



House of Commons
European Scrutiny Committee

**Sixty-sixth Report of
Session 2017–19**

Documents considered by the Committee on 15 May 2019

Report, together with formal minutes

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Notes

Numbering of documents

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

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

Numbers in the form "5467/05" 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

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Contents

Meeting Summary	3
Documents not cleared	
1 DEFRA Pharmaceuticals in the environment	7
2 DfT Commission ‘no deal’ preparedness: air connectivity	10
3 DfT EU-Vietnam trade agreement and investment protection agreement	16
Documents cleared	
4 BEIS Copyright in the Digital Single Market	25
5 BEIS Copyright in the Digital Single Market—Online Transmissions	27
6 DEFRA Unfair trading practices in the food supply chain	29
7 DEFRA Fisheries catch quotas for 2019	31
8 HO Cross-border access to electronic evidence in criminal proceedings	33
Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House	36
Formal Minutes	38
Standing Order and membership	39

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:

- Future EU policy on pharmaceuticals in the environment, which is relevant to the UK given the possible alignment between EU and UK rules on medicines and chemicals
- The new Directive on unfair trading practices in the food supply chain will affect the UK under any Brexit scenario, but satisfactory information from the Government on implementation and enforcement is outstanding.
- The Commission has adopted a Regulation covering air services in the event of a 'no-deal' Brexit. The Committee notes the significance of the Commission's contingency planning in this area and questions the Government's plans for how it would reciprocate.

Summary

Pharmaceuticals in the environment

Pharmaceuticals escape into the environment following their use by humans and animals. They are thought to be contributing to increased anti-microbial resistance and have been shown to have direct effects on wildlife, such as impacting on fish reproduction by affecting hormone levels. The Committee notes that the Government's response to the European Commission's suggested approach is limited to a commitment to reflect. The Committee considers this to be inadequate and demands more robust analysis, noting that the EU's approach is likely to be relevant to the UK in the future given the expressed intention to maintain a level playing field for environmental standards and potentially to align EU and UK rules on medicines and chemicals.

Not cleared; further information requested; drawn to the attention of the Environmental Audit Committee, Health and Social Care Committee and the Environment, Food and Rural Affairs Committee

Unfair trading practices in the food supply chain

The EU's Directive on unfair trading practices in the food supply chain has been adopted. While the Minister indicates that the UK abstained in the final vote, he does not explain why. The Committee asks the Minister to explain the Government's position and also to

set out why the Government chose not to table a formal explanation of vote at the Council. Noting that the legislation will affect the UK under any Brexit scenario, the Committee reiterates its request for an update on implementation and enforcement plans.

Cleared; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee and the Business, Energy and Industrial Strategy Committee

Commission ‘no-deal’ preparedness: air connectivity

The Commission’s ‘no-deal’ air connectivity proposal was adopted on 25 March 2019 and is a unilateral Union measure that would apply in the event of a ‘no-deal’ Brexit. It would provide for the continuation of basic air services between the EU and UK for a limited period of time (up until an air transport agreement with the UK enters into force or 30 March 2020, whichever is sooner). It is not intended to replicate current arrangements or to maintain the status quo (as prevails whilst the UK is an EU Member State).

As a Union initiative, the intended effect of the proposal—to ensure basic EU/UK air connectivity in the event of a no-deal Brexit—would be dependent upon UK reciprocity and similar domestic provision being made. On 7 March 2019, the Government published a policy statement outlining its plans in this regard. Put rather simply, should the Regulation become applicable (in the event of a no-deal Brexit), the UK would offer identical rights to EU carriers alongside additional, ‘enhanced’, rights (justified on the basis of the benefits of liberalised air service markets and ensuring future UK operational capacity).

On the substance of the Regulation, a number of changes have been made to its final form since it was last considered by the Committee. These are viewed as improvements by the Government and include, for example, the granting of fifth freedom all-cargo service rights for UK carriers (operating services between EU Member States and third countries), the inclusion of (limited) leasing and cooperative marketing arrangements, and the (slight) softening of the Union’s position on ownership and control rules.

Although adopted, the Committee retains the file under scrutiny owing to outstanding questions relating to how the Regulation would operate in practice and, furthermore, the Government’s plans for giving effect to its commitment to reciprocate the rights it provides (for EU carriers).

Not cleared from scrutiny; further information requested; drawn to the attention of the Transport Committee

EU-Vietnam trade agreement and investment protection agreement

In October 2018, the Commission presented two separate agreements that will govern future EU trade and investment relations with Vietnam, in line with the Commission’s new approach to the architecture of free trade agreements (FTAs)—a) an ‘EU-only’ FTA, which requires the approval of the Council and European Parliament only (and not Member States) and is expected to enter into force late 2019/early 2020; and b) a ‘mixed’ investment protection agreement (IPA), covering investment protection and dispute settlement provisions, which will need to be ratified by individual Member States (including in some instances approval by their national parliaments) and is highly unlikely to come into effect for several years.

These agreements will impact future UK trade and investment relations with Vietnam after UK exit in all Brexit scenarios, whether negotiated or non-negotiated.

At its meeting on 19 December 2018, the Committee sought further information on the continuity of the proposed FTA post-exit (in both a deal and a no deal scenario), its expected potential benefits and costs for UK stakeholders and the Government's approach to investment protection and dispute resolution after exit.

Following the Minister's letter of 25 February 2019 and the Government's impact assessment of the proposed FTA of 29 March 2019, the Committee:

a) draws to the attention of the House that:

- the Government is confident that the EU notification process under Article 129 of the draft Withdrawal Agreement (that the UK is to be treated as a Member State for the purposes of international agreements during the transition/implementation period) “means that the UK will...also secure the benefits” of the EU-Vietnam FTA during the transition/implementation period agreement; and
- that post-exit/transition period, the Government is simply seeking to replicate the effects of the proposed FTA and concedes that it does not intend to run negotiations for a more ambitious future UK-Vietnam FTA until after the conclusion of the negotiations determining the future UK-EU relationship; the Committee notes that lengthy negotiations on the future UK-EU relationship are therefore likely to significantly delay/impact the negotiation and implementation of future UK-negotiated trade agreements; and

b) retains the documents under scrutiny pending satisfactory responses to the outstanding or further questions identified by the Committee, including on:

- progress being made in ensuring the replication/continuity of the effects of the FTA in the event of a no deal exit;
- assumptions underpinning the impact assessment and the expected net benefits of the deal to the UK; and
- the UK's approach to investment protection and dispute resolution post-exit, noting that the reasons for the Government withholding its position on the proposed Investment Court System (ICS) no longer hold and that the Committee may call the Minister in to give evidence/refer the documents for debate on the Floor of the House if he fails to explain a fundamental plank of future relations with third countries.

Not cleared from scrutiny; further information requested; drawn to the attention of the International Trade Committee, the Foreign Affairs Committee and the Committee on Exiting the EU

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: Unfair trading practices in the food supply chain [Proposed Directive (C)]; Copyright in the Digital Single Market [Proposed Directive (C)]; Copyright in the Digital Single Market Proposal [Proposed Regulation (C)]

Committee on Exiting the European Union: EU-Vietnam trade agreement and investment protection agreement [Proposed Decisions (NC)]

Environment, Food and Rural Affairs Committee: Pharmaceuticals in the environment [Commission Communication (NC)]; Unfair trading practices in the food supply chain [Proposed Directive (C)]; Fisheries catch quotas for 2019 [Proposed Regulation (C)]

Environmental Audit Committee: Pharmaceuticals in the environment [Commission Communication (NC)]

Foreign Affairs Committee: EU-Vietnam trade agreement and investment protection agreement [Proposed Decisions (NC)]

Health and Social Care Committee: Pharmaceuticals in the environment [Commission Communication (NC)]

Home Affairs Committee: Cross-border access to electronic evidence in criminal proceedings [Proposed Decisions (C)]

International Trade Committee: EU-Vietnam trade agreement and investment protection agreement [Proposed Decisions (NC)]

Justice Committee: Cross-border access to electronic evidence in criminal proceedings [Proposed Decisions (C)]

Transport Committee: Commission ‘no deal’ preparedness: air connectivity [Proposed Regulation (NC)]

1 Pharmaceuticals in the environment

Committee's assessment	Politically important
Committee's decision	Not cleared from scrutiny; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee, Environmental Audit Committee and the Health and Social Care Committee
Document details	Commission Communication: European Union Strategic Approach to Pharmaceuticals in the Environment
Legal base	—
Department	Environment, Food and Rural Affairs
Document Number	(40476), 7680/19, COM(19) 128

Summary and Committee's conclusions

1.1 The treatment of many diseases in humans and animals relies on access to effective pharmaceuticals. At the same time, pollution caused by some pharmaceuticals is an emerging problem, with evidence of risks to the environment and, in relation to antimicrobial resistance, potentially to human health. Residues of pharmaceutical products may enter the environment during their manufacture, use and disposal. The European Commission's document sets out a strategic approach to the issue, identifying several objectives and areas for action.

1.2 Pharmaceutical residues have been found in surface and ground waters, soils and animal tissues across the EU at various concentrations depending on the pharmaceutical and the nature and proximity of the source. Studies have shown direct effects on wildlife from some pharmaceuticals found in water and soil. Male fish, for example, have become feminised by exposure to the main ingredients of the contraceptive pill (oestrogen and progesterone), thus affecting the capacity of the population to reproduce. While no direct effect on human health has been established, it is considered that the presence of antimicrobial (antibiotic and antifungal) pharmaceuticals in water and soil is playing a role in accelerating the development, maintenance and spread of resistant bacteria and fungi. This makes antibiotics less effective and is known as antimicrobial resistance.

1.3 The largest source of pharmaceuticals entering the environment is by use, either human or veterinary. Pharmaceuticals mainly reach the environment through: the discharge of effluent from urban waste water (sewage) treatment plants; the spreading of animal manure; and aquaculture (fish farming), in which pharmaceuticals are often dispensed with the animal feed. Other sources are: the discharge of effluent from manufacturing plants; the spreading of sewage sludge; grazing livestock; the treatment of pets; and improper disposal into landfill of unused pharmaceuticals and contaminated waste.

1.4 Six areas for action are identified:

- increase awareness and promote prudent use of pharmaceuticals;
- support the development of pharmaceuticals intrinsically less harmful for the environment and promote greener manufacturing—the pharmaceutical industry should be encouraged to take the environment more into account through the design and manufacturing stages;
- improve environmental risk assessment and its review—data sharing and improved access to data could facilitate better risk management, as could retrospective environmental risk assessment for several products on the market, and earlier availability of the risk assessment data for human medicinal products;
- reduce wastage and improve the management of waste in order to reduce the risk to the environment—more advanced waste water treatment technology may be appropriate at some locations, and source control of the diffuse emissions from livestock farming appears to be particularly necessary;
- expand environmental monitoring; and
- fill other knowledge gaps—the Commission will consider supporting other areas of research, including antimicrobial resistance and the possible effects on humans of exposure to low levels of pharmaceuticals via the environment.

1.5 The Commission identifies specific tasks and initiatives under each action area, falling either to the Commission exclusively or to the Commission along with stakeholders, Member States and/or the European Medicines Agency. The Communication focuses on actions that are starting, will be initiated and, in some cases, completed by 2020. The Commission states it will then take stock of progress made and decide on further steps whilst taking into account the outcomes of ongoing evaluations of the water legislation and relevant research.

1.6 The Parliamentary Under Secretary of State for the Environment (Dr Thérèse Coffey MP) says in her [Explanatory Memorandum](#) that the Government is committed to ensuring that the UK's environmental standards are maintained, reflecting commitments made under existing EU legislation and including the ability to adapt to scientific and technical developments. The Government will reflect on all the suggestions in the Communication before deciding on any specific action. The Minister notes that the document contains no obligatory changes to waste water treatment.

1.7 The Minister's response to this document is limited to a commitment to reflect on it. We consider this response to be far below the required analysis. We ask the Minister to set out the Government's view on:

- **the Commission's definition of the problem; and**
- **the strength of the evidence underpinning the Commission's conclusions.**

1.8 While we accept that the Government needs to reflect on its response to the proposed actions, it would be helpful if the Minister could set out any initial thoughts as well as a timetable for further reflection.

1.9 It would also be helpful to set this work in the wider context of the UK's withdrawal from the European Union. We see two particular elements that render UK engagement at this stage important:

- first, the UK and EU have committed under the Political Declaration to exploring the possibility of UK cooperation with the European Medicines Agency (EMA) and the European Chemicals Agency (ECHA) and agreed that, in this context, the UK will consider aligning with Union rules in relevant areas;
- second, the Political Declaration also includes commitments on maintaining a level playing field for environmental standards in order to ensure open and fair competition.

1.10 Based on the mutual commitments made in the Political Declaration on the future relationship, it seems to us likely that future EU policy in this area will have some bearing on UK policy. This makes it even more important that the Minister provides much more analysis of the document.

1.11 Given the importance of the environmental and health issues raised, we retain the document under scrutiny. We ask the Minister to respond by 5 June 2019. This chapter is drawn to the attention of the Environmental Audit Committee, Environment, Food and Rural Affairs Committee and the Health and Social Care Committee.

Full details of the documents

Commission Communication: European Union Strategic Approach to Pharmaceuticals in the Environment: (40476), [7680/19](#), COM(19) 128.

Previous Committee Reports

None.

2 Commission ‘no deal’ preparedness: air connectivity

Committee’s assessment	Politically important
Committee’s decision	Not cleared from scrutiny; further information requested; drawn to the attention of the Transport Committee
Document details	Proposal for a Regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union
Legal base	Article 100(2) TFEU; ordinary legislative procedure; QMV
Department	Transport
Document Number	(40306), 15788/18, COM(18) 893

Summary and Committee’s conclusions

2.1 The [proposal under scrutiny](#) was adopted on 25 March 2019. It forms part of the Commission’s no-deal Brexit preparations as outlined in its Communication of 13 November 2018 ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan’.¹ Other measures outlined in this action plan—such as those on aviation safety, railway safety and connectivity, and Erasmus—are subject to separate scrutiny.

2.2 The [Regulation](#) is a unilateral Union measure that would apply in the event of a ‘no-deal’ Brexit (where the EU and UK have not concluded a Withdrawal Agreement under Article 50 TEU). The Regulation would provide for the continuation of basic air services between the EU and UK for a limited period of time (up until an air transport agreement with the UK enters into force or 30 March 2020, whichever is sooner). It is not intended to replicate current arrangements or to maintain the *status quo* (as prevails whilst the UK is an EU Member State). As a Union initiative for the EU-27, the intended effect of the Regulation—to ensure basic EU/UK air connectivity in the event of a no-deal Brexit—would be dependent upon UK reciprocity and the Government making similar domestic provision. The Government’s plans in this regard were announced in a policy statement published on 7 March 2019 (which will be discussed in further detail below).²

2.3 A full background to the Regulation—including the Commission’s rationale for regulatory action, the Government’s Explanatory Memorandum and the Commission’s initial legal and political analysis—can be found in our [Fifty-sixth Report to the House of Session 2017–19](#). Since this Report, the Minister with charge over the Regulation, Baroness Sugg, has written to the Committee on two separate occasions (dated 21 February and

1 European Commission, ‘[Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan](#)’ (November 2018).

2 HM Government, ‘[Air services from the EU to the UK in the event of ‘no deal’’](#) (March 2019).

7 March 2019).³ This correspondence is considered below, alongside the final form of the Regulation, how this differs versus the content of the original proposal, and the Government’s own no-deal air connectivity plans.

Regulation (EU) 2019/502 (on no-deal air connectivity)

2.4 The Commission’s no-deal air connectivity proposal was adopted on 25 March 2019 by way of written procedure. It is understood that the Government abstained at adoption owing to the treatment of Gibraltar in the proposal, in particular, the inclusion of wording noting Spain’s legal position on sovereignty over the land on which the airport is situated (without reference to the UK’s position). This concern was raised during working group negotiations and, as a consequence, the Government did not support the Committee of Permanent Representatives (COREPER) mandate sought by the Presidency on 15 February 2019. In comparison to the proposal as originally introduced, a number of changes were made during negotiations. The Government views these changes in a positive light and as being beneficial for UK business.

2.5 On the substance of the Regulation, it would (in the event of a no-deal Brexit):

- Grant UK carriers first, second, third and fourth freedom air traffic rights.⁴ The Commission’s initial suggestion of capping the capacity that UK air carriers could offer in the Union at pre-Brexit levels has been removed and, furthermore, provision has been made for fifth freedom all-cargo services by UK carriers between EU Member States and third countries (limited to five months from the date of application of the Regulation and to be capped at 2018 flight frequency levels);⁵ and
- Make provision for (limited) leasing and cooperative marketing arrangements. On leasing, UK airlines would be permitted to operate using aircraft leased without a crew from any lessor or aircraft using the crew of another UK operator on a wet-lease basis.⁶ This right is, however, qualified, so that UK airlines would only be able to operate using aircraft leased with crew from an airline of a country other than the UK, providing that this can be justified on the basis of exceptional needs, seasonal capacity needs or operational difficulties. With regard to cooperative marketing arrangements, the Regulation allows ‘codesharing’ between UK airlines and other airlines on services to and from the EU.⁷ Again, this right is qualified and does not allow UK airlines to codeshare with EU Member State airlines on services wholly within the EU.

3 [Letter from Baroness Sugg to Sir William Cash MP](#) (21 February 2019); and [Letter from Baroness Sugg to Sir William Cash MP](#) (7 March 2019).

4 By way of explanation: first freedom rights provide the right to fly over a country without landing; second freedom rights the right to refuel or undertake maintenance in a foreign country without embarking or disembarking passengers or cargo; third freedom rights the right to fly from one’s own country to another; and fourth freedom rights the right to fly from another country to one’s own.

5 Fifth freedom rights provide the right to carry passengers from one’s own country to a second country, and from that country onward to a third country (and so on).

6 Wet-leasing is the practice whereby one airline—the lessor—provides an aircraft, complete crew, maintenance, and insurance to another airline or other type of business acting as a broker of air travel—the lessee—which pays by hours operated.

7 Code sharing is a practice whereby two or more airlines publish and market a flight under their own airline designator and flight number as part of their published timetable or schedule. Codeshares allow flights to be operated into and out of the EU by air service providers based in a third country as if they were an EU carrier.

2.6 It is also worth noting that, as a ‘barebones’ offer, the Regulation would not provide UK carriers fifth (non-cargo), sixth and, especially, seventh freedom rights. In effect, this means that it would not be possible for UK carriers to fly between two third countries and stop in the EU or for UK-based carriers to fly between two Member States (known as cross-trade) or within one Member State (known as cabotage).

2.7 Changes were also made to the proposal prior to adoption covering ownership and competition rules. On ownership, there has been a slight softening in the Union’s position such that UK carriers will be exempt from EU rules—to the effect that carriers have to be either majority owned or controlled by EU-based entities—for six months from the date of application of the Regulation. Within two weeks of the entry into force of the Regulation, air carriers that do not meet EU ownership and control rules must present a plan for remedial action to their relevant licensing authority (for licences issued by a competent authority other than that of the UK). This will not affect the validity of operating licences during the initial six-month grace period. Failure to comply with EU ownership and control rules within this timeframe would, through the relevant competent authority, result in the revocation of a carrier’s licence to operate.

2.8 As a unilateral Union measure (dependent upon UK reciprocity or ‘equivalence of rights’ for its effect), the Regulation makes provision for monitoring UK compliance with a number of ‘level playing field’ requirements. In effect, these have been included with the intention of ensuring that the UK does not gain any unfair competitive advantage—versus Member States—during the application of the Regulation (as a consequence of being outside of the EU’s supervisory and enforcement framework).

2.9 The Regulation allows the Commission to adopt Implementing Acts to remedy situations in the event that the UK: grants subsidies to UK carriers; does not have in place or effectively enforce competition law; fails to establish or maintain an independent competition authority; fails to maintain standards relating to the protection of workers’ rights, safety, security, the environment, or passengers’ rights; and allows any form of discrimination against Union carriers. With regard to the maintenance of standards, it is unclear which EU legal acts would fall under the heading of, for example, workers’ rights or the environment. This ‘enforced’ form of non-regression—enforced as it has not been agreed to bilaterally between the UK and EU (unlike that in the draft Withdrawal Agreement)—will have to be understood and carefully policed by the Government if the Regulation were to become applicable.⁸

The Government’s commitment

2.10 As mentioned above (at paragraph 2), the Government published a policy statement on 7 March 2019 setting out its response to the Union’s no-deal air connectivity plans, specifically, in terms of whether it would reciprocate the rights the Regulation offers to UK carriers. The Government’s own offer follows, in effect, a form of ‘enhanced’ reciprocity; whereby the effects of the Union’s Regulation would be mirrored with the addition of further rights. This approach is justified against the Government’s belief in liberalised air service markets, however, mention is also made of ensuring future UK operational capacity. The Union is highly unlikely to match this offer and no new legislative proposals have been forthcoming. The effect of the UK’s offer on a future bilateral air service

8 See Article 4 of Annex 4 to the Protocol on Ireland/Northern Ireland of the draft Withdrawal Agreement.

agreement with the EU is also unclear; in that it is entirely possible that the rights that would be extended to EU carriers could form the basis of a future UK/EU arrangement (and that the Government's no-deal proposals could, consequently, be viewed by the EU as the UK's opening gambit).

2.11 With regard to traffic rights, the Government intends to allow EU carriers to fly across the territory of the UK and to make traffic stops in the UK for non-traffic purposes. Above and beyond the Union's offer, the Government would allow Member State carriers to operate services from any point in the EU—in addition to the country where they are registered—to the UK (known as 'limited' seventh freedom traffic rights). The Government would also allow cabotage—for services within the UK—until 27 October 2019. It appears that this date was suggested prior to the most recent extension of Article 50 TEU—which, at the latest, will last until 31 October 2019—and has not since been updated.

2.12 On leasing rules, the UK would, again, match the Union's offer but would allow Member State airlines to lease aircraft with crew from Member States other than that with which they are registered. For codesharing arrangements, the Government intends to allow both UK and Member State airlines to act as either the marketing or the operating airline for any service operated between the EU and UK. Member State airlines already codesharing with UK airlines on services wholly within the UK would be permitted to continue doing so. Any additional requests to codeshare would be subject to the approval of the Civil Aviation Authority (CAA).

2.13 The Government has proposed a similarly liberal approach to ownership and control. Rather than having to satisfy the CAA that Member State airlines are majority owned and controlled by nationals of the Member State in question, Member State airlines would, instead, need to satisfy the CAA that they are majority owned and effectively controlled by EU nationals and/or nationals of other EEA countries and/or nationals of the UK. The Government has said that should the Regulation become applicable, the CAA would work jointly with the Department for Transport (DfT) to monitor the treatment of UK airlines operating 'to' the EU. The details of this arrangement are not outlined any further save for a statement to the effect that monitoring will include the review of 'level playing field' and non-discrimination considerations. It is also unclear whether the CAA and DfT will undertake similar reviews for Member State carriers providing intra-UK services.

Outstanding issues

2.14 The Committee's first consideration of the Regulation under scrutiny was committed to the House as trilogue negotiations were beginning. As a consequence, many of the questions the Committee asked—and the requests for further information it made—have since been addressed in the run-up to the adoption of the Regulation. Where appropriate, these are explored above (mainly at paragraphs 5–9).

2.15 In her letter of 21 February 2019, the Minister failed to fully address the question of whether *if* the proposal was not adopted at EU-level, the Government would pursue bilateral air service agreements with EU Member States and, if it would, whether these agreements would be new agreements or updates to the 25 extant agreements the UK has with Member States. As the proposal has been adopted, the Committee no longer seeks answers to these questions.

2.16 The Committee thanks the Minister for her correspondence of 21 February and 7 March 2019 and welcomes the adoption of Regulation (EU) 2019/502 (on no-deal air connectivity). The Committee also welcomes the Government’s policy statement of 7 March 2019, in particular, its commitment to reciprocate the rights granted to UK carriers—to EU carriers—should the Regulation become applicable. As argued by the Government and the Commission, failure to agree contingency arrangements in this area could result in serious disruption for businesses and passengers and, furthermore, considerable economic harm for service providers and those dependent upon air transport (whether directly or further along supply and operating chains).

2.17 With regard to the substance of the Regulation, we agree with the Government that in comparison to its form as originally published, the Regulation presents an improved offer to UK carriers. We highlight, in particular, the granting of fifth freedom all-cargo services for UK carriers (operating services between EU Member States and third countries), the inclusion of (limited) leasing and cooperative marketing arrangements, and the (slight) softening of the Union’s position on ownership and control rules.

2.18 We note the Government’s offer to reciprocate the rights provided for by the Regulation for Member State carriers and, furthermore, highlight the ‘enhanced’ form of reciprocity outlined in its policy statement of 7 March 2019; whereby the effects of the Union’s Regulation would be mirrored with the addition of further rights. We acknowledge the Government’s rationale for this offer (i.e. set against the benefits of liberalised air service markets and ensuring future UK operational capacity), however, we caution that the Government’s no-deal proposals could be viewed by the EU as the UK’s opening gambit in negotiations on a future UK/EU bilateral air services agreement.

2.19 On the Regulation (as adopted), we seek the Government’s view on:

- Article 9(3) (infringements of fair competition rules), in particular, those EU laws that would potentially fall under the headings of “...workers’ rights, safety, security, the environment, or passengers’ rights” (in this regard, we request an illustrative list).

2.20 On the Government’s commitment to reciprocate for EU carriers the rights that would be provided for by the Union’s Regulation (as laid out in its policy statement of 7 March 2019), we seek further information on:

- If, in light of the recent extension of Article 50—and its potential extension until 31 October 2019—cabotage rights for EU carriers would be provided for beyond 27 October 2019; and
- How the CAA and DfT would monitor the treatment of UK airlines operating services to the EU and whether this function would extend to EU carriers providing services within the UK (cabotage).

2.21 We retain the file under scrutiny pending satisfactory answers to the questions asked above and request a response by 19 June 2019.

2.22 We draw this report to the attention of the Transport Committee.

Full details of the documents

Proposal for a Regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union: (40306), 15788/18, COM(18) 893.

Previous Committee Reports

Fifty-sixth Report HC 301–lv (2017–19) [chapter 5](#) (27 February 2019).

3 EU-Vietnam trade agreement and investment protection agreement

Committee's assessment	Legally and politically important
Committee's decision	Not cleared from scrutiny; further information requested; drawn to the attention of the International Trade, Committee on Exiting the European Union and the Foreign Affairs Committee
Document details	(a) Proposal for a Council Decision on the signing, on behalf of the EU, of the Free Trade Agreement between the EU and Vietnam; (b) Proposal for a Council Decision on the conclusion of a Free Trade Agreement between the EU and Vietnam; (c) Proposal for a Council Decision on the signing, on behalf of the EU, of the Investment Protection Agreement between the EU and its Member States, of the one part, and Vietnam, of the other part; (d) Proposal for a Council Decision on the conclusion, on behalf of the EU, of the Investment Protection Agreement between the EU and its Member States, of the one part, and Vietnam, of the other part
Legal base	(a) and (b): Articles 91, 100(2), 207 and 218(11) TFEU (in accordance with Opinion 2/15 of the Court of Justice of the EU issued on 16 May 2017), in conjunction with 218(5) (on signing) and 218(6) TFEU (on conclusion) (c) and (d): Article 207 TFEU (in accordance with Opinion 2/15 of the Court of Justice of the EU issued on 16 May 2017), in conjunction with 218(5) (on signing) and 218(6) TFEU (on conclusion)
Department	International Trade
Document Numbers	(a) (40137), 13312/18 + ADDs 1–12, COM(18) 692; (b) (40136), 13313/18 + ADDs 1–12, COM(18) 691; (c) (40135), 13314/18 + ADDs 1–2, COM(18) 694; (d) (40134), 13315/18 + ADDs 1–2, COM(18) 693

Summary and Committee's conclusions

3.1 In October 2018, the Commission presented two separate agreements that will govern future EU trade and investment relations with Vietnam, in line with the Commission's new approach to the architecture of free trade agreements (FTAs):

- an 'EU-only' FTA, which aims to eliminate over 99% of all bilateral tariffs (with 65% of duties being eliminated at entry into force of the agreement and the remainder over a 10-year period), removes non-tariff barriers in goods and services trade, and includes provisions on intellectual property protection,

investment liberalisation, public procurement, competition and sustainable development. It requires the approval of the Council and European Parliament only (and not Member States) and is expected to enter into force late 2019/early 2020; and

- a ‘mixed’ investment protection agreement (IPA), which aims to establish a common framework for investment protection and dispute settlement, including a new Investment Court System (ICS). As mixed agreements need to be ratified by individual Member States (including in some instances approval by their national parliaments in line with their own domestic procedures), the process tends to take several years and is therefore highly unlikely to come into effect before the end of any transition/implementation period. Once ratified by all parties, it would replace the existing 21 bilateral investment treaties (BITs) between Vietnam and EU Member States.

3.2 Following consideration of the Government’s [Explanatory Memorandum of 5 November 2018 on the proposed FTA](#) and [Explanatory Memorandum of 5 November 2018 on the proposed IPA](#) at its meeting on 19 December 2018, the Committee:

- noted that these agreements raise significant legal and policy issues for the UK, regardless of the Brexit ‘endgame’ (i.e. ‘no deal’ withdrawal or negotiated withdrawal with a transition period and backstop) as they will impact the continuity of UK-Vietnam trade relations and the UK’s approach to investment protection and dispute resolution with Vietnam after UK exit; and
- sought further information from the Minister of State for Trade Policy (George Hollingbery MP) on the implications of the proposals for the UK in all foreseeable Brexit scenarios, in particular the continuity of the proposed FTA post-exit, its expected potential benefits for UK stakeholders and the Government’s approach to investment protection and dispute resolution after exit.

The Minister’s letter of 25 February 2019 and the Government’s Impact Assessment of 29 March 2019

3.3 The Minister’s [letter of 25 February 2019](#) responds in part to the outstanding queries raised by the Committee on 19 December 2019. On [1 April 2019](#), the Minister notified the Committee of the publication of the [Government’s impact assessment of the proposed EU-Vietnam FTA](#) and [externally commissioned analysis](#). The key points are summarised below.

EU-Vietnam FTA

No deal (non-negotiated) exit from the EU

3.4 In response to the Committee’s request for the Minister to share the Government’s intended approach to future trade relations with Vietnam in the event of a no-deal exit, the Minister stresses that as “part of the Government’s priority to ensure continuity of all existing EU FTA agreements”, it would seek to replicate the effects of the EU-Vietnam FTA in a no deal scenario, as it would in a deal scenario. He stresses that the only practical difference is that in a no deal scenario the Government would aim for the replicated

bilateral [UK-Vietnam] agreement to “enter into force at the same time as the EU-Vietnam FTA or soon after”, whereas in a deal scenario, it would be replicated at the end of the transition/implementation period “as “the UK would continue to be covered by the EU-Vietnam FTA until this time”.

Negotiated withdrawal from the EU

a) During any transition/implementation period (including possible extension) and/or if the backstop applied as provided for the in draft Withdrawal Agreement

3.5 At its meeting on 19 December 2019, the Committee noted that if the EU-Vietnam FTA enters into force during the transition/implementation period, the UK would be bound by the FTA obligations, but sought clarification on whether and how it would secure the benefits (notwithstanding the ‘EU notification’, as set out in the draft Withdrawal Agreement, that the UK is to be treated as a Member State for the purposes of international agreements during the transition/implementation period).

3.6 The Minister states that:

- he is confident that EU notification, as described in the Withdrawal Agreement “means that the UK will be bound by the FTA obligations and will also secure the benefits”; it therefore “provides certainty and confidence that there will be no disruption to existing relationship underpinned by international agreements” during the transition/implementation period; and
- the Vietnamese Ministry of Industry has publicly confirmed⁹ that Vietnam “would apply the EU-Vietnam FTA to the UK during any transition/implementation period” (once it has entered into force).

3.7 In response to the Committee’s question on how the backstop, if applied, will impact the UK’s obligations and benefits under the EU-Vietnam FTA and its ability to negotiate a future trade deal with Vietnam, the Minister states that “the UK would be able to negotiate, sign, ratify and implement its own trade deals, but those elements of that affect the functioning of the backstop would need to be aligned with the EU until we [the UK] moved to the future partnership”.

b) Post-transition/implementation period

3.8 In response to the Committee’s questions on when/whether the Government intends to negotiate a new bilateral UK-Vietnam trade agreement and its level of ambition, the Minister:

- states that “Vietnam has agreed to replicate the effects of the EU-Vietnam FTA once it ceases to apply to the UK” and that “DIT officials are currently in discussion with Vietnamese officials to achieve this”;

9 See press release [‘UK-Vietnam joint statement London 10 October 2018’](#).

- concedes that the Government does not intend to “run negotiations on a more ambitious UK-Vietnam FTA in parallel to negotiations for the future UK-EU relationship” as its “priority is to replicate the EU-Vietnam agreement, whose provisions are deep and comprehensive”.

The Government’s Impact Assessment

3.9 In his letter of 25 February 2019, the Minister states that his Department commissioned external analysis on the impacts of the EU-Vietnam FTA on the UK at a macroeconomic and sectoral level compared to the agreement not being in place (i.e. compared to the baseline where the EU-Vietnam FTA is not implemented and the EU28 continue to trade with Vietnam on WTO most favoured nation (MFN) terms and Vietnam trades with the EU28 under the EU’s Generalised System of Preferences (GSP)—a lower tariff rate than the MFN rate). He highlights that it does not consider how impacts on the UK economy may change “under different UK-EU trading relationships” as he considers “this outside the scope of the proposed Council Decision”.

3.10 The Government’s impact analysis was formally published on 29 March 2019. It assumes that the EU-Vietnam FTA will enter into force by late 2019, that the effects of the agreement will be replicated bilaterally with Vietnam once the UK leaves the EU without changes to rules of origin and that the EU and UK continue to trade on current terms. It estimates that by 2030 (compared to the baseline of no EU-Vietnam FTA), the proposed FTA would:

- increase the UK’s annual GDP by £391 million (or 0.01 per cent) and Vietnam’s annual GDP by £1.6 billion (or 1.2 per cent);
- increase overall national welfare by £293 million per annum;
- increase UK exports to Vietnam by £486 million per annum—predominantly in UK services sectors; and
- increase UK imports from Vietnam by 1.7 billion per annum—with the main increases in textiles, leather and motor vehicle parts.

EU-Vietnam IPA

3.11 At its meeting on 19 December 2019, the Committee noted that the Government’s assessment that the proposed IPA is “unlikely” to enter into force “before the UK leaves the EU” and asked the Minister:

- to confirm that the UK intends to vote in favour of the Council Decisions on signature and conclusion of the IPA and to set out its reasons for doing so, including its position on the proposed ICS; and
- for urgent clarification on its approach to investment protection and dispute resolution agreements after 29 March 2019 (the original exit date).

3.12 The Minister:

- confirms the Government’s intention to vote in favour of the proposed IPA proposals on the basis that it will “continue to support the EU’s ambitious trade agenda and remain a constructive partner as a Member State of the EU”;
- notes that the UK-Vietnam BIT will remain in place and in force until the EU-Vietnam IPA is ratified (which is unlikely to enter into force for several years);
- states that the UK would not be bound by the proposed IPA if it enters into force during the backstop “as Article 129 of the Withdrawal Agreement on the continued application of the EU’s international agreements to the UK only applies during the implementation period”;
- declines to share the Government’s position on the proposed ICS, stating it “would be premature to comment further” on the basis that “the system is not yet operational” and the Government is awaiting the final opinion of the Court of Justice of the European Union (CJEU) on the compatibility of ICS with the EU treaties (Opinion 1/17);
- notes that existing investment agreements between Vietnam and individual EU Member States would be terminated upon entry into force of the EU-Vietnam IPA and that the ‘sunset clauses’¹⁰ in individual Member State BITs would cease to have effect too; therefore, in the “unlikely” event that the proposed IPA enters into force before the end of the transition/implementation period, the Government would “seek to work closely with [its] Vietnamese partners to ensure continuity and certainty for [the UK’s] investors based on the legal framework as applicable”;
- restates the Government’s ambitions for supporting an investment dispute resolution process that is capable of delivering fair dispute outcomes in a transparent manner, to ethical standards, and in a cost-effective manner; and
- states that the Government is “considering a range of options for [the UK’s] future bilateral trade and investment arrangements”, including its approach to ICS and wider discussions with UNICTRAL on the EU’s proposed Multilateral Investment Court (MIC) (intended to replace bilateral ICS included in EU level agreements with the EU’s FTA partners) and its “future approach to investment with Vietnam will be a matter for discussion in the context of our future bilateral relationship”.

Transparency and scrutiny of trade negotiations

3.13 In response to the Committee’s question on what steps the Government intends to take to ensure transparency in, and effective scrutiny of a) the EU—Vietnam FTA and IPA during any implementation/transition period or backstop, and b) the negotiation and conclusion of a future UK-Vietnam trade and investment deals, the Minister states that the Government is “committed to”:

10 Most BITs contain a sunset clause, providing for their provisions to continue in effect for a specified time following termination. Sunset clauses mean that a State will remain bound by its treaty obligations for a period of time notwithstanding a decision to terminate.

- “continuing to support and facilitate a strong scrutiny process” of the proposed agreements during the implementation period, with the “degree of scrutiny” being a “matter for both Houses to determine”; and
- “providing Parliament with the ability to inform and scrutinise new trade agreements”, through “updates on the progress of negotiations to both Houses”, the Constitutional Reform and Governance Act process and scrutiny of any primary legislation required to implement a FTA.

3.14 The Committee reiterates that the proposed FTA and IPA will impact future UK trade and investment relations with Vietnam after UK exit in all Brexit scenarios, whether negotiated or non-negotiated.

3.15 We draw to the attention of the House the following points raised by the Minister in his latest correspondence with us:

- that the Vietnamese Government has “reconfirmed” its support for replicating the proposed FTA in both a no deal and deal scenario (both during and after the planned transition period); the Minister does not expand on how this is to be given legal effect;
- that the Government is confident that the EU notification process under Article 129 of the draft Withdrawal Agreement (that the UK is to be treated as a Member State for the purposes of international agreements during the transition/implementation period) enables the UK to secure the benefits of the EU-Vietnam FTA during the transition/implementation period agreement;
- that if the backstop were to be applied, “the UK would be able to negotiate, sign, ratify and implement its own trade deals, but those elements that affect the functioning of the backstop would need to be aligned with the EU until [the UK] moved to the future partnership [with the EU]”;
- that post-exit/transition period, the Government is simply seeking to replicate the effects of the proposed FTA and concedes that it does not intend to run negotiations for a more ambitious future UK-Vietnam FTA until after the conclusion of the negotiations determining the future UK-EU relationship; we note that lengthy negotiations on the future UK-EU relationship are therefore likely to significantly delay/impact the negotiation and implementation of future UK-negotiated trade agreements;
- the Government is clear that it intends to vote in favour of the proposed EU-Vietnam IPA, which includes the Commission’s favoured ICS, but declines to share its position on the proposed ICS underpinning the IPA, stating it “would be premature to comment further” pending the final opinion of the Court of Justice of the European Union (CJEU) on the compatibility of ICS with the EU treaties (Opinion 1/17) and the system becoming operational;
- that just one month prior to the original exit date (of 29 March 2019), the Government was “still considering its approach to investment protection and dispute settlement” and continued to repeat its well-rehearsed, high-

level objectives for an investment dispute resolution process that is capable of delivering fair dispute outcomes in a transparent manner, to ethical standards, and in a cost-effective manner, offering no further detail;

- the Government’s impact assessment of the proposed EU-Vietnam FTA on the UK does not consider different UK-EU relations post-exit and how this may impact the expected net benefits of the deal to the UK as the Minister considers this “outside the scope” of the analysis; yet we note that the baseline scenario does include EU agreements that are not yet into force (namely the EU-Singapore FTA) to ensure that the modelling can provide a more accurate assessment of the proposed agreement between now and 2030;
- that the Government simply repeats its mantra of remaining committed to transparency in trade matters both under current EU parliamentary scrutiny processes and under future UK bilaterally negotiated agreements, but does not put forward any substantive proposals; we note that these issues have been considered in depth by the International Trade Committee’s Sixth Special Report on UK trade policy transparency and scrutiny¹¹ and also flag the Government’s Response.¹²

3.16 We request the following further information:

- In the event of a no deal exit, an up-to-date assessment of:
 - the progress made by Government officials in ensuring entry into force of a bilateral UK-Vietnam trade deal at the same time as entry into force of the EU-Vietnam FTA;
 - where the replicated bilateral FTA ‘ranks’ in terms of the Government’s priorities (noting that various other existing EU agreements have yet to be replicated, including major agreements such as the Comprehensive Economic Trade Agreement (CETA) between Canada and the EU-Japan Economic Partnership Agreement); and
 - what would be the practical effect on UK stakeholders if there were to be a gap in its continuity.
- In the event of a negotiated withdrawal as envisaged in the draft Withdrawal Agreement:
 - how Vietnam’s agreement to apply the EU-Vietnam FTA to the UK during any transition/implementation period is to be given legal effect; and
 - if the backstop applies, which “elements that affect the functioning of the backstop” would need to be aligned with the EU until [the UK] moved to the future partnership [with the EU]” and would these elements be UK-wide or Northern Ireland specific? Furthermore, given that the

11 [UK trade policy transparency and scrutiny: Committee’s Sixth Report of Session 2017–19](#), International Trade Committee, HC 2027, 28 December 2018.

12 [UK trade policy transparency and scrutiny: Government Response to the Committee’s Sixth Report](#), 6 March 2019.

backstop must be superseded by the future relationship for it to cease to be operative (unless new arrangements that avoid a hard border are accepted by the EU), does the Minister share the view that the backstop, by default, sets the baseline for the future relationship?

- In respect of the Government’s impact assessment:
 - how the estimated annual trade deficit of £1.214 billion per annum for the UK (given that UK exports to Vietnam are expected to increase by £486 million per annum and imports from Vietnam are expected to increase by £1.7 billion per annum) translates into expected annual GDP gains of 391 million per annum for the UK and which sectors and regions are expected to gain or lose the most; and
 - we note that the impact assessment relies on the following key assumptions: that the UK continues to trade with the EU on an equivalent basis after EU exit; that the UK trades with Vietnam on an equivalent basis to the EU-Vietnam FTA after EU exit; and that there are no changes to rules of origin, with ‘full diagonal cumulation of EU content in UK exports to Vietnam’.¹³ Whilst we appreciate that it may not be possible to model the full spectrum of possible future UK-EU trading relationships, the value of the impact assessment is severely diminished by the fact that it does not at the very least provide a qualitative discussion of how ‘low’ versus ‘high’ UK-EU integration (in view of the UK’s withdrawal) and changes to rules of origin could impact trade flows and the expected net benefits of the trade agreement. We ask the Minister to provide this qualitative analysis in his next update to the Committee.
- In respect of the proposed IPA, we:
 - repeat our request for the Minister to set out its intended approach to investment protection and dispute settlement on exit (noting that this should now be fully formulated considering the UK’s original exit date of 29 March 2019). This should consider the relative strengths and weaknesses of the UK continuing and/or expanding its BITs with third countries, replicating the EU’s proposed ICS in future agreements (and therefore replacing any existing BITs) or participating in the Commission’s proposed MIC;
 - note that following the CJEU opinion¹⁴ that the ICS provisions of the CETA between the EU and Canada are compatible with EU law, the first reason provided by the Government for withholding its position no longer holds. Furthermore, we challenge the Government’s second reason that it would be “premature” for the Minister to comment on the basis that the ICS has not yet become operational, as policy decisions have to be made on a wide range of instruments that are ‘new’ or not yet operational; and

13 See ‘[Taxation and Customs Union Common provisions](#)’ for definitions of cumulation.

14 Opinion 1/17. For a summary see the CJEU’s [Press Release](#) of 30 April 2019.

- **alert the Minister that failure to provide sufficient information on such a fundamental plank of post-exit relations with Vietnam and other third countries will mean that the Committee cannot clear this proposal from scrutiny and may also decide to call the Minister in to give evidence and/or refer the documents in relation to the proposed IPA for debate on the Floor of the House.**

3.17 Pending satisfactory responses to the areas identified above, we retain the documents under scrutiny and draw the Minister's update letters and our conclusions to the attention of the Committee on Exiting the EU, the Foreign 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 the Free Trade Agreement between the EU and Vietnam : (40137), 13312/18 + ADDs 1–12, COM(18) 692; (b) Proposal for a Council Decision on the conclusion of a Free Trade Agreement between the EU and Vietnam: (40136), 13313/18 + ADDs 1–12, COM(18) 691; (c) Proposal for a Council Decision on the signing, on behalf of the EU, of the Investment Protection Agreement between the EU and its Member States, of the one part, and Vietnam, of the other part: (40135), 13314/18 + ADDs 1–2, COM(18) 694; (d) Proposal for a Council Decision on the conclusion, on behalf of the EU, of the Investment Protection Agreement between the EU and its Member States, of the one part, and Vietnam, of the other part : (40134), 13315/18 + ADDs 1–2, COM(18) 693.

Previous Committee Reports

Forty-ninth Report HC 301–xlviii (2017–19), [chapter 5](#) (19 December 2018).

4 Copyright in the Digital Single Market

Committee’s assessment	Legally and politically important
Committee’s decision	Cleared from scrutiny; drawn to the attention of the Business, Energy and Industrial Strategy Committee
Document details	Proposal for a Directive on Copyright in the Digital Single Market
Legal base	Article 114; ordinary legislative procedure; QMV
Department	Business, Energy and Industrial Strategy
Document Number	(38076), 12254/16 + ADDs 1–4, COM(16), 593

Summary and Committee’s conclusions

4.1 The proposed Directive forms part of the Commission’s “Copyright in the Digital Single Market” package of September 2016. Its broad range of measures was summarised in the first Report on this matter to our predecessor Committee, referenced at the end of this Chapter.

4.2 Following the Committee’s previous Report the Minister of State for Universities, Science, Research and Innovation (Chris Skidmore MP) [has written](#)¹⁵ to update the Committee on the progress of the proposal, and informs the Committee that the Council formally adopted the proposed Directive on 15 April 2019

Press publishers’ right

4.3 We asked the Minister to provide further information on what he considers the focus of any “judicial interpretation” would be for the press publishers’ right.

4.4 The Minister responded by explaining that in the UK press publishers typically own the copyright in the works they publish, and the author is usually paid a salary or fee through a contractual arrangement. It is currently not clear how this approach will work with the new press publishers’ right. Accordingly, the Minister sets out that judicial interpretation may be required to

determine the extent to which it changes the existing contractual arrangements between press publishers and journalists, and whether publishers are expected to share any revenues from the right directly with the authors... .

Online liability

4.5 We asked the Minister to provide further information on what the industry standards of professional diligence would be in the UK.

15 Letter from Chris Skidmore MP to Sir William Cash MP, dated 25 April 2019

4.6 The Minister elaborates that the European Commission will produce guidance on the application of that provision, in consultation with Member States, online content sharing service providers, right-holders, user associations and other relevant stakeholders.

Implementation of the Directive

4.7 We asked the Minister to indicate the approach that the UK would take to voluntarily adopting the Directive into UK law if the 24 month transposition period were to conclude after the end of any implementation period in the context of a negotiated exit from the EU. We further asked the Minister to provide information on the implications of the Directive for the UK as a third country rather than a Member State.

4.8 The Minister explains that, if the transposition period for the Directive were to end after the end of any implementation period, the UK would not be able to implement it using powers under the 2018 Withdrawal Act. Accordingly, the Government would need to pass separate legislation to do so. The Minister does not indicate whether the Government would be minded to pursue this route, instead stating that the Government “continues to keep the copyright framework under review and ... will pay careful attention to reforms made by the EU and other partners. Any policy proposals after the implementation period will follow the normal course of domestic policy making, including a public consultation.”

4.9 The Minister informs the Committee that the question of the application of the Directive after the UK’s exit from the EU will depend on the nature of the future relationship with the EU. He further notes that any online service providers that communicate works to the public in the EU will need to comply with the obligations set out in Article 17 (online liability), irrespective of where they are based, and that the provisions in Article 15 (press publishers’ right) will only apply to businesses established in the EU, meaning the application of this provision will depend on the UK’s future relationship with the EU.

4.10 We thank the Minister for the information that he has provided in his letter.

4.11 On the basis of this information and given that the Directive has now been approved by the Council, we are content to clear this document from scrutiny and do not request any further information. We draw this document and chapter to the attention of the Business, Energy and Industrial Strategy Committee.

Full details of the documents

Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market [12254/16](#) + ADDs [1](#), [2](#), [3](#) & [4](#): (38076), COM(16) 593.

Previous Committee Reports

Seventeenth Report HC 71–xv (2016–17), [chapter 5](#) (2 November 2016); Thirtieth Report HC 301–xxix (2017–19), [chapter 2](#) (6 June 2018); Sixty-first Report HC301–lix, [chapter 1](#) (27 March 2019).

5 Copyright in the Digital Single Market—Online Transmissions

Committee’s assessment	Legally and politically important
<u>Committee’s decision</u>	Cleared from scrutiny; drawn to the attention of the Business, Energy and Industrial Strategy Committee
Document details	Proposal for a Regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes
Legal base	Article 114 TFEU; ordinary legislative procedure; QMV
Department	Business, Energy and Industrial Strategy
Document Number	(38077), 12258/16 + ADDs 1–4; COM(16) 594

Summary and Committee’s conclusions

5.1 The proposal is part of the Commission’s “Copyright in the Single Market” package of September 2016. It aims to enable the wider dissemination of television and radio programmes across Member States, by “facilitating licensing of copyright and related rights in works and other protected subject-matter contained in broadcasts”.¹⁶

5.2 The Minister of State for Universities, Science, Research and Innovation (Chris Skidmore MP) [has written](#)¹⁷ to the Committee to provide an update on the progress of the proposal and to request final scrutiny clearance.

5.3 The Minister informs the Committee that the proposal, which is now a Directive rather than a Regulation as first proposed, was formally adopted by the Council on 15 April 2019.

5.4 We asked the Minister to provide further information on when the Directive would be likely to be implemented, and what its implications would be for the UK as a third country rather than a Member State.

5.5 The Minister confirmed that the implementation period for the Directive is 24 months and that whether or not the UK would be required to implement the Directive will depend on the nature of the UK’s relationship with the EU at the end of that period. If this implementation period were to end after any implementation period under the UK/EU Withdrawal Agreement, the powers of the 2018 Withdrawal Act would not be sufficient and the UK’s implementation of the Directive would require separate legislation.

5.6 The Minister also set out that after the UK’s exit from the EU the application of the Directive in the UK would depend on the nature of the future relationship between

16 Recital (1) [Draft Proposal laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes](#) .

17 Letter from Chris Skidmore MP to Sir William Cash MP, dated 25 April 2019

the UK and the EU. In terms of the impact for the UK as a third country, the Minister clarifies that, for example, the provisions that allow copyright clearance in one Member State to be regarded as if clearance in any other Member State would not work if the UK were a third country, unless some alternative arrangement was reached. Accordingly, “[a] reciprocal arrangement would need to be included [...] if UK broadcasters (and ultimately consumers) were to benefit from simpler, lower cost, rights clearance processes”.

5.7 We thank the Minister for this further information and confirm that we grant final scrutiny clearance of this proposal.

5.8 We draw this document and chapter to the attention of the Business, Energy and Industrial Strategy Committee.

Full details of the documents

Proposal for a Regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes: (38077), [12258/16](#) + ADDs 1–4; COM(16) 594.

Previous Committee Reports

Seventeenth Report HC 71–xv (2016–17), [chapter 5](#) (2 November 2016); Sixteenth Report HC 301–xvi (2017–19), [chapter 1](#) (28 February 2018); Sixty-first Report HC 301–lix (2017–19), [chapter 2](#) (27 March 2019)

6 Unfair trading practices in the food supply chain

Committee's assessment	Politically important
<u>Committee's decision</u>	Cleared from scrutiny; further information requested; drawn to the attention of the Environment, Food and Rural Affairs Committee and the Business, Energy and Industrial Strategy Committee
Document details	Proposal for a Directive of the European Parliament and of the Council on unfair trading practices in business-to-business relationships in the food supply chain.
Legal base	Article 43(2) TFEU, QMV, Ordinary legislative procedure
Department	Environment, Food and Rural Affairs
Document Number	(39625), 7809/18 + ADDs 1–3, COM(18) 173

Summary and Committee's conclusions

6.1 With the aim of improving farmers' and other small and medium-sized enterprises' (SMEs) position in the food supply chain, the EU has agreed new legislation¹⁸ on unfair trading practices (UTPs), which are business-to-business practices that deviate from good commercial conduct and are contrary to good faith and fair dealing.

6.2 In our scrutiny of the document, we have noted that the legislation will affect the UK under all Brexit scenarios. Even as a third country with no requirement to align in full or in part, the terms of the Directive would apply to relationships between EU suppliers and UK buyers and so UK authorities would need to make provision for such circumstances. As the nature of the future relationship between the UK and the EU is very uncertain, including the length of any transition/implementation period, so the impact of this legislation in the UK is also uncertain.

6.3 We last considered the document at our meeting of 27 February 2019, expressing great concern about the continued uncertainties surrounding the impact of this Directive on the UK and looking forward to further information on plans for implementation and enforcement. The Parliamentary Under Secretary of State for Food and Animal Welfare (David Rutley MP) had explained that work on implementation would be tightly bound with the work undertaken to explore enforcement strategies for domestic powers contained in the Agriculture Bill. He promised to write to the Committee once that work had developed.

6.4 In his latest [letter](#),¹⁹ the Minister explains that the Directive has been formally adopted by the European Parliament and Council. The UK abstained, while the other 27 Member

18 [Directive \(EU\) 2019/633](#) of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain

19 Letter from David Rutley MP to Sir William Cash MP, dated 10 April 2019.

States all supported the Directive. At the final Council vote, the UK did not submit a statement or formal vote explanation as the Committee had suggested. The Minister offers no further comment on plans for implementation.

6.5 In separate correspondence with the House of Lords,²⁰ the Minister indicated that a cost-benefit analysis on proposed implementation would be undertaken if it became clear that the UK would need to transpose the Directive. The Minister also explained that establishing the compliance requirements to be placed on UK businesses as a third country will be a largely reactive exercise, depending on how individual EU Member States choose to implement the Directive. This is because if any UK retailers were in breach of the Directive, it would fall to enforcement authorities in the nation of the affected EU supplier to investigate and, if necessary, issue fines. The Minister agreed that it would be important to avoid duplication between enforcement under the EU Directive and domestic UK enforcement under the Groceries Supply Code of Practice.

6.6 In our last Report, we asked the Minister to inform us not only how the UK had voted but why. Disappointingly, the Minister simply indicates that the UK abstained and notes that the UK did not submit a statement or a formal explanation of vote. For the purposes of transparency, it is important that the Government clearly sets out the reasons for its vote in Council. Ideally, that should be through a formal explanation of vote but it should at the very least be through a letter to this Committee. We therefore repeat our request for that explanation. It would be helpful if the Minister could also explain why the Government chose not to submit a statement or formal explanation of vote.

6.7 Some very important outstanding questions remain concerning implementation and enforcement. The material provided to the House of Lords EU Committee on application of the third country requirements was helpful, but it was disappointing that the Minister did not also communicate that material to us. We ask for an update on the Government's plans for implementation.

6.8 As the Directive has now been adopted, we clear the proposal from scrutiny. We request a response to this chapter by 30 June at the latest in order that the response can take into account relevant developments concerning the UK's withdrawal from the EU. We draw this chapter to the attention of the Environment, Food and Rural Affairs Committee and the Business, Energy and Industrial Strategy Committee.

Full details of the documents

Proposal for a Directive of the European Parliament and of the Council on unfair trading practices in business-to-business relationships in the food supply chain: (39625), [7809/18](#) + ADDs 1–3, COM(18) 173.

Previous Committee Reports

Fifty-sixth Report HC 301–lv (2017–19), [chapter 3](#) (27 February 2019); Fifty-first Report HC 301–l (2017–19), [chapter 4](#) (16 January 2019); Forty-eighth Report HC 301–xlvii (2017–19), [chapter 3](#) (12 December 2018); Thirty-ninth Report HC 301–xxxviii (2017–19), [chapter 3](#) (10 October 2018); Thirty-third Report HC 301–xxxii (2017–19), [chapter 4](#) (27 June 2018); Twenty-eighth Report HC 301–xxvii (2017–19), [chapter 1](#) (16 May 2018).

²⁰ Letters dated [18 March 2019](#) and [10 April 2019](#) from David Rutley MP to Lord Boswell of Aynho.

7 Fisheries catch quotas for 2019

Committee's assessment	Politically important
Committee's decision	Cleared from scrutiny (decision reported on 23/01/2019); drawn to the attention of the Environment, Food and Rural Affairs Committee
Document details	Proposal for a Council Regulation fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.
Legal base	Article 43(3) TFEU, QMV
Department	Environment, Food and Rural Affairs
Document Number	(40168), 13731/18 + ADDs 1–2, COM(18) 732

Summary and Committee's conclusions

7.1 The Council adopted the Total Allowable Catches (TACs) for fishing in EU waters, and for EU vessels fishing in certain other waters, in December 2018 to take effect from 1 January 2019.²¹ We cleared the document from scrutiny at our meeting of 23 January 2019, following an update from the Government summarising the outcome of the December Council.

7.2 The Minister of State for Agriculture, Fisheries and Food (Rt Hon. Robert Goodwill MP) has since [written](#)²² to provide a further update. He has attached the Government's [economic analysis](#)²³ of the 2019 TACs and identifies several other issues.

7.3 The economic analysis found that the estimated value to the UK of the December Council negotiation was around £554 million, with the 2019 EU–Norway negotiations estimated to be worth around £130m to the UK.²⁴ There has been a decrease of 15% in quota for 2019 (519,304 tonnes) compared to 2018 (610,200 tonnes). This represents a relative value decrease of 9%, suggesting a larger decrease in TAC for lower value per tonne stocks. The UK's TAC decrease was a result of the reduction in the total TAC for a number of stocks to bring them into line with long-term management plans.

7.4 The Government secured a statement from the Commission at the December 2018 Council to instigate a review of the scientific advice on the level of unavoidable bycatch of Irish Sea Whiting. Subsequently, the Commission requested advice from ICES on what the level of unavoidable bycatches of whiting in the Irish Sea would be in 2019 while taking into account the TACs set for other target fisheries in the area. The Minister reports that ICES has recently provided that advice and the Commission is considering its response.

21 [Council Regulation \(EU\) 2019/124](#) of 30 January 2019 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters

22 Letter from Rt Hon. Robert Goodwill MP to Sir William Cash MP, dated 14 April 2019

23 Analysis of the 2019 December Council, Deep Sea & EU—3rd Country Negotiations

24 Note that it is important not to sum the value of the EU-only and EU–Norway negotiations as this would double-count the value of certain stocks.

7.5 At the Council, the UK also called for a review of the 2019 TAC for Cod so that the advice could be updated to include final landings for 2018. The Minister reports that the Commission is unwilling to reopen that advice.

7.6 Concerning the UK's role in fisheries management issues during any post-Brexit transition/implementation period (TIP), the UK will be seeking a discussion with the Commission on the UK's continued participation in the North Sea and North Western Waters Regional Groups during the TIP, but the UK expects to continue to play an active role.

7.7 Finally, the Minister updates the advice for 2019 on the Farne Deeps Nephrops stock,²⁵ which is now expected to be fished slightly above its Maximum Sustainable Yield (MSY) harvest rate. While acknowledging that this is disappointing news, the Minister notes that the trajectory of the harvest rate for the Nephrops in the Farne Deeps is still downwards and the stock biomass is expanding. The recovery measures, designed to reduce fishing activity, remain in place and industry is broadly compliant. The Minister believes that these measures have ended the serious over-exploitation of this locally important fishery.

7.8 We welcome the information from the Minister and require no further information at this stage. We look forward in due course to scrutinising the Commission's Communication on fishing opportunities for 2020 and expect that to be an opportunity to reflect on developments during 2019 as well as Brexit considerations. We draw this chapter to the attention of the Environment, Food and Rural Affairs Committee.

Full details of the documents

Proposal for a Council Regulation fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters: (40168), [13731/18](#) + ADDs 1–2, COM(18) 732.

Previous Committee Reports

Fifty-second Report HC 301–li (2017–19), [chapter 3](#) (23 January 2019); Forty-seventh Report HC 301–xlvi (2017–19), [chapter 1](#) (5 December 2018).

25 The North Sea Nephrops stock is divided by area into nine functional units (FUs) distributed across the North Sea. The Farne Deeps FU is particularly vulnerable due to the small area of its Nephrops fishing grounds and their proximity to the coast and ports such as Amble, Blyth and North Shields.

8 Cross-border access to electronic evidence in criminal proceedings

Committee's assessment	Legally and politically important
Committee's decision	Cleared from scrutiny; drawn to the attention of the Home Affairs Committee and the Justice Committee
Document details	(a) Recommendation for a Council Decision authorising the participation in negotiations on a second Additional Protocol to the Council of Europe Convention on Cybercrime (CETS No. 185) (b) Recommendation for a Council Decision authorising the opening of negotiations in view of an agreement between the European Union and the United States of America on cross-border access to electronic evidence for judicial cooperation in criminal matters
Legal base	(a) and (b) Article 218(3) and (4) TFEU, QMV
Department	Home Office
Document Numbers	(a) (40362), 6110/19 + ADD 1, COM(19) 71 (b) (40363), 6102/19 + ADD 1, COM(19) 70

Summary and Committee's conclusions

8.1 The proposed Council Decisions both seek to facilitate cross-border law enforcement access to electronic evidence (“e-evidence”) held by online service providers based in a different jurisdiction. The first, [document \(a\)](#), would authorise the European Commission to negotiate the Second Additional Protocol to the Council of Europe Convention on Cybercrime (CETS No. 185) on behalf of the EU; the second, [document \(b\)](#), to negotiate an agreement with the US. The European Commission asserts that the EU has exclusive competence to conduct both sets of negotiations as:

- the Second Additional Protocol would “overlap to a large extent” with a range of EU criminal justice measures and “affect common Union rules or alter their scope”, thereby giving rise to exclusive EU competence under Article 3(2) of the Treaty on the Functioning of the European Union (TFEU);²⁶ and
- the Protocol and the proposed EU/US Agreement would both be liable to affect the operation of [new internal EU rules on access to e-evidence](#), proposed in April 2018 but not yet agreed. The European Commission says these rules (which do not apply to the UK) must be taken into account as a “foreseeable future development” of relevant common EU rules and that the EU is required to act “to protect the integrity of Union law and to ensure that the rules of international law and Union law remain consistent”.²⁷

26 See the Commission's explanatory memorandum accompanying the proposed Council Decision.

27 See recital (6) of the proposed Council Decision—document (a).

8.2 Our earlier Reports listed at the end of this chapter provide a more detailed overview of the proposed Council Decisions and the European Commission’s e-evidence proposals.

8.3 Although the proposed Council Decisions concern areas of EU law and policy which fall mainly within the scope of Article 82 TFEU on judicial cooperation in criminal matters, neither cites a Title V (justice and home affairs) legal base. In their [joint letter of 26 March 2019](#), the Minister for Security and Economic Crime (Rt Hon. Ben Wallace MP) and the Minister for Policing and the Fire Service (Rt Hon. Nick Hurd MP) told us that the Council supported the addition of a Title V legal base. Whilst stating that the Government “would not accept that the UK is bound by any exclusive external EU competence”, they were nonetheless “mindful” of the risk that the Court of Justice might take a different view because of the “significant overlap” between existing or prospective EU laws and the subject matter of the Second Additional Protocol and EU/US Agreement.

8.4 We asked the Ministers to clarify:

- which substantive justice and home affairs legal base or bases the Council intended to add to the proposals;
- whether the Council and European Commission agreed with the Government that the addition of these legal bases would bring into play the Title V justice and home affairs opt-in Protocol; and
- whether the Council and European Commission also agreed that the UK would not automatically be bound by any exclusive external EU competence (based on the UK’s participation in some EU criminal justice measures which overlap with the subject matter of the Second Additional Protocol and EU/US agreement) and so would be entitled to decide not to opt in.

8.5 In their [response of 8 May 2019](#), the Ministers inform us of the Government’s decision *not* to opt into either of the proposed Council Decisions. They note that:

- the UK has not opted into the proposed e-evidence Regulation (which would cover some of the same ground as the Second Additional Protocol and EU/US agreement);
- the UK is already in the process of negotiating its own bilateral UK/US Data Access Agreement which will enable US companies to comply with lawful orders issued by UK authorities for the production of electronic communications—these negotiations would have to stop if the UK were to participate in EU/US negotiations on cross-border data access;
- the UK will not be “limited or bound” by the EU mandate for negotiations within the Council of Europe on the Second Additional Protocol to the Cybercrime Convention and will be free to negotiate “its own position and interests”, steering negotiations in a way that “accommodates the different systems and processes of a wide range of participant states (beyond just the participating EU Member States)”; and
- by deciding not to opt in, the UK will not be bound to support a negotiating position within the Council of Europe which is focussed on ensuring compatibility with EU law, including future developments in EU law which will not apply to the UK.

8.6 The Ministers add that the House will be informed of the Government’s decision not to opt in through the publication of a Written Ministerial Statement. Turning to the questions raised in our earlier Report, they confirm that two substantive legal bases—Article 82(1) TFEU on judicial cooperation in criminal matters and Article 16 TFEU on data protection—have been included in both the proposed Council Decisions. Whilst the European Commission maintains its view that substantive legal bases are unnecessary for the approval of negotiating mandates, EU Member States support their inclusion and accept that “the addition of the JHA legal bases brings into play the UK JHA opt-in” and that the UK is not automatically bound by any exercise of exclusive external EU competence, meaning that the Government is free to decide not to opt in.

Our Conclusions

8.7 We welcome the inclusion of substantive legal bases on judicial cooperation in criminal matters and data protection as well as the addition of a recital in both the proposed Council Decisions making clear that the UK’s Title V (justice and home affairs) opt-in Protocol applies. As the Government has decided *not* to opt in, the UK will not take part in, or be bound by the outcome of, negotiations on a new EU/US agreement on cross-border law enforcement access to electronic evidence. Nor will the UK be bound by the EU negotiating mandate when taking part in negotiations for a second Additional Protocol to the Council of Europe Cybercrime Convention. We therefore agree to clear the proposed Council Decisions from scrutiny. In doing so, we draw the Government’s attention to [Opinion 2/2019](#) published by the European Data Protection Supervisor in April which underlines the need for data-sharing arrangements to include strong data protection principles and safeguards. We trust that the UK Information Commissioner will be fully consulted on the terms of the data access agreement which the UK is negotiating with the US. We draw this chapter to the attention of the Home Affairs Committee and the Justice Committee.

Full details of the documents

(a) Recommendation for a Council Decision authorising the participation in negotiations on a second Additional Protocol to the Council of Europe Convention on Cybercrime (CETS No. 185): (40362), [6110/19](#) + [ADD 1](#), COM(19) 71; (b) Recommendation for a Council Decision authorising the opening of negotiations in view of an agreement between the European Union and the United States of America on cross-border access to electronic evidence for judicial cooperation in criminal matters: (40363), [6102/19](#) + [ADD 1](#), COM(19) 70.

Previous Committee Reports

8.8 Sixty-second Report HC 301–lx (2017–19), [chapter 5](#) (3 April 2019) and Fifty-seventh Report HC 301–lvi (2017–19), [chapter 8](#) (6 March 2019). See also our earlier Reports on the proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters: Twenty-eighth Report HC 301–xxvii (2017–19), [chapter 3](#) (16 May 2018), Thirty-seventh Report HC 301–xxxvi (2017–19), [chapter 16](#) (5 September 2018) and Fortieth Report HC 301–xxxix (2017–19), [chapter 14](#) (17 October 2018).

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

Cabinet Office

(40436) Proposal for a decision of the European Parliament and the Council amending Decision No 1313/2013/EU of the European Parliament and of the Council on a Union Civil Protection Mechanism
7271/19
COM(19) 125

Department for Environment, Food and Rural Affairs

(40459) Commission Delegated Regulation (EU) .../... of 4.3.2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption
7238/19
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Department for Transport

(40352) Report from the Commission to the European Parliament, the Council, the European Social and Economic Committee, and the Committee of the Regions Investor Citizenship and Residence Schemes in the European Union
8775/18 +ADD1
COM(19) 12
(40520) Report from the Commission to the European Parliament and the Council Exemptions granted by Member States under Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004.
8606/19
COM(19) 179

Foreign and Commonwealth Office

(40539) Annual Progress Report on the Implementation of the European Union Strategy against the Proliferation of Weapons of Mass Destruction (2018)
7909/19
—
(40541) Council Decision (CFSP) 2019/615 of 15 April 2019 on Union support for activities leading up to the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)
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(40557) Council Decision amending Decision 2012/392/CFSP on the European Union CSDP Mission in Niger (EUCAP Sahel Niger)
8385/19

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HM Treasury

(40524) Draft amending budget No 1 to the general budget 2019 entering the surplus of the financial year 2018.
8647/19

COM(19) 300

Home Office

(40494) Report from the Commission to the European Parliament and the Council on Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State
8095/19
COM(19) 160

(40495) Report from the Commission to the European Parliament and the Council on the implementation of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents
8904/19

COM(19) 161

Formal Minutes

Wednesday 15 May 2019

Members present:

Sir William Cash, in the Chair

Martyn Day	Darren Jones
Steve Double	Mr David Jones
Richard Drax	Andrew Lewer
Marcus Fysh	Michael Tomlinson
Kate Hoey	David Warburton
Kelvin Hopkins	

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 9 read and agreed to.

Summary agreed to.

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

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

[Adjourned till Wednesday 22 May at 1.45pm]

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*)