issue and take opportunities to raise it during other contacts with relevant EU Member States. I of course do the same and I most recently raised the issue with the Portuguese Secretary of State for European Affairs on 12 October.

### **Visas and work permits.**

Question 4. How would an EU-wide visa waiver scheme for touring creative professionals undermine the UK's ability to take back control of its borders?

I refer you to paragraphs 4-6 of my letter of 9 June. It is important to note that the EU did not table such a proposal during the TCA's negotiation and has not done so since. The EU's original proposal was for a visa-waiver for all visits of up to 90 days in 180 for citizens of the UK and citizens of all current and any future EU Member States.

It is not our policy to agree visa waivers because such agreements remove the Government's ability to choose who can and cannot enter the UK without a visa. The EU's proposal was not consistent with our manifesto commitment to take back control of our border, and no G7 economy has agreed to lock in their visa systems with the EU in such a way. Officials from my Department, the Home Office, BEIS and DCMS have met with the sector, and directly with the ISM, on several occasions to discuss these issues and explain the UK's position in detail.

Question 5. What precisely was the Mode 4 proposal the Government envisaged would apply to the movement of creative professionals?

I refer you to paragraphs 9-11 of my letter to you in June. It is also worth noting that our recent trade deal with three EFTA countries\_ (Norway, Iceland and Liechtenstein), which is based on the same offer that the EU rejected, demonstrates that our proposals were workable, even in a single market context.

Question 6. What steps is the Government taking to engage in bilateral discussions with the 8 EU Member States identified by DCMS as not permitting visa-free touring, in particular with Spain? What are the timelines for these discussions; and will the Government share these timelines with industry stakeholders?

20 EU Member States I have now confirmed they offer visa-free and work permit-free routes for performers and other creative professionals. This includes most of the biggest touring markets,

including France, Germany, and the Netherlands. The precise requirements vary across Member States, and UK nationals should check what requirements they need to fulfil with the Member State before travelling. To support this, we have published general business traveller summaries for all Member States on gov.uk, and we are engaging with Member States to encourage clear and accessible guidance. We are also continuing to work with sector organisations, including the ISM, to help clarify areas of uncertainty in their own guidance.

We are now working closely with the remaining 7 EU Member States that do not allow visa and permit free touring to encourage them to match the UK's generous rules. Formal approaches have been made, discussions are ongoing at ministerial and official level, and we are working with the sector to amplify each other's lobbying efforts.

For example, we recognise Spain is of particular importance, and we have held a number of discussions with the Spanish Government to encourage easements to their rules, including most recently between the Foreign, Commonwealth and Development Office Minister Wendy Morton and her counterparts in Spain on 30 September, and between the British Ambassador to Spain and the Spanish Minister for Inclusion, Social Security and Migration on 14 October.

We continue to actively engage with Spain and other target countries at official and ministerial level. However, ultimately it is up to these countries to match the UK's generous rules. We will continue to keep the sector sighted on discussions across the target countries through the DCMS-led Working Group, which has been an important vehicle for sharing updates on progress.

### **Customs and transport**

Question 7. What steps is the Government taking to clarify whether a carnet is required to take musical instruments into the EU?

As you set out in your letter, touring requires adaptation to a range of new requirements, not just regarding mobility. To support this, we have published specific 'landing pages' on GOV.UK to help the sector navigate the guidance available online across a range of issues, including customs requirements. This guidance sets out that if a musical instrument is taken by an individual in their personal baggage or vehicle, they can use a temporary admission procedure in the country of destination to pay no duty on them, by going through the green or 'nothing to declare' channel or by making an oral declaration to a Border Official. An ATA Carnet is not required in these circumstances.

It is also important to note that, in those circumstances where it is needed, a carnet is valid for up to 12 months from the date of issue and can be used multiple times, and in multiple countries during the period of validity. DCMS continues to coordinate extensive engagement with the sector to help them understand the rules, including through arranging discussions between the sector and relevant Departments, and by supporting sector bodies such as the Musicians' Union to produce additional tailored guidance on these issues.

Question 8. In your letter of 9 June 2021, you stated that the Department of Transport was "examining the feasibility" of mitigation measures such as a unilateral easement of cabotage rules. Could you provide an update on this process?

Question 9. What progress has the Government made in putting in place arrangements to allow the dual registration of lorries in the UK and the EU?

The Department for Transport has been working closely with the industry on unilateral measures. The Department ran a call for evidence in the summer to gather views on various options to support the industry, and we will update the sector on our approach later this year.

Question 10. What, if any, engagements have you had with the European Commission's Directorate General for Mobility and Transport in connection with these matters?

During the course of this year, officials from the Department for Transport have raised with DG MOVE cabotage for hauliers carrying equipment in the EU for cultural events. As I set out in paragraphs 12-13 of my letter to you in June this year, specific cabotage arrangements for this sector were discussed in detail as part of negotiations, but the EU was unwilling to agree to more flexible arrangements. The EU is aware of the work that the Department for Transport is undertaking unilaterally to support the touring sector.

Following discussions with the EU, the Department for Transport has also confirmed that the road transport market access rules under the TCA do not apply to splitter vans - vehicles designed to carry both goods and passengers. This means that their use by UK operators will continue to be governed by Member State law, as it was when the UK was a member of the EU. This is an important clarification; and was strongly welcomed by the sector.

Question 11. Will the Government commit to assessing the feasibility of granting CITES designation to Eurostar to assist the movement of musicians' instruments?

DEFRA is keeping the list of CITES designated Points of Entry/Exit (PoEs) under review and will look to designate further PoEs where feasible, so as to provide additional routes for stakeholders. The Government is aware of the issue regarding the movements of antique musical instruments from the UK to the EU and Defra is working with Border Force to look at the possible CITES designation of Eurostar St. Pancras. Defra holds regular stakeholder meetings, including with a number of creative organisations, to discuss the issue in more detail.

### **Inbound EU artists**

Question 12. What steps is the Government taking to clarify the visa regime for incoming performers from the EU?

Question 13. What steps will the Government take to ensure that the Home Office website is navigable for EU nationals applying for a visa to perform in the UK or seeking information to assist them with this?

We have published new guidance that clarifies what EU artists can and cannot do in the UK without a visa, and help ensure they obtain a relevant visa, if needed, before travelling to the UK. We have also developed a tool where third country nationals, including those from the EU, can check if they need a visa.<sup>4</sup> In addition, we set out on GOV.UK what the expected processing times are for each visa type, as well as associated fees. We will also publish an explainer document on GOV.UK, specifically for creative professionals looking to perform in the UK, to help them navigate relevant guidance.

Question 14. How will the Government ensure that Border Force officials are trained to apply the regime for incoming creative professionals fairly and consistently?

Border Force Officers undertake training on an ongoing basis to ensure the Immigration Rules are upheld and applied fairly and consistently. Individuals entering the UK are responsible for accurately declaring the reasons for entry and ultimately each visitor will be assessed on the individual merits of their case.

*2 November 2021*

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

Thank you for your letter dated 2 November 2021, which was considered at the meeting of the European Affairs Committee on 17 November 2021.

Your letter provided some reassurance with respect to the exclusion of so-called “splitter” vehicles (those carrying both goods and passengers) from the cabotage regime created by the Trade and Cooperation Agreement (TCA). The Committee also welcomes the Government’s ongoing engagement with the question of designating St Pancras Eurostar as a designated Point of Entry/Exit under the Convention on the Trade in Endangered Species.

However, the Committee remains concerned that a number of areas identified in the evidence it heard during its meeting on 14 September 2021, as set out in the annex to our letter of 19 October, have not been addressed. We attach that annex again to this letter. Specific areas of continued concern are set out below. However, as a general point, we are keen to stress our belief that remedial action is needed not only by pursuing bilateral negotiations with individual member states but also by making full use of the institutional provisions of the Trade and Cooperation Agreement to raise these issues with the EU as a whole.

### **Visa and work permit-free arrangements**



First, we note that, while you reassert the Government's position that 20 EU Member States have visa- and work permit-free arrangements for touring professionals, you have not responded to the evidence that many of these arrangements will not work for creative professionals and that some Member States included within this number do not actually have visa-free regimes at all. Indeed, a strong thrust of the evidence we heard was that Government guidance was frequently inaccurate or exaggerated. We urge you to coordinate the withdrawal of the misleading guidance published by DCMS and commit to conducting an urgent comprehensive review and analysis of the visa and work-permit regimes applicable to creative professionals visiting EU Member States and using this to provide full and accurate information.

#### **Mode 4 proposals**

We note also your reference to your discussion of the Government's Mode 4 proposals in your original letter of 9 June this year. We remain unclear about the exact nature of these proposals and reiterate our request for you to explain what they were and how you would envisage them working within a Single-Market context, given the unequivocal evidence we heard that Mode 4 2 would be an unworkable solution to the short-term movement of creative professionals across the English Channel.

#### **Young classical musicians**

We further note that your response does not make any reference to the extremely concerning evidence we heard to the effect that young classical musicians were being forced out of the profession as a result of the new travel restrictions, which had made most of their bread-and-butter work, such as "jump-in" performances in Europe, impossible. What avenues is the Government exploring to ensure that we do not lose a generation of classical musicians due to the fact that the UK cannot provide enough work to sustain the profession?

#### **Specialist musical haulage and cabotage rules**

In a similar vein, the evidence clearly set out how the specialist musical haulage sector in the UK is rapidly becoming unsustainable as cabotage and cross-trade rules make touring impossible (very few tours visit fewer than three locations – most last for several months and attend tens of different performance venues). Again, this is a sector in which UK companies hold an 80% market share, but which will be severely damaged (with no short- to medium-term replacement within the EU) if the current restrictions continue. What further steps will the Government commit to taking to save the sector and its highly specialised jobs?

Given that this issue is complex and cross-cutting, involving input from so many departments, we very much hope that you will continue to commit to exercising your coordinating function regarding matters concerning the operation of the TCA in future responses to the Committee. Where you are unable to respond directly to a question yourself, we invite you to seek a contribution or supplementary response from the relevant department to ensure that the information this Committee receives is as comprehensive and accurate as possible.

We retain an interest in this subject and look forward to considering your response within the usual 10 working-day deadline.

*18 November 2021*

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

#### **Touring performers and the Trade and Cooperation Agreement**

Thank you for your letter of 18 November. As I noted in my letter of 2 November, the Department for Media, Culture, and Sport have the primary responsibility for this issue, within my overall coordinating role on TCA issues. I suggest that further correspondence is directed to that Department's Secretary of State, but I am happy on this occasion to provide a further set of answers to your questions.

#### **Visa and work permit-free arrangements**

With the recent addition of Spain, we have confirmed that 21 Member States offer visa and permit free routes for musicians and performers. Of these, many offer visa-free and work permit-free routes of up to 90 days, including major touring markets such as France, Germany, Italy and now Spain.

The Government's guidance is based on the guidance and legislation currently issued by each Member State. It makes clear that visa and work permit requirements do vary from Member State to Member State, and travellers should always check what requirements they need to fulfil. Where we are provided with new information by Member States, we will update the Government's guidance accordingly.

We continue to work with the sector to help them understand the rules and requirements they face - including at the recent meeting of the Touring Working Group on 17 November - and by directly sharing with them information received from Member States on an ongoing basis.

#### **Mode 4 proposals**

I have already given an account of the negotiations in this area last year. It may be useful to consult the UK's recent Trade Agreement with Norway, Liechtenstein and Iceland, which includes the proposals on short-term business visitors we put to the EU at the end of last year. The precise text can be found in Annex XVIII, Schedule of the UK, paragraph 5(l) and 5(m).

#### **Young classical musicians**

While the pandemic and the end of freedom of movement has had an impact on all travel for work over the last 18 months, the situation of young classical musicians does not appear to be a distinct problem from the broader issues on visas and work permits that artists are facing generally. You will be aware that we are looking to address these issues via direct engagement with Member States - an approach that has already borne fruit with Spain, our number one target.

#### **Specialist musical haulage and cabotage rules**

I recognise that there are real concerns in the specialist haulage sector concerning cabotage and cross-trade rules. We proposed specific proposals that would have exempted specialist hauliers from cabotage restrictions during TCA negotiations, but the Commission rejected these proposals repeatedly. Indeed, we made similar arguments when we were within the Single Market, but Member States were against opening up their domestic cabotage markets. The Department for Transport has recently consulted on unilateral actions the Government could undertake, and an announcement on our policy will be made in due course.

*26 November 2021*

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

I am writing to you about the position post-Brexit of our creative professionals touring in the European Union. This vibrant and growing sector of our economy risks suffering lasting damage if ways cannot be found of remedying some of the unintended consequences of our leaving the European Union. The Committee does very much hope that you will be ready to take action on this matter.

This letter is primarily in response to Lord Frost's letter dated 26 November 2021, which was considered at the meeting of the European Affairs Committee on 14 December 2021. It is the latest in a chain of correspondence on the subject of the movement of professionals in the creative industries between the UK and the EU. This commenced with a letter from Lord Frost on 9 June 2021, to which I responded on 19 October 2021, setting out the evidence the Committee had heard from senior stakeholders in the creative industries. I enclose the full correspondence on this matter for your reference.

Regarding Lord Frost's most recent letter, the Committee notes his request for further correspondence on this matter to be directed to the Secretary of State for Digital, Culture, Media and Sport. However, the Committee's concerns continue to be cross-cutting, covering more than one department, and also engage issues falling directly under the TCA. The Committee has therefore asked me to correspond with you directly. In so doing, the Committee anticipates that you will exercise your coordinating function with regard to matters concerning the UK's relationship with the EU and matters falling under the TCA to marshal a comprehensive response to this letter, as Lord Frost had done prior to his most recent letter.

#### **Clarification: Carnets for the Transport of Musical Instruments**

By way of clarification and correction, in my letter to Lord Frost of 18 November 2021 I referred to the costs of obtaining a carnet from the London Chamber of Commerce and Industry as being in the region of £400-£500. Since then, the LCCI has informed the Committee that it operates a discounted rate for members of the Featured Artists Coalition, the Incorporated Society of Musicians and the Musicians' Union. This reduces the cost for an instrument worth up to £10,000 to £243.84 (+VAT) for a 12-month carnet. I am happy to set out this clarification for the record.

### **Specialist musical haulage and cabotage rules**

The Committee welcomes Lord Frost's recognition of the particular concerns regarding the impact of the TCA on the specialist haulage sector. We ask that you undertake to provide the Committee with updates of progress in this area and, in particular, to write to the Committee setting out the 2 unilateral actions proposed by the Secretary of State for Transport, the rationale for these, and their anticipated effect in terms of supporting the specialist haulage sector.

### **Mode 4 proposals and Visa-Waivers**

We thank Lord Frost for directing us to the specific wording (in the Free Trade Agreement with Norway, Iceland and Liechtenstein) regarding the UK's proposals to the EU on short-term business visitors. However, we note that, although these provisions set out the activity permitted for a short-term business visitor, they do not set out the actual entry-exit and length of stay provisions that are so critical for travelling creative professionals. We ask you to set out the specific proposals put to the EU during the negotiations in this regard.

The Committee is aware that one of the witnesses who gave evidence to us on 14 September 2021, Deborah Annetts, Chief Executive of the Incorporated Society of Musicians (ISM), has written to you separately on this topic. The Committee notes that the consistent advice of counsel has been that there is no legal impediment to the establishment of a sector-specific visa waiver programme and that this could be done in such a way as to ensure that the UK retains full control over its borders. This position appears to have been confirmed to Deborah Annetts and her counsel by officials from a number of departments, who explained that the impediments to such a system were political, rather than legal. The Committee urges the Government to reconsider its approach to a visa-waiver regime and to recognise that the decision to implement such a system is, in itself, an exercise of sovereignty and, as such, fully in line with the Government's aim of taking back control of the UK's borders.

### **Visa and work permit-free arrangements**

The Committee remains concerned about the Government's approach to the information it provides regarding the visa and work permit-free arrangements for each Member State. We reiterate our concerns about the quality and accuracy of this information and the risks inherent in providing inaccurate information in this regard. We ask that, in concert with the Secretary of State for Digital, Culture, Media and Sport, you undertake to conduct an urgent comprehensive review and analysis of the visa and work-permit regimes applicable to creative professionals visiting EU Member States and use this to provide full and accurate information.

On the substantive point, the Committee is aware that several of the cited work permit and visa-free arrangements fall considerably short of the headline 90 days in 180:

- Austria requires a work permit for all visits of longer than four weeks, and for all independent visits, regardless of length.
- Flanders (Belgium) only allows work permit-free visits by artists of international renown, and only for visits of a maximum of 21 days.
- The Czech Republic allows visits of up to 7 days at a time, for a total of 30 days in any calendar year, without a visa. Longer visits, up to a maximum of 90 days, require a Schengen visa.
- Latvia only allows visits of up to 14 days without a visa. The maximum stay with a visa is 90 days.
- The Netherlands allows visits of up to 6 continuous weeks within any 13-week period but requires a work-permit for visits of up to three months, eligibility for which is dependent upon income.

- Poland only allows visits of up to 30 days per calendar year without a work permit.
- Slovakia only allows visits of up to 30 days per calendar year for those participating in an art event.

We note the additional information Deborah Annetts has provided to you in this regard and urge you to mirror this detail and accuracy in the information that you provide to us and to the public at large.

We continue to urge the Government to work with each Member State to negotiate arrangements that enable creative professionals to tour for their work. As we stated in our letter of 18 October 2021, we heard strong evidence that the arrangements in place for certain countries included within the list of Member States permitting visa-free travel were so restrictive as to make touring impossible.

### **Young musicians**

We remain concerned about the disproportionate effect of the end of free movement on young musicians. We heard clear evidence that young classical musicians, in particular, were being forced out of the profession because they were no longer able to travel to a country (or countries) that is a member of the European Union for work at short notice. We ask you to detail how the Government reached its conclusion that the impact on this group is not distinct from the more general issues facing artists.

Finally, as stated in our letter to Lord Frost of 18 November 2021, the Committee urges the Government to make full use of the institutional structures established under the TCA, in addition to bilateral negotiations with Member States, to raise all of these issues with the EU as a whole. We therefore ask you to set out in writing what steps you plan to take to raise these matters through the relevant TCA Specialised Committees to lay the groundwork for a substantive discussion, and hopefully some real progress, at the next meeting of the Partnership Council, to which Lord Frost referred when replying to a parliamentary question on 16 December.

We retain an interest in this subject and look forward to considering your response within the usual 10 working-day deadline.

*12 January 2022*

### **Letter to the Chair from Julia Lopez MP Minister of State for Media, Data and Digital Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your correspondence of 12 January 2022 on support for the UK music industry to the Foreign Secretary. As the minister responsible for Touring for creative and cultural industries, I am responding on behalf of the Government.

This Government wants to ensure that our internationally renowned creative and cultural artists can continue to travel widely, learning their craft, growing their audiences and showing the best of British creativity to the world. We recognise challenges remain around touring in the EU, and we are continuing to work closely with the industry, including through the DCMS Touring Working Group, to address these.

You raise a number of points in your correspondence, and I shall address each one in turn.

### **Hauliers for the Creative Sector**

You asked for an update on progress regarding the concerns of specialist hauliers servicing touring artists and for details of the unilateral actions proposed by the Secretary of State for Transport, the rationale for these, and their anticipated effects.

We are working across Government and with industry to consider what the UK can do unilaterally to address the needs of the specialist events haulage sector and the wider touring supply chain. The Department for Transport (DfT) will be launching a public consultation shortly on a possible unilateral measure to allow specialist events hauliers with bases in both Great Britain and another international location to temporarily transfer their vehicles between their respective operator licences. This will involve legislating for a Vehicle Excise Duty (VED) exemption for these hauliers while operating on their Great Britain (GB) operator licence.

### **Mode IV proposals and Visa Waiver**

The UK set out forward leaning proposals on Mode IV during negotiations on the Trade and Cooperation Agreement (TCA) with the EU. We argued that the Mode IV provisions should build on CETA and the EU-Japan FTAs and should clearly set out the activities that can be undertaken by a short-term business visitor.

The EU's proposed Mode IV text on the other hand, fell short of the deal that they negotiated with Japan in a number of respects. Most notably, the EU's initial proposal for short-term business visitors was for only 90 days in 1 year. We did not agree with this limited approach and successfully negotiated a more ambitious outcome of 90 days in 6 months.

The UK's proposal was developed with input from a number of sectors. With regard to touring, our proposal would have enabled performers, artists and support staff to tour and perform in the EU without needing work permits. To deliver this goal, we proposed expanding on the EU's standard approach to the permitted activities that 'short-term business visitors' could undertake. However, the Commission contended that Member States had no economic interest in signing up to our proposals and maintained – incorrectly – our intention was to replicate the free movement of service suppliers. The fact that we have agreed these proposals (as tabled with the EU) with Norway, Iceland and Liechtenstein demonstrates progress on these issues can be made with like-minded trading partners – including those within the European Economic Area. The provisions agreed with the EEA EFTA countries ensure that our cultural and creative professionals can tour with their support staff without requiring a work permit, including for a longer period than is currently allowed in Norway. Details of the entry-exit and length of stay provisions under the UK- EEA EFTA FTA can be found in Annex XVIII of that Agreement.

We do not believe the visa waiver proposal is viable and it is not government policy to make such agreements. What the EU offered during the TCA negotiations was not a visa waiver for paid activities. What they did offer was a reciprocal visa waiver agreement covering all current and any future Member States for short stays, for example, as a tourist. However, nothing in this proposal would have compelled Member States to change their visa regimes for paid engagements.

That proposal remains incompatible with our manifesto commitment to take control of our borders, nor would it meet the sector's needs. We do enable visa-free visits from EU citizens, but we wish to retain control of how we apply the policy. No major G7 economy has agreed to lock in their visa systems with the EU.

### **Engagement with EU Member States**

You asked the Government to undertake a review of the quality and accuracy of visa and work-permit free regimes applicable for creative professionals visiting each EU Member State. Our information remains accurate in that 21 out of 27 EU Member States have confirmed they offer visa and work permit free routes for performers and other creative professionals. Many Member States offer routes of up to 90 days, including important touring markets, such as Spain, France and Germany, and most offer over 30 days. It is important that we recognise that these routes do exist, to ensure our creative professionals are not discouraged and can resume touring with confidence.

As you note, and as the Government has explained previously, durations, precise definitions and requirements can vary from Member State to Member State. The Government advises travellers to check what requirements they need to fulfil with the Member State to which they are travelling. This is why the Government has provided updated [travel advice](#) for travelling to the EU and individual [business traveller summaries](#) for EU Member States and EFTA countries. The guidance provided on GOV.UK is based on what other countries publish about their domestic rules and regulations which may change without prior notice. The information is meant as preliminary guidance only and does not constitute legal advice.

The Government continues to work hard to encourage Member States to ensure their guidance is simple and accessible, so that creative professionals know exactly what they need to do when touring in a particular country. Where we have been provided with new information by Member States, we update Government guidance as appropriate and share the information with sector organisations. Stakeholder feedback has also been valuable in identifying potential issues with Member States' guidance and that published on GOV.UK, and we are grateful to organisations such as the ISM for bringing to our attention any concerns. We continue to follow up on these, where in scope, and make changes to GOV.UK guidance where necessary, in line with our regular review process.

We are continuing to work with the remaining six Member States, including Greece and Portugal, who have not confirmed that they allow any visa or permit free touring, to encourage them to adopt a more flexible approach. Most recently, I met with the Greek Alternate Minister of Foreign Affairs and the Greek Ambassador on 2 December, and again with the Greek Ambassador on 14 December. Ultimately it is up to these countries to align their requirements more closely with the UK's generous rules, but we are continuing to use the diplomatic tools at our disposal, and working closely with sector stakeholders, to get a good outcome for our industry.

### **Young Musicians**

We recognise that working and touring in Europe can be such an important part of musicians' professional lives, particularly for newer or emerging individuals, acts and organisations. In many respects, the challenges young musicians may face are the same as those facing musicians generally. That is why we have sought to clarify arrangements, including confirming that splitter vans are not subject to the TCA, with their use subject to Member State law instead, which was the case while the UK was a member of the EU. This has been recognised as particularly valuable for younger and emerging artists. And it is why, as detailed above, we continue to look at what more can be done to make touring and working in the EU easier. This government supports our young and emerging artists across the UK through a range of export support programmes, including the successful Music Export Growth Scheme and International Showcase Fund, which help music SMEs break into international markets. The Department for International Trade has also set up a new [Export Support Service](#) where UK artists can get answers to practical questions about working in Europe by accessing cross-government information and support all in one place.

Finally, you request the Government use the TCA's governance structures to raise some of the above issues. The TCA committees are principally responsible for ensuring effective implementation of the TCA and resolving instances of non-compliance. You will be aware that the UK Government raised touring during the inaugural meeting of the UK-EU Partnership Council, and the inaugural meeting of the UK-EU Trade Specialised Committee on Services, Investment and Digital, with a view to promoting our diplomatic efforts with Member States on visas and work permits. We continue to work with industry, including the creative sectors, on issues that we should raise in these fora.

Thank you for writing on this matter. I hope my response is helpful and that you are reassured that by continuing to work across government, in collaboration with stakeholders, and directly with Member States, we can support the music and wider creative sectors to tour with confidence.

*3 February 2022*

### **Letter from the Chair to Julia Lopez MP Minister of State for Media, Data and Digital Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your letter of 3 February 2022, which was considered by the Committee at its meeting on 17 May 2022.

### **Hauliers for the Creative Sector**

The Committee remains concerned about the lack of action regarding specialist hauliers. Ministers have repeatedly assured this Committee that the Department for Transport will be launching a consultation on unilateral measures for hauliers. This is becoming increasingly critical as the sector opens up following the relaxation of COVID-19 restrictions and artists and supporting professionals look to resume touring. The UK is home to the overwhelming majority of specialist musical hauliers, and, without urgent action, this leading UK export faces a very real threat to its existence. Moreover, while the Committee recognises the support that DfT officials have sought to provide to the sector, measure such as dual registration would only assist the largest providers with the deepest pockets. Orchestras, who rely on their own, custom-designed vehicles, would be unable to take advantage of dual registration and would thus be unable to conduct European tours as the number of stops would violate cabotage and cross-trade restrictions. The only realistic solution would be a Europe-wide exemption from cabotage rules for vehicles engaged in cultural activities.

### **Visas, Work Permits and Touring**

The Committee continues to urge a change of approach with regard to the visa and work permit arrangements for creative professionals travelling in both directions. The Committee is encouraged to learn that those travelling to the EU are reporting improved entry procedures at Member State ports and airports but is disappointed to learn that there appears to have been no concomitant improvement in the standard of training and know-how on the part of the UK Border Force officials, which is causing continued problems for professionals visiting the UK. The Committee recognises that the sector is having to adapt to an entirely new inbound travel regime and urges the Government to abandon the additional bureaucratic burden of requiring ongoing validation of correctly issued Certificates of Sponsorship at the point of entry for creative professionals visiting the UK.

In terms of travel to the EU, the Committee notes that your response might appear to conflate the separate issues of visas and work permits and seems to suggest that the Government has successfully negotiated arrangements that are, in many cases, simply continuations of existing arrangements for third-country nationals. The Committee remains concerned that many of these arrangements are, in any event, too restrictive for creative professionals to continue to travel and 2 perform within the EU. Six Member States do not permit any visa-free touring at all, and eight only permit visits of 30 days or fewer. Thus, contrary to your assertions, the majority of Member States do not offer visa-free touring of longer than 30 days. In this regard, the Committee would welcome an update on the Government's progress towards securing visa and work permit-free touring with those six countries, and most particularly with Greece, Portugal, and Croatia, that do not currently allow this.

The Committee noted with interest the remarks of Lord Frost of Allenton in his Churchill Lecture on 15 March this year, recognising that the Government's approach to the movement of creative professionals has been 'too purist' and that this could be solved 'without compromising the general policy...that free movement does not apply'. In light of these remarks, the Committee once again urges the Government to reconsider its approach to visas and work permits and to give serious consideration to agreeing a visa-waiver regime for creative professionals with the EU.

We have heard that it is not the case that such an agreement would fail to meet the sector's needs: indeed, our understanding is that it has been specifically requested by more than 300 representatives from the sector, who signed a joint letter to that effect in April 2021. We have also heard that there is no legal impediment to such a regime and that there is no basis for concluding that it would compromise the principle of ending freedom of movement. Such an agreement would, for example, fall neatly within the provisions of the Trade and Cooperation Agreement governing the negotiation of Supplementing Agreements (Article 2) and, as a consequence, falls within the remit of the Partnership Council (see in particular in this regard, Article 7 paragraphs (3) and (4)). The purpose of these provisions is clear, and the Committee therefore disagrees with your implicit rejection of the use of the TCA's institutional framework to resolve these issues: it is a wholly appropriate topic for discussion at the next meeting of the Partnership Council.

In terms of the accuracy of the Government's advice for those intending to travel to EU Member States, the Committee cannot accept that your Department bears no responsibility for the accuracy of the information it provides, or for keeping it up to date. The Government is far better placed than any member of the public to obtain and publish accurate and up-to-date information about the requirements in each of the Member States and, having chosen to provide that information itself, it must take responsibility for its accuracy. The Committee again asks your Department to commit to taking responsibility for providing accurate and up to date information for those preparing to travel to Europe for creative work.

### **Young Musicians**

The Committee remains concerned about the impact on young musicians and is, therefore, disappointed by your assertion that the challenges they face in touring in Europe are the same as those facing more established musicians. We have heard of the great difficulties young musicians have in demonstrating that they are sufficiently established to qualify for the various visa and work permit regimes, that they frequently lack the supporting infrastructure available to more established musicians, and that they thus face disproportionate bureaucratic and financial impediments to travelling to the EU for work.

In the context of these very real issues facing those at the start of their careers, the Committee is also alarmed to learn that your Department is considering introducing a charge for Musical Instrument Certificates under CITES. For an industry already facing significant difficulties on so many fronts, even more so in the context of the current wider cost of living crisis, we urge the Government to refrain

from imposing yet more financial and bureaucratic burdens. The Committee requests that you clarify the Government's position on this point and provide a rationale for any proposed imposition of additional costs for travelling creative professionals.

We retain an interest in this subject and look forward to considering your response within the usual 10 working-day deadline.

18 May 2022

### **Letter to the Chair from Julia Lopez MP Minister of State for Media, Data and Digital Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your correspondence of 18 May 2022 on the movement of creative professionals between the UK and the EU.

This Government recognises that the way creative workers work in the EU has changed, and the sector will need to adapt to new requirements now we are no longer a Member State. This Government remains committed to supporting the sector to adapt, and we continue to work with the sector, across Government, and directly with Member States. It is in everyone's interests to support the ease of touring. We know that British creatives want to tour in the EU, and venues and audiences in the EU want to host them.

My officials and I continue to work closely with representatives from the touring sector, including through recent discussions I have had with UK Music and the Association of British Orchestras respectively. Thanks to this engagement, I can confirm that the hard work the Government is doing to support touring artists is being recognised. Similarly, we have been clear that we want to receive feedback from the sector on a rolling basis, so that where issues on the ground remain, we can continue to have a thorough understanding of these and consider how best we can support the sector to overcome them. I will also receive further feedback from the sector at the Touring Working Group that I look forward to attending later this month.

You raise a number of points in your correspondence, some of which we have previously addressed, and I shall respond to each of these in turn.

#### **Hauliers for the Creative Sector**

You asked for an update on the consultation on unilateral measures for hauliers that the Department for Transport (DfT) had assured you it would be launching. I can confirm that on 4 February 2022, DfT launched a public consultation seeking views on a possible unilateral measure – known as dual registration. This would allow specialist events hauliers with bases in both Great Britain and another international location to temporarily transfer their vehicles between their respective operator licences. When operating on their GB operator licence, vehicles ordinarily kept on another operator licence and taxed elsewhere would be exempt from paying Vehicle Excise Duty (VED).

On 6 May 2022, DfT published its response to this consultation, which confirmed that the Government would be taking forward the dual registration measure to support specialist events hauliers serving music concerts, sports and cultural events. This measure has been developed in consultation with the live music and performing arts sectors, who we continue to be in close contact with, and is expected to come into force in late summer 2022 after the associated Statutory Instrument has passed parliamentary scrutiny and been approved by Privy Council. Interim support measures are already in place to support these hauliers in advance of this.

To make use of dual registration, any entity is able to apply for (and, if it meets the requirements, be granted) a standard international operator's licence. We recognise that this may not address all the challenges faced by hauliers, in particular those faced by smaller and own-account operators, with whom we remain in discussion. We would like to make clear that we have explored several options – including through our discussions with industry partners – but there is no other unilateral measure we have been able to identify to improve market access for UK specialist hauliers.

Furthermore, we have already confirmed that 'splitter vans' are not subject to the Trade and Cooperation Agreement (TCA) market access rules in respect of cabotage and cross trade. Their use is therefore subject to EU Member State law instead. This will be of particular benefit to smaller cultural touring groups.



## **Visas, Work Permits and Touring**

You again asked the Government to review its approach with regard to the visa and work permit arrangements for creative professionals travelling in both the UK and the EU. Regarding entry procedures, I share your appreciation that UK creatives travelling to the EU are reporting improved entry procedures at EU Member State ports and airports. I would also like to reassure you that multiple steps have been taken to improve training for Border Force officials at the UK border, including updated guidance and briefings to staff.

The UK maintains a generous range of immigration routes for creative workers, with each option offering various lengths of permissions suited to their individual needs and activities while in the UK. The UK's immigration system requires those who wish to work in the UK to obtain a visa in advance. The Temporary Work - Creative Worker visa concession is one of very few exceptions to this. As those who seek entry under this concession do not hold pre-clearance to undertake employment, it is currently necessary for them to see a Border Force officer upon arrival and obtain an endorsement in their passport, as this confers permission to work. It remains essential that Certificates of Sponsorship are verified at the border to ensure they are valid for the engagement(s) the Creative Worker is seeking entry for.

Regarding UK professionals working in the EU, I do not agree with your assessment that government statements conflate visas and work permits or that they imply agreeing new arrangements with all of these Member States. I would reassert that our information remains accurate in stating that the vast majority of EU Member States have told us that they offer visa and work permit free routes for performers and other creative professionals, including important touring markets such as Spain, France and Germany, who all offer up to 90 days. This includes Bulgaria and Croatia who have recently confirmed existing routes, both of which are also available for up to 90 days. There are therefore four remaining Member States. These are Portugal, Greece, Malta and Cyprus, all of which we are continuing to engage with through our ministers, officials, and Embassies abroad to ask them to align their requirements more closely with the UK's generous rules. In December, met with Greek Ministers and the Greek Ambassador on the topic, and we are seeking discussions with the new Portuguese government. However, ultimately it is up to these countries to make these decisions, as is their sovereign right to do so.

You refer to the comments made by Lord Frost of Allenton in his Churchill Lecture. This Government remains committed to the manifesto commitment to take back control of our borders and would reassert that the proposals made by the EU were, and remain, incompatible with this. A visa waiver for paid activities by creative professionals was not what was proposed by the EU. What was proposed, as per the draft text they published in March 2020, was a binding short-stay visa waiver for all current and future EU Member States. The waiver did not commit Member States to allow visa-free paid activity by creatives and was incompatible with our manifesto commitment.

In contrast to this, our trade deal with three of the EEA-EFTA countries ensures that touring artists and their support staff do not need work permits and was based on the same offer we made to the EU. This shows that the offer we made to the EU is workable. Our focus is on supporting the sector by providing clarity, working with Member States, and implementing unilateral measures where possible. This includes considering the appropriate TCA fora to raise touring with the EU. This has previously included the Partnership Council and the Trade Specialised Committee on Services, Investment and Digital Trade.

Regarding the accuracy of Government's advice, as previously explained, it is not the UK Government's responsibility to provide advice on how to comply with other countries' visa and work permit requirements – the design and application of which are sovereign matters of each country concerned. Member States are and will always be the best source of information on their own requirements. The guidance provided on GOV.UK is based on what other countries publish about their domestic rules and regulations. Changes in the entry rules of an EU Member State, and notice of any such changes, is a matter for the country or countries concerned. The information that the Government provides is meant as signposting guidance only and does not constitute legal advice. Compliance with other countries' requirements will depend to a great extent on a person's individual circumstances, including the activity or activities planned and intended duration of stay.

## **Young Musicians**

This Government recognises the importance of touring in Europe, particularly for young and emerging artists, and recognises that challenges remain. As previously stated, this is why we have sought to provide clarity, improve government guidance, and implement unilateral measures where possible. The Government continues to work with the industry to ensure the creative sectors receive the support they need to tour in Europe, including through export support for the UK's creative industries for young and emerging artists through the successful Music Export Growth Scheme, the International Showcase Fund and the Department for International Trade's Internationalisation Fund.

Finally, you raised Musical Instrument Certificates (MICs) under CITES, a matter for which the Department for Environment, Food & Rural Affairs is responsible. The proposed charges to the MICs may come into effect during 2023. The Animal and Plant Health Agency (APHA), which processes applications for CITES documentation, operates a cost recovery model so there will be no additional cost to taxpayers. This would bring MICs into line with all other CITES permits and certificates as currently they are the only certificates which are free and last for 3 years. No decisions have been made and consultation with industry on any proposals is expected.

Thank you again for writing on this matter. I hope that this response has addressed your concerns and that you are reassured that this Government remains committed to supporting the sector to adapt, and that by continuing to work closely with stakeholders, across government, and with Member States, we can enable the music sector to tour with confidence in summer 2022 and beyond.

*31 May 2022*

**Letter from the Chair to Julia Lopez MP Minister of State for Media, Data and Digital  
Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your letter of 31 May, which was considered by the Committee at its meetings on 12 July and 15 November. We congratulate you on your reappointment as Minister for Media, Data and Digital Infrastructure.

In our last exchange of letters in May, we raised again the issues of particular ongoing concern to the Committee:

- the support needed for specialist hauliers to continue to be able to operate post-Brexit.
- the current incomplete visa and work permit arrangements with the member states and the impact of this on the ability of creative professionals to tour within the EU; and
- the particular impact of the post-Brexit arrangements on young musicians at the start of their careers.

We are grateful for your update on the Department for Transport's progress as of that date with implementing a dual-registration regime for specialist event hauliers. We ask for a further update on this measure and its efficacy.

With regard to the other issues of concern listed above, we are conscious that it is now several months since our last exchange of letters, and that there has been a significant change in government priorities and personnel in the intervening period. Accordingly, we would welcome a clear explanation of the new government's policy regarding visas, work permits and touring, both for UK citizens going to the EU and for EU citizens coming to the UK.

We would also ask for an update on the new government's approach to the support it provides to young musicians aiming to travel to the EU for performances, and on the proposal under the Johnson government to introduce a charge for Musical Instrument Certificates under CITES, which was still under consideration at the time of your last letter to us.

We retain an interest in this subject and look forward to considering your response within the usual 10 working-day deadline.

*16 November 2022*

## **Letter to the Chair from Julia Lopez MP Minister of State for Media, Data and Digital Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your correspondence of 16 November 2022 regarding the movement of creative professionals between the UK and the EU.

The Government's position remains that we want creative professionals to be able to tour abroad easily. Where issues on the ground remain, we continue to engage with the sector to consider how best we can support them, including through discussions with music industry bodies and other representatives of the touring sector.

You raise a number of points in your correspondence, and I shall respond to each of these in turn.

### **Specialist event hauliers**

You asked for an update on the implementation of dual registration for specialist event hauliers. After extensive work by DCMS and the Department for Transport (DfT) with stakeholders, the 'dual registration' measure came into force in July 2022. This enables specialist events hauliers who operate for hire and reward and have bases in both Great Britain (GB) and the EU to benefit from market access rights in both GB and the EU – without needing to swap their specialist vehicles in the middle of a tour, or having journeys limited by the international cabotage rules within each territory. This measure also applies to international bases outside the EU and is subject to their respective operator licensing and market access arrangements.

We acknowledge that the resource implications of maintaining two bases mean that dual registration is likely to be used most by larger specialist haulage operators, who have the resources to establish bases in Great Britain and the EU. The measure is restricted to hire and reward operations and so own-account operators (notably orchestras) would need to switch to this operating model to use it. They, as well as many small and medium sized haulage operators, have in any case been clear that, largely due to resourcing and financial implications, they will be unable to make use of dual registration. We can confirm that between dual registration coming into force in July and the end of October 2022, six operators registered to use dual registration.

### **Touring visas and work permit.**

You asked the Government for an update on its approach with regard to the visa and work permit arrangements for creative professionals travelling in both the UK and the EU.

The vast majority of Member States have now confirmed that UK musicians and performers do not need visas or work permits for some short-term touring. This includes the UK's most important touring markets, such as France, Germany and the Netherlands. This also includes Spain, which introduced 90-day visa- and work permit- free touring in November 2021; and Greece, which announced a visa and work permit free route for UK creatives in June 2022, both following engagement by the UK Government and the sector. There are therefore three remaining Member States - Portugal, Malta and Cyprus - that have not confirmed visa and work permit free routes. Ultimately it is up to these countries to make these decisions, as is their sovereign right to do so.

Regarding EU citizens coming to the UK, the UK's rules for touring creative professionals are comparatively more generous than in many EU Member States. The UK's domestic rules allow musicians, entertainers and artists (and their technical staff) from non-visa national countries, such as EU Member States and the US, to perform in the UK without requiring a visa, and the UK does not have work-permits.

### **Young musicians**

The Government continues to recognise the importance of supporting the careers of young and emerging artists, including their ability to tour. As previously mentioned, the Government continues to support British musicians to tour through a range of export support programmes, including the successful Music Export Growth Scheme, International Showcase Fund and the Department for International Trade's Internationalisation Fund. We continue to support the sector in clarifying gov.uk guidance around touring in response to specific issues raised.

### **Musical Instrument Certificates**

Finally, you asked for an update on Musical Instrument Certificates (MICs) under CITES, a matter for which the Department for Environment, Food & Rural Affairs is responsible.

Musical Instrument Certificates (MICs) are currently free of charge as they were introduced prior to the last revision of CITES fees and charges. The Government is in the process of routinely reviewing CITES fees to more accurately reflect the cost of operating the system in the UK. This will include consideration of whether MICs will be included in the fee schedule, but no decision has been made and we expect to seek feedback on any proposed revisions.

Thank you for writing on this matter. I hope my response is helpful and that you are reassured that this Government remains committed to enabling our creative sectors to thrive and supporting them in adapting to new touring arrangements post-EU Exit.

22 November 2022

### **Letter from the Chair to Julia Lopez MP Minister of State for Media, Data and Digital Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your letter of 22 November, which was considered by the Committee at its meeting on 20 December.

#### **Specialist Events Hauliers**

We are grateful for the update on progress with the implementation of dual registration for specialist event hauliers. We note that uptake of this scheme has been limited and ask what steps the Government is taking to increase this so as to maximise its impact on the sector and support British creative professionals in their efforts to continue to tour within the EU.

Moreover, as you note in your letter, this scheme is not a feasible option for orchestras and other small and medium-sized operators. This is a highly specialised and skilled industry, and, without urgent support, these operators may well no longer be able to continue in business. In the course of our current inquiry into the future of the UK-EU relationship, we heard evidence from Deborah Annetts, CEO of the Incorporated Society of Musicians (ISM), of the devastating impact of these restrictions on the musical industries and that this would make it impossible for many orchestras to continue to tour within Europe. This represents a significant economic and cultural loss for the country and the likely end of one of its most successful export sectors. We therefore ask, again, what steps the Government is taking to support specialist hauliers unable to take advantage of the dual-registration scheme so that they can continue to operate and what assessment it has made of the economic and cultural impact of the loss of these operators in the event that they are forced out of business.

#### **Touring Visas and Work Permits**

We appreciate your update on the progress of negotiations with Member States on touring visas and work permits. We would ask what steps the Government is taking to engage with Portugal, Malta and Cyprus to secure visa and work permit-free travel for creative professionals to those countries.

In our evidence session with the ISM, we heard that, despite the existence of visa and work permit arrangements with many Member States, these remained far from consistent, and frequently impose additional, costly restrictions on professionals of lesser renown – primarily those in the earlier stages of their careers with fewer resources to draw upon.

We remain deeply concerned by this lack of consistency, and the perception that the Government seems unwilling to lobby and engage with the Member States to seek that consistency (and, accordingly, more favourable arrangements for creative professionals in some Member States), to help to secure the future of the creative industries in the UK and EU countries involved. Can you confirm that the Government is continuing to engage seriously with each Member State to seek the most mutually favourable (mutually so) visa and work permit regimes possible for travelling creative professionals, with the aim of achieving parity across all 27 Member States. We ask that you keep us informed of the Government's engagements with its counterparts in the Member States on these issues and of the progress of negotiations.

#### **Young Musicians**

We welcome your commitment to continue to support young musicians and to clarifying the information on gov.uk. We would be grateful for a breakdown of the uptake of the various schemes you cite and an analysis of their sectoral and macro-economic impact. We also note that, to the extent that this support reaches young musicians, it may be too late. We heard from the ISM that many young musicians were now unable to get auditions in the EU because organisers saw hiring UK musicians as too risky, bureaucratic, and costly given the significant obstacles facing them in travelling to the EU to perform. We would ask what steps the Government is taking to overcome these obstacles. We would also ask you to supply your Department's assessment of the economic and cultural impact arising from the barriers to travelling to the EU facing young musicians.

### **Musical Instrument Certificates**

With respect to Musical Instrument Certificates, we are highly concerned. Having informed us that no decisions had been taken in this regard, we learned from the ISM that not only had the Government decided not to designate Eurostar for the purposes of CITES, but also that you had now introduced fees for MICs. Both of these decisions are highly detrimental to the sector, meaning that many musicians remain unable to use the simplest and most cost-effective route to the continental mainland, but also that they face further prohibitive costs that will render even more journeys economically unviable and will fall most heavily on our youngest musicians. The Government has several times stated its commitment to the UK's creative industries and we would ask you to explain how these decisions are consistent with that commitment. Further, we urge the Government to reconsider both of these decisions and thus to demonstrate its commitment to the UK's creative industries and the careers of our exceptional creative professionals. We would also ask you to supply this Committee with your assessment of the economic impact of these two decisions on both musicians and the creative industries, and on the wider economy.

### **The Committee's Inquiry into the Future UK-EU Relationship**

These matters fall within the scope of the Committee's current inquiry into the future of the UK's relationship with the EU. We will be including a chapter on all aspects of post-Brexit mobility between the UK and the EU, and the movement of creative professionals will form a part of that chapter. Your response to this letter will be very helpful in crafting that chapter of our report, but we would invite you to submit formal written evidence, paying particular attention to the evidence we heard from the ISM on 13 December. We would refer you also to our original call for evidence, which can be found on the Committee's website: <https://committees.parliament.uk/work/6868/the-future-ukeu-relationship/news/172263/call-for-evidence-launched-on-the-ukeu-relationship/>

We recognise that these issues require a cross-governmental approach, and we are therefore copying this letter to the Foreign Secretary and the Minister for Europe for their specific attention. We retain an interest in this subject and look forward to considering your response within the usual 10 working-day deadline.

*21 December 2022*

### **Letter to the Chair from Julia Lopez MP Minister of State for Media, Data and Digital Infrastructure Department for Digital, Culture, Media & Sport**

Thank you for your further correspondence of 21 December 2022 regarding the movement of creative professionals between the UK and the EU. I appreciate the work of the Committee and its dedication to helping touring professionals thrive.

This Government recognises the importance of the UK's creative industries, not only to the economy and international reputation of the United Kingdom, but also to the wellbeing and enrichment of its people. That is why we are developing a Creative Industries Sector Vision to set out our ambitions for the sector between now and 2030, which we will publish in the coming months. Working closely with the Creative Industries Council, we will set out how industry and Government actions will support creative businesses up and down the UK to innovate, invest and grow.

We are committed to supporting the creative sector to adapt to new requirements for touring in the EU. We have worked across Government, directly with EU Member States and with the sector to clarify new requirements, provide guidance, and implement unilateral measures where possible, such as dual registration.

To be clear on the responsibility for these issues, DCMS holds responsibility for the coordination and oversight role of touring given the cultural industries and individuals this affects. However, the Department - whilst it inevitably has an active interest - does not directly hold policy responsibility for many of the areas covered in your letter. Working with the departments responsible, I have addressed each issue you have raised in turn as follows.

### **Dual Registration**

The dual registration provision - led by the Department for Transport (DfT) - continues to be welcomed and utilised by specialist hauliers with the total number of vehicles using the measure steadily increasing since its introduction in July 2022.

To raise awareness of dual registration, DfT worked across Government and with industry to utilise various communication channels including those of DCMS, Live music Industry Venues and Entertainment (LIVE) and the Association of British Orchestras (ABO). Six of the largest specialist events hauliers currently use the measure, and it has played an important role in helping these hauliers adapt to the UK-EU Trade and Cooperation Agreement's (TCA) market access rules.

Dual registration is an optional measure available to all eligible specialist hauliers. Whether it is suitable for a particular enterprise is a business decision and will depend on each operator's specific circumstances. DfT understands some smaller specialist haulage firms and own account operators may not have the resources to meet the requirements of the measure in practice. DfT undertook further work with industry to identify alternative options available to these types of specialist hauliers. These include partnering with another operator, using alternative vehicles or applying for a European Conference of Ministers of Transport international road haulage permit (subject to quota limits). DfT continues to engage with, and provide guidance to, those specialist hauliers still facing operating challenges when touring internationally.

DfT officials also raised ongoing concerns of the specialist haulage sector with the European Commission during the Specialised Committee meeting on Road Transport, held in London in November 2022. The European Commission Co-Chair confirmed that the EU had looked into the position of specialist event hauliers, but remained of the opinion that there is nothing in the TCA that can solve this issue, and that the EU is not in favour of amending the TCA.

The public consultation on dual registration, which DfT held in early 2022, received overall positive support from respondents in favour of introducing the measure. The Government's response to the consultation also acknowledged and addressed the initial concerns raised by some respondents regarding own account operators and small businesses. A Tax Information and Impact Note was also published, which highlighted the measure's expected positive business impact on specialist haulage operators. An impact assessment has not been undertaken as the measure neither amended nor imposed requirements on business practices; instead, it provides certain businesses with an option which they may decide to use if appropriate to their own operating models.

Should you have any further concerns or questions regarding dual registration, I recommend writing to my colleague, Minister Holden in the Department for Transport, who will be able to assist further.

### **Touring Visas and Work Permits**

The 27 EU Member States are responsible for their own individual entry requirements. It is the responsibility and right of each EU Member State to design their own domestic immigration and visa system. It would not be realistic to seek uniformity across all EU Member States.

Following engagement with every EU Member State, almost all have confirmed that they offer some form of visa and permit free touring routes for creative professionals. The Government continues to engage with the remaining Member States to encourage them to allow creative professionals to tour more easily, and we are working with the sector to amplify each other's lobbying efforts. Ultimately, however, it is up to these countries to align their requirements more closely with the UK's generous rules.

### **Young Musicians**

As noted in previous correspondence, the Government supports a number of export support schemes which benefit emerging artists, including young musicians and music-related companies. The Music Export Growth Scheme (MEGS), administered by the BPI and jointly funded by DCMS and the

Department for International Trade (DIT), offers small and medium-sized music companies (SMEs) the opportunity to apply for grants ranging from £5,000 to £50,000 that will support their marketing and promotional campaigns overseas usually associated with international tours. Support from MEGS facilitates music SMEs in breaking into new markets which leads to increased export revenue from royalties accruing from new recorded music sales, publishing deals and music sync placements to film and TV.

The BPI reports that since its launch in 2014, MEGS has awarded over £4.5 million in support of around 300 UK music projects, generating £55.5 million in exports revenue for the British music economy - a return of £13.45 for every £1 invested. DIT and DCMS have provided £500,000 of grant funding to MEGS in 2022/23.

The International Showcase Fund (ISF) offers grant support for the UK's most promising music creators to take their first steps into international territories. Grants of up to £5,500 support costs relating to participation in international industry-facing showcase festivals and conferences such as South by Southwest and Eurosonic. PRS Foundation, the charity arm of music collecting society PRS for Music, owns the ISF scheme and DIT is one of 11 industry partners. DIT contributed £40,000 to the ISF in 2022/23.

DIT's Internationalisation Fund launched in December 2020 to provide £38m co-investment to high internationalisation growth potential SMEs in England, using European Regional Development Funding which has been allocated to DIT through the Department for Levelling Up, Housing and Communities (DLUHC) by participating Local Enterprise Partnerships (LEPs). Funding of between £1k and £9k per company was available to eligible SMEs until 5 January 2023 to apply for co-investment to secure advice from third party private sector experts, subject to funding availability in individual LEP areas.

I have met with my colleague, Minister Bowie in the Department for International Trade recently to discuss ways of supporting young musicians and promoting British music abroad, and I would recommend writing to him if you would like any further information on MEGS or the ISF.

#### **Eurostar St Pancras Point of Entry and Musical Instrument Certificates**

The Department for Environment, Food and Rural Affairs (Defra) has been working closely with Border Force, the music industry and our European counterparts to look at the feasibility of designating further Points of Entry (PoE) to provide additional routes for the movement of CITES items (e.g., musical instruments), including the Eurostar at St Pancras. After careful review, Defra has found that at present the St Pancras terminal lacks the necessary space facilities and infrastructure necessary to allow the Eurostar to become CITES designated. Defra recognises this will be disappointing to the sector and will keep the designation status under review.

Musical Instrument Certificates (MICs) are currently free of charge as were introduced prior to the last revision of CITES fees and charges. Defra is in the process of routinely reviewing CITES fees to more accurately reflect the cost of operating the system in the UK. This will include consideration of whether MICs will be included in the fee schedule, but no decision has been made and Defra plans to undertake public consultation on any proposed revisions.

The Rt Hon Lord Benyon is responsible for MICs and the movement of CITES in Defra, and he may be able to provide further information and resources on the economic impact CITES and MICs have delivered.

#### **Inquiry into the Future UK-EU Relationship**

The Government submitted written evidence to the European Affairs Committee's Call for Evidence for the Inquiry into the future UK-EU relationship in November, which covered touring performers. The submission can be found on page 16 of this report: <https://committees.parliament.uk/writtenevidence/113055/pdf/>

I hope this response provides clarity on your points as requested, as well as assurance on the Government's broader support of the UK's world-leading creative industries.

*13 January 2023*

## UK'S ASSOCIATION TO EU PROGRAMMES

### **Letter to the Chair from Graham Stuart MP, Minister for Europe, Foreign, Commonwealth and Development**

I am writing to provide an update on the UK's association to EU Programmes (Horizon Europe, Copernicus, Euratom Research & Training, and Fusion for Energy). The Government has pressed the EU repeatedly to finalise the UK's participation, in line with the terms agreed under the Trade and Cooperation Agreement (TCA). Unfortunately, despite our best efforts, the EU has continued to delay finalising UK association to these Programmes, to the detriment of researchers and businesses across the UK and Europe.

With this context in mind, I wanted to take the opportunity to inform you that the Government has today written to the EU to request formal consultations, pursuant to Article 738 of the TCA, with the aim of finalising the UK's association to EU programmes.

As you know, the UK's association to EU Programmes was agreed under the TCA but could not be finalised at the point of signing in December 2020. This was because the EU's long-term budget was not adopted, and the underpinning EU legislation was not in place at that time. The Joint Declaration made by the UK and the EU on the signature of the TCA on 30 December 2020 was clear that UK association would take place at the earliest opportunity when the relevant EU legislation was adopted. That timeline was vital. It was the Parties' shared ambition that UK researchers and businesses would be able to participate from the beginning of the respective EU Programmes.

However, despite it now being more than 14 months since the EU legislation establishing these programmes was adopted, the UK has still not been allowed to associate. The Government is clear that this approach is contrary to the EU's obligations under the TCA and is causing serious damage to R&D cooperation between UK and EU researchers and innovators. The EU has politicised scientific cooperation by inappropriately linking UK participation in EU Programmes, and the Northern Ireland Protocol.

Association to these Programmes remains the UK's preference and we continue to press the EU at all levels. However, the UK cannot wait much longer; the continued delays are causing intolerable uncertainty for our research and business community. That is why we are now entering into consultations with the EU, with the aim of finalising the UK's association to EU Programmes. We hope the EU will engage constructively to fulfil its obligations.

At the same time, we continue to develop plans for domestic alternative arrangements, should the EU continue to fail to meet its commitments. The Government's priority remains to support the UK's research and development sector through this period and ensure continued collaboration. This is why the Government has already put in place a guarantee for eligible, successful UK applicants to Horizon Europe who expect to sign grant agreements by December 2022. The Department for Business, Energy and Industrial Strategy (BEIS) released a publication on 20 July and the Business Secretary separately wrote to Select Committee chairs, setting out further detail on these plans. If the delays continue, the Government will be forced to decide whether to put these arrangements in place.

We hope it does not come to this. UK association would be a win-win for the UK and the EU, allowing our respective science and research communities to continue to collaborate under these Programmes to tackle some of the greatest challenges we face.

The Government is ready to work together with the European Commission swiftly to resolve this issue.

*16 August 2022*

### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development**

#### **Dispute resolution proceedings with the EU over delays to UK association to Horizon Europe**

Your predecessor wrote to us on 16 August 2022, notifying the Committee of the Government's decision to invoke the relevant dispute resolution mechanism in the Trade and Cooperation Agreement



(TCA) and request formal consultations with the EU (Article 738) in relation to the delays to Horizon Europe association. The letter was considered by the Committee at its meeting of 11 October 2022.

As indicated in previous correspondence, the Committee strongly agrees with the Government that UK association to Horizon Europe would be a “win-win” for the UK and the EU. The evidence that we have received, as well as recent media coverage, suggests that the ongoing delay to association and resulting uncertainty is having a significant detrimental effect on UK scientists and researchers. It is highly regrettable that this matter remains unresolved, and that it has been affected by the dispute regarding the Ireland/Northern Ireland Protocol.

The Committee welcomes your predecessor’s confirmation that association with Horizon Europe remains the Government’s preference, and that the Government continues to “press the EU at all levels” for this outcome. The Committee urges the Government to take a constructive approach to the consultations, with the aim of unblocking the impasse, in the interests of both sides.

The Committee would be grateful if, in your reply to this letter, you could provide an update on the progress of the consultations initiated under Article 738 TCA. In particular, the Committee is keen to know whether further meetings are planned with the European Commission, in addition to the meeting of the Specialised Committee on Union Programmes which was held on 22 September 2022, or whether the Parties now consider the consultations to have concluded. The Committee would also be interested to know whether the Parties have given consideration to referring this issue to the Partnership Council, as provided for under Article 738, which would facilitate engagement between the most senior negotiators from both Parties.

The Committee also notes the publication, on 20 July 2022, of an update on the Government’s proposals to transition to a new research and development programme in the event that the UK is unable to associate to EU programmes. It is grateful to the then Secretary of State for Business, Energy and Industrial Strategy for writing separately to notify the Committee of this. While the Committee welcomes the additional detail on the Government’s ‘Plan B’, it remains unclear to the Committee in what circumstances the proposed transitional measures would be deployed. Would these only come into place if the Government determined that there was no longer any prospect of association to Horizon Europe, or might they be introduced while discussions with the EU in relation to this issue, including the formal consultations, are still ongoing? The Committee would be grateful if you could provide it with greater clarity on this matter.

*13 October 2022*

**Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign,  
Commonwealth and Development**

Thank you for your letter of 13 October on the delays to UK association to EU Programmes, including Horizon Europe, and for your Committee’s consideration of my predecessor’s letter of 16 August 2022.

You ask about the consultations process that the UK initiated under Article 738 of the TCA. The UK’s aim in launching consultations was to seek to finalise our association to EU Programmes. This is what we agreed in the TCA, and, as your Committee notes, this would clearly be a ‘win-win’ for both the UK and the EU.

We were disappointed, therefore, that the EU was only willing to engage at the minimum level possible to meet the legal requirement for consultations, despite our best efforts to instigate a process of constructive exchange. UK and EU officials met in a Specialised Committee on Participation in Union Programmes (SCPUP) on 22 September. This followed a mutually agreed extension of the TCA’s stipulated 30-day period for consultations in light of the period of national mourning. At the Committee, the UK once again requested that the EU fulfil its obligation to finalise the UK’s association to EU Programmes, but, regrettably, the EU chose to decline this request. We will share the minutes of the SCPUP with you as soon as possible once agreed.

Unfortunately, this therefore means that the consultations have come to an end without progress having been made. We regret that the EU remains unwilling to resolve the issue, or to signal any timeline for finalising our association. If the EU’s position were to change, we would of course be ready to discuss with them how best to reach a prompt resolution of this issue, and we continue to reiterate that to

them on a regular basis and at all levels. We hope they will realise that holding scientific cooperation hostage is in no-one's interest.

In that light, you also asked whether this issue would be picked up at the next Partnership Council. We will, of course, need to agree the agenda for that meeting jointly with the EU, but you can be assured that Programmes will be a priority for the UK.

As for the transitional measures that the Department for Business, Energy and Industrial Strategy (BEIS) has been developing, the Government will be ready to implement these if association is no longer possible in time to get good value from the Programme, with a comprehensive package of longer-term measures to follow. While our preference is still to associate to the EU Programmes, we have been clear that time is running out, and Ministers will soon have no choice but to consider putting in place these arrangements. The Government's priority remains to support the UK's research and development sector through this period and ensure continued collaboration. That is why the Government has already put in place a guarantee for eligible, successful UK applicants to Horizon Europe to cover all calls closing on or before 31 December 2022.

*15 November 2022*

### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development**

#### **Delays to UK association to EU programmes, including Horizon Europe**

Thank you for your letter of 15 November 2022 on the delays to UK association to EU programmes, including Horizon Europe, and for providing the update that we requested on the consultations process initiated by the UK under Article 738 of the TCA. The letter was considered by the Committee at its meeting of 13 December 2022.

The Committee continues to agree strongly with the Government that UK association to these programmes would be mutually beneficial for the UK and the EU. We are therefore pleased to hear that Ministers are continuing to make the case for this to the EU, though disappointed that the consultations do not appear to have resulted in any progress being made.

We are also grateful to the Minister of State for Science, Research and Innovation for writing to us separately on 21 and 24 November 2022 to inform us of the announcement of domestic funding packages to support respectively the UK research and development sector as a whole and the UK Earth Observation sector. These letters were also considered at the Committee's meeting of 13 December 2022.

The Committee retains a close interest in this issue and requests that Ministers continue to keep us updated on any relevant developments.

*14 December 2022*

### **WITHDRAWAL AGREEMENT JOINT COMMITTEE AND TRADE & COOPERATION AGREEMENT PARTNERSHIP COUNCIL**

#### **Letter to the Chair to the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs**

I am pleased to confirm that following my appointment as Secretary of State for Foreign, Commonwealth & Development Affairs, I will serve as the UK's co-chair of the Withdrawal Agreement Joint Committee (WAJC) and for the Trade & Cooperation Agreement Partnership Council. I can also confirm that Leo Docherty MP, Minister of State for Europe at the Foreign, Commonwealth & Development Office will serve as the UK's alternate co-chair of the WAJC.

The Minister for Europe and I look forward to the continued cooperation my predecessor shared with yourselves and your committees in ensuring the effective scrutiny of the implementation and application of the Withdrawal Agreement and Trade & Cooperation Agreement.

*5 October 2022*

## WELCOME AND INTRODUCTORY LETTERS

### **Letter from the Chair to the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs**

May I take this opportunity to congratulate you on your appointment. The Committee and I very much look forward to working with you as the UK's relationship with the EU continues to evolve.

As you will be aware, an agreement on the Committee's scrutiny of EU documents and His Majesty's Government's actions in respect of the relationship with the EU has now been agreed and was confirmed in writing by your predecessor prior to her appointment as Prime Minister. A letter confirming the Committee's agreement to the terms set out in her letter to the Committee will be sent at the same time as this letter.

In that agreement, there is a commitment for the Europe Minister to appear before the Committee at least twice a year to answer general questions on the UK's relationship with the EU, and for the Foreign Secretary to appear once a year. The Committee was pleased to welcome you to the Committee in your capacity as Europe Minister in June this year. However, this was the first such appearance since October last year, when the Committee heard evidence from Rt Hon Lord Frost of Allenton. Furthermore, no Foreign Secretary has appeared before the Committee since it was established in March 2021.

The Committee is, therefore, keen to establish a rhythm for your attendance before the Committee and would greatly welcome your assistance in facilitating the arrangements for these appearances. Prior to resignation of the former Prime Minister, there was an agreement at official level that your predecessor would appear before the Committee at some point during this parliamentary term. The Committee very much hopes that you will be able to honour this commitment and looks forward to welcoming you in the near future.

*12 October 2022*

### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

May I take this opportunity to congratulate you on your appointment. The Committee and I very much look forward to working with you as the UK's relationship with the EU continues to evolve.

As you will be aware, an agreement on the Committee's scrutiny of EU documents and His Majesty's Government's actions in respect of the EU has now been agreed and confirmed in writing by the former Foreign Secretary prior to her appointment as Prime Minister. A letter confirming the Committee's agreement to the terms set out in the then Foreign Secretary's letter to the Committee will be sent at the same time as this letter.

In that agreement, there is a commitment for the Europe Minister to appear before the Committee at least twice a year to answer general questions on the UK's relationship with the EU. The Committee was pleased to welcome Rt Hon James Cleverly MP to the Committee in this capacity in June this year. However, this was the first such appearance since October last year, when the Committee heard evidence from Rt Hon Lord Frost of Allenton. The Committee is, therefore, keen to establish a rhythm for your attendance before the Committee and would greatly welcome your assistance in facilitating the arrangements for these appearances.

In addition, it would be enormously helpful to meet you in person at your earliest convenience. Such meetings were extremely helpful in establishing a constructive working relationship with both of your most recent predecessors. I would very much appreciate your assistance in getting such a meeting in the diary as quickly as possible.

*12 October 2022*

## INTRODUCTORY LETTER FROM LEO DOCHERTY MP

### **Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

Following my appointment as Minister for Europe, I am writing to introduce myself to your Committee and its Sub-Committee, and to express my appreciation of the scrutiny you conduct.

I value highly the work and expertise of your Committee on the various aspects of the UK's relationship with the EU. The Government wants a positive relationship with the EU, and your Committee plays an essential role in scrutinising the work of the FCDO in this area.

One of my aims as Minister of State for Europe is to ensure that your Committee and the FCDO have a positive working relationship through our engagement and constructive dialogue. I would be glad to meet with you informally to discuss the work of the Committee and my priorities in my new role, ahead of my first appearance before the Committee.

*14 October 2022*

## EU PROGRAMMES – PACKAGE OF IMMEDIATE INVESTMENT FOR THE UK'S R&D SECTOR

### **Letter to Chair from George Freeman MP, Minister for Science, Research and Innovation, Department for Business, Energy & Industrial Strategy**

Today I'm pleased to announce **up to £484m funding** to invest and retain talent in the UK R&D sector and to secure the UK fusion sector's commercial leadership and capabilities. The ongoing uncertainty over access to EU Programmes (Horizon, Copernicus, Euratom Research & Training and Fusion for Energy) is placing increasing pressure on UK universities and research organisations, as well as causing significant issues for the UK's Fusion and Earth Observation sectors. UK researchers should already be part of these programmes; however, the EU have now delayed our association for 19 months. The UK has done everything it can to secure association, including entering formal consultations with the EU.

It remains the Government's preference to associate to EU R&D programmes and the Government remains ready to discuss association with the EU, however we cannot wait forever. My priority is to invest in the UK's R&D sector, whether through association or, if the EU do not implement their obligations, alternative measures. In September, the Government announced an extension of the Horizon Guarantee scheme, protecting funding for UK researchers, businesses, and innovators. The guarantee provides vital support to eligible, successful UK applicants to continue their important work in research and innovation and is in place to cover all eligible Horizon Europe calls that close on or before 31 December 2022. As of 31 October 2022, we have already issued £512.6m of Grant Offer Letters for the guarantee.

Whilst the guarantee is an important means of protecting the UK sector, we're committed to going further. That's why over the last few months, officials and I have consulted widely with the research community - this package responds to what we have been hearing are their biggest challenges. These investments will provide targeted support during this time of uncertainty. They will support staff retention and local talent strategies at eligible universities and research organisations; ensure the UK's labs remain world class and at the cutting edge of R&D; and offer universities George Freeman MP Minister of State for Science, Research and Innovation Department for Business, Energy & Industrial Strategy 1 Victoria Street London SW1H 0ET and research organisations the discretion to apply the funding in ways that best suit their local needs. It will also stimulate and accelerate the growth of the UK's fusion industry, delivering a thriving UK fusion ecosystem and strengthening the UK's position in the future global fusion market.

Further to the funding announced today, I will shortly be announcing new investment and projects to boost the Earth Observation community and mitigate the challenges caused by the delays to association to Copernicus.

To reiterate, it remains the Government's preference to associate to EU programmes as envisaged under the TCA, but we cannot wait forever to invest the funding set aside for association in our world-leading R&D sector. While the EU continues to delay our participation, this package ensures that universities and research organisations are able to continue to attract and retain talent, invest confidently in their research infrastructure and protect the UK's reputation for excellent research.

21 November 2022

## GOVERNMENT INVESTMENT IN UK EARTH OBSERVATION

### **Letter to Chair from George Freeman MP, Minister for Science, Research and Innovation, Department for Business, Energy & Industrial Strategy**

I am writing to inform you of the announcement today that the Government is launching a package of up to £200m funding to invest in the UK Earth Observation sector to protect the future of UK talent and industry in earth observation and mitigate the impact of ongoing delays to UK participation in the EU Copernicus programme, while the EU continues to block our association.

Earth observation (EO) is a vital science and a growing industry. This is the right time to invest in projects which benefit our planet and grow our economy – EO supports the UK to become a science superpower and prioritises our space and Net Zero ambitions – more than half of key climate data comes from space.

The UK has a vibrant landscape of world leading EO academic and industrial organisations and a well-founded reputation for excellence in EO. For example, in climate science, leading UK research institutions have been measuring Sea and Land Surface Temperature from space for over three decades (RAL Space, Leicester University, Reading University and Oxford University) brought together through NERC's National Centre for Earth Observation. This data is used by meteorological agencies, including the Met Office, around the world to improve weather forecast accuracy – helping to save lives, infrastructure and crops.

In the National Space Strategy, HMG committed to remain at the forefront of earth observation technology and knowhow. The investments announced today will deliver an essential funding boost to recognise the importance of this work/market and will benefit academia and industry and build our national capability. The funding is spread across 17 projects delivered through the following government partner organisations:

- £122.6m European Space Agency (ESA, through UKSA)
- £15m UK Space Agency (UKSA)
- £19.3m Natural Environment Research Council (NERC)
- £14.7m Science and Technology Facilities Council (STFC)
- £11.7m Met Office
- £4.2m Innovate UK

These projects will deliver benefits across the UK and include a broad range of activities from measuring wind speeds to improving the accuracy of climate data, and from funding SME projects to additional PhD places. Some projects will involve new or extended collaborations with international partners such as Australia.

Investing in the UK EO sector is a vital part of achieving our ambitions in space and with the range of applications of EO data including Net Zero targets, but it is just the first step.

Over the last few months, my officials have begun discussions with the earth observation community about the longer-term plans for the sector. The package announced today provides an interim response to what we have been hearing are their biggest challenges. We will continue to work with the sector to identify strategic priorities to keep building on the world-leading excellence in UK earth observation.

These investments are UK wide and will provide targeted support during this time of uncertainty. They aim to support the retention of talent and firms across the sector, and we have particularly focused on how to ensure both academia and industry can benefit from these projects.

### **Context**

The EU has now delayed our association for nearly two years. The UK has done everything it can to secure association, including entering into formal consultations to encourage the EU to implement their obligations. The Government remains ready to discuss association with the EU, but with the EU continuing to refuse our request to formalise association, we cannot wait forever. Our priority is to invest in the UK's EO sector and protect our knowledge and capabilities.

*23 November 2022*

## THE EUROPEAN POLITICAL COMMUNITY

### **Letter from the Chair to Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

The Committee welcomes the Prime Minister's attendance at the inaugural meeting of the European Political Community in Prague on 6 October. We are following the development of the EPC with interest.

As the EPC falls within the remit of the European Affairs Committee, the Committee is keen to be kept up to date with the EPC's activities and the Government's interactions with the EPC. We therefore ask that you provide a readout of the Prague meeting, covering the plenary and subsequent roundtable discussions. We would also be grateful if you could explain the Government's understanding of the EPC, its aims for this new forum, and the principles it will adopt to guide early UK engagement.

We would also ask that you provide this Committee with a briefing in advance of all subsequent meetings of the EPC, and a readout of the meeting afterwards.

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

*21 November 2022*

### **Letter from the Chair to Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

The Committee welcomes the Prime Minister's attendance at the inaugural meeting of the European Political Community in Prague on 6 October. We are following the development of the EPC with interest.

As the EPC falls within the remit of the European Affairs Committee, the Committee is keen to be kept up to date with the EPC's activities and the Government's interactions with the EPC. We therefore ask that you provide a readout of the Prague meeting, covering the plenary and subsequent roundtable discussions. We would also be grateful if you could explain the Government's understanding of the EPC, its aims for this new forum, and the principles it will adopt to guide early UK engagement.

We would also ask that you provide this Committee with a briefing in advance of all subsequent meetings of the EPC, and a readout of the meeting afterwards. We look forward to receiving your response within the usual 10-day deadline.

*21 December 2022*

### **Letter to the Chair from Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

Thank you for your letter about the European Political Community (EPC).

The former Prime Minister's participation in the EPC meeting in Prague in October 2022 delivered progress on cooperation on illegal migration, energy and a range of bilateral relationships. It sent a strong signal of European unity to Moscow and was a tangible example of the point made by the Prime Minister in his Mansion House speech about the value of a mature relationship with our European partners.

Due to the informal nature of the meeting, there are no formal readouts of the plenary or working groups at the Prague summit to share. However, I attach copies of the [Czech host's opening statement](#) and [No 10's summary of the meeting](#) which detail the progress the former Prime Minister secured on energy and illegal migration with France (set out in further detail in the [UK-France Joint Statement](#)) and others.

The Government believes the EPC should be an informal, intergovernmental grouping that regularly brings European leaders together to focus on matters of common concern. The UK will pursue outcomes with individual partners, sub-groupings or with the entire EPC. We intend that the programme of meetings should minimise institutionalisation, adopting only what is needed to progress outcomes. The opportunity for candid discussions between leaders representing the breadth of the continent does not exist in other existing institutions and we consider that a valuable opportunity in itself – for example for the Prime Minister to meet many of his opposite numbers.

The Government looks forward to the next summit, which will be hosted by Moldova in June 2023. We will seek to support Moldova in its hosting. The third summit will be in Spain later this year. The former Prime Minister agreed to host the fourth meeting in the UK in 2024, and the Prime Minister remains supportive of this. The summit in Moldova will act as a high-profile demonstration of support to Ukraine and Moldova, and of European unity in the face of Russian aggression.

I appreciate your point about keeping the Committee informed of these new developments. In the future, the Government will lay a Written Ministerial Statement in both Houses after every EPC summit, summarising the discussions and the key outcomes. Officials are of course available to support the work of the Committee if the Clerks would like to discuss aspects of the EPC. This approach strikes the right balance given the informal nature of the meeting and is in line with that taken for other summits the Prime Minister attends.

*12 January 2023*

**Letter from the Chair to Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

Thank you for your letter dated 12 January 2023, which was considered by the European Affairs Committee at its meeting of 7 February 2023.

The Committee is pleased to hear that the Government considers that the then Prime Minister's attendance at the inaugural meeting of the European Political Community on 6 October 2022 was valuable in securing progress in several areas of keen interest to us, including energy and the UK's bilateral relationships with Member States.

The documents that you refer us to, which have been publicly available since October 2022, mention several outcomes from the summit that are highly relevant to our remit to scrutinise matters relating to the UK's relationship with the EU and the EEA. It is therefore disappointing that you did not provide us with further information about these developments in the letter itself, which would have been a more appropriate response to the Committee's request for information than referring us to documents that we were already aware of. It is also disappointing that you have not provided the readouts from the plenary and roundtable discussions that we requested. We do not accept your argument that the informal nature of the EPC makes it impossible for such a readout to be shared with the Committee.

We note with interest your explanation of the Government's understanding of the EPC and the principles that it will adopt to guide early UK engagement. The Committee appreciates that the EPC is an intergovernmental body and is sympathetic to the argument for keeping institutionalisation to a minimum. Given that you indicate that the Government intends to use the EPC to "pursue outcomes with individual partners, sub-groupings or with the entire EPC", we would appreciate it if you could

provide us with a more specific indication of the Government's aims for future meetings and the issues that the Government intends to focus on.

On the matter of arrangements for scrutiny of the Government's participation in the EPC we are disappointed by your response. Given that you have emphasised the significance of the EPC as a forum for engaging with European partners and pursuing outcomes, and that the then Prime Minister's attendance at the first summit resulted in several important developments relevant to the Committee's work, it is important that we are kept updated by the Government. The relatively informal nature of the EPC is not in itself a satisfactory reason for not providing the Committee 2 with basic information about the priorities of the Government within the EPC and the content of its meetings.

We reiterate our request to be briefed in advance of future summits, in order to get a better sense of the Government's priorities and the issues that are expected to be discussed. We note that ahead of the first summit an indication of the Government's priorities was provided in an article in *The Times* by the then Prime Minister on 6 October 2022, but these priorities were not formally communicated to parliamentary committees until we received your reply to our letter.

While we acknowledge the commitment to laying a written ministerial statement in both Houses following future meetings, this is a basic expectation when Ministers attend major international summits and we do not see it as an acceptable substitute for the Government writing directly to the select committees which are responsible for scrutiny of the UK's relationship with EU and EEA countries. We therefore also reiterate our request for a Minister to write to us directly with a readout following future summits to summarise the discussions and key outputs.

*8 February 2023*

**Letter to the Chair from the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

Thank you for your letter in response to my letter on the European Political Community (EPC).

My original response was in line with the approach to other international summits attended by the Prime Minister, such as the G7. The informal nature and leaders only discussions at the EPC summit means that there are no formal communiqués or detailed readouts of leaders' working groups, so these could not be provided to the Committee. The summit in Prague was a test case for this new grouping and we are still developing our approach. As I am sure the Committee are well aware, the EPC does not legally or institutionally obligate the UK in any way making the level of scrutiny required significantly different to that required by EU membership.

However, I appreciate the Committee's interest in the EPC and the importance of keeping the Committee informed as the institution develops. I am happy to agree that, in addition to laying a Written Ministerial Statement in both Houses after every EPC summit, officials will brief the Clerks of both the European Affairs Committee and the Commons' European Scrutiny Committee ahead of EPC summits on UK objectives. I or my FCDO ministerial colleagues will also write directly to both Committees after each summit summarising the key points of discussion and outcomes. I am therefore copying this letter to the Chair of the European Scrutiny Committee, Sir William Cash MP, to inform him of this approach. I hope this is satisfactory to the Committee.

As for further details about the outcomes reached in Prague, as above, leaders took part alone in the working group sessions with no additional officials present. As a result, I have no further documents to share with the Committee. I hope that the arrangements detailed above will go some way to mitigating the challenges of keeping the Committee informed due to the unique nature of these meetings, and that in future we can share further details of the discussions and outcomes reached at subsequent summits.

Since Prague, however, I am pleased that there have been several developments on the outcomes secured by the former Prime Minister. The Minister of State for Energy and Climate, Graham Stuart MP signed the North Sea Energy Cooperation MoU on Sunday 18 December, signalling renewed cooperation with the EU and North Seas neighbours to meet our respective net zero commitments. The Home Secretary attended a meeting of the Calais Group Interior Ministers on 8 December, as was agreed in Prague: a key step to improving pan-European cooperation on illegal migration. In the margins of the EPC summit, the former Prime Minister and French President Macron committed to closer



cooperation on illegal migration and energy. The UK Government and France have since the summit agreed a €72.2 million investment package to tackle small boats and finalised a £700m investment in Sizewell C alongside EDF. Further bilateral initiatives will be confirmed at the UK-France summit next month.

The Prime Minister has accepted the invitation from the Moldovan government to the second EPC summit in Chişinău on 1 June. Whilst the exact focus of the summit is still under discussion, we aspire for it to be a tangible demonstration of European unity in support of Ukraine and Moldova at a critical time. Officials are considering UK objectives, working with the Moldovan hosts and Spanish officials too, to promote coherence with the next summit in Spain in the autumn. We will update the committee ahead of the Moldova summit on the UK's objectives.

*24 February 2023*

**Letter from the Chair to the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

Thank you for your letter dated 24 February 2023, which was considered by the European Affairs Committee at its meeting of 7 March 2023.

We are very pleased that you have now accepted our requests to be provided with a briefing on the Government's priorities prior to each meeting of the European Political Community and a readout from the meeting afterwards. These will greatly assist us in monitoring the Government's future engagement with the EPC, in accordance with our remit to scrutinise matters relating to the UK's relationship with the EU and the EEA.

We are also pleased to hear that the Prime Minister has accepted the Moldovan government's invitation to attend the second summit on 1 June 2023. We look forward to learning more about the Government's objectives for that summit in due course.

*8 March 2023*

**Letter to the Chair from the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

I am writing to you with further details of the Prime Minister's attendance at the European Political Community Summit in Chisinau, Moldova on 1 June 2023, as I committed to in my previous letter of 24 February to Lord Kinnoull.

The summit brought together 49 European leaders from across Europe for the second time to discuss common challenges, including strengthening Europe's resilience to hybrid threats, energy security, and illegal migration. Hosted by Moldova, it was a powerful demonstration of pan-European unity in support of Ukraine and Moldova, in the face of continued Russian aggression; as President Sandu expressed it, the meeting was "an expression of our unity, strength and determination."

Within the official programme, the Prime Minister co-chaired a Security Roundtable alongside Polish Prime Minister Mateusz Morawiecki. This built on discussions within a Security Working Group that the UK and Poland co-chaired in the lead up to the summit. The Roundtable discussed societal resilience to hybrid threats, nuclear safety, responding to Russian aggression and illegal migration. The Prime Minister noted that the latter challenge has become a serious issue for Europe as a whole and needed renewed efforts. A number of countries were supportive of this priority.

Ukraine was a major focus throughout the Summit. President Zelenskyy attended and reiterated his calls for support for Ukraine, while the meeting taking place in Moldova underlined the threats to that country's security. The Prime Minister had a warm bilateral with President Zelenskyy in the margins and used proceedings to reiterate the UK's continued commitment to support Ukraine. The Prime Minister also attended a meeting with President Zelenskyy and leaders from Belgium, Denmark, Netherlands and Sweden. They agreed to continue work announced at the G7 supporting Ukraine's air defence capability.

The EPC provided a valuable opportunity to conduct a lot of business with European partners in a small space of time. The Prime Minister met in the margins over 20 leaders including Spanish Prime Minister Sanchez and Bulgarian President Rumen Radev with whom he confirmed a new UK-Bulgaria partnership to tackle organised immigration crime. The Prime Minister also held discussions with the Prime Minister of Estonia, Kaja Kallas, on defence and security, the Taoiseach, Leo Varadkar, and Albanian Prime Minister, Edi Rama, on the UK's strong cooperation with Albania on migration.

President Sandu deserves huge credit for successfully hosting the EPC and for her broader efforts to secure a democratic, European future for her country in the face of sustained Russian attempts at destabilisation. The Prime Minister has written to congratulate her. The image of European leaders standing alongside President Sandu in Moldova, just 20 kilometres from the Ukraine border, sends a clear message of solidarity and support for Moldova at this time.

The Prime Minister met Moldovan Prime Minister Recean and welcomed the UK-Moldova announcement to begin negotiating a returns agreement. The Prime Minister underlined our continued long-term support to Moldova including £10 million announced in March to support reforms in the energy sector as well as £12.5 million to UN agencies to support Ukrainian refugees in Moldova. The Prime Minister was also pleased the UK could support the security of the EPC summit including through the participation of the RAF in a US-France-Romania-UK exercise during the summit.

Due to the informal nature of the meeting, there are no official readouts of the plenary or working groups at the Chisinau summit to share. However, I also attach copies of the Moldovan host's [opening keynote address](#)<sup>1</sup> and [closing press remarks](#)<sup>2</sup> as well as the [No10 press statement](#)<sup>3</sup>. A Written Ministerial Statement was also laid in both houses on 19th June.

The Government looks forward to hosting European leaders at the EPC summit in the UK in Spring 2024. The Government is working closely with EPC partners, including Spain who will host in October 2023, to promote coherence across the summits.

*27 June 2023*

**Letter from the Chair to the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

Thank you for your letter dated 27 June 2023, which the European Affairs Committee considered at its meeting on 11 July 2023.

We are very pleased that the Department provided us with an official-level briefing on the Government's priorities prior to the EPC meeting and that you have updated us on the key achievements of the summit afterwards. These updates assist the Committee in scrutinising the Government's policy towards the European Political Community, per our remit.

We look forward to learning more about the Government's objectives for the summit in Spain in due course. The Committee will also pay close attention to the preparations for the EPC summit in the UK in Spring 2024. We look forward to further updates from the Government about the dates of the summit and the priorities the Government wishes to focus on.

We do not expect a response to this letter.

*12 July 2023*

**Letter to the Chair from the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

I am writing to you with further details of the Prime Minister's attendance at the European Political Community summit in Granada, Spain on 5 October 2023.

The EPC in Granada brought together European leaders to tackle shared challenges, including illegal migration which the Prime Minister has identified as a key priority for the EPC format. Other significant themes included supporting Ukraine in its fight against Russian aggression and enhancing international coordination on the regulation of Artificial Intelligence (AI). The Prime Minister's attendance at the

summit demonstrated the UK's continued commitment to the security and prosperity of Europe – as well as his desire to continue to energise bilateral relationships across the continent.

At Granada, we deepened our international cooperation with key partners in the fight against illegal migration. In the margins of the summit, the Prime Minister co-chaired, alongside Italy, a small group discussion on migration, with the leaders of Albania, France, the European Commission and the Netherlands. The group discussed operational cooperation between the UK and partners across Europe and agreed eight commitments (further details are available on gov.uk):

1. Taking robust action, together and in cooperation with partner countries.
2. Updating the legal framework, including at UN level.
3. Developing partnerships with key countries to address the root causes.
4. Supporting partner countries to strengthen border protection.
5. Supporting partner countries including through funding to deal with mixed movements.
6. Strengthening cooperation on return and readmission.
7. Providing humanitarian admission and resettlement to those entitled; and
8. Strengthening cooperation on visa policy.

The PM agreed a joint declaration with Serbia to enhance operational coordination, as well as a new agreement with Bulgaria enabling an expansion of joint action to disrupt criminal networks, sharing of information and practical support. This builds on the UKBulgaria partnership announced at the previous EPC in Moldova.

Beyond migration, the Prime Minister participated in a roundtable discussion on AI, chaired by Sweden and Albania. The Prime Minister used the session to urge leaders to recognise and seize the opportunities that AI provides and noted the need for a collaborative approach to regulation, with a view to developing a European consensus ahead of the UK AI Safety Summit in November 2023. President of France, Emmanuel Macron also attended.

The EPC format offers an important opportunity to discuss pressing issues directly with European counterparts. The Prime Minister held bilateral meetings with counterparts from Germany, Ireland, Albania and Ukraine. In his meeting with Albanian Prime Minister Rama, they discussed building on prior migration and prisoner transfer cooperation. The Prime Minister and Taoiseach shared their concerns about the continued absence of an executive in Northern Ireland and the democratic deficit this was causing.

In addition to these, the Prime Minister conducted a series of brushby meetings with Spain, France, Sweden, Estonia, Netherlands, Italy, Bulgaria, Czech Republic and the EU. Short meetings with Serbian and Kosovan counterparts provided an opportunity for the Prime Minister to convey strong messages with regard to ongoing tensions in the Western Balkans.

The EPC format does not produce official readouts of the plenary or roundtable discussions, however, please see below the links to Spain <sup>8</sup> and the EU's<sup>9</sup> opening statements from the plenary session and a short-written summary of the migration focused meeting which the Prime Minister co-chaired with Italian Prime Minister Meloni <sup>10</sup>

*19 October 2023*

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<sup>8</sup> [https://www.lamoncloa.gob.es/lang/en/presidente/news/paginas/2023/20231005\\_eu-political-community-summit.aspx](https://www.lamoncloa.gob.es/lang/en/presidente/news/paginas/2023/20231005_eu-political-community-summit.aspx)

<sup>9</sup> [https://ec.europa.eu/commission/presscorner/detail/%20de/speech\\_23\\_4784](https://ec.europa.eu/commission/presscorner/detail/%20de/speech_23_4784)

<sup>10</sup> <https://www.gov.uk/government/news/joint-statement-following-the-pms-meeting-on-migration-05-october-2023>

## UK-EU FISHERIES NEGOTIATIONS FOR 2023

### **Letter to the Chair from the Rt Hon Mark Spencer MP, Minister of State for Food, Farming and Fisheries, Department for Environment, Food & Rural Affairs**

I am writing to confirm the UK has reached agreement with the EU, Norway and other coastal States in the North-East Atlantic on catch opportunities for 2023. Across these negotiations, the UK has secured agreement on 86 Total Allowable Catches (TACs), providing £750 million of potential fishing opportunities.

In these negotiations the UK Government worked closely with the Scottish Government, Welsh Government and Northern Ireland Executive, and the outcomes secured by the UK will enable us to improve the sustainable management of our fish stocks in support of the whole of the UK fishing industry in the short and long term.

#### ***UK-EU Agreement***

The UK has agreed 69 TACs and arrangements for non-quota stocks with the EU for 2023, providing fishing opportunities of more than 140,000 tonnes. In total, this is worth around £282 million, based on historic landing prices. As a result of quota share uplifts agreed in the Trade and Cooperation Agreement, the UK has around 30,000 tonnes more quota from these negotiations than it would have received with its previous shares as an EU Member State.

An initial estimate suggests the number of TACs that align with scientific advice from the International Council for the Exploration of the Sea (ICES) has increased by 13% compared to last year. This is the largest increase since 2020 when the UK first started using this metric. The Government will publish early in 2023 a full assessment of the number of TACs set consistent with ICES advice across all annual negotiations.

For non-quota stocks (NQS), we agreed a roll-over of access arrangements for 2023 to ensure continued access to fish NQS in EU waters, worth around £25 million per year to the UK fleet. This is alongside further flexibility for seabass management measures within the ICES advice.

For 2023 we have also agreed access arrangements outside of the TCA provisions for the first time in the UK-EU written record. This will include access for spurdog in the North Sea and for albacore tuna.

The UK and EU have also made additional commitments in the written record to work together through the Specialised Committee for Fisheries to improve the management of particular stocks. These include further commitments on progressing the management of deep-sea stocks, as well as reviewing the effectiveness of technical measures, with a view to supporting recovery of vulnerable stocks.

#### ***UK-EU-Norway Trilateral Negotiations***

The UK has also reached agreement with Norway and the EU on catch limits for 2023 for six stocks, worth over £202 million to the UK fishing industry in the North Sea and a further £11 million in other waters around the UK, based on historic landing prices.

The Parties agreed increases in TACs for five of the six stocks, including North Sea cod. They have agreed to a cut in North Sea Herring. All TACs are at or below the level advised by ICES. For two stocks (haddock and whiting), the Parties agreed to take a more precautionary approach than the scientific advice to avoid risks to the recovery of North Sea cod given the close interactions between the stocks and set a 30% increase on each.

The Parties renewed their commitment to deliver Long Term Management Plans for their shared stocks and have agreed to develop new and more effective management measures for the North Sea herring fishery, focusing on stability for industry and sustainability.

The Parties also agreed to continue building on the work undertaken this year on Monitoring, Control and Surveillance of their shared stocks.

#### ***UK-Norway Bilateral Negotiations***

The UK has agreed with Norway on continuing to allow vessels to access our respective waters for demersal fisheries, as well as exchanges of quota worth around £5 million to the UK fleet. UK vessels will be able to fish their North Sea whitefish quotas, such as hake and cod, in Norwegian waters, up to

a total of 30,000 tonnes. We also agreed to reciprocal access for herring, up to 20,000 tonnes. On exchanges, we secured around £3 million worth of North Sea quota from Norway (including valuable stocks such as monkfish), together with around £2 million worth of stocks in Arctic waters. This complements over 5,200 tonnes of cod in waters around Svalbard, worth an estimated £10 million, that Norway has allocated to the UK under a separate arrangement.

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.

Multilateral 'coastal State' negotiations

The UK has agreed TACs at the level advised by ICES on the three stocks we share with other coastal States in the North-East Atlantic: mackerel, blue whiting and atlanto-Scandian herring (ASH). The opportunities will be worth over £250 million to the UK fleet in 2023.

The UK also chaired negotiations throughout 2022 on a new quota-sharing arrangement for mackerel. These negotiations are making steady progress, and the UK remains committed to securing a fair, sustainable and comprehensive sharing arrangement. Negotiations will resume in early 2023, with an aim of concluding them by 31 March, alongside parallel discussions to agree new quota-sharing arrangements for blue whiting and ASH.

4 January 2023

**Letter from the Chair from the Rt Hon Mark Spencer MP, Minister of State for Food, Farming and Fisheries, Department for Environment, Food & Rural Affairs**

Thank you for your letter of 4 January 2023, confirming the conclusion of fisheries negotiations with the EU, Norway, and other coastal states in the North-East Atlantic. This was considered by the European Affairs Committee at its meeting of 31 January 2023. The Committee has asked me to pass on its gratitude for what was another detailed, comprehensive and helpful letter.

The Committee notes your statement that the UK has negotiated this year's Total Allowable Catches (TACs) taking full account of sustainability principles, and that a full assessment of these TACs and their consistency with the advice of the International Council for the Exploration of the Sea (ICES) will be published in early 2023. We ask that you write to inform this Committee as soon as this assessment is published. The Committee welcomes the fact that the initial estimate suggests the number of TACs that align with scientific advice from the International Council for the Exploration of the Sea (ICES) has increased by 13 per cent compared to last year.

However, the Committee is concerned that the TACs agreed during the UK-EU-Norway Trilateral Negotiations are at or below the level advised by ICES. We acknowledge the justification provided for two of the stocks (haddock and whiting) but would expect a more detailed explanation of why the negotiated TACs do not align with scientific advice.

We retain an interest in this subject and look forward to considering your response within the usual 10 working-day deadline.

1 February 2023

**Letter to the Chair from The Rt Hon Mark Spencer MP, Minister of State for Food, Farming and Fisheries, Department for Environment, Food & Rural Affairs**

Thank you for your letter of 1 February 2023 following up on the conclusion of fisheries negotiations with the EU, Norway, and other coastal states in the North-East Atlantic.

You asked for a more detailed explanation of the Total Allowable Catches (TACs) set for two stocks - North Sea haddock and whiting - agreed during the UK-EU-Norway Trilateral Negotiations.

In those negotiations, all of the TACs were set either in line with the scientific advice provided by the International Council for the Exploration of the Sea (ICES) or at more precautionary levels than

that recommended by ICES. In the cases of North Sea haddock and whiting, the TACs were set at more precautionary levels than set out in the ICES single-stock advice sheets given that to have taken the full potential increase on offer risked having a detrimental impact on the health of North Sea cod, a stock which is often caught in a mixed fishery with North Sea haddock or whiting. This position received strong support from representatives of industry and environmental NGOs.

We have noted your request to keep the committee informed of when the Government will publish a full assessment of the number of TACs set consistent with ICES advice across all annual fisheries negotiations, and we will share a copy of that assessment with the committee in due course.

27 February 2023

## PRIORITIES OF THE SWEDISH EU PRESIDENCY, JANUARY TO JUNE 2023

### **Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign, Commonwealth & Development Office**

I am writing to let you know the priorities of the Swedish Presidency of the Council of the European Union (EU).

Sweden took up the Presidency of the Council of the EU on 1 January 2023, which it will hold until 30 June 2023. On 14 December Prime Minister Ulf Kristersson confirmed Sweden's EU Presidency priorities as **security, resilience, prosperity, and democratic values and the rule of law**. Ukraine will be the defining issue of the Presidency. Sweden will also make a concerted effort to put economic competitiveness at the top of the EU's political agenda, alongside wider aspects of European security including criminality, migration, cyber, economics and energy.

The Swedish Presidency programme acknowledges the UK as an important EU partner, primarily alongside the US in the response to Russia's invasion of Ukraine and on European security. The Presidency also commits to "support the Commission's efforts in the day-to-day implementation of the EU-UK agreements and thus work to establish a forward-looking and deeper relationship".

#### Security - Unity

The Swedish Presidency will focus on economic and military support for Ukraine, and support for Ukraine's path towards the EU, including reconstruction and reform towards EU integration. It will seek to build consensus towards a robust European security and defence policy and, in close cooperation with partners, implement the EU Strategic Compass for Security and Defence. Sweden will also continue work to counter cross-border organised crime, to review the EU migration and asylum system "in strategic terms", to continue to build on the EU's efforts to prevent and deal with cyber threats, and to strengthen and improve the EU's crisis preparedness and crisis management capabilities – all areas of joint interest with the UK. In its approach, the Swedish Presidency will prioritise "unity", noting that this and a joint readiness to act are key to EU security, resilience and prosperity.

The UK welcomes the Swedish Presidency's focus on security in particular in relation to Ukraine and its commitment to enhance cooperation with key partners including the UK. We expedited our ratification of the NATO Accession Protocols for Sweden and Finland, recognising the imperative to bring both countries quickly into NATO. We are encouraging all Allies to also ratify swiftly. The accession of both countries will make all Allies safer, NATO stronger and the Euro-Atlantic area more secure. We will continue to work closely with the EU and Swedish Presidency to encourage partners to maintain our shared resolve, increase military support to Ukraine, deliver an effective reconstruction platform, and maximise momentum and impact of sanctions.

#### Resilience – Competitiveness

While noting the "most urgent political attention is by necessity devoted to the war in Ukraine and its short-term consequences", the Swedish Presidency sees competitiveness as central to the EU's long-term resilience. It will seek to anchor a concerted approach to European competitiveness at the top of the political agenda. Arguing that the EU's economy relies on free competition, private investment and successful digitalisation, the Swedish Presidency will focus attention on efforts to drive economic growth to meet long-term challenges, closely linked to strengthening the single market and seizing global trade

opportunities. Sweden is likeminded with the UK on economic competitiveness, sharing our commitment to free trade, and we look forward to working with them. The UK will continue to monitor the EU's approach to boosting competitiveness, both for opportunities to cooperate and to ensure compliance with Trade and Cooperation Agreement and WTO commitments.

#### Prosperity - Green & Energy transition

The Swedish Presidency will continue efforts to tackle volatile energy prices and to undertake long-term energy market reform. They want the EU to lead by example by delivering on ambitious climate goals, while boosting growth and competitiveness. Putting the FitFor55 climate package into action will be a key priority, as will ensuring the EU has the right regulatory framework and policies to attract the investments needed for the green transition. The UK will continue to work closely with the Swedish Presidency on our shared climate goals while seeking to ensure EU energy and climate policies do not adversely affect UK security of supply or put UK based green producers at a comparative disadvantage.

#### Democratic values and the rule of law

Sweden will seek to make upholding democratic values and the rule of law (which it sees as the foundations of the European Union), a priority of their Presidency.

9 January 2023

### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth & Development Office**

Thank you for your letter dated 9 January 2023, which was considered by the European Affairs Committee at its meeting of 7 February 2023.

The letter was helpful to the Committee, both in providing us with an overview of the priorities of the Swedish Presidency of the Council of the European Union and in offering us an indication of the Government's perspective on this agenda.

The Committee is pleased to hear that the Government plans to continue to work closely with the EU and the Swedish Presidency over the coming months, including on Ukraine and on climate and energy. We also welcome your indication that the Government will be monitoring relevant EU policy developments for their potential implications for the UK.

We do not expect a response to this letter.

8 February 2023

### **HIGH COURT JUDGMENT 21 DECEMBER 2022: THE KING ON THE APPLICATION OF THE INDEPENDENT MONITORING AUTHORITY AND THE SECRETARY OF STATE FOR THE HOME OFFICE**

#### **Letter from the Chair to the Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Secretary of State for Foreign, Commonwealth and Development Affairs**

At its meeting of 17 January 2023, the European Affairs Committee considered the High Court judgment of 21 December 2022 in the judicial review brought by the Independent Monitoring Authority challenging the legality of the UK's EU Settlement Scheme (EUSS) and its application to the estimated 2 million people granted pre-settled status.

We note Mr Justice Lane's view that "properly interpreted" the relevant sections of the Withdrawal Agreement (WA) mean "that the rights conferred by the grant of new residence status ... to those who do not, at that point, have a right of permanent residence, includes the right to reside permanently in the United Kingdom ... once the five-year period has been satisfied". And, his finding that the Government's implementation through the EUSS of the relevant sections of the WA is "wrong in law" and "unlawful" insofar as it (i) "abrogates rights of residence arising under the Agreements in respect of those granted" pre-settled status and, (ii) "abrogates the right of permanent residence", in part,

because the WA makes it “plain the constitutive scheme established by Article 18 requires a person to make one, and only one, application for a new residence status”.

On the day that the judgment was handed down, the Home Office Minister, Lord Murray of Blidworth, said that the Government took its “obligations to securing [EU citizens’] rights in the UK very seriously”, adding that the “EU settlement scheme goes above and beyond our obligations under the withdrawal agreement, protecting EU citizens’ rights and giving them a route to settlement in the UK”. He expressed the Government’s disappointment with the judgment, confirming that “we intend to appeal”.

You will, of course, be aware that but for the High Court’s decision, the first deadlines for those granted pre-settled status to (re)apply for settled status would have expired in August this year, and we are concerned therefore that time is running out for the Government to address this important problem. While we welcome Lord Murray’s statement that the Government takes EU citizens’ rights in the UK “very seriously”, we fear that the Government’s failure to implement legally the relevant sections of the Withdrawal Agreement places the estimated 2 million people granted pre-settled status into immediate legal uncertainty; uncertainty exacerbated by the Government’s decision to appeal, in particular given the additional time another hearing will take. How long does the Government estimate it will take for the appeal to be heard, and for judgment to be handed down?

Given the significant legal uncertainty now facing the estimated 2 million people granted pre-settled status, what steps are the Government taking to reassure these individuals and to inform them about your actions going forward? Have you, for example, communicated with them directly about the outcome of this hearing and your intention to appeal? We note in this regard that in your response to our July 2021 Report that you reassured us that the Home Office “continues to communicate with EUSS status holders with information relevant to their status, including presettled to settled status applications”.

*18 January 2023*

**Letter to the Chair from Lord Murray of Blidworth, Parliamentary Under Secretary of State, Home Office**

Thank you for your letter dated 18 January to the Secretary of State for Foreign, Commonwealth and Development Affairs, which has been passed to me for a response. I apologise for the delay in responding.

You express concerns relating to the High Court judgment in the judicial review proceedings brought by the Independent Monitoring Authority for the Citizens’ Rights Agreements (IMA) challenging aspects of the EU Settlement Scheme (EUSS). For context, the judgment contained two main conclusions: first, the Withdrawal Agreement residence right of an individual with pre-settled status does not expire for failure to make a second application to the EU Settlement Scheme; secondly, an individual with pre-settled status acquires the right of permanent residence under the Withdrawal Agreement automatically once the conditions for it are met.

As you are no doubt aware, since the date of your letter, we decided against pursuing the appeal, as we considered it to be in the best interests of all, both EU citizens in the UK and UK nationals in the EU, to bring this issue to a conclusion rather than prolong the continuing uncertainty for individuals and stakeholders. I sent a letter to the Home Affairs Select Committee on 15 February explaining the decision and setting out our full reasons. The letter can be found at this link: <https://depositedpapers.parliament.uk/depositedpaper/2284790/details>.

I trust this decision will go some way towards addressing your concerns regarding the potential for legal uncertainty post-judgment.

You ask what steps the Government is taking to reassure individuals who have been granted pre-settled status and to inform them of our actions going forward.

The first grants of pre-settled status, granted to applicants to the EUSS in its test phases, are set to expire in early September 2023 (the few that were to expire in August 2023 have already switched to settled status). The Government is working to ensure everything is in place to ensure smooth implementation of the judgment by that date and that all affected by the judgment are aware of the



details well in advance (including through direct contact by email) and are provided with appropriate reassurance.

The main messages we are emphasising in our communications, including with stakeholder groups, are: no action is required by those who have pre-settled status as a result of the judgment; if action is required at any point, we will ensure all those concerned are fully informed with good notice; in the meantime individuals are encouraged to apply for settled status when they are eligible, as the best way of evidencing permanent residence.

In line with a public commitment to do so, the Home Office is emailing holders of pre-settled status who have held this status for approaching five years, encouraging them to apply for settled status when eligible. (Five years' residence is generally required to qualify for settled status.)

We are updating relevant GOV.UK pages and guidance and we will continue to monitor whether there is a need for any further or different communications.

This letter, I hope, addresses the concerns expressed in your letter. If it would help to have a meeting to discuss these issues I would, of course, be happy to do so. In any event, I will ensure Parliament continues to be updated on our approach to implementing the judgment.

*13 April 2023*

## EUROPEAN AFFAIRS COMMITTEE REPORT DEBATE - "ONE YEAR ON – TRADE IN GOODS BETWEEN GREAT BRITAIN AND THE EUROPEAN UNION"

### **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**

#### **Background**

I am writing to you regarding the Government's response to the European Affairs Committee's report, 'One year On - Trade in goods between Great Britain and the European Union'. The report was published on 16 December 2021; the response was received on 16 February 2022 and was considered by the Committee at its meeting of 5 April 2022.

Overall, the Committee was impressed by the quality of the Government's response and has asked me to express its gratitude to your department and to the Cabinet Office for addressing, in detail, many of the conclusions we drew in our report. We anticipate that the response will serve as a valuable foundation for the debate in the House, as and when this is arranged.

However, notwithstanding the high overall quality of the Government's response and in light of the lengthy backlog of Committee reports awaiting debate in the House, the Committee has decided to write to you now regarding several outstanding matters that remain unanswered or uncertain.

#### **The January 2022 changes**

As you will know, full customs controls on goods imported into Great Britain from the EU were introduced on 1 January 2022. The Committee's report asked the Government to include in its response an assessment of how businesses had adapted to the new requirements. The Government's response, submitted as it was on 16 February 2022, stated that "the new requirements have only been in force for a matter of weeks, so it is too early to assess in any detail how businesses are adapting".

- **The Committee appreciates the difficulty in judging impact so soon after the fact but, now that a further two months have passed, we ask that the Government provide us with a further and more detailed update on how businesses are adapting to the new requirements.**

#### **Government support for SMEs**

We are disappointed that the Government has not accepted the Committee's recommendation to restore a version of its previous SME Brexit Support Fund, but with wider eligibility criteria (Paragraph 118 of the Committee's report). In addition, the relevant conclusion of the Committee's report said that "If the Government does not accept this recommendation, they should explain their reasoning

when they respond to this report”, yet the response has not done so. Instead, the response simply states, but does not explain, that the Government decided to restrict the grant to those who had not previously traded outside the EU (precisely the problem which was originally identified in the Committee’s report).

- **The Committee requests a full explanation of the rationale behind the Government’s decision not to adopt the Committee’s recommendation to restart the SME Support Fund with wider eligibility criteria.**

#### **Further Sanitary and Phytosanitary negotiations with the EU**

While we welcome the details the Government response provides on UK-EU cooperation under the TCA to reduce barriers to trade, we are disappointed that the Government has not engaged with our recommendation to seek a further Sanitary and Phytosanitary (SPS) agreement with the EU (Paragraph 80), a point on which the Paymaster General was similarly unforthcoming when he gave evidence to the Committee on 17 November 2021. In recognition of the well-rehearsed differences between the UK and the EU in terms of SPS equivalence versus SPS alignment, the Committee’s report was not prescriptive regarding the type of agreement that should be sought. It was clear, however, that without a further agreement of some sort, considerable barriers to GB-EU trade in food and animal/plant products will persist.

- **The Committee requests that the Government’s response to this letter clarifies whether it is actively seeking, or is at least open to, a further agreement with the EU on SPS and, if not, to explain its reasoning for not doing so.**

#### **Customs cooperation**

The Committee welcomes that both formal and informal customs cooperation is underway between the UK and the EU, and we thank the Government for providing concrete and specific examples of this cooperation in its response to our report. However, we are disappointed that the Government has not accepted our recommendation to explore with the EU the possibility of implementing a single customs office model, like that on the Norway/Sweden border (Paragraph 93).

The response states that “no such legal frameworks exist for such integrated cooperation between the UK and the EU”. However, the legal distinction between the two borders in the context of customs cooperation is not fully explained; although Norway is a member of the European Economic Area, it is not, for example, in a customs union with the EU. Moreover, even if the TCA “does not currently provide” a legal basis for a joint customs office, we understood that the TCA is designed to evolve when new issues arise; this seems to be an obvious opportunity for such an evolution.

- **The Committee requests a further explanation as to why the Government is not exploring this mutually beneficial customs simplification, which was supported by several of the business organisations we spoke to.**

#### **The TCA’s institutional machinery**

The Government’s response provides some useful information on the activity of the relevant TCA Specialised Committees. Given the challenges that have arisen since the end of the transition period, however, we are surprised that most of these Committees have still only met once. This includes the six Specialised Committees with most relevance to this policy area (Goods; Customs Cooperation and Rules of Origin; Sanitary and Phytosanitary Measures; Technical Barriers to Trade; Road Transport; and VAT Administrative Cooperation and Recovery of Taxes). All of these have met only once, between September and December 2021.

- **Are these Committees meeting with the urgency and regularity that was hoped for when the TCA was signed?**
- **Are wider ongoing difficulties in the UK-EU relationship hampering the abilities of these Committees to resolve the practical problems that have arisen in the area of trade in goods?**

#### **Benefits to individual businesses**

The Government’s response states that “we have entered a new relationship with the EU which will contain many benefits for individual businesses”.

- **We request that the Government provides the Committee with further detail on what these benefits for individual businesses are, with specific examples.**

#### **Import controls on EU goods.**

The Committee's report also covered, at length, the preparations for the implementation of further SPS and other import controls, which were then due to be introduced from July 2022. Although the Committee retains an interest in this matter, it notes the Government's recent decision that these controls will no longer be introduced from July 2022. We have received a letter on this decision from the Minister for Brexit Opportunities and Government Efficiency, Rt Hon Jacob Rees-Mogg MP, to which we intend to reply separately.

We would welcome a response to our letter within the usual ten working days.

29 April 2022

#### **Letter to the Chair Graham Stuart MP, Minister of State for Europe, Foreign, Commonwealth & Development Office**

#### **Government response to the European Affairs Committee's report, 'One year on - Trade in goods between Great Britain and the European Union'**

Thank you for your letter dated 26 April 2022, requesting further information following the Government's response to your Committee's report 'One year on - Trade in goods between Great Britain and the European Union'. I am responding on behalf of the Foreign Secretary, as Minister of State for Europe.

I would like to thank you for the valuable work the European Affairs Committee does and the careful scrutiny it conducts of our new relationship with the European Union.

We are continuing to ensure businesses get the support they need to trade effectively with Europe, and to seize new opportunities as we strike trade deals with the world's fastest growing markets.

The latest monthly UK Trade in Goods statistics published by the ONS on 13 June for the month of April 2022 show that total UK exports with EU Nations increased by 8.1% and UK imports increased by 4.2% when compared to March 2022. This continues the trend of strengthening UK trade with EU nations.

The ONS continues to highlight there are a number of factors beyond EU-Exit that continue to influence global trading patterns, including COVID-19, the global recession and supply chain disruption.

I have laid out below the Government's position in response to the questions in your letter.

#### How businesses are adapting to January 2022 changes to customs controls

The Cabinet Office hosted a Brexit Business Taskforce meeting on Import Controls on 24 February to gather feedback on the impact of the January controls. Feedback was largely positive about the impact of the controls, with comments that trade flows had mainly remained stable.

All systems, infrastructure and resourcing were ready on time, as we committed to, on 1 January; and have been operating effectively as planned. Overall, traders and hauliers adapted well to the introduction of full customs controls on 1 January, with minimal disruption at the border and inbound freight flowing effectively through ports. We're continuing to provide businesses with the support they need to trade effectively with Europe, including through the free-to-use Export Support Service.

#### Government support for SMEs

The SME Brexit Support Fund offered by the Government granted up to £2,000 per organisation between March and June 2021 to support small and medium sized businesses to adjust to new customs, Rules of Origin, and VAT rules when trading with the EU. To date, approximately £8.4 million has been offered to businesses, enabling over 4,100 businesses to pay for practical support, including professional advice and training.

It was always intended to close the scheme on 30 June 2021. HMRC are in the process of reviewing the fund and seeing what can be learned for future support offered to traders. There are no plans to extend the scheme.

HMRC continues to provide support to traders through regular communication, webinars, and guidance on GOV.UK.

To ensure customers who need additional support are able to access it promptly, HMRC invested in building capacity and capability in the Customs & International Trade Helpline and webchat service in readiness for full customs controls.

The Department for International Trade has also launched its Export Support Service. This is a dedicated hotline and online service to help more British businesses export to Europe and is a 'one stop shop' bringing together UK government information, making it easier for exporters to access advice and support.

Over £80m of financial support was also made available for IT, training and recruitment to scale up the intermediary sector, upon which small businesses rely. HMRC have created an intermediary register on gov.uk listing specialist services that can help businesses. It has been updated to include details on which intermediaries are still taking on new clients, and the services they provide.

#### Further Sanitary and Phytosanitary negotiations with the EU

I can confirm that we are open to discussions with the EU on further additional steps to reduce trade friction, including in the SPS area, but these cannot be on the basis of alignment with EU rules. The UK must retain its ability to make rules that work for us, based on latest technology and best practice. The EU has concluded some SPS agreements without requiring alignment (albeit more limited in scope e.g., New Zealand). However, the EU negotiators do not have a mandate to negotiate such an SPS agreement.

#### Customs cooperation

As set out in the Government's response to the report, the TCA does not currently provide the legal basis for a joint customs office with the EU and the extensive level of cooperation and data sharing requirements needed to underpin such arrangements.

We are not aware of any significant issues being raised by operational and border teams that would warrant reopening the TCA's arrangements in this area.

The Committee may wish to note that in the Trade Specialised Committee on Customs Cooperation and Rules of Origin, it was the UK that outlined potential scope for future cooperation on topics including Single Trade Window, interoperability, exchange of information and how best to use data.

UK officials will continue to work with their EU and Member State counterparts to identify and ease any unnecessary trader burdens and promote trade facilitation in line with our commitments under the TCA.

Our assessment is that the EU would be highly unlikely to agree to any textual change, or 'evolution' of the TCA text, in the short to medium term.

#### The TCA's institutional machinery

The governance of the TCA is running smoothly. As you state in your letter, all Specialised Committees have met at least once, including the Partnership Council and the Trade Partnership Committee. All committees will meet again over the course of this year, in line with the TCA's provisions and our expectations.

The first round of meetings indicated that TCA implementation is generally proceeding well. Through these meetings the Government has raised concerns regarding implementation (e.g., live bivalve molluscs) and initiated further technical discussions (e.g., road transport, intellectual property and SPS). The formal committee meetings are, of course, not the only vehicle for discussion and the co-chairs as well as other officials, and Ministers, also discuss EU-UK cooperation on an ongoing basis.

In some areas, such as Union Programmes, the European Commission has linked TCA implementation to the UK's position on the Northern Ireland Protocol. It makes no sense to link collaboration on science and research with the situation in Northern Ireland - the two issues are unrelated, and it is deeply disappointing to see science and research politicised in this way.

#### Benefits to individual businesses

The TCA maintains zero tariffs and zero quotas on trade in goods between the UK and EU. This means that businesses can benefit from tariff-free trade when exporting to the EU.

The UK successfully negotiated a number of administrative and customs facilitations, such as self-certification of origin, which considerably reduce the administrative burden of complying with rules of origin in trade with the EU.

The UK secured product-specific rules of origin tailored to the needs of UK businesses in sectors such as automotive, aluminium, chemicals, machinery and food and drink. These rules also allow British manufacturers to source inputs globally for British products where appropriate, such as batteries for electric vehicles.

The latest monthly data from the Office for National Statistics (ONS) shows that UK goods exports to the EU reached their highest value (in current prices) since records began in January 1997.

I know that your Committee keeps a close eye on the UK-EU relationship. The Government wants a positive relationship with the EU, underpinned by trade and our shared belief in freedom and democracy. We continue to engage in good faith with the EU and its Member States to find practical and pragmatic solutions to the outstanding issues including on the Northern Ireland Protocol.

*13 July 2022*

**Letter to the Chair from Lord Ahmad of Wimbledon, Minister of State, Prime Minister's Special Representative for Preventing Sexual Violence in Conflict and Minister of State (Middle East, North Africa, South Asia and United Nations)**

I'm writing with reference to the questions you raised in the debate on your Committee's report "One Year On – Trade in Goods between Great Britain and the European Union" on 2 February.

Firstly, you asked about the current state of UK trade with the EU and its impact on the UK's wider trade performance in light of recent statistics. Trade in goods with the EU was worth £381.9bn, in current prices, in 2016. According to the most recent ONS statistics, it was worth £480.7bn in the 12 months to September 2022. This is an overall increase of 26% and an increase of 9% when compared to pre-Covid levels. When adjusted for inflation, goods exports have broadly recovered to their pre-Covid levels. We are opening new opportunities for UK businesses across the globe. The Government has secured free trade agreements with 71 non-EU countries to date.

Secondly, you asked for an update on the UK's future border control regime and the publication of the Target Operating Model. As an independent trading nation, we have a unique opportunity to shape our border controls and ensure there is a non-discriminatory, proportionate and risk-based approach to controls. Officials across government and the devolved administrations have been hard at work to construct a new regime that will deliver for the UK and support industry and consumers. The Government will shortly be publishing the Target Operating Model which will include full details of the new regime to give colleagues in this house, industry in the country and abroad and governments of our trading partners' time to comment.

Turning to your question on the steps the Government is taking to safeguard the UK's biosecurity in the absence of further Sanitary and Phytosanitary (SPS) controls on applied EU goods, the Department for the Environment, Food and Rural Affairs is responsible for assuring that SPS imports meet the UK's biosecurity standards. Full import controls on goods imported from outside of the European Union are in place. High-risk SPS goods from the EU (such as live animals) are already subject to certification, pre-notification and checks at destination. While the Target Operating Model is being developed, the Government is using the powers at its disposal to safeguard biosecurity using proportionate targeted measures.

Defra works closely with other government departments and agencies to identify and monitor overseas disease and pest outbreaks that could affect UK biosecurity. It responds to emerging risks by implementing import restrictions, which provide the basis for enforcement at borders or at destination. For example, as a result of the spread of African Swine Fever throughout the EU, on 1 September the Government announced a ban on unregulated non-commercial pork meat (over 2kg) entering the UK.

Finally, you asked about the assessment the Government has made of the compatibility of the Retained EU Law (REUL) Bill with the UK's commitments under the Trade and Cooperation Agreement (TCA),

particularly the level-playing field provisions on employment and environmental standards - the TCA commits the UK and the EU to refrain from weakening or reducing levels of protection in the areas of labour, environment and climate that existed in our laws at the end of the transition period in ways that would affect trade and investment between the UK and EU.

The UK is already a world leader in these areas, and we have no plans to reduce standards. The UK's right to regulate and discretion in these fields is enshrined in the TCA, and the Government is rightly taking the opportunity to regulate in a way that suits the UK and unlocks growth. The Government has been clear that in reforming REUL, the UK will remain committed to upholding its international obligations, including the Withdrawal Agreement and Trade and Cooperation Agreement. The Government will take the necessary action to safeguard the substance of any retained EU law and legal effects required to operate our international obligations within UK domestic law.

I would like to once again thank you for the thorough report produced by the European Affairs Committee and the insightful debate, and to re-assure you that this Government is committed to a respectful and mature partnership with the European Union that benefits all the people of Europe.

A copy of this letter has been placed in the House of Lords Library.

*16 February 2023*

## SHOWCASING THE UK'S AMBITION ON SCIENCE, INNOVATION AND TECHNOLOGY

### **Letter to the Chair from the Rt Hon Michelle Donelan MP, Secretary of State, Department for Science, Innovation and Technology**

February marked a watershed moment for science, innovation and technology in the United Kingdom. For the first time in our history, we created a government department that concentrates our best minds around a single mission: making Britain a science and technology superpower – one that uses discovery and innovation to solve the problems that are priorities for the British people.

#### **My Vision for the Department for Science, Innovation and Technology**

This is a nation that last year joined only China and the United States by having a tech sector worth \$1 trillion. We beat China, Japan, Korea, France and Germany in the Global Innovation Index – and attract more tech investment than the latter two combined. On average, our universities have produced a Nobel Prize winner every year for the last two decades, and four of our universities make up the global top ten.

We have an incredibly unique and powerful platform from which to grow and innovate for the benefit of the British people, which is why I plan to take a ruthlessly outcome focussed approach to this new department - ensuring that in both the short-term and the long-term, our work is improving people's daily lives in ways they can feel and see around them.

This Government's vision for the future is an NHS that uses AI to find, treat and reduce illnesses like cancer and heart disease so we have more time with our loved ones. We should have local transport services that allow us to travel faster, safer and cleaner than our parents did. The schools of the future should be powered by the kind of technology that unlocks hidden talents in every child no matter where they live. As the 'Department for the Future', our focus will be on how we can use science, technology and innovation to ensure the British people live longer, safer, healthier, happier lives.

#### **Immediate Action**

I see this as a once-in-a-generation opportunity to send a clear signal around the world that Britain plans to lead the way in science, innovation and technology.

**Today I have published the government's Science and Technology Framework, which sets out our goals and vision for science and technology in an enduring framework that will see us through to 2030.**

It has been developed in close collaboration with the UK science and technology sector and represents a commitment to scaling our ambition and delivering the most critical actions needed to secure strategic advantage through science and technology.

The Science and Technology Framework is the strategic anchor that government policy will deliver against, and which the government will hold itself accountable to. We will have a clear action plan for each strand of the framework in place by summer 2023 and delivery will be overseen by the National Science and Technology Council.

Immediate investments to get us started delivering against the Framework will include:

→ **£250 million to technology missions in AI, quantum and engineering biology.** This is part of our commitment to the five key technologies found in the Science and Technology Framework, which also includes semiconductors and telecoms.

→ **£50 million uplift for the UK Research Institute and Innovation (UKRI) World Class Laboratories Fund.** This will help research institutes and universities to get on with the cutting-edge scientific research that saves lives, supports our economy and society and protects our planet.

→ **Investing in the most powerful form of computing, the formidable ‘exascale’,** which has the ability to solve massive societal issues like energy, sustainability and support thousands of businesses.

→ A dedicated **public compute programme for AI research** of scientific importance.

→ **£10 million in the UK Innovation & Science Seed Fund (UKI2S),** an early-stage venture fund providing patient capital and support for businesses emerging from the UK’s publicly funded science and knowledge base.

→ We are investing in a **research data cloud pilot,** to enable us to help ensure that our researchers can access the information they need to develop the transformative technologies of the future. The pilot will test methods for improving data sharing for research and harnessing its value for science and innovation.

→ This Government is looking for opportunities to test different models of funding science, to support a range of innovative institutional models, such as **Focused Research Organisations (known as FROs),** working with industry and philanthropic partners to open up new funding for UK research. For example, we are working with a range of partners to increase investment in the world leading UK Biobank, to support the continued revolution in genetic science.

→ **Up to £50 million to spur co-investment in science from the private sector and philanthropy to drive the discoveries of the future,** subject to business case approval. We are delighted to confirm we are already talking to Schmidt Futures, a philanthropic initiative of Eric and Wendy Schmidt, about additional support of up to \$20 million.

→ **The return of PsiQuantum to the UK. Supported by £9 million in Government funding,** PsiQuantum’s decision to establish a quantum computing research centre in Daresbury in the North-West marks a vote of confidence in the global competitiveness of the UK’s quantum sector, built up over the years of government investment, and a vital boost to the regional economy.

### **Planning for the UK as a Science and Technology Superpower**

My new department understands the importance of forward, strategic planning for achieving enormous goals like gaining superpower status. That is why we have published or are very shortly publishing responses to key reviews that will help to inform our work, these include:

→ **Publishing Sir Paul Nurse’s Landscape Review of Research, Development and Innovation.** This sets out how our R&D organisations can work together to drive discoveries and innovations that will improve the lives of the British people.

→ **Publishing the Independent Review of The Future of Compute, led by world leading AI expert Professor Zoubin Ghahramani.** Our response will ensure we harness the power of compute to boost economic growth and address society’s greatest challenges. We are announcing today that we will be implementing two of the most important recommendations with immediate effect and government will respond to the remaining recommendations in due course.

→ **Published our consultation response on Cyber-Physical Infrastructure (CPI).** This response outlines our plan to put Britain right at the forefront of the increasing convergence of the physical and digital worlds, helping our researchers and entrepreneurs to solve real-world problems in everything from transforming our energy systems to enabling sectors like agriculture to manufacturing to be more efficient and innovative, securing sustainable growth in these sectors.

These are just a handful of what will be a drumbeat of clear, decisive and forward-thinking plans that will be coming out of my department, underpinned by our Science and Technology Framework – which sets out our clear strategic approach in a ten-point plan.

- 1. Identify critical technologies.**
- 2. Signal the UK's strengths and ambitions.**
- 3. Invest in research and development.**
- 4. Create a pipeline of talent and skills.**
- 5. Finance innovative science and technology companies.**
- 6. Use procurement to drive innovation.**
- 7. Seize international opportunities.**
- 8. Improve access to physical and digital infrastructure.**
- 9. Pursue innovative regulation and influence global standards.**
- 10. Make the public sector more innovative.**

The Chancellor recommitted in his Autumn Statement to the largest ever increase in public R&D funding over a Spending Review period, with annual spend rising to £20bn by 24/25. This significant underpinning investment will be geared towards delivering the Framework.

### **People, Talent and Horizon**

Britain is home to some of the best scientists in the world, but this is no reason to be complacent; if we want to carry on punching above our weight in an increasingly competitive world, we must do more to secure better jobs for British people and attract international talent. That means making Britain the best place in the world to carry out cutting-edge scientific research or start and grow a technology business.

Take Artificial Intelligence. We are focusing on training more specialists, proactively attracting them from around the world and ensuring they have the resources and equipment to innovate. We are investing an additional £117 million distributed by UKRI in Centres for Doctoral Training (CTDs) which will double the number of AI researchers we are training and comes on top of the existing commitments we made in the AI Sector Deal and continued in the National AI Strategy, including the initial £100 million for AI Centres of Doctoral Training, \$36 million in Turing AI Fellowships, and up to £30 million in AI and Data Science Conversion Course scholarship programme, all of which will help us to develop the best and brightest right here in the UK.

AI can speed up the discovery and development of lifesaving drugs, and help us to monitor air pollution in our communities and find new ways to cut it. That is why Government today tasked our Trade Commissioners, Ambassadors and the wider Global Talent Network with finding the next generation of AI leaders from around the world, showcasing our fantastic offer, and matching them to specific opportunities. We will find and attract talented people before they have won a Nobel Prize or created the next unicorn and help them to achieve those goals in the UK. We will also be delighted to welcome exceptional young people to the UK in July, as part of the global RISE programme, an initiative of Schmidt Futures and the Rhodes Trust.

Horizon and the UK's position on it is an important issue to get right. Our research community needs to see that the government understand their need for stability, clarity and confidence. That is why I am announcing a further extension of the Horizon Europe Guarantee to protect thousands of researchers from uncertainty.

This extension will support eligible, successful applicants, covering calls that will close on or before 30th June 2023. It will ensure that eligible, successful UK applicants will continue to be guaranteed funding



and will receive the full value of their funding at their UK host institution for the lifetime of their grant, supporting them to continue their important work in research and innovation. Successful awardees do not need to leave the UK to receive this funding.

Our position has always been one of openness to discussions on research collaboration and that very much continues to be our position. We welcome the EU's recent openness to discussions, following two years of delays. The EU have not yet made any proposals to address the financial terms of UK association, given we are now over 2 years into a 7-year programme. We continue to be ready to work swiftly and constructively together on a range of issues including UK association.

### **Next Steps**

With the agenda being set, immediate actions already being announced and a commitment to delivery, there is one final important element that will help to ensure these ambitious goals are achieved – your input and support.

My approach will be guided and shaped by an open-door policy, where I invite colleagues to raise issues, concerns and ideas with me at any time. Government achieves at its best when we collaborate and give everyone a voice in setting the priorities and plans for the future of our country. I look forward to working with you closely to deliver lifechanging results for your constituents and for the future of the United Kingdom.

*6 March 2023*

## **FINANCING AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, IRELAND AND THE EUROPEAN COMMISSION FOR THE PEACE PLUS PROGRAMME 2021-2027**

### **Letter to the Chair from the Rt Hon Chris Heaton-Harris MP, Secretary of State for Northern Ireland, Northern Ireland Office**

Following my predecessor's letter to you of 16 April 2021, I am now writing to update you and the Committee on the conclusion of technical negotiations with the European Commission and Ireland on the Financing Agreement for the PEACE PLUS Programme, and to set out our next steps to support implementation of the Programme.

You will recall the UK committed to continue to fund the PEACE PLUS Programme following the UK's exit from the European Union, reiterating its obligations as set out in the Belfast (Good Friday) Agreement and the institutions it created. This is why we continue to support the work of the Special EU Programmes Body (SEUPB) which oversees and implements the PEACE PLUS Programme.

The UK confirmed that it will be investing more than £730 million into the new PEACE PLUS Programme to support economic stability, peace and reconciliation in Northern Ireland. This represents almost 75% of the total budget, which together with contributions from Ireland and the EU take the total budget to almost £1 billion - the biggest PEACE Programme to date.

A standalone Financing Agreement was required to implement the Programme. Negotiations of this Agreement between the UK Government, the European Commission (DG REGIO) and the Irish Government have now concluded. I have set out below a brief summary of the critical elements contained within the Agreement, and the Minister of State for Northern Ireland will be in touch to provide further detail.

The Financing Agreement is an international treaty, which outlines how the funding will be used. It contains a substantial number of articles on sound financial management akin to those of the Programmes provisions in the UK-EU Trade and Cooperation Agreement (TCA).

We have also secured critical UK objectives within the Agreement as set out in the mandate for negotiations, namely:

- Parity for the UK Government crest alongside the EU emblem in Programme promotional material and communications, (the default was an EU emblem);

- Agreement that disputes are subject to international arbitration without any power of referral to the European Court of Justice.
- Confirmation that where the Agreement obliges the UK and Ireland to implement the Programme in accordance with a limited number of EU regulations, these will apply only until the closure of the Programme and only insofar as relevant to the Programme; and
- Securing a no-fault termination clause for the Agreement, which provides the ultimate protection for UK interests, giving any party the right to unilaterally terminate.

The signed Treaty will be laid today for parliamentary scrutiny for 21 sitting days under the Constitutional Reform and Governance Act 2010 before it can be ratified and enter into force. The Government will also lay a statutory instrument in due course to make provision for the SEUPB to administer the Programme.

I appreciate your keen interest in this subject, and I am in no doubt that the Programme will contribute to a more prosperous and stable society in Northern Ireland. I would be happy to organise a briefing on PEACE PLUS if that would be of interest.

I am writing in similar terms to Sir William Cash and am copying this letter to Lord Jay of Ewelme (Chair of the Sub-Committee on Ireland/Northern Ireland), to the Clerks of both Committees, to the EU Document Scrutiny Manager in the Foreign, Commonwealth and Development Office, and to the NIO Policy Leads on PEACE PLUS.

24 March 2023

## THE PEACE PLUS PROGRAMME (NORTHERN IRELAND] REGULATIONS 2023

### **Letter to the Chair from the Rt Hon Chris Heaton-Harris MP, Secretary of State for Northern Ireland, Northern Ireland Office**

I wrote to you recently on the Financing Agreement between the United Kingdom of Great Britain and Northern Ireland, Ireland and the European Commission on the PEACE PLUS Programme 2021-2027. I am now writing to provide information on the necessary statutory instrument.

As you will recall in my previous letter, the Financing Agreement makes it clear that within the UK, the SEUPB will administer PEACE PLUS in accordance with UK law. The Financing Agreement also obliges the UK and Ireland to implement PEACE PLUS in accordance with a limited number of EU regulations (which apply to all cohesion programmes of this type), but only insofar as relevant and for the duration of the Programme.

A statutory instrument is required, so that the UK, through the Special EU Programmes Body (SEUPB - the body who manages the fund) and the Department of Finance Northern Ireland, can meet its international obligations under the Financing Agreement.

This statutory instrument will ensure the SEUPB complies with the terms of the Financing Agreement when exercising its functions in relation to PEACE PLUS, including these regulations only insofar as relevant. This is the minimal application of EU law necessary to implement the Programme. The instrument ensures the duration of the SEUPB's requirement to comply is linked to the lifespan of the Programme and the Financing Agreement. The requirements will apply from the point of entry into force of the Agreement until 1 July 2032, being the long-stop date upon which the Agreement will expire if the Programme has not already concluded by then.

This instrument will also confer upon the Department of Finance Northern Ireland the two functions under the Financing Agreement to ensure UK representation in specific aspects of programme implementation: the "national authority" and the UK's representative on the "group of auditors".

I would be happy to organise a briefing on PEACE PLUS if that would be of interest and will provide further information on the programme's implementation.

This is a critical step ahead of the Programme launch and I am delighted we have reached this point. I have no doubt of the significant impact the Programme will bring and look forward to the launch which we expect in the Summer.

27 April 2023

MEMORANDUM OF UNDERSTANDING ESTABLISHING A FRAMEWORK FOR  
FINANCIAL SERVICES REGULATORY COOPERATION BETWEEN THE EUROPEAN  
UNION AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND.

**Letter to the Chair from Andrew Griffith MP, Economic Secretary, HM Treasury**

I am writing to update you on progress towards signing the UK-EU memorandum of understanding (MoU) on financial services regulatory cooperation as my predecessor committed to do when he gave evidence to the European Affairs Committee last year. I have attached a draft copy of the MoU to this letter for your information. I would be grateful if you would handle the draft MoU in confidence until it is published.

The UK and EU agreed to the MoU in the Joint Declaration published alongside the Trade and Cooperation Agreement in late 2020<sup>11</sup>. In this Declaration we agreed to establish structured regulatory cooperation on financial services, with the aim of establishing a durable and stable relationship between our autonomous jurisdictions. It was also agreed that this would be grounded in our shared commitment to preserving financial stability, market integrity, and the protection of investors and consumers.

The Government entered into negotiations with the European Commission in early 2021 and we reached technical agreement on a draft MoU in March of that year. We did not progress to signature of the document at that time because the EU did not feel that they were in a position to do so.

Following the agreement of the Windsor Framework the Commission stated a new willingness to move forward with regulatory cooperation arrangements and the signing of the MoU as previously drafted.

On 24 March, at the Joint Partnership Council between the Foreign Secretary and Commissioner Šefčovič, the EU confirmed that they would progress the MoU. On 17 May, the Commission confirmed that they have formally adopted the document and have transmitted it to the European Council for approval. We welcome these positive indications of progress from the Commission, and we now look forward to signing the MoU in the coming weeks. Our expectation is that the EU processes will take a further few weeks, but we should be ready to sign from around late June onwards.

Once signed the memorandum will provide for a Forum on regulatory cooperation that will meet at least twice per year. The Forum will be chaired jointly by senior officials from HM Treasury and the Commission. It is also our intention that around this cycle we will have engagement between Treasury Ministers and EU Commissioners to give political direction to the Forum discussions. Taken in the round, we expect these arrangements to be similar to the types of regulatory working groups that we and the EU have with other jurisdictions such as the US.

The MoU is permissive in nature, so discussions are not limited to specific subjects, save that they should be relevant to financial services. However, as you will see from the draft text which I have provided you with, the memorandum does indicate areas where the parties envisage discussion in the Forum.

I, or my officials, are happy to provide further information as helpful, and I will continue to update you as we make progress on these cooperative arrangements with the EU.

18 May 2023

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<sup>11</sup> [EU-UK\\_Declarations\\_24.12.2020.pdf \(publishing.service.gov.uk\)](#)

**Letter from the Chair to Andrew Griffith MP, Economic Secretary to the Treasury, HM Treasury**

Thank you for your letter dated 18 May 2023 regarding the Memorandum of Understanding establishing a framework for financial services regulatory cooperation between the UK and the EU, and for sharing the draft MoU with us. This was considered by the Committee at its meeting on 20 June 2023.

You will recall that the Committee has previously urged the Government and the European Commission to conclude this MoU as soon as possible. We are therefore pleased to hear that progress has now been made and that the MoU is expected to be signed shortly. We reiterate our view that the forum that is to be established under the MoU will provide a useful structure for future strategic dialogue and cooperation between the UK and the EU on financial services, which will benefit both sides. We ask you to provide an indication of the Government's initial priorities for discussions with the EU within this forum in response to this letter. Could you confirm that the MoU does not exclude the possibility of Ministers and EU Commissioners participating in the forum and that overall policy direction will be shaped at political rather than official level.

We note that the text of the draft MoU makes explicit reference to the new forum providing for "transparency and appropriate dialogue in the process of adoption, suspension and withdrawal of equivalence decisions". We ask you to expand on the Government's view of the role of the forum in relation to equivalence decisions and whether it is anticipated that additional EU and/or UK equivalence decisions will be discussed in the near future.

The UK continues to have far fewer equivalence decisions in its favour (one only) compared to other third countries such as the US, Switzerland and Singapore. Is the government content with that imbalance? The existing EU equivalence decision that enables UK-based clearing houses to service EU financial services companies is due to expire in June 2025. We also take this opportunity to ask for an update on the Government's view of the potential implications of the expiry of this equivalence decision for UK-EU trade in financial services, and whether it has been the subject of any recent discussions with the EU.

We note that the MoU anticipates that joint statements will be issued following meetings of the new forum. We request that any such statements are sent to the Committee to facilitate ongoing scrutiny of the UK-EU relationship in this important policy area. 2

We look forward to receiving your response within the normal 10-day deadline.

*21 June 2023*

**Letter to the Chair from Andrew Griffith MP, Economic Secretary to the Treasury, HM Treasury**

Further to my letter of 18 May and yours of 21 June, I am writing to let you know that today, the Chancellor of the Exchequer has signed the UK-EU Memorandum of Understanding on financial services regulatory cooperation.

This marks an important step in UK-EU relations post-Brexit. As I explained in my previous letter, the Memorandum will provide for a Forum on regulatory cooperation that will meet at least twice per year.

We will shortly begin the process of setting up the first Forum with our colleagues from the European Commission. The MoU provides for HM Treasury and the Commission to agree joint statements and it is our intention that these will be published. I am happy to ensure these are made available to the Committee.

You raised a number of questions in your letter of 21 June. I can confirm that the MoU does not preclude the possibility of Ministers or Commissioners attending Forum meetings. However, both HM Treasury and the Commission expect that the Forum will be chaired and attended by senior officials, as is the case with the equivalent UK and EU forums that take place with the United States. Commissioner McGuinness and I will continue to work closely with officials to set the political direction for Forum discussions and the wider relationship. I envisage that we will meet at the appropriate times between Forum meetings to ensure that Government and Commission priorities are clear, and that

policy direction is shaped at the political level. This is consistent with the similar dialogues that we hold with other jurisdictions such as the US and Japan.

At this stage it is too early to give a clear indication of the priorities for the agenda for the first Forum meeting. However, I can say that I expect that the Forum will focus on strategic issues around our long-term relationship with the EU. That will likely include discussion of forthcoming regulatory issues, for instance implementation of international standards to which the UK and EU are committed, discussions around equivalence, and some of the shared challenges that we face such as policy on cryptoassets and sustainable finance.

I expect the Forum will be used to discuss equivalence. This will help ensure, for example, that each side has foresight of decision-making processes. Equivalence will however remain an autonomous process being carried out by both sides separately. You will appreciate that I am therefore unable to speak for the Commission regarding their intentions for equivalence, including in relation to the temporary decision for clearing houses that is currently due to expire in June 2025.

We have made equivalence decisions for the EU, in favour of openness, and where it makes sense to do so. The Government made these decisions to provide clarity and stability to industry, supporting the openness of the sector and to help deliver our goal of open, well-regulated markets. Our ambition had been to reach a comprehensive set of mutual decisions on financial services equivalence, but that has not happened.

We have been clear that the EU will never have cause to deny the UK financial services access. The Government is committed to the UK remaining a global leader in promoting high international standards in financial regulation and providing safeguards for businesses and consumers.

Of course, the absence of equivalence decisions from the EU is not preventing us from moving forwards. We are using our new freedoms to build on our historic strengths as a global financial centre and develop our relationships with jurisdictions all around the world, attracting investment and increasing opportunities for cross-border trade. The MoU provides for HM Treasury and the Commission to agree joint statements and it is our intention that these will be published. I am happy to ensure these are made available to the Committee.

*27 June 2023*

**Letter from the Chair from Andrew Griffith MP, Economic Secretary to the Treasury,  
HM Treasury**

Thank you for your letter dated 27 June 2023 regarding the Memorandum of Understanding establishing a framework for financial services regulatory cooperation between the UK and the EU, in response to our letter dated 21 June 2023. This was considered by the Committee at its meeting on 18 July 2023.

We are pleased that the MoU has now been concluded. We look forward to the new forum beginning its work in due course. We welcome your commitment to ensure that joint statements following meetings are made available to the Committee, which will assist us with monitoring the new forum's work on an ongoing basis.

Your response to our questions was helpful overall. We are pleased that the new forum will have a "strategic" focus, that political-level meetings will take place at appropriate times between forum meetings and that the Government expects that equivalence will be discussed.

We acknowledge that the future of the EU's existing equivalence decision that enables UK based clearing houses to service EU financial services companies is ultimately a decision for the Commission. Nevertheless, given the importance of this matter for UK-EU trade in financial services, we urge the Government to discuss this with the Commission within the new forum well in advance of the June 2025 deadline.

We do not expect a reply to this letter.

*19 July 2023*

## RIGHTS OF EU CITIZENS IN THE UK AND UK CITIZENS IN THE EU UNDER THE WITHDRAWAL AGREEMENT

### **Letter from the Chair to the Rt Hon Suella Braverman MP, Secretary of State for the Home Department, Home Office**

You will recall that in July 2021 the European Affairs Committee, chaired by the Earl of Kinnoull, published a report addressing the post-Brexit rights of EU citizens in the UK and UK citizens in the EU. The report focused on the relevant provisions of the Withdrawal Agreement and the mechanisms by which the UK and EU Member States had given effect to them. The report welcomed the initial success of the EU Settlement Scheme (EUSS) and identified a “mixed picture” with regard to the progress of applications to residence schemes in EU Member States. It also highlighted several issues that were still to be resolved, in relation to both the EUSS and the various residence schemes for UK nationals operated by individual Member States.

We began follow-up work on citizens’ rights in February 2023 to ascertain the present situation. On 16 May 2023, we held an oral evidence session at which we heard from representatives of key organisations that represent EU citizens in the UK and UK citizens in the EU. We also received 10 written submissions from key stakeholders.

Although the initial deadlines for applying to the EUSS and to residence schemes in EU Member States passed in 2021, it is clear from the evidence we have heard that the rights of EU citizens in the UK and UK citizens in the EU remain live issues. A substantial number of applications continue to be received, including many that relate to complex cases. There are also various ongoing challenges relating to the implementation of aspects of these schemes.

**It is therefore imperative that matters relating to citizens’ rights continue to receive the highest political attention, even as the passage of time since the UK’s exit from the EU grows longer. These issues and the success of both the UK and the EU in handling them in conformity with treaty obligations will inevitably affect the overall relationship between the UK and the EU for better or for worse.**

**We ask you to set out your assessment of the current overall state of affairs regarding the rights of EU citizens in the UK and UK citizens in the EU.**

#### **EU citizens’ rights in the UK**

##### ***Moving from pre-settled to settled status.***

In our report published in 2021 we expressed concern about the more than two million EU citizens who had received pre-settled status who, on their own individual timelines, would need to apply for settled status after five years in order to secure their rights permanently. We noted that although the Home Office planned to send individual reminders, the effectiveness of these would rely on holders of pre-settled status keeping their contact details up to date.

In December 2022, following a judicial review brought by the Independent Monitoring Authority (IMA), the High Court ruled that the design of the EUSS was unlawful, particularly with regard to the Government’s approach to those granted pre-settled status. Dr Kathryn Chamberlain, the Chief Executive of the IMA, explained to us that they had been “particularly concerned by the thought that citizens might automatically lose their rights because of the failure to take an administrative step to convert from pre-settled status to settled status”.

On 18 January 2023, during the period when the Government had signalled its intention to appeal the High Court’s decision, we sent a letter seeking clarification on the steps being taken to implement it. We are disappointed that the response received from Lord Murray of Blidworth on 13 April 2023 indicated that the Government was working to ensure implementation of the judgment only by September 2023, when the first outstanding expiry dates for pre-settled status will be reached. We note also that Lord Murray confirmed that the Government is encouraging individuals “to apply for settled status when they are eligible, as the best way of evidencing permanent residence”. This advice appears counter to the High Court’s view that the EUSS, as currently implemented, “abrogates the right of permanent residence”, in part, because the Withdrawal Agreement makes it “plain the constitutive

scheme established by Article 18 *requires a person to make one, and only one*, application for a new residence status” (emphasis added).

Taken together, these factors mean that, more than five months on from the judgment and as the earliest deadlines for applications approach, there is still no clarity on how the residence rights of holders of pre-settled status will be guaranteed, and whether they will still be required to complete an application for settled status to secure their rights.

While we agree with Dr Chamberlain that it is important to “get this right rather than rush something that does not fully solve the problem”, we believe that clarification on the Government’s overall proposed approach could have been provided by now, to offer greater certainty to holders of pre-settled status. Monique Hawkins, Interim Co-CEO and Policy and Research Officer at the3million, indicated that there is “nothing to stop the Home Office building on its success in automating the EUSS and granting [settled status] automatically”. She proposed that in cases where the Home Office thinks that somebody may not qualify for settled status due to conduct or excessive absence “it should invite people to submit evidence”. Another option, suggested to us by Professor Madeleine Sumption and Mihnea Cuiabis of Migration Observatory at the University of Oxford, would be to “leave people in pre-settled status indefinitely unless they reapply and show they are eligible for settled status”.

**We ask you to confirm that, in line with the High Court judgment of December 2022, changes will be made to the EU Settlement Scheme without further delay that will ensure that there can be no loss of rights for EU citizens at the point at which an individual’s pre-settled status is due to expire as a result of failure to apply for settled status.**

**We ask you to provide us with an update on the Government’s proposed approach to giving effect to the High Court judgment of December 2022.**

Fiona Costello, Research Associate at the University of Cambridge, emphasised to us that those with pre-settled status have more restricted access to welfare benefits and housing support than those with settled status. Regardless of whether there is still a risk of losing existing rights when pre-settled status expires, many holders of pre-settled status can therefore be expected to wish to apply for permanent settled status once eligible. Ms Costello noted that during the initial phase of the EUSS the Home Office had put significant support in place to support applications and asked if this will be available for those upgrading from pre-settled to settled status. Tamara Flanagan, Head of Projects at New European UK, was similarly concerned that there may be “less support available” for those needing to upgrade than during the original application window.

**We ask you to reassure us that, if an upgrade from pre-settled to settled status is still required, there will be funding available to support individuals with these applications, equivalent to that made available during the initial phase of the EUSS.**

#### ***Delays to applications to the EUSS***

Since the 30 June 2021 deadline there has continued to be a steady flow of fresh applications to the EUSS. This includes late applicants, joining family members, pre-settled status holders applying for settled status and children born to EU parents. Approximately 50,000 applications continued to be submitted every month up to late 2022. At this point 396,000 late applications had been submitted.

We are concerned that a backlog has developed in the processing of these applications and to the issuing of certificates of application. As of December 2022, there were approximately 181,000 pending applications awaiting a decision. We heard that these delays are having serious consequences and could lead to “Windrush-type scenarios”. Ms Hawkins told us that those with pending applications have been unable to apply for a provisional driving licence or EHIC card, that it “looks like you cannot apply for a national insurance number” and that those in this situation “struggle to get universal credit”. She added that in some cases applicants are “advised not to travel out” while decisions are pending and so are “effectively imprisoned” in the UK. She also cited research published by the University of York which had shown that a pending application was a disadvantage when applying to rent a property. Dr Chamberlain emphasised that “the fundamental impact of these delays is the uncertainty and the impact it has on individuals’ ability to make the fundamental decisions they may need to make to live their lives”.

**We ask you to provide us with an update on the number of applications that are currently pending a decision and the categories that these falls into, including how many are late**

**applications, how many are pre-settled status holders applying for settled status and how many are applications for joining family members of holders of settled status.**

**We ask you to provide clarification about the ability of individuals with pending applications to the EUSS to access benefits and to apply for documents such as driving licences, EHIC cards and national insurance numbers.**

We acknowledge that delays can be attributed, in part, to increasing complexity of cases as the passage of time since the original deadline for EUSS applications has become longer. Professor Sumption and Mr Cuibus explained to us that late applications now require evidence that the applicant lived in the UK more than two years ago (which may be difficult to source), that late applicants are more likely to have “vulnerabilities that prevented them from applying sooner” and that some applications may now be being received from people who arrived in the UK after the cut-off date and are therefore ineligible. It was also emphasised to us by Kate Smart, CEO of Settled, that cases relating to joining family members can be especially complex. Dr Chamberlain indicated that it is in “those complex cases that we are seeing the greatest challenges in achieving some sort of resolution”. We therefore consider it essential that there is sufficient resource available to ensure that these cases can be handled efficiently and without undue delay.

**We ask you to indicate what additional resources have been allocated to address the backlog of applications that had built up by the end of 2022 and what steps have been taken to ensure that there are sufficient resources in place to handle more complex cases efficiently.**

#### ***Digital status***

This Committee and its predecessors have repeatedly and consistently raised concerns regarding the digital-only system for proof that an EU citizen has successfully accessed their rights under the EU Settlement Scheme. In our 2021 report, we noted that the absence of a physical document created the risk that many EU citizens, including the elderly and those who are digitally challenged, may struggle to prove their rights. We recommended that the Government offer holders of settled or pre-settled status the additional option of requesting physical documents, which would complement rather than replace their existing digital status. We are disappointed that this recommendation has not been taken up.

The evidence that we have considered suggests that our concerns about this aspect of the design of the EUSS were well founded. Dr Chamberlain told us that “issues exist for people who may simply lack the digital skills, awareness or capability to interact with a system of this sort”. Meanwhile, Ms Hawkins indicated that some issues with proof of status have arisen from technical problems that have impacted even those who are “perfectly comfortable with digital systems”. These include instances where essential data is missing from a record due to faults with the system or where information is displayed incorrectly, meaning that the proof of status is “not fit for purpose”.

An additional concern raised with us by Ms Hawkins was that the digital system requires a temporary share code to be generated each time proof of status is required. In her assessment this means that status “does not belong to the status holder”. She favoured a system similar to the Covid-19 passes that were rolled out during the pandemic that “sits on your phone and belongs to you”. We were told that the 3million had briefly engaged with the Home Office about this possibility in the past but that the proposal had been rejected and lines of communication had since “gone quiet”.

**We ask you to provide us with an assessment of the operation of the digital-only system for proof of (pre)-settled status to date, and to update us on what steps have been taken to ensure that the digital proof of status system is reliable and can be accessed straightforwardly. We ask that in your response to this letter you set out the Government’s detailed justification for continuing to deny individuals the option of a physical document and your view on the possibility of making such a document available, including the estimated cost implications, assessed against the advantages to holders of (pre)-settled status.**

**We reiterate the view expressed in our 2021 report that holders of (pre)-settled status should have the option to request a physical proof of status document and ask you to give further consideration to this proposal.**

#### ***Database error***



In January 2023 it was revealed that an EUSS database error meant that an incorrect status had been displayed online for approximately 146,000 people for an extended period of time. For EUSS applicants whose applications to the scheme were refused between June 2021 and April 2022, the online database displayed their application as “pending” instead of “refused” until 18 January 2023, when the system was updated.

Dr Chamberlain noted that individuals should have received a letter notifying them that their application has been refused even though the online system was not updated, that many will therefore have moved on after receiving a refusal and that “the impact on them will be minimal”. Nevertheless, she told us that the IMA understands that a number of EU citizens may have continued to receive benefits during the period that the database was incorrect, and that the Government may seek to recover these. It has also been suggested that the Government may seek retrospective payments for healthcare services received during this period. Ms Hawkins raised concerns that decision letters “quite often end up in people’s spam folders” so may not necessarily have been received. She indicated that in these cases an incorrect online status could have had “very serious” implications, for instance causing them to miss appeal deadlines.

**We ask you to provide clarification on how many people were affected by the EUSS database error publicised in January 2023 and to provide us with your assessment of the consequences of this error for EU citizens in the UK.**

**We are deeply concerned to hear that some people may need to make repayments for benefits or pay for healthcare services that they have received retrospectively as a result of this database error. We ask you to provide us with clarification on this matter, including whether any repayments of benefits or payments for healthcare services have been requested; will be requested; or will be waived. If so, we ask that you indicate the number of people facing this situation.**

### ***Travel***

Evidence that we have considered identified some problems with travel between the EU and the UK for EU citizens with (pre-)settled status. These appear to be caused by the complexity of the situation not always being understood. Ms Hawkins reported that more problems had been reported boarding aeroplanes abroad than at the UK’s border but that there had been some “moderate delays” getting to the border where a Border Force officer may have to check somebody’s status. She indicated that there have been some cases of people having a “flag on their passports” linked to a previous refusal of status, even where this has subsequently been granted, which can lead to repeated delays.

Although settled or pre-settled status holders have the right to travel to or from the UK with their national identity card, we heard that EU citizens with (pre-)settled status have sometimes experienced difficulties using their ID card to travel to the UK. This issue was raised with us by the Embassy of Latvia as well as by the 3million, which indicated that dual nationals were facing particular difficulties travelling with ID cards, as they are unable to secure proof of Withdrawal Agreement rights.

**We are concerned to hear that there have been instances of holders of (pre-)settled status experiencing difficulties travelling between the EU and UK. We ask you to update us on what steps have been taken to prevent these issues from occurring; and what assistance and recourse you have provided to those individuals who, rightly or wrongly, have experienced difficulties entering the UK caused by having a “flag on their passports”. We also urge you to ensure that guidance to border authorities is made as clear as possible.**

Some witnesses also raised concerns that the proposed introduction of the Electronic Travel Authorisation (ETA) scheme will contribute to further travel difficulties. Ms Hawkins noted that EU citizens with (pre-)settled status will need to be able prove to an airline that they do not need an ETA. She told us that the interactive Advanced Passenger Info (iAPI) system to provide for this “is not due to come live until next summer and so will not even be ready” when the ETA rollout begins later this year.

We ask you to provide us with your assessment of the possible implications of the proposed introduction of the Electronic Travel Authorisation (ETA) system for EU citizens travelling between the UK and the EU, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.

## **UK citizens' rights in the EU**

### ***Residence schemes in EU Member States***

In our 2021 report we identified a “mixed picture” with regard to how the rights of UK citizens were being upheld in EU Member States. The evidence that we have considered for this follow-up work indicates that this assessment still holds true. While residence schemes appear to be operating relatively smoothly in some EU Member States, we have been made aware of serious problems in others. Jane Golding, Co-Chair of British in Europe, identified high refusal rates for late applicants to the constitutive systems for securing residence rights under the Withdrawal Agreement in Sweden and Denmark. In the case of Sweden, Ms Golding told us that the current refusal rate is around 60% with the reasons given by UK citizens as justification for missing the original deadline typically being refused.

Several cases of refused applications for residence for UK citizens in EU Member States have recently come to light that involve vulnerable people. Ms Golding referred to the case of a British woman with Alzheimer’s living in a care home who was threatened with deportation from Sweden, and to a case involving a family of four with young children. Professor Michaela Benson of Lancaster University explained to us that the consequences of refused applications can be multiple, including restrictions on access to services as well as potentially being asked to leave a territory.

**We ask you to indicate what representations the Government has made to the Commission and counterparts in individual Member States where high refusal rates for applicants to constitutive systems for securing residence rights under the Withdrawal Agreement have been reported, including Sweden and Denmark.**

We heard that UK citizens in some EU Member States have experienced difficulties with requirements to upgrade from ordinary to permanent residence (the equivalent of upgrading from settled to pre-settled status in the UK). Ms Golding highlighted the case of Malta, where young people are required to renew their residence permits at the age of 18. She told us that some have been “told that their cards cannot be renewed, either because their status is unclear, and they are being told they may have overstayed or because they have been asked to provide documentation from scratch to prove their status”. She drew an analogy with the situation in the UK concerning EU citizens with pre-settled status moving to settled status, which was the subject of the December 2022 High Court judgment.

In light of the UK High Court judgment regarding the expiry of pre-settled status, we ask you what assessment the Government has made of arrangements for UK citizens to upgrade to permanent residence in EU Member States where this is required, and what support is available to help UK citizens negotiate this process.

Issues with securing appropriate documentation have also been reported by UK nationals in Portugal. Ms Golding characterised the application process there as “late and not-fit-for-purpose”, with problems relating to payment for residence documents and officials incorrectly issuing documents valid for five years instead of ten years.

**We urge you to raise systemic issues relating to the rights of UK citizens under the Withdrawal Agreement with the European Commission as they arise and ask you to provide us with an update on what recent discussions have taken place with the Commission on these matters, including at the most recent meeting of the Specialised Committee on Citizens’ Rights.**

### **Travel**

We heard that UK citizens had frequently experienced issues while travelling between the EU and the UK, particularly in 2022. Ms Golding told us that the “biggest issue” is “misunderstandings by Schengen border officials and associated police forces of the different types of residence documents for different member states”. She indicated that this had resulted in some “serious cases”, including an example of charges for an alleged immigration offence being brought incorrectly. She said that it had also caused “a lot of emotional stress, because not all British citizens understand the rules or are confident enough when they face challenges by border officials”.

**We urge you to work with the European Commission and the authorities in EU Member States to ensure that guidance to border authorities is made as clear as possible, and ask you provide an update on any recent discussions.**

As with the Government's planned ETA system, the EU's proposed Electoral Travel Information and Authorisation System (ETIAS) can be expected to have an impact on travel between the UK and the EU, affecting UK nationals with residence rights in EU Member States as well as tourists and business visitors. Ms Golding anticipated "teething problems" and emphasised the need for "good, clear, precise information about who needs to do what and when, and clear information to border guards on withdrawal agreement beneficiaries".

**We ask you to provide us with your assessment of the possible implications of the EU's proposed introduction of the Electronic Travel Information and Authorisation System (ETIAS) for UK citizens travelling between the EU and the UK, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.**

***Support for UK citizens.***

We are very concerned to hear that resources to support UK citizens in the EU on citizens' rights issues have been scaled back substantially since we conducted our inquiry in 2021. Ms Golding told us that both UK Government support and EU Member State support was being "reduced drastically", at the same time as a "rise in serious and complex cases". She added that it is now "a bit of a lottery as to whether British citizens get any real help from their local embassy", because dedicated funding for citizens' rights officers in individual Member States ended in March 2023, leaving embassies increasingly reliant on voluntary organisations for evidence of the situation on the ground. Ms Golding called on the Government to "realise that around 1.32 million [UK citizens in the EU] are also their responsibility and that they need to step up support to afford these citizens the protections they deserve".

Several stakeholders were critical of the Government's decision to close the UK Nationals Support Fund, which provided funding to non-governmental organisations in some EU Member States to support residence applications from UK citizens. Professor Benson said that since this has closed there is now "no dedicated resource for organisations to draw on" to support vulnerable UK nationals to secure their status under the Withdrawal Agreement. Sue Wilson, Chair of Bremain in Spain, similarly told us that this decision "means that many vulnerable people may no longer be able to access the support they need".

**We ask you to provide us with an update on the resources available to UK embassies in EU Member States to support UK citizens facing citizens' rights issues and for clarification on any changes to the funding allocated to support citizens' rights officers. We urge you to ensure that sufficient resources are in place to provide consular support to the substantial number of UK citizens that continue to face challenges associated with exercising their rights under the Withdrawal Agreement.**

**We ask you to explain the rationale for reducing substantially the Government funding available to support UK citizens resident in the EU on citizens' rights issues, including by closing the UK Nationals Support Fund, at a time when there has been a rise in the number of complex cases.**

The IMA monitors UK public bodies to make sure that they uphold the rights of EU and EEA/EFTA citizens as well as their family members in the UK and Gibraltar, but there is no equivalent independent body in the EU to perform this role in respect of UK nationals in EU Member States. The formal role of monitoring the implementation of the Withdrawal Agreement for UK citizens in the EU is instead performed by the European Commission. We are sympathetic to the view expressed to us by Ms Hawkins that this leaves the Commission effectively "marking its own homework" and that it would be preferable for there to be an independent body, similar to the IMA.

We acknowledge that in the short-term it is unlikely that a new independent body will be established in the EU. It is therefore essential that non-governmental bodies that provide independent support to UK citizens in the EU on citizens' rights issues are able to access sufficient funding to operate effectively.

**We ask you to provide us with an indication of what Government funding, if any, is currently available to non-governmental bodies that support UK nationals in EU Member States on citizens' rights issues, whether the Government considers this to be sufficient and whether there are any plans to offer any additional funding.**

Thank you for your consideration of this letter. We ask you to reply by 26 June 2023.

25 May 2023

**Letter to the Chair from Rt Hon Suella Braverman KC MP, Home Secretary, Home Office**

Thank you for your letter of 25 May, which follows on from your most recent work on citizens' rights and the oral evidence session on 16 May. In responding to your letter, I have engaged with the Foreign, Commonwealth & Development Office (FCDO), given its responsibility for the rights of UK nationals residing in the European Union.

Your questions are addressed beneath each of the issues you have asked us to consider.

**We ask you to set out your assessment of the current overall state of affairs regarding the rights of EU citizens in the UK and UK citizens in the EU.**

Citizens' rights remain a key priority for the Government, and we take our Withdrawal Agreement (WA) commitments seriously. The UK has also in several respects taken a more generous approach than the WA requires, reflecting our concern to ensure that all EU citizens who made the UK their home before the end of the transition period could continue their lives here.

In our view, the UK's implementation of the citizens' rights provisions of the WA has been a success, especially considering the scale of the task. The EU Settlement Scheme has concluded more than 7 million applications, and issued more than 6.2 million grants of status, to 31 March 2023. However, as we approach two years since the 30 June 2021 application deadline for those residents in the UK by the end of the transition period, we are seeing more speculative and abusive applications and refusal rates are increasing. We are determined to protect the integrity of the scheme and will take whatever steps are necessary to ensure that.

We also continue to provide a range of support for applicants to the EU Settlement Scheme, particularly those who are vulnerable, and our approach remains underpinned by clear, public guidance. This will continue as we implement the December 2022 High Court judgment in relation to pre-settled status under the EUSS.

We are pleased that so many UK nationals and their family members have obtained new residency status or documents in the Member State that they reside and recognise individual successes in Member States. However, there remains much to do there, including securing greater clarity in the Member States operating a constitutive scheme for obtaining WA residency status as to the scope for late applications. We will continue to press issues of concern at both bilateral and EU levels.

We also acknowledge the progress made on the protection of rights of UK nationals, including fewer problems accessing residency schemes and when travelling. However, there is still much to do. This includes the need to resolve key systemic issues and additional complex technical concerns such as the variable quality and availability of reasonable grounds guidance for late applications, and the uncertain status of UK nationals who are required to submit a second application. We will continue to press issues and concerns at both bilateral and multilateral levels.

The European Commission and Member States must put greater emphasis on resolving these issues and put in place consistent guidance and processes across the national and local authorities responsible for implementing the citizens' rights provisions of the WA.

We engage directly with Member States and the Commission regularly, including through the Specialised Committee on Citizens' Rights. While we are grateful for the cooperation and engagement of the European Commission, we continue to urge them to regularly scrutinise and resolve issues of implementation by Member States to ensure the protection of UK nationals and their family members, mirroring the role of the Independent Monitoring Authority in the UK.

**EU citizens' rights in the UK**

**We ask you to confirm that, in line with the High Court judgment of December 2022, changes will be made to the EU Settlement Scheme without further delay that will ensure that there can be no loss of rights for EU citizens at the point at which an individual's pre-settled status is due to expire as a result of failure to apply for settled status.**

**We ask you to provide us with an update on the Government's proposed approach to giving effect to the High Court judgment of December 2022.**

We are working to implement the December 2022 High Court judgment as quickly as possible and in such a way that it will continue to be easy for EU citizens to evidence their WA rights in practice. We will be taking steps to amend the digital status of those with pre-settled status under the EUSS to clarify that their right to stay does not expire after five years and to ensure that they can continue to use their digital status to evidence their WA rights. There will be no loss of rights for pre-settled status holders at the point at which that status would have been due to expire, where they have not applied for settled status. All those affected, together with relevant stakeholders, will be made aware in advance and provided with appropriate reassurance.

In the meantime, our approach remains to encourage pre-settled status holders to apply for settled status as soon as they are eligible to do so, as the best way of evidencing their right of permanent residence. This is entirely consistent with the High Court judgment, which acknowledged the value to the person of applying for settled status and thereby obtaining secure evidence of that status and made clear that the Home Office could still encourage such applications. Our most recent quarterly statistics to 31 March 2023 show that people are still applying to upgrade to settled status, with more than 63,000 people moving from pre-settled to settled status in the first three months of this year alone – taking the total number of people to do so to nearly 550,000.

I can also inform you that, as of 6 March 2023, we began to issue the planned email reminders to pre-settled status holders. These encourage them to apply for settled status once they become eligible and detail the benefits of settled status. While it is correct that the effectiveness of these reminders relies on individuals keeping their contact details up to date, the onus remains on them to do so in order to ensure they receive important correspondence from us.

**We ask you to reassure us that, if an upgrade from pre-settled to settled status is still required, there will be funding available to support individuals with these applications, equivalent to that made available during the initial phase of the EUSS.**

Since the public launch of the EUSS in March 2019, the Home Office has made available £29 million in grant funding to a UK-wide network of civil society organisations and their partners to support vulnerable people in applying to the EUSS. This funding has enabled the Home Office, alongside the grant-funded network, to engage with vulnerable individuals to ensure they can access the support needed to apply to the scheme. The network has now helped more than 490,000 vulnerable people apply to the EUSS.

We remain committed to supporting vulnerable citizens who are eligible to apply to the EUSS. We recognise the importance of continuity of support which is why we are continuing to fund this work for this financial year and the next.

In addition to the support provided through Home Office grant funding, there continues to be support for vulnerable applicants available through the Resolution Centre, which provides telephone and email assistance to applicants, and through the Assisted Digital service, which provides support for those completing the online application process. Beyond that, there are several hundred organisations registered with the Office of the Immigration Services Commissioner which provide free immigration advice, including for those applying to the EUSS.

I am therefore confident that there will continue to be a sufficient level of support available across the UK to ensure vulnerable citizens can access the EUSS.

**We ask you to provide us with an update on the number of applications that are currently pending a decision and the categories that these falls into, including how many are late applications, how many are pre-settled status holders applying for settled status and how many are applications for joining family members of holders of settled status.**

We do not publish specific data on pending applications, although indicative figures can be derived from the published statistics. Those to 31 March 2023 show that, of the 7,221,650 applications received, approximately 98% (7,054,720) had been concluded.

The published statistics to 31 March 2023 also provide data on applications made after the 30 June 2021 application deadline for those residents in the UK by the end of the transition period, which show that,

of the 1,169,760 applications received after this date, around 88% (1,025,140) had been concluded. The application figures, conclusion rates and breakdowns for late applicants, repeat applicants (including those moving from pre-settled to settled status), joining family members and derivative rights-based applicants are all available within the published quarterly statistics, at tab [EUSS POST 30 JUNE at: EU Settlement Scheme statistics - GOV.UK \(www.gov.uk\)](#)

**We ask you to provide clarification about the ability of individuals with pending applications to the EUSS to access benefits and to apply for documents such as driving licences, EHIC cards and national insurance numbers.**

With respect to benefits, those in scope of the WA who have a valid pending application to the EUSS can access benefits and apply for a national insurance number on the same terms as before the UK left the EU.

When claiming income-based benefits, including Universal Credit, and Child Benefit, individuals are required to evidence that they are exercising a qualifying right to reside – in line with the EU Free Movement Directive – as well as meeting the other eligibility requirements. Individuals who have been exercising a qualifying right to reside in the UK in line with the EU Free Movement Directive for five years are also able to access benefits.

Where EHIC cards are concerned, to avoid delays it has been Department of Health and Social Care policy to provide a Provisional Replacement Certificate (PRC) to individuals with a valid pending application to the EUSS rather than an EHIC card. PRCs offer exactly the same healthcare entitlements as an EHIC card and are a formal eligibility document under the WA. The NHS has recently launched a new online application process which makes it more straightforward to access a PRC.

This approach was introduced to ensure that those with a valid pending EUSS application have access to UK-funded necessary healthcare, whilst ensuring value for money for the taxpayer by not providing coverage to people who are not entitled to it following a negative EUSS application outcome. However, the DHSC recognises your concerns and is considering further options, including strengthening communications.

We do not believe that the equal treatment provisions of the WA extend to the issuing of driving licences. Therefore, individuals with a valid pending EUSS application are not able to use their Certificate of Application (CoA) to obtain these.

**We ask you to indicate what additional resources have been allocated to address the backlog of applications that had built up by the end of 2022 and what steps have been taken to ensure that there are sufficient resources in place to handle more complex cases efficiently.**

As set out above, indicative figures on pending applications can be derived by using the published statistics. These show that, despite consistently high application volumes each month (approximately 55,000 on average in 2022), the number of pending applications reduced throughout 2022. To 31 March 2023, there were approximately 167,000 pending applications, compared to approximately 275,000 to 31 March 2022, – a 39% decrease. High ongoing application volumes mean that some pending applications will have been recently made.

The number of staff working on the EUSS has remained largely consistent, although numbers can change depending on business priorities. There are currently approximately 1,300 Home Office staff who work on the EUSS. In addition, approximately 300 staff are in post to provide assistance to applicants with any questions about the scheme or who need help applying.

Staff have processed more than 1.6 million applications since the 30 June 2021 deadline, which will include more complex cases.

**We ask you to provide us with an assessment of the operation of the digital only system for proof of (pre)-settled status to date, and to update us on what steps have been taken to ensure that the digital proof of status system is reliable and can be accessed straightforwardly. We ask that in your response to this letter you set out the Government's detailed justification for continuing to deny individuals the option of a physical document and your view on the possibility of making such a document available,**

**including the estimated cost implications, assessed against the advantages to holders of (pre)-settled status.**

**We reiterate the view expressed in our 2021 report that holders of (pre)-settled status should have the option to request a physical proof of status document and ask you to give further consideration to this proposal.**

We have consistently set out that we are working towards a border and immigration system that is digital by default, and immigration status, in the form of an eVisa, is part of this. We live in a digital age and immigration systems across the world are moving online.

An eVisa has significant benefits over a physical card:

- An eVisa is more secure as it cannot be lost, stolen or tampered with, and it is also more suitable for those with some disabilities.
- People receive their eVisa immediately a decision has been made on their application. There is no wait for a physical document to be dispatched, collected or received. They can also view and share their entitlements immediately.
- We are taking steps to reduce the number of circumstances in which individuals need to provide evidence of their immigration status, by developing services to make the relevant immigration status information available automatically through system-to-system checks with other government departments and the NHS. This means at the point at which a person seeks to access public services, the service provider will check their immigration status directly with the Home Office, removing the need for the individual to prove their status. Currently, this includes services from the Department for Work and Pensions (DWP), HM Revenue & Customs (HMRC), the Driver and Vehicle Licensing Agency, Social Security Scotland, NHS England and Wales and Islington Council (and access will also be rolled out to other local authorities in the near future).

In addition to an eVisa, individuals still receive written notification of their immigration status, by email or letter. They can retain this document for their own records and can use it when contacting the Home Office, but they cannot use it to prove their right to work or (in England) to rent. This is because an email or letter is not a secure document and may not be up to date. It is therefore not an acceptable form of evidence of someone's immigration status.

If a person loses access to their UKVI account and so cannot view or share their eVisa, they can recover it by contacting the Resolution Centre, open seven days a week. By contrast, if a person loses a physical document, they are required to apply for a replacement document and pay a fee and may be required to re-enrol their biometrics. They must then wait for a replacement physical document to be printed and issued, whereas access to an eVisa can be regained as soon as access to the UKVI account is restored.

The Resolution Centre can support customers through their online journey by helping them to access or recover their UKVI account; to update their personal details; and to share their status if they are unable to do so themselves. The Resolution Centre is also able to assist customers experiencing any technical issues with their eVisa and, where necessary, enable a person's status to be verified through alternative means.

I would also emphasise how providing immigration status information online, rather than using a physical document, has enabled us to simplify and standardise the system of checks for third party checkers, such as employers or landlords, by providing information about an individual's status in a format that is easy to understand and accessible to all users. This has also removed the need for them to interpret myriad physical documents, complex legal terminology, or confusing abbreviations. It also puts individuals in control of their own data because it allows them to view the status information that will be shared with checkers and contact the Home Office if they believe it is incorrect, before sharing it. It is also in line with the principles of data minimisation, only sharing the information required by a checker, rather than all the information held on a physical card.

We monitor the use of the online status services, including through user feedback, research, and testing. This feedback is used to inform improvements to the services. We also monitor usage volumes and user satisfaction scores for our online services and publish them as part of the Home Office's

transparency data. This is listed under the heading 'Transaction Explorer data' at <https://www.gov.uk/government/collections/migration-transparency-data>. Most users can generate and check share codes quickly and easily.

We are committed to continuously improving our services based on feedback from users. As an example, based on feedback from users (both status holders and third-party users of checking services) that share codes often expired before they could be used, the validity duration of View and Prove my Immigration Status, Right to Work and Right to Rent share codes was increased from 30 to 90 days. This helped reduce the need for third parties to contact the person to ask them to generate a fresh share code, whilst maintaining the principle that third party access to a person's immigration status should not be indefinite.

We continually track and fix technical errors in the View and Prove and Update my Details service. Recently, we had:

- Ensured that if an individual submits a second EUSS application after being refused, they will see their CoA for the second application, rather than the refusal of the previous application.
- Provided a fix for individuals who hold pre-settled status and then apply for settled status. Previously, they were seeing a CoA when they should have continued to see their pre-settled status. These individuals will now see their extant pre-settled status.
- Performed a data clean-up to separate people whose identities had been merged due to closely matching biometrics (e.g., twins).

We understand concerns that some individuals with protected characteristics may find it harder to access online checking services. We have considered equalities issues in relation to the use of the right to work and rent checks in the Equality Impact Assessment at:

<https://www.gov.uk/government/publications/digital-only-right-to-work-and-rent-checks-equality-impact-assessment/digital-only-right-to-work-and-rent-checks-equality-impact-assessment-accessible>

After representations from external stakeholders, we carefully considered whether we could use an approach similar to the COVID-19 certification to issue physical proof of status, using a QR code, alongside digital evidence of status. We considered a wide range of factors, but using a QR code in the context of demonstrating vaccination status is not equivalent to using it to show real-time immigration status, since a person's immigration status can change in a way that their vaccination status cannot. The information on an insecure printed document, even one validated by a QR code, would also not be a secure method of sharing and proving a person's up-to-date immigration status in a way that gives confidence to the status holder and the checker. It would open the system up to potential fraud and abuse because the QR code would not be sufficient to verify the identity of the document holder. Our reply to the3million on their detailed QR code proposal provides a full explanation and is available on their website at: <https://the3million.org.uk/library>

We acknowledge that some users may find it harder to access their immigration status information online. In such circumstances they can call the Resolution Centre to have their status explained to them and, if required, a share code generated for them, which they can then pass on to a checking organisation. We believe that this meets the need to provide a non-digital alternative for individuals who cannot access the online service, while maintaining the safeguards, including those against fraud or inappropriate data sharing, in the system design.

#### **Database error**

**We ask you to provide clarification on how many people were affected by the EUSS database error publicised in January 2023 and to provide us with your assessment of the consequences of this error for EU citizens in the UK.**

The exercise on 18 January 2023 related to individuals who received an EUSS refusal decision between 27 June 2021 and 19 April 2022. They were all sent an email or postal notification of their refusal decision at the time the decision was made, using the contact details they had supplied and which they are able to update when required. The information included on a CoA explains that it is only valid until a decision is made on the application. The EUSS refusal decision sets out the reasons for refusal of the application and possible next steps for the individual, including the process for administrative review and appeal. We are confident these decisions were properly served to the individuals concerned.



The refusal decision was not, however, reflected in the applicant's digital status, which is used by some government departments in the context of decisions about access to benefits and services. This was not the result of error but reflected the need to ensure that, if the person then requested an administrative review of the decision, or appealed, they continued to have temporary protection of their rights, including access to benefits, where eligible. This ensured that we continued to meet our obligations under the WA and that nobody was wrongly refused access to benefits or services, as, prior to 19 April 2022, the digital status system did not have the capability to reflect that an administrative review or appeal was pending.

Systems were updated on 19 April 2022 so that refusal decisions made after that date were reflected in the applicant's digital status, once administrative review and appeal rights had been exhausted.

There were approximately 146,000 UKVI accounts in scope of the exercise. This figure does not necessarily equate to individuals and only a very small proportion of the cohort are expected to have wrongly claimed benefits or accessed public services during the relevant period.

The Independent Monitoring Authority released a statement on this issue on 22 May 2023:

[IMA statement on work to address concerns raised with EU Settlement Scheme - Independent Monitoring Authority \(ima-citizensrights.org.uk\)](https://www.ima-citizensrights.org.uk/ima-statement-on-work-to-address-concerns-raised-with-eu-settlement-scheme)

**We are deeply concerned to hear that some people may need to make repayments for benefits or pay for healthcare services that they have received retrospectively as a result of this database error. We ask you to provide us with clarification on this matter, including whether any repayments of benefits or payments for healthcare services have been requested; will be requested; or will be waived. If so, we ask that you indicate the number of people facing this situation.**

Under Universal Credit legislation all overpayments are recoverable. The Secretary of State for Work and Pensions has an obligation to protect public funds and to ensure that, wherever possible, an overpayment is recovered. DWP does not intend to recover overpayments for the other impacted benefit lines, which have a different legislative basis for overpayment recovery.

DWP has prioritised cases where there was a current claim to benefits and doubt over a claimant's current entitlement, following the update to the Home Office system. Of those identified, as of 15 June 2023, fewer than 350 claims have been closed as a result of the EUSS refusal decision and fewer than 50 claims remain suspended while further checks are carried out. Fewer than 160 of the claims closed relate to UC where overpayments are recoverable. These customers have received multiple communications from DWP, giving them the opportunity to provide evidence of entitlement before their payments ceased.

DWP has a well-established process for working with individuals to support them to manage repayments. DWP's priority is to negotiate affordable and sustainable repayment plans that do not cause undue financial hardship. DWP is committed to working with anyone who is struggling with their deductions, and any person who feels they cannot afford the proposed rate of deduction for an overpayment is encouraged to contact the DWP debt management team and agree a rate of repayment that is more affordable for them. There is no minimum amount that a customer has to pay.

Where relevant NHS-funded healthcare is concerned (which excludes accident and emergency treatment and GP appointments), those whose application to the EUSS has been refused and who are not in the UK lawfully are chargeable for any such healthcare received from the date their application was refused. Providers of relevant NHS-funded healthcare are required by law to make and recover charges where they apply.

DHSC is working with the NHS and the Home Office to identify and ascertain the number of people in this cohort who accessed relevant healthcare after their application was refused. However, where a person is destitute or genuinely without access to funds, a Trust can conclude that it is not cost effective to pursue payment at this time and write it off in their accounts. This does not mean that the debt is waived; it remains on record and can be recovered if the patient's ability to pay changes.

**We are concerned to hear that there have been instances of holders of (pre)-settled status experiencing difficulties travelling between the EU and UK. We ask you to update us on what steps have been taken to prevent these issues from occurring; and what assistance**

**and recourse you have provided to those individuals who, rightly or wrongly, have experienced difficulties entering the UK caused by having a “flag on their passports”. We also urge you to ensure that guidance to border authorities is made as clear as possible.**

The British public expect us to check that everyone entering the UK has the right to do so and all passengers may be asked questions to establish the basis on which they are seeking to enter the UK. Holders of pre-settled status may be stopped for examination in relation to immigration matters and customs checks. If an individual has had a previous refusal under the EUSS, they may be stopped to confirm that they do have valid status and the right to enter the UK. Additionally, if they use an identity document which is not registered to their UKVI account, they may experience delays at the border whilst their status is established or confirmed. In late 2021, an email was sent to all EUSS status holders to remind them about key aspects of the scheme, including the importance of updating their UKVI account with their latest passport or (in the case of EU citizens) national identity card before travelling.

The EUSS application system does not currently link multiple applications from the same person. Therefore, where an individual has made multiple EUSS applications, a Border Force officer is shown all outcomes. This requires the officer to manually review the records displayed to accurately establish the person’s status. This is a known issue and there is work in progress to deliver a comprehensive solution. I can assure you that there is already clear guidance for Border Force officers on this issue.

We ask you to provide us with your assessment of the possible implications of the proposed introduction of the Electronic Travel Authorisation (ETA) system for EU citizens travelling between the UK and the EU, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.

The UK’s Electronic Travel Authorisation (ETA) scheme will apply to all passengers visiting the UK or transiting the UK who do not currently need a visa for short stays or do not have an immigration status prior to travelling, including EU citizens. However, those with an existing UK immigration status, such as pre-settled or settled status, will not be required to obtain an ETA.

The effective operation of our ETA scheme (and our wider universal ‘permission to travel’ requirement) will require carriers to check and confirm individuals’ permission prior to travel which will ensure travel to the UK is not disrupted. Carriers will provide the Home Office with Advance Passenger Information and, in turn, receive confirmation from the Home Office that the individual has permission and may be carried to the UK or does not have permission and may not be carried; or that their permission needs to be checked by the carrier. Passengers with pre-settled or settled status will, like those with ETAs, be shown as having permission to travel to the UK.

### **UK citizens’ rights in the EU**

#### ***Residence schemes in EU Member States***

**We ask you to indicate what representations the Government has made to the Commission and counterparts in individual Member States where high refusal rates for applicants to constitutive systems for securing residence rights under the Withdrawal Agreement have been reported, including Sweden and Denmark.**

We are in regular discussions with the Commission and Member States to raise and resolve issues that UK nationals encounter when exercising their rights under the Withdrawal Agreement.

We are aware of high refusal rates in some Member States, including where we had reason to believe that the Withdrawal Agreement may not have been correctly implemented. In the case of Denmark, we have made multiple representations to the Commission and worked closely with Danish counterparts to understand and resolve the issue. As a result of our representations, including by the Minister for Europe in the Foreign, Commonwealth and Development Office, Danish authorities have extended the deadline for UK nationals and their family members to apply for residence by two years until 31 December 2023. We welcome this move by Denmark and will continue to engage with Denmark and the European Commission to ensure the rights of UK nationals are protected.

We have also made representations to the Commission and Swedish counterparts regarding the high rate of refusals.

**In light of the UK High Court judgment regarding the expiry of pre-settled status, we ask you what assessment the Government has made of arrangements for UK citizens to**

**upgrade to permanent residence in EU Member States where this is required, and what support is available to help UK citizens negotiate this process.**

We have raised this issue on several occasions with the European Commission. At the last Specialised Committee, the Commission assured the Government that those UK nationals required to upgrade their status were only required to do so for administrative purposes and that the expiry of their temporary residence does not affect their right to permanent residence.

However, we remain concerned for UK nationals who may in reality not be able to access their rights if they are unable to provide evidence of their status, as demonstrated by a successful second application to the relevant residency scheme. We are looking to work collaboratively with the European Commission on this issue, to ensure we have a clear understanding of how our respective nationals access and demonstrate their permanent residency rights in practice. As part of this, we have made clear to the Commission and Member States that there is insufficient guidance and communication in many Member States to support family members seeking to join UK nationals.

We would also continue to encourage UK nationals in the EU who are eligible to apply for permanent residence to do so as soon as they become eligible.

**Issues with securing appropriate documentation have also been reported by UK nationals in Portugal. Ms Golding characterised the application process there as “late and not-fit-for-purpose”, with problems relating to payment for residence documents and officials incorrectly issuing documents valid for five years instead of ten years. We urge you to raise systemic issues relating to the rights of UK citizens under the Withdrawal Agreement with the European Commission as they arise and ask you to provide us with an update on what recent discussions have taken place with the Commission on these matters, including at the most recent meeting of the Specialised Committee on Citizens’ Rights.**

We take our role in raising all implementation issues with the Commission very seriously and take all opportunities available to hold our counterparts to account and to seek resolution. In the last three years we have raised issues at all 12 meetings of the Specialised Committee, including on family reunification processes, delays to UK nationals receiving residency documents and equal treatment accessing public services such as healthcare. Where issues remain unresolved, we continue to press the Commission and Member States for updates and resolution. At the last Specialised Committee, amongst other concerns, we raised two critical systemic issues. These were the ability of UK nationals who do not apply for permanent residence to access their rights (as set out above) and the lack of available reasonable grounds guidance on late applications from UK nationals in constitutive Member States. On this latter issue, we have been unable to identify any Member State which publishes detailed guidance on what constitutes reasonable grounds for making a late application, and nor has this information been shared with us privately. It is essential that UK nationals and their family members have information available to them on this issue. Lack of transparency in this area also makes it difficult for the UK to understand how Member States are approaching this issue, including to assess whether we have concerns. We will continue to press the EU on these issues and work with them at the Specialised Committee, in technical discussions and through interim exchanges.

***Travel***

**We urge you to work with the European Commission and the authorities in EU Member States to ensure that guidance to border authorities is made as clear as possible, and ask you provide an update on any recent discussions.**

We are aware of the difficulties encountered by some UK nationals when returning to their Member State of residence. HMG, including through our network of Embassies across the EU, have lobbied Member State authorities across the EU to fulfil their obligation to update the relevant annexes of the Schengen Handbook – this should ensure that UK nationals can travel without hindrance and prove their residence status swiftly. Following our discussions with the Commission, guidance was issued last year to Member States which supported our position and stressed the need to maintain these annexes. We have also reminded Member State authorities to ensure border authorities are processing UK nationals correctly and exempting beneficiaries of the Withdrawal Agreement from passport stamping. We continue to monitor the situation and raise any concerns with the Commission and relevant Member States.

We ask you to provide us with your assessment of the possible implications of the EU's proposed introduction of the Electronic Travel Information and Authorisation System (ETIAS) for UK citizens travelling between the EU and the UK, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.

We are working closely with the Commission to understand the impacts of the EU's Entry/Exit System (EES) and ETIAS including to minimise its impact on Withdrawal Agreement beneficiaries, having most recently raised this at the Specialised Committee on 25 May. The Commission has reassured us that UK nationals residing in a Member State will not be adversely impacted and will be able to travel as before. We will continue to engage while the system is introduced and will test whether clear information is provided by Member States to border guards regarding Withdrawal Agreement beneficiaries.

#### **Support for UK citizens.**

**We ask you to provide us with an update on the resources available to UK embassies in EU Member States to support UK citizens facing citizens' rights issues and for clarification on any changes to the funding allocated to support citizens' rights officers. We urge you to ensure that sufficient resources are in place to provide consular support to the substantial number of UK citizens that continue to face challenges associated with exercising their rights under the Withdrawal Agreement.**

Europe Group within the FCDO is the centre of UK Government policy making on Europe (covering WA citizens' rights issues in Member States as well as non-EU and broader policy). The system is working well, tying together our bilateral relationships alongside our relationships with multilateral institutions including the EU and the Council of Europe. Europe Group comprises of both staff working in the UK and in our overseas missions (42 overseas missions in 38 countries, 41 of which are bilateral, with UKMis Brussels working to the EU), working closely with host Governments in the UK interest.

As we move further away from the end of the Transition Period and with residency deadlines having passed in all but one constitutive Member State (Denmark), UK nationals will have worked to regularise their status in their Member State of residence. The FCDO, including its Network, has therefore, been adapting its approach to citizens' rights work in Embassies with responsibilities being taken forward by a range of teams, including the dedicated Justice and Home Affairs Network, to address issues affecting UK nationals in Member States. Europe Group as a whole works collaboratively to ensure citizens' rights are protected and this remains a priority issue for Government.

In addition, UK nationals living in the EU have recourse to Consular services in the same way as other UK nationals travelling or living overseas. UK nationals living or travelling in the EU can access consular advice and support 24/7 through our dedicated consular teams.

The FCDO, including our network of Posts, also continues to engage with groups representing the rights of UK nationals, to understand the issues they are facing and to support bilateral lobbying of Member State authorities and the Commission.

In terms of further support tools, British Posts across the EU regularly update their 'living in' guides, which provide guidance and advice for UK nationals living in the EU who are protected by the Withdrawal Agreement.

**We ask you to explain the rationale for reducing substantially the Government funding available to support UK citizens resident in the EU on citizens' rights issues, including by closing the UK Nationals Support Fund, at a time when there has been a rise in the number of complex cases.**

The Government allocated up to £4 million in funding to organisations supporting UK nationals who need additional assistance applying for residence. The UK Nationals Support Fund (UKNSF) was launched in March 2020 to provide support to those UK nationals (UKN) who might struggle to complete the new residency application process in Member States in the context of the UK's exit from the EU. The UKNSF provided assistance and support to at risk UK nationals applying for EU residency across 13 countries in Europe. Funds were awarded to eight implementing partners to reach UK nationals through advertising campaigns, dedicated websites, helpline support networks and direct outreach. The funds helped 516,000 individuals access the implementing partner's services and 23,977

UK nationals received individual support from a caseworker to help them secure their residency. The UKNSF closed at the end of FY 21/22.

Member States are responsible for ensuring that adequate communications are provided to UK nationals. We continue to lobby the Commission and Member States to ensure there is sufficient guidance and information in place, including on reasonable grounds for late applications, for UK nationals who may still need to make a residency application in their Member State of residence.

We ask you to provide us with an indication of what Government funding, if any, is currently available to non-governmental bodies that support UK nationals in EU Member States on citizens' rights issues, whether the Government considers this to be sufficient and whether there are any plans to offer any additional funding.

The Government continues to engage on citizens' rights issues with groups representing UK nationals in the EU. There are no plans to offer new funding.

The Government recently extended an additional two years of funding to the Grant Funded Organisation (GFO) network which supports EU citizens in making applications to the EU Settlement Scheme. We urge the EU to provide similar funding to organisations supporting UK nationals in applying to residency schemes.

Thank you once again for taking the time to write to me.

*4 July 2023*

**Letter from the Chair to Rt Hon Suella Braverman MP, Secretary of State for the Home Department, Home Office**

In July 2021, the European Affairs Committee, chaired by the Earl of Kinnoull, published a report addressing the post-Brexit rights of EU citizens in the UK and UK citizens in the EU. In May 2023, the Committee held a follow-up session with interested parties on citizens' rights, which resulted in a letter to you dated 25 May 2023.

The Committee asked for a reply by 26 June 2023, this was subsequently extended by agreement to 30 June 2023. We understand that the Government was working on new immigration rules; these were laid in Parliament on 17 July 2023. However, we fail to understand why the Government has still not replied to the Committee's letter of 25 May 2023. There has been ample time to incorporate details of the recent policy announcements into your response to the Committee's concerns.

The Committee's remit is (amongst other matters) to consider the operation of any UK/EU post-Brexit agreements including the operation of the Withdrawal Agreement and its implications for citizens' rights. We are seriously concerned that you have still not responded to the issues raised in our letter of 25 May 2023. We ask you to respond without further delay.

*26 July 2023*

**Letter to the Chair from Rt Hon Suella Braverman MP, Secretary of State for the Home Department, Home Office**

Thank you for your letter of 25 May, which follows on from your most recent work on citizens' rights and the oral evidence session on 16 May. In responding to your letter, I have engaged with the Foreign, Commonwealth & Development Office (FCDO), given its responsibility for the rights of UK nationals residing in the European Union.

Your questions are addressed beneath each of the issues you have asked us to consider.

**We ask you to set out your assessment of the current overall state of affairs regarding the rights of EU citizens in the UK and UK citizens in the EU.**

Citizens' rights remain a priority for the Government, and we take our Withdrawal Agreement (WA) commitments seriously. The UK has also in several respects taken a more generous approach than the WA requires, reflecting our concern to ensure that all EU citizens who made the UK their home before the end of the transition period could continue their lives here.

In our view, the UK's implementation of the citizens' rights provisions of the WA has been a success, especially considering the scale of the task. The EU Settlement Scheme (EUSS) has concluded more than 7 million applications - much higher than predicted at the time - and issued more than 6.2 million grants of status, to 31 March 2023. However, more than two years since the 30 June 2021 application deadline for those residents in the UK by the end of the transition period, we are seeing more speculative and abusive applications and refusal rates are increasing. We are determined to protect the integrity of the scheme and will take whatever steps are necessary to ensure that.

We also continue to provide a range of support for applicants to the EUSS, particularly those who are vulnerable, and our approach remains underpinned by clear, public guidance. This will continue as we implement the December 2022 High Court judgment in relation to pre-settled status under the EUSS.

We are pleased that so many UK nationals and their family members have obtained new residency status or documents in the Member State that they reside and recognise individual successes in Member States. However, there remains much to do there, including securing greater clarity in the Member States operating a constitutive scheme for obtaining WA residency status as to the scope for late applications. We will continue to press issues of concern at both bilateral and EU levels.

We also acknowledge the progress made on the protection of rights of UK nationals, including fewer problems accessing residency schemes and when travelling. However, there is still much to do, and serious shortcomings remain in several Member States. This includes the need to resolve key systemic issues and additional complex technical concerns, such as the variable quality and availability of reasonable grounds guidance for late applications, and the uncertain status of UK nationals who are required to submit a second application. We will continue to press issues and concerns at both bilateral and multilateral levels – and urge Member States to adopt an approach closer to that taken by the UK in terms of clarity and transparency on how the Withdrawal Agreement is being implemented.

The European Commission and Member States must put greater emphasis on resolving these issues and put in place consistent guidance and processes across the national and local authorities responsible for implementing the citizens' rights provisions of the WA.

We engage directly with Member States and the Commission regularly, including through the Specialised Committee on Citizens' Rights. While we are grateful for the cooperation and engagement of the European Commission, we continue to urge them to regularly scrutinise and resolve issues of implementation by Member States to ensure the protection of UK nationals and their family members, mirroring the role of the Independent Monitoring Authority in the UK.

### **EU citizens' rights in the UK**

**We ask you to confirm that, in line with the High Court judgment of December 2022, changes will be made to the EU Settlement Scheme without further delay that will ensure that there can be no loss of rights for EU citizens at the point at which an individual's pre-settled status is due to expire as a result of failure to apply for settled status.**

**We ask you to provide us with an update on the Government's proposed approach to giving effect to the High Court judgment of December 2022.**

We are working to implement the December 2022 High Court judgment as quickly as possible and in such a way that it will continue to be easy for EU citizens to evidence their WA rights in practice. We will be taking steps to amend the digital status of those with pre-settled status under the EUSS to clarify that their right to stay does not expire after five years and to ensure that they can continue to use their digital status to evidence their WA rights. There will be no loss of rights for pre-settled status holders at the point at which that status would have been due to expire, where 3 they have not applied for settled status. All those affected, together with relevant stakeholders, will be made aware in advance and provided with appropriate reassurance.

In the meantime, our approach remains to encourage pre-settled status holders to apply for settled status as soon as they are eligible to do so, as the best way of evidencing their right of permanent residence. This is entirely consistent with the High Court judgment, which acknowledged the value to the person of applying for settled status and thereby obtaining secure evidence of that status and made clear that the Home Office could still encourage such applications. Our most recent quarterly statistics to 31 March 2023 show that people are still applying to upgrade to settled status, with more than 63,000

people moving from pre-settled to settled status in the first three months of this year alone – taking the total number of people to do so to nearly 550,000.

I can also inform you that, as of 6 March 2023, we began to issue the planned email reminders to pre-settled status holders. These encourage them to apply for settled status once they become eligible and detail the benefits of settled status. While it is correct that the effectiveness of these reminders relies on individuals keeping their contact details up to date, the onus remains on them to do so in order to ensure they receive important correspondence from us.

**We ask you to reassure us that, if an upgrade from pre-settled to settled status is still required, there will be funding available to support individuals with these applications, equivalent to that made available during the initial phase of the EUSS.**

Since the public launch of the EUSS in March 2019, the Home Office has made available £32 million in grant funding to a UK-wide network of civil society organisations and their partners to support vulnerable people in applying to the EUSS (noting that there was no comparable funding from the EU). This funding has enabled the Home Office, alongside the grant-funded network, to engage with vulnerable individuals to ensure they can access the support needed to apply to the scheme. The network has now helped more than 490,000 vulnerable people apply to the EUSS. This is in addition to the outreach and advertising that was funded at the time, costing around £3.75 million.

We remain committed to supporting vulnerable citizens who are eligible to apply to the EUSS. We recognise the importance of continuity of support which is why we are continuing to fund this work for this financial year and the next.

In addition to the support provided through Home Office grant funding, there continues to be support for vulnerable applicants available through the Resolution Centre, which provides telephone and email assistance to applicants, and through the Assisted Digital service, which provides support for those completing the online application process (again, we are not aware of equivalent services being offered by the EU). Beyond that, there are several hundred organisations registered with the 4 Office of the Immigration Services Commissioner which provide free immigration advice, including for those applying to the EUSS.

I am therefore confident that there will continue to be a sufficient level of support available across the UK to ensure vulnerable citizens can access the EUSS.

**We ask you to provide us with an update on the number of applications that are currently pending a decision and the categories that these falls into, including how many are late applications, how many are pre-settled status holders applying for settled status and how many are applications for joining family members of holders of settled status.**

We do not publish specific data on pending applications, although indicative figures can be derived from the published statistics. Those to 31 March 2023 show that, of the 7,221,650 applications received, approximately 98% (7,054,720) had been concluded. This is especially remarkable given that the March 2019 Impact Assessment gave an indicative range for the volume of initial applications of 3.5 – 4.1 million. The Impact Assessment is available at:

[The Immigration and Nationality \(Fees\) \(Refund, Waiver and Amendment\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The published statistics to 31 March 2023 also provide data on applications made after the 30 June 2021 application deadline for those residents in the UK by the end of the transition period, which show that, of the 1,169,760 applications received after this date, around 88% (1,025,140) had been concluded. The application figures, conclusion rates and breakdowns for late applicants, repeat applicants (including those moving from pre-settled to settled status), joining family members and derivative rights-based applicants are all available within the published quarterly statistics, at tab EUSS\_POST\_30\_JUNE at:

EU Settlement Scheme statistics - GOV.UK ([www.gov.uk](https://www.gov.uk))

**We ask you to provide clarification about the ability of individuals with pending applications to the EUSS to access benefits and to apply for documents such as driving licences, EHIC cards and national insurance numbers.**

With respect to benefits, those in scope of the WA who have a valid pending application to the EUSS can access benefits and apply for a national insurance number on the same terms as before the UK left the EU.

When claiming income-based benefits, including Universal Credit, and Child Benefit, individuals are required to evidence that they are exercising a qualifying right to reside – in line with the EU Free Movement Directive – as well as meeting the other eligibility requirements. Individuals who have been exercising a qualifying right to reside in the UK in line with the EU Free Movement Directive for five years are also able to access benefits.

Where EHIC cards are concerned, to avoid delays it has been Department of Health and Social Care policy to provide a Provisional Replacement Certificate (PRC) to individuals with a valid pending application to the EUSS rather than an EHIC card. PRCs offer exactly the same healthcare entitlements as an EHIC card and are a formal eligibility document under the WA. The NHS has recently launched a new online application process which makes it more straightforward to access a PRC.

This approach was introduced to ensure that those with a valid pending EUSS application have access to UK-funded necessary healthcare, whilst ensuring value for money for the taxpayer by not providing coverage to people who are not entitled to it following a negative EUSS application outcome. However, the DHSC recognises your concerns and is considering further options, including strengthening communications.

We do not believe that the equal treatment provisions of the WA extend to the issuing of driving licences. Therefore, individuals with a valid pending EUSS application are not able to use their Certificate of Application (CoA) to obtain these.

**We ask you to indicate what additional resources have been allocated to address the backlog of applications that had built up by the end of 2022 and what steps have been taken to ensure that there are sufficient resources in place to handle more complex cases efficiently.**

As set out above, indicative figures on pending applications can be derived by using the published statistics. These show that, despite consistently high application volumes each month (approximately 55,000 on average in 2022), the number of pending applications reduced throughout 2022. To 31 March 2023, there were approximately 167,000 pending applications, compared to approximately 275,000 to 31 March 2022 – a 39% decrease. High ongoing application volumes mean that some pending applications will have been recently made.

The number of staff working on the EUSS has remained largely consistent, although numbers can change depending on business priorities. There are currently approximately 1,300 Home Office staff who work on the EUSS. In addition, approximately 300 staff are in post to provide assistance to applicants with any questions about the scheme or who need help applying.

Staff have processed more than 1.6 million applications since the 30 June 2021 deadline, which will include more complex cases.

**<sup>12</sup>We ask you to provide us with an assessment of the operation of the digital only system for proof of (pre)-settled status to date, and to update us on what steps have been taken to ensure that the digital proof of status system is reliable and can be accessed straightforwardly. We ask that in your response to this letter you set out the Government’s detailed justification for continuing to deny individuals the option of a physical document and your view on the possibility of making such a document available, including the estimated cost implications, assessed against the advantages to holders of (pre)-settled status.**

**We reiterate the view expressed in our 2021 report that holders of (pre)-settled status should have the option to request a physical proof of status document and ask you to give further consideration to this proposal.**

We have consistently set out that we are working towards a border and immigration system that is digital by default, and immigration status, in the form of an eVisa, is part of this – this will ultimately

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<sup>12</sup> EU Settlement Scheme quarterly statistics, March 2022- GOV.UK ([www.gov.uk](http://www.gov.uk))



apply across the board, not just to those under the EUSS. We live in a digital age and immigration systems across the world are moving online. Given the benefits of eVisas, as well as removing the need for physical visas and biometric residence permits, we are also planning to remove any need for physical biometric residence cards.

An eVisa has significant benefits over a physical card:

- An eVisa is more secure as it cannot be lost, stolen, or tampered with, and it is also more suitable for those with some disabilities.
- People receive their eVisa immediately once a decision has been made on their application. There is no wait for a physical document to be dispatched, collected, or received. They can also view and share their entitlements immediately.
- We are taking steps to reduce the number of circumstances in which individuals need to provide evidence of their immigration status, by developing services to make the relevant immigration status information available automatically through system-to-system checks with other government departments and the NHS. This means at the point at which a person seeks to access public services, the service provider will check their immigration status directly with the Home Office, removing the need for the individual to prove their status. Currently, this includes services from the Department for Work and Pensions (DWP), HM Revenue & Customs (HMRC), the Driver and Vehicle Licensing Agency, Social Security Scotland, NHS England and Wales and Islington Council (and access will also be rolled out to other local authorities in the near future).

In addition to an eVisa, individuals still receive written notification of their immigration status, by email or letter. They can retain this document for their own records and can use it when contacting the Home Office, but they cannot use it to prove their right to work or (in England) to rent. This is because an email or letter is not a secure document and may not be up to date. It is therefore not an acceptable form of evidence of someone's immigration status.

If a person loses access to their UKVI account and so cannot view or share their eVisa, they can recover it by contacting the Resolution Centre, open seven days a week. By contrast, if a person loses a physical document, they are required to apply for a replacement document and pay a fee and may be required to re-enrol their biometrics. They must then wait for a replacement physical document to be printed and issued, whereas access to an eVisa can be regained as soon as access to the UKVI account is restored.

The Resolution Centre can support customers through their online journey by helping them to access or recover their UKVI account; to update their personal details; and to share their status if they are unable to do so themselves. The Resolution Centre is also able to assist customers experiencing any technical issues with their eVisa and, where necessary, enable a person's status to be verified through alternative means.

I would also emphasise how providing immigration status information online, rather than using a physical document, has enabled us to simplify and standardise the system of checks for third party checkers, such as employers or landlords, by providing information about an individual's status in a format that is easy to understand and accessible to all users. This has also removed the need for them to interpret myriad physical documents, complex legal terminology, or confusing abbreviations. It also puts individuals in control of their own data because it allows them to view the status information that will be shared with checkers and contact the Home Office if they believe it is incorrect, before sharing it. It is also in line with the principles of data minimisation, only sharing the information required by a checker, rather than all the information held on a physical card.

We monitor the use of the online status services, including through user feedback, research, and testing. This feedback is used to inform improvements to the services. We also monitor usage volumes and user satisfaction scores for our online services and publish them as part of the Home Office's transparency data. This is listed under the heading 'Transaction Explorer data' at [Migration transparency data - GOV.UK \(www.gov.uk\)](https://www.gov.uk/migration-transparency-data). Most users can generate and check share codes quickly and easily.

We are committed to continuously improving our services based on feedback from users. As an example, based on feedback from users (both status holders and thirdparty users of checking services) that share codes often expired before they could be used, the validity duration of View and Prove my

Immigration Status, Right to Work and Right to Rent share codes was increased from 30 to 90 days. This helped reduce the need for third parties to contact the person to ask them to generate a fresh share code, whilst maintaining the principle that third party access to a person's immigration status should not be indefinite.

We continually track and fix technical errors in the View and Prove and Update my Details service. Recently, we have:

- Ensured that if an individual submits a second EUSS application after being refused, they will see their CoA for the second application, rather than the refusal of the previous application.
- Provided a fix for individuals who hold pre-settled status and then apply for settled status. Previously, they were seeing a CoA when they should have continued to see their pre-settled status. These individuals will now see their extant pre-settled status.
- Performed a data clean-up to separate people whose identities had been merged due to closely matching biometrics (e.g., twins).

We understand concerns that some individuals with protected characteristics may find it harder to access online checking services. We have considered equalities issues in relation to the use of the right to work and rent checks in the Equality Impact Assessment at:

<https://www.gov.uk/government/publications/digital-only-right-to-work-and-rent-checks-equality-impact-assessment/digital-only-right-to-work-and-rent-checks-equality-impact-assessment-accessible>

After representations from external stakeholders, we carefully considered whether we could use an approach similar to the COVID-19 certification to issue physical proof of status, using a QR code, alongside digital evidence of status. We considered a wide range of factors, but using a QR code in the context of demonstrating vaccination status is not equivalent to using it to show real-time immigration status, since a person's immigration status can change in a way that their vaccination status cannot. The information on an insecure printed document, even one validated by a QR code, would also not be a secure method of sharing and proving a person's up-to-date immigration status in a way that gives confidence to the status holder and the checker. It would open the system up to potential fraud and abuse because the QR code would not be sufficient to verify the identity of the document holder. Our reply to the3million on their detailed QR code proposal provides a full explanation and is available on their website at: <https://www.the3million.org.uk/library>

We acknowledge that some users may find it harder to access their immigration status information online. In such circumstances they can call the Resolution Centre to have their status explained to them and, if required, a share code generated for them, which they can then pass on to a checking organisation. We believe that this meets the need to provide a non-digital alternative for individuals who cannot access the online service, while maintaining the safeguards, including those against fraud or inappropriate data sharing, in the system design.

#### **Database error**

**We ask you to provide clarification on how many people were affected by the EUSS database error publicised in January 2023 and to provide us with your assessment of the consequences of this error for EU citizens in the UK.**

The exercise on 18 January 2023 was not due to a database error. It related to individuals who received an EUSS refusal decision between 27 June 2021 and 19 April 2022. They were all sent an email or postal notification of their refusal decision at the time the decision was made, using the contact details they had supplied and which they are able to update when required. The information included on a Certificate of Application explains that it is only valid until a decision is made on the application. The EUSS refusal decision sets out the reasons for refusal of the 9 application and possible next steps for the individual, including the process for administrative review and appeal. We are confident these decisions were properly served to the individuals concerned.

The refusal decision was not, however, reflected in the applicant's digital status, which is used by some government departments in the context of decisions about access to benefits and services. This was not the result of error but reflected the need to ensure that, if the person then requested an administrative review of the decision, or appealed, they continued to have temporary protection of their rights, including access to benefits, where eligible. This ensured that we continued to meet our

obligations under the WA and that nobody was wrongly refused access to benefits or services, as, prior to 19 April 2022, the digital status system did not have the capability to reflect that an administrative review or appeal was pending.

Systems were updated on 19 April 2022 so that refusal decisions made after that date were reflected in the applicant's digital status, once administrative review and appeal rights had been exhausted.

There were approximately 146,000 UKVI accounts in scope of the exercise. This figure does not necessarily equate to individuals and only a very small proportion of the cohort are expected to have wrongly claimed benefits or accessed public services during the relevant period.

The Independent Monitoring Authority released a statement on this issue on 22 May 2023:

IMA statement on work to address concerns raised with EU Settlement Scheme - Independent Monitoring Authority ([ima-citizensrights.org.uk](http://ima-citizensrights.org.uk))

**We are deeply concerned to hear that some people may need to make repayments for benefits or pay for healthcare services that they have received retrospectively as a result of this database error. We ask you to provide us with clarification on this matter, including whether any repayments of benefits or payments for healthcare services have been requested; will be requested; or will be waived. If so, we ask that you indicate the number of people facing this situation.**

As above, this exercise was not due to a database error, and the individuals impacted had not sought to challenge the refusal decision which was served to them and therefore had no lawful basis of stay in the UK (unless they had obtained leave to remain through a subsequent application).

Under Universal Credit legislation all overpayments are recoverable. The Secretary of State for Work and Pensions has an obligation to protect public funds and to ensure that, wherever possible, an overpayment is recovered. DWP does not intend to recover overpayments for the other impacted benefit lines, which have a different legislative basis for overpayment recovery.

DWP has prioritised cases where there was a current claim to benefits and doubt over a claimant's current entitlement, following the update to the Home Office system. Of those identified, as of 15 June 2023, fewer than 350 claims have been closed as a result of the EUSS refusal decision and fewer than 50 claims remain suspended while further checks are carried out. Fewer than 160 of the claims closed relate to UC where overpayments are recoverable. These customers have received multiple communications from DWP, giving them the opportunity to provide evidence of entitlement before their payments ceased.

DWP has a well-established process for working with individuals to support them to manage repayments. DWP's priority is to negotiate affordable and sustainable repayment plans that do not cause undue financial hardship. DWP is committed to working with anyone who is struggling with their deductions, and any person who feels they cannot afford the proposed rate of deduction for an overpayment is encouraged to contact the DWP debt management team and agree a rate of repayment that is more affordable for them. There is no minimum amount that a customer has to pay.

Where relevant NHS-funded healthcare is concerned (which excludes accident and emergency treatment and GP appointments), those whose application to the EUSS has been refused and who are not in the UK lawfully are chargeable for any such healthcare received from the date their application was refused. Providers of relevant NHS-funded healthcare are required by law to make and recover charges where they apply.

DHSC is working with the NHS and the Home Office to identify and ascertain the number of people in this cohort who accessed relevant healthcare after their application was refused. However, where a person is destitute or genuinely without access to funds, a Trust can conclude that it is not cost effective to pursue payment at this time and write it off in their accounts. This does not mean that the debt is waived; it remains on record and can be recovered if the patient's ability to pay changes.

**We are concerned to hear that there have been instances of holders of (pre)-settled status experiencing difficulties travelling between the EU and UK. We ask you to update us on what steps have been taken to prevent these issues from occurring; and what assistance and recourse you have provided to those individuals who, rightly or wrongly, have**

**experienced difficulties entering the UK caused by having a “flag on their passports”. We also urge you to ensure that guidance to border authorities is made as clear as possible.**

The British public expect us to check that everyone entering the UK has the right to do so and all passengers may be asked questions to establish the basis on which they are seeking to enter the UK. Holders of pre-settled status may be stopped for examination in relation to immigration matters and customs checks. If an individual has had a previous refusal under the EUSS, they may be stopped to confirm that they do have valid status and the right to enter the UK. Additionally, if they use an identity document which is not registered to their UKVI account, they may experience delays at the border whilst their status is established or confirmed. In late 2021, an email was sent to all EUSS status holders to remind them about key aspects of the scheme, including the importance of updating their UKVI account with their latest passport or (in the case of EU citizens) national identity card before travelling.

The EUSS application system does not currently link multiple applications from the same person. Therefore, where an individual has made multiple EUSS applications, a Border Force officer is shown all outcomes. This requires the officer to manually review the records displayed to accurately establish the person's status. This is a known issue and there is work in progress to deliver a comprehensive solution. I can assure you that there is already clear guidance for Border Force officers on this issue.

**We ask you to provide us with your assessment of the possible implications of the proposed introduction of the Electronic Travel Authorisation (ETA) system for EU citizens travelling between the UK and the EU, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.**

The UK's Electronic Travel Authorisation (ETA) scheme will apply to all passengers visiting the UK or transiting the UK who do not currently need a visa for short stays or do not have an immigration status prior to travelling, including EU citizens. However, those with an existing UK immigration status, such as pre-settled or settled status, will not be required to obtain an ETA.

The effective operation of our ETA scheme (and our wider universal 'permission to travel' requirement) will require carriers to check and confirm individuals' permission prior to travel which will ensure travel to the UK is not disrupted. Carriers will provide the Home Office with Advance Passenger Information and, in turn, receive confirmation from the Home Office that the individual has permission and may be carried to the UK or does not have permission and may not be carried; or that their permission needs to be checked by the carrier. Passengers with pre-settled or settled status will, like those with ETAs, be shown as having permission to travel to the UK.

### **UK citizens' rights in the EU**

#### ***Residence schemes in EU Member States***

**We ask you to indicate what representations the Government has made to the Commission and counterparts in individual Member States where high refusal rates for applicants to constitutive systems for securing residence rights under the Withdrawal Agreement have been reported, including Sweden and Denmark.**

We are in regular discussions with the Commission and Member States to raise and resolve issues that UK nationals encounter when exercising their rights under the Withdrawal Agreement.

We are aware of high refusal rates in some Member States, including where we had reason to believe that the Withdrawal Agreement may not have been correctly implemented. In the case of Denmark, we have made multiple representations to the Commission and worked closely with Danish counterparts to understand and resolve the issue. As a result of our representations, including by the Minister for Europe in the FCDO, Danish authorities have extended the deadline for UK nationals and their family members to apply for residence until 31 December 2023. We welcome this move by Denmark and will continue to engage with Denmark and the European Commission to ensure the rights of UK nationals are protected.

We have also made representations to the Commission and Swedish counterparts regarding the high rate of refusals.

**In light of the UK High Court judgment regarding the expiry of pre-settled status, we ask you what assessment the Government has made of arrangements for UK citizens to**

**upgrade to permanent residence in EU Member States where this is required, and what support is available to help UK citizens negotiate this process.**

We have raised this issue on several occasions with the European Commission. At the last Specialised Committee, the Commission assured the Government that those UK nationals required to upgrade their status were only required to do so for administrative purposes and that the expiry of their temporary residence does not affect their right to permanent residence.

However, we remain concerned for UK nationals who may in reality not be able to access their rights if they are unable to provide evidence of their status, as demonstrated by a successful second application to the relevant residency scheme. We are looking to work collaboratively with the European Commission on this issue, to ensure we have a clear understanding of how our respective nationals access and demonstrate their permanent residency rights in practice. As part of this, we have made clear to the Commission and Member States that there is insufficient guidance and communication in many Member States to support family members seeking to join UK nationals.

We would also continue to encourage UK nationals in the EU who are eligible to apply for permanent residence to do so as soon as they become eligible.

**Issues with securing appropriate documentation have also been reported by UK nationals in Portugal. Ms Golding characterised the application process there as “late and not-fit-for-purpose”, with problems relating to payment for residence documents and officials incorrectly issuing documents valid for five years instead of ten years. We urge you to raise systemic issues relating to the rights of UK citizens under the Withdrawal Agreement with the European Commission as they arise and ask you to provide us with an update on what recent discussions have taken place with the Commission on these matters, including at the most recent meeting of the Specialised Committee on Citizens’ Rights.**

We take our role in raising all implementation issues with the Commission very seriously and take all opportunities available to hold our counterparts to account and to seek resolution. In the last three years we have raised issues at all 12 meetings of the Specialised Committee, including on family reunification processes, delays to UK nationals receiving residency documents and equal treatment accessing public services such as healthcare.

Where issues remain unresolved, we continue to press the Commission and Member States for updates and resolution. At the last Specialised Committee, amongst other concerns, we raised two critical systemic issues. These were the ability of UK nationals who do not apply for permanent residence to access their rights (as set out above) and the lack of available reasonable grounds guidance on late applications from UK nationals in constitutive Member States.

On this latter issue, we have been unable to identify any Member State which publishes detailed guidance on what constitutes reasonable grounds for making a late application, and nor has this information been shared with us privately. In contrast, in the UK detailed guidance on what constitutes reasonable grounds for making a late application has been published since April 2021. It is essential that UK nationals and their family members have information available to them on this issue. Lack of transparency in this area also makes it difficult for the UK to understand how Member States are approaching this issue, including to assess whether we have concerns, and whether those states are in breach of the WA. We will continue to press the EU on these issues and work with them at the Specialised Committee, in technical discussions and through interim exchanges. As your Committee will be aware, under the WA, the Commission is under an obligation to monitor the compliance of Member States with the WA. There is no direct equivalent of the Independent Monitoring Authority, and this role is undertaken by the Commission.

***Travel***

**We urge you to work with the European Commission and the authorities in EU Member States to ensure that guidance to border authorities is made as clear as possible, and ask you provide an update on any recent discussions.**

We are aware of the difficulties encountered by some UK nationals when returning to their Member State of residence. HMG, including through our network of Embassies and High Commissions across the EU, have lobbied Member State authorities across the EU to fulfil their obligation to update the

relevant annexes of the Schengen Handbook – this should ensure that UK nationals can travel without hindrance and prove their residence status swiftly. Following our discussions with the Commission, guidance was issued last year to Member States which supported our position and stressed the need to maintain these annexes. We have also reminded Member State authorities to ensure border authorities are processing UK nationals correctly and exempting beneficiaries of the Withdrawal Agreement from 14 passport stamping. We continue to monitor the situation and raise any concerns with the Commission and relevant Member States.

**We ask you to provide us with your assessment of the possible implications of the EU's proposed introduction of the Electronic Travel Information and Authorisation System (ETIAS) for UK citizens travelling between the EU and the UK, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.**

We are working closely with the Commission to understand the impacts of the EU's Entry/Exit System (EES) and ETIAS including to minimise its impact on Withdrawal Agreement beneficiaries, having most recently raised this at the Specialised Committee on 25 May. The Commission has reassured us that UK nationals residing in a Member State will not be adversely impacted and will be able to travel as before. We will continue to engage while the system is introduced and will test whether clear information is provided by Member States to border guards regarding Withdrawal Agreement beneficiaries.

**Support for UK citizens.**

**We ask you to provide us with an update on the resources available to UK embassies in EU Member States to support UK citizens facing citizens' rights issues and for clarification on any changes to the funding allocated to support citizens' rights officers. We urge you to ensure that sufficient resources are in place to provide consular support to the substantial number of UK citizens that continue to face challenges associated with exercising their rights under the Withdrawal Agreement.**

The funds the UK provided helped 516,000 individuals access the implementing partner's services and 23,977 UK nationals received individual support from a caseworker to help them secure their residency (in the context of an estimated one million UK nationals resident in the EU). The UK Nationals Support Fund closed at the end of 2021-22.

**We ask you to explain the rationale for reducing substantially the Government funding available to support UK citizens resident in the EU on citizens' rights issues, including by closing the UK Nationals Support Fund, at a time when there has been a rise in the number of complex cases.**

**We ask you to provide us with an indication of what Government funding, if any, is currently available to non-governmental bodies that support UK nationals in EU Member States on citizens' rights issues, whether the Government considers this to be sufficient and whether there are any plans to offer any additional funding.**

I will address the three questions above together. Citizens' rights continue to be a priority for the Government, and we are focused on ensuring we have the right IS support to deliver for UK nationals around the EU as well as EU nationals in the UK. On the former there is a dedicated team in London who monitor implementation of the citizens' rights elements of the Withdrawal Agreement across the Member States, oversee engagement with those States and provide guidance where individual issues arise. They work closely with the bilateral desks and other relevant government departments (e.g., DWP) in London as well as with our Embassies and High Commissions across the EU. It is the case that, as planned, with residency deadlines having passed in all but one constitutive Member State (Denmark), some of the temporary provision set up to support registration processes has been downsized or come to the end of the programme (including for example the UK Nationals Support Fund the Committee mentions, which allocated up to £4 million in funding to organisations supporting UK nationals who needed additional assistance applying for residence). That does not mean, however, that the resources are not in place. A range of teams, including the Justice and Home Affairs Network of attaches, continue to address issues affecting UK nationals in Member States and, of course, UK nationals living in the EU have recourse to Consular services in the same way as other UK nationals and have access to support 24/7.

Thank you once again for taking the time to write to me, and I apologise for the delay and back-and-forth on this item of correspondence.

2 August 2023

**Letter from the Chair to Rt Hon Suella Baverman MP, Secretary of State for the Home Department, Home Office**

Thank you for your letter, which we received on 2 August 2023, in response to our letter dated 25 May 2023 regarding the rights of EU citizens in the UK and UK citizens in the EU under the Withdrawal Agreement.

We appreciate your detailed responses to our questions. These have helped to provide the Committee with additional clarification on many of the issues that we raised and contributed to informing the useful debate in the House of Lords on the Committee's report on Citizens' rights that took place on 11 September 2023. We thank the Parliamentary Under Secretary of State for Migration and Borders for his response to the debate.

Nevertheless, we do have some further questions arising from aspects of the response to our letter. We are also disappointed, especially given the delay in responding to us, that you did not address the changes to the EU Settlement Scheme that were announced on 17 July 2023, which are highly relevant to several of the issues that we raised in our letter.

**EU citizens' rights in the UK**

We note your statement that there has been an "increase in speculative and abusive applications" to the EU Settlement Scheme (EUSS) as the passage of time since the original deadline has become longer. We ask you to provide us with some more detailed evidence that the increased refusal rate for EUSS applications is a result of "speculative" and "abusive" applications rather than a product of the more complex nature of many of the cases that are now being processed, compared to the initial phase of the scheme.

You say in your letter that the Government "will take whatever steps are necessary" to protect the integrity of the scheme. The letter does not refer to the measures announced on 17 July 2023 that introduce new restrictions on applications to the EU Settlement Scheme (EUSS). Specifically, the Government announced changes to the way that late applications are considered; that "illegal" entrants to the UK would be prevented from making an application to the EUSS as joining family members; and the closure of the EUSS to new applications from family members of qualifying British citizens on their return to the UK having exercised free movement rights in the EEA or Switzerland ('Surinder Singh' cases) and primary carers of British citizens ('Zambrano' cases). In reply to this letter, we ask you to explain your detailed rationale for these changes. We also ask you to provide the Committee with an indication of what impact the Government expects these changes to have on the overall number of successful applications of the EUSS, to set out the Government's assessment of how these changes are consistent with the Withdrawal Agreement and to indicate how the Government has communicated these changes to EU citizens. We would be grateful for your confirmation that in no respect do the new arrangements announced on 17 July, insofar as they apply to the handling of late applications, amount to unilateral or subjective rulings on such late applications as the High Court considered to be incompatible with the terms of the Withdrawal Agreement. Finally, we ask you to confirm that these changes do not amount to any change in the definition of what constitutes 'reasonable grounds' for a late application.

We acknowledge the information that you provided about the Government's plans for implementation of the High Court judgment of December 2022 that the design of the EUSS was unlawful with regard to the Government's approach to those granted pre-settled status. However, the letter does not refer to the announcement made on 17 July 2023 that, from September 2023, individuals with pre-settled status will automatically have this extended by two years before it expires if they have not obtained settled status and that the Home Office will take steps to convert eligible holders of pre-settled status to settled status without the need for a further application. We are pleased that greater clarity has now been provided about the Government's plans for implementation of the December 2022 judgment. Nevertheless, we note that the Independent Monitoring Authority, in its response to the announcement, raised concerns that the Home Office had "not shared the necessary detail for the IMA

to be satisfied about how the terms of the judgment will be implemented” and, in particular, about “how automatic acquisition of the right of permanent residence would be reflected once conditions have been met and how citizens will be able to prove that right”. We therefore ask you to clarify how the automatic conversion of pre-settled status to settled status will operate in practice, how citizens will be able to prove their settled status and how these arrangements will be communicated to affected citizens. We also ask whether the proposed approach to implementing the judgment was discussed with the European Commission prior to being announced, and whether any representations have been received from the Commission in relation to this matter since the announcement.

In his response to the debate on 11 September 2023 the Minister said that the High Court judgment meant that a settled status holder “acquires a right of permanent residence under the withdrawal agreement automatically, once the conditions for it are met”. However, he also indicated that the “automatic conversion of pre-settled to settled status is not a requirement of the judgment”. These two statements may be interpreted as being inconsistent with one another. We ask you to provide clarification on this in your reply.

We note that the Government will continue to encourage those who have already successfully applied for pre-settled settled status to “apply for settled status as soon as they are eligible to do so” (emphasis added). In your letter you assert that this is “entirely consistent with the High Court judgment”. You will recall that in paragraph 177 of his decision, Mr Justice Lane stated that the Withdrawal Agreement’s provisions “require a person to make one, and only one application for a new residence status”. In rejecting the Government’s argument that individuals could be required to make subsequent applications by national law, the Court said: “It is, however ... inconceivable that the WA would not have expressly covered such an obviously important matter. There is no basis for construing the WA so as to infer a requirement to make a second application for residence status conferring different ‘rights under this Title’, according to some procedure that is left wholly to the State concerned” (paragraph 178). With these factors in mind, we ask you to set out in more detail why you are continuing to encourage (further) applications for settled status by individuals who have already applied for and received pre-settled status, and how you consider that this is consistent with the High Court’s judgment.

We welcome your confirmation that grant funding for organisations that support EU citizens in the UK will continue in this financial year and the next. As we indicated in our previous letter, the process of upgrading from pre-settled to settled status as well as the growing number of complex applications will mean that there will continue to be a large number of EU citizens that will need support with EUSS applications over the coming years. We would appreciate further detail about how the amount of grant funding to be offered this financial year and the next compares to the previous round of grant funding, including in the 2021-22 financial year, when the original deadlines for applications to the scheme were reached.

We remain concerned by the scale of the backlog in the processing of EUSS applications and the implications that this may have for applicants. We acknowledge that some pending applications will have been made recently and may not yet be overdue a decision. However, the evidence that we received suggested that a large number of cases have been pending for an extended period of time. We therefore ask you to provide us with up-to-date information on how many cases have been awaiting a decision for longer than six months, how many cases have been awaiting a decision for longer than one year and how many cases have been awaiting a decision for longer than two years. Analysis by the3million has indicated that, at the current rate of processing, the current backlog will take three years to clear. Does the Government agree with this projection?

On 6 June 2023, after we had sent our letter to you, the Independent Monitoring Authority published a report that found that in some cases certificates of application under the EUSS were not being issued immediately, as required under the Withdrawal Agreement. These delays can have serious implications for eligibility for benefits and public services. We ask you to comment on this finding and to indicate whether additional steps have been or will be taken to ensure that in future all certificates of application are issued without delay. We note that the IMA has called for a service standard of five days for the issuing of such certificates but that the Government has not so far accepted this recommendation. We ask you to explain this stance.

We note your responses to our questions about the ability of EUSS applicants to access benefits and to apply for official documents. We ask what steps have been taken in response to the problems reported by organisations representing EU citizens, including some of our witnesses, to ensure that



applicants to the EUSS face no difficulties when accessing benefits and applying for national insurance numbers. We also ask you to clarify whether EUSS applicants can be issued with national insurance numbers, or only apply for these, while their applications are under consideration.

With regard to the issuing of EHIC cards, we note that EUSS applicants are able to access a Provisional Replacement Certificate. However, we are concerned that it may be more difficult to immediately prove entitlement to healthcare in the event of an emergency while travelling outside the UK for individuals that are not carrying an EHIC card or equivalent, and that this may lead to additional anxiety when travelling. We therefore ask for further clarification on why the Department of Health and Social Care is not able to provide a document proving entitlement to EUSS applicants in advance of travel, and for you to expand on what “further steps” are being considered by the Department in relation to this issue. We also ask you to elaborate on the Government’s rationale for considering that the equal treatment provisions of the Withdrawal Agreement do not apply to the issuing of driving licences.

We acknowledge the detailed explanation that you have provided of the Government’s justification for operating a digital-only system for proof of status. However, we regret that the Government remains unwilling to offer a physical document on request, even for those users that you recognise may face particular challenges with accessing their digital proof of status. We are also concerned that technical issues with the system continue to be reported by users. It would improve our understanding of the scale of challenges associated with accessing digital proof of status if you could provide us with an indication of the number of calls received by the Resolution Centre that relate to the digital-only system in reply to this letter.

The additional information that you have provided about the exercise relating to the status in the EUSS database of individuals who received a refusal decision between 27 June 2021 and 19 April 2022 is useful. We ask that in reply to this letter you indicate when the Government became aware that refusal decisions were not being reflected in applicants’ digital status while administrative reviews or appeals were pending. If, as you suggest, this was not the result of an “error”, why was more not done to prevent individuals from receiving benefits and services for which they were not eligible before January 2023? We also note that you say that users should have relied on e-mail or postal notifications of EUSS decisions when accessing benefits or healthcare, rather than their digital status. This may be viewed as inconsistent with your emphasis, elsewhere in your response, on the benefits of relying on a digital-only system for proof of status. We remain of the view that it would have been preferable to waive all repayments for benefits and retrospective payments for healthcare resulting from this exercise, given that limitations associated with the Government’s EUSS database contributed to these individuals wrongly claiming benefits or accessing public services. The Secretary of State has a power to exercise discretion to waive benefit debts where appropriate and we therefore ask for a fuller explanation of why this has not been used in respect of Universal Credit for individuals within the scope of the exercise.

We note your responses to our questions regarding travel between the EU and the UK for holders of (pre-)settled status. We are concerned by the acknowledgement in your response that holders of (pre-)settled status who have previously had a refused application may face additional checks and delays at the border compared to those who have no previous refusal. We welcome the work in progress to address this issue and ask you to update us on when the “comprehensive solution” that you refer to will be implemented. We also ask for more detail on what steps, if any, are being taken to address the difficulties that some holders of (pre-)settled status and dual nationals have reported when using ID cards to travel to the UK.

We welcome your confirmation that holders of (pre-)settled status will not require an Electronic Travel Authorisation (ETA) to enter the UK when the new system is introduced. We heard evidence that suggested that the interactive Advanced Passenger Info (iAPI) system for checking and confirming EU citizens’ permission to travel may not be ready when ETA rollout begins. We therefore ask you to confirm that systems will be in place that will ensure that EU citizens face no additional checks or disruption to travel when the ETA rollout begins.

### ***UK citizens’ rights in the EU***

We note your responses to our questions regarding challenges faced by UK citizens residing in EU Member States and welcome the information that you have provided about the representations that the Government has made to the Commission and Member States in relation to these matters. We urge the Government to continue to raise issues with the Commission as they arise, in particular on the most pressing challenges faced by UK citizens living in the European Union, including those relating

to processes for upgrading to permanent residence. In response to this letter, we ask you to update us on what progress has been made since the last meeting of the Specialised Committee on Citizens' Rights and what preparations have been made for the next meeting.

We welcome the information that the Government is working closely with the Commission to understand the impact of the EU's Entry/Exit System (EES) and Electronic Travel Information and Authorisation System (ETIAS) for UK nationals, including to minimise its impact on Withdrawal Agreement beneficiaries. The Committee remains interested in this question and will continue to closely monitor all relevant policy implications. We request an update on the impact assessment referred to in your letter once it has been concluded.

We remain of the view that there is insufficient assistance available to UK citizens in the EU on citizens' rights issues, many of whom continue to face uncertainty about their status and access to services. We acknowledge that residency deadlines have now passed in all but one EU Member State but, as with the EU Settlement Scheme in the UK, the evidence that we heard suggested that there has been a rise in the number of complex cases and that there is an ongoing need for support. It was clear from the evidence we received that groups representing UK citizens residing in EU Member States do not feel that they currently receive enough support from the Government. We are therefore disappointed that the Government does not currently plan to offer additional support, or to reopen the UK Nationals Support Fund. We reiterate our view that the Government should reconsider its policy of scaling back dedicated support for UK citizens on citizens' rights issues and that additional resources should be allocated to UK embassies to provide support to UK citizens residing in the EU. Your reply referred to the "Justice and Home Affairs Network of attaches" as a resource that is currently available to UK citizens in the EU. We ask you to provide us with more details of this network, including how many embassies in EU Member States have a dedicated attaché. We look forward to receiving your response within the normal 10-working day deadline.

20 September 2023

#### **Letter to the Chair from Rt Hon Suella Braverman MP, Secretary of State for the Home Department, Home Office**

Thank you for your letter of 20 September regarding the rights of EU citizens in the UK and UK citizens in the EU under the Withdrawal Agreement. I would first like to congratulate you on your new position as Chair of the Committee, which I am sure will continue to flourish under your leadership.

As you note, the House of Lords had a useful debate on citizens' rights on 11 September. Many of the questions in your most recent letter were addressed by Lord Murray of Blidworth in responding to the debate or in his follow-up letter of 18 October to The Earl of Kinnoull. Your questions are addressed below on each of the issues you have asked me to consider. I have summarised your questions in some places for brevity. Relevant government departments have provided responses to your questions where these did not relate to Home Office business.

#### ***What are the reasons for asserting the increased refusal rate for EUSS applications is due to speculative or abusive applications as opposed to more complex cases?***

This assessment is supported by refusal rates for EU Settlement Scheme (EUSS) applications, operational insight into applications as seen by caseworkers and reduced demand for the services provided specifically to support vulnerable applicants. As set out by Lord Murray during the debate on 11 September, the EUSS has continued to receive a high number of applications, with an average of approximately 56,000 applications, including approximately 18,000 late applications, made each month in the first two quarters of this year alone. Late applications have accounted for 38% of the 1.3 million applications received since the 30 June 2021 application deadline, with a refusal rate of 47% in the published data to 30 June 2023. This reflects the increasing volumes of spurious applications being made to the scheme. Operational insight from caseworkers indicates increased volumes of applications, including repeat applications, where no supporting evidence, or fraudulent evidence, has been provided.

Using insight gathered for the purposes of managing the Home Office grant funding – now £32 million to 31 March 2025 – to the network of organisations across the UK which has helped more than 500,000 vulnerable people apply to the EUSS, we have also seen demand for those support services reduce by

more than 60% from 2021-2022 to 2022-2023, suggesting that the number of complex cases on the basis of vulnerability has fallen.

***What was the rationale for the recent changes to the EUSS, what impact does the Government expect on overall numbers of successful applications, how are the changes consistent with the Withdrawal Agreement and how have these changes been communicated to EU citizens?***

The rationale for the recent changes to the EUSS was set out by Lord Murray in responding to the debate on 11 September. More than two years on from the 30 June 2021 application deadline for those residents in the UK by the end of the transition period on 31 December 2020, the changes have been introduced to tackle spurious applications, prevent abuse of the right to reside in the UK and, in the interests of fairness, align some areas with the wider immigration system.

The impact of the reforms on overall numbers of successful applications to the EUSS will partly depend on future application volumes. However, the reforms are mainly expected to impact on late applications, and a majority of concluded late applications were already receiving an outcome other than a grant of status (58% to 30 June 2023) before the implementation of the change to considering 'reasonable grounds' for applying late as a requirement for the application to be valid (for applications made from 9 August 2023). Data in the quarterly statistics indicate that a majority of grants of status since December 2022 have been to individuals moving from pre-settled to settled status, and the reforms will not impact on these cases.

Article 18(1)(d) of the Withdrawal Agreement requires the UK and EU Member States to continue to consider late applications where there are 'reasonable grounds' for the failure to respect the relevant deadline, and the recent changes we have made align with similar approaches being applied to UK nationals in EU Member States with constitutive systems.

With regard to the new requirement preventing an illegal entrant from making a valid application to the EUSS as a joining family member, Article 14(3) of the Withdrawal Agreement permits states to require such family members to obtain an entry visa. The EUSS family permit available under Appendix EU (Family Permit) enables joining family members to obtain such a visa where the UK is concerned. As such, we consider that expecting such family members to have entered the UK legally is compatible with the Withdrawal Agreement.

The other changes made (the closure on 8 August 2023 to new applicants of the two transitional routes for family members of British citizens and the removal of administrative review for EUSS decisions made from 5 October 2023) relate to aspects of UK implementation that were more generous than required under the Withdrawal Agreement, and where the question of consistency concerns fairness as compared with applicants in other immigration routes.

These changes have been communicated to EU citizens through a press release which was issued extensively to both the international and domestic press, along with an accompanying updated media factsheet and news posting on GOV.UK. A press briefing was held after the Immigration Rules changes in July 2023 had been laid, to which the international press was invited. An email update was also issued to all EUSS stakeholders, with updates also provided at routine EUSS stakeholder forums as well as wider Future Border and Immigration System engagement events. Additionally, a mass email exercise is underway to inform all EUSS status holders of the changes concerning pre-settled status extension and automation plans for 2024.

***Please confirm that the new arrangements for late applications are compatible with the High Court judgment and that they do not amount to any change in the definition of what constitutes 'reasonable grounds' for a late application.***

The High Court judgment of 21 December 2022 in the judicial review brought by the Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) did not consider the issue of late applications to the EUSS from those who do not hold status under the scheme, and so there is no question of inconsistency with the judgment. For those who already hold pre-settled status, we have changed the Immigration Rules for the EUSS in Appendix EU so that there is no deadline for them to make a further application for settled status, although we will continue to encourage them to do so as soon as they are eligible.

The Withdrawal Agreement does not provide a definition of what constitutes 'reasonable grounds' for the making of a late application. The UK's consideration of them has been set out in published guidance

since 2021 and was updated on 9 August 2023 to reflect the recent changes to the process for considering late applications.

***Please clarify how the automatic conversion of pre-settled status to settled status will operate in practice, how citizens will be able to prove their settled status and how these arrangements will be communicated to affected citizens.***

***How is the statement that “automatic conversion of pre-settled to settled status is not a requirement of the judgment” consistent with the findings of that judgment?***

***How is the Government’s continued encouragement of applications for settled status consistent with the High Court judgment?***

The High Court judgment concluded that an EUSS pre-settled status holder acquires the right of permanent residence under the Withdrawal Agreement automatically once the conditions for it are met. To be clear, only a Withdrawal Agreement right of permanent residence can be accrued automatically by such a person, not settled status, which must be applied for and granted under the EUSS. The judgment does not oblige the Government to do more than ensure that relevant Withdrawal Agreement beneficiaries can benefit from the rights that come with a right of permanent residence. Therefore, the planned automated conversion of pre-settled to settled status in relevant cases is not a requirement of the judgment, just as EU Member States are not required automatically to issue permanent residency cards to UK nationals.

However, it is our aim to align people’s EUSS status with their underlying Withdrawal Agreement rights where possible and moving eligible people from pre-settled to settled status as soon as possible is key to achieving that, as settled status remains the best way for an individual to evidence their right to remain in the UK indefinitely. We therefore intend to take steps to automatically convert as many eligible pre-settled status holders as possible to settled status without them needing to make a further application. To do this, we plan to undertake automated checks of pre-settled status holders against government-held information – for example, in respect of their ongoing continuous residence in the UK. We are aiming to have this automated process in place during 2024.

Beyond this, we are working to ensure that an individual can rely on their Withdrawal Agreement right of permanent residence and, where relevant, the date of acquisition of that right. To achieve this, we are updating relevant customer and caseworker guidance to reflect the judgment. We are also considering what domestic legislation needs to be amended to reflect the judgment. We will update Parliament with further detail on this work in due course.

Our main concern throughout our planning has been to implement the judgment in such a way that it continues to be easy for citizens, government departments and third parties to evidence or check rights are in place. It is therefore crucial that the highly innovative work needed to give effect to automation is technically accurate and accompanied by the relevant safeguards, and this will necessarily take some time.

In the meantime, we will continue to encourage pre-settled status holders to apply to switch to settled status free of charge as soon as they are eligible to do so. This will include continuing to send pre-settled status holders whose status is approaching its original expiry date an email encouraging them to apply for settled status where they are eligible to do so and highlighting the benefits of doing so.

This is entirely compatible with the judgment, which is explicit that we can continue to encourage individuals to apply for settled status (indefinite leave to remain granted under Appendix EU). This is clearly set out in paragraph 181 of Mr Justice Lane’s judgment<sup>13</sup> which states:

‘Insofar as the individual concerned may wish to rely upon the right of permanent residence as such (for example, because they are no longer a worker), they may apply to the defendant for indefinite leave to remain. Indeed, I can see no reason why the defendant should not continue to encourage those who have been granted pre-settled status to apply for indefinite leave to remain.’

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<sup>13</sup> [The Independent Monitoring Authority for the Citizens' Rights Agreements. R. \(On the Application Of\) v Secretary of State for the Home Department \(2022\) EWHC 3274 \(Admin\) \(21 December 2022\) \(bailii.org\)](#)

***Was the proposed approach to implementing the judgment discussed with the European Commission prior to announcement, and have any representations been received from the Commission on this matter since the announcement?***

In the spirit of co-operation, the UK Government regularly engages with the European Commission on citizens' rights issues, including on our plans to implement the judgment. We are also working with the European Commission to understand how EU Member States' implementation of the Withdrawal Agreement is compatible with the judgment.

***How does the amount of grant funding for this financial year compared to previous funding rounds, including for the 2021-2022 financial year?***

As set out in my letter of 2 August, in addition to the wider support available to applicants (such as the Resolution Centre), a total of £32 million of grant funding has now been committed, through to 31 March 2025, to support vulnerable people – more than 500,000 so far – in applying to the EUSS.

£8 million of that grant funding was made available in the 2021-22 financial year. A tapered reduction of 50% per financial year has been applied to the available grant funding in response to changing customer demand, with £4 million provided in 2022-23, £2 million in 2023-24 and £1 million for 2024-25.

***We ask you to provide up to date information on the length of time that EUSS cases have been pending, and do you agree with the projection of the 3million that the current backlog will take three years to clear?***

In the published statistics to 30 June 2023, we had concluded 7,246,400 EUSS applications – or 98% – of the 7,400,720 received.

In an analysis of data to 30 June 2023 extracted on 5 September 2023 (which is subject to continuous change given the live casework environment), there were 153,842 pending EUSS applications. Of these, 64% had been waiting 90 days or less, with a total of 73% waiting 180 days or less. 8% had been waiting 181-365 days, 7% had been waiting 366-730 days and 12% had been waiting for 731 days or more. The Home Office will make this analysis available in the next published statistics, which will include the notes and caveats which accompany the data.

We are not aware of the analysis behind the 3million's assertion and are therefore unable to comment on it. However, we note that pending EUSS applications are not a fixed cohort, and we continue to receive many thousands of applications each month (as reflected in the data above). EUSS applications are resolved as soon as possible, and the majority of pending applications are less than three months old. Where applications have been waiting for longer periods, this is usually due to suitability concerns, such as pending prosecutions.

***Why has the Government not accepted the IMA's recommendation for a service standard of five days for issuing Certificates of Application?***

We welcome the IMA's report of its inquiry into the issuing of Certificates of Application (CoAs), which confirm the making of a valid EUSS application. We have given full consideration to its recommendations, which focused on two historical periods: June 2021 (when there were unique demands on the EUSS ahead of the 30 June 2021 application deadline) and June 2022. As the report acknowledged, CoAs are generally issued quickly, via the online application process for the EUSS.

In addition, as you are aware, we have recently made important changes to the EUSS, consistent with the Withdrawal Agreement, to maintain the integrity and effective operation of the scheme. Those include making the need to demonstrate 'reasonable grounds' for the delay in applying a requirement for a valid late application. As this change was announced in July 2023, it was not considered as part of the IMA inquiry, but it is necessarily part of the context in which we considered the IMA's recommendations. We will continue to monitor closely our performance in validating EUSS applications and issuing CoAs.

***We ask what steps have been taken to ensure that EUSS applicants face no difficulties when accessing benefits and applying for national insurance numbers. We also ask you to clarify whether EUSS applicants can be issued with national insurance numbers, or only apply for these, while their applications are under consideration.***

Where issues have been identified by organisations representing EU citizens or by individuals interacting directly with it, the Department for Work and Pensions (DWP) always seeks to review its processes and ensure that EUSS applicants and status holders face no barriers in accessing the benefits they are entitled to, or in applying for and receiving National Insurance numbers where eligible.

As stated in my letter of 2 August, when claiming income-based benefits, including Universal Credit and Child Benefit, individuals with a pending application to the EUSS or those with pre-settled status are required to evidence that they are exercising a qualifying right to reside – in line with the EU Free Movement Directive – as well as meeting the other eligibility requirements specific to the benefit they have applied for. To confirm, those in scope of the Withdrawal Agreement with a valid pending EUSS application can be issued with a National Insurance number.

***Please provide further clarification on why the Department of Health and Social Care is not able to provide a document proving entitlement to EUSS applicants in advance of travel, and for you to expand on what “further steps” are being considered by the Department in relation to this issue.***

As European Health Insurance Cards (EHICs) are usually issued for five years, adopting a policy of issuing a card to all EUSS applicants would mean that people whose EUSS application was rejected or refused would continue to have an EHIC entitlement document for years after their eligibility had ended. The Department for Health and Social Care (DHSC) has a responsibility to minimise the risk of fraud and ensure that taxpayers' money is appropriately spent and therefore considers that issuing EHICs to all EUSS applicants would be disproportionate.

Neither the DHSC nor the NHS Business Services Authority (NHSBSA), which administers the scheme, is aware that this approach has created difficulties for persons seeking healthcare when abroad. The DHSC has considered the possibility of issuing cards valid for a shorter period to people with a pending EUSS application. However, creating a new process would involve a costly administrative burden which would not be appropriate, given that the main deadline for EUSS applications passed more than two years ago and the current high rate of refusals of late applications under the scheme.

Nonetheless, the DHSC recognises that this approach may create some inconvenience for some individuals while their EUSS application is being considered, particularly those with pre-existing medical conditions requiring pre-authorised treatment, and it has put in place additional measures to mitigate this. The new online application process for the Provisional Replacement Certificate (PRC), which was introduced in March this year, provides an easy way to apply for necessary healthcare coverage and more than two-thirds of customers are now using this process to get a PRC.

The PRC application system is designed to provide entitlement documents for people in emergency situations, so it is suited to responding in these types of situations. Individuals who require pre-authorised treatment, such as kidney dialysis or oxygen therapy, can apply to the NHSBSA for a PRC before travelling, which allows them to organise and receive treatment during their visit. The DHSC and the NHSBSA are planning on further communications for this group to improve awareness of this arrangement.

***Please elaborate on the Government's rationale for considering that the equal treatment provisions of the Withdrawal Agreement do not apply to the issuing of driving licences.***

The equal treatment provisions in the Withdrawal Agreement only apply to matters which are within the scope of Part Two. We do not consider that driving licences fall under this Part and nor has our attention been drawn to any provision of it which indicates the contrary.

***Please provide an indication of the number of calls received by the Resolution Centre that relate to the digital-only system.***

We do not publish data on the detailed reasons behind customers contacting the Resolution Centre. Home Office transparency data shows that, for the first six months of 2023, on average 71% of users for 'View and Prove' status checks were satisfied with the service overall.<sup>14</sup>

***When did the Government become aware that refusal decisions were not being reflected in applicants' digital status while administrative reviews or appeals were pending and why was***

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<sup>14</sup> [Migration transparency data - GOV.UK \(www.gov.uk\)](https://www.gov.uk/migration-transparency-data)

***more not done to prevent individuals from receiving benefits and services for which they were not eligible?***

As Lord Murray set out in responding to the debate on 11 September, the decision to maintain a Certificate of Application on these accounts, rather than show a refusal decision, was not due to an error, but was to maintain the temporary protection of the rights of those individuals during any administrative review or appeal. This is because before 19 April 2022 the digital status system did not have the capability to reflect that an individual had a pending administrative review or appeal.

At the time the decision to pause uploading refusal decisions was made, the position of the UK was that late applications did not attract the temporary protection of rights under Article 18(3) of the Withdrawal Agreement. Therefore, the volume of individuals impacted by the decision was expected to be relatively small and finite.

While the numbers affected subsequently grew, following the UK's decision to extend temporary protection to those applying after the 30 June 2021 deadline, we maintain that it was better to ensure that an individual could access their rights while an administrative review or appeal was ongoing, rather than deny those people access to their rights should they challenge their EUSS decision.

***The Secretary of State has a power to exercise discretion to waive benefit debts where appropriate and we therefore ask for a fuller explanation of why this has not been used in respect of Universal Credit for individuals within the scope of the exercise.***

The query regarding the discretion of the Secretary of State for Work and Pensions to waive benefit debts for this cohort was addressed by Lord Murray in the debate on 11 September. To re-iterate, DWP has the legislative power to recover overpayments of Universal Credit under section 71ZB of the Social Security Administration Act 1992, regardless of how the overpayment was caused, and the Secretary of State for Work and Pensions has a duty to protect public funds and will seek to recover debt in all circumstances where it is reasonable to do so.

The DWP has set out its policy on the recovery of overpayments in its Benefit Overpayment Recovery Guide which is available on GOV.UK. Where an individual considers that recovery is not appropriate given their circumstances, they should contact the DWP. Individuals can request a waiver for a variety of reasons, such as where recovery would have a significant impact on their health. The priority for the DWP is to negotiate affordable and sustainable repayment plans that do not cause undue financial hardship.

The DWP is committed to working with anyone who is struggling with their repayment terms and encourages anyone who is struggling to contact them. There are processes in place to support vulnerable individuals, to signpost them to alternative support available and to flag concerns to agencies with statutory safeguarding responsibilities. The DWP is also committed to 'Breathing Space' which supports debtors with problem debt and allows individuals time to seek accredited debt advice and identify an appropriate debt solution.

***We welcome the work in progress to address this issue [prior refusals cases stopped at border] and ask you to update us on when the "comprehensive solution" that you refer to will be implemented.***

This work (to link separate applications and identities) is currently in its pilot stage, which will continue through the rest of this year. The date of implementation will depend on a number of factors, including any technical issues which are identified during the pilot.

***We ask for more detail on what steps, if any, are being taken to address the difficulties that some holders of (pre-)settled status and dual nationals have reported when using ID cards to travel to the UK.***

We are aware that some carriers are choosing to make additional status checks on non-visa nationals' travel documents for their own purposes (e.g., to avoid potential removal costs if an EU citizen travels to the UK using a national identity card instead of a passport when they are not entitled to do so).

Home Office officials recently presented to a number of carriers and other interested parties at a roundtable organised by the EU Delegation on the subject of carriers' liability and checks on EUSS status

now and in the future. This covered reported issues relating to the use of national identity cards and provided a useful opportunity for all sides to gain a better understanding of their respective positions.

In addition, we have issued carriers with guidance on how to use 'View and Prove' to confirm whether a person is covered by the EUSS and, for example, is entitled to continue to use a national identity card in travelling to the UK. This interim measure will continue to be an option for carriers until they receive confirmation that the individual has the appropriate permission to travel to the UK.

***We ask you to confirm that systems will be in place that will ensure that EU citizens face no additional checks or disruption to travel when the ETA rollout begins.***

This was addressed in Lord Murray's letter of 18 October and the information is repeated below for ease of reference.

Advance Passenger Information (API) systems already exist and are used today. However, once the Universal Permission to Travel (UPT) requirement is fully in place, including the Electronic Travel Authorisation (ETA) scheme, we will require carriers to check that all passengers have a valid permission before travel to the UK, using API. Carriers will provide API and, in turn, receive confirmation from the Home Office in respect of each individual that they have permission and may be carried to the UK; that they do not have permission and may not be carried to the UK; or that their permission needs to be determined by the carrier.

The ETA scheme and wider UPT requirement will not be enforced until the ETA scheme has been fully rolled out to all non-visa nationals by the end of 2024. It will be initially introduced to Qatari nationals from 25 October 2023, followed by nationals of Saudi Arabia, Bahrain, Kuwait, Oman, United Arab Emirates and Jordan from 1 February 2024. The scheme will then be rolled out in a phased manner to all other non-visa nationalities, including EU nationals, by the end of 2024.

As we have been clear, those with an existing UK immigration status, such as pre-settled or settled status under the EUSS, will not be required to obtain an ETA. Visa nationals, who are required to provide evidence that they have obtained the appropriate permission in advance of travel, currently do so by using physical documents, such as a vignette or biometric residence permit. The decommissioning of these physical documents for those who need to prove to carriers that they have a permission will not begin until carriers are able to receive the new UPT responses via the existing API systems.

The introduction of the ETA scheme will support our ambition to expand the use of automation in passenger clearance in the longer term. Our intention is to significantly increase the use of automation, so that the majority of arrivals at main UK ports will pass through some form of contactless corridor or automated gate for identity and security checks, with only those who need to see a Border Force Officer being directed to our staffed controls.

***We ask you to update us on what progress has been made since the last meeting of the Specialised Committee on Citizens' Rights and what preparations have been made for the next meeting.***

Since the last meeting of the Specialised Committee on Citizens' Rights (SCCR) on 25 May 2023, we have continued our regular engagement with the EU and Member States on a range of issues to ensure they understand and address our concerns. This includes making clear to the European Commission and Member States our concerns about the general lack of sufficient guidance and communication on both family reunification and reasonable grounds for UK nationals submitting late applications in constitutive Member States.

A further meeting of the SCCR is planned before the end of the year. We prepare for every meeting of the SCCR through the insight we gain from our regular contact with groups representing UK nationals in the EU, bilateral discussions with Member States and engagement with the European Commission. This helps us to identify concerns to be addressed that we can usefully raise in that forum.

***We ask you to provide us with more details of the Justice and Home Affairs network, including how many embassies in EU Member States have a dedicated attaché.***

The Justice and Home Affairs Network of Attachés comprises staff employed in our diplomatic and development offices worldwide, who represent the UK and help promote UK interests abroad.

26 October 2023



## PROPOSALS FOR EU CUSTOMS REFORM

### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

The European Affairs Committee has noted the European Commission's Proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code and the European Union Customs Authority, published on 17 May 2023.

If implemented, the proposal could substantially impact bilateral trade between the United Kingdom and the European Union. We are therefore keen to hear the Government's assessment of the proposal and what steps, if any, it is taking (or planning to take) in response.

We remain interested in this matter and look forward to receiving your response within the standard 10-day deadline.

*15 June 2023*

### **Letter to the Chair from Victoria Atkins MP, Financial Secretary to the Treasury, HM Treasury**

Thank you for your letter of 15 June to the Minister for Europe on the proposal for EU customs reform. Your letter has been passed to the Treasury and I am replying as Minister responsible for customs policy.

The Government is aware of the EU's proposed reforms to the Union Customs Code (UCC) that were published on the 17 May 2023. Indeed, the package of reform proposals (EU Commission documents COM (23)258, 259 and 262) have been deposited for examination by the committee and an explanatory memorandum will be provided in due course. Many of the proposed reforms look to address challenges common to all customs administrations, including the UK, in trying to streamline processes for traders and modernise borders. The Government is already taking steps towards modernising and streamlining the UK customs system with our announcement of a series of simplification measures earlier this year at Spring Budget.

The Government has been monitoring the proposed reforms and has been engaging with the European Commission to understand their plans. This includes through dialogues as part of the UK/EU annual Trade Specialised Committee on Customs and Rules of Origin, on the European Commission's interim evaluation of the UCC and Wise Persons Group report last year. Relevant officials across Government are assessing the latest propositions in more detail and there will be an ongoing process to consider the impact to UK-EU trade. As this assessment develops, the UK's Mission to the EU will seek to influence the reforms where appropriate.

I note that the reforms are only in draft form and that there is a long timeframe in place for implementation, stretching out to 2038 for some aspects of the proposal. It is therefore the case that what emerges as the final set of reforms may be significantly different from the European Commission's initial proposals, once the EU's legislative process is completed.

Thank you for your engagement on this. I would add that my officials will update you on the agenda for this year's Trade Specialised Committee in due course.

*28 June 2023*

## **FURTHER DETAILS OF THE PRIME MINISTER'S ATTENDANCE AT THE EUROPEAN POLITICAL COMMUNITY SUMMIT IN CHISINAU, MOLDOVA ON 1 JUNE 2023**

### **Letter to the Chair from Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs**

I am writing to you with further details of the Prime Minister's attendance at the European Political Community Summit in Chisinau, Moldova on 1 June 2023, as I committed to in my previous letter of 24 February to Lord Kinnoull.

The summit brought together 49 European leaders from across Europe for the second time to discuss common challenges, including strengthening Europe's resilience to hybrid threats, energy security, and illegal migration. Hosted by Moldova, it was a powerful demonstration of pan-European unity in support of Ukraine and Moldova, in the face of continued Russian aggression; as President Sandu expressed it, the meeting was "an expression of our unity, strength and determination."

Within the official programme, the Prime Minister co-chaired a Security Roundtable alongside Polish Prime Minister Mateusz Morawiecki. This built on discussions within a Security Working Group that the UK and Poland co-chaired in the lead up to the summit. The Roundtable discussed societal resilience to hybrid threats, nuclear safety, responding to Russian aggression and illegal migration. The Prime Minister noted that the latter challenge has become a serious issue for Europe as a whole and needed renewed efforts. A number of countries were supportive of this priority.

Ukraine was a major focus throughout the Summit. President Zelenskyy attended and reiterated his calls for support for Ukraine, while the meeting taking place in Moldova underlined the threats to that country's security. The Prime Minister had a warm bilateral with President Zelenskyy in the margins and used proceedings to reiterate the UK's continued commitment to support Ukraine. The Prime Minister also attended a meeting with President Zelenskyy and leaders from Belgium, Denmark, Netherlands, and Sweden. They agreed to continue work announced at the G7 supporting Ukraine's air defence capability.

The EPC provided a valuable opportunity to conduct a lot of business with European partners in a small space of time. The Prime Minister met in the margins over 20 leaders including Spanish Prime Minister Sanchez and Bulgarian President Rumen Radev with whom he confirmed a new UK-Bulgaria partnership to tackle organised immigration crime. The Prime Minister also held discussions with the Prime Minister of Estonia, Kaja Kallas, on defence and security, the Taoiseach, Leo Varadkar, and Albanian Prime Minister, Edi Rama, on the UK's strong cooperation with Albania on migration.

President Sandu deserves huge credit for successfully hosting the EPC and for her broader efforts to secure a democratic, European future for her country in the face of sustained Russian attempts at destabilisation. The Prime Minister has written to congratulate her. The image of European leaders standing alongside President Sandu in Moldova, just 20 kilometres from the Ukraine border, sends a clear message of solidarity and support for Moldova at this time.

The Prime Minister met Moldovan Prime Minister Recean and welcomed the UK-Moldova announcement to begin negotiating a returns agreement. The Prime Minister underlined our continued long-term support to Moldova including £10 million announced in March to support reforms in the energy sector as well as £12.5 million to UN agencies to support Ukrainian refugees in Moldova. The Prime Minister was also pleased the UK could support the security of the EPC summit including through the participation of the RAF in a US-France-Romania-UK exercise during the summit.

Due to the informal nature of the meeting, there are no official readouts of the plenary or working groups at the Chisinau summit to share. However, I also attach copies of the Moldovan host's opening keynote address and closing press remarks as well as the No 10 press statement. A Written Ministerial Statement was also laid in both houses on 19th June.

The Government looks forward to hosting European leaders at the EPC summit in the UK in Spring 2024. The Government is working closely with EPC partners, including Spain who will host in October 2023, to promote coherence across the summits.

*27 June 2023*

**Letter from the Chair to Rt Hon James Cleverly MP, Secretary of State for Foreign,  
Commonwealth and Development Affairs, Foreign, Commonwealth and Development  
Office**

Thank you for your letter dated 27 June 2023, which the European Affairs Committee considered at its meeting on 11 July 2023.

We are very pleased that the Department provided us with an official-level briefing on the Government's priorities prior to the EPC meeting and that you have updated us on the key

achievements of the summit afterwards. These updates assist the Committee in scrutinising the Government's policy towards the European Political Community, per our remit.

We look forward to learning more about the Government's objectives for the summit in Spain in due course. The Committee will also pay close attention to the preparations for the EPC summit in the UK in Spring 2024. We look forward to further updates from the Government about the dates of the summit and the priorities the Government wishes to focus on.

We do not expect a response to this letter.

12 July 2023

## PRIORITIES OF THE SPANISH EU COUNCIL PRESIDENCY, JULY TO DECEMBER 2023

### **Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

I am writing to let you know the priorities of the Spanish Presidency of the Council of the European Union (EU).

Spain took over the Presidency of the Council of the EU on 1 July 2023, which it will hold until 31 December 2023. On 15 June, President Pedro Sánchez confirmed Spain's EU Presidency priorities as promoting the **reindustrialisation** of Europe; moving towards **ecological transition; social and economic justice**; and strengthening **European unity**. Ukraine will continue to be a defining issue of the Presidency. Spain will also make an effort to promote "open strategic autonomy", as part of their reindustrialisation goal, fostering the development of strategic industries and technologies in Europe while maintaining "strategic openness", attaching special importance to Latin America (and Caribbean States). The Spanish Presidency programme acknowledges the EU's need for a more efficient and coordinated management of migration and asylum processes and coordinated support for Ukraine.

The Spanish Presidency is the last full presidency under the current Commission, with the European Parliament elections taking place on 6-9 June 2024. Appointing the 'Top Jobs' (Presidents of the Parliament, Council and Commission), and the new College of Commissioners will follow. Spain's overriding priority will be to conclude as many legislative files as possible across the 2019-2024 strategic agenda. While Spanish General elections on 23 July may lead to a change of Government, the delivery of the Presidency is likely to remain unaffected given the Presidency largely plays the role of coordinator and chair among Council members and the Council Secretariat will support them.

#### Reindustrialisation

The Spanish Presidency will focus on reversing the flow of jobs and production from Europe, by strengthening the EU's strategic autonomy through reducing dependence on other economies and supply chains. This priority has three core pillars. First, the Spanish seek to promote EU tech and industry, by closing remaining legislative dossiers on industrial policy, the Single Market and R&D. Second, they want to foster a more strategic trade policy, pursuing supply chain security and diversification through finalising trade deals pending with Chile, Mexico and Mercosur. Finally, they seek a re-thinking of EU economic and trade policy in line with security risks through a new Economic Security Strategy (ESS). This is expected to build on the EEAS' Joint Communication on the ESS published 20 June. The UK welcomes the Spanish Presidency's framing on 'open' strategic autonomy and recognises the potential for collaboration but will seek to ensure that EU policies do not adversely affect UK industries.

#### Ecological Transition

The Spanish Presidency will continue efforts to curb climate change, environmental degradation and promote the green transition. Their focus will be on energy policy – including energy market reform, closing the Fit for 55 Package on gas, hydrogen, and energy efficiency – and waste reduction (such as through EU legislation on microplastics). This is in response to volatile energy prices coupled with the desire to reduce EU dependence on fossil fuels and grow competitiveness. The UK will continue to work with the Spanish Presidency on our shared climate goals while seeking to ensure EU energy and climate policies do not adversely affect UK security of supply or put UK-based green producers at a comparative disadvantage.

### Social and Economic Justice

The Spanish Presidency will advocate for building an EU economy which is both fairer and more competitive. An overhaul of the Stability and Growth Pact, with flexible, country-specific deficit and debt reduction targets will be a top priority. They will also seek to promote minimum EU-wide corporation and wealth tax rates, and the consolidation of workers' rights and protections for vulnerable groups at EU level. The Spanish also referenced a revision of the 2021-2027 Multiannual Financial Framework but have yet to specify what this entails. The UK will continue to monitor the EU's approach to social and economic justice, both for opportunities to cooperate and to ensure compliance with the level playing provisions in the Trade and Cooperation Agreement.

### European Unity

The final goal which the Spanish Presidency has set itself is working towards deeper economic and political integration to bolster internal cohesion. On the Single Market, they will push for the EU to finalise the Banking Union and make investment instruments backed up by joint-EU debt permanent, while guaranteeing financial aid and support for Ukraine in the long term. They will also seek to optimise internal decision-making procedures, for instance by including the extension of Qualified Majority Voting (QMV) to other areas. The UK will continue to monitor the EU's approach to economic integration to ensure compliance with the Trade and Cooperation Agreement and WTO commitments, whilst continuing to work closely with the EU and the Spanish Presidency on the provision of long-term support to Ukraine.

3 July 2023

#### **Letter from the Chair to Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

Thank you for your letter dated 3 July 2023, which was considered by the European Affairs Committee at its meeting of 18 July 2023.

We appreciate the outlined overview of the priorities of the Spanish Presidency of the Council, and the indication of the Government's view of this agenda.

The letter was helpful to the Committee, both in providing us with an overview of the priorities of the Spanish Presidency of the Council of the European Union and in offering us an indication of the Government's perspective on this programme.

The Committee is pleased to hear that the Government plans to continue to work closely with the EU and the Spanish Presidency on issues of shared concern and in areas of potential cooperation, including reindustrialisation, climate, economic and social justice, and support for Ukraine.

We also welcome your indication that the Government will continue to monitor relevant EU policy developments for their potential implications for the UK.

We do not expect a response to this letter.

19 July 2023

#### **GOVERNMENT RESPONSE TO EUROPEAN AFFAIRS COMMITTEE REPORT: THE FUTURE UK-EU RELATIONSHIP (4TH REPORT, SESSION 2022-23, HL PAPER 184)**

#### **Letter from the Chair to Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

I am writing to you regarding the Government's response to the European Affairs Committee's report, *The future UK-EU relationship*. The report was published on 29 April 2023; the response was received on 28 June 2023, and it was considered by the Committee at its meeting on 11 July 2023.

The Committee welcomes the Government's overall positive approach towards developing a more cooperative relationship with the EU. In particular, we are pleased at the statement that the UK and the EU "intend to fully exploit the potential of the Trade and Cooperation Agreement (TCA) and will

seek to maximise the potential of the relationship between the UK and the EU in ways that benefit both parties”. This is consistent with our own approach to UK-EU relations.

However, we are disappointed at the Government’s response to some of our individual recommendations. The Committee has therefore decided to write to you, posing questions about some aspects of the response.

## **Introduction**

In paragraph 10 of our report, we stated that we stand by key recommendations from our previous report on trade in goods, including that the Government should seek an agreement with the EU on Sanitary and Phytosanitary (SPS) rules and that it should provide additional support for small businesses affected by the changes to trade arrangements. **We are disappointed that the Government did not respond to this paragraph and ask you to do so in response to this letter.**

### ***The political, diplomatic and institutional relationship***

We are pleased that UK-EU cooperation has progressed in some policy areas since the agreement on the Windsor Framework was reached, including the recent conclusion of the Memorandum of Understanding on financial services cooperation and reports of progress towards an agreement on UK association to Horizon Europe. We welcome the Government’s reference in its response to forthcoming dialogues under the TCA in the areas in cybersecurity and counterterrorism. **We ask you to provide us with further detail about the anticipated scope and timetable for these dialogues.**

We are disappointed by the Government’s response to the recommendations in paragraphs 60-62 of our report, which propose that there should be an increase in the intensity of activity within the TCA institutional structures, and greater ministerial involvement, compared to 2021-22. We acknowledge that the Treaty structures are “but one element of the UK’s engagement with the EU” but reiterate our view that increased activity in these forums, where detailed decisions can be prepared, is essential to achieving the substantive improvements to the relationship that we would like to see. For the avoidance of doubt, we do not propose the same intensity of contact with the EU as when the UK was a Member State. We ask you to confirm whether you agree that the institutional structures should now meet more frequently than in 2021-22, and whether you anticipate that this will be the case.

We welcome the commitment to convene the Interministerial Group on UK-EU Relations in advance of each meeting of the Joint Committee and Partnership Council. However, we note that there is a lack of transparency about this forum, with no record of its meetings on the Government’s Intergovernmental Relations web page, which provides information about the meetings of other Interministerial Groups. **We ask you to provide us with more information about the Interministerial Group on UK-EU Relations, including how many meetings have taken place so far and the topics that were discussed at the meeting on 20 March 2023.**

### ***The foreign policy, defence and security relationship***

We acknowledge the detail that the Government has provided in its response about cooperation between the UK, the EU and other partners on implementation and enforcement of sanctions since Russia’s invasion of Ukraine. However, the response does not directly engage with the recommendation, in paragraph 119 of our report, that the UK and the EU should agree a Memorandum of Understanding around implementation and enforcement of sanctions, similar to the enhanced sanctions partnership agreement between the Government and the US Treasury. **We ask you to respond more directly to this recommendation.**

We note with interest the Government’s assessment of the implications of the European Defence Fund for the UK, including that “its potential to foster innovation and strengthen European nations’ contribution to Euro-Atlantic security is limited by the restrictive nature of its third-country participation terms”, and that the Government “encourages the EU’s Member States to instigate a review of EU defence initiatives’ third-country participation terms”. **We ask you to provide us with more detail about how the Government would like third-country participation terms for EU defence initiatives to be reformed and whether this matter has been raised with the EU and/or Member States.**

We are disappointed by the Government's response to our recommendation, in paragraph 140 of our report, which proposed that the UK should seek an administrative relationship with the European Defence Agency, similar to those agreed with other third countries, including the US, Norway, Switzerland, Serbia and Ukraine. **We ask you to elaborate on why an administrative relationship is not currently being pursued by the Government.**

With regard to wider cooperation between the UK and the EU on foreign policy and security, we acknowledge the Government's statement that it "engages regularly with the EU across several areas of strategic importance and mutual interest in foreign policy". We note that the response states that "engagement is most notable on Russia-Ukraine". The Committee considers that the UK and the EU should be engaging closely in response to a wide range of current and emerging foreign policy issues, not just the response to the Russian invasion of Ukraine. **We therefore ask you to provide us with more detail about the current state of UK-EU engagement on foreign policy issues other than Ukraine.**

We are disappointed that the Government has not engaged directly with our proposal to approach the EU with the aim of establishing appropriate structured cooperation arrangements for cooperation on external affairs, as agreed in principle in the UK-EU Political Declaration of 2019. **We ask you to provide us with the Government's view on this recommendation.**

### **Energy security and climate change**

We are disappointed by the brevity of the Government's response to the recommendation, in paragraph 222 of our report, that the UK should approach the EU to explore the feasibility of linking the respective UK and EU Emissions Trading Schemes. The evidence that we received during the inquiry suggested that this would be of significant mutual benefit. We note that the response says that the Government "partially agrees" with the Committee's recommendation but does not indicate which part it agrees with and which part it disagrees with. **We ask you to provide a more detailed response to this recommendation, including which part(s) the Government agrees with and which it disagrees with.**

With regard to the implications for the UK of the EU's proposal for a Carbon Border Adjustment Mechanism (CBAM), we note with interest the statement in the Government response that "[w]e expect the EU Carbon Border Adjustment Mechanism (CBAM) to take account" of the UK's "ambitious carbon pricing" in its implementation. The evidence that the Committee considered during its inquiry suggested that the UK would not be exempted from the CBAM unless it linked its Emissions Trading Scheme with the EU scheme and that, although the UK's carbon pricing regime may mean that UK importers to the EU would not be required to pay CBAM charges, the policy may nevertheless place a substantial administrative burden on affected businesses. **We therefore ask for clarification on whether the EU has indicated to the Government that it will take account of the UK carbon pricing regime when it implements its CBAM. We also ask for an update on the timetable for reaching a decision on the UK's own measures to combat 'carbon leakage', in light of the progress towards implementation of the EU CBAM.**

### **Mobility of people**

In paragraph 264 of our report, we recommended that the Government should be prepared to adjust visa eligibility criteria in response to labour shortages in specific sectors and asked the Government to describe how it is managing this in its response. The Government's response to this recommendation was disappointingly brief and did not engage with our proposal. **We therefore ask you to respond fully to our request for information about how the Government is adjusting visa eligibility criteria to respond to labour shortages in specific sectors.**

We acknowledge the update that the Government has provided on engagement with the EU and individual Member States about movement of creative professionals between the UK and the EU. However, we remain disappointed by the current situation and the lack of recent progress in addressing barriers to mobility. The Committee continues to take a close interest in this subject.

We note the statement that "work is now underway" to operationalise the reciprocal commitments to facilitate school visits that were included in the Joint Leaders' Declaration issued following the Anglo-French summit on 10 March 2023. However, four months after the summit took place, we are concerned by the ongoing lack of clarity on the precise nature of Government's plans to deliver on

these commitments and the slow pace of progress, which has meant that the opportunity to implement changes in time for the 2023 season for school visits has now passed. **We ask you to provide us with a more precise timetable for the implementation of these commitments. We also ask you to elaborate further on the comment made by a Minister in the House of Lords on 19 June 2023 that it is “open to other Governments to negotiate an arrangement of the kind we have now negotiated with the French Government, and we would welcome such a step”, and to update us on whether any such negotiations are taking place with EU Member States.**

On the wider issue of school visits between the UK and the EU, we are disappointed at the Government’s response to our recommendation, in paragraph 285 of our report, that the Government should reintroduce a group travel scheme that would not require pupils travelling on school visits from any EU country to carry individual passports. The evidence that we considered suggested that the requirement to carry individual passports was serving as a major barrier to inbound school visits from the EU. In outlining the Government’s policy on moving towards individual passports, the response does not engage with the specific implications for school visits, which our recommendation was focused on. **We therefore ask you to provide us with the Government’s assessment of the implications of requiring individual passports for school travel from the EU to the UK.**

We are disappointed that the Government is not exploring the possibility of adding a reciprocal element to the Turing scheme that would provide funding for inbound as well as outbound placements. We reiterate our view that visiting students from the EU bring considerable benefits to UK universities. We note that when the Minister for Europe gave evidence to our inquiry, he said that the Government was “open-minded” and “look with great interest at the extent to which we might operate a similar scheme” to the reciprocal Taith scheme introduced by the Welsh Government. In the light of the Minister for Europe’s statement in evidence to the Committee, it was disappointing that the response states that the Government “are not exploring adding a reciprocal element to the Turing scheme”. **We ask you for an explanation of this discrepancy, and the reasons why the Government is not prepared to consider an element of reciprocity.**

Finally, we are disappointed by the brevity of the response to the recommendation, in paragraphs 333-335 of our report, that the UK should approach the EU about the possibility of entering negotiations around a reciprocal youth mobility partnership. **We ask you to provide a fuller response to this proposal, including whether any discussions have been held with the EU and/or individual Member States about youth mobility schemes and the progress of any such discussions.**

We ask you to respond by 25 July 2023.

*12 July 2023*

**Letter to the Chair from Rt Hon James Cleverly MP, Secretary of State for Foreign, Commonwealth and Development Affairs, Foreign, Commonwealth and Development Office**

Thank you for your correspondence of 12 July regarding the Government’s response to your Committee’s report on the future UK-EU relationship. I have set out further detail in response to your request for additional information below.

#### **Sanitary and Phytosanitary (SPS) rules**

The Government is open to agreeing a Sanitary and Phytosanitary (SPS) agreement with the EU based on recognising regulatory equivalence, given both sides’ record and commitment to high SPS standards. The Government’s position remains that such an agreement should not be based on alignment with EU rules, which would compromise UK sovereignty to regulate in our own best interest. Whilst the EU does have an SPS agreement based on regulatory equivalence with New Zealand, it refused a similar proposal from the UK in 2020 and we have seen no evidence that its position has changed.

The Government is using the EU’s commitments in the SPS chapter in the Trade and Cooperation Agreement (TCA) and the Specialised Committee to streamline SPS checks, ensuring EU and UK controls are proportionate to biosecurity risks and avoid unnecessary barriers to trade. We do not consider that the EU’s prohibition on the import of seed potatoes and certain shellfish from Great Britain are consistent with its commitments, and we continue to pursue this matter with the EU. We

hold regular technical meetings with neighbouring Member States such as France, the Netherlands and Ireland to discuss issues impacting small businesses. For example, where practice at different EU Border Control Posts have caused issues for smaller businesses, we have worked quickly with relevant authorities to improve consistency.

### **Support for small businesses.**

In October 2021, the Government launched the free of charge Export Support Service to provide UK businesses with a point of contact to answer their questions on exporting products or services to Europe. From launch until the end of 2022, the Export Support Service received 12,400 enquiries with 93% coming from small and medium enterprises. This invaluable service continues to provide SMEs with the advice they need to continue exporting to the EU under the new trading arrangements, including in relation to the export of agrifood products. Other measures we have in place to support SMEs include our network of International Trade Advisors and a network of agri-food and drink attaches to promote trade and boost exports, as well as the support provided by UK Export Finance.

### **Cybersecurity and counterterrorism dialogues**

You asked for more detail on the cybersecurity and counterterrorism dialogues. We agreed with the EU to establish dialogues on counterterrorism and cyber issues, as provided for in the TCA, at the UK-EU Partnership Council in March, and have since been working to agree the scope and timetable for the dialogues. We are aiming for the first meetings to take place later this year.

The UK and EU have a shared interest in building on the work we do together already to combat domestic and international acts of terrorism, and in promoting and protecting an open, free, stable, peaceful and secure cyberspace. While engagement has continued on counter terrorism, we hope that, as set out in the TCA, the counterterrorism dialogue will promote and facilitate the sharing of assessments on the evolving threat, the exchange of best practices and expertise, operational cooperation and exchange of information, and exchanges on cooperation in the framework of multilateral organisations. For the dialogue on cyber issues, we hope that it will facilitate exchange of information between the UK and the EU about relevant policy developments, for example in relation to international security, security of emerging technologies, internet governance, cybersecurity, cyber defence and cybercrime. We look forward to continued collaboration with the EU in these and other areas.

### **TCA institutional structures**

The UK and the EU have committed to maximise the opportunities under the TCA. This extends beyond the TCA Committees, but they are an important formal part of the relationship. There has been an increase in contact between Committee co-chairs over recent months, and the Government is open to the Committees meeting more frequently, where this would serve to further government business with the EU. This would need to be agreed with the EU in each case, of course.

The Government's position is that what matters is outcomes, not a specific number of meetings for their own sake. Progress of recent months has been due to the desire of both sides to move forward, rather than because of additional sessions. We do, though, think that there is scope to do more in the Committees, and there are indications that the EU is evolving its position, which had treated them as rather narrowly limited to TCA implementation.

All of that said, I reiterate that the frequency of Committee meetings should not be seen as a measure of the success of the TCA or the wider relationship. There is frequent engagement between the UK and the EU at Ministerial and official level on a wide range of issues.

### **Interministerial Group (IMG)**

In your letter, you welcomed the commitment to convene the Interministerial Group (IMG) on UK-EU relations and requested further information about this forum. Foreign and trade policy are reserved matters, but the IMG on UK-EU relations was established to give devolved administrations the opportunity to comment on the implementation of the TCA and Withdrawal Agreement (WA) in view of their important role in delivering both agreements.

Discussions on terms of reference for the IMG, including the process for issuing joint statements, have taken place but cannot be concluded without agreement from Northern Ireland ministers. These discussions will resume when a Northern Ireland Executive is formed, and terms of reference and any



subsequent communiqués will be published online when agreed by ministers from the UK Government and all devolved administrations.

The IMG has met four times: on 7 February 2022, 4 July 2022, 20 March 2023 and 26 June 2023. When it first convened in February 2022, the IMG discussed WA implementation and an upcoming Joint Committee meeting. At the July 2022 meeting, participants discussed TCA implementation and the Northern Ireland Protocol Bill. The Windsor Framework was discussed at the March 2023 meeting, along with preparations for the Partnership Council and Joint Committee meetings which took place later that month. In June 2023, the IMG discussed an upcoming Joint Committee meeting and the implications of the Windsor Framework for WA implementation and UK participation in EU programmes.

### **Cooperation on sanctions**

The Government agrees that close cooperation and coordination with key allies, including the EU, is crucial in ensuring our sanctions have maximum impact. Since Russia's invasion of Ukraine, we have deepened cooperation with the EU and all G7 partners through regular channels. Quarterly bilateral discussions between the UK Government and the EU offer one example of enhanced cooperation. These meetings enable constructive exchanges on strategy, implementation, and enforcement regarding our respective Russia regimes and global and thematic priorities such as Human Rights, Iran, and Myanmar.

To enhance bilateral information sharing, we further utilise regular working level meetings with the EU to facilitate the timely sharing of information relating to upcoming sanctions across all regimes. Beyond sharing information, we are also delivering joint diplomatic outreach in coordination with the EU and US to priority third countries relating to circumvention. In recent months this has included joint senior visits to several countries including the UAE, Kazakhstan, Uzbekistan, Kyrgyzstan, Georgia and Armenia alongside the EU and US. Given these existing channels, covering Russia as well as other global and thematic regimes, the Government does not currently consider a Memorandum of Understanding with the EU as a necessary step for coordination on sanctions implementation or enforcement. Owing to the dynamic nature of the situation, however, we will continue to review options to maximise the efficiency of our cooperation with the EU going forward.

### **EU defence initiatives**

EU efforts on defence can and should reinforce NATO, not erect barriers to cooperation. It is essential, therefore, that EU defence capability and industrial initiatives respond to NATO capability requirements, support cooperation with non-EU NATO Allies, and avoid protectionist approaches.

We want to see a globally competitive and outward-facing European defence, industrial and technological base, driving innovation and delivering the capabilities Europe needs for its security.

We are observing how rules outlined in European Defence Fund legislation will work in practice. In particular, rules regarding intellectual property and exports appear to be excessively restrictive and out of keeping with best practice in multinational capability development programs. Ministers and officials regularly raise UK and Allied concerns regarding these rules with the EU and Member States.

You questioned why an administrative relationship with the European Defence Agency (EDA) is not currently being pursued by the Government. We assess that UK interests are currently sufficiently served through an informal relationship with the EDA directly, or indirectly from engagement with Member States or through NATO. For example, the UK coordinates materiel support to Ukraine with the EDA and other international partners through the Ukraine Defence Contact Group and through NATO's Conference of National Armaments Directors. We continue to closely monitor the EDA's relationship with third countries and will develop new areas of defence cooperation on issues of shared interest, as set out in the Integrated Review 2023.

Our relationship with the EDA is consistent with our broader, informal defence cooperation with the EU, which has yielded positive security outcomes. For instance, helping the EU develop its own training mission for Ukrainian troops (EUMAM Ukraine), and hosting an EU Liaison Officer in our own training mission (Op INTERFLEX).

### **Foreign policy and security**

You raise in your questions the current state of UK-EU engagement on foreign policy beyond Russia-Ukraine, which is naturally the current priority. I can reassure you that we work together on a range of topics. Recent examples include China (ahead of the Foreign Secretary and Commission President speeches on the subject), Indo-Pacific (both the Foreign Secretary and HRVP Borrell attended the ASEAN summit), sanctions (as outlined above), coordinating outreach to the middle ground powers, the Western Balkans (daily contact during the recent tension between Serbia and Kosovo), Iran (JCPOA), Sudan (evacuations and mediation) and others.

The UK and EU have regular engagement on all areas of strategic importance and mutual interest, across many levels of seniority. The Foreign Secretary has spoken to HRVP Borrell several times this year, including on Sudan, Russia-Ukraine and the Western Balkans. This is alongside the Permanent Under-Secretary (PUS) meeting with the EU External Action Service (EAAS) Secretary-General (SG) in Brussels to discuss UK-EU cooperation in foreign policy, development, and defence and security in May – and a large amount of contact at Director General and Director level. As well as our informal bilateral cooperation, we also engage with the EU through the multilateral fora, such as the G7 – of which we are both members. While we are open to all ideas to strengthen our relationships, both sides are focused on making sure our cooperation delivers, rather than on institutional changes in this area.

### **Emissions Trading Schemes**

The UK Government, in partnership with the Devolved Administrations, continues to consider all options to strengthen the UK Emissions Trading Scheme (ETS), and to improve its effectiveness as a primary tool to deliver our decarbonisation targets in the most cost effective and business friendly way.

This includes a 30% reduction of the UK ETS cap, limiting traded sector emissions to levels which are consistent with delivery of the Net Zero Strategy. This provides a guarantee that traded sector emissions won't increase beyond this in future; a meaningful incentive for cost-effective decarbonisation within these sectors; and the certainty needed for investment into low carbon technologies.

We have also announced a reduction to the 'Industry Cap' which sets a limit on the quantity of allowances available to be given to Industrial participants for free, a phase out of free allocation for the aviation sector by 2026, the expansion of the scheme to cover emissions from maritime activities, waste and waste incineration, and a stated intention to include engineered Greenhouse Gas Removals in the UK ETS. We intend this to send a clear signal to businesses, providing them with the confidence to invest in long-term decarbonisation.

Alongside this, we are pursuing engagement with other emissions trading markets internationally. We have made commitments, as the UK left the EU, to consider linking our respective carbon pricing schemes and to cooperate on carbon pricing. We remain open to the possibility of linking the UK ETS internationally and continue to work collaboratively with a range of like-minded nations to tackle our shared climate challenges.

### **Carbon Border Adjustment Mechanism (CBAM)**

You raised questions around the implementation of the EU Carbon Border Adjustment Mechanism (CBAM) and the UK's own measures to combat carbon leakage. Article 9 of the EU CBAM Regulation (Regulation 2023/956) provides a mechanism under which a declarant's EU CBAM liability may be reduced to take account of a carbon price paid in the country of origin of a CBAM-relevant good. The UK ETS is an overseas carbon pricing mechanism for the purpose of the EU CBAM, and we have noted this position in our conversations with the EU. In the transitional phase of the EU CBAM, beginning 1 October, EU importers will be expected to provide information concerning carbon prices paid abroad, including under the UK ETS.

Article 2(12) also sets out a route for a third country agreement on the recognition of carbon pricing to support the application of Article 9. A third country agreement is not essential to, but could further facilitate the recognition of, the UK's carbon pricing regime. The UK Government continues to monitor developments in the EU CBAM and will engage where appropriate to ensure it does not undermine our shared ambitions for the transition to net zero.

The Government has recently consulted on potential future measures to mitigate carbon leakage risks, including the potential for a UK CBAM. The consultation closed on 22 June. The Government will respond to the consultation in due course.

## **Visa eligibility criteria**

You requested additional information about how the Government is adjusting visa eligibility criteria to respond to labour shortages in specific sectors. The Government keeps labour market data under careful scrutiny to monitor any pressures in key sectors. We have already made very substantial adjustments in introducing the new system. We broadened the eligibility of our flagship Skilled Worker route to include medium-skilled jobs and lowered the salary threshold from £30,000 to £26,200. Through the introduction of tradeable points, this can be lowered further, to a minimum of £20,960. Modelling by the independent Migration Advisory Committee (MAC) suggests the new thresholds strike an appropriate balance between controlling migration and business access to labour. We have also introduced the Graduate, High Potential Individual and Scale-up routes, and reformed our Global Business Mobility routes.

One way the salary threshold can be lowered is if a job is on the Shortage Occupation List (SOL). We have agreed there should be a regular pattern of SOL reviews by the MAC, and it reported in March on shortages in the construction and hospitality sectors. In response, we recently announced the addition of five construction occupations to the SOL. The MAC did not recommend any additions in the hospitality sector. The MAC is currently carrying out a wider review of the entire SOL and has carried out a full public call for evidence, which closed on 26 May. The Government will consider any recommendations carefully once the MAC has published its report in the autumn.

We have no plans to introduce a general work visa route for jobs below the Skilled Worker skill and salary thresholds. Such jobs require generally shorter training for a person to become fully competent in the performance of the tasks associated with their job. The Government recognises some businesses will need to adjust, but investment and development of the UK's domestic labour force should take priority, rather than seeing migrant labour as the solution to recruitment difficulties. The MAC is, however, able to recommend jobs below the skills threshold be added to the SOL, but only where there are exceptional circumstances, such as when we added care workers last year.

Immigration can play a part in tackling labour shortages, but it is only a part. The MAC will only recommend jobs be added to the SOL if it is sensible to do so, in the context of other, more sustainable solutions. Immigration must be considered alongside investment in, and development of, the UK's domestic labour force, including pay, conditions and training, and investment in technology, automation and productivity improvements. We apply an Immigration Skills Charge as a financial incentive for firms to make these investments.

## **School visits**

In relation to the reciprocal commitment on school visits following the UK-France Summit, the Government intends to operationalise this fully at the earliest point practicable - we hope that this will be in the autumn. There are currently no ongoing negotiations with other Member States in relation to changes to documentary requirements for school trips, but if other Member States indicate an interest, we would consider discussing the issue with them in the context of overall cooperation.

You requested the Government's assessment of the implications of requiring individual passports for school travel from the EU to the UK. The Government is aware of the evidence considered by the Committee and acknowledges that while there has been a universal decline in the number of EU/EEA school parties travelling to other EU/EEA countries, the UK has experienced this trend more substantially than other EU / EEA countries from French, German and Spanish school party operators. This may in part be due to the requirement for all passengers arriving in the UK to hold a passport, alongside other factors (e.g. increased cost of living, residual effects of Covid-19).

Our policy on school trip travel should be considered within the overall context of our immigration system and its ongoing development. As part of that development, we are introducing Electronic Travel Authorisations (ETAs) in order to know more about individuals before they arrive in the UK, and seeking to extend the use of automation, such as electronic passport gates (e-Gates), at the UK border to as many cohorts of passenger as possible.

The e-Gates are already available at many of our ports of entry and provide for a smoother experience for individual passengers entering the UK but are not compatible with national identity cards. They are also the most secure and efficient method of crossing the border and increased automation will have the added benefit of helping to maintain border fluidity.

The EU is similarly introducing its EES and ETIAS systems which we believe are also unlikely to be compatible with the continued use of collective travel documents.

The changes we are making across the system will improve border security and continue to promote the UK as an excellent destination for visits of all kinds, including school trips.

### **Turing scheme**

In our response to your report, we noted that the Government is not exploring the possibility of adding a reciprocal element to the Turing scheme within the higher education sector.

As the Minister for Europe made clear when he appeared before your Committee, the Government sees great benefit in educational exchanges. The Government very much welcomes international students coming to the UK whether they are funding their own studies and exchanges or coming through successful exchange programmes run by our global partners such as the Swiss European Mobility Programme (SEMP). The evidence shows that large numbers of students do come to spend time in the UK.

The Turing Scheme is an outward mobility scheme for UK participants, creating opportunities for education providers to offer their students, learners, and pupils the chance to develop new skills, gain international experience and boost their employability.

The Government believes it is right that we are using taxpayer money to prioritise opportunities for UK students to study and work abroad, not least given that large numbers of foreign students continue to study in the UK. We have seen a strong appetite for placements across the globe, indicating that the Turing Scheme's focus on outward mobility funding has not been a hindrance to forming partnerships between institutions, which may go some way to providing the kind of links the Committee is seeking. For the 2023/2024 academic year, Turing is providing funding for over 40,000 placements covering 160 destinations across the globe.

### **Youth mobility partnership**

As noted in our initial response, the Government is exploring bilateral opportunities for reciprocal youth mobility scheme with international partners, including our European neighbours. However, it would not be appropriate to comment on the nature or status of these discussions.

We were open to discussing youth mobility, and an EU-wide scheme, with the Commission during the TCA negotiations. We presented the UK model to the Commission, but the Commission did not seek to take forward proposals on that basis. A UK-style scheme goes significantly beyond what we understand to be the limits of Commission competence as the lengths of stay envisaged are for longer than 90 in 180 days and allow participants to enter a country's labour market.

We also note that several Member States have arrangements comparable to our proposals with other third countries, sometimes referred to as Working Holiday visas. For example, we understand that over 20 Member States have similar arrangements with Canada, with Italy agreeing their arrangement with Canada last year.

We are therefore keen to make progress bilaterally and whilst we remain open to hearing about EU proposals, this may require a change of approach from the Commission to meet our ambition with regard to length of stay and scope of activities permitted (i.e., labour market access).

I hope you find this response helpful. Once again, I thank you for your letter and the Committee's interest in these important areas.

*31 August 2023*

## **INTERIM REVIEW OF THE OCTOBER 2022 SCRUTINY COMMITMENT AGREEMENT**

### **Letter to the Chair from Leo Docherty MP, Minister for Europe, Foreign, Commonwealth and Development Office**

I am writing to conclude the recent interim review of EU-related scrutiny arrangements completed by officials, in line with our commitment to "complete an 'interim' review nine months after agreeing the

arrangements, and then a ‘full’ review after two years or at the end of this Parliament, whichever is sooner.”

Officials jointly agreed that the interim review should be in the form of a general stocktake and should not seek to renegotiate the formal agreement reached in October 2022. I am grateful to the officials involved for the constructive way they have worked together to implement the scrutiny arrangements and also for the pragmatic way they have completed this review.

I am pleased to report that both teams felt the arrangements were working well and that no substantive changes were required. This was without prejudice to new processes, or commitments that might be needed in the future.

I am also pleased that our teams have been able to work together to revise the guidance for EU scrutiny Explanatory Memoranda (EMs). I can confirm that the revised templates and guidance have been issued to departments and we hope this will result in higher quality EMs submitted to your Committees. We are grateful to your officials for the continued pragmatic and flexible approach they take to engagement on EMs with departments.

Your officials welcomed FCDO engagement in providing official level briefings on a range of matters, including on the Withdrawal Agreement Joint Committee and Partnership Council meetings and more recently on the European Political Community. It was agreed that we would continue to provide briefings to your Committee teams on issues that were of interest, where possible.

Our officials agreed to meet twice yearly to undertake a stocktake as we prepare for the full review of scrutiny arrangements in due course.

I continue to value highly the work of your Committees on the various aspects of the UK’s relationship with the EU and look forward to my continued engagement with you and your Committees.

*19 July 2023*

## HORIZON EUROPE AND COPERNICUS UPDATE

### **Letter to the Chair from Rt Hon Michelle Donelan MP, Secretary of State for Science, Innovation and Technology, Department for Science, Innovation & Technology**

I know you have followed closely developments on the UK’s association to EU Programmes. I am pleased to write to notify you that today the UK and EU have agreed new terms for UK association to Horizon Europe and Copernicus. This will be announced publicly tomorrow, Thursday 7 September.

From today, UK scientists can bid and participate confidently in the world’s largest programme of research cooperation – alongside their EU, Norwegian, New Zealand and Israeli colleagues – and with countries like Korea and Canada looking to join.

UK academics and industry will be able to bid, secure funding for, and, crucially, lead, the vast majority of new calls that will be opening throughout the autumn. UK researchers and businesses can be certain that all successful UK applicants will be covered through the UK’s association for the rest of the programme (or through the remainder of the UK’s Horizon Europe Guarantee scheme as we transition to these new arrangements). All calls in Work Programme 2024 will be covered by association and the UK guarantee scheme will be extended to cover all calls under Work Programme 2023. UK scientists and researchers can lead project consortia under Work Programme 2024 – a key ask of the sector - allowing them to shape the next generation of international collaboration.

Under the previous programme the UK established over 200,000 collaborative links, and we will now play a leading role in a range of ground-breaking industry collaborations such as the AI, Data and Robotics Partnership worth over £2 billion, or the Cancer Mission aiming to help more than 3 million people by 2030.

Access to Horizon Europe was a top ask of our research community. We have listened to our sector and in this deal delivered collaboration where it is most valuable to UK science. This provides our scientists with a stable base for international collaboration and makes sure we are on track to deliver on the ambition to make the UK a science and technology superpower by 2030.

The Government has negotiated a bespoke deal in the UK's national interest. It strengthens UK science, boosts economic growth and delivers for the UK taxpayer. This bespoke deal works for the UK by ensuring that we do not pay for the time we were not associated. It also delivers a new mechanism protecting our taxpayers in case the UK ends up putting significantly more into the pot than our scientists get out. This deal also means that the UK has a greater ability to overperform than other associated countries outside the EU/EEA reflecting our confidence in UK science.

We will also associate to the Copernicus programme, a state-of-the art capacity to monitor the Earth, and to its services. The UK's association to Copernicus comes at a crucial moment, where the Copernicus space infrastructure and its information services will evolve further and our contribution to understanding and acting on environmental and climate change related challenges is more important than ever. Access to this unique Earth observation data will provide early warning of floods and fires and allow the UK's world leading sector to bid for contracts worth over hundreds of millions. And the UK will have cost-free access to the EU Space Surveillance and Tracking services, providing important information about objects in space.

The UK will not join the Euratom programme. The UK fusion sector has communicated a preference for an alternatives programme that would involve direct investment in the UK sector. We are pleased to announce that we will be doing exactly that. We plan to invest up to £650 million to 2027 in a programme of new, cutting-edge alternative programmes subject to business cases, and will announce further details shortly.

*6 September 2023*

**Letter from the Chair to Rt Hon Michelle Donelan MP, Secretary of State for Science, Innovation and Technology, Department for Science, Innovation & Technology**

Thank you for your letter dated 6 September 2023 regarding UK association to Horizon Europe and Copernicus. This was considered by the Committee at its meeting on 19 September 2023.

As you know the Committee has repeatedly argued that UK association to these programmes would be mutually beneficial for the UK and the EU. We therefore welcome the political agreement that has now been reached by the parties. As we noted in correspondence with the then Foreign Secretary in March 2022, UK association to Horizon Europe will have wider commercial, scientific, and cultural benefits for both the UK and the EU, in addition to the direct funding opportunities that it provides for researchers.

We regret the length of time that it has taken to reach this point, following the agreement in principle that was reached alongside the TCA. Some of the detrimental consequences of the long period of uncertainty that have been experienced over the past two years, for instance researchers leaving the UK and UK-based researchers being excluded from bids for Horizon funding, will have longer-term implications even now that an agreement has been reached. In previous correspondence with both the Government and the European Commission we described the "politicisation of scientific research" as "highly unwelcome". We stand by this view and believe that, in future, scientific collaboration should be considered on its own merits and should not again be linked to wider developments in the UK-EU relationship as was the case in the period before the agreement on the Windsor Framework was reached. We ask you to confirm that this is also the view of the Government.

We note that your letter contains only limited details about the terms of the political agreement that has been reached with the European Commission. We ask you to provide additional detail in reply to this letter, including in particular about the operation of the corrective mechanism designed to prevent the UK from paying a disproportionate net contribution to the scheme. We also ask you to update us on the expected timetable for the political agreement to be formally adopted by the Specialised Committee on Union Programmes.

The Annex to the TCA that was agreed in 2020 envisaged that, in addition to Horizon Europe and Copernicus, the UK would also associate to the Euratom research and training programme, as well as Fusion4Energy/ITER (International Thermonuclear Experimental Reactor). We acknowledge your statement that the UK fusion sector has "communicated a preference for an alternative programme that would involve direct investment in the UK sector" and that a substantial package of domestic funding is planned. We also note that the European Commission's website states that the decision not

to pursue UK association was “guided by the UK’s assessment that its industry’s long absence from Euratom and F4E/ITER programmes cannot be reversed”. Nevertheless, we are concerned about the possible implications of this decision for collaboration between UK and EU researchers in these important areas. We therefore ask that in reply to this letter you provide some more detailed information about the Government’s rationale for not pursuing association to these programmes. We also ask that you indicate whether there are any plans for ongoing cooperation with the EU in the nuclear field. Finally, we ask whether the UK would consider association to EU programmes in this area in future funding cycles.

We look forward to a response within the usual 10-working day deadline.

20 September 2023

**Letter to the Chair from Rt Hon Michelle Donelan MP, Secretary of State for Science, Innovation and Technology, Department for Science, Innovation & Technology**

Thank you for your letter dated 20 September 2023 regarding Horizon Europe, Copernicus and Euratom. I want to thank you for raising these important questions. You will also be aware of the Explanatory Memorandum relating to the UK and EU agreement to associate to the Horizon Europe and Copernicus programmes, that was submitted to Parliament by the Treasury on 27 September, and which I am sure will be of interest to your Committee.

**Background to the deal and the Trade and Cooperation Agreement (TCA)**

When the TCA was agreed in December 2020, the UK agreed to participate in the following programmes: Horizon Europe, Euratom and Copernicus. The EU and UK agreed the UK would associate as soon as possible when the EU’s underpinning legislation for the programmes had been adopted. The government agrees on the importance of international collaboration on science and research and were disappointed in the delay to UK association. The UK stood ready to finalise our association and pressed the EU to do so at all levels, including through formal consultations under the TCA. Throughout these delays, the government maintained a lifeline for UK researchers and businesses by guaranteeing the funding of successful, eligible bids into the Horizon Europe programme. The Horizon Europe Guarantee scheme has issued over 2,500 grant offers worth £1.35 billion to the end of August 2023. Following the delay to our association, revised terms were required.

As set out in my letter on 6 September, the Government has negotiated a bespoke deal in the UK’s national interest. Participating in Horizon Europe and Copernicus will give UK researchers and businesses unrivalled opportunities to lead global work to develop new technologies, attract the best global talent, and facilitate international collaboration with other researchers and businesses in the EU and across the world. It is right that any deal protects UK taxpayers. This is why we have negotiated revised terms of association that work in the interests of UK taxpayers, researchers, and businesses alike. The Government has taken time to get into the detail and do what is right for the UK, building on the TCA while resisting pressure to accept a boilerplate deal no matter the terms, and building productive relationships overseas which work for us.

A date for formal adoption by the Specialised Committee on Participation in Union Programmes has not yet been set however the EU and UK committed in the Joint Statement of 7 September that they will work together with the aim of promptly adopting the necessary legal instruments. We are pleased to reach this deal which relates strictly to framework programme 9. Of course, the government will consider its approach to subsequent framework programmes, including Euratom, at the appropriate future moment.

**Financial Protections**

As you refer to in your letter, a new automatic clawback mechanism protects the UK from paying significantly more into the Horizon Europe programme than UK researchers and businesses receive as participation recovers. If in any given year the UK’s operational contribution (excluding administrative contributions) to the Horizon Europe budget is greater than the value of the grants received by UK researchers and businesses, and the difference is at least 16% of that contribution, any amount above this threshold is deducted from future UK contributions to the Horizon Europe budget. This deduction is implemented two years after the year in which the threshold was exceeded, which is the earliest

point the necessary data will be available to calculate it. More detail on these protections and the UK's overall contribution, is included in the Explanatory Memorandum.

In any case, this is not all about money in versus money out; research is an investment today that yields private sector leverage and future benefits. We are associating in the interests of UK researchers and businesses to the world's largest research programme. In Horizon 2020 (the predecessor programme of Horizon Europe) the UK received £6.8bn from 10,500 projects of which two thirds (£4.7bn and 6,500 projects) were in collaboration with others. The UK was the coordinator of 25% of these collaborative projects. With 163 participating countries in Horizon 2020, these programmes promote true global collaboration. Therefore, our association to Horizon Europe provides combined benefits in terms of leadership and unrivalled access to global collaborators. This was a key ask from our stakeholders which is a key reason the deal has received such strong support from the UK's R&D sector. The agreement is tailored to the UK's interests and includes benefits the EU has not agreed with any other Horizon Europe partner, including the most generous overperformance provisions of any associated country outside the EEA.

The European Commission and the UK Government will take forward joint outreach and engagement activities designed to encourage the participation of UK entities within both programmes. More detail on this is included in the Explanatory Memorandum.

### **Euratom**

As you have highlighted, the UK will no longer associate to Euratom Research and Training programme and Fusion for Energy activities (the Euratom programmes). This is because UK entities have been largely excluded from participating in new commercial and scientific projects for over two years. Based on feedback from the fusion sector and UK Atomic Energy Authority, UK performance in Euratom and Fusion for Energy would have taken years to recover and to a lower level than previously achieved. Therefore, in line with the preferences of the UK fusion sector, the UK has decided to pursue a domestic fusion energy strategy instead and announced up to £650 million to 2027 in new spending subject to business case approvals to support cutting edge domestic fusion programmes. We remain very open to collaboration with the EU and other international partners, and this will form a key part of this new programme of work.

*12 October 2023*

## **TREATY ON UK WITHDRAWAL FROM THE EUROPEAN UNIVERSITY INSTITUTE**

### **Letter from the Chair to Rt Hon Robert Halfon MP, Minister of State for Skills, Apprenticeships and Higher Education, Department for Education**

I am writing in relation to the Agreement regarding the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European University Institute, signed on 9 May 2023. This was discussed by the Committee at its meeting on 5 September 2023.

The Committee regrets that to date it has not been possible for the Government to reach an agreement providing for ongoing UK engagement with the European University Institute. The EUI is an important hub for pan-European academic collaboration. Study and placements at the EUI have historically been beneficial to UK academic researchers in the humanities and social sciences, in particular those at a relatively early career stage with an interest in EU affairs. The loss of these opportunities for UK-linked researchers can be expected to be detrimental to the UK higher education sector in the long-term.

Media reports in 2022 indicated that the UK wished to retain its status as a full participant in the EUI's Governing Council, but this was rejected by the other 27 EU Member States. This Committee has engaged the Government in correspondence on the recent agreement governing the UK's participation in North Seas Energy Cooperation (NSEC). In that instance, we note that the Government was content to accept observer status in the bodies overseeing the NSEC's operation, but this does not appear to have been the case with the EUI.

In light of this apparent contradiction, we are copying this letter to the Foreign Secretary and would welcome the Government's view on the following questions: (i) What factors does the Government weigh when considering whether or not to accept participation in agreements with EU Member States in return for reduced status on the relevant governing bodies? (ii) Does it remain the Government's



stance that an agreement with the EUI could only be reached if the UK were able to be a full participant in the EUI's Governing Council? (iii) If so, why was a different conclusion reached in the case of the NSEC? (iv) Does the Government believe that UK participation in the EUI's Governing Council will be acceptable to EUI member countries in the future and, if so, when?

In reply to this letter, we ask you to explain the positions taken by the Government and the EUI in the negotiations that concluded unsuccessfully in 2022, and why the Government believes that it was not possible to reach agreement at this stage. During 2022 some aspects of the relationship between the UK and the EU were impacted by the disagreement between the UK and the EU relating to the implementation of the Protocol on Ireland/Northern Ireland. Does the Government believe that this contributed to it not being possible to reach an agreement on the UK's relationship with the EUI? If so, does the Government believe that an agreement is more achievable following the agreement on the Windsor Framework in February 2023?

We are pleased that the Government Note indicates that the parties "are hopeful of reaching an agreement at a later date on a future relationship that promotes the deepening of knowledge in areas of shared interest in the field of social sciences and humanities and stimulates joint research efforts in this field". We ask you to provide us with an update on the current status of discussions, and whether a further agreement providing for an ongoing relationship between the UK and the EUI is under active consideration.

Thank you for your consideration of this letter. We ask you to reply within the usual 10-day deadline.

7 September 2023

**Letter to the Chair from Rt Hon Robert Halfon MP, Minister of State for Skills,  
Apprenticeships and Higher Education, Department for Education**

Thank you for your letter dated 7 September 2023 in relation to the Agreement regarding the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European University Institute (EUI).

The UK's membership of the EUI Convention ceased following the UK's departure from the European Union. Although the EUI is not an EU institution, EU Membership is a prerequisite for becoming an EUI Contracting State.

During 2021-22, while continuing to participate in the EUI under interim arrangements, the Government held a series of constructive and detailed negotiations with the EUI to explore the possibilities for future UK participation in the EUI. It was the UK's intention to reach an agreement and both sides made significant efforts to do so, but it was not possible at that time.

You asked in your letter whether discussions with the EU over the Windsor Framework contributed to it not being possible to reach an agreement on the UK's future participation in the EUI. As I note above, the EUI is not an EU Institution, and the Windsor Framework was therefore entirely separate to the discussions which were held with the EUI.

The Treaty agreed with the EUI in May of this year acknowledges the mutual ambition of the UK and the EUI to reach an agreement at a later date on a future relationship. We continue to look forward towards opening discussions on this, with the immediate collective focus on finalising the financial arrangements following the UK's exit from the EUI.

You asked if the Government's position is that agreement with the EUI on a future relationship could only be reached if the UK were able to participate fully in the EUI's Governing Council, and also whether this would be acceptable to EUI member countries. These are questions which will be considered in the course of discussions with the EUI on a future relationship.

You also asked what factors the Government weighs when considering whether or not to accept participation in agreements with EU Member States in return for reduced status on the relevant governing bodies. The factors that the Government considers vary depending on the agreement in question and the extent that participation would allow us to deliver UK objectives.

You note that arrangements are in place for UK participation in North Seas Energy Cooperation (NSEC). Under the UK-NSEC Memorandum of Understanding (MoU), the UK is invited to attend NSEC

meetings to discuss specific topics or projects of direct common interest. Since we signed the MoU, the UK has participated in the majority of the agenda items of every NSEC meeting. Different levels of access to governance bodies, including observer status, is something we consider on a case-by-case basis and there is no government wide policy to seek or to rule out observer status.

We value the work of the EUI and the long and close collaboration we have shared and remain committed to strong research collaboration with our European partners, which is demonstrated by the recent announcement that the UK will associate to the EU's Horizon Europe and Copernicus programmes, providing scientists with a stable basis for international collaboration. We look forward to engaging with the EUI on a future relationship with the UK in due course. We are pleased that, as has always been the case, universities in the UK can continue to collaborate with the EUI, without the UK being a full member.

21 September 2023

**Letter from the Chair to Rt Hon Robert Halfon MP, Minister of State for Skills,  
Apprenticeships and Higher Education, Department for Education**

Thank you for your letter dated 21 September 2023, which was discussed by the Committee at its meeting on 24 October 2023.

The Committee acknowledges the efforts that both the Government and the EUI made to reach an agreement on a future relationship in 2021-22. You say that an agreement was not possible "at that time". Is it your assessment that circumstances have changed since 2022 in a way that means there is now a greater likelihood of an agreement? If so, how? Although the discussions with the EU relating to the Protocol on Ireland/Northern Ireland were clearly separate from the talks with the EUI, do you think that wider developments in the relationship between the UK and EU since the Windsor Framework was concluded mean that an agreement is now more achievable?

We are pleased to hear that the Government is looking forward to further discussions about the UK's future relationship with the EUI. However, we note that you indicate only that these will take place "in due course". Would you be able to provide us with a more detailed indication of the timescale on which the Government anticipates that discussions about a future relationship between the UK and the EUI will resume? Is this expected to happen in the coming months or is it a longer-term ambition? We also ask for more detail about the anticipated scope of these discussions, in light of your statement that the "immediate collective focus" of resumed talks would be on finalising the UK's financial relationship with the EUI following the UK's exit. Do you expect that wider cooperation with the EUI of the type envisaged during the talks in 2021-22 will also be discussed?

We note your response to our questions about the factors that the Government weighs when considering whether or not to accept participation in agreements with EU Member States in return for reduced status on the relevant governing bodies. In our report, the future UK-EU relationship, published in April 2023, we highlighted concerns that we had heard in evidence from witnesses about the effectiveness of arrangements for internal coordination on EU-related business within Whitehall. We concluded that "there needs to be a strong coordinating machinery in Whitehall and with UKMIs to ensure coherence in the UK's approach" to the EU. We consider that the need for a coherent approach across Whitehall also extends to the UK's relationship with EU-related bodies such as the EUI and the North Seas Energy Cooperation, to which we referred to in our previous letter. We therefore ask you to provide us with an indication of what engagement the Department for Education had with the departments responsible for coordinating the overall UK-EU relationship (the FCDO and the Cabinet Office) when determining the Government's stance in the previous talks regarding the UK's future relationship with the EUI, and how these departments are expected to be involved if and when talks resume.

25 October 2023

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

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

Thank you for your letter dated 9 February concerning the UK's continued participation in Prüm under the UK-EU Trade and Co-operation Agreement (TCA). You asked for an update on progress made in ensuring that the UK retains access to the Prüm capability at the end of the evaluation period.

As you will be aware, the evaluation procedure is composed of a number of stages, including a visit by technical experts, reports and a Council Decision to allow Member States to continue to exchange data with the UK. These steps must be completed by the end of June. There have been some significant developments since my last correspondence, and I am pleased to inform you that I am confident that we remain on course to meet this deadline.

Following the EU evaluation visit on the 24 - 25 November 2021, the evaluation team compiled detailed technical reports on UK implementation of Prüm DNA and fingerprint exchange mechanisms. These reports were based on the outcome of the pre-connection evaluations and key developments since, such as the inclusion of suspects' data in automated, anonymised biometric exchanges. The evaluators concluded that the UK had satisfactorily implemented the Prüm provisions pursuant to Article 539, Annex 39 of the TCA.

On 17 March, the reports were endorsed by the Council Working Party on Information Exchange and Information Management (IXIM). As a result, on 6 April, the Commission adopted its proposal for a Council Decision allowing Member States to continue to supply personal data to the UK as referred to in Article 540(2) of the TCA. The text of that Council decision can be found [here](#).

We expect this Decision to be adopted by the Council by the end of June deadline, bringing the evaluation to a successful conclusion. Given that the UK has satisfied all requirements under the TCA Prüm chapter, I remain confident that we will retain access to the capability. I will write to you once we have an outcome from the Council considering the draft Decision.

*25 April 2022*

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

Thank you for your letter dated 25 April 2022 which was considered by the European Affairs Committee at its meeting of 5 July 2022.

We welcome what appears to be the successful conclusion of this aspect of Part Three of the Trade and Cooperation Agreement and your confirmation, as evidenced by the Commission's decision to bring forward the relevant legislation in April, that the important exchange between the UK and the EU of so-called Prüm data will, in all likelihood, continue.

Given that the June deadline has now passed, can you confirm that the UK satisfied the EU's evaluation successfully?

We look forward to considering your letter confirming the Council's decision in due course.

*6 July 2022*

### **Letter to the Chair from Baroness Williams of Trafford, Minister for Delivery, Home Office**

#### **Prüm ex-ante evaluation**

Thank you for your letter of 6 July seeking confirmation that the UK has successfully passed the EU evaluation of the UK's DNA and fingerprint exchange capabilities.

I apologise for the delay in writing to you, but I am pleased to confirm that the EU evaluation procedures have been successfully concluded and the on 17 June the Council adopted its Decision to allow Member

States to continue to supply biometric and personal data to the UK. On 28 June, this Decision was published in the Official Journal of the EU (attached).

This is welcome news as it ensures we retain access to a vital biometric data-sharing capability which provides UK law-enforcement with significant intelligence to support live criminal investigations so we can continue to protect UK citizens and keep our borders safe from emerging threats linked to international criminality.

In the meantime, we have been accelerating the expansion of our DNA and fingerprint exchanges with the remaining EU Member States. In terms of recent progress, notably on our fingerprint exchanges, we are pleased to have successfully connected to Belgium and Austria in May of this year, building on our existing connection with Germany. For DNA, we recently connected with Lithuania, which means we are now live with fourteen Member States, which represents approximately 90% of the EU's overall DNA holdings.

*25 July 2022*