House of Commons
European Scrutiny Committee

Seventy-first Report of Session 2017–19

Documents considered by the Committee on 10 July 2019

Report, together with formal minutes

Ordered by the House of Commons to be printed 16 July

HC 301-lxix
Published on 16 July 2019 2019
by authority of the House of Commons

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 "5467/05" 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 or JOIN 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

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee) *
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

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 published in the House of Commons Vote Bundle each Monday, 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.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: http://europeanmemoranda.cabinetoffice.gov.uk/.

Staff

The staff of the Committee are Jessica Mulley (Clerk), Kilian Bourke, Alistair Dillon, Leigh Gibson, Foeke Noppert, Sibel Taner and George Wilson (Clerk Advisers), Joanne Dee and Emily Unwin (Deputy Counsels for European Legislation), Yohanna Sallberg (Second Clerk), Daniel Moeller (Senior Committee Assistant), Nat Ireton, Apostolos Kostoulas and Beatrice Woods (Committee Assistants), Ravi Abhayaratne and Paula Saunderson (Office Support Assistants).

Contacts

All correspondence should be addressed to the Clerk of the European Scrutiny Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is (020) 7219 3292/5467. The Committee's email address is escom@parliament.uk.

Contents

Meeting Summary

The Committee looks at the significance of EU proposals and decides whether to clear the document from scrutiny or withhold clearance and ask questions of the Government. The Committee also has the power to recommend documents for debate.

Brexit-related issues

The Committee is now looking at documents in the light of the UK's decision to withdraw from the EU. Issues are explored in greater detail in report chapters and, where appropriate, in the summaries below. The Committee notes that in the current week the following issues and questions have arisen in documents or in correspondence with Ministers:

- Government must give greater clarity in the future about the Brexit implications of EU documents
- Future EU regulation of batteries will be relevant to the UK under all Brexit scenarios

Summary

EU preparations for a Brexit without a Withdrawal Agreement

The Committee has considered the European Commission's latest update on the EU's preparations for the UK's withdrawal, in particular the eventuality of a 'no deal' where the draft Withdrawal Agreement is not ratified by the time the UK leaves the EU. It has drawn the Commission's contingency measures in various policy areas, including transport, finance and trade, to the attention of the relevant departmental Select Committees.

Cleared from scrutiny; drawn to the attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee, the Committee on Exiting the EU, the Northern Ireland Affairs Committee, the Transport Committee and the Treasury Committee

EU budget 2020

The Committee has made its initial assessment of the draft EU budget for 2020, the final year of the current (2014–2020) Multiannual Financial Framework. It has taken note in particular of the repeated increases of EU spending on migration and security measures above spending limits agreed in 2013 and warned the House that the financial implications of the 2020 EU budget for the UK taxpayer remain unclear. In particular, the Committee is again asking the Government to provide clarity on the nature of any UK financial obligations to the EU in 2020 in a 'no deal' scenario.

Not cleared from scrutiny; drawn to the attention of the Treasury Committee

EU batteries policy

The Committee concluded last month that future EU policy for the batteries sector, designed to respond to the likely demands of electric vehicles and renewable electricity storage, would be relevant to the UK under all Brexit scenarios and it was therefore disappointed that Ministers had failed to explore long-term implications for the UK. Ministers from both the Department for Environment, Food and Rural Affairs and the Department for Business, Energy and Industrial Strategy have responded, providing helpful information and acknowledging the ongoing relevance of EU legislation. The Committee asks the Ministers to ensure that EU exit implications are carefully considered when writing in the future on other files.

Cleared; drawn to the attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee and the Environmental Audit Committee

Imports of high-quality beef from the USA

Beef treated with growth-promoting hormones is banned in the EU and may not be imported. In return for no retaliatory action against this import ban, the EU allows the duty-free import of 45,000 tonnes of "high-quality beef" (not treated with growth-promoting hormones). In response to US concerns about access to the quota, a US-specific allocation has been agreed, starting at 18,500 tonnes in the first year and rising to 35,000 tonnes from the seventh year. The Committee clears the proposal from scrutiny in advance of Council approval but asks the Government for information on how this agreement might affect the UK's post-Brexit tariff policy.

Cleared; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee and the International Trade Committee

Documents drawn to the attention of select committees:

('NC' indicates document is 'not cleared' from scrutiny; 'C' indicates document is 'cleared')

Business, Energy and Industrial Strategy Committee: Ending seasonal time changes [Proposed Directive (NC)]; EU Batteries Policy [Commission Reports (C)]; EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]

Committee on Exiting the European Union: Ending seasonal time changes [Proposed Directive (NC)]; EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]

Environment, Food and Rural Affairs Committee: EU Batteries Policy [Commission Reports (C)]; Imports of high-quality beef from the USA [Proposed Decisions(C)]; EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]

Environmental Audit Committee: EU Batteries Policy [Commission Reports (C)]

Food and Rural Affairs Committee: EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]

International Trade Committee: Imports of high-quality beef from the USA [Proposed Decisions(C)]

Northern Ireland Affairs Committee: EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]

Transport Committee: EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]

Treasury Committee: EU preparations for a Brexit without a Withdrawal Agreement [Commission Communication(C)]; EU Budget 2020 [Commission Estimates Statement (NC)]

1 MFF Single Market Programme

Committee's assessment	Politically important
Committee's decision	(a) Not cleared from scrutiny (b) Cleared from scrutiny
Document details	(a) Proposal for a Regulation of the European Parliament and of the Council establishing the Programme for single market, competitiveness of enterprises, including small and medium-sized enterprises, and European statistics and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014, (EU) No 258/2014, (EU) No 652/2014 and (EU) 2017/826; (b) Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on The Single Market in a changing world—A unique asset in need of renewed political commitment.
Legal base	(a) Article 114 TFEU (internal market); Article 169 TFEU (2)(b) (consumer protection); Articles 43 and 168 (4)(b) TFEU (veterinary and phytosanitary measures); Article 197 TFEU (administrative cooperation); Article 174 TFEU (SMEs); Article 195 TFEU (tourism); Article 338 TFEU (statistics); ordinary legislative procedure; QMV (b)—
Department	Business, Energy and Industrial Strategy
Document Numbers	(a) (39877), 9890/18 + ADDs 1–3, COM(18) 441; (b) (40208), 14633/18 + ADD 1, COM(18) 772 final

Summary and Committee's conclusions

1.1 As part of the EU's multi-year budgetary framework or Multiannual Financial Framework (MFF), which will cover the years 2021—2027, the European Commission adopted a proposal for a Regulation establishing the Single Market Programme on 8 June 2018. The detail of the Programme, which seeks to support a well-functioning Single Market, and the Government's response to it, is set out in the Committee's report on 28 November 2018.[1]

1.2 In its report, the Committee granted the Government a waiver to vote in support of a Partial General Approach regarding the proposal at a Competitiveness Council in Brussels on 29 November 2018 on the basis that the Parliamentary Under-Secretary of State at the Department for Business, Energy and Industrial Strategy (Rt Hon. Lord Henley) had indicated[2] that the Government was content with the drafting, and the section of the Regulation governing participation of third countries, which could affect the UK post-exit, had been bracketed and was to be dealt with horizontally, as with other MFF regulations.

1 Forty-sixth Report HC 301–xlv (2017—2019), chapter three (28 November 2018).

2 Letter from the Minister to the Chair of the European Scrutiny Committee (15 November 2018).

1.3 As anticipated, the Competitiveness Council supported the Partial General Approach, with the Minister abstaining as the Lords had not yet lifted the reserve. In his post-Council response to the Committee the Minister outlined a small number of changes to the text which were of limited consequence,[3] all of which the Government supported.

1.4 The Committee had requested that the Government consult with UK Research and Innovation (UKRI) and Scottish Enterprise (SE) regarding the value of participation in the Enterprise Europe Network (EEN)—a support network for SMEs that aims to help businesses innovate and grow internationally and is co-funded by the COSME and Horizon 2020 programmes, which the UK is actively involved in. In response, the Minister provided extensive information indicating the value that UKRI and SE attached to participation in the EEN, and the benefits that UK SMEs derived from it.

1.5 Business, Energy and Industrial Strategy (BEIS) officials have also been consulted recently and provided further informal information about the scope for third country participation in the EEN specifically, clarifying that:

- The EEN is open to organisations from Member States and non-Member States, with more than 60 countries participating in some form.

- Currently, Innovate UK and Scottish Enterprise enjoy Member State-level access to the Network, known as a Framework Partnership Agreement (FPA), through which their activities in the EEN are 60% match-funded by the Commission. UK EEN activity accounts for around 12% of the overall output of the Network.

- Third countries may associate themselves to the Network through a Business Cooperation Centre (BCC). BCC association requires full domestic funding of EEN activity, unless a third country participates in an MFF programme designed to sponsor EEN activity (e.g., COSME), in which case the 60% match-funding ratio is also applicable.

- In the event of No Deal, UK EEN activity under COSME (i.e., until end 2021) will be covered by the HMG guarantee. However, this guarantee would not, in its current form, cover the next round of the Programme; nor would the Loan Guarantee and the Equity Facility for Growth financial instruments be covered, as they do not form part of the competitive bidding elements of COSME.

- The Commission has indicated to Innovate UK that an application for a BCC would be considered favourably, even in a No Deal scenario, and that a BCC could be put in place with minimal disruption.

1.6 As to whether the Government wishes to participate in this Programme or not, the Minister observed that BEIS officials will continue their engagement with colleagues across Whitehall with an eye to making a provisional decision, to ensure that the Government is as informed as possible when a final decision on programme participation is required in the future. However, The Minister noted that to make this decision "it will also be necessary to understand whether the elements of the Programme that are of the most interest to the UK could be more favourably accessed as part of the FEP negotiations."[4]

3 Letter from the Minister to the Chair of the European Scrutiny Committee (21 January 2019).
4 Letter from the Minister to the Chair of the European Scrutiny Committee (19 March 2019).

1.7 In January the European Parliament produced a report setting out a list of amendments to this regulation which were adopted at a plenary session in Strasbourg on 12 February 2019, which, the Minister noted, included a call for an increased financial envelope of €6.5bn (currently €4bn), which includes an allocation of €3bn (currently €1bn) towards strengthening the competitiveness of SMEs. However, having voted in favour of the amendments, the Parliament made the decision not to proceed any further in pursuing a partial agreement in trilogues with Council, and have closed the file for negotiation until the next legislature and the new European Parliament.

1.8 On 1 July 2019, the Finnish Presidency announced their intention to re-commence work on the Single Market Programme (following the EP decision to close the file for negotiation under the Romanian Presidency). Beginning in early October, the working party for Competitiveness and Growth will start to examine the European Parliament's amendments and will seek to reach an agreement on the non-bracketed parts of the regulation through trilogues by the end of the current presidency.

1.9 The Committee has also previously reported on the European Commission Communication, "The Single Market in a changing world—A unique asset in need of renewed political commitment".[5] The Council has now adopted conclusions ("A new level of ambition for a competitive single market")[6] which build on this Communication, which call for various actions, including—somewhat paradoxically, given the Council's consistent refusal to adopt a range of measures brought forward by the last Commission which would deepen the Single Market for services—deepening of the Single Market for services.

1.10 **We thank the Minister for his updates regarding the progress of the proposed Regulation establishing the Single Market Programme 2021—2027. Trilogue negotiations regarding the draft Regulation have not yet started because, although the Council has adopted a Partial General Approach and the Parliament has adopted its proposed amendments, the Parliament decided not to start negotiations with the Council in advance of the European elections. However, on 1 July 2019 the Finnish Presidency announced their intention to re-commence work on the Single Market Programme with the aim of reaching an agreement on the non-bracketed parts of the regulation through trilogues by the end of the current presidency. The primary point of difference between the Parliament and the Council relates, not to the substance of the Regulation, but to the overall budget envelope for the Programme, with the Parliament proposing an increased financial envelope of €6.5bn (currently €4bn), which would include tripling the current €1bn allocation for strengthening the competitiveness of SMEs to €3bn.**

1.11 **In terms of the implications of EU exit, the Committee has previously noted[7] that, of the four components which make up COSME (access to finance; access to markets; better regulations; and actions to support entrepreneurship) the UK has primarily engaged in the access to markets component, principally through the Enterprise Europe Network (EEN), which supported 10,590 UK SMEs with grants of €26,909,136 between January 2015 and December 2018, and the COSME financial**

5 European Commission, The Single Market in a changing world: A unique asset in need of renewed political commitment, COM/2018/772 final.

6 Council of the European Union, Conclusions on "A new level of ambition for a competitive Single Market" 9743/19.

7 Forty-sixth Report HC 301–xlv (2017—2019), chapter 3 (28 November 2018).

instruments (FIs), which have provided approximately 3000 UK SMEs with loans worth around €66m. We thank the Minister for supplying the Committee with detailed evidence of UK Research and Innovation (UKRI) and Scottish Enterprise's views regarding UK participation in the EEN: both are overwhelmingly positive about the benefits of participation in the EEN.

1.12 **Concerning the scope for the UK to participate in the EEN post-exit, officials have briefed the Committee that it is open to organisations from non-Member States, active in more than 60 countries worldwide, and that third countries may associate themselves to the Network through a Business Cooperation Centre (BCC). This would require full domestic funding of any EEN activity, unless a third country negotiates participation in an MFF programme which sponsors EEN activity (such as COSME), in which case the current 60% match-funding ratio would continue to apply.**

1.13 **In relation to the possibility of there being a No Deal exit, officials suggest that the Commission has indicated to Innovate UK that an application for a BCC in relation to the EEN would be considered favourably, even in a No Deal scenario. This would be in line with the standard approach taken to third countries. If there were no deal, the Government's financial guarantee would cover the Enterprise Europe Network (EEN) under the 'access to markets' component of COSME until the end of the current MFF, but not the financial instruments (the Loan Guarantee and the Equity Facility for Growth) as they do not form part of the competitive bidding elements of COSME.**

1.14 **In terms of whether the Government wishes to participate in the Single Market Programme, the Minister has indicated that the Government will not make a final decision about whether to request third country participation in the Programme until the terms of any Future Economic Partnership (FEP) with the EU are developed in greater detail. This is both because there will be "significant interdependencies" between the future relationship and various elements of the programme, including the area relating to statistics, the phytosanitary and veterinary areas and the Internal Market Information System,[8] and also because it may be possible that "the elements of the Programme that are of the most interest to the UK could be more favourably accessed as part of the FEP negotiations".[9]**

1.15 **We ask the Government to provide us with one final update in advance of the adoption of the final text of the Regulation in the Council, outlining the outcome of trilogue negotiations and requesting clearance. In the meantime, we retain this proposal (document a) under scrutiny.**

1.16 **We clear the Communication on the future of the Single Market "A unique asset in need of renewed political commitment" (document b), from scrutiny, as no further issues are arising in relation to it.**

Full details of the documents

(a) Proposal for a Regulation of the European Parliament and of the Council establishing the Programme for single market, competitiveness of enterprises, including small and medium-sized enterprises, and European statistics and repealing Regulations (EU) No

8 Letter from the Minister to the Chair of the European Scrutiny Committee (21 January 2019).
9 Letter from the Minister to the Chair of the European Scrutiny Committee (19 March 2019).

99/2013, (EU) No 1287/2013, (EU) No 254/2014, (EU) No 258/2014, (EU) No 652/2014 and (EU) 2017/826: (39877), 9890/18 + ADDs 1–3, COM(18) 441; (b) Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on The Single Market in a changing world—A unique asset in need of renewed political commitment: (40208), 14633/18 + ADD 1, COM(18) 772 final.

Previous Committee Reports

Forty-sixth Report HC 301–xlv (2017—2019), chapter 3 (28 November 2018); Fifty-seventh Report HC 301–lvi (2017—2019), chapter 3 (6 March 2019).

2 Ending seasonal time changes

Committee's assessment	Legally and politically important
Committee's decision	Not cleared from scrutiny; further information requested; drawn to the attention of the Business, Energy and Industrial Strategy Committee and the Committee on Exiting the European Union
Document details	Proposal for a Directive discontinuing seasonal changes of time and repealing Directive 2000/84/EC
Legal base	Article 114 TFEU, ordinary legislative procedure, QMV
Department	Business, Energy and Industrial Strategy
Document Number	(40063), 12118/18 + ADD 1, COM(18) 639

Summary and Committee's conclusions

2.1 The proposed Directive would repeal the current EU law which requires Member States to move their clocks forward by an hour on the last Sunday in March and move them back by an hour on the last Sunday in October.[10] EU laws on summertime arrangements were first introduced in 1980 to prevent uncoordinated seasonal time changes disrupting the operation of the EU's internal market. The proposed Directive would discontinue the twice-yearly clock changes and require each Member State to decide whether to opt for permanent summer or winter time arrangements, without the possibility of introducing any seasonal variation in subsequent years. Our earlier Reports listed at the end of this chapter provide a detailed overview of the proposal.

2.2 The Government opposes the proposed Directive. In her Explanatory Memorandum of 11 October 2018, the Minister for Small Business, Consumers and Corporate Responsibility (Kelly Tolhurst MP) questioned whether the European Commission had provided a sufficient evidence base to support the ending of seasonal time changes. She shared the Committee's concern that the proposal risked creating more rather than less divergence within the EU internal market and that the use of a legal base—Article 114 of the Treaty on the Functioning of the European Union (TFEU)—intended to approximate laws affecting the functioning of the internal market was not therefore justified.[11]

2.3 The Transport Council has oversight of the negotiations. In December 2018, Transport Ministers considered a revised (Austrian) Presidency text which pushed back the date for implementing the proposed Directive by two years to April 2021, making it less likely that it would apply to the UK during any post-exit transition/implementation period. The European Parliament has similarly recommended a later implementation date—1 April

10 The current rules on summertime arrangements are set out in Council Directive 2000/84/EC.

11 There are currently three standard time zones within the EU: Western European or Greenwich Mean Time (GMT) covering the UK, Ireland and Portugal; Central European Time (GMT+1) covering 17 Member States; and Eastern European Time (GMT+2) covering eight Member States. Existing EU law coordinates the dates on which seasonal time changes begin and end, meaning that there is never more than two hours' difference in time across all EU Member States. Depending on the decisions taken by each Member State, the proposed Directive could create further variation (GMT+3) in some parts of the EU.

2021 rather than 1 April 2019 as originally proposed by the European Commission—and envisages that this time should be used to carry out a wide-ranging consultation at Member State level on the implications of discontinuing seasonal time changes.

2.4 In her latest letter of 26 June 2019, the Minister reiterates the Government's support for efforts to delay the implementation of the Directive, noting that the Commission's original timescale was "entirely unrealistic". She makes clear that the Government remains "strongly opposed" to the proposal and that Ministers and officials are "actively working to convince other Member States to support our position". She explains that "progress on the negotiations has been slower under the Romanian Presidency than under its Austrian predecessor", adding:

> The file therefore was not a substantive item on the agenda of the Transport Council on 6 June 2019. We do not anticipate speedy progress towards trilogue discussions or adoption. It will be for the upcoming Finnish Presidency to decide if and how to take this proposal forward.

2.5 The UK is part of "a wide group of Member States" calling on the European Commission to undertake a full impact assessment. Whilst initially resistant, the Minister indicates that the Commission is now more receptive. The Government stands by its earlier decision *not* to issue a public consultation on the proposed Directive but "will keep this point under review depending on progress on the proposal within the EU".

2.6 We asked the Government for its assessment of the European Parliament's proposal for a new coordination mechanism to "discuss and assess the potential impact of the envisaged change on the functioning of the internal market, in order to avoid significant disruptions". Under this mechanism, if the Commission were to determine that the decision taken by each Member State to opt for permanent summer or winter time might "significantly and permanently hamper the proper functioning of the internal market", it could adopt a delegated act to postpone the date for implementing the proposed Directive by up to 12 months and, during this period, bring forward a different legislative proposal.[12]

2.7 The Minister accepts that "some form of co-ordination mechanism is better than no co-ordination at all between Member States" but adds that such a mechanism would not in itself ensure that all Member States take decisions which support the smooth functioning of the EU internal market.

2.8 Finally, the Minister tells us that the Joint Ministerial Committee (Europe) considered a paper on the proposed Directive on 13 June. Ministers and other representatives from the Devolved Administrations all confirmed their support for the UK Government's position and officials will be working together "to develop an updated evidence base".

Our Conclusions

2.9 **We thank the Minister for her update. We note the Government's continued opposition to the proposed Directive, a stance shared by the Devolved Administrations, and welcome its active efforts to engage with other like-minded Member States. We look forward to hearing whether this has borne fruit and what (if any) plans the Finish Presidency has in mind to advance discussions on the proposal.**

12 See Articles 2 and 4a of the European Parliament's legislative resolution agreed on 26 March 2019.

2.10 **We understand why the Government does not wish to launch a public consultation, given the expectation that the deadline for implementing the Directive is likely to be pushed back to 2021 and that the UK will not, therefore, be required to give effect to it. Nonetheless, a decision to end seasonal time changes would have potentially important implications for the UK, and for businesses trading with the EU27, once the UK has left the EU. The impact would be particularly acute on the island of Ireland. Although the Council has yet to agree a position on the proposed Directive, the Council website indicates that Member States are "carrying out consultations, both internally and with neighbouring countries, in order to finalise their positions".[13] We ask the Minister whether consultations are underway between the Governments of the UK and Ireland and whether Ireland is one of the "like-minded Member States" with which the Government is seeking to agree a common approach.**

2.11 **As we have made clear in our earlier Reports on the proposed Directive, we consider the choice of an internal market legal base to be a crucial element in the negotiations. We have previously asked whether the opinion of the Council Legal Service has been sought but have not had a response. We ask the Minister to confirm whether advice has been given and, if so, to explain how it might affect the choice of legal base, the content of the Commission proposal and/or the progress of negotiations.**

2.12 **Pending further information, the proposed Directive remains under scrutiny. We draw this chapter to the attention of the Business, Energy and Industrial Strategy Committee and the Committee on Exiting the European Union.**

Full details of the documents

Proposal for a Directive discontinuing seasonal changes of time and repealing Directive 2000/84/EC: (40063), 12118/18 + ADD 1, COM(18) 639.

Previous Committee Reports

Fifty-third Report HC 301–lii (2017–19), chapter 1 (24 April 2019), Fifty-third Report HC 301–lii (2017–19), chapter 1 (30 January 2019), Forty-sixth Report HC 301–xlv (2017–19), chapter 4 (28 November 2018) and Forty-second Report HC 301–xli (2017–19), chapter 1 (31 October 2018).

13 See the Council website 'Seasonal Clock Changes in the EU timeline'.

3 EU Budget 2020

Committee's assessment	Politically important
Committee's decision	Not cleared from scrutiny; further information requested; drawn to the attention of the Treasury Committee
Document details	Statement of Estimates of the European Commission for the financial year 2020.
Legal base	Article 314 TFEU; special legislative procedure; QMV
Department	Treasury
Document Number	(40664), 7098/19

Summary and Committee's conclusions

3.1 In June 2019, the European Commission published the draft European Union budget for 2020 (formally known as the 'Statement of Estimates').

3.2 For that year, the Commission has proposed new EU spending commitments totalling €168.3 billion (£150.6 billion), and actual payments to recipients of EU funding amounting to €153.7 billion (£137.5 billion).[14] This will be the final budget of the EU's 'Multiannual Financial Framework' (MFF) for 2014–2020, which was agreed between Member States in 2013 to set spending limits for the six major areas of the EU budget.[15] The 2020 budget therefore contains the last spending commitments to be made as part of the EU's current crop of programmes like the Horizon 2020 research programme, the Regional Development Fund and the Common Agricultural Policy as agreed in 2013. From 2021, the EU budget will be used to implement a new set of sectoral programmes and instruments under the next Multiannual Financial Framework that will run until 2027. The Commission tabled a proposal for the EU's overall spending limits, and for individual spending programmes like the CAP, for that period in spring 2018. Discussions in Brussels on those remain in full swing.[16]

3.3 The Commission's Statement of Estimates for 2020 is a draft budget only. The overall size of the budget, and how it is divided between different programmes and policy areas, will need be agreed between the Member States and the European Parliament, who are likely to carry out intense negotiations this autumn. In recent years, under pressure from

14 The EU budget is 'differentiated': funding commitments can be made in one year but remain partially or wholly unpaid until some years later. In the context of the EU 'commitments' refers to the funding that can be agreed in contracts in a given year; 'payments' to the money actually paid out.

15 The six major areas of the EU budget for which the MFF sets spending limits are 'Smart and Inclusive Growth' (including cohesion and regional development funding); 'Sustainable Growth' (including the Common Agricultural Policy); 'Security and citizenship' (including the EU's Border & Coast Guard Agency); 'Global Europe' (including the EU's Pre-Accession and Neighbourhood Instruments); 'Administration' (for the running of the EU institutions) and 'Compensations' (A temporary facility designed to ensure that Croatia, which joined the EU in July 2013, did not have to contribute more to the EU budget than it benefits from it in the first year following its accession).

16 With respect to the EU's long-term financial planning for 2021–2027, the European Council of 20 June 2019 committed to "an exchange of views in October 2019, aiming for an agreement before the end of the year". See for more information on the MFF for 2021–2027 our Report of 12 September 2018.

national governments, the final budget has consistently been smaller than originally proposed by the Commission. We have assessed the substance of the draft budget for 2020 in more detail in paragraphs 7 to 14 below.

3.4 Whether or not the UK will be contributing to the 2020 EU budget is a matter of debate. In March 2017, the Government formally triggered the process for withdrawal from the European Union under Article 50 TEU, and in April 2019 it agreed to set the UK's 'exit date' for 31 October 2019 (which is now the legal default unless a further extension of the UK's EU membership is agreed, or the Article 50 notice is revoked). Until that day, the Treasury will continue to make its normal monthly payments into the EU budget as a condition of EU membership.

3.5 However, irrespective of when the UK formally withdraws from the Union, the remaining Member States have insisted the Government pay for certain financial commitments to Union that have built up while the UK has been a member (including a share of the 2014–2020 Multiannual Financial Framework). The resulting 'Brexit bill' in the draft Withdrawal Agreement, initially estimated by the Treasury to have a net cost of approximately £39 billion, has been a major, and controversial, element of the Brexit negotiations. The Agreement has of course been rejected thrice by the House of Commons, meaning there is not yet an agreed UK-EU financial settlement. However, the European Commission has said it would expect the UK to "honour its financial commitments" as a "precondition" for further talks on a future economic partnership even if the UK leaves on 31 October without an exit treaty in place.[17] Despite our repeated requests, the Government has not provided clarity on what it believes the UK's financial obligations to the EU would be in a 'no deal' scenario.[18]

3.6 Overall, it therefore remains unclear at this stage whether or not the UK will contribute to the EU budget in 2020. We discuss this in more detail in paragraphs 17 to 29 below.

The substance of the draft EU budget for 2020

3.7 As noted, the draft budget for 2020 would allow the EU to commit to spending of €168 billion, up by just over 1 per cent compared to the 2019 budget agreed in December last year. This would be equivalent to 2 per cent of all public spending in the EU with the UK included, or just shy of 1 per cent of the Union's collective Gross National Income.

3.8 As was the case in 2019, the single largest area of EU expenditure in 2020 would be cohesion funds for economically underdeveloped parts of the Union (with a proposed budget of €58 billion). Funding for farming subsidies under the European Agricultural Guarantee Fund, a major part of the Common Agricultural Policy, would total €42 billion. In addition, the Commission has recommended to boost the available funding for the 'Horizon 2020' research programme to €13.2 billion, a 6 per cent increase compared to 2019. A separate pot of €255 million would be set aside for the development of new military technology under the EU's new Defence Industrial Development Programme (EDIDP). In addition, the Commission has proposed that one-fifth of all the EU's spending in 2020 should go towards projects that relate to climate change. The Commission has provided an overview of its most high-profile spending proposals for 2020 in a separate factsheet.

17 See Commission document COM (2019)195, "Addressing the impact of a withdrawal of the United Kingdom from the Union without an agreement: the Union's coordinated approach" (10 April 2019).

18 See for more information our Reports of 13 March and 3 April 2019.

The 'Security and Citizenship' heading of the budget

3.9 One area of EU spending facing particular challenges is the 'Security and citizenship' area, formally 'heading 3' of the EU budget, which funds programmes like the Asylum, Migration & Integration Fund (AMIF)[19] and the Internal Security Fund (ISF),[20] as well as the European Border and Coast Guard Agency (usually known by its former name, FRONTEX). Under the spending limits of the Multiannual Financial Framework (MFF) for 2014–2020 agreed in 2013, 'heading 3' would have a total budget over that period of €15.7 billion[21] (£14 billion). However, because of the scale of migration flows into the EU in recent years, and continued political instability in nearby countries like Syria and Libya, this original expenditure ceiling has proven to be insufficient to cover the costs of the demands being placed on the relevant European support instruments and bodies.[22]

3.10 As a result, the Commission has proposed the use of the 'Flexibility Instrument' for migration and border control measures every year since 2015; this is a special mechanism allowing the EU to commit to spending exceeding the limits set out in the MFF. For 2020, the Commission has asked for €778 million (£697 million) from the Instrument to the Security & Citizenship heading, taking its total budget for that year to €3.7 billion (an increase of nearly 30 per cent compared to the €2.9 billion limit foreseen by the MFF).[23] The additional funding would almost cover the total proposed commitments for the Internal Security Fund and FRONTEX for 2020.[24] The proposed top-up funding for 'heading 3' for next year is slightly lower than in the 2019 budget, when EU spending in this area was increased by €985 million beyond its MFF limit.[25] In total, the Flexibility Instrument has been used to increase available resources for the EU's security and migration related measures by at least €2.4 billion (£2.1 billion) since 2015.

3.11 The precise financial implications for the British taxpayer of the EU's spending plans in this area are unclear. Because of its legal opt-out from certain EU justice & home affairs and Schengen border control measures under Protocols 19 and 21 to the Treaties, the UK does not participate in the Internal Security Fund and it is not generally part of FRONTEX's activities (except on a case-by-case basis).[26] Moreover, under Article 5 of Protocol 21, the UK should "bear no financial consequences" for any "[justice and home affairs] measure" by which it is not bound. Given the significant overshoot of the MFF

---

19 AMIF, established for the 2014–2020 period with a budget of €3.1 billion, aims to "promote the efficient management of migration flows and the implementation, strengthening and development of a common [EU] approach to asylum and immigration". It provides support for Member States implementing EU migration legislation; measures to integrate immigrants into their new community; returns for 'irregular migrants'; and efforts to distribute people like asylum seekers fairly across Member States, and not just in countries like Greece and Italy.

20 The ISF supports the implementation of the EU's Internal Security Strategy, law enforcement cooperation and the management of the EU's external borders (including the European Border and Coast Guard Agency Frontex).

21 2011 prices.

22 In 2017, the Member States therefore allowed unused money in the EU budget from other policy areas to be used to increase funding for security and migration measures. This "Global Margin for Commitments" allows the EU to increase planned spending for measures related to "growth and employment, in particular youth employment" and for "migration and security measures" by drawing on unused commitments in other areas of the EU budget below the applicable expenditure ceilings. See Article 14 of Regulation 1311/2013, as amended.

23 The annual limits by budget heading are set out in 2011 prices in the 2013 MFF Regulation. The ceiling in current amounts is calculated by applying a 2% deflator for every subsequent year.

24 The Commission has proposed a combined budget for commitments in 2020 for the ISF and Frontex amounting to €921.5 million (£825.1 million), 25 per cent of the total budget for 'heading 3'.

25 See for example Decisions 2019/276/EU, 2018/8E/EU, 2017/342/EU and 2015/2248/EU.

26 When Frontex was first established in 2005, the UK sought full membership, but was excluded on the grounds that the UK does not participate in the border control elements of the Schengen agreement.

limit for EU spending in this area, including a budget of €500 million for the ISF and of €420 million for FRONTEX, we are seeking to clarify what the UK would be expected to pay towards expenditure on those components if it were to be a contributor to the EU budget in 2020 (see paragraphs 17 to 29 below).

The Government's position on the draft EU budget for 2020

3.12 The Chief Secretary to the Treasury (Rt Hon. Elizabeth Truss MP) submitted an Explanatory Memorandum on the draft EU budget for 2020 on 26 June 2019. With respect to the substance of the Commission proposals, the Minister notes that "the Government has been clear that it wants to see real budgetary restraint in the EU", and is therefore "committed to continue to work hard to limit EU spending, reduce waste and inefficiency, and ensure that where EU funds are spent they deliver the best possible value for money for taxpayers". She does not refer to the use of the Flexibility Instrument to increase funding for the 'Security and Citizenship' heading by nearly €800 million in 2020.

3.13 With respect to the potential financial implications of the 2020 EU budget for the UK, the Memorandum refers to the draft Withdrawal Agreement—thrice rejected by the House of Commons—under which the UK would "participate in the EU's annual budgets in 2019 and 2020, covering the […] remainder of the Multiannual Financial Framework". It notes that, in that scenario, the UK's post-rebate financing share of EU expenditure in 2020 is estimated at 11.4 per cent.[27] The Minister does not comment on the possible financial implications if the UK leaves without a Withdrawal Agreement in place.

3.14 We have discussed the 2020 EU budget in the context of Brexit in more detail in paragraphs 17 to 29 below.

Next steps in the EU budgetary process for 2020

3.15 As noted, the EU's annual budget is subject to approval by both the European Parliament and the EU's Member States. The latter must agree to the spending plans by qualified majority, meaning no single EU country has a veto.[28] The Member States are due to establish their initial position on the Commission's proposals for 2020 on 24 July 2019,[29] which will be discussed with representatives of the Parliament's Budgets Committee before the end of that month. MEPs will then prepare and adopt their position in the autumn, with a final stretch of negotiations between the Council and Parliament to take place from late October to mid-November. Formal adoption of the 2020 EU budget is foreseen for the end of November.

3.16 To complicate the budgetary process further, the European Commission may also need to prepare additional amendments to the draft budget in the autumn in the event of a 'no deal' Brexit. Changes would be necessary to take into account the UK's withdrawal from the EU if it becomes clear it will not be making contributions in 2020 as foreseen by the Withdrawal Agreement or under a last-minute 'no deal' arrangement. Those would have to be incorporated into the negotiations between MEPs and Member States as and

27 It is not possible to calculate the exact level of contributions for 2020 in advance, as payments will depend on actual budgetary outturn and the nature of any UK contributions depends on the wider Brexit process.

28 This is in contrast to the procedures governing the adoption of the EU's Multiannual Financial Frameworks, where each Member State does have a veto. The UK has abstained on each annual EU budget since 2015.

29 This decision could be taken by the Committee of Permanent Representatives (COREPER) or by a formal meeting of EU Finance Ministers (ECOFIN).

when they are available. We have considered the potential ramifications of Brexit for the 2020 EU budget (and the possible financial implications of that budget for the UK taxpayer) in more detail below.

The implications of Brexit for the 2020 EU budget

3.17 When the UK ceases to be a Member State, it will also automatically lose its obligation under EU law to make contributions into the EU budget. The general implications of Brexit for the EU's finances are essentially two-fold:

- the need for the EU to take into account certain institutional preparations related to the UK's withdrawal; and
- the possibility of the UK ceasing to be a net contributor to the budget (with concomitant effects on how much the EU has to spend in general).

3.18 With respect to the first element, as we noted in our Report of 18 July 2018 the UK's decision to withdraw from the EU generated a number of spending proposals related specifically to Brexit.[30] In particular, the relocation of the European Banking Authority (EBA) and the European Medicines Agency (EMA) away from London to Paris and Amsterdam respectively saw the need for some additional financial support to those two bodies. The draft EU budget for 2020 notes that the EMA in particular will need €6.2 million (£5.5 million) of additional funding, after it was unable to terminate its lease in Canary Wharf and has had to provide "financial inducements" to secure a sub-tenant for its former building.[31] For the EBA, the budget foresees a €2.1 million (£1.8 million) grant to fund its move into its new premises in La Défense in Paris. Overall, direct EU spending plans triggered by Brexit has therefore been fairly limited.[32]

3.19 The potential longer-term repercussions of Brexit for the revenue side of the EU budget (and, by extension, for its general spending plans overall) are much more significant. Article 310 TFEU requires "revenue and expenditure shown in the [EU] budget [to] be in balance", meaning that any loss in revenue—i.e. the UK contribution—would need to be addressed immediately. Given the UK's position as a net contributor, any cessation in its payments into the EU budget from 'exit day' on 31 October onwards would require significant adjustments. In practice, this would necessitate cuts to EU spending, increased payments by the remaining Member States, or both. A complicating factor is that the EU's high-level spending plans for the entire 2014–2020 period were established in 2013 (under the Multiannual Financial Framework), four years before the UK formally triggered the

30 The UK's withdrawal also led to some spending cuts, in particular for the EU institutions (to take into account the reduction in the number of MEPs and Commissioners, and to close the European Commission's offices in London, Cardiff and Edinburgh). See for more information the Commission's draft amending budget 4/2019 of 2 July 2019.

31 The EMA is part-funded from the EU budget, but also has an income stream by charging fees to pharmaceutical companies. The Commission's draft budget notes that "the EU balancing contribution to EMA is €6.2 million above the financial programming for 2020, to cover the full financing of the €62 million of financial inducements to the sub-tenant for the period 2019–2020, as set out in the building file for the London building presented to the European Parliament and the Council in March 2019".

32 The EU is also planning EU investment in a new shipping route between Ireland and the continent under the Connecting Europe Facility to allow some freight transports to by-pass the UK more easily, and in 2019 provisionally earmarked €10 million for the creation of an EU 'delegation' (embassy) in London. However, following the extension of the Article 50 period those plans are currently on hold as the UK is now a Member State for longer than initially anticipated.

withdrawal process. This means that last-minute adjustments would be necessary to spending plans that may have been in place for a number of years, in many cases with legally-binding funding commitments already made.

3.20 To avoid the need to cut spending or for the remaining Member States to contribute more money, the EU has insisted consistently that the UK—irrespective of its date of withdrawal—"must honour its share of the financing of all the obligations undertaken while [the UK] was a member of the Union".[33] In July 2017 the then-Secretary of State for Exiting the EU (Rt Hon. David Davis MP) told Parliament that the Government "recognises that the UK has obligations to the EU […] that will survive the UK's withdrawal", and that "these need to be resolved". In December 2017, the Treasury announced both sides had agreed on the terms of a Brexit financial settlement in the infamous Joint Report. This was subsequently translated into a draft Treaty text by March 2018 as part of the overall Withdrawal Agreement between the UK and the EU.[34]

UK contributions to the 2020 EU budget if the Withdrawal Agreement is ratified

3.21 As has been set out in more detail elsewhere,[35] this Brexit financial settlement—if the Withdrawal Agreement is ratified—would require the UK to pay into the EU budget as if it were still a Member State from the date of its withdrawal until 31 December 2020 (the end of the EU's broad spending plans under 2014–2020 Multiannual Financial Framework). As a result, if the exit treaty is approved by the House of Commons, the UK would be expected to pay in its full contribution for the 2020 EU budget which we discussed above. In those circumstances, the European Commission foresees a gross UK contribution for 2020 of €18.5 billion (£16.6 billion), including the annual rebate estimated at €5.3 billion (£4.8 billion).[36]

3.22 In addition, the UK would pay for a share of the *Reste à Liquider* (RAL)—the EU's unpaid spending commitments, made under the 2014–2020 MFF but outstanding as of 1 January 2021—and towards other liabilities such as pensions for staff of the EU institutions. The UK would also receive certain assets back, such as its paid-in capital with the European Investment Bank. There would be no UK obligations with respect to *new* EU spending plans under its next Multiannual Financial Framework, which is due to take effect in January 2021.

3.23 In January 2018, the Treasury estimated the total net cost of the settlement to the British taxpayer—taking in the 2019 and 2020 EU budget, a share of the RAL as at 1 January 2021, and a contribution towards the EU's other liabilities—would be in the range of £35 to £39 billion. However, the final figure in relation to the UK's share of the costs

33 The European Commission's position paper on the financial settlement was its first negotiating document to be published, in June 2017.

34 With respect to the UK's withdrawal, the Commission's draft budget for 2020 notes that the EU has had to "cope with a number of unexpected crises" in recent years, including "unprecedented migration crisis", "tensions in global trade"—an oblique reference to the trade policies of the current American administration—and "the United Kingdom's notification of intent to leave the EU".

35 See for example the National Audit Office report, "Exiting the EU: The financial settlement—follow-up report" (29 November 2018).

36 The final net UK contribution would depend on the amount of EU funding UK-based entities received back over the course of 2020. In 2017, the European Commission estimated the UK's net contribution to be €7.43 billion (£6.51 billion).

of the 2014–2020 MFF would be lower after the extension of the UK's membership of the EU until October 2019.[37] In any event, the figure remains uncertain and could fluctuate depending on a number of factors.[38]

The possibility of UK contributions to the 2020 EU budget without a Withdrawal Agreement

3.24 The draft Withdrawal Agreement and the proposed financial settlement have, of course, been thrice rejected by the House of Commons. If the Agreement is not ratified, and no further action is taken to extend the UK's membership of the EU, there would be no legally binding agreement for the Treasury to making contributions to the EU beyond 31 October 2019 (including the 2020 budget). However, it cannot be ruled out definitively at this stage that the Government could nevertheless end up making such contributions. That would be the case under a number of different scenarios (or a combination thereof):

- the House of Commons agrees to the Withdrawal Agreement and it is ratified by the UK and EU, meaning the UK commits to making its full contributions into the 2020 EU budget (see paragraphs 21 to 23 above);
- the Government agrees a further extension of the Article 50 period into 2020, with the scope of UK payments into the EU budget depending on the precise length of the extension;
- the UK revokes Article 50 altogether (in which case the UK stays a full Member State with an obligation to contribute to the EU financially); or
- the UK leaves the EU without a Withdrawal Agreement in place, but separately agrees to make certain payments into the EU budget anyway.

3.25 The last scenario is the one for which the EU is actively preparing, given the possibility that the UK will leave the EU on 31 October without a Withdrawal Agreement in place. As we discussed in our Reports of 13 March and 3 April 2019, the remaining Member States are putting in place a contingency 'no deal' Regulation that effectively asks the UK to make payments into the EU budget for November and December 2019, even as a non-Member State. In return for continued contributions, UK recipients of EU funding approved before 31 October would be paid from the EU budget until the end of the year.[39] (These 'no deal' payments would not create an overall transition period like the one contained in the Withdrawal Agreement, under which the UK would stay in the Customs Union and Single Market for some time after formally leaving the EU).

37 The extension of the Article 50 period means that the UK is contributing to the EU budget from April to October 2019 as a full Member State, and not as an ex-EU country under the terms of the Withdrawal Agreement as originally envisaged. Therefore, payments made during that time would be deducted from the size of any post-Brexit settlement.

38 For example, the size of the settlement would depend on the amount the EU chooses to spend in 2020; the euro-sterling exchange rate; and the crystallization of any of the EU's contingent liabilities. Moreover, if the post-Brexit transitional period foreseen by the Withdrawal Agreement were to be extended beyond 31 December 2020, the UK would have to pay additional money to the EU (the amount of which would have to be determined by July 2020) on top of the existing financial settlement.

39 The Regulation also provides for the right of UK-based recipients to bid for new EU funding in November and December despite being outside the EU, but given the short timeframe and the lack of a resolution in relation to the 2020 budget means this likely to be of limited practical use.

3.26 The Government abstained when the EU's Brexit Budget Regulation was voted on by EU Ministers in the Council on July 2019, despite having the power to veto the proposal while the UK remains a Member State.[40] This means the Regulation was adopted and will become EU law. However, it is important to note that the contingency measure, even if approved by the Council, cannot oblige the Government to pay into the EU budget beyond a 'no deal' Brexit. It would take effect only after the UK had already ceased to be a Member State (when, by definition, EU law would no longer be binding). It is clear the EU intends to exert *political* pressure for the UK to continue making its budget contributions irrespective of what happens with the Withdrawal Agreement. In April 2019, the European Commission said explicitly that the EU would not negotiate with the UK on new measures to address any disruption caused at Dover and Calais by the UK's departure from the Customs Union and the Single Market, unless the "precondition" of a financial settlement had been agreed.[41]

3.27 While the Government itself has said that the UK would have financial obligations to the EU which would 'survive' its withdrawal in any event, it has so far refused to clarify whether it would agree to the EU's request for continued contributions even in a 'no deal' scenario. This will be a matter for the next Prime Minister to consider after taking office later this month. If he were to decide the UK should make further payments into the EU budget beyond its withdrawal, for example to facilitate negotiations on a new trading relationship, he would need the approval for such payments from the House of Commons. This is so because the current authority under the European Communities Act 1972 for payments to the EU budget would have fallen away on 'exit day',[42] requiring new statutory authority for any further contributions to be paid.[43]

3.28 The EU is clearly minded to conclude its 2014–2020 budgetary cycle with full UK contributions, irrespective of its exit from the Union. The draft budget for 2020 explicitly foresees full participation by the UK as both a contributor and recipient. Although the Brexit Budget Regulation described in paragraphs 25 and 26 above only covers the 2019 financial year (since the 2020 budget, and by extension the putative British contribution, is yet to be definitively established), it seems likely to ask the Treasury to make contributions for the whole of next year as well.[44] The lack of clarity from the Government about the possibility of contributions to the remainder of the 2019 EU budget after a 'no deal' exit on 31 October means it is, for the time being, impossible to definitively rule out such payments to the 2020 budget (which would otherwise have been covered by the financial settlement in the Withdrawal Agreement).

40 The Regulation asking for EU budget contributions even beyond a 'no deal' Brexit is based on Article 352 TFEU, which requires unanimity in the Council. As such, every Member State has a veto.

41 The same would apply, the Commission said, to the issue of citizens' rights and the 'backstop' for the UK-Ireland border.

42 We presume here that the Government would commence section 1 of the European Union (Withdrawal) Act 2018 as of 'exit day', repealing the European Communities Act 1972.

43 On 25 February 2019 the *Daily Telegraph* reported that the Cabinet had signed off on a draft Statutory Instrument enabling the Treasury to continue making payments to the EU in a 'no deal' scenario. The press reported that the Statutory Instrument would be made under the European Union (Withdrawal) Act 2018, potentially even under the negative—rather than affirmative—procedure.

44 However, the EU's contingency budget regulation as discussed in paragraphs 25 and 26 at present only covers the 2019 budget. The other Member States could only request payments from the UK for 2020 once the EU's expenditure plans—and therefore the necessary contributions—have been agreed by the Member States and the European Parliament. A further amendment to the Regulation could be made once the budget for 2020 is in place.

3.29 In June 2019, the EU's Budget Commissioner—Germany's Guenther Oettinger—indicated that the Commission would seek to adjust the 2020 EU budget this autumn if it became clear the UK would not be making any further contributions beyond 31 October. The scale of any such changes—and how they would combine spending cuts with increased contributions for the remaining Member States—is not clear.[45]

Our conclusions

3.30 **The UK's contribution to the EU budget, which stood at £6.51 billion in net terms in 2017,[46] has for decades been one of the most controversial elements of our membership of the European Union. Given the prominent role played by the size of the UK contributions in the EU referendum campaign, Brexit has, in many ways, brought that issue even further to the forefront.**

3.31 **As part of an overall settlement under the draft Withdrawal Agreement, the Government in 2017 accepted the demand of the remaining Member States that the UK pay its contributions into the EU until the end of the current Multiannual Financial Framework in December 2020, even if it were no longer a full Member State. However, political support for that decision has been lacking, as shown by the triple rejection of the Agreement by the House of Commons earlier this year.**

3.32 **The possibility of a 'no deal' Brexit has not eliminated the question of continued UK contributions to the EU budget. As far back as July 2017, the first Secretary of State for Exiting the EU (Rt Hon. David Davis MP) stated that the UK had 'survivable' financial obligations to the EU beyond its formal withdrawal. What is unclear is what the Government believes those "obligations" are, or how it would intend to resolve them with the EU in a 'no deal' scenario (when by definition the financial settlement contained in the Withdrawal Agreement does not take effect).**

3.33 **The EU, on the other hand, has been clear that it intends to pursue the UK for a comprehensive financial settlement even if it leaves without a Withdrawal Agreement. The remaining Member States have now put in place a detailed legal framework requesting British payments towards its 2019 budget until the end of this year in a 'no deal' scenario. Since the draft exit treaty also foresees full UK contributions into the EU budget for 2020 as if it were still a Member State, the draft budget for that year—put forward by the Commission in June 2019—sets out spending plans and estimated revenue on that basis. However, the EU's Budget Commissioner has conceded amendments would be necessary if it became clear this autumn the UK would not pay, to ensure the EU's revenues and spending are in balance. That would require painful political compromises, involving both spending cuts and increased contributions by the remaining Member States.**

3.34 **What the UK may end up contributing to the 2020 EU budget depends very much on, firstly, where there will be a legal requirement for it do so (i.e. the Withdrawal Agreement is ratified; the Article 50 period is extended further into 2020; or the**

45 It had previously been reported the Commission had already sought to decrease the scale of any new spending commitments being made from January 2019 onwards to mitigate the impact of potentially losing the UK's contributions. See *Politico*, "EU holds back budget cash to soften blow of no-deal Brexit" (16 January 2019).

46 See HM Treasury, "European Union Finances 2018" (June 2019), p. 15. This is inclusive of receipts from the EU budget by private sector entities like universities and charities. The Government's estimate for the net contribution, which only includes receipts by the UK public sector, was £8.9 billion in 2018.

Article 50 notification is revoked). If none of those eventualities come to pass—the 'no deal' scenario—whether there are contributions in 2020 very much depends on the actions taken by the Government with Parliament's support. If the new Prime Minister were to accept the request for payments until the end of 2019 as set out in the EU's contingency proposal following a 'no deal' Brexit, we consider it likely a similar demand will be made in relation to the 2020 EU budget. Under the draft budget put forward by the Commission, there would be a gross British contribution estimated to total €18.5 billion (which would be off-set against continued flow of EU funding to UK public and private sector organisations in 2020).[47]

3.35 **What would happen if the Government—or the House of Commons—rejects the EU's request for further contributions following a 'no deal' Brexit, is less easy to envisage. In such a scenario, the European Commission has indicated it would seek to shrink the 2020 EU budget to take into account the loss of the UK's financial contributions. Since that would disrupt the EU's long-term spending plans under the 2014–2020 Multiannual Financial Framework (and therefore the total expenditure before 31 December 2020, on which the financial settlement in the Withdrawal Agreement is predicated), it is not clear how that could affect the scope of any future settlement to resolve what the Government has called the financial obligations to the EU "that will survive the UK's withdrawal".**

3.36 **Moreover, ending the UK's contributions to the EU budget immediately is likely to have significant political implications. If there are no further contributions, the Government could redirect money provisionally earmarked for EU payments to increase domestic investment, and to cushion the impact of a 'no deal' Brexit on the most exposed economic sectors. However, it is also likely to impact on the UK's post-Brexit relationship with the EU in several ways:**

- **It is unclear whether or not the withholding of the UK's payments following a 'no deal' Brexit would incentivise the EU to enter into negotiations for a new UK-EU free trade agreement, or entrench the attitude expressed by the Commission that the financial settlement would be a "precondition" for such talks.**[48] **In the latter scenario, this would prolong the economic uncertainty resulting from the UK's departure from the Single Market and Customs Union without a transitional period or new trade agreement with the EU in place.**

- **In particular, as we have noted in our Reports on 'no dea' preparations, the EU has put in place certain limited contingency measures to limit disruption if the Withdrawal Agreement is not ratified (for example to maintain basic road and air connectivity between the UK and EU once we are outside the Single Market). Those are, however, of limited duration and will expire by early 2020. In June 2019, the European Commission said it was considering whether to propose extending their validity, but it is of course possible it may try to make those extensions conditional on UK payments into the EU budget.**

47 The remaining Member States have noted that "payments the United Kingdom will make under the Council Regulation [towards the 2019 EU budget following a 'no deal' exit] shall be fully taken into account for future negotiations when calculating the outstanding obligations resulting from the United Kingdom's membership of the Union".

48 The Treasury's estimate of the total net size of the financial settlement (had the UK left the EU on 29 March 2019 as originally envisaged) was €42.4 billion. That is less than 1 per cent of all public spending in the EU-28.

- **In the absence of continued UK payments into the EU budget from 31 October, most existing British recipients of EU funding—like universities, local authorities or farmers—would cease being eligible to receive their grants from the European Commission as of 1 November 2019.[49] The Treasury has guaranteed EU funding awarded before that date, as well as promising to provide the same level of farming subsidies until 2022.[50] However, it seems unlikely that all domestic replacements for EU programmes will be in place by 1 November. In particular, the 'Shared Prosperity Fund' (SPF), the Government's replacement for the EU's Structural & Investment Funds, has not yet been established.[51] Discontinuing participation in the EU budget could therefore create a funding gap for certain sectors and regions.**

- **In the longer-term, a lack of resolution to the financial issue also seems likely to preclude any participation by the UK in EU programmes under the next Multiannual Financial Framework (2021–2027). The Government has explicitly said it is seeking participation in a number of EU financial programmes currently being established, including 'Horizon Europe' (the international scientific research programme), the ITER fusion energy project, the EU space programme and the EU's development assistance instrument.**

3.37 **Given the above, the question of any further payments to the EU in a 'no deal' Brexit eventuality is clearly something the House will want to follow closely. We reiterate that the Government would need to secure the appropriate parliamentary authority for any such contributions (should it decide it was in the UK's interest to make them). We also recommend that any such authorisation should be sought—at the very least—by a Statutory Instrument made under the affirmative procedure, and preferably by Act of Parliament.**

3.38 **The uncertainty about the UK's participation in the 2020 EU budget may, ultimately, come at a cost to the British taxpayer. As we have noted, it remains a possibility that the UK will pay its full contribution in 2020. However, we fear the Treasury is likely to be largely side-lined during the negotiations on the size and priorities of the 2020 EU budget, precisely because it is unclear whether the UK will contribute. Although the Government would not have had a veto over the 2020 budget in any event, since it is adopted by qualified majority, we believe there is still a significant risk that the UK's preferences are not reflected in the final spending plans.**

3.39 **In particular, the substantial allocation from the Flexibility Instrument for the EU's security and border-control policies—€778 million, on top of nearly €1 billion in 2019—shows that the Government's insistence on "budgetary restraint" is not being heeded. We therefore ask the Chief Secretary to the Treasury, in her next update on the 2020 EU budget, to:**

49 Two significant exceptions to this, where the EU has unilaterally guaranteed continued EU funding for British recipients, are the Northern Ireland-Ireland PEACE Programme and the Erasmus+ student mobility programme.

50 The Department for the Environment, Food & Rural Affairs (DEFRA) has committed to continue committing "the same cash total in funds" for support to farmers until 2022 after the UK leaves the Common Agricultural Policy, but the Agriculture Bill has not received Royal Assent because the Government's legislative programme has come to a halt.

51 On 2 July 2019, the Chancellor of the Exchequer (Rt Hon Philip Hammond MP) told Parliament that more details about the SPF "will be announced following the spending review, and the Government will consult widely on the funds".

- **clarify the UK's position on the extensive use of the Flexibility Instrument to allow the EU to breach the spending limits set out in the MFF, and whether it would approve its use for the 2020 budget if it still has a vote when that decision is taken; and**

- **explain to what extent the British taxpayer may have to contribute towards EU expenditure under 'heading 3' if the UK were a full contributor to the 2020 budget, in light of the UK's non-participation in FRONTEX and the Internal Security Fund under Protocols 19 and 21 to the Treaties.**

3.40 **We retain the draft EU budget for 2020 under scrutiny, in light of the uncertainty about its financial implications for the UK taxpayer. We ask the Chief Secretary to keep us informed of further developments in the budgetary negotiations between the Commission, Council and European Parliament in due course. Separately, we will continue to press the Government for more clarity about its position on the possibility of payments into the EU budget after a 'no deal' Brexit once the new Prime Minister is in office. We will be considering the state of play in the negotiations for the EU's Multiannual Financial Framework 2021–2027 separately in the coming months, as they are likely to shape the form of cooperation between the UK and the EU in the longer term, for example in areas as varied as scientific research, customs and tax, development assistance and space.**

3.41 **We draw these developments to the attention of the Treasury Committee, given its interest in the Brexit financial settlement and its cost to the Exchequer.**

Full details of the documents

Statement of Estimates of the European Commission for the financial year 2020: (40664), 7098/19.

Previous Committee Reports

None. We published our last Report on the 2019 EU budget in January 2019. See (39886), 10365/18, COM(18) 600: Fiftieth Report HC 301–xlix (2017–19), chapter 11 (9 January 2019).

4 EU Batteries Policy

Committee's assessment	Politically important
Committee's decision	Cleared from scrutiny; further information requested; drawn to the attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee and the Environmental Audit Committee
Document details	(a) Commission Report on the Implementation of the Strategic Action Plan on Batteries: Building a Strategic Battery Value Chain in Europe; (b) Commission Report on the implementation and the impact on the environment and the functioning of the internal market of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC; (c) Commission Staff Working Document on the evaluation of the Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC
Legal base	—
Department	Business, Energy and Industrial Strategy AND Environment, Food and Rural Affairs
Document Numbers	(a) (40506), 8415/19 + ADD 1, COM(19) 176; (b) (40513), 8483/19, COM(19) 166; (c) (40519), 8484/19, SWD(19) 1300

Summary and Committee's conclusions

4.1 Batteries have been identified by the European Commission as a strategic value chain for the EU, with demand driven by the ongoing clean energy transition notably electric vehicles and renewable electricity storage. The European Commission published a series of documents identifying action that could be taken. Fundamental to the EU's approach is the framework set out in the Batteries Directive,[52] which could be amended to include a mechanism to incorporate new technologies and usage, such as lithium-ion batteries used in electric vehicles.

4.2 As we observed in our Report of 5 June 2019,[53] the Batteries Directive and other potentially relevant legislation would most likely remain relevant to the UK under all exit scenarios. We noted that the respective Explanatory Memoranda from the Department for Environment, Food and Rural Affairs (DEFRA) and from the Department for Business, Energy and Industrial Strategy (BEIS) were disappointingly thin on how EU regulation in the area should develop and failed to explore the implications for the UK post-Brexit. We therefore asked the Ministers to set out the EU regulatory changes that they would like to see and to confirm that the UK would pro-actively engage in the EU-level debate.

52 Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC

53 Sixty-seventh Report HC 301–lxv (2017–19), chapter 3 (5 June 2019).

4.3 The Minister for Business and Industry (Andrew Stephenson MP) says in his letter[54] that his Department is "of course" aware of the ongoing relevance of the Batteries Directive as the UK prepares to leave the EU. That is why the Department has identified regulation and standard-setting as a priority. He says that the UK is supportive of the direction of travel in the process of reviewing the Batteries Directive and agrees with the need to update regulation in light of the development of batteries like lithium-ion.

4.4 The Minister explains that the UK Faraday Battery Challenge team has been working with the Government and with industry to agree a joined-up approach to best practice and establishing future codes of practice or standard requirements. This will include engagement with industry and specialists across the UK with due consideration given to all current and anticipated future international regulations and standards. The Faraday Battery Challenge team is working closely with officials within BEIS and DEFRA to influence, currently at an early and technical level, any future amendments to the Batteries Directive.

4.5 Furthermore, adds the Minister, the Faraday Battery Challenge has recently nominated a representative to participate in the National and Regional Representatives Group (NRRG) on batteries R&D (research and development) associated to the newly formed "Batteries Europe" European Technology & Innovation Platform to ensure that the UK is fully sighted and appropriately engaged in EU battery R&D activities.

4.6 In her letter,[55] the Parliamentary Under-Secretary of State for the Environment (Dr Thérèse Coffey MP) does not explicitly confirm that she or her officials are aware of the continued relevance of EU law in this area to the UK. She recognises, though, that certain measures in the Batteries Directive relate to conditions for placing batteries on the market and therefore are relevant to trade and the movement of goods. We take this as implicit recognition that elements of the Batteries Directive will continue to be relevant to the UK under all exit scenarios.

4.7 The Minister assures us that the UK is contributing to and supportive of the Commission's process for reviewing the Batteries Directive. Most recently, DEFRA officials attended, and actively participated in, the EU Batteries Expert Group meeting on 7 June. She says that both the UK and the Commission recognise that engagement on batteries issues between them should continue. This, she adds, will clearly be important with the ongoing Commission review of the Batteries Directive and the UK's domestic review of batteries regulation commencing next year.

4.8 In terms of priorities, the Minister notes that the Government has stated its intent in a number of policy documents that producers should take greater responsibility for the materials and products they put onto the market. Areas on which the Government would like to focus are fixing inequalities in the present approach to portable batteries as well as ensuring the UK's battery framework is supporting the opportunities created by the rapid growth in lithium batteries, led by electric vehicles. In this respect, the Commission has signalled that it proposes to establish lithium-ion batteries as a separate category within the Batteries Directive as well as including provisions recognising battery re-use, both of which the Government considers to be important and welcome.

54 Letter from Andrew Stephenson MP to Sir William Cash MP, dated 21 June 2019.
55 Letter from Dr Thérèse Coffey MP to Sir William Cash MP, dated 27 June 2019.

4.9 **We welcome the information from the respective Ministers on their policy priorities and EU engagement activities in this area. We note the acceptance—explicit in one instance and implicit in the other—that EU regulation will continue to be relevant to the UK under all EU exit scenarios. The work on engagement is therefore important.**

4.10 **We remain disappointed that neither Minister explored the ongoing implications of EU policy under all EU exit scenarios and that, for whatever reason, the DEFRA Minister still felt unable to be explicit about the ongoing relevance of this area. Neither Minister responded to our request to explain why they omitted any meaningful EU exit analysis from their original EMs. In recognition of the otherwise helpful information provided, we do not explore these issues further here. We nevertheless ask the Ministers to ensure that EU exit implications are carefully considered when writing to us in the future on other files.**

4.11 **We clear the documents from scrutiny and draw this chapter to the attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee and the Environmental Audit Committee. We require no further information.**

Full details of the documents

(a) Commission Report on the Implementation of the Strategic Action Plan on Batteries: Building a Strategic Battery Value Chain in Europe: (40506), 8415/19 + ADD 1, COM(19) 176; (b) Commission Report on the implementation and the impact on the environment and the functioning of the internal market of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC: (40513), 8483/19, COM(19) 166; (c) Commission Staff Working Document on the evaluation of the Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC: (40519), 8484/19, SWD(19) 1300.

Previous Committee Reports

Sixty-seventh Report HC 301–lxv (2017–19), chapter 3 (5 June 2019).

5 Imports of high-quality beef from the USA

Committee's assessment	Politically important
Committee's decision	Cleared from scrutiny; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee and the International Trade Committee
Document details	(a) Proposal for a Council Decision on the signing, on behalf of the EU, of an agreement with the USA on the allocation to the US of a share in the tariff rate quota provided for by Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef; (b) Proposal for a Council Decision on the conclusion of an agreement with the USA on the allocation to the US of a share in the tariff rate quota provided for by Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef.
Legal base	Articles 207, 218(5) and 218(6) TFEU, QMV
Department	Environment, Food and Rural Affairs
Document Numbers	(a) (40706),—; (b) (40707),—

Summary and Committee's conclusions

5.1 Since 1981,[56] the EU has banned the use of growth-promoting hormones[57] in farm animals. The ban applies both to domestic production and to imports, but has caused an ongoing trade dispute between the EU and the US (see below). While growth-promoting hormones are widely used in livestock production in the US and elsewhere, they have been considered by the EU as posing a potential health risk to consumers.[58]

5.2 The EU and US agreed in 2013 on arrangements for EU imports of high-quality US beef (from cattle not treated with growth-promoting hormones) at zero duty.[59] It is now proposed to modify those arrangements following the decision of the US, in December 2016, to reinstate increased duties on certain European Union products after the US beef industry raised concerns that the EU may be violating the revised Memorandum of Understanding (MoU) of 21 October 2013. The US industry felt that it had been prevented from gaining the intended benefits from the MoU because of increased imports under the duty-free quota from non-US suppliers.

56 Council Directive 81/602/EEC, of 31 July 1981,which was further amended in 1988 and then replaced by Council Directive 96/22/EC (subsequently amended in 2003 and 2008).

57 Examples for these kind of growth promoters are oestradiol 17ß, testosterone, progesterone, zeranol, trenbolone acetate and melengestrol acetate (MGA).

58 "Hormones in Meat", European Commission.

59 The EU's full tariff for imports of beef out of quota is in excess of 50%.

5.3 To ease growing trade tensions between the EU and the US,[60] the Commission has negotiated a specific US allocation of the EU's tariff rate quota (TRQ) for the importation of high-quality, hormone-free beef. The total annual quota remains the same (45,000 tonnes), but the US will receive an allocated share of the TRQ rising from 18,500 tonnes in the first year to 35,000 tonnes from the seventh year.

5.4 WTO rules oblige the EU to obtain agreement from Argentina, Australia and Uruguay as the other substantial suppliers under this TRQ, all of whom provided their written consent by 31 May. The Minister of State for Agriculture, Fisheries and Food (Rt Hon. Robert Goodwill MP) notes[61] that these countries are currently (Argentina and Uruguay through Mercosur)[62] progressing Free Trade Agreements with the EU, which—in his opinion—is likely to have contributed to the acceptability of this deal to those countries. Accordingly, the agreement with the USA is now ready to be put before Council for approval.

5.5 The Commission has proposed two Council Decisions: on the signing of the agreement on behalf of the EU (document(a)); and on the conclusion of the agreement (document (b)). It is expected that the Decision on signature will be adopted at the 15 July Council, while the timing of the second Decision will depend on when the parties sign the agreement.

5.6 The Minister considers that the Commission has achieved a successful outcome in these negotiations, which overall the UK is content with. He notes that a long-standing point of contention between the EU and the USA over the use of growth hormones will be resolved, while the awarding of an allocated share of the TRQ to the USA has been achieved without the other substantial suppliers receiving an increase to the overall size of the TRQ.

5.7 In a Supplementary Explanatory Memorandum, the Minister clarifies that the Government intends to support the Decisions in Council and is therefore seeking clearance in advance of 15 July 2019.

5.8 Concerning the UK's approach to the issue post-Brexit, the Minister says only that the UK will consider the conclusion of the negotiations in the context of its future applied tariff policy.

5.9 We considered the original proposal to open negotiations in autumn last year[63] and expressed concern about how supplier countries other than the US would react. The then Minister said at the time that engagement with other supplier countries would be necessary. We also noted that trade in beef treated with growth-promoting hormones is an area of interest in the Brexit context as the US may push in the future for access for such products to the UK market.

60 "EU-US Trade: European Commission recommends settling longstanding WTO dispute", European Commission, 3 September 2018.

61 Explanatory Memorandum dated 2 July 2019.

62 Argentina, Brazil, Paraguay and Uruguay.

63 Forty-seventh Report HC 301–xlvi (2017–19) chapter 5 (5 December 2018); Fortieth Report HC 301–xxxix (2017–19), chapter 9 (17 October 2018).

5.10 **We note the outcome of negotiations and that other supplier countries have given their consent. The Minister observes that they are likely to have been influenced by the progress of discussions on Free Trade Agreements, such as those between the EU and Australia and between the EU and Mercosur.**

5.11 **We are aware that the negotiation with Mercosur has just concluded and that the agreement in principle[64] makes specific arrangements for beef. When the Mercosur agreement comes to us for scrutiny, we will consider the arrangements for beef with the most recent agreement with the US in mind.**

5.12 **We recognise that this proposal is the product of a long-running trade dispute concerning the trade in beef treated with growth-promoting hormones. While this is likely to be an area of interest post-Brexit as the US may push in the future for access for such products to the UK market, we do not pursue those issues at this stage as any consideration would be entirely speculative.**

5.13 **We note, though, that the Government will be considering the conclusion of this agreement in the context of its future applied tariff policy. We ask that the Government inform us of the outcome of its deliberations on this matter by the end of September at the latest in order that we can consider the information before 31 October.**

5.14 **We clear the proposals from scrutiny in advance of the 15 July Council and draw this chapter to the attention of the Environment, Food and Rural Affairs Committee and the International Trade Committee.**

Full details of the documents

(a) Proposal for a Council Decision on the signing, on behalf of the EU, of an agreement with the USA on the allocation to the US of a share in the tariff rate quota provided for by Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef: (40706),—; (b) Proposal for a Council Decision on the conclusion of an agreement with the USA on the allocation to the US of a share in the tariff rate quota provided for by Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef: (40707),—.

Background: World trade dispute

5.15 The United States and Canada contested the EU's prohibition—from1981—of the use of hormones as growth-promoters in food-producing animals. In retaliation,[65] the US suspended trade concessions with the EU by imposing higher import tariffs on EU products. The first US action in 1989 imposed retaliatory tariffs of 100% *ad valorem* duty on selected food products, and remained in effect until 1996.

5.16 In 1997, a panel of the World Trade Organisation ruled that the EU measure was not in line with the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). The EU appealed against this ruling and, in 1998, the WTO Appellate Body reversed most of the findings of the panel. The WTO Appellate Body only upheld the finding that

64 European Commission summary of The agreement in principle to a New EU-Mercosur Trade Agreement.
65 "The US-EU Beef Hormone Dispute", Congressional Research Service, 14 January 2015.

prohibition of imports of meat from hormone-treated animals to the EU did not comply with the requirement that such a measure should be based on a relevant assessment of the risks to human health.

5.17 In reaction to these findings, the EU mandated a new assessment of the risks to human health from hormone residues in bovine meat and meat products treated with six hormones used for growth promotion. Subsequently the EU amended Directive 96/22/EC by adoption of Directive 2003/74/EC and thus implemented its international obligations in the context of the WTO.

5.18 The US and Canada considered the EU's actions insufficient and, in 1999, imposed a 100% *ad valorem* duty on selected foods from EU countries.

5.19 In May 2009, following a series of negotiations, the United States and the EU signed a memorandum of understanding (MoU) in an attempt to resolve this long-standing dispute by further opening the EU market to non-hormone treated beef. The terms of this agreement were to be phased in over the next few years. There is a separate MoU with Canada

5.20 As part of Phase 1 of the EU-US MoU, the EU adopted regulations opening a tariff quota for 20,000 tonnes of "high-quality beef" (HQB) imports from August 2009. The United States agreed not to implement its January 2009 revised sanctions, which would have resulted in higher retaliatory duties on selected EU exports to the United States. Trade sanctions would remain in effect on certain EU exports until the final phase of the agreement.

5.21 Under Phase 2, from 1 August 2012 to 1 August 2013, the EU opened a larger quota for 45,000 tonnes of HQB, and the US suspended all trade sanctions on EU products resulting from the Hormones dispute. The tariff quota can be accessed by all countries recognised by the EU as eligible as of 2018: US, Canada, New Zealand, Australia, Uruguay, and Argentina.

5.22 In October 2013, the EU approved a revision of the EU-US MoU, allowing for access of US beef raised without the use of growth-promoting hormones in exchange for continued US suspension of retaliatory import duties on some EU food products. In December 2016, the US reinstated duties on certain EU products.

Previous Committee Reports

None, but the following Reports on the earlier Decision to open negotiations are relevant: Forty-seventh Report HC 301–xlvi (2017–19) chapter 5 (5 December 2018); Fortieth Report HC 301–xxxix (2017–19), chapter 9 (17 October 2018).

6 EU preparations for a Brexit without a Withdrawal Agreement

Committee's assessment	Politically important
Committee's decision	Cleared from scrutiny; drawn to the attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee, the Committee on Exiting the EU, the Northern Ireland Affairs Committee, the Transport Committee and the Treasury Committee
Document details	(a) Communication from the Commission—Addressing the impact of a withdrawal of the United Kingdom from the Union without an agreement: the Union's coordinated approach; (b) Communication from the Commission—State of Play of Preparations of Contingency Measures for the Withdrawal of the United Kingdom from the European Union
Legal base	—
Department	Exiting the European Union
Document Numbers	(a) (40512), 8476/19 + ADDs 1–6, COM(19) 195; (b) (40672), 10313/19 + ADDs 1–2, COM(19) 276

Summary and Committee's conclusions

6.1 Under the Government's original plans, the UK had been due to formally terminate its membership of the European Union on 29 March 2019. Following two extensions to the UK's withdrawal process under Article 50 TEU, 'exit day' is now scheduled for 31 October 2019. If the Withdrawal Agreement negotiated between the current Government and the EU is not ratified by the House of Commons and the European Parliament by that date, and no other action is taken to extend the UK's EU membership, it will leave the European Union without an exit treaty—the so-called "no deal" scenario—at the end of October. That means there would be no post-Brexit transitional period, and the UK would be out of the Single Market and Customs Union as of 1 November.

6.2 To prepare for this 'no deal' eventuality, both the UK and EU have implemented certain contingency measures. On the EU side, the European Commission has coordinated the overall preparations for different Brexit eventualities. This resulted in a combination of EU-level policy measures, as well as decisions taken at national level in individual Member States. Given the remit of our Committee, which is to scrutinise EU law and policy, we previously issued a number of Reports (in October and December 2018, and again in January 2019) to inform the House and other Select Committees about the preparations made by the Commission and the remaining Member States should the UK leave the Union without a Withdrawal Agreement.

6.3 This latest Report, which serves as an update to our previous work, is based on the most recent information provided by the European Commission in Communications published in April and June this year, which the Department for Exiting the EU deposited for scrutiny alongside Explanatory Memoranda setting out the Government's position. It also draws on the extensive and detailed scrutiny work that we have undertaken with respect to the EU's individual Brexit contingency proposals over the last two years.[66]

The EU's preparations for Brexit

6.4 As we described in our previous Reports, the EU's preparations for the UK's withdrawal can be broadly categorised into 'preparedness' and 'contingency' measures. The former aim to modify EU law as necessary to take into account the UK's withdrawal and would need to be adopted "irrespective of whether the UK's withdrawal is orderly or otherwise". They have included for example the relocation of EU bodies, institutions and infrastructure from the UK to the EU-27;[67] the proposed division of UK and EU tariff rate quotas for the purposes of their respective World Trade Organization schedules; and the transfer of vehicle type approvals granted by the UK under Single Market legislation to one of the remaining Member States. By contrast, the contingency measures deal specifically with a scenario where the practical consequences of the UK becoming a 'third country' are not deferred until at least 2021 by means of the transitional arrangement in the Withdrawal Agreement.

6.5 In its latest Brexit updates, the Commission acknowledges the disruptive impact of a disorderly Brexit on both the UK and the EU's economy, any contingency measures notwithstanding.[68] It refers in particular to the negative impact of the UK's exit from common economic structures and policies, especially for European businesses which rely on the UK in some way: those who use it as an export market especially for agri-food products; EU fishermen operating in British territorial waters; or European regions which rely on visits by UK tourists, currently facilitated by free movement and UK participation in the fully liberalised EU aviation sector. The Commission also stated that the EU, and Member States, would provide financial support to affected businesses and communities in a 'no deal' eventuality.[69] It also says that in this scenario the resolution of certain separation issues—the rights of UK citizens in the EU and vice versa; the settlement of the UK's financial obligations to the EU budget; and, of course, an arrangement to prevent the re-emergence of a 'hard border' on the island of Ireland in particular—would be a "precondition for discussions [with the UK] on the way forward".

6.6 With respect to the 'no deal' scenario, the Commission announced in November 2018 that it was proposing specific EU-wide contingency measures to avoid the very worst of any disruption if the Withdrawal Agreement was not ratified. The initial list of measures

66 On the UK side, much of the Government's preparations for the possibility of 'no deal' have focussed on ways of minimising the scale of any new checks on goods imported from the EU, to avoid disruption at the border and to the wider supply chains that feed the UK economy.

67 In particular, Brexit has led to the relocation of the European Banking Authority, the European Medicines Agency and the Galileo back-up security centre away from the UK. In addition, the Operational Headquarters for Operation Atalanta, the EU's anti-piracy naval mission off the Horn of Africa, has been moved from the UK to France and Spain.

68 The Commission clearly argues that the economic impact of a 'no deal' Brexit would be felt most acutely in the UK.

69 A specific policy measure has been implemented to assist EU fishermen in a 'no deal' scenario should the UK refuse them access to its waters. In addition, the Commission refers to using structural funds, the Common Agricultural Policy and the Globalisation Adjustment Fund to support those particularly affected by Brexit.

announced in November was expanded in subsequent months, with the final proposals published in January 2019. Progress made on them is summarised by the Commission in its latest updates of April and June 2019. We have already reported the most significant of the EU's 'no deal' preparations to the House in sector-specific reports, including on:

- continued, time-limited preferential access to the EU's internal market for transport services, in particular for British airlines and road haulage operators;
- temporary equivalence for key financial infrastructure based in London, which will allow EU-based financial institutions to continue using UK-based capital markets facilities for derivatives and securities trading for a limited period in a 'no deal' scenario;
- continued recognition of pre-Brexit periods of residence and national insurance contributions in the UK when EU nationals—and in some cases British citizens—apply for social security in one of the remaining 27 Member States under free movement rules, as well as visa-free travel to the EU for UK nationals;
- uninterrupted EU financial support for both the cross-border PEACE programme on the island of Ireland, and for on-going student and teacher exchange visits under the Erasmus programme involving a host or home institution in the UK; and
- various regulatory decisions to prepare for Brexit, such as formally approving the UK as a safe country of origin for imports of meat products and live animals as and when it leaves the common animal health and food safety mechanisms of the Single Market.[70]

6.7 The EU's emergency legislation relating to continued market access for British hauliers and airlines are, as a matter of EU law, limited in duration. The road transport legislation expires on 31 December 2020, and its equivalent for airlines on 30 March 2020. However, those dates were fixed when the UK was expected to cease being a Member State on 29 March 2019 (and therefore some nine months of potential post-exit negotiations would have already taken place by the time the measures were due to expire). In June 2019, following the extension of the Article 50 period until 31 October, the European Commission hinted that the EU could consider whether there should be a "technical adjustment to take into account the new timeline before [the contingency measures] expire". Any such extensions of these contingency measures would require formal legislative proposals, and the joint approval of the European Parliament and a qualified majority of the remaining Member States in the Council.

6.8 The remaining Member States are also establishing a temporary legal framework for continued UK payments into the 2019 EU budget in a 'no deal' scenario, in return for which British organisations would remain eligible for almost all types of EU funding they could receive while the UK was a Member State until 31 December 2019. Under the EU proposal, any 'no deal' contributions would not be directly linked to preferential trade

70 This 'listing' is routine for other non-EU countries however, and would not exempt UK agricultural exports to the EU from having to undergo sanitary and phytosanitary controls on entry into the European Union via approved Border Inspection Posts Such controls are currently absent given the UK's adherence to the EU's common food safety and animal health regime, and the intensity of such controls on agricultural trade will pose particular challenges for both port infrastructure and traffic flow at the UK-EU border. It remains unclear how they would be carried out on agricultural exports entering the EU via the Irish border.

arrangements or market access, however. Given the potential financial implications of this proposal, on which the Government is yet to take a position, we are corresponding with the Treasury on this matter separately.[71]

6.9 We have provided a fuller overview of the Brexit preparedness and contingency measures adopted by the EU in the Annex to this Report.

6.10 Overall, with the exception of the unilateral transitional arrangements described above, the EU has said it will treat the UK as a 'third country' from the day it leaves the Union if the Withdrawal Agreement is not ratified (for example with respect to customs and regulatory controls on goods exported from the UK to the EU). The major unknown in this respect is what would happen at the UK-Ireland border, given the lack of infrastructure there. The EU's preparations would not be equivalent to the market access available as a member of the Single Market or the post-Brexit transitional arrangement set out in the draft Withdrawal Agreement, and the contingency measures could be altered, extended, limited or abolished by the EU unilaterally.

6.11 In other areas, no EU-wide contingency measures have been put in place. These include the restrictions on flows of personal data between the UK and the EU in the absence of a formal 'adequacy decision' under the General Data Protection Regulation, the need for EU ports to carry out sanitary and phytosanitary controls on imports of agri-food products from the UK that are currently waived through without checks, and the UK's disconnection from EU justice and home affairs mechanisms like the Schengen Information System and the European Arrest Warrant.

6.12 The Parliamentary Under Secretary of State at the Department for Exiting the EU, James Cleverly MP, submitted Explanatory Memoranda on the Commission's latest Brexit updates on 26 April and 27 June 2019. These summarised the EU's contingency measures adopted so far, and offer some commentary on the particular issues of contention from the UK's perspective (such as the reference to Gibraltar as a 'colony' in the Regulation giving British citizens visa-free access to the EU for short-term visits).[72] The Memoranda also provide information on the UK's own preparations for a 'no deal' Brexit in areas addressed by the European Commission, such as financial stability. Having noted the Commission's reference to the particular problems a disorderly UK withdrawal could pose for European fishermen who operate in British waters, the Minister adds that "after exit there will be no automatic access for EU vessels to UK waters", meaning that "any future access would be subject to negotiations".

6.13 **We thank the Minister for his helpful Explanatory Memoranda on the European Commission's Communications setting out the EU's preparations for the "no deal" Brexit scenario. As the Commission makes no further proposals for additional Brexit preparedness measures, we are content to now clear them from scrutiny. Given the political importance of these documents, we draw their substance to the attention of the House.**

---

71 See for example the letter from the Chancellor of the Exchequer (Rt Hon. Philip Hammond MP) to Sir William Cash MP of 24 June 2019.

72 The Minister also notes in his Explanatory Memorandum that the Government is concerned the emergency measure to allow for the completion of any EU-funded exchange visits involving students or teachers at UK educational institutions under the Erasmus+ instrument does not cover people who are sent or hosted by institutions based in Gibraltar. Although the number of people potentially affected by this in a 'no deal' scenario would be low, it could be hugely disruptive for the individuals involved.

6.14 **In light of their specific interest in the Brexit negotiations, we also draw this chapter to the particular attention of the Business, Energy and Industrial Strategy Committee, the Environment, Food and Rural Affairs Committee, the Committee on Exiting the EU, the Northern Ireland Affairs Committee, the Transport Committee and the Treasury Committee.**

Full details of the documents

(a) Communication from the Commission—Addressing the impact of a withdrawal of the United Kingdom from the Union without an agreement: the Union's coordinated approach: (40512), 8476/19 + ADDs 1–6, COM(19) 195; (b) Communication from the Commission—State of Play of Preparations of Contingency Measures for the Withdrawal of the United Kingdom from the European Union: (40672), 10313/19 + ADDs 1–2, COM(19) 276.

Previous Committee Reports

See: Fortieth Report HC 301–xxxix (2017–19), chapter 10 (17 October 2018); Forty-eighth Report HC 301 xlvii (2017–19), chapter 4 (12 December 2018); and Fifty-second Report HC 301–li (2017–19), chapter 4 (23 January 2019).

Annex: Overview of EU Brexit preparedness and contingency measures

6.15 The table below shows an overview of the most important Brexit preparedness and contingency measures proposed by the European Commission.[73] Some of these were drafted to take effect only if the UK had left the EU without a Withdrawal Agreement in March or April 2019 and have corresponding expiry dates based on those presumptions, and may therefore need to be amended if there is a prospect of a 'no deal' British exit from the EU again in October 2019 if the EU wanted to extend their duration.

73 These legislative acts broadly fall into three categories in terms of legislative procedure (the ordinary legislative procedure for secondary EU law, where the European Parliament and Council must agree jointly on the legislation; Delegated Acts, which are proposed by the Commission and enter into force unless they are vetoed by the European Parliament or a qualified majority of Member States; and Implementing Acts, which are proposed by the Commission and need to be approved by a qualified majority of Member States in a technical committee and with no role for the European Parliament).

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Agriculture	Listing of the UK as a safe country of origin for animals and animal products[74]	Applicable only in a 'no deal' scenario[75]	Completed. Published in the Official Journal on 12 April 2019.	-
	Application of post-Chernobyl food safety inspections to UK agricultural exports[76]	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 8 March 2019.	-

74 This Brexit contingency measure consists of 15 separate Implementing Acts, which mostly relate to specific types of animals or animal products for which the UK is listed as a safe country of origin—from a food safety and animal health perspective—if it leaves the EU without a transitional arrangement.

75 As long as the UK remains in the Single Market, it is presumed to conform to the EU's common food safety and animal health standards and so its agricultural exports can enter into the territory of any other EU Member States without needing to be specifically listed first.

76 EU Regulation 1635/2006 requires non-EU countries affected by the fall-out from the Chernobyl disaster to attest that their agricultural exports, particularly of dairy products, comply with food safety standards set out in EU law. This Implementing Act means that requirement will apply to UK exports of certain agricultural products as soon as it leaves the Single Market. The Government opposed this, arguing that "the Commission's proposal is not justified and is lacking a sound evidence base. Specific controls for some areas in the UK were lifted some years ago following public consultation and on the basis of the results of risk assessments which were also independently peer reviewed. Food from the UK is safe to eat, shown by our robust UK wide radiological monitoring programme. Enhanced checks are not warranted and should not be reintroduced as the risks from such foods remains low".

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Energy and climate change	Suspending the UK from the EU emissions trading system in 2019	Applied pre-emptively, and will remain in effect unless the Withdrawal Agreement is ratified[77]	Completed. Published in the Official Journal on 13 February 2018.78	-
	Reporting on the sales fluorinated greenhouse gases	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 17 December 2018.	-
	Adaptation of the EU's energy efficiency targets	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 27 March 2019.	Report of 12 December 2018
	Aviation emissions: responsible Member State	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 12 February 2019.	-

77 The UK's suspension from the ETS due to Brexit uncertainty was implemented because of fears that holders of UK-issued carbon credits could flood the market by selling their allowances issued while the UK remained a Member State ahead of 'exit day' (since they would no longer be needed once the UK was no longer part of the EU ETS), depressing the price and effectively making it cheaper for companies elsewhere in the EU to emit carbon dioxide.

78 The actual instruction to the central administrator of the EU ETS to suspend acceptance of UK issued carbon credits was made in December 2018. That same month, a legal act was adopted reinstating the UK's participation in the ETS as soon as the Withdrawal Agreement is ratified.

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Financial services	Central clearing of derivatives: temporary equivalence for UK CCPs.	Applicable only in a 'no deal' scenario. Would apply until 30 March 2020	Completed. Published in the Official Journal on 20 December 2018.	Report of 27 March 2019
	Margin requirements for non-cleared derivatives contracts from the UK to an EU-based counterparty	Applicable pre-emptively to allow companies to prepare for the eventuality of a 'no deal' Brexit. Would apply until 31 October 2020	Completed. Published in the Official Journal on 13 March 2019.	
	Clearing requirements for derivatives contracts novated from the UK to an EU counterparty	Applicable pre-emptively to allow companies to prepare for the eventuality of a 'no deal' Brexit[79]	Completed. Published in the Official Journal on 13 March 2019.	
	Depositories for securities: temporary equivalence for UK depositories	Applicable only in a 'no deal' scenario. Would apply until 30 March 2021.	Completed. Published in the Official Journal on 20 December 2018.	-
	Exemptions for the Bank of England from certain requirements under EU financial services legislation[80]	Applicable when EU law ceases to apply to the UK	Completed. Published in the Official Journal on 22 March 2019.	-

79 This Brexit contingency measure allows derivatives contracts to be novated—moved—from the UK to an EU-based counterparty without triggering the requirement for the transaction to be cleared via a Central Counterparty for a year longer than otherwise would have been the case. The date of application of the clearing requirement varies for different categories of derivatives and therefore this transitional measure has variable end-points depending on the type of transaction involved.

80 Central banks, including those of non-EU countries, are exempted from certain regulatory requirements under EU financial services legislation on derivatives clearing, market abuse, markets in financial instruments and securities financing transactions. However, the Bank of England needed to be specifically listed since it was previously exempt as the Central Bank of an EU Member State. These Commission Delegated Acts confirm its exempted status.

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Fisheries	Emergency support from the Maritime & Fisheries Fund for fishermen denied access to UK waters	Applicable only in a 'no deal' scenario. Would apply until 31 December 2020[81]	Completed. Published in the Official Journal on 27 March 2019.	Reports of 13 February 2019, 6 March 2019 and 13 March 2019
	Reciprocal access to UK and EU fishing waters	Applicable only in a 'no deal' scenario.[82] Would apply until 31 December 2019[83]	Completed. Published in the Official Journal on 27 March 2019.	
Home affairs and citizens' rights	Waiver of visa requirement for UK nationals after Brexit	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 12 April 2019.[84]	Reports of 12 December 2018, 6 February 2019 and 13 March 2019
	Completion of Erasmus+ exchange visits for students and teachers begun before Brexit	Applicable only in a 'no deal' scenario[85]	Completed. Published in the Official Journal on 27 March 2019.	Reports of 13 March and 19 June 2019
	Coordination of social security for EU nationals who lived in the UK prior to Brexit	Applicable only in a 'no deal' scenario[86]	Completed. Published in the Official Journal on 27 March 2019.	Reports of 6 March 2019 and 3 April 2019

81 The legal basis for the European Maritime & Fisheries Fund expires at the end of the EU's current long-term budget in December 2020. Negotiations for a successor Fund for the 2021–2027 period are currently on-going.

82 If the Withdrawal Agreement is ratified, the UK would stay part of the Common Fisheries Policy until at least 31 December 2020.

83 Quotas for specific fish stocks in waters shared between the UK and EU Member States under the Common Fisheries Policy are set on an annual basis.

84 This Regulation adds UK citizens to the list of nationalities which are exempted from the visa requirement for short-term visits to the EU. Its adoption was delayed because of the controversial inclusion of a reference to Gibraltar as a 'colony' of the UK at the insistence of the Spanish Government, which the UK failed to block.

85 If the Withdrawal Agreement is ratified, the UK would stay part of all programmes funded by the EU's Multiannual Financial Framework, including Erasmus+, until 31 December 2020.

86 If the Withdrawal Agreement is ratified, freedom of movement between the UK and EU-27 would continue until the end of the transitional period. That includes the continued application of Regulation 883/2004 on social security coordination, even beyond the end of the transition for EU citizens in the UK prior to the end of that period. See our Report of 6 March 2019 for more information.

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Institutional	UK contributions to the EU budget in 2019	Applicable only in a 'no deal' scenario. As drafted, would apply until 31 December 2019	Negotiations have been suspended following the extension of the Article 50 period until 31 October 2019.	Reports of 13 March 2019 and 3 April 2019. The proposal remains under scrutiny and has been recommended for debate
	Relocation of the European Banking Authority to Paris	Applied pre-emptively in anticipation of the UK's original exit date of 30 March 2019.	Completed. Published in the Official Journal on 16 November 2018.	Reports of 10 January 2018 and 18 April 2018
	Relocation of the European Medicines Agency to Amsterdam		Completed. Published in the Official Journal on 16 November 2018.[87]	
	Relocation of European Research Infrastructure Consortia headquarters[88]	Applied pre-emptively to allow the EU to prepare for the eventuality of a 'no deal' Brexit	Approved by the Comitology Committee on 22 March 2019.	-
	Relocation of Galileo satellite infrastructure from British Overseas Territories[89]	Applied pre-emptively to allow the EU to prepare for the eventuality of a 'no deal' Brexit	Completed. Published in the Official Journal on 26 March 2019.	Report of 6 March 2019. The proposal remains under scrutiny

87 The Regulation, which relocated the European Medicines Agency to Amsterdam from London as of 30 March 2019, is being challenged before the European Court of Justice by the Italian Government. The file, contained in case C-59/18 and case C-106/19, is currently pending.

88 European Research Infrastructure Consortia (ERICs) are organisations established under EU law to deliver major international science and research collaborations. Their headquarters must be in an EU Member State or an 'associated country'. There are currently 20, of which two—Instruct ERIC on structural biology and the European Social Survey—are based in the UK. It is unclear if the UK could host ERICs for the duration of any post-Brexit transitional period until 31 December 2020. In the event of a 'no deal' the UK would also cease to be a member of ERICs in which it currently participates as there would be no legal agreement to govern its involvement.

89 The Galileo satellite navigation programme has ground infrastructure on two British Overseas Territories (the Falkland Islands and Ascension).

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Ireland	Continued funding for the PEACE programme in Ireland and Northern Ireland	Applicable only in a 'no deal' scenario. Would apply until 31 December 2020[90]	Completed. Published in the Official Journal on 27 March 2019.	Reports of 30 January 2019 and 27 February 2019
Manufacturing	Transfer of UK vehicle type-approvals to the EU	Applicable pre-emptively to allow companies to prepare for Brexit	Completed. Published in the Official Journal on 10 January 2019.	Reports of 12 September 2018, 14 November 2018 and 28 November 2018
Statistics[91]	EU balance of payment statistics	Will apply from 'exit day' irrespective of whether the Withdrawal Agreement is ratified	Completed. Published in the Official Journal on 27 March 2019.	-

90 The legal basis for the EU's current inter-regional programmes, like PEACE, expires at the end of the EU's current long-term budget in December 2020. Negotiations for a successor programme for the 2021–2027 period are currently on-going.

91 In November 2018 the European Commission said it would propose an amendment to Regulation 692/2011 on tourism statistics to reflect the UK's withdrawal from the EU. As of April 2019, no proposal to this effect has been made.

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Trade and customs	Export of dual-use items to the UK	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 27 March 2019.	Report of 30 January 2019
	Time limit for lodging export declarations for goods shipped to the UK	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 28 February 2019.	-
	Division of UK and EU tariff rate quotas at the WTO[92]	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 8 February 2019.	Reports of 20 June 2018, 5 September 2018 and 14 November 2018
	Support measures for EU outermost regions	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 15 February 2019.	-
	EU approval of UK accession to the Government Procurement Agreement	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 4 March 2019.	Reports of 13 February 2019 and 20 March 2019

92 This preparedness measure also encompasses a number of Commission Implementing Regulations related to tariff rate quotas on agricultural products. These have not been listed separately.

Policy area	Description of Brexit contingency measure	Applicability	Status	Committee Reports
Transport	Limited air traffic rights for UK airlines flying to the EU	Applicable only in a 'no deal' scenario. Would apply until 30 March 2020	Completed. Published in the Official Journal on 27 March 2019.	Report of 27 February 2019. The proposal remains under scrutiny
	Limited recognition of UK aviation safety certification	Applicable only in a 'no deal' scenario. Would apply until 31 July 2020 with respect to certain air safety certificates[93]	Completed. Published in the Official Journal on 27 March 2019.	Report of 6 March 2019. The proposal remains under scrutiny
	Aviation security: one-stop-shop for transiting passengers	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 15 March 2019.	-
	Temporary continued recognition of UK road haulage licences	Applicable only in a 'no deal' scenario. Would apply until 31 December 2019	Completed. Published in the Official Journal on 27 March 2019.	Reports of 30 January 2019 and 20 March 2019
	Continued recognition of UK railway safety certification measures	Applicable only in a 'no deal' scenario. Would apply until 31 July 2020	Completed. Published in the Official Journal on 27 March 2019.	Report of 13 March 2019. The proposal remains under scrutiny
	Support for a new shipping route between the continent and Ireland	Applicable only in a 'no deal' scenario. Would apply until 31 December 2020[94]	Completed. Published in the Official Journal on 27 March 2019.	Report of 10 October 2018
	Ship safety inspections	Applicable only in a 'no deal' scenario	Completed. Published in the Official Journal on 27 March 2019.	Report of 10 October 2018

93 The date of application of this Regulation is nine months after the EU Treaties cease to apply to the UK. If 'exit day' is 31 October 2019, in a 'no deal' scenario the legislation would become applicable on 31 July 2020.

94 The legal basis for the EU's Connecting Europe Facility, from which this new shipping route would be supported, expires at the end of the EU's current long-term budget in December 2020. Negotiations for a successor Facility for the 2021–2027 budgetary period are currently on-going.

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

Department for Environment, Food and Rural Affairs

(40684) 1054/19 +ADDs 1–3 COM(19) 281	Recommendation for a Council Decision to authorise the Commission to open negotiations on behalf of the European Union for the conclusion of a Sustainable Fisheries Partnership Agreement and protocol with the Republic of Seychelles.
(40685) 1044/19 +ADDs 1 COM(19) 280	Recommendation for a Council Decision to authorise the Commission to open negotiations on behalf of the European Union for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement with the Republic of Senegal.

Department for International Development

(40662) 10041/19 COM(19) 258	Communication from the Commission to the Council Financial information on the European Development Fund European Development Fund (EDF): forecasts of commitments, payments and contributions.

Department for International Trade

(40680) 10272/19 + ADD 1 COM(2019) 267	Proposal for a Council Decision on the conclusion of the Agreement in the form of an exchange of letters between the European Union and Ukraine amending the trade preferences for poultry meat and poultry meat preparations provided for by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part.
(40681) 10274/19 + ADD 1 COM(2019) 268	Proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Agreement in the form of an exchange of letters between the European Union and Ukraine amending the trade preferences for poultry meat and poultry meat preparations provided for by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part.
(40669) 10275/19 +ADD 1 COM(19) 272	Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Trade Committee established by the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part, as regards the amendment of Appendices 2-C-2 and 2-C-3 of Annex 2-C of the Agreement

Department for Transport

(40659) 9905/19 +ADDs 1–2 COM(2019) 254	Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew between the United States of America, the European Union, Iceland, and the Kingdom of Norway.
(40660) 9901/19 +ADDs 1–2 COM(2019) 256	Proposal for a Council Decision on the signing, on behalf of the European Union, and on the provisional application of the Agreement with Respect to Time Limitations on Arrangements for the Provision of Aircraft with Crew between the United States of America, the European Union, Iceland, and the Kingdom of Norway.

Foreign and Commonwealth Office

(40705) — —	Council Decision (CFSP) 2019/1108 of 27 June 2019 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine

HM Treasury

(40613) 9996/19 + ADD 1 COM(19) 539	Recommendation for a Council Decision establishing that no effective action has been taken by Hungary in response to the Council Recommendation of 4 December 2018.
(40614) 9991/19 + ADD 1 COM(19) 534	Recommendation for a Council Recommendation with a view to correcting the significant observed deviation from the adjustment path toward the medium-term budgetary objective in Hungary.
(40615) 9988/19 + ADD 1 COM(19) 538	Recommendation for a Council Decision establishing that no effective action has been taken by Romania in response to the Council Recommendation of 4 December 2018.
(40616) 9986/19 + ADD 1 COM(19) 533	Recommendation for a Council Recommendation with a view to correcting the significant observed deviation from the adjustment path toward the medium-term budgetary objective in Romania.

(40617) 10026/19 COM(19) 530	Report from the Commission Cyprus Report prepared in accordance with Article 126(3) of the Treaty on the Functioning of the European Union.
(40618) 10025/19 COM(19) 532	Report from the Commission Italy Report prepared in accordance with Article 126(3) of the Treaty on the Functioning of the European Union.
(40619) 10024/19 COM(19) 531	Report from the Commission Belgium Report prepared in accordance with Article 126(3) of the Treaty on the Functioning of the European Union.
(40620) 10021/19 COM(19) 529	Report from the Commission France Report prepared in accordance with Article 126(3) of the Treaty on the Functioning of the European Union.
(40621) 9983/19 COM(2019) 543	Recommendation for a COUNCIL DECISION abrogating Decision 2009/417/EC on the existence of an excessive deficit in Spain.
(40654) 10070/19 COM(19) 542	Report from the Commission to the Council Commission report to the Council pursuant to Article -11(2) of Regulation (EC) No 1466/97 on the enhanced surveillance mission in Hungary, of 20 March 2019.
(40655) 10067/19 COM(19) 541	Report from the Commission to the Council Commission report to the Council pursuant to Article -11(2) of Regulation (EC) No 1466/97 on the enhanced surveillance mission in Romania, of 14–15 March 2019.
(40657) 10033/19 —	Commission Recommendation of 5.6.2019 with a view to giving warning on the existence of a significant observed deviation from the adjustment path toward the medium-term budgetary objective to Hungary.
(40658) 10032/19 —	Commission Recommendation of 5.6.2019 with a view to giving warning on the existence of a significant observed deviation from the adjustment path toward the medium-term budgetary objective to Romania.

Formal Minutes

Wednesday 10 July 2019

Members present:

Sir William Cash, in the Chair

Martyn Day	Mr David Jones
Richard Drax	Michael Tomlinson
Kelvin Hopkins	Dr Philippa Whitford

Scrutiny Report

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

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

Paragraphs 1.1 to 7 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Seventy-first Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Wednesday 17 July at 1.45 p.m.

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 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

Sir William Cash MP (*Conservative, Stone*) (Chair)

Geraint Davies MP (*Labour/Cooperative, Swansea West*)

Martyn Day MP (*Scottish National Party, Linlithgow and East Falkirk*)

Steve Double MP (*Conservative, St Austell and Newquay*)

Richard Drax MP (*Conservative, South Dorset*)

Mr Marcus Fysh MP (*Conservative, Yeovil*)

Kate Green MP (*Labour, Stretford and Urmston*)

Kate Hoey MP (*Labour, Vauxhall*)

Kelvin Hopkins MP (*Independent, Luton North*)

Darren Jones MP (*Labour, Bristol North West*)

Mr David Jones MP (*Conservative, Clwyd West*)

Stephen Kinnock MP (*Labour, Aberavon*)

Andrew Lewer MP (*Conservative, Northampton South*)

Michael Tomlinson MP (*Conservative, Mid Dorset and North Poole*)

David Warburton MP (*Conservative, Somerton and Frome*)

Dr Philippa Whitford MP (*Scottish National Party, Central Ayrshire*)