House of Commons

European Scrutiny Committee

Thirty-sixth Report of Session 2003-04

Documents considered by the Committee on 10 November 2004, including:

Humane trapping standards

HC 42-xxxvi

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Report, together with formal minutes

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Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form '5467/03' are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an 'unnumbered Explanatory Memorandum' discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

EC	(in '*Legal base*') Treaty establishing the European Community
EM	Explanatory Memorandum (submitted by the Government to the Committee)
EP	European Parliament
EU	(in '*Legal base*') Treaty on European Union
GAERC	General Affairs and External Relations Council
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
RIA	Regulatory Impact Assessment
SEM	Supplementary Explanatory Memorandum

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is in the House of Commons Vote Bundle on Mondays and is also available on the parliamentary website.

Documents awaiting consideration by the Committee are listed in 'Remaining Business': www.parliament.uk/escom. The website also contains the Committee's Reports.

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Contents

Report

Page

Documents for debate

Documents not cleared

Documents cleared

1 Humane trapping standards

(25935) 12200/04 COM(04) 532	Draft Directive introducing humane trapping standards for certain animal species

Legal base	Article 175EC; co-decision; QMV
Document originated	30 July 2004
Deposited in Parliament	10 September 2004
Department	Environment, Food and Rural Affairs
Basis of consideration	EM of 28 October 2004
Previous Committee Report	None, but see footnote 3
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	For debate in European Standing Committee A

Background

1.1 Animal welfare concerns led to the adoption of Council Regulation (EEC) No. 3254/91[1] prohibiting the use of leghold traps within the Community. However, the Regulation also prohibited the import into the Community of pelts of certain wild animals[2] (and of goods manufactured from them) originating in those countries using leghold traps or trapping methods which did not meet international humane trapping standards. As no standards had been agreed, this meant that such imports were effectively banned.

1.2 This led to objections from the major fur exporters (Canada, the United States and Russia), which insisted on the establishment of the necessary standards, and, as a result, the Community entered into two international agreements aimed at establishing international standards in this area. The first of these was concluded with Canada and Russia, and approved by Council Decision 98/142/EC;[3] and it has since been applied provisionally between the Community and Canada, pending its entry into force (which requires ratification by Russia). The second agreement, with the United States, is substantially similar, but is in the form of an agreed minute, and was approved by Council Decision 98/487/EC.[4] Both these Decisions reflect the contents of the respective Agreements, in that they oblige the parties to prohibit, within an agreed timetable, all restraining and killing traps which have not been certified as meeting the standards laid down. Each Decision contains four Annexes setting out the humane trapping standards to be met, the list of animal species concerned, the implementation schedule, guidelines for the testing of traps, an obligation to promote research on the development of trapping methods and the

1 OJ No. L.308, 9.11.91, p.1.

2 These are badger, beaver, bobcat, coyote, ermine, fischer, lynx, marten, muskrat, otter, raccoon, sable and wolf.

3 OJ No. L.42, 14.2.98, p.40. (18168) 8912/97; see HC 155-ii (1997-98), para 17 (22 July 1997) and HC 155-ix (1997-98), para 9 (3 December 1997).

4 OJ No. L.219, 7.8.98, p.24.

evaluation of the welfare of trapped animals, provisions for an arbitration body, and the declarations of the Parties.

The current proposal

1.3 The purpose of this proposal is to enable the Community to implement the obligations arising from these agreements. It would, therefore, continue the prohibition in Council Regulation 3254/91 on the use within the Community of all legtraps, even where these conform with humane trapping standards, and, if they are to be used on the species listed,[5] it would apply to other traps which producers wish to be considered as humane. However, the use of other kinds of traps, other than leghold traps, which do not comply with these standards would still be permitted, provided they conform with other Community legislation.

1.4 In those cases where the proposal applies, it would:

- establish humane standards for all traps used for killing or capture, requirements for trapping methods and for testing them, and for the certification of traps;
- require each Member State to designate a competent authority to oversee implementation;
- require Member States to ensure, as from 1 January 2009, that traps to be put into use comply with the prescribed standards, and are certified as doing so;
- require Member States to ensure that, as from 1 January 2012, only trapping methods complying with the standards set out in the Directive are used;
- define what comprises humane methods of restraining and killing trapping (based in the former case on whether or not a trapped animal displays certain behavioural indicators or injuries, and, in the latter case, on the time which elapses before unconsciousness sets in); and
- permit derogations from these obligations to be granted on a case-by-case basis, so long as they do not undermine the aim of the Directive: these derogations would be for such purposes as public health and safety; the protection of public and private property; research, education and repopulation; the use of wooden traps essential to the cultural heritage of indigenous communities; and temporary use for a reasonable time whilst research continues to identify replacement traps.

The proposal also contains four Annexes, which essentially replicate those attached to Council Decisions 98/142/EC and 98/487/EC.

The Government's view

1.5 In his Explanatory Memorandum of 28 October 2004, the Minister for Nature Conservation and Fisheries at the Department for Environment, Food and Rural Affairs

5 In addition to those contained in the Agreements (see footnote 2), European, as well as North American, species are now included in a number of cases.

(Mr Ben Bradshaw) says that the proposal would remove barriers to the international trade in fur, and is unlikely to have a significant effect on the UK trapping industry, unless the UK were to take advantage of the flexibility given to individual Member States to extend the scope of the measure. He also points out that only twelve of the nineteen species covered by it are found in the Community, and that four of these (beaver, muskrat, raccoon and raccoon dog) are introduced North American species: of the species found in the Community, four occur in the UK (badger, marten, otter and stoat), but only the stoat may be trapped without a licence.

1.6 However, the Minister does express concern over two aspects of the proposal. First, he says that it will present difficulties for the UK in relation to the control of traps, in that some of those which have been certified in other Member States — such as toothed-jaw or drowning traps — may be considered to be inhumane in the UK. He adds that there may be difficulty in preventing the use of such traps, but that the Government will resist measures which could lead to any reduction in animal welfare in the UK. The Government also considers it important to ensure that there is not an increase in the use of less humane traps or of illegal control options, such as poisoning.

1.7 Secondly, the Minister says that the UK proposed that the scope of the Agreement should be extended to cover all trapped species, on the principle that humane trapping methods should apply to all animals. However, he adds that, although the principle was generally accepted by all Member States and the Commission acknowledged that a long-term goal of the Agreement was to extend the range of species covered, this was not supported by the Commission or by a majority of Member States, mainly on the grounds that there would be practical difficulties in implementing standards for a wider range of species.

1.8 The Minister says that a Regulatory Impact Assessment will be carried out in the light of the domestic implementation of the measure. He adds that, although there would be costs associated with testing traps, these are expected to be extremely small. He sees strong arguments for their being borne in future by manufacturers, rather than, as hitherto, by Government. He also suggests that, although the proposal may lead to the greater availability of humanely trapped fur, the impact is difficult to estimate, in view of the impact of "emotive issues" on the market for fur.

Representation from League Against Cruel Sports

1.9 We have also received comments on the proposal in a letter of 26 August 2004 from the League Against Cruel Sports, which warmly welcomes the proposal as a step forward for animal welfare, but identifies a number of points on which it feels concern. These are set out in Annex A, and relate to:

— The *scope* of the proposal, where it is suggested that

- the definition of "traps" should be clarified so as to include "snares";
- the measure should apply to all animals routinely trapped in the Community;

- the list of behavioural indicators used to assess humaneness is very short and incomplete;
- the derogation for the protection of public and private property is unnecessary (and, in any case, far too wide); and
- where the use of inhumane traps pending research into replacements is permitted, the duration of the derogation needs to be restricted, and restrictions are also necessary on the derogation relating to the construction and use by individuals, on a case-by-case basis, of traps complying with approved designs.

— Provisions which are *insufficiently rigorous*, which include:

- the need, if traps are to be regarded as humane, for *all* animals to be free from adverse effects, rather than the 80% proposed;
- the need for Member States carrying out their obligation to conduct research to have mechanisms in place to prevent cruel or unnecessary experiments;
- the need for a test to establish whether traps minimise the capture of non-target species, and for the success rate to be very close to 100%;
- the need to ensure that further studies into indications of the welfare of trapped animals should not be carried out automatically, but only where necessary, and that in general there should be a provision preventing endless and unnecessary testing of traps which have earlier been found to be inhumane;
- the need to amend the requirement that traps used in field tests should only be checked daily, since this allows animals to be held in potentially inhumane situations for far too long;
- the need to reduce the five-minute time limit in which it is acceptable to hold animals alive in traps designed to kill; and
- the need to specify how tests on the selectivity of traps can be carried out to an acceptable standard.

Conclusion

1.10 **In so far as this proposal seeks to give effect to arrangements agreed internationally, the scope for any changes at this stage is presumably limited. Nevertheless, the document deals with a subject of clear political interest, and it seems to us that the points raised by the League Against Cruel Sports deserve clarification. We are therefore recommending the proposal for debate in European Standing Committee A.**

ANNEX A

Letter from the League Against Cruel Sports

I am writing to you in order to offer you the League Against Cruel Sports' view on the draft proposal for an EU Directive on Standards for Humane Trapping. I understand this is to be considered by the European Scrutiny Committee, and would like to provide you with some information that may be of use to you.

We firmly believe that this proposal for a Directive is worthy of debate by a Standing Committee, as we believe that the issues that are covered are of great importance to Britain's wildlife, and more generally, the way that animals are treated.

I should make it clear that we warmly welcome the proposal as a step forward for animal welfare. There are a number of points, which I enclose, that we have concern about, and we believe that they will equally give MPs and the public some concern.

We believe that a full debate would serve a useful purpose, in highlighting some important points, including those enclosed, for example the list of animals to be included in the remit of the Directive which we believe is far too restricted.

Mike Hobday
Head of Public Affairs
26 August 2004

Notes on the Proposal for a Directive of the European Parliament and of the Council introducing humane trapping standards for certain animal species. COM (2004) 532

- Article 2(1) is not sufficiently clear that 'traps' includes 'snares'. We feel it is crucial that this is clear, as snares are one of the main forms of traps used in the UK.
- Traps are only required under Article 5(2b) and 5(3b) to be 80% successful in tests of humaneness. We do not believe that this is a high enough test for humaneness. Where traps are perceived to be necessary, they should be 100% humane.
- The proposed derogation from the directive (in Article 6(1b)) to protect "public and private property" is unnecessary. Even were it deemed necessary, this is far too broad a reason to allow inhumane trapping.
- There should be a restriction on the length of the "reasonable time" for which inhumane traps can be allowed under the derogation at Article 6(1e).
- There is insufficient restriction on how member states can use derogations under Article 6(1f) to allow individuals to use traps.

- We believe that the requirement on member states in Article 10 to promote research contributing towards improvement of humane trapping standards should require member states to have mechanisms in place to prevent cruel or unnecessary experiments. The UK has such legislation already in the Animals (Scientific Procedures) Act.

- The list of animals covered by the proposed directive (Annex I) is too short. It should apply to all animals routinely trapped in the EU, including rabbits, foxes, mink, stoats, weasels. While there may well be a need to trap animals, it should always be done humanely.

- Annex II (1.1) rightly says that traps should be improved to minimise the capture of non target animals. There should therefore be a requirement to test whether traps do discriminate sufficiently. Such a test should have acceptable success rates listed in Article 5. The "success rate" for lethal traps should be very close to 100%.

- In paragraph 2 of Annex II (1.3), "will be necessary" should be amended to read "may be necessary" because we believe that these tests would inflict suffering, and should not be undertaken if they are not necessary.

- The list of behavioural indicators of poor welfare in trapped wild animals (Annex II (2.2)) seems very short and incomplete.

- The proposed five minute time limit in Annex II (3.2) for which it is acceptable to hold animals alive in traps designed to kill is far too long for animals to be suffering unnecessarily.

- The proposal in Annex III (1.1, paragraph 5) that field tests can be held where traps are only checked daily allows animals to be caught in potentially inhumane traps for more than 24 hours which is far too long.

- Annex III (1.6h) requires that study reports should discuss the selectivity of the trap. Because this is an important area of determination about the suitability of traps, especially lethal traps, we feel it is very disappointing that Annex III does not govern how tests of selectivity can be carried out to an academically acceptable standard.

- Annex IV refers to further tests being necessary. We would suggest a rule preventing endless and unnecessary testing of traps which are effectively found by earlier tests to be inhumane.

2 Financial support for the audiovisual industry, 2007-13

(25845) 11585/04 COM(04)470 + ADD 1	Draft Decision concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007)

Legal base	Articles 150(4) and 157(3) EC; co-decision; QMV
Department	Culture, Media and Sport
Basis of consideration	SEM of 4 November 2004
Previous Committee Report	HC 42-xxxiii (2003-04), para 3 (20 October 2004)
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	Not cleared; further information awaited

Background

2.1 Community support for the audiovisual sector is mainly provided by the MEDIA Plus and MEDIA Training programmes. Both cover from 2001 to the end of 2006. They have a combined budget of about €500 million.

2.2 The MEDIA Plus programme provides support for the pre-production, development and distribution of films, television and radio programmes, videos and other audiovisual products. The MEDIA Training programme supports projects to improve the competitiveness of the European audiovisual sector through professional training. Both programmes are intended to supplement Member States' support for their national audiovisual industries.

2.3 In October, we considered an explanatory memorandum by the Commission and a draft Decision establishing a MEDIA 2007 programme, with a total budget of €1,055 million for the period 2007-13.[6]

2.4 In the Commission's view, changes to Community support for the audiovisual sector are necessary because of:

- the enlargement of the European Union;
- the advent and rapid development of new audiovisual services and products, including digital technologies; and
- under-investment in the sector and, in particular, lack of external financing for SMEs.

2.5 The Commission proposes that the MEDIA 2007 programme should bring together the activities currently financed through the MEDIA Plus and MEDIA Training

6 See headnote.

programmes and the "i2i" programme (which aims to help audiovisual companies obtain financing from the private sector by supporting some of the charges, such as loan guarantees). Financial support for the production of films would continue to come from national and regional authorities.

2.6 The new programme would support the pre-production, development, distribution and promotion of European works through assistance and encouragement of, for example, vocational training; investment in cross-border projects; cooperation between broadcasters, producers and distributors; and incentives for exports. Grants would generally not exceed 50% of the final cost of the project.

2.7 The Commission intends to simplify the grant application and administration procedures.

2.8 The Minister for the Arts at the Department for Culture, Media and Sport (Estelle Morris) told us that the Government broadly agrees with the policy goals of the proposal — improving the competitiveness of the audiovisual sector, increasing the international circulation of European audiovisual products and promoting cultural diversity. It would want to ensure that the MEDIA 2007 programme would be a proportionate and effective means of achieving these aims. The Government also thought that the monitoring and evaluation of the proposed programme could be improved so as to enable a more thorough assessment of the programme's contribution to the overall goals of EU audiovisual policy. It would be proposing amendments to the text of the draft Recommendation with that aim.

2.9 The Minister also told us that it is important that the MEDIA programme is complementary to both national aid and other EU aid. In the Government's view, the draft Decision did not currently incorporate an adequate mechanism for securing this.

2.10 She noted that the proposed budget (€1,055 million) would be much bigger than the combined budgets of the present programmes. She also noted that the budget for MEDIA 2007 cannot be settled until the negotiations on the Financial Perspective for 2007-13 have been completed. The outcome of those negotiations might have an impact on the size and contents of the MEDIA 2007 programme.

2.11 When we considered the draft Decision, we doubted that the Commission had yet provided sufficient justification for its proposal for a substantial increase in the budget for the support of the audiovisual sector. So we asked the Minister to press the Commission to provide further information to enable a well-founded view to be taken on the likely effectiveness of the proposed increase in expenditure, and to tell us the response she receives from the Commission.

2.12 We noted that the negotiations on the draft Decision had only just begun. We ask the Minister, therefore, to keep us informed of the progress of the negotiations.

2.13 Finally, we asked the Minister for a supplementary Explanatory Memorandum on the results of the Government's consultations about its negotiating position on the draft Decision.

The Minister's supplementary Explanatory Memorandum

2.14 In answer to our request for information about the outcome of the consultations, the Minister tells us her Department received 19 responses to the consultation paper. They included responses from film and television industry bodies, the Devolved Administrations and other Government Departments, such as the Treasury. The Minister summarises the key findings of the consultations as follows:

"• All respondents were in support of the continuation of the MEDIA programme, and most of them supported the increased budget.

• Several respondents wanted to see the MEDIA programme coordinating more with both national support mechanisms, and other Europe-wide support programmes.

• Respondents strongly supported the simplification of the application processes, feeling this would make the programme more accessible to applicants.

• Respondents from Scotland, Wales and Northern Ireland felt strongly that the definition of low audiovisual production capacity within the MEDIA programme should be reviewed to include them."

The Minister adds that the findings of the consultations will be used to strengthen the Government's negotiating position on the Commission's proposals.

Conclusion

2.15 **We are grateful to the Minister for this information and we draw it to the attention of the House.**

2.16 **We shall keep the document under scrutiny pending the Minister's response to our remaining questions.**

3 Culture 2007 programme

(25859) 11572/04 COM(04) 469	Draft Decision establishing the Culture 2007 programme (2007-13)
+ ADD 1	Commission staff working paper — extended impact assessment

Legal base	Article 151(5) EC; co-decision; unanimity
Department	Culture, Media and Sport
Basis of consideration	SEM of 4 November 2004
Previous Committee Report	HC 42-xxxiii (2003-04), para 4 (20 October 2004)
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	Not cleared; information on progress requested

Background

3.1 The Culture 2000 programme provides grants for cross-border cultural cooperation projects in the performing and visual arts, literature and cultural history. It runs from 2000 to the end of 2006. Its total budget is €236.5 million.

3.2 The Community also has programmes to support the European Capitals of Culture initiative and to promote European cultural organisations.

3.3 The document comprises a draft Decision establishing a Culture programme for 2007-13 and an explanatory memorandum. The new programme would be the successor to the three existing programmes, and have a total budget of €408 million. The annex to the document (ADD 1) contains an extended impact assessment of the proposal.

3.4 The Commission considers that the Culture 2000 programme has too many separate objectives, which inhibits cross-cultural projects and causes unnecessary bureaucracy. Moreover, the existence of separate programmes for culture, Capitals of European Culture and support for European cultural organisations causes undesirable rigidities. And the present grant and administrative arrangement are too complicated and inflexible. The new programme is intended to overcome these weaknesses.

3.5 The draft Decision provides that the Culture 2007 programme would have three specific objectives:

- to promote cross-border mobility of people working in the cultural sector;
- to encourage cross-border circulation of cultural works (such as art exhibitions, concerts, ballets and plays); and
- to encourage intercultural dialogue.

3.6 These three objectives would be pursued through:

- support for cross-border cooperation projects, each serving at least two of the objectives, and for special projects such as the European Capitals of Culture;
- support for European cultural bodies and for the preservation of archives and memorials relating to, for example, concentration camps and mass-deportations; and
- support for the collection and dissemination of information about cultural cooperation.

3.7 The Commission proposes to streamline the grant process: for example, to improve information for applicants, simplify application procedures and pay flat-rate grants for small contributions.

3.8 When we considered the document on 20 October, the Minister for the Arts at the Department for Culture, Media and Sport (Estelle Morris) told us that the proposal is broadly in line with the Government's view about the direction the new programme should take.[7] She welcomed the intention to simplify the administrative and financial arrangements. But she told us that the Government would be seeking amendments to sharpen the programme's objectives and to ensure that there is an effective monitoring, evaluation and impact assessment system.

3.9 The Minister said that the proposed budget (€408 million) represents a small increase in real terms in the cost of the three present programmes. But it will not be possible to settle the budget until the negotiations on the total budget for the 2007-13 Financial Perspective have been completed. The outcome of those negotiations may affect the scale and priorities of the new Culture programme.

3.10 The Minister added that her Department's external consultations on the new programme began in August and would not be completed until 29 October. A summary of the responses would be published.

3.11 We recognised the benefits of bringing the present three programmes together into one new programme with fewer and clearer objectives. We welcomed the intention to simplify the grant procedures. The current draft of the Decision did not appear to us to raise issues of subsidiarity or proportionality and the legal base is appropriate.

3.12 There is scope for more than one view about whether the proposed budget is too small, too large or about right. But that cannot be settled until the negotiations on the next Financial Perspective have been completed. Meanwhile, we asked the Minister for a supplementary Explanatory Memorandum on the results of the Government's consultations on the proposal.

7 See headnote.

Key findings of the consultations

3.13 The Minister tells us that her Department received 19 responses to the consultation paper. They came from the Devolved Administrations, other Government Departments, the Arts Council, the British Museum and others.

3.14 The Minister summarises the key findings as follows:

> "• Nearly all [the] respondents welcomed the proposals. They thought they were an improvement on the current Culture 2000 programme, especially as the Commission proposes to simplify the application process.
>
> • Several respondents expressed concern that the smaller cultural operators might not be able to participate.
>
> • Nearly all welcomed the proposals to promote the mobility of persons and collections, and the emphasis on intercultural dialogue.
>
> • Some respondents thought that they could benefit from better dissemination of information on eligibility for the programme's funding."

3.15 A fuller summary of the responses is to be published. The Minister says that the findings from the consultations will be used to strengthen the Government's position in the negotiations on the draft Decision.

Conclusion

3.16 **We are grateful to the Minister for this information and we draw it to the attention of the House.**

3.17 **We see nothing in the Minister's summary of the key findings to lead us to depart from the preliminary conclusions we reached when we first considered the draft Decision. We ask the Minister to keep us informed of the progress of the negotiations on the proposal. Meanwhile, we shall keep the document under scrutiny.**

4 Quality assurance in higher education

(26046) 13495/04 COM(04)642	Draft Recommendation on further European cooperation in quality assurance in higher education

Legal base	Articles 149(4) and 150(4) EC; co-decision; QMV
Document originated	12 October 2004
Deposited in Parliament	22 October 2004
Department	Education and Skills
Basis of consideration	EM of 1 November 2004
Previous Committee Report	None; but see (18080) 7999/97: HC 155-ii (1997-98), para 26 (22 July 1997) and HC 155-x (1997-98), para 9 (10 December 1997)
To be discussed in Council	15 November 2004
Committee's assessment	Legally and politically important
Committee's decision	Not cleared; further information requested

Background

4.1 In 1998, the Council adopted a Recommendation on European cooperation in quality assurance in higher education.[8] It recommended Member States to establish and support quality assurance systems with the "features", described in the Annex to the Recommendation (for example, quality assurance should usually involve an internal, self-examination component and an external component based on appraisal by external experts).

4.2 In the United Kingdom, higher education institutions are required to make internal quality assessments. The Quality Assurance Agency conducts external assessments. Professional accreditation is provided by professional bodies, such as the Institution of Civil Engineers. Research assessments are made by bodies such as the Medical Research Council.

4.3 Article 149(1) of the Treaty establishing the European Community (the EC Treaty) provides for the Community to:

> "contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of Member States for the content of teaching and the organisation of the education systems and their cultural and linguistic diversity."

8 Council Recommendation 98/561/EC, OJ No. L 270, 7.10.98, p.56.

4.4 Article 149(2) provides that Community action is to be aimed at, among other things, encouraging the mobility of students and teachers by, for example, encouraging academic recognition of diplomas and periods of study; promoting cooperation between educational establishments; and developing exchanges of information and experience.

4.5 Article 149(4) provides that the Council may adopt incentive measures or recommendations in order to contribute to the achievement of the objectives of the Article.

4.6 Article 150(4) of the EC Treaty authorises the Council to adopt measures to contribute to the achievement of the Community's objectives for vocational training.

4.7 Council Recommendations are not binding on Member States.

The document

4.8 The draft Recommendation recommends that Member States should:

(a) require all higher education institutions to develop their own internal quality assurance mechanisms;

(b) require all quality assurance agencies in their countries to be independent in their assessments, apply the features of quality assurance contained in the Annex to the Council Recommendation of 1998 (see above), and apply a common set of standards, procedures and guidelines for quality assurance;

(c) encourage the setting up of a European Register of Quality Assurance and Accreditation Agencies;

(d) enable their higher education institutions to choose which of the agencies on the Register will carry out quality assurance for them; and

(e) use the assessments made by agencies on the Register "as a basis for decisions on licensing or funding of higher education institutions, including as regards such matters as eligibility for student grants and loans".

The Government's view

4.9 The Minister of State for Lifelong Learning, Further and Higher Education at the Department for Education and Skills (Dr Kim Howells) tells us that the draft Recommendation may be placed on the agenda of the Education Council on 15 November but that the Commission does not plan a full discussion of it at that meeting. The substantive discussion is expected at the Council meeting in February 2005. The Commission is likely to press for agreement to the Recommendation by May.

4.10 The Minister says that, over the last few years, quality assurance in higher education has received much attention. He adds:

> "A number of European countries face demanding issues on establishing effective quality assurance arrangements for their own higher education institutions; the UK already has robust arrangements and our experience is of considerable interest to others."

4.11 Turning to the substance of the draft Recommendation, the Minister notes that it proposes that:

> "— all HE institutions should have rigorous internal quality assurance mechanisms;
>
> — there should be a common set of standards, procedures and guidelines for assessment purposes;
>
> — there should be for the first time a European Register of Quality Assurance and Accreditation Agencies;
>
> — HE institutions should be able to choose among these agencies, including being able to choose an agency from any other EU country; and
>
> — that the member states would accept the assessments made by all registered agencies as a basis for licensing or funding higher education institutions as well as for eligibility for student financial support."

4.12 The Minister says that:

> "After consultations with the responsible agencies for quality assurance in the UK and with the devolved administrations, our preliminary view is that provided the details of implementation can be agreed, which will involve difficult negotiations on technical and definitional issues since understanding of the nature of quality assurance is not always shared, the first three of these proposals provide a useful basis for taking action forward.
>
> "The fourth and fifth seem to the Government to be much more doubtful. Some member states may wish to collaborate — there is already a quality assurance agreement between the Netherlands and the Flemish university system in Belgium, for example. But we have substantial reservations about a general cross-border acceptance and about the principle of a general choice for institutions, which risks lowering our existing high standards. We do not yet know how many other member states will share these concerns, but we expect that there will be a vigorous debate about the terms of this draft Recommendation and we expect to seek significant changes to the text."

4.13 The Minister also tells us that the fourth and fifth proposals would have far reaching financial implications and, for that reason, the Government has already entered a reserve on the draft Recommendation. Moreover, discussion will be required about whether the Council has competence under Articles 149 and 150 of the EC Treaty to recommend Member States to comply with the specific requirements proposed in the Recommendation.

Conclusion

4.14 **We recognise the value of quality assurance in higher education. We also recognise that cooperation between Member States can help improve the mobility of students and workers and assist mutual recognition of qualifications. We can**

understand, therefore, why the Government considers that the first three limbs of the draft Recommendation (all institutions to have internal quality assurance mechanisms; common standards for assessments; and the creation of a European Register of agencies) may provide the basis for action.

4.15 **But we share the Minister's doubts about the fourth and fifth limbs. While this proposal might help establish common minimum standards of quality assurance across the Community, it would not be in the best interests of students or of the United Kingdom generally to give UK higher education institutions the opportunity to choose assessment by a registered agency with standards below those which already exist here. Moreover, it seems to us that, while an agency's assessment is a relevant consideration, it should not necessarily be the only or decisive factor in determining the allocation of funding to higher education institutions and their students.**

4.16 **We are also concerned about some legal aspects of the proposal. The draft Recommendation proposes that Member States should "require" some things and "accept" others. It seems to us questionable whether it is appropriate for a Recommendation to propose mandatory action. It also seems to us that the fourth and fifth limbs of the draft Recommendation — for institutions to choose any registered agency and for Member States to accept assessments as the basis for decisions on funding —breach the principle of subsidiarity; we are not persuaded that action by the Community on these matters is an essential condition for the achievement of the objective of establishing and improving quality standards in higher education.**

4.17 **Because of these concerns and because it seems likely that the text of the draft Decision will be amended, we shall keep the document under scrutiny. We should be grateful if the Minister would keep us informed of the progress of the negotiations on the proposal and, in particular, about the discussion of its legal aspects.**

5 Trade in products used for capital punishment, torture etc.

(a)	
(24579) 5773/03 COM(03) 770	Draft Council Regulation concerning trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment
(b)	
(26097) — —	Amended draft Council Regulation concerning trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

Legal base	Article 133 EC; QMV
Department	Trade and Industry
Basis of consideration	EM of 2 November 2004
Previous Committee Report	(a) HC 63-xxvii (2002-03), para 2 (25 June 2003), HC 63-xxxv (2002-03), para 5 (29 October 2003) and HC 63-xxxviii (2002-03), para 4 (19 November 2003)
To be discussed in Council	No date set
Committee's assessment	Legally and politically important
Committee's decision	(Both) Not cleared; further information requested

Background

5.1 In December 2003, the Commission put forward a proposal (document (a)), which would:

- ban all trade in equipment which has no, or virtually no, practical use other than for capital punishment, or torture and other cruel, inhuman or degrading treatment: this ban would also extend to brokering or facilitating such trade; and
- allow competent Member State authorities to control the trade in certain listed equipment and products, which *could* readily be used for capital punishment or other cruel etc. uses, but which also have legitimate uses.

5.2 In his Explanatory Memorandum of 11 June 2003, the Parliamentary Under-Secretary of State at the Department of Trade and Industry (Mr Nigel Griffiths) told us that the UK currently bans, through its export licensing system, certain torture equipment, and requires a licence for the export of various other items which could be used for torture. He added that the proposal would enable additional items to be banned or controlled with minimal changes to UK legislation, and in the process would make these criteria legally, rather than politically, binding. The UK therefore supported the broad thrust of the proposal, subject to certain reservations.

5.3 One of these related to the fact that human rights and export licensing decisions are not currently within Community competence, and the proposal suggested that an application for a licence to export equipment with a potential use in torture could be objected to by another Member State or the Commission. Moreover, if this happened twice, the power to take that decision would ultimately pass to the Commission. The Government, therefore, wanted to examine carefully the proposal that the Commission should be involved in the decision-making process. In view of this, we said in our Report of 25 June 2003 that, although the purpose of this proposal was clearly laudable, we would at that stage simply draw the proposal to the attention of the House, pending further information on this point.

5.4 When the Minister wrote to us about this on 16 October 2003, he appeared to address instead the question of the Treaty base chosen by the Commission for the proposal. We therefore asked him, in our Report of 29 October 2003, to indicate whether or not his original concern over competence still existed. His letter of 13 November 2003 confirmed that, whilst the UK accepts that the Community has competence to regulate which goods are subject to control, it should be for national licensing authorities to take decisions on individual applications on a case by case basis, and that the aspect of the proposal which would confer such an ability on the Commission was unacceptable. He added that the Government would seek to amend this point, and that officials were working with other Member States to draw up alternative proposals. In view of this, we said in our Report of 19 November 2003 that we would be interested to know whether it proved possible to devise an arrangement which would avoid day-to-day decisions of this kind being taken by the Commission, and that, in the meantime, we thought it right to continue to hold the document under scrutiny, given the competence issues involved.

The current document

5.5 We have now received from the Minister an Explanatory Memorandum of 2 November 2004, enclosing — somewhat belatedly — an unofficial text circulated by the Commission in the summer, together with a brief Regulatory Impact Assessment. The text is intended to replace the original proposal, and, according to the Minister, it would (in addition to making minor changes to the list of equipment and products affected, clarifying a number of definitions, and specifying a common authorisation form):

- explicitly prohibit the export of equipment which could be used for capital punishment, but which could have other legitimate uses, to law enforcement authorities in countries which have not abolished the death penalty;
- establish a procedure under which the lists of equipment and products affected can be reviewed and amended; and
- bring the provision of services into line with Article 133 of the Treaty by confirming that the proposal does not apply to their supply if it involves the cross-border movement of natural persons.

However, perhaps the most significant change is to provide that decision-making should now be purely at the discretion of Member States, thereby removing the provision in the previous proposal whereby the Commission had the power to make the final decision in certain circumstances.

The Government's view

5.6 In his Explanatory Memorandum, the Minister says that the UK continues to support the broad thrust of the proposal, and that its effect on the UK is likely to be minimal, provided its scope is limited to goods banned or controlled under current national law (though he also observes that the proposal contains legally binding criteria for considering licensing applications, whereas the UK currently uses the non-mandatory Consolidated EU and National Arms Export Licensing Criteria). He adds that the Government will be seeking to ensure that the proposal is framed in a way which enables its main objectives to be met, given that the proposed ban on equipment which could only be used for torture or capital punishment may be difficult to implement in practice,[9] and that some legitimate goods[10] may be caught unintentionally. He also notes that the amended proposal would impose an import ban on certain equipment, and says that consideration should be given to whether this is necessary, given "the low prospect" that such equipment would be used by law enforcement authorities within the Community.

Conclusion

5.7 **Although it has taken the Minister some time to let us have a sight of this text, we are nevertheless grateful for this update, and we have noted the changes made to the Commission's original proposal. On the face of it, these appear to be helpful, but we would still welcome clarification on two points. First, we infer from the Minister's comments that the UK's previous concerns about Community interference in individual licensing decisions have now been met, but we would be glad if he could explicitly confirm that this is so. Secondly, given the possibility that the proposal might in some cases have unintended effects, we would be grateful if the Minister could keep us informed of the ways in which those problems are addressed during the negotiations on the latest document. In the meantime, we will continue to hold both these documents under scrutiny.**

9 For example, oversized handcuffs would be of concern if used as leg irons, but not as handcuffs.

10 Such as paper guillotines and automatic drug injection systems used on the battlefield by the military.

6 European Security Research Programme

(25948) 12368/04 COM(04) 590	Commission Communication — Security Research: The Next Steps

Legal base	—
Document originated	7 September 2004
Deposited in Parliament	17 September 2004
Department	Trade and Industry
Basis of consideration	EM of 2 November 2004
Previous Committee Report	None; but see (25085) —; HC 42-i (2003-04), para 22 (3 December 2003), and para 8 of this Report
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	Not cleared; information on progress requested

Background

6.1 In December 2003, we considered a paper by the Secretary-General/High Representative, Mr Javier Solana, called "A Secure Europe in a Better World".[11] It proposed a European Security Strategy (ESS), which was adopted by the European Council on 12/13 December 2003. The Strategy identifies five key threats:

- terrorism;
- proliferation of weapons of mass destruction;
- regional conflicts;
- state failure; and
- organised crime.

The Strategy goes on to propose three strategic objectives for tackling the threats:

- addressing the key issues;
- building security in the EU's neighbouring states; and
- an international order based on effective multilateralism.

The paper discusses ways to achieve these objectives.

11 See headnote.

6.2 Neither the ESS nor the European Council Conclusions mentioned security research. But the Commission's Communication of March 2003, "Towards an EU Defence Equipment Policy",[12] said that:

> "The setting up of the European Research Area demonstrated that the Union and the Member States would derive greater benefits from national research programmes if they were better coordinated, something which is also true of advanced security-related research…To this end…the Commission will ask national administrations, industry and research institutions with extensive activity in this area to identify in the course of this year a European agenda for advanced research relating to global security and the most appropriate ways of tackling it jointly.
>
> "To prepare for the implementation of this advanced research agenda, the Commission intends to launch a preparatory project that it would implement with the Member States and industry to implement some specific aspects that would be particularly useful in carrying out Petersberg tasks. This preliminary operation lasting no [more] than three years would constitute a pilot phase for acquiring the experience for evaluating the conditions and arrangements needed for effective cooperation between national research programmes in the field of global security. It will cover just a few carefully selected subjects of advanced technology together with specific accompanying measures."[13]

6.3 Article 157(1) of the EC Treaty provides that:

> "The Community and Member States shall ensure that the conditions necessary for the competitiveness of the Community's industry exist.
>
> For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at…fostering better exploitation of the industrial potential of policies of innovation, research and technological development."

In pursuit of the objectives set out in paragraph (1) of the Article, Article 157(2) requires Member States to consult each other "in liaison with the Commission" and, where necessary, to coordinate their action. The Commission is given discretion to "take any useful initiative to promote such coordination".

6.4 The Commission launched this "Preparatory Action"[14] in March 2004, with initial funding of €65 million in three annual tranches, with a view to establishing a comprehensive European Security Research Programme (ESRP) from 2007. We considered the Communication on 10 March, put a number of points to the Minister and kept it under scrutiny.[15] We deal with the Minister's response in paragraph 8 of this Report.

12 (24451) 8484/03; see HC 63-xxiii (2002-03), para 22 (4 June 2003).

13 See pages 16 and 17 of "Towards an EU Defence Equipment Policy". "Petersberg tasks" include humanitarian and rescue tasks, peace-keeping tasks and the tasks of combat forces in crisis- management, including peace-making.

14 "Preparatory Actions" are intended to prepare proposals for adoption by the EU.

15 (25352); see HC 42-xii (2003-04), para 5 (10 March 2004).

The document

6.5 In October 2003, EU Commissioners Busquin (Research) and Liikanen (Enterprise and the Information Society) convened and co-chaired a "Group of Personalities in the field of security research" (GOP). It was composed of "eight Security Industry Chairmen and Chief Executives, four serving Members of the European Parliament, four Heads of major Research Institutes, two high-level European Defence Ministry officials and two high-level political figures (former European Member State Prime Minister and former European Member State President). Heads of various international organizations and the High Representative for the Common Foreign and Security Policy (CFSP), Javier Solana, also participated in the work". The primary mission was "to propose principles and priorities of a European Security Research Programme (ESRP) in line with the European Union's foreign, security and defence policy objectives and its ambition to construct an area of freedom, security and justice". The GOP presented its report, "Research for a Secure Europe", to the Commission President in March 2004. It is this report that informs the Commission Communication, "Security Research: The Next Steps", to which is annexed the report's Executive Summary and Recommendations (which latter is also appended to this Report).[16]

6.6 In the introduction to the Communication, the Commission says:

> "The report describes the essential elements of an ESRP and the contribution it could make to address the new security challenges of a changing world.…The Commission welcomes the report of the Group of Personalities on Security Research. It subscribes to the main thrust of the recommendations and orientations, and will undertake, in collaboration with the stake-holders, necessary action as set out in chapter 4 - The Next Steps. The Commission invites the Council and the European Parliament to endorse the orientations of the Report of the Group of Personalities on Security Research, and to give their support to the proposals outlined in this Communication and its Annex."

6.7 In his helpful Explanatory Memorandum of 2 November, the Parliamentary Under-Secretary of State for Science and Innovation, Department of Trade and Industry (Lord Sainsbury of Turville) summarises the Commission's proposals and the GOP report thus:

> "PROPOSED NEXT STEPS BY COMMISSION
>
> - Establishment of an European Security Research Advisory Board in Autumn 2004;
> - Commission initiated, inter-institutional debate for consensus on a European Security Research Programme (ESRP) — timescale to be determined;
> - ESRP, (to be part of the 7th Framework), proposal — multi-annual financial plan and institutional framework to be tabled early 2005;
> - Development of cooperation and synergies between Community Security Research and relevant aspects of the European Defence Agency (EDA) work; and

16 COM(2004) 590: full text available at: http://europa.eu.int/comm/research/security/

- Establishment of management mechanisms for the ESRP by the Commission.

"SUMMARY OF THE REPORT OF THE GROUP OF PERSONALITIES RECOMMENDATIONS

- Needs for research defined by need to protect citizens at home as well as providing peacekeeping and similar activities abroad;
- Recognise the use of technology as a force enabler;
- Exploit synergies between civil and military research and avoid duplication;
- Coordination of national and European security research activities with efficient, flexible institutional arrangements;
- Involvement of the customer;
- Increased European funding, such that specific legal conditions and funding instruments are available for security research, i.e. the ESRP with an annual budget of 1 billion Euro;
- An ESRP should focus on interoperability and connectivity;
- A Security Research Advisory Board should be established to set the strategic agenda, identify key technologies, and advise on principles and mechanisms for implementation; and
- Foster the competitiveness of the European security industries."

6.8 He then adds:

"The ESRP proposal fits in well with the revised European Security Strategy agreed in December 2003 by EU Foreign Ministers to strengthen EU counter-terrorism work. This is a priority of Tampere II, the next 5-year work programme for EU Justice and Home Affairs, which puts a strong emphasis on co-operation in border security and law enforcement.

"In order to assess the need for a full-scale programme on security research in Framework 7, a Preparatory Action was launched in April 2004 with funding in the region of 65 million Euro over three years. The first Call, (i.e. the initial invitation to make proposals to the Commission on Security), had a budget of 15 million Euro and was heavily over-subscribed. The outcome of this Call is that 7 projects and 5 supporting activities will be funded. It is perceived by the Commission officials in charge of the Preparatory Action as being a successful outcome. The next Call, due to take place in January 2005, is expected to be about 24 million Euro.

"The GOP was tasked 'to propose principles and priorities of a European Security Research Programme'. The GOP considers an ESRP to be a programme 'straddling civil and defence research' and they note that 'Until now, the EU has not had a role in defence research'. The concept of European 'Internal Security' is also introduced.

"Security research forms part of the Commission's proposal for Framework 7. Framework 7 will be decided under the co-decision procedure by QMV. Once adopted the Commission will have to put the mechanisms in place to deliver the programme. It is not yet clear what funding is being applied for under the 7th Framework. The Commission are placing reliance on the Security Research Advisory Board and programmes from the Preparatory Action, to shape their future work programme.

"A U.S. Homeland Security Programme is already in place and is heavily funded, providing advantage to U.S. industry. It is understood that the Commission have been in discussion with the Department of Homeland Security on the ESRP."

The Government's view

6.9 The Minister says:

"The proposals in this Communication raise important issues. As well as subsidiarity issues, we will need to be persuaded that EU spending in this area would add value at an EU level, in defence and security terms, and ascertain potential benefit to UK industry. The Government believes that the focus should remain on better co-ordination between Member States to ensure that research undertaken by Member States is complementary and does not lead to duplication of effort. The European Defence Agency will have an important role to play in co-ordinating Member States' defence research activities. However, the UK should be preparing and organising its industry to gain most benefit from any security programme which goes ahead.

"An ESRP which does not cut across Member States' primary responsibility in the security and defence policy field might usefully contribute to the EU's wider capacity to better secure the safety of its citizens. Before establishing an ESRP more clarity and detail is required regarding the Commission's proposals for an ESRP. The outcome of the Preparatory Action would be expected to influence the case for the ESRP, but such is the rate of the fast-track process that no formal analysis has been published (or carried out). We need to identify more clearly which areas of the ESRP are potentially useful and add value before establishing how we will take this initiative forward.

"*BUDGET*: The inclusion of funding for security research will need to be considered alongside other priorities in the forthcoming negotiations on the 7th Framework programme, as will the appropriate budget for the ESRP. The budget of €1billion/annum mooted in the GOP report is very high and any proposed budget would need to be more carefully justified. The UK supports a general increase in the overall Framework Programme budget within a limit of 1% GDP ceiling of the Financial Perspective for 2007-2013.

"*SCOPE*: If the ESRP were to go ahead the bounds of the programme would need to be clearly understood and limited, so as to not impact on Member States' national defence capability and other national programmes of similar significance. These limitations will need to apply to the definition of the research areas to be covered as well as to IPR and confidentiality issues. These limitations will also be closely linked

to the budget requirement, defining clearly where research will remain in the domain of Member States. The customer for this research will often be national organisations.

"*NATIONAL CUSTOMERS*: The process for bidding for project funding in security research is complex. During the Preparatory Action, some national customers have been successful in winning projects but this has not been achieved in a coordinated way. Issues will arise that need coordination, such as cross border developments. The process for national coordination is unclear and there is a lack of detail from the Commission on these issues, that needs addressing before security becomes a part of the Framework Programme.

"*DEFENCE*: HMG has serious reservations about both the GOP report and the ESRP proposal, in particular the extent to which they deal with defence-related security issues and hence could potentially affect UK defence interests, such as the delivery of effective military capability, the UK defence industrial and science base and our wider collaborative activity with other allies e.g. the US. There must be effective mechanisms to ensure that any ESRP does not infringe on national defence interests (e.g. by carrying out defence research and related tasks). A clear legal base will be needed. The interaction with the European Defence Agency also needs to be both clarified and strengthened.

"*SPACE AGENDA*: The role of space in security needs further careful consideration, in the view of UK experts. Little detail and no linkage are given to appropriate user needs and requirements for Security Information from Space.

"In view of the serious concerns outlined above, HMG would not be able to support an ESRP until some meaningful analysis of the Preparatory Action has been undertaken and agreed processes are in place that will protect national programme interests."

Conclusion

6.10 **We fully share the Minister's position. Even now, neither the Group of Personalities (GOP) report nor the Communication provides any definition of security research, resorting instead to imprecise formulations such as "straddling civil and defence research", "closing the [unspecified] gap between civilian and defence research" and the need for a European Security Research Programme (ESRP) that "must suit the specificities of security research" without indicating what they are. The whole thrust of the Communication is of a case that is self-evident — "The threat to security which now exists can only be effectively addressed at European scale" — rather than one that is made on the basis of thorough, detached evaluation. In that context, the GOP membership is not reassuring, any more than is one of the report's conclusions, that an ESRP can add value "to the European project". Indeed, the GOP exercise appears to have been devised as a device to justify a new programme to which the Commission was already intellectually committed. The essence of the GOP report is the assertion that "the lack of public research funding" is the root cause of "structural deficiencies at the institutional and political level [that] hinder Europe in the exploitation of its scientific, technological and industrial strength", and that those deficiencies can only be**

addressed by a proposed budget, which both the GOP report and the Commission endorse, that would be in addition to all other research expenditure within the EU. This would constitute, on its own, a more than 6% increase in the resources devoted to the whole 6th Framework Programme. Again, that budget does not seem to emanate from first principles, but instead appears to have been chosen because it would "bring the combined EU (Community, national and intergovernmental) security research investment level close to that of the U.S.".

6.11 **As we note in para 8 of this Report (in our further consideration of an earlier related Communication), there is a clear sense in the Commission Communication that it is aiming for the ESRP to develop an inbuilt and irresistible momentum. Until "security research" can be properly defined and it can be shown persuasively that additional research is justified and does not give rise to subsidiarity issues or conflict with Justice and Home Affairs priorities, and then cannot be funded otherwise, we believe that a halt should be called to what seems to us to be a precipitate and unsubstantiated rush towards an ESRP. As we have said before, we therefore hope that the Government will not merely pursue the issues that we and it have raised but will oppose any further funding under the Preparatory Action until these issues have been adequately resolved.**

6.12 **Depending on the outcome of these further developments we are minded at some point to recommend this and the accompanying Communication (on the Preparatory Action) for debate. In the meantime, we ask the Minister to report further developments to us at an appropriate moment and we shall continue to keep this latest Communication under scrutiny.**

7 Standardisation

(26055) 13830/04 COM(04)674	Commission Communication on the role of European standardisation in the framework of European policies and legislation
+ ADD 1	Commission Staff Working Document: The challenges for European standardisation

Legal base	—
Document originated	18 October 2004
Deposited in Parliament	26 October 2004
Department	Trade and Industry
Basis of consideration	EM of 5 November 2004
Previous Committee Report	None
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Not cleared; further information requested

Background

7.1 Standardisation is a largely voluntary process carried out within independent organisations. It establishes standards, mostly technical, which, as the International Organisation for Standardisation (ISO) says, "contribute to making the development, manufacturing and supply of products and services more efficient, safer and cleaner". At the national level standards are promoted by National Standards Boards — in the UK British Standards, part of the global BSI (British Standards Institution) Group. In Europe standards are promoted principally by the European Committee for Standardisation (CEN) (which has 28 full members — British Standards (for the UK), five "affiliate" members and three "partner" members), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI). These three are the European Standards Organisations (ESOs). At the international level, in addition to the ISO, are the International Electrotechnical Commission (IEC) and the standardisation branch of the International Telecommunication Union (ITU).

7.2 The ESOs establish European Standards which member National Standards Boards are committed to adopt. European Standards can form the basis of the Community's harmonisation Directives, but only the "essential requirements" of European Standards are made obligatory and they are formulated in general terms. In 2002 the Council asked the Commission to review the objectives, scope and needs of European standardisation policy.

The document

7.3 The Commission Communication and the supporting working paper are the response to the Council's request. The Commission claims that the European standardisation system has proved a successful tool for the completion of the Single Market for goods. But it concludes that there is room for improvement, and the Communication recommends that the Community should make more extensive use of European standardisation in policies and legislation, improve the efficiency, coherence and visibility of European standardisation and of its institutional framework and develop and promote the role of European standardisation in the context of globalisation.

7.4 Specifically the Commission recommends action to:

- continue to make more extensive use of European standardisation in European policies and legislation, particularly by increasing the knowledge of decision-makers of Member States with respect to the advantages of European standardisation in support of Community legislation and policies;
- improve the efficiency, coherence and visibility of European standardisation and of its institutional framework, including by creating a legal basis for the financing of European standardisation and a revision of the standards part of Directive 98/34 (the Technical Standards and Regulations Directive); and
- promote international standards drawn up by the international standardisation bodies (ISO, IEC, ITU) and support their transposition in the Community, ensure international standards are consistent with the objectives of Community policies

and publicise European standardisation as a driver in international standardisation and an enhancement of Community competitiveness in the world.

The Government's view

7.5 The Parliamentary Under-Secretary of State for Science and Innovation, Department of Trade and Industry (Lord Sainsbury of Turville) says:

> "Standards are important in support of innovation, competitiveness and better regulation. The UK welcomes the Communication and Staff Working Document. These describe the improvements that have taken place in standardisation, for example, the development of a coherent range of standardisation products available to meet different market needs. At the same time the Commission makes a number of useful recommendations to further enhance the role of European standardisation in support of European policies and legislation. The UK supports the development of an Action Plan to carry forward the detailed recommendations contained within these two documents and will contribute positively to its development."

7.6 The Minister also tells us:

> "The documents are being considered in a Council working group. Presidency draft Council Conclusions have been generally welcomed and, subject to some refinement and clarification, are likely to be agreed at a future meeting of the…Council."

Conclusion

7.7 **We recognise the importance of standardisation and of promoting it as a tool in the interests of both business and consumers.**

7.8 **But, before considering this document further, we should like to see from the Government details of the draft Council Conclusions referred to by the Minister and a comment on the Commission's suggestion that there should be a legal basis for the financing of European standardisation.**

7.9 **Additionally, while the concept of standardisation is relatively clear, what it actually applies to in the context of this Commission Communication and of the use of European Standards in harmonisation seems to us less clear. We should therefore like an explanation from the Government as to what might actually be covered.**

7.10 **Meanwhile we do not clear the document.**

8 Security research

(25352) 6092/04 COM(04) 72	Commission Communication on the implementation of the Preparatory Action on the enhancement of the European industrial potential in the field of Security research, towards a programme to advance European security through Research and Technology

Legal base	—
Department	Foreign and Commonwealth Office
Basis of consideration	Minister's letter of 22 October 2004
Previous Committee Report	HC 42-xii (2003-04), para 5 (10 March 2004)
To be discussed in Council	No date set
Committee's assessment	Legally and politically important
Committee's decision	Not cleared; further information requested

Background

8.1 The December 2003 European Council endorsed EU Secretary General/High Representative Javier Solana's proposals for a European Security Strategy. The Strategy said nothing about security research. But the Commission's Communication of March 2003, "Towards an EU Defence Equipment Policy", said that the Commission would "launch a preparatory project", lasting three years, leading to the creation of a research programme on "global security". The Communication sets out why, in the Commission's view, the EU needs security research and outlines its intention, under Article 157 EC, to spend €65 million on pilot projects in 2004-2006, preparatory to a full European Security Research Programme (ESRP) from 2007.

8.2 We considered the Commission Communication on 10 March. We had four concerns:

- it contained no definition of "security research", so the scope of the work to be done under the Preparatory Action and any subsequent Security Research Programme was unclear. In places, the Communication seemed to be about research directed to the achievement of the objectives of the European Security Strategy. But in other places the document seemed to stem from "Towards an EU Defence Equipment Policy", from the EU Initiative for Growth and from the Community's objectives for justice and home affairs and competitiveness. While recognising that these objectives could be mutually supportive, we felt that the primary purpose of — and the justification for — the Commission's proposal for "security research" was obscure;

- it appeared that the funding approved for the Preparatory Action in 2004 has been provided under Article 157 of the EC Treaty (Title XVI — Industry), although Article 163(3) provides that "All Community activities under this Treaty in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with the provisions of this Title"

(that is, Title XVIII). We accordingly felt that, on the face of it, the proposal for "security research" should be dealt with under Title XVIII and not under any other;

- in the absence of a clear definition of "security research", it appeared to us that there was the risk of muddle and confusion between the EU's priorities for justice and home affairs and the Commission's objectives for the Preparatory Action; and

- like the Minister, we felt that the Commission should limit its work to civilian security research, defence-related security issues being within the competence of Member States; it followed that neither the Preparatory Action nor any subsequent European Security Research Programme should include defence-related projects.

8.3 We asked the Minister to put our points to the Commission and to tell us its response both to our concerns and to those he had already registered with it. We also took the view that the Government should seek to prevent approval being given for the funding of the second and third year of the Preparatory Action if the Commission failed to provide satisfactory answers. In the meantime, we kept the document under scrutiny pending the Minister's response.

The Government's view

8.4 The Minister for Europe (Mr Denis MacShane) responds as follows in his letter of 22 October:

> "My officials have put the Committee's concerns to the European Commission. With regard to the issue about the correct legal base for the Preparatory Action, the Commission agrees that the ESRP more naturally falls within Title XVIII and will aim to bring the research programme under that Title when discussions start in early 2005.
>
> "The Committee's first, third and fourth concerns concern the lack of a clear definition of security research and a clear distinction between security and defence. The Commission accept that their definition of security research is still broad and realise the need to further elaborate their thinking on this issue. They have stated to the FCO that they are concerned only with research into civil and dual-use technologies. They hope that the Preparatory Action will enable them to focus their definition. The Commission are also aware that they will need to closely align a security research programme with Justice and Home Affairs initiatives so that EC research can add significant value to Member State efforts.
>
> "I agree that the Commission should focus its work on civilian security research, given that defence-related security issues remain within the competence of the Member States. We are closely monitoring the development of the Preparatory Action and officials have taken Commission officials through our thinking.
>
> "The Committee will be aware that the Department of Trade and Industry is preparing an Explanatory Memorandum on the most recent Commission Communication (12368/04) on the ESRP entitled 'Security Research: The Next Steps'."

Conclusion

8.5 **The Minister's response is reassuring, up to a point. We are glad that he shares our approach. We are also glad that the Commission agrees that research activities properly belong under Title XVIII and will aim to bring the research programme under that Title when discussions start in early 2005. But we would have expected an undertaking in this sense, rather than expression of an intention to aim to do this. The same applies to the Commission's response on the lack of a clear definition of security research and a clear distinction between security and defence. Again, it is aspirational rather than whole-hearted, as a result of which we remain uneasy as to the extent to which the Commission has truly taken on board the Minister's representations. We are also somewhat disappointed that, despite his own reservations about the Communication, the Minister makes no mention of the Government's position with regard to Commission proposals for the funding of the second and third year of the Preparatory Action, which we said earlier we hoped it would oppose if the Commission failed to provide satisfactory answers, other than to say that "we are closely monitoring the development of the Preparatory Action and officials have taken Commission officials through our thinking".**

8.6 **There is a real sense that, despite widespread reservations, the notion of a European Security Research Programme (ESRP) is nonetheless developing an inbuilt momentum. We address this further in paragraph 6 of this Report, in our separate consideration of the most recent Commission Communication on the ESRP, entitled "Security Research: The Next Steps", to which the Minister refers. It is apparent that €15 million has already been spent on the first "Call" under the Preparatory Action and that the Commission expects the next "Call" in January 2005 to be based on an additional €24 million. We therefore again call on the Minister to oppose such further funding unless and until his close monitoring and his officials' representations can establish that our concerns have been properly addressed. In the meantime, we shall continue to keep this earlier Communication under scrutiny.**

9 European Evidence Warrant

(25053) — COM (03) 688	Proposal for a Council Framework Decision on the European Evidence Warrant for obtaining objects, documents and data for use in proceedings in criminal matters

Legal base	Articles 31 and 34(2)(b)EU; consultation; unanimity
Department	Home Office
Basis of consideration	Minister's oral evidence of 28 April 2004
Previous Committee Report	HC 42-iv (2003-04), para 6 (7 January 2004); HC 42–ix (2003-04), para 17 (4 February).
To be discussed in Council	No date set
Committee's assessment	Legally and politically important
Committee's decision	Not cleared; further information requested

Background

9.1 We considered the proposed Council Framework Decision for a European Evidence Warrant (EEW) on 7 January and 4 February 2004. We noted that such a warrant would be directly enforceable in other Member States, the executing State being expected to enforce orders issued by the issuing State, with only limited grounds for refusal. An executing State would not be permitted to refuse enforcement of an EEW on dual criminality grounds (i.e. that the warrant related to conduct which was not criminal in the executing State), even in the case of entry into and search of private premises. Strict time limits would be imposed for execution of the request, with appeals on the substantive grounds for the order being heard only in the courts of the issuing State.

9.2 We noted that the Framework Decision would replace the provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between Member States of the European Union[17] and its Protocol of 2001,[18] even though these have yet to come into force.

9.3 We noted that the Government supported the principle of mutual recognition, and that it regarded the concept of the EEW as a reasonable development of the mutual recognition programme, since it would provide greater legal certainty that evidence within the scope of the Decision could be obtained from other Member States, but that the Government was studying the draft text in detail to ascertain its full implications for the criminal justice systems in the United Kingdom.

9.4 We raised a number of initial concerns with the Minister. First, we asked if the principle of mutual recognition was really appropriate in the case of search warrants which were made solely on the application of one party and were not the result of any adversarial proceeding in which the grounds for the order could be tested. We also asked how it had

17 OJ No.C197 of 12.7.00, p.1.

18 OJ No.C326 of 21.11.01, p.1.

been established that the EU Convention of 2000 and its Protocol of 2001 were, or would be, ineffective when they had not yet come into force.

9.5 Secondly, we noted the Minister's desire to obtain "flexibility" in the definition of "issuing authority" in Article 2(c) so as to include police, customs or administrative authorities, but we asked whether such flexibility, which would have the effect of providing for the near-automatic enforcement in this country of orders made by foreign police forces, was a desirable objective.

9.6 Thirdly, we noted the provisions of Article 24(2), which we understood would oblige the UK to abandon the safeguard of dual criminality after five years, even in respect of the forcible search of a person's home for evidence relating to acts which were not criminal here. We did not believe that this would be tolerable.

9.7 Finally, we noted that Article 13 appeared to allow the issuing authority to give detailed instructions as to how evidence was to be gathered by an executing authority in this country. We did not believe an issuing authority should be given the power to determine whether or when coercive measures are to be applied to persons or premises in this country and we asked the Minister if she agreed.

9.8 The Parliamentary Under-Secretary of State at the Home Office (Caroline Flint) gave a prompt reply on 20 January 2004, but we did not consider that our concerns had been laid to rest and we accordingly invited the Minister to appear before us.

The Minister's oral evidence

9.9 The Parliamentary Under-Secretary of State at the Home Office (Caroline Flint) gave evidence on 28 April 2004, and her evidence has been published.[19] The following is a description of the main points covered by the Minister's evidence.

9.10 As a preliminary matter, we put to the Minister the point that the present proposal, being designed to replace the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between Member States of the European Union and its Protocol of 2001 when neither of these had yet come into force, might be thought to be premature.

9.11 In reply, the Minister thought this a "fair point", but remarked that such matters took a long time to discuss and that Member States wished to start looking at this area as one where improvements could be made. The Minister emphasised that the Government was "only at the start of discussions" and that "this clearly is not going to happen for a number of years".[20] The Minister did not think it had been established that the EU mutual legal assistance Convention and its Protocol were ineffective, but added that there was a view that a system of mutual recognition could be applied to requests to obtain evidence.[21]

9.12 The Minister was asked how the near-automatic recognition and enforcement of a search warrant could be justified in circumstances where there would have been no

19 HC 562-i, published on 5 July 2004.

20 Q2

21 Q6

adversarial proceedings, the need for the warrant would not have been tested and the person affected would not have been heard. In reply, the Minister said that the European Council had called in 1999 for the principle of mutual recognition to apply to pre-trial orders and that the reason for this was "to enable competent authorities to secure evidence quickly".[22] The Minister also referred to the European Arrest Warrant and the Framework Decision on orders freezing assets or evidence as being precedents for the application of mutual recognition of an order made solely on the application of one party.[23]

9.13 In reply to questions on whether dual criminality[24] would be required as a condition of executing a European evidence warrant in this country, the Minister confirmed that the fact that the conduct in respect of which it was sought to enforce a warrant was not criminal in this country "would not be a bar to us executing the evidence warrant".[25] The Minister further explained that if the conduct was an offence in the country applying for the warrant and the offence took place in that country, then "it would be appropriate for the issuing State or authority to seek our support to gather evidence".[26] However, the Minister also explained that surrender of a person under the European Arrest Warrant would not be ordered where the conduct in question took place wholly or partly within the UK and that the Government was considering whether there should be a similar safeguard which might be sought in relation to the European Evidence Warrant.[27]

9.14 In this connection, the Minister confirmed that it was correct that circumstances could or would arise under the European Arrest Warrant whereby the home of a person in this country could be forcibly entered at the request of a foreign authority to gather evidence in respect of conduct which was not a crime in this country.[28]

9.15 In reply to questions relating to the effect of the Human Rights Act 1998 on the execution of a European Evidence Warrant in this country, the Minister gave an undertaking that in no circumstances would an authority in this country be obliged to execute a warrant when to do so would be contrary to the 1998 Act.[29]

9.16 The Minister was asked why Article 12 of the proposal provided that a natural person could not be obliged to produce evidence which might result in self-incrimination, but provided no such protection for a legal person such as a company. The Home Office official accompanying the Minister replied that this was a point on which the Government would have to seek some clarification to ensure that it understood the reasons for making this distinction between natural and legal persons and to be sure that it could agree with it.[30]

22 Q19

23 Q19

24 i.e. the principle in the law of extradition that the conduct in respect of which a warrant is issued should be criminal in both the issuing and executing State.

25 Q31

26 Q30

27 Q8

28 Q34

29 Q29

30 Q41

9.17 The Minister was asked why Article 13 of the proposal appeared to leave it to the issuing authority to decide whether and when to use "coercive measures", and if it could possibly be right to leave the exercise of police powers in this country to a foreign authority. The Minister replied that "the implication at present is that the issuing authority instructs almost the executing authority", but that the Government did not think that the issuing authority was best placed to decide in what way the collection of evidence is carried out in the executing State.[31] The Minister added:

> "It would be fair for the issuing authority to ask for premises to be searched for evidence as outlined on the form they would have to fill in, but the way in which that is carried out should be left to the Member States in line with their procedures and how their police are currently regulated in relation to these issues. So there are two distinct issues here. I am not saying the issuing State should not request a search of the premises for evidence, but the way in which that is carried out should be left to the authorities within the Member State."[32]

9.18 The Home Office official accompanying the Minister added that the Government was considering whether it should be necessary when executing a European Evidence Warrant for the police in this country to apply to the court as they would for a domestic warrant and to seek the authority of the court to carry out a search of premises.[33]

Conclusion

9.19 **We draw some comfort from parts of the Minister's evidence, notably her undertaking that in no circumstances would an authority in this country be obliged to execute a European Evidence Warrant where to do so would be contrary to the Human Rights Act 1998 and her statement that the way a warrant is executed in this country is a matter for the authorities in this country, not those of the issuing State.**

9.20 **Nevertheless, there are a number of features of this proposal which we find deeply disturbing, notably the proposition that a person's home may be forcibly entered and searched at the request of a foreign authority, even for the purpose of obtaining evidence to prosecute conduct which is not criminal in this country. We repeat our earlier view that we would consider this intolerable.**

9.21 **A number of possible limitations on the scope of the warrant have been suggested by the Minister, but we are not aware that any of these has been accepted, since we have had no recent account of the state of negotiations on this proposal . We therefore hold the document under scrutiny pending further information from the Minister and the deposit of any revised text.**

31 Q49
32 Q50
33 Q52

10 Non-custodial pre-trial supervision measures

(25937) 12243/04 COM(04) 562 + ADD 1	Commission Green Paper on mutual recognition of non-custodial pre-trial supervision measures

Legal base	—
Document originated	17 August 2004
Deposited in Parliament	13 September 2004
Department	Home Office
Basis of consideration	EM of 2 November 2004
Previous Committee Report	None
To be discussed in Council	No date set
Committee's assessment	Legally and politically important
Committee's decision	Not cleared; further information requested

Background

10.1 In England and Wales, the decision whether to grant an accused person bail or to remand him in custody is taken by a court under the provisions of the Bail Act 1976, and in Scotland under the provisions of the Criminal Procedure (Scotland) Act 1995. Pre-trial detention of persons in other Member States is governed by the relevant national law. All Member States are bound by the European Convention on Human Rights (ECHR), Article 5(1) of which guarantees the right to liberty of the person. One of the exceptions to this right is the lawful arrest or detention of a person effected for the purpose of bringing him before a competent legal authority on reasonable suspicion of having committed an offence. Such arrest and detention must be in accordance with a procedure prescribed by law.

10.2 According to general principles common to the Member States (and confirmed and reinforced by their ECHR obligations), the detention of a person pending trial is limited to those cases where it is really necessary. Nevertheless, and according to the Commission, the excessive use and length of detention pending trial "is one of the main causes of prison overpopulation". The Commission also observes that "owing to the risk of flight, non-resident suspects are often remanded in custody, while residents benefit from alternative measures". Such considerations have led the Commission to issue a Green Paper on the possibility of adopting a legal instrument providing for the mutual recognition of pre-trial orders which do not involve the detention of the accused.

The Commission Green Paper

10.3 The Commission Green Paper discusses the need for a new legal instrument on the mutual recognition of orders relating to the supervision of defendants to criminal proceedings which do not involve detention. The aim of such an instrument would be to

allow the substitution of non-custodial supervision in place of an order remanding the defendant in custody. The Green Paper refers to the risk that non-resident defendants may be remanded in custody for even minor offences, because of the risk of absconding, whereas residents benefit from alternative non-custodial measures.

10.4 In this connection, the Green Paper argues that the adoption of a legal instrument along these lines would help reduce the number of non-resident pre-trial detainees in the European Union. It also suggests that this would "reinforce the right to liberty and the presumption of innocence in the European Union seen as a whole (*i.e.* in the *commo* [34] area of freedom, security and justice) and would decrease the risk of unequal treatment of non-resident suspected persons." The main idea of such a new instrument would be to substitute a non-custodial order of a supervisory nature in place of a remand in custody and to provide for the transfer of such a measure to the Member State of the defendant's normal residence. This would allow the defendant to be subject to a supervision measure in his normal residence until trial takes place in the foreign Member State.

10.5 The staff working paper which accompanies the Green Paper discusses various alternatives to pre-trial detention. The paper points out that in their domestic systems most Member States provide for orders to report to a suitable authority from time to time and, in some cases, for prohibitions on travel. The Commission notes that these are mentioned in Recommendation No. R(80) 11 of the Council of Europe, so that this solution "would not impose a legal instrument that is foreign to the legal traditions of the EU Member States". Various models are suggested, the first being an order to report (a "European reporting order") under which, as an alternative to custody, the defendant would be required to report to an appropriate authority from time to time and be subjected to a prohibition on travel.

10.6 The paper suggests there might be differing degrees of involvement of the issuing authority in the enforcement of such an order. The issuing authority might specify in detail the nature of the supervision measures (such as the frequency with which the defendant might be required to report) and the paper even suggests that the issuing authority might specify the wearing of an electronic tag. Under such a model, the authorities in the Member State of the defendants' residence "would simply execute the detailed order of the issuing Member State". Alternatively, the role of the issuing authority might be limited to requiring that the defendant should report to an authority. It would then be for the authorities in the executing Member State to designate the appropriate authority, to decide the frequency of reporting and to impose any additional obligations. As a further alternative, the choice of any coercive measures would be left entirely to the executing State. The issuing authority in the Member State claiming jurisdiction would simply specify the objective of keeping the defendant under supervision and securing his return to face trial. It would then be for the executing State to decide on the most appropriate means for achieving these objectives under its own law. The paper suggests that a reason for leaving the choice of coercive measures to the executing State is that it is

34 It is to be noted that Article 2 EU does not, in terms, set an objective of the Union to create a common area of freedom, security and justice. Neither does Article 29 EU refer to such a common area.

"best placed to take account changes in the situation of the suspect" and that "equality of treatment would be ensured".[35]

10.7 A second suggested model is the so-called "Eurobail" model, which was presented at an experts' meeting in May 2003. According to this model, it would be for the trial court to make an initial assessment of whether the offence is "bailable" i.e. the offence is one for which a defendant may be released on bail. If it is such an offence, the defendant would be sent back to his country of residence, where the appropriate court would decide whether or not the defendant is to be released on bail. The paper suggests that, in order for the European Arrest Warrant to be applied (presumably, in the case of a breach of the bail conditions) a new category of "enforceable offence" should be created and "added" to the European Arrest Warrant. The paper suggests that this category might be called "fugitive from justice".

10.8 The paper considers what grounds, if any, should be available to the executing authority to refuse the transfer of a defendant under supervision. It makes the (not unreasonable) general point that, as the alternative to transfer under supervision would be remand, or continued remand, in custody only limited grounds for refusal should apply. Consideration is also given to the measures which may be taken by the executing State in the event of a breach of the conditions relating to supervision, in particular the question of whether the executing State should be entitled to return the defendant before the date of trial has been set.

10.9 The paper suggests that, by reason of the limits on its scope and the various mandatory and optional grounds for refusing the surrender of a person, the European Arrest Warrant is insufficient or inadequate to provide a guarantee that a person subject to supervision will be returned to the state of trial. A European Arrest Warrant may be issued "for the purposes of conducting a criminal prosecution" (Article 1(1)) but may only be issued for an offence which is a serious offence under the law of the issuing Member State (i.e. it must be punishable by a sentence of imprisonment of at least one year). The paper also refers to the time-limits under the European Arrest Warrant within which a decision must be taken to arrest and return the suspected person. The paper points out that a person arrested under such a warrant might be held in custody for several weeks before his surrender, whereas the object of any new instrument would be to avoid the use of pre-trial detention.

10.10 The paper therefore advocates the adoption of a new instrument aimed at reducing pre-trial detention "in the European Union as a whole". It concludes that a coercive mechanism is necessary, as a last resort, to make such a system work. However, with the model suggested, there would be no element of compulsion on the defendant to accept transfer and supervision in his country of residence. In all cases, the issuing authority would be required first to obtain the consent of the defendant to present himself for trial, or to allow the court to try him *in absentia*. The defendant would also be required to signify his consent to the consequences of not appearing at the trial. If such consents are given, the issuing State would then give the executing State the opportunity to object to transfer

35 Presumably what is meant is that the defendant to the foreign proceedings would be treated in the same way as a defendant to domestic proceedings.

under the permitted grounds of refusal. If there are no grounds for objection, the transfer would take place, and the defendant would become subject to supervision in the State to which he has been transferred.

10.11 The paper discusses the question of what should be the consequence of a failure by the defendant to observe a condition of his supervision. It suggests that it should be open to the executing State to postpone the return of the defendant, notably where he has been remanded in custody or where there are humanitarian reasons related to the person's health for delaying his return. The paper suggests that where these grounds for postponement do not exist, the suspected person "can be arrested on the basis of a court order of the issuing authority and returned to the issuing authority". It concludes that "to allow other grounds for refusal at this stage of the procedure would probably make the coercive mechanism under the new instrument useless".

10.12 Once the date of trial has been fixed, the defendant would be under an obligation to attend his trial. The issuing State would send the summons to the executing authority, which would assume responsibility for its due service. In the event that the defendant did not answer the summons, it would be for the issuing State to decide whether to require the executing authority to arrest the defendant (or, where this is possible under the domestic law, to proceed to try the defendant in his absence).

The Government's view

10.13 In her Explanatory Memorandum of 2 November 2004 the Parliamentary Under-Secretary of State at the Home Office (Caroline Flint) explains that the Government will be consulting on, and giving detailed consideration to, the questions posed by the Green Paper on the development of a mutual recognition measure for non-trial supervision and will provide us with its detailed view of the Green Paper in due course.

10.14 The Minister adds that the Commission proposal offers a useful development of judicial cooperation in the EU, that it would have the benefit of promoting equality of pre-trial treatment for non-nationals, allowing more UK citizens charged with offences in other Member States to return home under supervision instead of being held in custody in the State of the alleged offence, and that the same would be true of other EU nationals facing trial in this country, which would help maintain home ties and aid long-term rehabilitation.

10.15 The Minister makes the following further comments:

> "The decision to remand in custody or to transfer supervision under suitable conditions will depend on a reliable assessment of the risk. This would be addressed in part by developments at EU level on the sharing of information from criminal records. There may also be demands for assessment reports from the relevant UK authorities in support of criminal proceedings in other Member States, which may have resource implications.
>
> "Conditions and methods of supervision are not consistent across the EU and the Government sees advantage in a system of mutual recognition which provides the executing State with appropriate flexibility to reflect national practice and resources.

> The National Probation Service does not supervise or monitor defendants on bail in this country (other than those on bail for very serious offences) and we would therefore wish to seek discretion to decide the authorities involved in supervision of a transferred defendant. We would also need to be satisfied that robust arrangements could be put in place to deal with breaches of supervision conditions or the defendant's failure to surrender for trial. The Green Paper's suggestion to create a new coercive measure, rather than relying on the [European Arrest Warrant], will also require further detailed consideration."

Conclusion

10.16 **We agree with the Minister that this proposal could be of benefit to UK nationals detained in other Member States and awaiting trial. It could allow more UK nationals to return home under supervision instead of being remanded in custody abroad.**

10.17 **We note that the Government is engaging in consultation on the ideas proposed in the Green Paper and undertakes to let us know its more detailed view in due course. We look to the Minister to provide this information in sufficient time to allow us to comment further before the reply to the Green Paper is sent to the Commission. In the meantime, we agree that the detailed arrangements for supervision should be a matter for the State in which the defendant resides, and we see difficulty in a regime which allows the issuing State to be over–prescriptive.**

10.18 **We shall hold the document under scrutiny pending further information from the Minister.**

11 European Police College

(26037) 13506/04 COM(04) 623	Draft Decision establishing the European Police College as a body of the European Union

Legal base	Articles 30(1)(c) and 34(2)(c) EU; consultation; unanimity
Document originated	1 October 2004
Deposited in Parliament	21 October 2004
Department	Home Office
Basis of consideration	EM of 3 November 2004
Previous Committee Report	None
To be discussed in Council	No date set
Committee's assessment	Legally and politically important
Committee's decision	Not cleared; further information requested

Background

11.1 In 2000, the Council adopted a Decision establishing the European Police College as a network of national police training institutes to supplement and support Member States' training for their senior police officers in the prevention and detection of serious crimes such as terrorism and trafficking in people, drugs and arms.[36] The Decision gave the College neither a legal personality nor a permanent location. The College is financed by contributions from Member States. The College's budget for 2004 is €3.1 million. The United Kingdom makes the second largest contribution to the budget, amounting to nearly 18% of the total.

11.2 Earlier this year, the Council adopted Decisions to give the College a legal personality and to name Bramshill in Hampshire as the permanent location of the College.[37]

11.3 Title VI of the Treaty on European Union (the EU Treaty) makes provision for police and judicial cooperation between Member States in criminal matters. Article 30(1)(c) of the EU Treaty provides for cooperation and joint initiatives in police training. Article 34(2)(c) empowers the Council to adopt Decisions for any purpose consistent with the objectives of Title VI of the Treaty, but excluding any approximation of the laws and regulations of Member States.

11.4 Article 291 of the Treaty on the establishment of the European Community (the EC Treaty) provides that:

> "The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Communities. The same shall apply to the European Central Bank, the European Monetary Institute and the European Investment Bank."

The Protocol referred to in Article 291 contains no reference to "bodies of the European Union". Although Article 41 EU applies a number of Articles of the EC Treaty to activities under Title VI of the EU Treaty, it does not so apply Article 291 EC.

The document

11.5 The document comprises a draft Decision and an Explanatory Memorandum on it by the Commission. In the latter, the Commission says that the effectiveness of the College has been hampered by the absence of a legal personality, a permanent base, direct funding from the Community's budget and the necessary management arrangements and staff rules. The aim of the draft Decision is to help overcome these difficulties. The main provisions of the draft Decision are as follows.

11.6 Articles 1 and 2 propose that the College be established "as a body of the European Union" with its own legal personality.

36 Council Decision 2000/820/JHA, OJ No. L 336, 30.12.00, p.1.

37 OJ No. L 251, 27.7.04, p.19 and OJ No. L 251, 27. 7. 04, p. 20.

11.7 Article 3 proposes that the privileges and immunities of the European Communities should apply to the College, its director and its staff.

11.8 Article 5 proposes a definition of the purpose of the College. Among other things, it proposes that :

> "Without prejudice to the competencies of the institutions responsible for training of law-enforcement officers in the Member States, the purpose of [the College] is to help train the senior and other law-enforcement officers of the Member States playing a key role in the fight against cross-border crime in the European Union, with a view to strengthening and improving cooperation in those areas most relevant to the achievement of an area of freedom, security and justice in the sense of Article 29 of the Treaty on European Union. In so doing, [the College] shall strive to support a European approach to the main problems facing Member States in preventing and combating crime, organized or otherwise, especially as regards its cross-border dimensions, by helping to train senior and other law-enforcement officials of the Member States…"

11.9 Article 6 proposes that the College's objectives should be:

- to increase the number of officers with a working understanding of the practical aspects of law enforcement cooperation (including, for example, an understanding of law enforcement systems in other Member States; the law and institutions of the European Union; the roles and work of Europol and Eurojust; relevant law on human rights; and the languages of the Member States);
- to contribute to the development of technical and scientific knowledge about crime and the maintenance of law and order; and
- to strengthen and improve cooperation in training for law enforcement officers.

11.10 Article 7 proposes that the College's tasks should be:

- to develop common standards for training courses for law enforcement officers and provide national training institutions with those standards and with course modules (including modules for long-distance learning via the European Police Knowledge Net);
- provide training for Member States' trainers;
- assess whether (and, if appropriate, certify that) national training institutions are providing the College's modules and methods to common standards;
- identify priorities for research in law enforcement and commission research;
- disseminate best practice and research findings; and
- promote training-related exchanges and secondments of law enforcement officers.

11.11 Article 9 proposes that the Governing Board of the College should be comprised of one representative of each Member State and of the Commission. The Board's

responsibilities would include determining the College's budget and work plan and nominating candidates for appointment as Director of the College.

11.12 Article 10 proposes that the Director should be appointed by the Council for a term of five years, renewable for a further five. The Director would be responsible for the day-to-day management of the College and would be accountable to the Governing Board.

11.13 Article 12 proposes that each Member State should set up a College "national unit". The national units would be responsible for putting into effect the modules, methods and standards developed by the College and for evaluating their use in national training institutions.

11.14 Article 14 proposes that the income of the College should come from:

- an annual subsidy from the budget of the European Union (the Governing Board would approve an estimate for consideration by the Commission and for approval by the European Parliament and the Council; the Commission estimates that the subsidy would be about €4.5 million a year);
- fees for services; and
- any voluntary contributions from Member States.

11.15 Under Article 22, the Governing Board would be required, at five-year intervals, to commission an independent external evaluation of the implementation of the Decision and of the efficiency and effectiveness of the College. The evaluation reports would be sent to the Commission, the Council and the European Parliament and be made public.

The Government's view

11.16 The Parliamentary Under-Secretary of State at the Home Office (Caroline Flint) tells us that the Commission's proposal to transform the College into a body of the European Union would enable it to improve its effectiveness. In the Government's view, the proposal would not change the College's fundamental role.

11.17 The Minister says:

> "As an EU Body, CEPOL [the College] would receive funding from the Community budget. The benefit of the change from funding the CEPOL budget from Member State contributions on the basis of Gross National Product to Community funding is that CEPOL could be funded for all of its activity from a central source rather than having to apply for top up funding from various EU programmes…The Government believes that this would add flexibility, improve business planning, and assist with a more responsive and more timely programme delivery."

11.18 The Minister also says that the proposal would improve the arrangements for the governance of the College and for decision-making. It would make the College's objectives more explicit and extend the College's scope to include training for law enforcement officers generally, rather than confine it to senior police officers. Moreover, the proposal

would require the College to evaluate the effectiveness of its work. The Government believes that these changes would enable the College to become more effective.

Conclusion

11.19 **We recognise that cooperation between Member States in the training of law enforcement officers can make a valuable contribution to improving the prevention and detection of serious cross-border crime. The European Police College has the potential to play a major role in this. But, so far, it has been hampered by factors outside its control, such as the present funding mechanism and the delay in providing it with a permanent base. We are glad, therefore, that it now has a permanent base at Bramshill and we share the Government's view that changes along the lines proposed in the draft Decision would be likely to enable the College to be more effective and provide better value for money.**

11.20 **We have the following questions, however, about the provisions of the draft Decision:**

- **Article 1 proposes the establishment of the College as "a body of the European Union". The EC Treaty contains provision for the establishment of bodies of the Community. But we are not aware of a legal base for the establishment of bodies of the Union. We would be grateful if the Minister could explain the significance of making the College "a body of the European Union" when the EU Treaty does not provide for the EU itself to enjoy legal personality.**

- **Article 291 of the EC Treaty does not apply to Title VI of the EU Treaty , and neither that Article nor the Protocol referred to in Article 291 EC refers to privileges or immunities of the European Union or bodies of the Union. We would be grateful if the Minister would explain the legal basis for conferring the privileges and immunities of the European Communities on European Union bodies.**

- **The approximation of the laws and regulations of the Member States is excluded from the scope of the decisions that may be adopted under Article 34(2)(c) of the EC Treaty. We ask the Minister to explain why the proposal in Article 3 of the draft Decision to confer immunities and privileges on the College, thereby affecting in a like manner the operation of the laws of all Member States in relation to the College, does not amount to an approximation of the laws and regulations of the Member States. We also ask the Minister to explain why it is thought necessary to extend each of the privileges and immunities of the European Communities to the College, its director and its staff when no analogous provision has been made in relation to Eurojust.**

- **Article 12 of the draft Decision proposes that every Member State should be required to appoint a "national unit". It does not appear to us that the Commission has provided a sufficient justification for this proposal. Moreover, it is not clear that the requirement imposed on Member States by Article 12 would satisfy the tests for compliance with the principle of subsidiarity.**

- **Article 22 of the draft Decision proposes that there should be an independent external assessment of the College once every five years. It seems to us, however, that an early improvement in the effectiveness of the College is called for and that it might be prudent, therefore, if the first evaluation were done after three rather than five years.**

11.21 **Negotiations on the document have only just begun. Both for that reason and because of our questions about the provisions of the draft Decision, we shall keep the document under scrutiny. We should be grateful for the Minister's answer to the points we have raised about Articles 1, 3, 12 and 22 and if she would keep us informed of the progress of the negotiations.**

12 Audiovisual and information services: protection of minors and human dignity

(25647) 9195/04 COM(04) 341	Draft Recommendation on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry

Legal base	Article 157 EC; co-decision; QMV
Department	Culture, Media and Sport
Basis of consideration	Minister's letter of 3 November 2004
Previous Committee Report	HC 42-xxii (2003-04), para 17 (9 June 2004)
To be discussed in Council	16 November 2004
Committee's assessment	Politically important
Committee's decision	Cleared (decision reported on 9 June 2004); further information now requested

Background

12.1 In 1998, the Council adopted a Recommendation on the protection of minors and of human dignity from unsuitable material from audiovisual sources, such as television, videos and the Internet.[38] It recommended cooperation between users, consumers, public authorities, parents, teachers and the industry to promote self-regulation and co-regulation, codes of conduct, and the development of rating and filtering systems.

12.2 In December 2003, the Commission's second report on the evaluation of the application of the Recommendation found that progress was broadly satisfactory but stated

38 Recommendation on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity (98/560/EC); OJ No. L 270, 7.10.98, p.48.

that a proposal to update the Recommendation would be made.[39] In April of this year, the Commission made its updating proposal.

12.3 Paragraph I(1) of the draft Recommendation proposes that Member States should consider:

> "the introduction of measures into their domestic law or practice in order to ensure a right of reply across all media, without prejudice to the possibility of adapting the manner in which it is exercised to take into account the particularities of each type of medium."

12.4 Paragraph I(2) of the draft Recommendation recommends Member States to promote action to enable minors to make responsible use of on-line audiovisual and information services (notably, by education programmes for parents and teachers).

12.5 Paragraph I(3) recommends Member States to encourage:

> "industry to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media and to combat such discrimination."

12.6 Paragraph II of the draft Recommendation is addressed to "the industries and other parties". Paragraph II(2) recommends them to:

> "develop effective measures to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media, and to combat such discrimination and promote a diversified and realistic picture of the skills and potential of women and men in society."

12.7 When we considered the draft Recommendation in June, the Minister for Media and Heritage at the Department for Culture, Media and Sport (Lord McIntosh of Haringey) told us that the Government welcomed the proposal and that Ofcom has powers to set content standards and to handle broadcasting complaints about invasion of privacy and the fair treatment of individuals and groups. We decided to clear the document from scrutiny.

The Minister's letter

12.8 The Minister has now written to say that, while the Government continues to welcome the stress the draft Recommendation places on media literacy and the protection of children and minors and believes that there is benefit in a pan-European approach, further consideration of the text, together with views expressed by parts of the media industry:

> "have led us to develop serious concerns about it in as far as it appears to suggest that inappropriate levels of regulation should be applied to Internet sources.

39 (25215) 16205/03: see HC 42-ix (2003-04), para 21 (4 February 2004).

"The Recommendation covers both broadcasting and a range of internet services. So far as both broadcasting and the Internet are concerned, we believe that the proposals on combating discrimination at Recommendation I (3) and II (2) in the document lean in the direction of influencing editorial content. That is not a proper role for Government to take.

"We also foresee problems with the inclusion of online services in the right of reply and discrimination sections of the Recommendation. A common regulatory regime between broadcasting and internet content, as proposed here, is unnecessary.

"Including online media in terms either of 'discrimination' or rights of reply risks producing a system that will not work and will in practice be ignored. Many online services of the kind to which the Recommendation applies merely aggregate material over which they have little editorial control and which may originate outside the EU, for example search engines, and there would be real difficulties in producing a workable definition of web-based news services.

"Users of the Internet have a right of reply by virtue of the technology. They can add their own material by, for example, creating their own websites.

"As a result, we fear that the Recommendation may have a chilling effect on the growth of e media in the EU. It could work directly contrary to its stated aim of enhancing the competitiveness of the European online industry.

"The Recommendation is to be discussed at the Ministerial Council in Brussels on 16th November. It is also to be discussed in the European Parliament Culture and Education Committee on, we believe, November 25th. Our current intention is to use the opportunity of the Ministerial Council to make the Government's reservations about it plain. I thought though that before that it would be helpful for your Committee to have a further opportunity to consider the issues which the Recommendation raises."

Conclusion

12.9 **We are grateful to the Minister for alerting us to the concerns about this proposal that have emerged since we first considered the draft Recommendation in June. We regard his letter as an encouraging example of the open and constructive dialogue between the Government and ourselves which we wish to encourage.**

12.10 **We agree that great caution is required in dealing with any proposal that could amount to censorship of content. But it does not seem to us that paragraph I(3) of the draft Recommendation proposes Government censorship. The paragraph expressly refers to Member States "encouraging industry to avoid discrimination". "Encouragement" is a different matter from regulation and it does not seem to us that there is anything improper in governments encouraging the audiovisual and information service industries, or anyone else, to avoid unfair discrimination. On the contrary, we regard it as right and proper for Government and Parliament to speak out against injustice wherever it may be found.**

12.11 **Paragraph II(2) of the document recommends the industry to "develop effective measures to avoid discrimination". We can see nothing wrong with such a recommendation in principle and the reason for misgivings about it appears to us obscure.**

12.12 **The Minister's letter indicates that it might not be practicable for the online media to apply effective systems to avoid discrimination or for rights of reply. We see no value in a proposals that are unworkable or will be ignored. We should be interested to know, therefore, whether other Member States share the Government's doubts about the practicability of this part of the draft Recommendation.**

12.13 **At this stage, we are not persuaded that there are sufficient grounds for us to rescind our previous clearance of the document. But we should be grateful if the Minister would tell us about the discussion of the document at the Council on 16 November 2004 so that we may reflect on the issues again with the benefit of further information.**

13 Protection of animals during transport

(a) (22357) 7969/01 COM(01) 197	Commission Report on the application of the different ventilation systems for animal transport vehicles for road transport exceeding eight hours
+ ADD 1	Draft Council Regulation amending Regulation (EC) No. 411/98 as regards ventilation in road carrying vehicles carrying livestock on long journeys
(b) (24774) 11794/03 COM(03) 425	Commission Communication on the protection of animals during transport
	Draft Council Regulation on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EEC

Legal base	Article 37 EC; consultation; QMV
Department	Environment, Food and Rural Affairs
Basis of consideration	Minister's letter of 3 November 2004
Previous Committee Reports	(a) HC 152-i (2001-02), para 14 (18 July 2001) (b) HC 63-xxxvii (2002-03), para 2 (12 November 2003) (Both) HC 42-xvi (2003-04), para 1 (31 March 2004) and HC 42-xxii (2003-04), para 18 (9 June 2004)
To be discussed in Council	22 November 2004
Committee's assessment	Politically important
Committee's decision	Cleared by resolution of the House of 21 April 2004

Background

13.1 The Commission regards transport as the most controversial aspect of animal welfare, and, in December 2000, it brought forward a Communication[40] on the experience acquired by Member States since the relevant Council Directive (91/28/EEC) was last amended in 1995.[41] The Commission said that some of actions recommended had already been initiated, including a proposal in April 2001 (document (a)) to improve the ventilation standards of vehicles used for long-distance journeys, but that most could be addressed only by amendments to the current legislation. It therefore sought to do this in July 2003 by proposing (document (b)) that existing Community laws on the protection of animals during transport should be repealed, and replaced by a new measure, which would also subsume the earlier proposal on ventilation standards.

40 (22004) 14650/00; see HC 28-vii (2000-01), para 16 (28 February 2001).

41 By Directive 95/29/EC.OJ No. L 148, 30.6.95, p.52.

13.2 The aims of the proposal include setting stricter journey times and space allowances; improving the mandatory training of personnel; banning the transport of very young animals, and setting out clearer definitions for when animals are unfit for transport; setting up stricter welfare standards for the transport of horses; upgrading technical standards for road vehicles; and introducing specific requirements for all livestock vessels operating from Community ports. As we noted in our Report of 12 November 2003, these aims are broadly in accord with UK policy, but nevertheless included a number of potentially contentious or difficult issues. We were told that revised proposals were expected to be published following discussion by a Council Working Group of Veterinary Experts and Chief Veterinary Officers, and would be the subject of a further Explanatory Memorandum and a Regulatory Impact Assessment.

13.3 We duly received a supplementary Explanatory Memorandum of 29 March 2004 from the Minister for Nature Conservation and Fisheries at the Department for Environment, Food and Rural Affairs (Mr Ben Bradshaw), which said that, in the light of the anticipated discussions by veterinarians, a revised text had been produced. We said that the late emergence of new text, the evident difficulty which the Government had encountered in establishing a meaningful Regulatory Impact Assessment, the continuing uncertainty over the status of the earlier proposal on ventilation standards, and the lack of any concrete information about the outcome of the Government's consultation exercise had reinforced our earlier feeling that it would be right for these documents to be considered further in European Standing Committee A. That debate took place on 20 April 2004.

13.4 We subsequently received a letter of 24 May 2004 from the Minister, in which he said that the Agriculture and Fisheries Council on 26 April had failed to reach agreement on these proposals, despite the UK having pushed hard for finite journey limits and rest off the vehicles at approved premises. He added that Chief Veterinary Officers had considered the possibility of resurrecting the bulk of the proposal, whilst retaining the status quo for maximum journey times, rest and space allowances, but, although the UK had supported this proposal, it did not receive sufficient support from other Member States. As a result, the current rules, including those relating to forced ventilation, would continue to apply for the foreseeable future. In our Report of 9 June 2004, we expressed the hope that it would be possible to revive these proposals in the not too distant future, and, in the meantime, we decided simply to draw the position to the attention of the House.

Minister's letter of 3 November 2004

13.5 We have now received a further letter of 3 November 2004 from the Minister, indicating that the Netherlands Presidency has sought to resurrect the proposal by retaining the status quo for maximum journey times, rest and space allowances, whilst pursuing the other elements referred to above. He also enclosed with his letter an unofficial copy of the text which has been produced following discussions by veterinary experts.

13.6 The Minister says that most technical issues have now been resolved, and that he is confident that the proposal gives the best gains in welfare possible at present whilst keeping the door firmly open for further improvements later. In particular, they protect the welfare

of unbroken horses, allow strict rules to be set for journeys entirely within one Member State, or for sea transport departing from a port in that Member State, strengthen authorisation, enforcement and training provisions, and include an undertaking to review journey times at a later date. He also confirms that the outstanding proposal (document (a)) to amend Regulation (EC) No. 411/98 on ventilation standards is included in the proposals for this new Council Regulation, and so will not be brought forward again as a freestanding proposal.

Conclusion

13.7 **We are grateful to the Minister for this update, from which we note that the Council may well agree this latest text at its meeting on 22 November 2004, albeit whilst retaining the status quo on maximum journey times, rest and space allowances. Clearly, from a welfare point of view, it would have been preferable to have included these elements as well, but we note that the Government considers that the changes which are being made will bring useful gains, and that the way remains open to further improvements at a later date.**

13.8 **Given the general interest in the whole subject of the welfare of animals during transport, we are drawing these developments to the attention of the House, but the two documents are already cleared by virtue of the resolution of the House on 21 April 2004 following the debate in European Standing Committee A.**

14 Assistance for northern Cyprus

(26058) 13883/04 COM(04) 696	Amended draft Council Regulation on establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Regulation (EC) No. 2667/2000 on the European Agency for Reconstruction

Legal base	Article 308 EC; unanimity
Documents originated	21 October 2004
Deposited in Parliament	27 October 2004
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 4 November 2004
Previous Committee Report	None
To be discussed in Council	22 November 2004 GAERC
Committee's assessment	Politically important
Committee's decision	Cleared

Background

14.1 In response to the wishes of the 26 April General Affairs and External Relations Council (GAERC) following the disappointing outcome of the Cyprus referendum, the Commission announced on 7 July 2004 a package of measures aimed at the economic integration of the island and at improving contact between the two communities and with the EU, together with specific rules for goods crossing the "green line" that separates the two communities. The package included two draft Council regulations:

- to establish financial support for economic development in northern Cyprus and for improving inter-community contact (€259 million for 2004-2005, originally earmarked for a reunited Cyprus); and
- to facilitate direct trade from the north, including a preferential regime for products originating there on entering the Customs territory of the EU.

14.2 The Committee cleared the "green line" Regulation on 18 May[42] and the other two draft Regulations on 21 July.[43] The former was adopted on 23 August. But the other two have been the subject of so far inconclusive discussion in the Council. However, differences having now been resolved, the Government is keen to get the aid disbursed as quickly and effectively as possible.

The Government's view

14.3 In his 4 November 2004 Explanatory Memorandum, the Minister for Europe (Mr Denis MacShane) says that the Commission proposes using an existing structure — the European Agency for Reconstruction (EAR) based in Thessaloniki — rather than establishing a new one. As he explains:

> "The EAR was set up in the aftermath of the Kosovo crisis to manage the EU's assistance to UN administered Kosovo. Its mandate covers the full project cycle, from identification (including preparatory studies) to final payments, monitoring and evaluation of projects under its responsibility. Since its establishment, the mandate of the EAR has been extended twice (to include Serbia and Montenegro and the former Yugoslav Republic of Macedonia). On 28 June 2004 the Commission proposed to extend the Agency's mandate for another two years until 31 December 2006."

He supports this in the following terms:

> "It is important to ensure that a mechanism is in place to disburse the funds quickly and effectively for north Cyprus. This is in line with the UK and EU objective of ending the isolation of the Turkish Cypriots. We consider the EAR an appropriate mechanism for the disbursal of aid to the north. It is well established and has a long and recognised experience of implementing major infrastructure projects, which will represent the bulk of the aid to the northern part of Cyprus. It is also a pragmatic

42 HC 42-xx (2003-04), para 21 (18 May 2004).

43 HC 42-xxix (2003-04), para 12 (21 July 2004).

choice that avoids the need to set up a new body with all the political and administrative delays this could involve.

"We are confident that this proposal will not have an adverse impact on the EAR's important work in the Western Balkans. The European Commission have confirmed that the EAR will not divert any staff away from work in the Western Balkans, but we will monitor this carefully. Approximately 30 new staff will be employed to work on Cyprus. Nor will financial resources be diverted away from the Balkans. Under the CARDS (Community Assistance for Reconstruction Development and Stabilisation) 2004 Country Programmes, €329 million was approved for Kosovo, Macedonia, and Serbia and Montenegro. Funds for Cyprus will all come from the €259 million earmarked under the Aid Regulation."

14.4 In relation to the legal basis the Minister says:

"The Government agrees that the use of Article 308 is justified as northern Cyprus is in a unique situation not covered by other Treaty articles. Use of Article 181a would not be appropriate as northern Cyprus is not a third country."

14.5 In his accompanying letter he explains why the proposal has not yet been finalised:

"The Commission and Council Legal Service (CLS) are still in discussion regarding the most appropriate way of appointing the EAR to take on responsibility for aid to northern Cyprus. It is proposed to either amend the Aid Regulation or to amend a separate regulation extending the EAR's mandate.[44] We do not have a preference. Our main concern is that an appropriate mechanism is put in place to enable the aid to be disbursed without delay. However, despite the substance remaining the same it may result in the final proposal looking slightly different to the current text. I thought it best to give your Committee the chance to scrutinise the original proposal. If a final decision on a funding mechanism is not made until closer to the 22 November GAERC this may result in your Committee not being able to scrutinise the final proposal. The Government is keen to follow through on the commitment made at the 26 April GAERC and we would not want to delay the dispersal of aid. If a decision is made shortly we will of course outline the differences in a supplementary EM."

Conclusion

14.6 **The underlying objective — to facilitate reunification in Cyprus — is laudable, and we share the Minister's regret that it has taken so long to give effect to the Council's intentions.**

14.7 **We again accept, despite our frequent reservations about the use of Article 308, that there is no other suitable treaty provision available for this case and that reunification would attain one of the Community's objectives in the course of the operation of the common market.**

44 Cleared by the Committee without a substantive Report to the House: see 25794: HC 42-xxx (2003-04), para 17 (9 September 2004).

14.8 **We are grateful to the Minister for submitting the draft proposal to us now to enable scrutiny to be carried out, rather than waiting until a final decision on the financing mechanism is made. We are content to accept his assurance that he will notify us of any changes, and would in any event wish to be notified of the final decision (and to receive the final text).**

14.9 **We now clear the document. Given the continuing interest in Cyprus, we considered a short Report to the House appropriate.**

15 Chemical Weapons

(26080) — —	Draft Joint Action to support the Organisation for the Prohibition of Chemical Weapons activities under the EU strategy against the proliferation of Weapons of Mass Destruction

Legal base	Article 14 EU; QMV
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 4 November 2004
Previous Committee Report	None
To be discussed in Council	22 November 2004 GAEC
Committee's assessment	Politically important
Committee's decision	Cleared

Background

15.1 On 12 December 2003 the European Council adopted an EU Strategy against the Proliferation of Weapons of Mass Destruction (WMD). In this, the EU agreed to enhance political, financial and technical support for verification regimes, including support for the multilateral institutions.

The Joint Action

15.2 In his 2 November 2003 Explanatory Memorandum, the Minister for Europe (Mr Denis MacShane) explained the context thus:

> "The Chemical Weapons Convention (CWC) aims to ban an entire category of WMD in a verifiable manner. The Organisation for the Prohibition of Chemical Weapons (OPCW) is the multilateral institution which pursues the objectives of the CWC. This Joint Action implements the necessary assistance to support the OPCW in its activities in the framework of the implementation of the EU strategy against Proliferation of WMD. The duration of the Joint Action is 12 months and we hope will be renewed on an annual basis thereafter."

15.3 He adds:

"the Joint Action will support OPCW activities with the following objectives:

- promotion of universality of the CWC;
- support for full implementation of the CWC by all States Parties;
- international co-operation in the field of chemical activities, as accompanying measures to the implementation of the CWC.…

"The projects of the OPCW corresponding to measures of the EU Strategy are projects, which aim at strengthening:

- the promotion of the CWC by carrying out activities, including regional and sub-regional workshops and seminars, aiming at increasing the membership of the OPCW. These workshops and seminars will offer opportunities for the OPCW to establish/develop contacts with national representatives and to highlight the advantages and benefits of adhering to the CWC, as well as associated obligations. Assistance and technical support will also be provided on specific issues relevant to the preparation for accession to the Convention.
- the provision of sustained technical support to States Parties that request it for the establishment and effective functioning of National Authorities and the enactment of national implementing legislation as foreseen in the CWC. This will require assistance visits on legal and technical aspects to respond to specific needs of requesting State Parties who are yet to fulfil their obligations. Such assistance will be provided by experts/resources from the OPCW staff with the inclusion of EU experts as necessary.
- international co-operation in the field of chemical activities through the exchange of scientific and technical information, chemicals and equipment for purposes not prohibited under the CWC, in order to contribute to the development of the States Parties' capacities to implement the CWC. The EU contribution will focus on the building of capacities of National Authorities so as to enable them to implement the CWC and to engage in the peaceful application of chemistry."

15.4 On the financial aspects, the Minister explains that:

"The financing of the programme will be managed in accordance with the European Community procedures and rules applicable to the general budget of the European Union. Any pre-financing will not remain the property of the European Community. The Commission will be responsible for ensuring the EU contribution is implemented properly.

"The Commission will conclude a financing agreement with the OPCW on the conditions for the use of the European Union contribution, which will also stipulate that the OPCW shall ensure visibility of the European Union contribution. The EU

contribution will take the form of a grant. The Commission, in association with the Presidency, will report on the implementation of the EU contribution.

"The projects to be carried out by the OPCW will be funded through existing UK contributions to the CFSP budget. The estimated cost of the proposed projects is €1,841,000."

The Government's view

15.5 The Minister says that:

"The work carried out by the OPCW complements the UK's work towards achieving universal adherence of the CWC and also full national implementation of the CWC by all States Party. Countering proliferation of WMD is a top priority for the UK and a strategic priority for the Foreign and Commonwealth Office."

Conclusion

15.6 **We have no questions to put to the Minister, and clear the document. But in view of the importance of the subject, we considered a short Report to the House appropriate.**

16 Common Foreign and Security Policy — the European Union Monitoring Mission

(26081) — —	Council Joint Action prolonging Joint Action 2003/852/CFSP extending the mandate of the European Union Monitoring Mission

Legal base	Article 14 EU; unanimity
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 3 November 2004
Previous Committee Report	None
To be discussed in Council	22 November 2004 GAERC
Committee's assessment	Politically important
Committee's decision	Cleared, but information on progress requested

Background

16.1 Kosovo is legally a province of Serbia and Montenegro but has been under interim UN administration pending a settlement of its status in accordance with UN Security

Council Resolution 1244 since 1999. The UN Interim Administration in Kosovo (UNMIK) administers Kosovo. Its objectives are to:

- provide a transitional administration — pending a settlement to determine Kosovo's future status — under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia (now Serbia and Montenegro);
- establish and oversee the development of provisional democratic self-governing institutions; and
- facilitate a political process designed to determine Kosovo's future status.

Under the overall authority of the Special Representative of the UN Secretary-General for Kosovo, and Head of UNMIK (Mr Soren Jessen-Petersen), it works with Kosovo's Provisional Institutions of Self-Government (PISG) and people and leads a process across a wide spectrum of essential administrative functions and services which is grouped under four "pillars", each led by either the UN, the EU or the Organization for Security and Co-operation in Europe (OSCE):

- Pillar I: Police and Justice (UN);
- Pillar II: Civil Administration (UN);
- Pillar III: Democratization and Institution Building (OSCE); and
- Pillar IV: Reconstruction and Economic Development (EU).

16.2 The UN has stated that Kosovo must meet certain "standards" (particularly minority rights, functioning democratic institutions and respect for the rule of law) before its future status can be addressed and has formulated a strategy called "Standards before Status". This consists of eight practical "benchmarks"[45] against which Kosovo needs to make substantial progress. In mid-2005 there will be a formal review of Kosovo's progress in meeting these standards. If sufficient progress has been made, a process will begin to determine Kosovo's final status in accordance with UNSCR 1244. If not, another, later, review date will be set.

The EU Monitoring Mission

16.3 The European Monitoring Mission (EUMM) in the Western Balkans was established by a Joint Action (2000/81 l/CFSP) on 22 December 2000. Its purpose was to provide a smaller and more focussed successor to the previous European Community Monitoring Mission, which had been set up in the former Yugoslavia following the outbreak of fighting in Croatia in 1991 and later in Bosnia and Herzegovina (BiH) and Kosovo. It is an unarmed monitoring mission to provide analytical reporting on political and security

45 Functioning democratic institutions; rule of law; freedom of movement; sustainable returns and the rights of communities and their members; functioning market economy; property rights; constructive and continuing dialogue between the PISG and their counterparts in Belgrade over practical issues and developed cooperation within the region; Kosovo Protection Corps (ex Kosovo Liberation Army personnel, now civilian emergency and humanitarian assistance organisation) must operate in a transparent, accountable, disciplined, and professional manner and be representative of the entire population.

developments, particularly in areas where access by diplomatic missions could prove difficult. The aim is that it will thereby serve as an early-warning mechanism for the Council and, it was hoped, also become a confidence-building institution for those in the region.

16.4 The EUMM currently operates in Serbia and Montenegro, Kosovo, BiH, Macedonia and Albania. With greater stability in much of the Western Balkans, the continued need for this presence has been debated. At the beginning of 2004, the Political and Security Council (PSC)[46] endorsed the view that a comprehensive overall assessment of the EUMM's presence in the Western Balkans should be made in September 2005. The latest position is described thus by the Minister for Europe (Mr Denis MacShane) in his 3 November 2004 Explanatory Memorandum:

> "Agreement was reached at the PSC in October 2004 that in the lead-up to the 2005 assessment, there would be a need for a strong EUMM focus on Kosovo and neighbouring regions during the mid-2005 review of Kosovo's progress against the key standards needed before discussions on its final status could begin. EUMM could provide early warning of potential problems, particularly in more remote areas, including border areas of Macedonia and Albania. Agreement was reached on the need to keep EUMM's activities under review and adaptable to circumstances in the lead up to the 2005 assessment."

The Government's view

16.5 On the EUMM's future, the Minister says:

> "The Government believes that EUMM will continue to play a role in the achievement of the UK's objectives of peace and enduring stability in the Balkans over the next twelve months. In particular, EUMM will play an important role in Kosovo with the review of standards in mid-2005. With monitors spread throughout the country, and in the 'hotspots' of neighbouring Macedonia and Albania, it will provide an early warning mechanism for potential problems. In addition, an EUMM presence in remote areas, for example Serb areas in Kosovo, could provide reassurance to residents and increased visibility for the EU.
>
> "However, the Government believes the necessity for monitors in BiH will shortly come to an end with the arrival of the EU military presence (EUFOR) and subsequent increase in EU troops on the ground. In addition, we believe a reduction of mission size in Belgrade and Tirana is feasible, because of the number of other international organisations now in operation there. Focus should move to borders and other more remote areas. We agree to extend EUMM for a further one year on the understanding that a comprehensive review next autumn will address these issues and outline a regional exit strategy."

16.6 On its composition, he adds:

46 The group of senior officials in permanent delegations in Brussels who deal with EU common foreign and security policy issues.

> "EUMM currently comprises a staff of 94, made up of contributions from member states, plus 78 locally engaged administrative officers funded from the EUMM budget, and a Head of Mission based at the EUMM Headquarters in Sarajevo. The monitors are mainly ex-military personnel, with a number of diplomats working in the HQ in Sarajevo. The UK provides a contingent of 5 monitors plus a Head of Delegation and a locally engaged administrative officer. This represents a reduction of one since 2003; a reflection of our changing priorities and in anticipation of next year's annual review."

16.7 Finally, on the financial implications, he says:

> "Each member state pays an assessed contribution to the running of EUMM. The UK's assessed contribution is currently £560,000 out of a total of £2,912,335. In addition, each member state bears the full cost of each of its secondees. The UK currently pays £442,800 per year for five secondees and associated expenses."

Conclusion

16.8 **The current Joint Action extends the presence of the EU Monitoring Mission (EUMM) in the former Yugoslavia and Albania for a further 12 months from 1 January 2005. We cleared the original Joint Action and previous continuations of the mandate without a substantive Report to the House. But in view of the setback experienced in Kosovo earlier this year, and recent tensions in neighbouring Macedonia, and with the prospect of the major review of Kosovo's progress in 2005, we considered that a short Report to the House was appropriate on this occasion. We look forward to receiving further information in due course about the review process, and to scrutinizing any consequent proposals (where appropriate) about the EUMM's future role. In the meantime, we clear the document.**

17 Destruction of munitions in Albania

(26087) — —	Draft Council Decision extending and amending Decision 2003/276/CFSP implementing Joint Action 2002/589/CFSP with a view to a European Union contribution to the destruction of ammunition for small arms and light weapons in Albania

Legal base	Joint Action: Article 14 EU; unanimity Council Decision: Article 6 of the Joint Action; QMV
Department	Foreign and Commonwealth Office
Basis of consideration	EM of 5 November 2004
Previous Committee Report	None
To be discussed in Council	22 November 2004 GAERC
Committee's assessment	Politically important
Committee's decision	Cleared, but further information requested

Background

17.1 The Government pledged £20 million over three years to help implement the programme of action agreed by the July 2001 UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Last year, the Council, in Decision 2003/276/CFSP, contributed EU funds to the NATO Maintenance and Supply Agency (NAMSA), for a project aimed at the consolidation and destruction of surplus Small Arms and Light Weapons (SALW) ammunition in Albania. This Decision was based on Joint Action 2002/589/CFSP, itself based on an earlier Joint Action 1999/34/CFSP, which provided for comprehensive EU action against the uncontrolled spread of SALW in three main ways:

i) preventative measures which seek to limit those actions which cause further destabilising accumulations of small arms;

ii) reactive measures which seek to reduce existing accumulations; and

iii) assistance measures which make a "direct and identifiable contribution" to achieving (i) and (ii).

We cleared the Decision on 19 March 2003. This latest Council Decision will extend it until December 2005 and thus continue to contribute EU funds to the NAMSA.

17.2 In his 5 November 2004 Explanatory Memorandum, the Minister for Europe (Mr Denis MacShane) illustrates the scale of the challenge:

> "Small arms, light weapons and ammunition pose a serious threat to the security of people and states in the South East Europe region and globally, not least Albania. Albanian weapons and munitions have reportedly been found in Kosovo and as far afield as Rwanda and Liberia. In addition to ammunition, which it has recovered from the public, the Albanian army also has large stocks of old and unstable

munitions, which are in military storage facilities near population centres. The Albanian Ministry of Defence continues to be engaged in a major reorganisation of military establishments to improve the security of stored munitions. This exercise will generate surplus supplies; there is a risk that these could be sold or illegally exported. Although the immediate stockpiles earmarked for destruction amount to 11,665 tonnes over a period of four years, we have learned that the Albanians are likely to declare surplus another 100,000 tonnes of ammunition (including heavy calibre) over the next few years.

"The scale of Albania's SALW problem is therefore significant and needs to be tackled. The Albanian Government is committed to addressing the problem. But it lacks human and financial resources to consolidate and destroy its ammunition or to stem fully the flow of weapons and ammunition from its territory. It has therefore sought support (through the Canadian Department of Foreign Affairs and International Trade (DFAIT) and NAMSA) for Albania's Approved National Plan of Action for ammunition demilitarisation. The Albanian Deputy Prime Minister has overall responsibility for the project. NAMSA estimates that the total cost of the project will be €6.4 million (£4.21 million) over 4 years."

The Government's view

17.3 The Minister says:

"The Government fully supports this Council Decision to extend the Joint Action. It is a continuing step in the fight against small arms and ammunition proliferation in Albania. It will continue to bolster [the] NAMSA project [and] make a further positive contribution to the destruction of SALW ammunition stockpiles. This project is helping to underpin continuing normalisation in South East Europe. The project represents a significant part of concerted EU and international efforts to curb the global proliferation of and misuse of SALW. HMG is also contributing £400,000 over 2 years to this project from the SALW Global Conflict Prevention Pool as part of our national contributions to the NAMSA project."

17.4 On the financial aspects, he further notes:

"In 2003 the EU's contribution from the CFSP Budget was €820,000 (£561,044). This will now increase to €1,300,000 (£892,840) reflecting a new phase of the project as the initial start-up evolves into the destruction phase. We support this increase provided solid results are achieved over the next year. This will still be will be used to cover salaries, travel expenses, supplies and equipment necessary for the destruction process."

Conclusion

17.5 **When we considered the original Joint Action in March 2003, we did not consider that it warranted a substantive Report to the House: the programme was in its infancy, and the sums of money relatively small. The increase now is not large. But we consider that the matter now has a higher degree of political importance, not only in terms of combating weapons and munitions "leakage" in Europe to criminals and enhancing**

stability, but also — as the evidence cited here indicates — ensuring that they do not fuel conflicts in Africa. As the Minister notes, there are very large quantities of ammunition in Albania that appear to be surplus to requirements, without as yet being formally incorporated into this current exercise.

17.6 **The progress made in this programme will therefore be an important test of the Albanian authorities' willingness and ability to deliver results, and thereby demonstrate their commitment to European Union values. The Minister's support bears an appropriate caveat, which we endorse. Therefore, while clearing the document, we ask the Minister to report progress in a year's time, in the hope that he will be able to demonstrate that the right words have led to the right outcomes.**

18 EU police mission in Macedonia

(26099) — —	Draft Council Joint Action on the extension of the European Union Police Mission in the Republic of Macedonia (EUPOL "Proxima")

Legal base	Article 14 EU; unanimity.
Department	Foreign and Commonwealth Office
Basis of consideration	EM and letter of 9 November 2004
Previous Committee Report	None
To be discussed in Council	22 November 2004 GAERC
Committee's assessment	Politically important
Committee's decision	Cleared

Background

18.1 Following requests from the late President of the Republic of Macedonia, Mr Boris Trajkovski, to the EU's Secretary General/High Representative, Mr Javier Solana, in January and July 2003, expressing interest in an EU police mission to advise on and contribute to police reform, and a further formal invitation in September 2003, the EU decided to provide a police mission under the European Security and Defence Policy (ESDP) in Macedonia. We cleared the relevant Joint Action and Council Decision on 15 October 2003.[47] EUPOL Proxima was launched on 15 December 2003.

47 (24891): see HC 63-xxxiii (2002-03), para 39 (15 October 2003).

The Joint Action

18.2 This draft Joint Action extends the mandate of Proxima for a further year from 15 December 2004 to 14 December 2005, following a request in October from Macedonia's Prime Minister for a one-year extension and recommendations made by the EU Special Representative to Macedonia in the Political and Security Committee later in October.

The Mission Objective

18.3 In his 9 November 2004 Explanatory Memorandum, the Minister for Europe (Mr Denis MacShane) says that

> "the objective of the mission will be to further support the development of an efficient and professional police service based on European standards of policing. EU police experts will continue to monitor, mentor, and advise the country's police, focusing on middle and senior management, thus helping to fight organised crime more effectively, to further facilitate public confidence in policing, to consolidate law and order, and to further assist in the creation of a border police service."

The Government's view

18.4 The Minister reviews developments since last December:

> "Over the course of the last year Proxima has had a positive impact on policing in Macedonia. Amongst its achievements, it has ensured better co-ordination between the police and the judiciary, assisted in the transfer of the southern and eastern border responsibility from the Ministry of Defence to the Ministry of Internal Affairs, and successfully promoted and supported international and regional co-operation in the criminal police."

18.5 The Minister also looks at the current challenges:

> "But a series of reforms still needs to be either undertaken and/or fully implemented. We therefore fully support the extension of EUPOL Proxima which will allow it to fully capitalise on the trust and initiatives established to date, ensuring the operational implementation and follow-up of advice and further assistance to the local authorities. The Government is satisfied that the EU is not following a policy of automatically extending police missions beyond their original mandate. We advocate the use of ESDP missions in situations where there is a clear and identifiable task that it will deliver results on the ground in line with EU objectives. It does so in this instance.
>
> "The extended mission will be an evolution and not a revolution of the current mission, deploying nation-wide and to work with middle and senior management. It will refocus its work on critical areas where genuine progress has been achieved, while continuing to address urgent operational needs, but will also focus further on areas where high impact can be expected. In particular the mission will concentrate on Public Peace and Order and Accountability, Organised Crime, and Border

> Policing. Law Enforcement Monitoring will also continue as a horizontal and crosscutting activity."

18.6 Summing up, he says:

> "While the security situation has continued to improve over the course of 2004, tensions and the risk for incidents remain high in light of the referendum on decentralisation and developments on the other side of the northern border. In addition while the Macedonian police have continued to make progress during 2004 there is still a real need for international assistance. The Macedonia police mission is an important element of the EU's involvement in Macedonia which reflects the EU's continued, active involvement in developing a stable, secure environment to allow the Government to implement the Ohrid Framework Agreement (the peace settlement which brought the inter-ethnic crisis of 2001 to a close)."

18.7 He notes that "the arrangements laid out for this in the Joint Action are almost identical to those in the Joint Action for the first year of Proxima", which he clarifies in his accompanying letter. The Joint Action "is currently in its drafting stage. The mission statement and mandate will not change, although the mission will be tightened to reflect the progress made and decisions to refocus the mission on a smaller number of key priorities. As a result, the final figures for the extended mission have not yet been finalised. The final cost is likely to be less than last year. We will provide your Committee a supplementary EM when further details of this emerge". As the Explanatory Memorandum notes, the budget for 2004 for Proxima was €9.55 million, of which the UK share "is around 15%.".

Conclusion

18.8 **The situation in Macedonia is plainly not yet sufficiently stable for the EU to contemplate ending this mission, only a year after it began, and we agree with the Minister that "there is a clear need for continued mentoring, monitoring and advising in the policing sector". Nonetheless, we also endorse his intention that the EU should not follow a policy of automatically extending police missions beyond their original mandate. We would therefore hope to see, in a year's time, a proper assessment of the extent to which measurable outcomes, consistent with stated objectives, have been achieved, and to see this informing any proposal for a further extension.**

18.9 **We also look forward to the promised supplementary Explanatory Memorandum when the final details of the draft Joint Action have been elaborated. In the meantime, we accept the Minister's assurance that this will amount to no more than fine tuning, and clear the document.**

19 Additives in foodstuffs

(26025) 13489/04 COM(04) 650	Draft Directive amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs

Legal base	Article 95EC; co-decision; QMV
Document originated	11 October 2004
Deposited in Parliament	19 October 2004
Department	Food Standards Agency
Basis of consideration	EM of 2 November 2004
Previous Committee Report	None
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	Cleared

Background

19.1 Council Directive 94/35/EC harmonises the use of sweeteners for use in foodstuffs by listing permitted sweeteners, the foods in which they may be used, and the conditions for their use, whilst Council Directive 95/2/EC harmonises in a similar way food additives other than colours and sweeteners.

The current proposal

19.2 In this document, the Commission has proposed a number of amendments to these two Directives as follows:

- salts of nitrite and nitrate are allowed in meat products, cheese and certain fish products as preservatives, and the proposal would, in the light of advice from the European Food Safety Authority (EFSA), reduce their authorised levels and base any such control in future on the amounts added, rather than (as at present) residual amounts, which are regarded as being of limited value: however, there would be a derogation, requested by the UK and supported by Ireland, maintaining the existing system of control over maximum residual levels for certain traditional meat products, such as Wiltshire cured ham, bacon and similar products, because the curing process involves the addition of a "live brine" where it would be impossible to control the amounts of nitrite or nitrate added;

- following an evaluation by the EFSA, which concluded that, because there was no clear level without an observed adverse effect, an Acceptable Daily Intake Level could not be established for two preservatives — E216 (propyl p-hydroxybenzoate) and E217 (sodium propyl p-hydroxybenzoate) — these should therefore be withdrawn;

- an earlier Commission Decision (2004/374/EC) introduced a temporary suspension of the marketing within the Community of jelly mini-cups containing gel-forming additives derived from seaweed or certain gums, because these were considered to pose a choking risk due to their consistency, shape and form: this proposal would withdraw on a permanent basis the authorisation of gelling agents for use in such mini-cups;

- following positive evaluations by the Scientific Committee on Food (SCF), three new additives would be authorised (erythritol, 4-Hexylresorcinol and soybean hemicellulose), whilst a fourth (ethyl cellulose) would be authorised following such an evaluation by the EFSA;

- the permitted uses of certain authorised food additives would be extended, namely that of sodium hydrogen carbonate in sour milk cheese, of sorbates and benzoates in crustaceans, of silicon dioxide as a carrier in certain colours, and of certain additives in traditional Hungarian products; and

- in addition to its authorisation as an additive (see above), erythritol would be authorised as a sweetener under Directive 94/35/EC: also, although it can have a laxative effect, the SCF noted that this occurs at higher levels of intake than seen for other comparable products, and it therefore proposed that erythritol should be exempt from the labelling rule regarding laxative effects which would otherwise apply.

The Government's view

19.3 In her Explanatory Memorandum of 2 November 2004, the Parliamentary Under-Secretary of State for Public Health at the Department of Health (Miss Melanie Johnson) says that the proposal is welcome as it takes account of new scientific technological developments in food additive usage and ensures the protection of human health and the interests of consumers. She adds that the approval of new additives, and of new uses for existing ones, will enable industry to produce a wider range of products with no safety implications, whilst the other measures proposed are welcome on grounds of consumer health and safety.

19.4 The Minister has also enclosed with her Explanatory Memorandum a Regulatory Impact Assessment, which suggests that the proposal is unlikely to have a financially adverse impact on UK industry, given in particular that the derogation permitting the maximum levels of nitrites and nitrates in traditional bacon and ham products to be measured at the point of sale meets the needs of UK producers. Also, so far as the Government is aware, no UK manufacturer uses E216 and E217 in foods, and the prohibition on gelling agents in jelly mini-cup sweets (which are not in any case produced in the UK) is already enshrined in legislation as a result of the earlier Commission Decision.

Conclusion

19.5 **It is not uncommon for Community legislation in this area to be amended from time to time to reflect technical and other developments, and, in so far as the measures**

proposed here conform to scientific advice, they do not seem to us to require any further consideration, either individually or collectively. We are therefore clearing the document, but we think it right to draw it to the attention of the House.

20 Financial management

(26005) 13100/04 COM(04) 648	Commission Report on the follow-up to the 2002 Discharges

Legal base	Article 276 EC
Document originated	30 September 2004
Deposited in Parliament	11 October 2004
Department	HM Treasury
Basis of consideration	EM of 8 November 2004
Previous Committee Report	None; but see (25891) 11890/04 (25925) 11981/04 + ADDs 1 and 2: HC 42-xxxii (2003-04), para 4 (13 October 2004)
To be discussed in Council	Not known
Committee's assessment	Politically important
Committee's decision	Cleared, but relevant to the debate already recommended on the Commission's 2003 annual report on the fight against fraud and related documents

Background

20.1 As part of the process of discharge (final closure of the accounts) of the General Budget, the European Parliament and the Council make recommendations for improvements in the implementation of the budget. The Commission prepares follow-up reports giving an account of actions taken in response to those recommendations. Similar processes take place in relation to the budgets of the Sixth, Seventh and Eighth European Development Funds (EDF), the European Coal and Steel Community (ECSC) and some agencies.

The document

20.2 The report describes measures the Commission has taken or is taking in response to the recommendations the European Parliament and the Council made during the discharge for the 2002 General Budget.

20.3 The report is divided into five sections:

- I: European Parliament Resolution on the General Budget;
- II: European Parliament Resolution on the EDF;
- III: European Parliament Resolution on the ECSC;
- IV: European Parliament Resolutions on Agencies; and
- V: Recommendation of the Council on the General Budget.

The first and second sections are subdivided by detailed budget area. Unlike the previous follow-up report, which took each of the European Parliament or Council comments and recommendations in turn and gave the Commission's response and/or action taken or to be taken,[48] this report summarises sectors or themes raised by the European Parliament or Council, the Commission's actions, already taken or intended, and the recommendations the Commission is not taking up, or is unable to take up.

20.4 The Financial Secretary to the Treasury (Mr Stephen Timms) helpfully highlights in his Explanatory Memorandum the General Budget areas where Commission's actions are of topical interest in regard to good financial management. He says:

> *Reform of the Commission*
>
> "The key areas of the Reform process are the new Financial Regulation and the modernisation of staff regulations. Both of these are now part of the day-to-day functioning of the Commission. The Commission agreed with the European Parliament that reform is a continuous process, which did not end with the adoption of legislative texts.
>
> "The Commission responded by highlighting three areas of achievement. Modernisation of accounts was on track and the Commission would continue to inform the European Parliament on a regular basis of the progress that was being made. Significant progress was made in the implementation of Internal Control Standards, and in 2004 an assessment of Directorate Generals showed that 91% of standards were fully achieved at the end of 2003 and 8% partially implemented. In the future the emphasis would be on the underlying systems, verifying that systems work well in practice and the necessary assurances are delivered to the budgetary authority.
>
> "On Annual Activity Reports (AARs), the Commission has provided guidance to Directors General on drafting their declarations for the reports. The Commission also carried out a second peer review exercise of the reports and declarations. Both of these initiatives will contribute to improving consistency in the Commission's approach to producing AARs.

48 See (25014) 14403/03: HC 42-I (2003-04), para 24 (3 December 2003).

OLAF [The European Anti-Fraud Office]

"The Commission had taken on board the comments of the European Parliament concerning the Commission proposal to amend Regulation (EC) No. 1073/1999;[49] this will be dealt with in deliberations of the legislative authority.

"[The] Commission reported that all cases inherited from UCLAF,[50] had now been closed. OLAF was to submit a report on the matter to the OLAF Supervisory Committee in due course.

Corruption

"The Commission agreed with European Parliament that anti-corruption strategies for new Member States and accession countries should be supported. A new budget line was created in 2004, which amounted to €3 million for special support to Non-Governmental Organisations (NGOs) in new Member States to act as watchdogs for civil society and uncover corrupt practice in public administration.

"A European Parliament resolution called for Non-Governmental Organisations (NGOs) to meet certain standards on accounting, audits and transparency. The Commission's response was to remind the Parliament that they were not in the position to monitor or intervene in the internal management of NGOs. But it reiterated that NGOs, like other beneficiaries from the general budget of the European Union, were obliged to fulfil the requirements of the Financial Regulation.

Eurostat

"The European Parliament had many concerns about the framework of the Discharge procedure on the Eurostat case. In response the Commission made it clear that it was keeping Parliament informed through the Budgetary Control Committee during the various steps of the procedure leading to the granting of the Discharge.

"The Commission explained that it would not be able to implement the specific requests from the European Parliament to publish internal audit reports because of their confidential nature.

"The Commission has re-examined the new Financial Regulation, to identify any potential risk, which would expose the Community Budget to fraud. The Commission stated that assessments of the fraud-proofing of the financial rules would take place at the first review of the Financial Regulation in 2005 according to article 180 of the Regulation, which states that reviews take place every three years.

Structural Funds

"The Commission reported that the Discharge Authority is informed on a regular basis of measures that have been taken to promote better budget implementation. The next Structural Funds Regulation would include the lessons learnt and measures

49 See (25396) 6387/04 (25397) 6389/04: HC 42-xiii (2003-04), para 4 (17 March 2004).

50 OLAF's predecessor — Unite de Coordination de la Lutte Anti-Fraud.

such as the "n + 2" rules.[51] The Commission does not agree that sanctions on Member States for poor budgetary estimates, provision of SAPARD guidance in all the languages of acceding countries and a quarterly breakdown of the situation as regards to the application of the "n + 2" rule, are appropriate. The Commission informs the European Parliament of the actual application of the "n + 2" rule as soon as the final figures are known. Lastly, it was stated that good practice in the disbursement of Structural Funds depends on a wide range of factors."

The Government's view

20.5 The Minister says:

"This report by the Commission is a useful summary of action taken to follow-up recommendations relating to the budget discharge for 2002. It shows that the Commission takes both the European Parliament's and the Council's recommendations seriously. The Government welcomes the decision to present the Commission's response to both the Council and the Parliament in a single document.

"The Government further welcomes the Commission's continued commitment to reform of its financial management of the Community's funds, as evidenced in the new financial regulation. The Government agrees that in future, fraud proofing of the financial rules should be pursued."

Conclusion

20.6 **The Commission's responses to the recommendations of the European Parliament and of the Council cast additional light on how management of the Communities' finances is developing. We clear the document, but we regard it as relevant to the debate already recommended in European Standing Committee B on the Commission's 2003 annual report on the fight against fraud and related documents.**[52]

51 The rule under which Structural Funds money is decommited if not spent by the end of the second year after the year of commitment.

52 See (25891) 11890/04 (25925) 11981/04 + ADD1 and 2: HC 42-xxxii (2003-04), para 4 (13 October 2004).

21 Revision of the EU Budget and Financial Perspective

(a) (26028) 13515/04 SEC(04)1234	Preliminary Draft Amending Budget No 11 to the General Budget for 2004
(b) (26029) 13517/04 COM(04)666	Draft Decision on a revision of the Financial Perspective 2000-2006

Legal base	(a) Article 272 EC; the special role of the European Parliament in relation to the Budget is set out in Article 272; QMV (b) Paragraphs 19, 20 and 21 of the Inter-Institutional Agreement on the budget; co-decision; QMV
Documents originated	13 October 2004
Deposited in Parliament	21 October 2004
Department	HM Treasury
Basis of consideration	EMs of 3 November 2004
Previous Committee Report	None
To be discussed in Council	(a) 25 November 2004 (b) Not known
Committee's assessment	Politically important
Committee's decision	Cleared

Background

21.1 The Inter-Institutional Agreement (IIA) of 6 May 1999, between the Commission, the Council and the European Parliament, is a politically and legally binding agreement which clarifies the Community's budgetary procedure. It was designed to reinforce budgetary discipline and improve the budgetary procedure. The IIA establishes a Financial Perspective (FP) — that is, annual budgetary ceilings — and implementing provisions for the period 2000-2006. (The FP numbers were amended in the final stages of negotiation of the 2004 enlargement.) The IIA provides for the possibility of revisions of the FP ceilings to meet unforeseen circumstances. Such revisions are agreed by the Council and the European Council on the basis of a proposal from the Commission.

21.2 During the course of the financial year the Commission routinely makes proposals to the Budgetary Authority (the Council and the European Council) for amendments to the current Community budget to meet changing circumstances.

The documents

21.3 Document (a) is Preliminary Draft Amending Budget No. 11 to the General Budget for 2004 (PDAB 11/2004), which would increase total payment appropriations under Heading 2 (Structural Operations) of the Budget by €3.4 billion (£2.396 billion). The Commission says the increase is required because structural funds payments have been paid out faster than was estimated at the beginning of the year. On 30 September 2004 75% of budgeted resources had been used compared to 50-60% at the same point in 2002 and 2003, suggesting that a further €3.4 billion will be needed by the end of the year.

21.4 The Commission proposes that the additional appropriations would be found through:

- transfer of €1.1 billion (£0.775 billion) from Heading 1a (Common Agricultural Policy) to Heading 2; this is available because payments in the cereals, sugar, textile plants, wine, milk and milk products, beef, and sheep and goat meat sectors have been lower than was estimated when the 2004 Budget was adopted;

- an increase in Community revenue estimated at €1.3 billion (£0.916 billion). The Commission estimates higher levels than originally budgeted for import duties (€1.2 billion), fines, periodic penalties and other penalties (€80 million) and interest on late payments (€20 million); and

- a call on Member States to provide €1.0 billion (£0.705 billion) of additional funding to the Budget.

21.5 In document (b) the Commission proposes three amendments to the current FP. These would:

- allow transfer of appropriations from Heading 1a (Common Agricultural Policy) to Heading 1b (Rural Development) in 2006;

- increase the commitment appropriations ceiling for Structural Funds within Heading 2 (Structural Actions) by €60 million (£42.3 million) in 2005 and €59 million (£41.6 million) in 2006; and

- decrease the commitment appropriations ceiling for the Cohesion Fund within Heading 2 by €61 million (£43.0 million) in 2005 and €60 million (£42.3 million) in 2006.

21.6 The first amendment results from the reforms to the Common Agricultural Policy (CAP) agreed in September 2003, under which direct CAP payments will be gradually reduced ("modulated") from 2005 to 2012 and the savings used to increase rural development spending. The other two amendments are required to allow the continuation of the PEACE II programme in 2005 and 2006. The PEACE II programme supports projects in Northern Ireland and the north of Ireland which help consolidate the peace process. The PEACE II programme was intended to finish at the end of 2004 but the Commission says it has made an "essential and original" contribution to peace and

reconciliation and should be continued in 2005 and 2006. A draft Regulation to allow this to take place has been put forward by the Commission.[53]

21.7 Additional resources for this extension can be met by a reduction in the commitment appropriations ceiling for the Cohesion Fund. Room is available under this ceiling because Ireland became ineligible for new Cohesion Fund receipts in 2004, when its per capita gross national product, measured at purchasing power parity, rose above 90% of the Community average.

The Government view

21.8 On PDAB 11/2004 in document (a), the Financial Secretary to the Treasury (Mr Stephen Timms) tells us:

> "The Government is pleased with the apparent improvement to structural funds implementation made by the Commission and [Member States] in 2004 compared to previous years. However, we will want to be convinced that the additional appropriations requested under PDAB 11/2004 are necessary as the Government has concerns about the accuracy of the Commission's estimate of total payment appropriations that will be required by the end of 2004. We will also want the Commission to demonstrate that the additional resources required cannot be found through further redeployment of under-utilised resources in other sections of the budget."

He adds that "The UK would meet a portion of the call on [Member States] to provide an additional €1.0 billion to the EC Budget through its normal contribution — in 2004 this will be 17.4% before abatement".

21.9 On document (b), about amendments to the FP, the Minister says:

> "The Government supports both the redirection of CAP funds from subsidy to rural development ('modulation') and the continuation of the PEACE II programme and will seek to ensure mechanisms are in place to finance both operations."

Conclusion

21.10 **We are pleased to see that the problem of timely implementation of the Structural Funds is beginning to improve. However we commend the Government's intention to ensure the accuracy of the Commission's estimates and that there is all possible redeployment of under-utilised resources elsewhere to fund the extra requirement in Heading 2. We clear document (a).**

21.11 **We note the Government's support for the financing proposals for "modulation" and for an extended PEACE II programme. We note also that the former will not alter the Heading 1 (Agriculture) Financial Perspective ceiling and that the latter will lead to a reduction in the Heading 2 (Structural Operations) Financial Perspective commitments appropriations for 2005 and 2006. We also clear document (b).**

53 See para 22 of this Report.

22 Extension of the PEACE II Programme

(26033) 13571/04 COM(04)631	Draft Council Regulation amending Regulation (EC) No. 1260/1999 laying down general provisions on the Structural Funds concerning the extension of the duration of the PEACE programme and the granting of new commitment appropriations

Legal base	Article 161 EC; assent; unanimity
Document originated	13 October 2004
Deposited in Parliament	21 October 2004
Department	Northern Ireland Office
Basis of consideration	EM of 3 November 2004
Previous Committee Report	None
To be discussed in Council	No date set
Committee's assessment	Politically important
Committee's decision	Cleared

Legal background

22.1 Article 158 of the Treaty establishing the European Community (the EC Treaty) provides that, in order to strengthen economic and social cohesion, "the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, including rural areas". Article 159 of the Treaty says that the Community is to support the achievement of these objectives through, among other things, the Structural Funds. Article 161 requires the Council to define the tasks, priorities and organisation of the Structural Funds.

22.2 In 1999, the Council adopted a Regulation making general provisions for the operation of the Structural Funds.[54] Article 7(4) of the Regulation establishes the PEACE programme for the years 2000-04 for the benefit of Northern Ireland and the border areas of Ireland.

The PEACE programmes

22.3 Following the paramilitary ceasefires of 1994, the Community established the Special Programme for Peace and Reconciliation (PEACE I). It covered the period 1995-99. In the light of the Belfast Agreement of 1998 and the establishment of devolved institutions and cross-border cooperation, the Council decided to extend the programme for a further four years, ending in December 2004 (the PEACE II programme).

22.4 The estimated total expenditure of the PEACE II programme for 2000-04 is €708 million. It provides support for projects in Northern Ireland and the border areas of the Republic of Ireland in aid of the peace process and to promote reconciliation.

54 Regulation (EC) No. 1260/1999, OJ No. L 161, 26.6.99, p. 1.

Request for extension of the PEACE II programme

22.5 In May 2004, the Prime Minister and the Taoiseach wrote to the President of the European Commission, noting the achievements of the PEACE I and II programmes and the contributions they have made to the Northern Ireland peace process and requesting the extension of the PEACE II programme until December 2006. The Commission's President replied that the Commission was keen to maintain these efforts. In June, the European Council confirmed its support for the efforts of the two Governments to re-establish the devolved institutions and invited the Commission to examine how the extension of the programme might be provided.

The document

22.6 The draft Regulation proposes the amendment of Article 7(4) of the Regulation of 1999 to extend the PEACE II programme until December 2006 and to provide total appropriations of nearly €60 million for the two years.

The Government's view

22.7 The Parliamentary Under-Secretary of State at the Northern Ireland Office (Mr Ian Pearson) tells us that the European identity of the PEACE programmes has ensured that, especially in Northern Ireland, the programmes have been seen as neutral in terms of local community divisions. This has enabled the programmes to work on a cross-community and cross-border basis in a way that would not have been possible otherwise.

22.8 The draft Regulation provides for the European Community to supply nearly €30 million a year in 2005 and 2006. The Governments would provide matching funds. Roughly two-thirds of the money would be spent on Northern Ireland projects and the rest on projects in the border areas of the Republic of Ireland. This is in line with the request made by the two Governments. The financial contribution from the Community would come from the Structural Funds and would be found from a transfer from the Cohesion Fund (on which we are reporting separately).[55]

Conclusion

22.9 **We welcome the proposal for the extension of the PEACE II programme. We are satisfied that the draft Regulation is proportionate, founded on an appropriate legal base and does not conflict with the principle of subsidiarity. Accordingly, we clear the document from scrutiny.**

55 See (26029) 13515/04 para 21 of this Report.

23 Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House

Department for Constitutional Affairs

(26036) 13664/04 COM(04) 603	Commission Report on the application of Council Regulation (EC) No. 1348/2000 on the service in the Member States of Judicial and Extrajudicial documents in civil or commercial matters.

Department for Environment, Food and Rural Affairs

(25929) 12096/04 COM(04) 531	Draft Council Decision on the conclusion by the European Community of the Agreement on the Conservation of African-Eurasian Migratory Waterbirds.
(26040) 13682/04 COM(04) 671	Draft Council Regulation adopting autonomous and transitional measures to open a Community tariff quota for certain agricultural products originating in Switzerland.
(26051) 13535/04 COM(04) 665	Draft Council Decision establishing the Community position with respect to the prolongation of the International Agreement on Olive Oil and Table Olives, 1986.
(26056) 13820/04 COM(04) 680	Draft Council Decision on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip concerning reciprocal liberalisation measures and the replacement of Protocols 1 and 2 to the EC-Palestinian Authority Interim Association Agreement.

Foreign and Commonwealth Office

(26082) — —	Draft Council Decision concerning the signing of a Framework Agreement between the European Community and Albania on the general principles for the participation of Albania in Community programmes. Draft Council Decision concerning the signing of a Framework Agreement between the European Community and Bosnia and Herzegovina on the general principles for the participation of Bosnia and Herzegovina in Community programmes.

Draft Council Decision concerning the signing of a Framework Agreement between the European Community and the Republic of Croatia on the general principles for the participation of the Republic of Croatia in Community programmes.

Draft Council Decision concerning the signing of a Framework Agreement between the European Community and Serbia and Montenegro on the general principles for the participation of Serbia and Montenegro in Community programmes.

Draft Council Decision concerning the signing of a Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, on a Framework Agreement between the European Community and the former Yugoslav Republic of Macedonia on the general principles for the participation of the former Yugoslav Republic of Macedonia in Community programmes.

(26083)
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Council Joint Action prolonging Joint Action 2003/853/CFSP extending the mandate of the Head of the European Union Monitoring Mission (EUMM), Ms Maryse Daviet.

(26085)
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Draft Council Decision concerning the implementation of Joint Action 2002/589/CFSP extending and amending Decision 1999/730/CFSP concerning a European Union contribution to combating the destabilising accumulation and spread of small arms and light weapons in Cambodia.

(26086)
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—

Draft Council Decision extending and amending Decision 2002/842/CFSP implementing Joint Action 2002/589/CFSP with a view to a European Union contribution combating the destabilising accumulation and spread of small arms and light weapons in South East Europe.

Department of Trade and Industry

(26030)
13543/04
COM(04) 660

Draft Council Decision concerning the Community position within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and Romania, of the other part, on the participation of Romania in the RAPEX system under Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety.

(26031)
13544/04
COM(04) 661

Draft Council Decision concerning the Community position within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, on the participation of Bulgaria in the RAPEX system under Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety.

HM Treasury

(26032)
13562/04
COM(04) 662

Draft Council Decision amending Decision 2001/865/EC authorising the Kingdom of Spain to apply a measure derogating from Article 11 of the sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes.

Formal minutes

Wednesday 10 November 2004

Members present:

Mr Jimmy Hood, in the Chair

Mr Richard Bacon
Mr William Cash
Mr Wayne David
Sandra Osborne
Anne Picking
Angus Robertson
Mr Bill Tynan

The Committee deliberated.

Draft Report, proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 23 read and agreed to.

Resolved, That the Report be the Thirty-sixth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

The Committee further deliberated.

[Adjourned till Wednesday 17 November at twenty-past Two o'clock.

Standing order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;

b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Standing Committees); and

c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression 'European Union document' covers —

i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;

ii) any document which is published for submission to the European Council, the Council or the European Central Bank;

iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;

iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;

v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;

vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee's powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House's Standing Orders, which are available at www.parliament.uk.

Current membership

Jimmy Hood MP (*Labour, Clydesdale*) (Chairman)
Richard Bacon MP (*Conservative, South Norfolk*)
William Cash MP (*Conservative, Stone*)
Michael Connarty MP (*Labour, Falkirk East*)
Wayne David MP (*Labour, Caerphilly*)
Jim Dobbin MP (*Labour, Heywood and Middleton*)
Nick Harvey MP (*Liberal Democrat, North Devon)*
David Heathcoat-Amory MP (*Conservative, Wells*)
Sandra Osborne MP (*Labour, Ayr)*
Anne Picking MP (*Labour, East Lothian*)
Angus Robertson MP (*SNP, Moray*)
John Robertson MP (*Labour, Glasgow Anniesland*)
Anthony Steen MP (*Conservative, Totnes*)
Bill Tynan MP (*Labour, Hamilton South*)