



HOUSE OF LORDS

European Union Committee

3rd Report of Session 2010–11

Annual Report 2010

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The European Union Committee

The Committee considers EU documents in advance of decisions being taken on them in Brussels, in order to influence the Government's position and to hold them to account.

The Government are required to deposit EU documents in Parliament, and to produce within two weeks an Explanatory Memorandum setting out the implications for the UK. The Committee examines these documents, and 'holds under scrutiny' any about which it has concerns, entering into correspondence with the relevant Minister until satisfied. Letters must be answered within two weeks. Under the 'scrutiny reserve resolution', the Government may not agree in the EU Council of Ministers to any proposal still held under scrutiny; reasons must be given for any breach.

The Committee also conducts inquiries and makes reports. The Government are required to respond in writing to a report's recommendations within two months of publication. If the report is for debate, then there is a debate in the House of Lords, which a Minister attends and responds to.

The Committee has seven Sub-Committees which are:

Economic and Financial Affairs and International Trade (Sub-Committee A)
Internal Market, Energy and Transport (Sub-Committee B)
Foreign Affairs, Defence and Development Policy (Sub-Committee C)
Agriculture, Fisheries and Environment (Sub-Committee D)
Justice and Institutions (Sub-Committee E)
Home Affairs (Sub-Committee F)
Social Policies and Consumer Protection (Sub-Committee G)

Our Membership

The Members of the European Union Committee are:

| | |
|-------------------------------|---------------------------|
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| Lord Carter of Coles | Lord Plumb |
| Lord Dear | Lord Richard |
| Lord Dykes | Lord Roper (Chairman) |
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Information about the Committee

For information freely available on the web, our homepage is <http://www.parliament.uk/hleu>. There you will find many of our publications, along with press notices, details of membership and forthcoming meetings, and other information about the ongoing work of the Committee and its Sub-Committees, each of which has its own homepage.

Members' interests are available in the Register of Interests:

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General Information

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at

http://www.parliament.uk/about_lords/about_lords.cfm

Committee Staff

The current staff of the Committee are Andrew Makower (Clerk), Kate Meanwell (Second Clerk) and Hazel Scott (Committee Assistant).

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Summary

This Annual Report provides a summary of the work of the House of Lords European Union Select Committee and its seven Sub-Committees from November 2009 to October 2010. The report provides information about the scrutiny and inquiries conducted over the past year. It also looks at the Committee's contacts with the European Commission and with other parliaments and provides details on procedural developments, including changes following the entry into force of the Treaty of Lisbon in December 2009.

Annual Report 2010

CHAPTER 1: BACKGROUND

1. EU scrutiny is one of the House's major activities. The European Union Committee and its seven Sub-Committees involve some 85 members of the House of Lords, supported by 26 staff. It is the most elaborate system of national parliamentary scrutiny of EU legislation in the EU, and is widely regarded as one of the most effective. The Committee's terms of reference, updated and agreed by the House following the entry into force of the Treaty of Lisbon, can be found at Appendix 1.
2. There are five principal areas of activity through which the Committee and its Sub-Committees carry out their work:
 - Routine scrutiny in dialogue with Whitehall;
 - Inquiries and reports;
 - One-off hearings;
 - Subsidiarity scrutiny;
 - Interparliamentary cooperation.
3. Chapter 2 of this report highlights some major pieces of work carried out in each of these areas, including the first exercise of the House's new powers to police the subsidiarity principle. Chapter 3 looks at some procedural matters that have arisen over the past year. Chapter 4 deals with scrutiny of UK opt-in decisions, another area where the House has acquired new scrutiny powers.
4. Appendix 2 shows activity indicators for the Committee and Sub-Committees for the last financial year (April 2009 to March 2010).
5. **We make this report for the information of the House.** No Government response is required.

CHAPTER 2: THE COMMITTEE'S WORK

Scrutiny

6. A core aspect of the Committee's work is the scrutiny of EU documents deposited in Parliament by the Government. The Government submit an Explanatory Memorandum (EM) on each document setting out their views on a number of key areas including the policy implications of the proposal, an assessment of its compliance with the principle of subsidiarity,¹ and the timetable for its consideration in the Council of Ministers.
7. The Chairman conducts a sift of each document and accompanying EM deposited in the previous week and decides whether it should be referred to one or more of the Sub-Committees or cleared from scrutiny. Consideration of sifted documents is a substantial undertaking and forms a large part of the work of the Sub-Committees. This usually includes an exchange of correspondence with the relevant Minister until the Sub-Committee is prepared to clear the document. It can also lead to a one-off evidence session about prominent issues related to that item of scrutiny.
8. Proposals that are not cleared are subject to the House's Scrutiny Reserve Resolution, which can be found at Appendix 1. This Scrutiny Reserve means that a UK Minister may not agree to the matter in the Council until the item has been cleared from scrutiny by the Committee. It is interesting that during the year a similar arrangement was introduced in the French Senate.² A separate Reserve applies to proposals subject to UK opt-in: see Chapter 4.
9. During the period of this report, 766 EMs relating to deposited documents were sifted by the Chairman, with 325 being referred to the Select Committee and its Sub-Committees. The figures for the previous year (from November 2008 to October 2009) were 845 and 403 respectively. The distribution among Sub-Committees is shown in Table 1 below.

TABLE 1
EMs considered

| Committee | Number of EMs considered | |
|---------------------------------------------------------------------------|--------------------------|---------|
| | 2009–10 | 2008–09 |
| Select | 3 | 6 |
| Economic and Financial Affairs, and International Trade (Sub-Committee A) | 64 | 75 |
| Internal Market, Energy and Transport (Sub-Committee B) | 39 | 58 |
| Foreign Affairs, Defence and Development Policy (Sub-Committee C) | 100 | 71 |
| Agriculture, Fisheries and Environment (Sub-Committee D) | 36 | 86 |
| Justice and Institutions (Sub-Committee E) | 33 | 33 |
| Home Affairs (Sub-Committee F) | 32 | 34 |
| Social Policies and Consumer Protection (Sub-Committee G) | 19 | 40 |

¹ The principle of subsidiarity is defined in Article 5 of the Treaty on European Union as follows: "in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

² See *Development of the Senate's European Role* by the French Senate's Committee for European Affairs, October 2009, Report 24 of 2009–10

10. All of the correspondence is published online. Correspondence up to April 2008 is also available in hard copy.

*Sub-Committee on Economic and Financial Affairs, and International Trade
(Sub-Committee A)*

11. Significant scrutiny by the Sub-Committee this year has included a number of matters related to the financial crisis, such as:
 - Proposals for the reform of the EU system of financial supervision;
 - The deficit crisis in Greece;
 - Macro-financial assistance to non-EU European countries; and
 - Establishment of the European Financial Stabilisation Mechanism.
12. In its scrutiny of macro-financial assistance to non-EU European countries, including the Ukraine and Serbia, the Sub-Committee disagreed with the Government's assertion that the provision of macro-financial assistance was "essentially a matter of EU budgetary policy and therefore a matter of exclusive Community competence". The Sub-Committee highlighted the ceilings for agricultural spending which are set through the budgetary process but where legislation entailing the disbursement of funds is not a matter of EU budgetary policy and so not a matter of exclusive competence, suggesting that the principle of subsidiarity applied to these proposals. The Government were not persuaded by this argument.
13. The Sub-Committee also scrutinised a Commission Communication on bank resolution funds, published in the aftermath of the financial crisis with the aim of managing future banking crises. It questioned the Government on whether funds raised from a bank levy should go into the general budget, or be set aside to finance a bank resolution fund. The debate on this issue continues.
14. Earlier in the year, the Sub-Committee began scrutiny of the EU-Korea Free Trade Agreement. The Sub-Committee wrote to the Minister querying the Government's assertion that the provisions relating to Mode 4 services, which would involve the temporary admission into the UK of non-EU nationals in order to provide a service, fell within the scope of the UK's opt-in in respect of measures in the field of freedom, security and justice.
15. The Sub-Committee argued that the legal bases of the Free Trade Agreement showed that it had been concluded pursuant to other Treaty provisions, which automatically apply to the UK. It recommended that if an international agreement contains in part provisions which may not apply to the UK (or Ireland and Denmark) those provisions should, in any event, be clearly identified, both in the agreement itself, for the benefit of the other party to it, and in the internal EU measures for signature and adoption of that agreement.
16. The Government disagreed, and the last exchange of correspondence on this subject left the matter unresolved. However, in October a letter was received from the Government on a Framework Agreement between the EU and the Philippines, which stated that the agreement had been delayed so that additional text could be added to the agreement setting out clearly the basis on which the UK participated in those areas where it had an opt-in. This was exactly what the Committee had recommended was necessary in the earlier

EU-Korea FTA. Although not acknowledged, it therefore appears that the Committee's argument in this case has had an impact.

Sub-Committee on Internal Market, Energy and Transport (Sub-Committee B)

17. During the last year, Sub-Committee B has scrutinised a range of European documents, including in the areas of transport, energy and construction. Prominent in its consideration of documents relating to transport were the Bus and Coach Passenger Rights Regulation and the Intelligent Transport Systems Directive. On the former, the Sub-Committee agreed with the Government that the scope of the proposal was too wide, and inappropriately included local bus operators who would suffer disproportionate costs as a result. The text adopted by the Council was significantly reduced in scope, as a result of negotiation by the UK and others, bringing it much more into line with the Sub-Committee's views.
18. With regard to the Directive on Intelligent Transport Systems, the Sub-Committee suggested that the measures which would oblige Member States to install intelligent transport systems would breach subsidiarity if they were applied to areas where there was no cross-border issue. Political agreement was reached at Council in December 2009, with mandatory deployment excluded. However, at this point the European Parliament still supported mandatory deployment. The Committee wrote to the Minister expressing concern about this. The final text of the Directive was adopted as 2010/40/EU in July 2010 and excluded mandatory deployment, although, where systems are deployed, they must meet certain EU standards of interoperability.
19. The Sub-Committee's scrutiny of the proposed Directive on the Energy Performance of Buildings also picked up subsidiarity concerns. These focused on measures designed to dictate the method by which the energy performance of buildings would be assessed; these areas of the proposal were subsequently removed in Council and this flexibility was maintained in the final version which was adopted in May as 2010/31/EU.
20. A controversial proposal that came under the Sub-Committee's remit was the proposal for a Regulation on the marketing of construction products, which dealt with the CE (conformité européenne) marking for construction products and aimed to simplify the previous Construction Products Directive. The Commission's concern in proposing the legislation was the potential for restricted trade as four Member States (one of which was the UK) had voluntary CE marking, and some applied additional requirements for marking or testing before products could be placed on their market. The Commission suggested that a Regulation would ensure that CE marking was implemented more consistently.
21. This proposal was the subject of different views between the Commission, the European Parliament and certain Member States including the UK. Whereas the Commission wanted to see a CE mark applied in relation to national performance requirements or a limited number of EU-wide performance standards, the European Parliament wanted harmonised standards for construction products. The Sub-Committee argued that any mandatory measures should be proportionate to maintaining the single market, and should not unnecessarily impose burdens on small businesses.

22. The proposal reached political agreement with provision for mandatory CE marking where building regulations apply and where the Commission determines a pan-European standard is needed, but the process for testing performance was simplified and derogations were introduced for one-off products on-site. A common position, very similar to the political agreement, was reached on 22 September. Trilogues have now started between the Council, Commission and Parliament with a view to reaching a second reading deal. One outstanding issue from correspondence was the level of impact assessment to be performed on the various EU-wide declarable characteristics, to be decided by implementing legislation.

*Sub-Committee on Foreign Affairs, Defence and Development Policy
(Sub-Committee C)*

23. The Sub-Committee challenged the Government in the course of its scrutiny of the proposed Latin America Investment Facility, highlighting its concern that there was a proliferation of funding mechanisms and expressing its disappointment that the policy section of the Explanatory Memorandum (EM) had not set out the Government's thinking. It questioned whether the Facility would be consistent with established international principles of aid effectiveness, and asked for an assurance that the Facility would meet its objectives. The Government explained that, in line with aid effectiveness principles, finance investments would need to be identified through a country-led identification process. In light of this response, the Sub-Committee cleared the item from scrutiny.
24. Another proposal scrutinised by the Sub-Committee was for a Council Decision on the Agreement between Russia and the EU on protection of classified information, which was designed to deal with the sharing and protection of classified information connected to European Security and Defence Policy missions with which the Russian Federation is associated. While the Sub-Committee did not have a problem with the agreement and cleared both related documents from scrutiny, it expressed concern about the potential risks arising from the transfer of personal information, on the grounds both of individual privacy and of data protection.
25. Another area of concern for the Sub-Committee was the proposal to amend the EU Regulation on Burma which, for humanitarian and development purposes, created an exemption from the sanctions on Burma prohibiting the purchase of timber within the country, with the aim of undermining the foreign exchange earnings of the ruling military junta. However, the Sub-Committee considered that the Regulation had the perverse effect of preventing development work, in particular the rebuilding of homes destroyed by Cyclone Nargis.

Sub-Committee on Agriculture, Fisheries and Environment (Sub-Committee D)

26. Scrutiny by the Sub-Committee covered a range of areas, including a Communication from the Commission about consultation on fishing opportunities for 2011. The Sub-Committee considered this a particularly good example of the Government's engagement with the scrutiny process, appreciating both the extent and the timeliness of the information provided by the Minister after it was requested by the Sub-Committee.
27. Another example of scrutiny by the Sub-Committee focused on the draft Regulation amending the 2001 Directive on the restriction of cultivation of

genetically modified organisms. A key element of the proposal was the return of certain prohibition powers to Member States. The Department for Environment, Food and Rural Affairs (DEFRA) submitted an expedited EM ahead of the summer recess 2010 and undertook to provide a supplementary Explanatory Memorandum (SEM) in the Autumn. The Sub-Committee shared the Government's view that the proposal was compliant with the principle of subsidiarity, and has reserved its position on the policy implications until the SEM comes forward.

Sub-Committee on Justice and Institutions (Sub-Committee E)

28. The Sub-Committee on Justice and Institutions has considered a range of EU documents over the past year. Notable examples include the European Protection Order, a Member State-sponsored initiative introduced by the Spanish Presidency and supported by 11 other Member States, although the UK was not one of them. The previous Government did, however, decide to opt in to the proposal on 30 March 2010. The proposal aimed to rectify a situation where, although all the Member States applied measures to protect victims of crime, these measures were effective only on the territory of the State which adopted them, leaving victims unprotected when they crossed borders. The proposal attempted to offer a solution through the creation of the European Protection Order (EPO). The types of court order the EPO was expected to complement were those often used in the UK to protect the victims of domestic violence. Examples include non-molestation orders, restraining orders and occupation orders (orders which regulate who can or cannot occupy a property). In the UK the majority of these protective orders are granted in the civil courts and a criminal sanction is potentially applied following breach.
29. The Sub-Committee questioned the legal base of the EPO, and on this basis did not give an opinion on opting-in. The Government took a similar view, differing from the previous administration, and stated that they could not support the text as it stood. Discussions on the proposal are ongoing.
30. The Sub-Committee's scrutiny of the European Investigation Order, a new system for gathering evidence in criminal cases involving a cross-border dimension, was an area of scrutiny which attracted significant stakeholder interest, including a submission from Fair Trials International and contact from lawyers interested in the Sub-Committee's correspondence with the Minister on the topic. Stakeholder involvement in scrutiny is uncommon; we would welcome more.
31. The Sub-Committee has also been scrutinising the proposal for a Directive on human trafficking. The draft Directive aims to replace an existing Framework Decision on human trafficking, 2002/629/JHA, with the aim of bringing the EU's legal regime into line with recent legal, policy and operational developments in this area such as the Council of Europe's 2005 Convention on Action against Trafficking in Human Beings. The Sub-Committee was unable to express its opinion that the UK should opt in within the eight weeks provided by the Ashton undertaking, and has continued to advocate that the UK opt in to this measure. However, the Government decided not to opt in to negotiations. At the JHA Council on 3–4 June, a general approach was reached. This was shortly after the UK had notified the Presidency of its intention not to opt in. The Government contended that the UK scrutiny reserve remained in place. The Sub-

Committee sought clarification on this point and was told by the Minister that, having not opted in, the UK did not have a vote on general approach. A common position was agreed at the JHA Council of 2–3 December, and the UK still has the opportunity to opt in to the final Directive.

Sub-Committee on Home Affairs (Sub-Committee F)

32. A prominent example of scrutiny by the Sub-Committee was that of the amended proposal for a Regulation establishing an agency for the operational management of large-scale IT systems. This proposal was a recasting of a pre-Lisbon first pillar Regulation and a third pillar Decision as a single Regulation. It raised a number of issues, including how a single Regulation can deal with matters, some of which apply to the UK and some of which do not, and some only in part; whether an opt-in in September 2009 continues to be valid for a different proposal post-Lisbon dealing only partly with the same topic; whether it is open to the Commission and Council to treat such an opt-in as valid for some purposes only; the date from which the three months for opting in runs; and the first possibility for an opt-out under the Schengen Protocol. The proposal for a Regulation and an associated Council Decision have been cleared from scrutiny, and they were agreed in principle at the JHA Council on 2–3 December 2010. However this continues to be of interest to the Sub-Committee, which has also corresponded with the Commission. For more on this and other issues raised by the UK opt-in see Chapter 4.
33. Some of the scrutiny conducted by the Sub-Committee over the last year has been the subject of Committee reports or one-off evidence sessions and is therefore covered later on in this Chapter.

Sub-Committee on Social Policies and Consumer Protection (Sub-Committee G)

34. The Sub-Committee was responsible for scrutiny of the proposal relating to seasonal influenza vaccination, which aimed to increase uptake throughout the EU. The Government had serious subsidiarity concerns about the potentially prescriptive nature of the language in the text of the Recommendation, which in their view should not be legally binding on Member States. The Sub-Committee found the objective laudable, but strongly supported the Government's intention to clarify the scope of the proposal and to ensure its compliance with subsidiarity. The Government later reported that these concerns had been resolved to their satisfaction. The Sub-Committee, which was similarly content, released the proposal from scrutiny ahead of its agreement in Council.
35. Another area of examination by the Sub-Committee was the proposal on "sharps" or needlestick injuries. The Sub-Committee was disappointed by the Government's EM on this proposal, which provided little detail about what was being proposed, did not explicitly present the Government's view and confused the issue of subsidiarity with that of Commission competence.³ The response from the Government satisfied the Sub-Committee as to the proposal's compliance with the principle of subsidiarity. Nevertheless, the Sub-Committee was concerned by the considerable delay in the

³ Whereas subsidiarity relates to the level at which action should be taken, competence concerns the legal authority to act.

Government's response, over six weeks from 14 December to 29 January, and addressed the impact of this in its reply.

Major inquiries and reports

36. In addition to its scrutiny work, a Sub-Committee may decide to conduct an inquiry into an EU document or an EU policy issue. This involves collecting evidence in an open process, culminating in the production of a report which draws conclusions and makes recommendations to the Government. This report is submitted to the Select Committee for approval and publication and may subsequently be debated in the House if this is considered appropriate. A list of reports published over the period covered by this report can be found at Appendix 3. The major inquiries are outlined below.

Directive on Alternative Fund Managers

37. In February 2010 the Committee published a report examining the proposed Directive on Alternative Investment Fund Managers, which would regulate the managers of hedge funds and private equity funds. The inquiry was conducted by Sub-Committee A, which welcomed the principle of regulation and concluded that harmonised standards would benefit the single market. However, the Sub-Committee stressed that the Directive must be in line with global arrangements for regulation in order to prevent unintended damage to the industry and to the EU economy. In addition, it concluded that the third country provisions of the Directive were unworkable and suggested that, if the Commission had followed its own Better Regulation principles and conducted a longer consultation, many problems with the proposal could have been avoided.
38. In their response, the Government concurred with the Committee's views on the principles of the Directive and supported its views on several specific aspects of the proposal, such as thresholds, regulation of managers, leverage, and capital requirements.

The future regulation of derivatives markets: is the EU on the right track?

39. The second inquiry conducted by Sub-Committee A over the past year looked into a Commission Communication setting out the general direction of reforms of the derivatives market. The report was published in March 2010 and concluded that derivatives had economic benefits but nevertheless posed risks to the financial system through the manner in which they were used. In particular, the Sub-Committee stressed that regulation should not penalise the use of derivatives for sound economic purposes by non-financial end-users, arguing that these types of derivatives were inherently less risky. The Government's response indicated that they agreed with the majority of the Committee's conclusions and recommendations. However, they disagreed with the Committee's view that the use of derivatives by non-financial business was inherently less risky, but agreed with its recommendation that the impact of the proposals on these users should be considered when reforms were developed.

Impact Assessments in the EU: room for improvement?

40. This report, arising from an inquiry by Sub-Committee B, was published in March and examined the production and use of Impact Assessments in the

EU. The Committee recommended improvements in several areas, including the production of Impact Assessments of amendments by the European Parliament and the Council; the length of time allowed for consultation; and the procedures for deciding which proposals for delegated EU legislation would be subject to Impact Assessments.

41. The Sub-Committee held a seminar to follow up this report, attended by representatives of the Government, the Commission and the National Audit Office, to discuss aspects of the report and to clarify areas where further work might be warranted. This was a positive experience and one which we will seek to repeat in future.
42. The Commission response to the report stated that more work was being done on *ex post* evaluation but did not comment on the processes employed in other Institutions. The Government's response meanwhile largely agreed with the Committee's findings, including that the Commission's own Impact Assessment Board could be strengthened and that the consultation deadline could be extended. In addition, they strongly agreed with the Committee that the Commission's draft impact assessments should be published and listed this as one of their "top priorities".
43. The Commission has recently adopted its Smart Regulation Communication which addresses some of the Committee's recommendations and endorses several ideas called for by the Committee, in particular: the extension of the consultation period to 12 weeks; the development of *ex post* evaluation; further use of Impact Assessments in the Council and the European Parliament; the use of Member State Impact Assessments as *de facto* assessment of proposed Council amendments; and further and more transparent use of Impact Assessments for delegated and implementing legislation.
44. However, the Commission has resisted calls for Impact Assessments to be published in draft for comment ahead of the publication of legislative proposals.

Stars and Dragons: the EU and China

45. This inquiry was conducted by Sub-Committee C, with a report published in March 2010 and debated in the House on 9 June 2010. The inquiry was launched because the Sub-Committee considered that China (together with India) was the prominent rising star on the international scene, both politically and economically, and that the EU should have a considered policy on every aspect of the strategic relationship, which the Sub-Committee wished to scrutinise. The report covered a number of areas, including internal developments, China's policy and actions on the international stage, security, non-proliferation, trade and investment, climate change, and human rights and the rule of law.
46. The report recommended that China and the EU should have an effective strategic relationship based on trust and mutual respect and concluded that, beyond trade matters, such a relationship did not exist. In addition, the Committee suggested that the EU's representation in China should be made more effective, including giving higher priority to areas outside Beijing. The Committee highlighted that the introduction of the High Representative and European External Action Service offered an opportunity to act quickly and

consistently, in a united fashion, and stressed the need for the EU to raise its game substantially.

47. The Government agreed with many aspects of the Committee's analysis. They believed that the EU's engagement with China should recognise that differences between the EU and China on some issues should not derail cooperation on a growing agenda of shared interests. Where necessary, the EU should deal with strategic partners in a forthright manner, but objectively, when dialogue does not produce results, including through international fora such as the World Trade Organisation and the G20. The Government agreed that there was scope for a more unified and consistent response to engagement with China on climate change.
48. In its response, the Commission largely agreed with the Committee's recommendations. It highlighted that EU-China relations needed to reflect the perceptions and reality of China as a fast-growing player on the world stage and that the strategic potential of the partnership needed development. In addition, it informed the Sub-Committee that, while the negotiation of a Partnership and Cooperation Agreement was generally progressing well politically, the trade aspects were going less well. Differences also remained on Taiwan, human rights, the International Criminal Court and migration.
49. Having found that the Commission had not commented on areas in its competence, the Sub-Committee replied on 19 October 2010 to request a response on the Committee's recommendation on the need for a presence in major industrial centres outside Beijing and for an increased number of staff to work on human rights.

Combating Somali Piracy: the EU's Naval Operation Atalanta

50. For this inquiry, Sub-Committee C examined the effectiveness of the naval operation set up by the EU to combat piracy in the Gulf of Aden and the Indian Ocean. The report was published in April 2010 and concluded that Operation Atalanta was doing a good job, but nevertheless had several areas for improvement, including: more aerial surveillance, more tankers and the charter of faster, larger and more modern vessels for the World Food Programme, with military contingents on board. Following the Government response to the report, correspondence with the Minister continued, seeking clarification as regards the insurance industry, the World Food Programme, ransom payments, prosecution of pirates and unmanned aerial vehicles.
51. The report said, "The insurance industry must accept a greater degree of responsibility for promoting adherence to best practice on deterring piracy by shipping companies. We strongly urge that the terms and conditions of insurance effectively reflect the need to discourage shipping companies from failing to follow recognised best practice." This recommendation appears to have led to action. Replying to debate on 10 November 2010, the Minister said, "There has been constant dialogue, through the contact group, with the insurance industry and the Government welcome the announcement at the working group meeting on 21 October—only the other day—by representatives of the insurance industry that they will require higher premiums for vehicles that are not seen to be complying with best management practice".⁴

⁴ HL Deb, 10 November 2010, col 239

52. In their response, the Government welcomed the Committee's report. They highlighted their leading role in the international efforts to counter the threat of Somali Piracy, with the UK commanding the EU counter-piracy operation and contributing to other naval operations in the area. The UK also gives strong political leadership within the Contact Group on Piracy off the Coast of Somalia (CGPCS). The Government shared the Sub-Committee's concern about shortfalls in airborne surveillance capabilities and are working bilaterally and through the CGPCS to secure additional assets for counter-piracy operations. In addition, the Government agreed that the Operation's rules of engagement were sufficiently robust to enable effective action to counter piracy. The Government stated that they would welcome action by the insurance industry to reward compliance with best management practice by shipping companies and to penalise non-compliance.
53. The Commission agreed with the report's analysis of the causes of piracy and the need for a holistic approach and addressed a recommendation to the Member States on self-protection measures by the shipping industry, as the Committee recommended. It shared the comments made about the World Food Programme, and saw the Contact Group on Piracy off the Coast of Somalia (CGPCS) as the forum to resolve these issues

The revision of the EU Directive on the protection of animals used for scientific purposes

54. The report was published in November 2009 and debated in the House on 10 February 2010, following an inquiry by Sub-Committee D. The Committee agreed with the revision of the existing Directive (from 1986), which was proposed by the Commission in order to strengthen the consistency of implementation of animal welfare standards across the EU, to improve animal protection and to bring about a level playing-field across the EU for companies and institutions carrying out research. To this end, the Committee called for effective requirements that Member States should inspect controlled sites and for the Commission to monitor such arrangements robustly. Following the debate, the Government wrote to the Committee to provide additional explanations of changes to the proposal incorporated in a compromise text developed under the Swedish Presidency in the latter half of 2009. The Committee released the proposal from scrutiny in March 2010, underlining at the same time its concerns about the effects of the changes to the proposal, namely the risk of inconsistent implementation across the EU. The revised Directive was subsequently adopted in a form which met the Government's concerns.

Adapting to climate change: EU agriculture and forestry

55. This inquiry was conducted by Sub-Committee D, with the report published in March 2010. The report was the product of extended scrutiny of the Commission's White Paper of April 2009 on adapting to climate change, and the accompanying paper dealing with the challenge for agriculture and rural areas.
56. The report concluded that the complex challenges ahead made it imperative that research be driven forward into developing a better understanding of the science of the possible changes in climate and their impact on agriculture and forestry, and into the technology that could help farmers and foresters in the tasks of mitigation and adaptation. The Committee highlighted that the EU

should play an important role in helping Member States to coordinate their efforts. However, the Committee cautioned that activity at EU level, or by the governments of Member States, would be of limited effect unless the knowledge gained or money offered was made available to individual land managers in a practical and relevant manner. The Government's response, submitted in June 2010, showed very similar thinking in relation to the future characteristics of the Common Agricultural Policy. However, the response failed to assuage a central concern in the Committee's report, about the decline in the UK's agricultural research capability over at least the last decade. The Committee is pursuing this concern in the context of its current inquiry into innovation in EU agriculture.

The EU's Regulation on Succession

57. In October 2009 the Commission proposed new legislation harmonising the law relating to successions which have a cross-border dimension, for example if the deceased was resident in another Member State or owned property in more than one Member State. The proposal, which was the subject of an inquiry by Sub-Committee E, would lay down a single rule prescribing which law should be applied in such circumstances and which Member State's courts should have jurisdiction; it would also establish a "European Certificate of Succession" to facilitate the administration of a cross-border succession and improve mutual recognition and enforcement of orders and decisions made by the competent authorities in the Member States. The Committee reported in March 2010 and supported the principle of simplification but felt that, given the complexity of the law involved and the lack of empirical evidence as to the size of the problem, a more cautious, step-by-step approach would be appropriate. In addition, the Committee identified a number of areas of concern, most notably the clawback provisions which would jeopardise lifetime gifts otherwise valid under UK law. These concerns were such that the Committee advised against the Government opting in to the Regulation unless these issues were satisfactorily resolved. The Government did not opt in to the Regulation, and negotiations in the Council continue.

Protecting Europe against large-scale cyber attacks

58. Sub-Committee F's second report of the session was published in March 2010 following its inquiry into protecting Europe from large-scale cyber-attacks. It found that the internet was remarkably resilient and secure against attacks, with the private sector providing most of the protection (with the support of Member States). However, the Committee found wide variation in the support given by each Member State, and only a limited role for the EU. Nevertheless, the Committee concluded that the EU could help to bring the least prepared Member States up to the level of the best, of which the UK was one. The Sub-Committee recommended that ENISA, the European Network and Information Security Agency, should have its mandate widened, and suggested that it was not helped by being located in Crete because of the difficulty of physical access for policymakers and experts. A debate took place in the Chamber on 14 October 2010. The report had contained no substantial criticisms of the Government's position on national protection against cyber-attacks, and the Government accepted the Committee's recommendations addressed to the Commission. In particular the Minister agreed that the creation of national Computer Emergency

Response Teams, however useful for some Member States with less developed systems, would be counter-productive for those Member States which, like the United Kingdom, already had sophisticated response systems.

59. The Minister shared the Committee's view that the mandate of ENISA should be expanded. The Committee has recently cleared from scrutiny two draft Regulations which would achieve this. In its current inquiry into the EU Internal Security Strategy the Committee will be considering whether new responsibilities in relation to cyber-crime (as opposed to cyber-attacks against the internet) should go to ENISA, to Europol or to a new body.

Making it work: the European Social Fund

60. This report was published in March 2010 based on an inquiry conducted by Sub-Committee G. The Committee concluded that the ESF was an important tool at Member States' disposal to help improve employment opportunities for workers in the internal market. However, the Committee was struck by the excessive emphasis on hard outcomes (such as numbers of people into employment or gaining qualifications) over soft outcomes (such as interim steps on the path towards employment like acquiring skills and confidence-building) for judging the effectiveness of ESF intervention. The Committee did not support the Government's policy of withdrawing the UK from the ESF, as one of the wealthier Member States, stressing its worth for all Member States. It also called for greater flexibility in moving funding between programmes and priorities and the ability to alter programme targets part way through, while recognising the need to ensure accountability in doing so.
61. The Government broadly agreed with the Committee's recommendations that the ESF should be focused on the hardest to reach and that there should be sufficient recognition of soft outcomes. The Government did not accept the Committee's specific suggestions of how this might be achieved although the Commission response was more encouraging in this respect. Regarding flexibility, the Government response was broadly positive and they undertook to press for greater regional flexibility as well as flexibility to alter programme targets. The Government agreed with the recommendation that the ESF and the ERDF should be strategically aligned. However, they continue to believe that the wealthier states should be phased out of all structural funds, something the Committee had argued against. The Committee continues to pursue a number of these matters with the Minister.

One-off hearings

62. While the Sub-Committees conduct most of our inquiries, the Select Committee has a more general role, which includes hearing oral evidence on the outcome of each European Council from the Minister for Europe and the priorities for each EU Presidency from the ambassador of the Presidency country. Sub-Committees also hold one-off hearings as part of their scrutiny from time to time or as a precursor or follow-up to a full-scale inquiry. The transcripts of all of these sessions over the past year are available on the Committee's web pages. One-off hearings are listed in full in Appendix 4.
63. On 10 November 2009, the Sub-Committee on Economic and Financial Affairs, and International Trade (Sub-Committee A) held a one-off hearing with Lord Myners, Financial Services Secretary to the Treasury, on

proposals for the reform of financial supervision. The proposals included measures to establish a macro-prudential supervisory body (the European Systemic Risk Board (ESRB)) and three micro-prudential supervisory bodies (the European Supervisory Authorities). While the Sub-Committee broadly welcomed the establishment of these bodies, it raised a number of concerns with the Minister, including that the ESRB should not put pressure on national governments to conform to its own fiscal policies; that the UK should be represented on the Board's Steering Committee; and that the system to prevent decisions impinging on the UK's fiscal sovereignty should be clarified. The majority of the Committee's concerns were addressed during the course of negotiations on the proposals.

64. On 6 July 2010, the same Sub-Committee held a one-off session with Justine Greening MP, Economic Secretary to the Treasury, on the Government's position on the draft EU Budget 2011. The Committee subsequently wrote to the Minister supporting the Government's aim to freeze the Budget at 2010 levels, while maintaining funding in those areas that provided value for money supporting growth and jobs.
65. The Sub-Committee on the Internal Market, Energy and Transport (Sub-Committee B) held several one-off hearings, including with the Economic Secretary to the Treasury, Ian Pearson MP. This took place on 22 February 2010 and focused on Europe 2020, the successor to the Lisbon Strategy for growth and jobs which sets a number of headline targets for 2020, including for 3% of the EU's GDP to be invested in research and development and for the "20/20/20" climate/energy targets to be met, and includes seven flagship initiatives to assist in achieving these goals. In its consideration of the strategy, the Sub-Committee has argued that the "open method of coordination"⁵ which was used to enforce the Lisbon Strategy was inadequate. However, the Government were reluctant to endorse stronger measures and instead the Minister suggested that the profile of Europe 2020 could be raised by an annual intergovernmental economic summit. He argued that a higher profile for the strategy would lead to greater enforcement without the need for tougher penalties or incentives. Correspondence about the strategy is ongoing.
66. Another one-off evidence session held by Sub-Committee B focused on the EU response to the eruption of Mount Eyjafjallajokull, the Icelandic volcano, taking evidence from Department for Transport officials. The Sub-Committee concluded that the EU was swift to act after the event, but had concerns that warnings of an eruption had not resulted in adequate action in advance.
67. On 26 November 2009, the Sub-Committee on Foreign Affairs, Defence and Development Policy (Sub-Committee C) held a one-off hearing with the Minister for International Defence and Security, Baroness Taylor of Bolton. The Minister was pressed on the shortage of helicopters, especially for Afghanistan; Somali pirate attacks; the attitude of the new US administration to European defence efforts; relations with the French in the changing

⁵ The Open Method of Coordination provides a framework for intergovernmental cooperation between the Member States, whose national policies can thus be directed towards certain common objectives. Under this method, the Member States are evaluated by one another, with the Commission's role being limited to surveillance. The European Parliament and the Court of Justice play virtually no part in the OMC process. The open method of coordination takes place in areas which fall within the competence of the Member States, such as employment, social protection, social inclusion, education, youth and training.

context of their attitude to NATO; the prospect for battlegroups; and the problems of force generation for them and for Common Security and Defence Policy missions.

68. The Sub-Committee heard evidence from the Minister for Europe on the European External Action Service (EEAS) on 7 July 2010 and visited Brussels on 14 July to take further evidence from EU officials and MEPs. In addition, this has been the topic of correspondence between the Sub-Committee and the Government on a number of occasions. On 14 July 2010 the Sub-Committee cleared the Proposal for a Council Decision establishing the organisation and functioning of the EEAS from scrutiny.
69. In its letter to the Government, the Committee expressed a number of concerns, including its view that the EEAS would need to recruit the best staff from the outset, based on merit. Particular attention should be paid to Heads of Delegation, upon whom the credibility of the EU overseas and the quality of its analysis would depend. The letter also pointed out that relations between the High Representative and the Development Commissioner would be important in determining decisions on development aid programming.
70. In July 2010, the Sub-Committee on Agriculture, Fisheries and Environment (Sub-Committee D) conducted three evidence sessions as part of a short inquiry into the Commission's Green Paper on Forestry, during which they heard from the Swedish Forestry Agency, Professor Sir David Read from the University of Sheffield and the Forestry Commission. The outcome was a Committee response to the Green Paper which was sent to the Commission at the end of July.
71. The Sub-Committee on Home Affairs (Sub-Committee F) held a one-off evidence session with Meg Hillier MP, Parliamentary Under-Secretary of State at the Home Office, about the home affairs aspects of the Stockholm Programme.⁶ The Committee's short report on the Programme was published in November 2009. The Committee noted the impact of the German Presidency of 2007 on the early formulation of the Commission draft and regretted a lack of transparency.
72. After the Stockholm Programme had been approved by the European Council in December 2009 the Commission prepared an Implementation Plan which was itself considered by the Council in June 2010. The Council was critical of some aspects of it. In October 2010 the Committee held a further one-off evidence session with James Brokenshire MP, Ms Hillier's successor at the Home Office, to hear his views on this issue.

Subsidiarity scrutiny

73. Subsidiarity, that is the question of whether something should be done at EU level or left to Member States, is a regular matter of consideration by our Sub-Committees. Several instances have already been mentioned.
74. After the Lisbon Treaty entered into force on 1 December 2009, each chamber of this Parliament gained a new power in its scrutiny of the principle of subsidiarity, under Protocol 2. This empowered chambers of national parliaments to issue "reasoned opinions" on subsidiarity to the EU

⁶ The EU's programme for justice and home affairs 2010-14.

Institutions. If enough Reasoned Opinions are issued within the eight weeks allowed by the Treaty, the proposal in question must be reviewed (this is the “yellow and orange card” procedure).

75. This House therefore had to devise a procedure for agreeing and issuing a reasoned opinion on a proposal. The following text was agreed by the House on 16 March 2010:

“Where the EU Committee comes across an EU legislative proposal that it considers does not comply with the principle of subsidiarity, it will produce a report on the proposal, containing a reasoned opinion to this effect. The Committee will recommend its report for debate by the House. The report will be debated in the usual way, on a take note motion in the name of the Chairman or a Member of either the Select Committee or the relevant Sub-Committee. The take note motion will be debated jointly with a second, free-standing motion inviting the House to support the reasoned opinion contained in the report and instructing that it be forwarded to the Presidents of the EU institutions on behalf of the House. This motion will be amendable and divisible. At the end of the debate the second motion will normally be moved formally, but if there are amendments these will be dealt with in the usual way.”⁷

76. This procedure was used for the first time on 20 October 2010 when this Committee’s report *Subsidiarity assessment: admission of third-country nationals as seasonal workers* was debated on the floor of the House, and it was agreed, without a vote, to submit the report to the institutions as a Reasoned Opinion. This concerned a Commission proposal for a fast-track procedure for the admission of non-EU seasonal workers. We argued as follows:

“7. The need for seasonal workers is, as the Commission says, “a common occurrence in most Member States”. However the needs of Member States all differ as regards the numbers of workers needed, the times at which and for which they are needed, the work for which they are needed, and many other matters. Additionally there are differences between Member States as to whether their needs for seasonal workers can be satisfied primarily by workers from other Member States (as is the case with the United Kingdom), or whether they need to rely mainly on third country nationals. Article 79(5) of the Treaty on the Functioning of the European Union recognises that the volume of admissions to their territory of third country nationals is a matter for determination by the Member States.

8. Because of these differences, we believe that the entry to and residence in each Member State of third country nationals as seasonal workers can be and should be governed primarily by a combination of these market factors and of the policy of each State towards the admission of such workers. Action at EU level does not seem to be necessary.”

77. The House agreed this Reasoned Opinion three days after the deadline set by the Treaty expired. This was due partly to the summer recess. In its report setting out the new procedure, the Procedure Committee acknowledged this as a possible problem, and this was the first example. We will keep this issue under review.

⁷ Procedure Committee 2nd Report 2009-10, HL Paper 51.

78. The House issued its second Reasoned Opinion on 3 November 2010, on the basis of this Committee's report *Subsidiarity assessment: distribution of food products to deprived persons*. This concerned the EU scheme to provide food for the needy, originally from surplus production, nowadays increasingly by purchase on the open market. We argued as follows:

“7. Even to the extent that addressing problems of hunger, deprivation, poverty and social exclusion can be considered to be in the spirit of the Treaties, it is nevertheless the case that the spirit of the Treaties can be respected without Union action, and it can be promoted by the Union without following the legislative route. Inequalities between Member States are dealt with through EU cohesion policy. Member States are capable of acting individually to address the issues highlighted; and indeed confusion could arise from the parallel operation in a Member State of a national system and the EU scheme.

8. The extent to which purchases from the market contribute to the objectives of the CAP is questionable, being dependent on numerous factors, including: the quantity of food purchased from the market; any reduction in purchases by deprived persons who become eligible for the scheme; and the price paid. In any event, there is no reason why the Union is better placed to organise the purchase of products from the market than Member States.

9. The failure of Member States to act is not in itself a reason for the Union to act. The voluntary nature of the scheme suggests also that there is no demonstrable need for action, particularly at the Union level. All Member States do, of course, retain a stake in the proposal because it is part-financed from the Union budget.

10. In conclusion, there appears to be no compelling argument to suggest that the Union is better placed than Member States to ensure a food supply to its most deprived citizens.”

79. The number of other national parliament chambers which issued Reasoned Opinions was seven in the case of seasonal workers (the most so far on any dossier) and only three in the case of food for deprived persons. So the threshold for a formal yellow card (18 votes, i.e. 1/3 of the total)⁸ was not reached. It remains to be seen whether the Reasoned Opinions which have been issued will have political impact.

80. The Treaty says, “It will be for each National Parliament or each chamber of a National Parliament to consult, where appropriate, regional parliaments with legislative powers” (Protocol 2 Article 6). This provision is permissive, not mandatory, but we have undertaken to alert the devolved legislatures to concerns about subsidiarity when appropriate. We did not do so in the case of seasonal workers, because immigration is a reserved matter. We did in the case of food for deprived persons; no representations were received.

Interparliamentary cooperation

81. Subsidiarity scrutiny is just one of the ways in which we foster close working relations with other parliaments, including the European Parliament. Our terms of reference now include “To represent the House as appropriate in

⁸ Each national parliament, whether bicameral or unicameral, has two votes (Protocol 2, Article 7).

interparliamentary cooperation within the EU". The main formal grouping for this is COSAC, the Conference of Community and European Affairs Committees of Parliaments of the European Union, which meets twice a year, each meeting preceded by a meeting of Chairmen. The 43rd COSAC meeting was held on 30 May–1 June 2010 in Madrid; the 44th meeting was held on 24–26 October 2010 in Brussels. The Chairman attended both of these meetings, accompanied on the latter occasion by other members of the Committee. He also attended the Chairmen's meetings. Minutes of COSAC meetings, and texts agreed, can be found at www.cosac.eu.

82. Other meetings attended by representatives of other legislatures are the European Chairs UK and tripartite meetings. EC-UK is an opportunity for the chairmen of the EU scrutiny committees in the House of Lords, the House of Commons, the National Assembly for Wales, the Scottish Parliament and the Northern Ireland Assembly to come together. The group met once during the period, in January 2010 in the House of Lords. The tripartite meetings bring together members of our Committee, members of the House of Commons European Scrutiny Committee and UK MEPs; a meeting of this group was hosted by the House of Lords in December 2009.
83. The Committee and its Sub-Committees seek to work closely with the European Parliament, including through the transmission of emerging conclusions, and taking evidence from MEPs in areas of common interest. The House's EU Liaison Officer is based in the European Parliament in Brussels and has daily contact with EU Institution officials and colleagues from other national parliaments of the EU. His role is twofold: reporting to us on their activities, and keeping them informed about the work we are undertaking, including by distributing our substantive reports systematically within the European Parliament and liaising with them about subsidiarity matters. We translate parts of our reports where appropriate.
84. Another area of interparliamentary cooperation is joint parliamentary meetings (JPMs), convened by the parliament of the rotating Presidency country and the European Parliament, in which we take an active role representing the House. In the last year the Chairman and members of the Committee have attended JPMs on the Stockholm Programme and a European Energy Community for the 21st Century. We are also active participants in a number of joint committee meetings convened by the parliament of the Presidency country and/or the relevant committee of the European Parliament. Our staff engage with other parliaments to ensure that these meetings are useful and to seek value for money.
85. A list of interparliamentary meetings attended can be found in Appendix 5.

CHAPTER 3: PROCEDURAL MATTERS

Scrutiny overrides

86. An override occurs when the Government give agreement in the Council of Ministers (including political agreement or agreement to a general approach) to any EU proposal that is still held under the Scrutiny Reserve in either House of Parliament. A proposal can therefore be overridden in one House and not the other. The full text of the Scrutiny Reserve Resolution as agreed by the House of Lords on 30 March 2010, with amendments to reflect the Treaty of Lisbon, can be found at Appendix 1.
87. From July 2009 to June 2010 there were 86 overrides of scrutiny in this House, in comparison with 35 from July 2008 to June 2009. One reason for the increase was the dissolution of Parliament from 12 April to 25 May 2010. During dissolution, all business in the House of Lords comes to an end; our Committee therefore ceased to exist (until it was reappointed in the new Parliament on 22 June) and was unable to consider or clear any scrutiny items. This meant that a number of proposals subject to agreement in Council during this time gave rise to overrides. A list of overrides can be found in Appendix 6.
88. Although each Department has the same obligations to Parliament,⁹ each Department handles its scrutiny work differently and standards of compliance vary. In our last Annual Report we commented on our discussions with the Permanent Secretary at DEFRA about that Department's scrutiny performance. During the period of this report we have also been in correspondence with the Minister for the Natural and Marine Environment at DEFRA about this subject and we are encouraged to note that since the turn of the year the Department has taken steps to improve its performance in submitting EMs on time, with positive results.
89. Following the State Opening of the new Parliament we experienced delays in a number of departments submitting EMs to us. While most of these issues were temporary, it was regretful that the Treasury continued to submit EMs late throughout the Summer recess. We welcomed, however, a letter from the Economic Secretary to the Treasury, sent in November 2010, assuring us that steps were being taken to improve the Treasury's performance in this area.
90. Whenever a scrutiny override occurs that we consider to have been avoidable, we consider tabling a Parliamentary Question for Written Answer asking why the override happened. During the past year three such Questions have been tabled: see Box 1.
91. There has been one case so far of an override of the new Opt-in Scrutiny Reserve Resolution. See Chapter 4.

⁹ These obligations are set out in guidance to Departments from the Cabinet Office, available at <http://europeanmemorandum.cabinetoffice.gov.uk/files/parliamentary-scrutiny-departments.pdf>. The guidance awaits updating following the Treaty of Lisbon.

BOX 1**Scrutiny Overrides—Parliamentary Questions****EU: Scrutiny Override: Classified Information**

Lord Roper—To ask Her Majesty's Government why the scrutiny reserve resolution was overridden on the proposed Council Decision concerning the conclusion of the agreement between the Government of Russia and the European Union on the protection of classified information (15227/09); and what steps they are taking to avoid a repeat of those circumstances.

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The override resulted from an unacceptable administrative error.

My honourable friend the Minister for Europe has asked officials to look again at our internal procedures and will write to the committees responsible for scrutiny updating them on the measures taken to address this problem.

House of Lords Hansard 8 December 2009 col WA110

EU: Scrutiny Override

Lord Roper—To ask Her Majesty's Government why the scrutiny reserve resolution was overridden on the proposed Council Decision extending restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova; and what steps they are taking to avoid a repeat of those circumstances. [HL3186]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The sanctions measures against the leadership of the Transnistrian region of the Republic of Moldova were due to expire on 27 February 2010. If the new Council decision was not adopted before then, the existing measures would have lapsed. The override arose due to an error by Foreign and Commonwealth Office officials who were unclear when the Scrutiny Committees would sit after the Recess in February.

The FCO takes its scrutiny commitments very seriously. It does everything it can to avoid an override and to keep the Scrutiny Committees informed on sanctions matters. The relevant teams within the FCO are therefore discussing what steps to take to prevent this error occurring again.

House of Lords Hansard 6 April 2010 col WA412

EU: Scrutiny Override

Lord Roper—To ask Her Majesty's Government further to the Written Answer by Baroness Kinnock of Holyhead on 8 December 2009 (WA 110), why the scrutiny reserve resolution was overridden on the proposed Council Decision approving the appointment of Vygaudas Usackas as the European Union Special Representative to Afghanistan; and what steps they are taking to avoid a repeat of those circumstances. [HL3185]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The role of the European Union Special Representative (EUSR) for Afghanistan is important in focusing the EU effort, ensuring that it dovetails with the work of other bilateral and multilateral partners. The Government continue to believe in the importance of our work in Afghanistan and in the benefits of continued international co-ordination.

I deeply regret that, on this occasion, my honourable friend, Chris Bryant, had to agree to the Council decision approving the appointment of Vygaudas Usackas as the EUSR to Afghanistan before it had cleared the Scrutiny Committee. The failure to allow the committee to fully scrutinise this decision came about due to an administrative oversight. Chris Bryant has spoken to those responsible to ensure this will not happen again.

House of Lords Hansard 7 April 2010 col WA434

Responses to reports

92. The Government have undertaken to respond to all reports published by the Committee within two months. In the period covered by this report, we published 18 reports. Of the 11 that were sent to the Government for a response, only four received a response within two months. A number of responses were delayed by the dissolution of Parliament.
93. The House has agreed that it is desirable to have regular debates on select committee reports. 10 reports were recommended for debate in the period covered by this report. Nine of these reports have been debated, and the average time between publication and debate, including non-sitting days, was 112 days.

Working with the European Commission

94. In September 2006, the Commission launched an enhanced political dialogue with national parliaments, known as the “Barroso Initiative”. Under this, the Commission has undertaken to consult national parliaments on all legislative proposals. National parliaments are encouraged to submit opinions on any aspects of proposals, to which the Commission will respond. The Commission has also responded to opinions submitted on non-legislative documents.
95. As a response to the Barroso initiative, with its emphasis on developing the relationship between national parliaments and the Commission, during the period of this report we submitted 11 reports to the Commission for a response. These are listed in Table 2.

TABLE 2
Reports submitted to the Commission

| Title | Sent to the Commission | Response received |
|-----------------------------------------------------------------------------|------------------------|-------------------|
| Use of animals for scientific purposes | November 2009 | 21/05/2010 |
| Asylum Directives: scrutiny of the opt-in decisions | December 2009 | 28/04/2010 |
| Directive on Alternative Investment Fund Managers | February 2010 | 25/06/2010 |
| Impact Assessments in the EU: room for improvement? | March 2010 | 02/06/2010 |
| Protecting Europe against large-scale cyber-attacks | March 2010 | 13/07/2010 |
| The EU’s Regulation on Succession | March 2010 | 01/07/2010 |
| Stars and dragons: the EU and China | March 2010 | 30/09/2010 |
| Adapting to climate change: EU agriculture and forestry | March 2010 | 07/09/2010 |
| Making it work: the European Social Fund | March 2010 | 09/07/2010 |
| The future regulation of derivatives markets: is the EU on the right track? | March 2010 | 30/08/2010 |
| Combating Somali piracy: the EU's naval operation Atalanta | April 2010 | 30/09/2010 |

96. We also welcome the willingness of the Commission to supply written evidence and to meet us and our Sub-Committees in relation to inquiry work.

Codecision and national parliamentary scrutiny: follow-up

97. Last year, the Select Committee conducted an inquiry into the effect of codecision (the process whereby Commission proposals must be negotiated and jointly adopted by the Council of Ministers and the European Parliament, now called the ordinary legislative procedure) on national parliamentary scrutiny. In particular, we examined the impact of codecision on our scrutiny practices and explored whether we needed to alter these in order for us to continue to scrutinise proposals effectively. We made a number of recommendations in our report¹⁰, as noted in last year's Annual Report.
98. We consider that the requirement that Departments consult us, on a case-by-case basis, as to whether a supplementary explanatory memorandum is required or whether a ministerial letter is sufficient should continue for all proposals. This is in order that we can re-impose the scrutiny reserve where we judge changes made to a proposal to be sufficiently important. The Government accepted this.
99. In our report we recognised that the increased use of informal trilogues to the point that they are now the primary form of negotiation between the European Parliament and the Council has magnified the difficulties we face. As a result it is important that the system under which the Government keep us updated on negotiations is effective and operated uniformly and rigorously by all Departments. The Government must ensure that this happens without the delays that have sometimes occurred in the past. We were pleased to note that the Government agreed with us on this point.
100. Certain EU documents are marked *limité*, meaning not for publication. In line with the practice in some other Member States and the evidence from the Council's Legal Service we considered that there was nothing in the Council's Rules of Procedure to prevent provision of *limité* documents to the Committee for purposes of scrutiny. We therefore highlighted that in future we expected the Government to provide relevant documents to the Committee even if they are marked *limité*. This was accepted and is now operational, subject to conditions (see Appendix 7).
101. We also requested that the Government put the Cabinet Office scrutiny guidance into the public domain and are pleased that this is now available on the Cabinet Office website:
- <http://europeanmemorandum.cabinetoffice.gov.uk/files/parliamentary-scrutiny-departments.pdf>
- The guidance predates the Treaty of Lisbon, so it requires updating.
102. For our part, as a consequence of our follow-up work, we have introduced general guidelines to strengthen and improve our contacts with MEPs. This will recognise the increasing importance of the Parliament since the Treaty of Lisbon, and will build on our work with other parliaments described in the previous chapter. These guidelines include holding more evidence sessions

¹⁰ *Codecision and national parliamentary scrutiny*, 17th Report 2008-09, HL Paper 125.

with MEPs in London (or via video conference) and calling on MEPs during every visit to Brussels; arranging bilateral meetings with MEPs during interparliamentary meetings; building long-term relations between Sub-Committee chairmen and chairmen of relevant European Parliament committees; and maximising the flow of written information from Westminster to MEPs (for example copying relevant MEPs into more items of correspondence with ministers on scrutiny).

CHAPTER 4: SCRUTINY OF OPT-INS

103. Prior to the entry into force of the Treaty of Lisbon the United Kingdom had a power of veto on all proposed measures on police and judicial cooperation in criminal matters (“third pillar” measures under Title VI of the Treaty on European Union), since they required unanimity. Measures on visas, asylum, immigration and most other policies related to free movement of persons (“first pillar” measures under Title IV of the Treaty establishing the European Community) were subject to qualified majority voting (QMV), but the Protocol on the position of the United Kingdom and Ireland (the “Opt-in Protocol”) provided that the United Kingdom would be bound by such measures only if, within three months after a proposal or initiative was presented to the Council, it notified the President of the Council that it wished to take part in the adoption and application of that measure—i.e. it opted in.
104. On the entry into force of the Treaty of Lisbon the first and third pillars were merged into Title V of Part Three of the Treaty on the Functioning of the EU. Most matters under Title V¹¹ are now subject to QMV,¹² and the Opt-in Protocol, now Protocol 21 to the EU Treaties, was amended to cover all these matters: border checks, asylum and immigration (Chapter 2); judicial cooperation in civil and criminal matters (Chapters 3 and 4); and police cooperation (Chapter 5).
105. Thus on 1 December 2009 a much larger number of proposals for legislation became subject to the United Kingdom opt-in, many of them in politically sensitive areas. In this chapter we describe the workings of the provision for enhanced scrutiny of such proposals, and a number of problems which have arisen in the working of Protocol 21, many of which had not been foreseen.

The Ashton undertakings and the Resolution

106. We explained in a report last year the undertakings for enhanced scrutiny of legislation subject to a United Kingdom opt-in which the House obtained from Baroness Ashton of Upholland when she was Leader of the House, in anticipation of the entry into force of the Treaty of Lisbon.¹³ Briefly, the undertakings require departments to produce an Explanatory Memorandum within 10 days of publication of the proposal, and to indicate the Government’s preliminary views on whether or not they will opt in. The Government however undertake not to reach a final view on this for eight weeks, and to take account of any views expressed in that time by this Committee or the Commons European Scrutiny Committee. Where this Committee makes a report to the House which it recommends for debate, the Government undertake to arrange a debate as soon as possible, on an amendable motion.
107. On 16 March 2010 the House agreed a procedure for such reports¹⁴, and on 30 March 2010 a Resolution formalising the eight-week scrutiny reserve in the Ashton undertakings. The text of the Resolution is at Appendix 1.

¹¹ Part Five of the TFEU also has a Title V which deals with International Agreements. Our references to Title V are to Title V of Part Three, on the Area of Freedom, Security and Justice.

¹² Exceptions include family law matters with cross-border implications and measures on operational cooperation between law enforcement agencies, which still require unanimity (Articles 81(3) and 87(3) TFEU).

¹³ *Enhanced scrutiny of EU legislation with a United Kingdom opt-in*, 2nd Report 2008-09, HL Paper 25

¹⁴ Procedure Committee 2nd Report 2009-10, HL Paper 51.

The Asylum Directives

108. The first—and to date the only—opt-in report was agreed the day after the entry into force of the Treaty of Lisbon.¹⁵ The report concerned proposals for the amendment of two of the Directives making up the Common European Asylum System: the Asylum Qualifications Directive and the Asylum Procedures Directive. In both cases the United Kingdom had opted in to the original measure, but there were indications that the Government did not intend to opt in to the amending measure. We were concerned on two grounds: as a matter of policy, we thought that the changes were desirable and should apply to the United Kingdom; as a matter of procedure, a failure to opt in to a measure amending an earlier measure applying to the United Kingdom led in our view to an impossible legal situation.¹⁶
109. The report was debated on 12 January 2010 on a motion by the Chairman that the House should agree with this Committee's recommendations that the Government should opt in to the two Directives.¹⁷ The Minister undertook to take note of the points made in the report, but made it clear that the Government were unlikely to opt in to either proposal. At the end of the debate, when the Chairman sought to withdraw his motion, a number of members objected, and there was a division which was won by those opposing the motion. But the debate demonstrated the flexibility of the new procedure and the possibility of the House, rather than just the Committee, making its views on an opt-in decision known to the Government in time to influence their decisions.

Government compliance with the undertakings

110. Given the limited time for a United Kingdom opt-in, and the even more limited time for the Committee to make known its views, it is most important that the deadline for submitting an EM should be observed. The 10 working days run, not from deposit of the document (as is the case for most scrutiny), but from the date of publication of the document.
111. This deadline has been observed in many cases, but by no means all. The worst case, and the only case to date of an override of the eight-week scrutiny reserve for opt-in decisions, was the draft Decision on the conclusion of the Agreement on the passing of financial data from the EU to the US for the Terrorist Finance Tracking Program (“the TFTP Agreement”).¹⁸ On 8 February 2010 the Government deposited the document, as they should have done no later than 21 December 2009, and on 9 February the Minister signed the EM which we should have received no later than 4 January. Long before then the Government had already decided to opt in, without giving the Committee any opportunity to scrutinise their views. It was not until 13 February that the Committee was sent the text of the Agreement which had been signed on 30 November 2009.¹⁹

¹⁵ *Asylum directives: scrutiny of the opt-in decisions*, 1st Report 2009-10, HL Paper 6.

¹⁶ We have described this in detail in our report dealing with another of the Directives making up the CEAS: *The United Kingdom opt-in: problems with amendment and codification*, 7th Report 2008-09, HL Paper 55.

¹⁷ HL Deb, 12 January 2010, col 475

¹⁸ Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (Document 17702/09)

¹⁹ The Decision on signature of the Agreement was also a scrutiny override, though not strictly a breach of the Ashton undertakings, which came into force only the following day.

112. In the event the Government were unable to opt in to the Decision on conclusion of the Agreement because on 10 February 2010 the European Parliament declined to give its consent to the Decision. But for the Government to decide, without enabling Parliament to scrutinise their position or to express a view on it, to opt in to an Agreement which had important implications for data protection as well as for the fight against terrorism, was precisely contrary to what the Ashton undertakings sought to achieve. We understand that HM Treasury, the responsible department, had little experience of the United Kingdom opt-in, which is almost always the concern of the Home Office or the Ministry of Justice, but we do not see this as a reason for not adhering to the important commitments given on behalf of the Government.

Code of Practice for opt-ins

113. The Ashton undertakings state that a Code of Practice setting out in detail the steps to be taken by departments in dealing with measures subject to an opt-in would be agreed by the Committee and the Commons European Scrutiny Committee. We hope to have a text we can consider shortly.
114. In the first year since the entry into force of the Treaty of Lisbon we have kept a close eye on the handling by the Government of the opt-in, and we will continue to do so. It raises important and complex issues, many of which are not catered for by the language of Protocol 21. We stress the importance of departments adhering strictly to the Ashton undertakings, the Resolution, and, once it is agreed, the Code of Practice.

The renewal of an opt-in

115. The great majority of measures which were in the course of being negotiated on the entry into force of the Treaty of Lisbon required a change in the numbering of the articles forming the legal base. On its own this raised no particular problems, and was not a reason for re-opening scrutiny of a document already cleared from scrutiny. There were however some proposals which were the subject of both a draft Regulation under Title IV TEC (and so subject to QMV and to an opt-in) and a draft Decision under Title VI TEU (and so subject to unanimity). These proposals lapsed on the entry into force of the Treaty and had to be replaced by a single Regulation under Title V. This incorporated all the provisions previously in the draft Regulation and Decision, and all those provisions then became subject to an opt-in.
116. In these cases the new draft Regulation was plainly a fresh proposal for scrutiny purposes: the new proposals were deposited with new EMs. A different question was whether, where the original draft Regulation had before the entry into force of the Treaty of Lisbon been the subject of an opt-in, the new draft Regulation, which inevitably ranged more widely since it incorporated provisions previously in the draft Decision, was a fresh proposal for the purposes of the opt-in Protocol, and so required a fresh opt-in.
117. EURODAC is the database of fingerprints of asylum-seekers, kept for the purpose of determining jurisdiction for decisions on applications for asylum. It applies to the UK. Before 1 December 2009 two successive proposals for a Regulation amending the Regulation setting up EURODAC were submitted by the Commission, and the Government opted in to both; they also opted in

to a third proposal put forward after the entry into force of the Treaty.²⁰ This seemed to the Committee to be the right course. However the Home Office adopted a different line in the case of a draft Regulation to set up a single agency to manage the Justice and Home Affairs databases. A draft Regulation and Decision had been proposed, and the Government opted in to the draft Regulation on 23 September 2009. In March 2010 a new Regulation was proposed covering both the earlier Regulation and Decision.²¹ The Home Office elected to treat the earlier opt-in as having continuing validity for the subsequent draft, and did not opt in again before the new 3-month period expired on 21 June 2010.

118. The Home Office has been inconsistent in such cases. In one case it has opted in to each of three successive proposals, although the last was not very different from the first; in another it elected to treat an opt-in made in September 2009 as continuing to be valid for a new and very different draft Regulation put forward in March 2010.
119. The matter is further complicated because of the interaction of Protocol 21 with the Schengen Protocol (No 19), and we have been in prolonged correspondence with the Home Office and the Commission over a number of months. We do not resile from this view. We continue to believe that, for the future, much the better course is for the Government to opt in whenever a new proposal is put forward for a measure which they wish to be binding on the United Kingdom. If there is any doubt as to whether a new opt-in is needed, it will be resolved, and there can be no harm in the United Kingdom saying again that it wishes to be bound by a measure. Moreover there may in future be occasions when the changes in a new proposal will be such that the United Kingdom would no longer wish an earlier opt-in to continue to apply; by failing to opt in it has set a dangerous precedent, which could be used to argue that in such cases the UK has no choice.

The addition of a new Title V legal base

120. It sometimes happens that, in the course of negotiations on a proposal, suggestions are made that the legal base is inadequate, and a new legal base should be added or substituted. Twice this year it has been suggested that a Title V legal base should be added, with the consequence that a proposal not previously subject to a United Kingdom opt-in abruptly becomes subject to an opt-in. Protocol 21 does not cater for this; in particular, there is no clear date from which the three months should run.

Cross-border enforcement in the field of road safety

121. In March 2008 the Commission put forward a proposal for a Directive on cross-border enforcement in the field of road safety.²² The legal base was Article 71(1) TEC (measures to improve transport safety). Negotiations

²⁰ Amended proposal for a Regulation of the European Parliament and of the Council concerning the establishment of EURODAC for the comparison of fingerprints for the effective application of [the Dublin] Regulation (2nd Recast version) (Document 14919/10)

²¹ Amended proposal for a Regulation of the European Parliament and of the Council on establishing an Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (Document 8151/10)

²² Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety (Document 7984/08)

stalled. In July 2010 the Belgian Presidency resumed them, but with a Title V legal base to deal with cross-border enforcement (Article 87(2) TFEU). Most Member States agreed with this, but not the Commission, which declined to issue a fresh proposal. There is thus no new proposal from which the three months for opting in can run. At the Transport Council on 2 December 2010 the Commission made clear that it still did not support a Title V legal base, but the United Kingdom and all other Member States agreed to the change, and the Presidency acknowledged the right of the United Kingdom to have three months to consider whether or not to opt in.²³

Social security in the European Economic Area

122. The second case of a new Title V legal base being put forward concerns a proposal to integrate EU social security legislation into the EEA Agreement.²⁴ The main legal base is currently Article 48 TFEU (social security). In their EM the Department for Work and Pensions (DWP) argue that Article 48 is not the correct legal base, since it concerns only social security within the EU; they believe that Article 79(2)(b) in Title V would be correct, since it deals with the rights of third country nationals legally resident in the EU. As a precedent they cite an earlier Decision on an agreement with Switzerland.
123. The proposal for the Decision is dated 10 September 2010. DWP argue that the opt-in applies even though no Title V legal base is cited in the proposal, and that therefore the Decision will not apply to the United Kingdom unless the Government opt in by 10 December 2010. Whether they are right or wrong about the need for a Title V base, the argument that they can declare unilaterally that a measure does not apply to the United Kingdom because it has not opted in, even though there is nothing on the face of the measure to suggest that it has a Title V legal base, is a bold one, and unlikely to be accepted by the Commission or other Member States unless and until they agree to the addition of Article 79(2)(b) as a legal base. If they do so, the date of that decision would no doubt be the date from which the three months for opting in would run.

²³ Written Statement by Earl Attlee, HL Deb 13 December 2010, cols WS 69-70

²⁴ Proposal for a Council Decision on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Annex VI (Social Security) and Protocol 37 to the EEA Agreement (Document 13493/10)

APPENDIX 1: TERMS OF REFERENCE AND SCRUTINY RESERVE RESOLUTIONS

Terms of reference

22 June 2010

1. To consider European Union documents deposited in the House by a Minister, and other matters relating to the European Union;

The expression “European Union document” includes in particular:

- (a) a document submitted by an institution of the European Union to another institution and put by either into the public domain;
- (b) a draft legislative act or a proposal for amendment of such an act; and
- (c) a draft decision relating to the Common Foreign and Security Policy of the European Union under Title V of the Treaty on European Union;

The Committee may waive the requirement to deposit a document, or class of documents, by agreement with the European Scrutiny Committee of the House of Commons;

2. To assist the House in relation to the procedure for the submission of Reasoned Opinions under Article 5 of the Treaty on European Union and the Protocol on the application of the principles of subsidiarity and proportionality;

3. To represent the House as appropriate in interparliamentary cooperation within the European Union.

Scrutiny Reserve Resolution

30 March 2010

That—

1. Subject to paragraph (5) below, no Minister of the Crown shall give agreement in the Council or the European Council in relation to any document subject to the scrutiny of the European Union Committee in accordance with its terms of reference, while the document remains subject to scrutiny.

2. A document remains subject to scrutiny if—

- (d) the European Union Committee has made a report in relation to the document to the House for debate, but the debate has not yet taken place; or
- (e) in any case, the Committee has not indicated that it has completed its scrutiny.

3. Agreement in relation to a document means agreement whether or not a formal vote is taken, and includes in particular—

- (f) agreement to a programme, plan or recommendation for European Union legislation;
- (g) political agreement;
- (h) agreement to a general approach;

- (i) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 289(1) of the Treaty on the Functioning of the European Union (the ordinary legislative procedure), agreement to the Council's position at first reading, to its position at second reading, or to a joint text; and
- (j) in the case of a proposal on which the Council acts in accordance with Article 289(2) of the Treaty on the Functioning of the European Union (a special legislative procedure), agreement to a Council position.

4. Where the Council acts by unanimity, abstention shall be treated as giving agreement.

5. The Minister concerned may give agreement in relation to a document which remains subject to scrutiny—

- (k) if he considers that it is confidential, routine or trivial, or is substantially the same as a proposal on which scrutiny has been completed;
- (l) if the European Union Committee has indicated that agreement need not be withheld pending completion of scrutiny; or
- (m) if the Minister decides that, for special reasons, agreement should be given; but he must explain his reasons—
 - (i) in every such case, to the European Union Committee at the first opportunity after reaching his decision; and
 - (ii) if that Committee has made a report for debate in the House, to the House at the opening of the debate on the report.

Opt-in Scrutiny Resolution

30 March 2010

That, in relation to notification to the President of the Council of the European Union of the wish of the United Kingdom to take part in the adoption and application of a measure following from a proposal or initiative presented to the Council pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union:

1. No Minister of the Crown may authorise such notification within 8 weeks after the proposal or initiative has been presented to the Council.

2. A Minister may however authorise such notification sooner than provided by paragraph (1) if he decides that for special reasons this is essential; but he should explain his reasons—

- (n) in every such case, to the European Union Committee at the first opportunity after giving that authorisation; and
- (o) in the case of a proposal awaiting debate in the House, to the House at the opening of the debate.

3. Where the European Union Committee is scrutinising the question of notification independently of the substance of the measure to which it relates, scrutiny of the substance of the measure will continue to be governed by the Resolution of the House of 30 March 2010, as amended.

APPENDIX 2: ACTIVITY INDICATORS APRIL 2009–MARCH 2010

| | Select | A | B | C | D | E | F | G |
|----------------------------------------------------------------|---------------|----------|----------|----------|----------|----------|----------|----------|
| No. of Lords members on the Committee (incl. co-opted members) | 19 | 12 | 12 | 12 | 12 | 12 | 12 | 12 |
| No. of committee meetings | 22 | 28 | 30 | 29 | 33 | 28 | 22 | 27 |
| No. of witnesses giving oral evidence | 9 | 24 | 19 | 25 | 35 | 6 | 14 | 23 |
| No. of written submissions received | 18 | 77 | 12 | 15 | 31 | 10 | 33 | 49 |
| No. of committee visits | 1 | 1 | 1 | 3 | 2 | 0 | 1 | 4 |
| No. of days (or part days) spent away on committee visits | 2 | 2 | 2 | 11 | 4 | 0 | 2 | 5 |
| No. of reports published: | | | | | | | | |
| (a) that include policy commentary | 2 | 4 | 2 | 1 | 3 | 5 | 4 | 2 |
| (b) all other reports | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 |
| No. of pages printed of: | | | | | | | | |
| (a) reports | 120 | 238 | 79 | 135 | 136 | 153 | 168 | 121 |
| (b) evidence | 161 | 710 | 352 | 327 | 688 | 159 | 454 | 440 |
| No. of press releases | 0 | 15 | 3 | 4 | 4 | 4 | 5 | 3 |

APPENDIX 3: REPORTS PUBLISHED NOVEMBER 2009–OCTOBER 2010

The revision of the EU Directive on the protection of animals used for scientific purposes (22nd Report, Session 2008–09, HL Paper 164)

Annual Report 2009 (23rd Report, Session 2008–09, HL Paper 167)

Government and Commission Responses Session 2007–08; Remaining Government Responses Session 2006–07 (24th Report, Session 2008–09, HL Paper 168)

The Stockholm Programme: home affairs (25th Report, Session 2008–09, HL Paper 175)

Asylum Directives: scrutiny of the opt-in decisions (1st Report, Session 2009–10, HL Paper 6)

Correspondence with Ministers November 2007 to April 2008 (2nd Report, Session 2009–10, HL Paper 29)

Directive on Alternative Investment Fund Managers (3rd Report, Session 2009–10, HL Paper 48)

Impact Assessments in the EU: room for improvement? (4th Report, Session 2009–10, HL Paper 61)

Protecting Europe against large-scale cyber-attacks (5th Report, Session 2009–10, HL Paper 68)

The EU's Regulation on Succession (6th Report, Session 2009–10, HL Paper 75)

Stars and Dragons: the EU and China (7th Report, Session 2009–10, HL Paper 76)

Adapting to climate change: EU agriculture and forestry (8th Report, Session 2009–10, HL Paper 91)

Making it work: the European Social Fund (9th Report, Session 2009–10, HL Paper 92)

The future regulation of derivatives markets: is the EU on the right track? (10th Report, Session 2009–10, HL Paper 93)

Government and Commission Responses Session 2008–09 (11th Report, Session 2009–10, HL Paper 102)

Combating Somali Piracy: the EU's Naval Operation Atalanta (12th Report, Session 2009–10, HL Paper 103)

Subsidiarity assessment: admission of third-country nationals as seasonal workers (1st Report, Session 2010–11, HL Paper 35)

Subsidiarity assessment: distribution of food products to deprived persons (2nd Report, Session 2010–11, HL Paper 44)

APPENDIX 4: ONE-OFF HEARINGS

| Committee | Witness | Subject | Date | Publication |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|----------|-------------|
| Select | Chris Bryant MP, Minister for Europe; Paul Williams, Head of Europe Global Group; and Ivan Smyth, Legal Adviser, Foreign and Commonwealth Office | December European Council meeting | 12/01/10 | Online only |
| Select | Chris Bryant MP, Minister for Europe, FCO | European External Action Service | 06/04/10 | Online only |
| Select | HE Mr Carles Casajuana, Spanish Ambassador | Priorities of the Spanish Presidency | 19/01/10 | Online only |
| Select | Franciskus van Daele, Head of Cabinet, and Richard Corbett, member of Cabinet of the President of the European Council | Policies and priorities of the President of the European Council, Herman van Rompuy | 06/07/10 | Online only |
| Select | David Lidington MP, Minister for Europe, and Andrew Dalglish, Head of Europe Strategy Group | June European Council meeting | 06/07/10 | Online only |
| Select | H.E. Ambassador Johan Verbeke, Mrs. Marie-France André, Minister-Counsellor, Mr. Serge Dickschen, First Secretary, and Mr. Pascal Grégoire, First Secretary | Priorities of the Belgian Presidency of the EU | 20/07/10 | Online only |

| | | | | |
|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------|-------------|
| Sub-Committee on Economic and Financial Affairs, and International Trade (Sub-Committee A) | Lord Myners, Financial Services Secretary, HM Treasury | Reform of financial supervision | 10/11/2009 | Online only |
| Sub-Committee A | Justine Greening MP, Economic Secretary, HM Treasury | EU Budget 2011 | 06/07/2010 | Online only |
| Sub-Committee on Internal Market, Energy and Transport (Sub-Committee B) | Lord Hunt of Kings Heath, Minister of State, Mr Tim Abraham, Director, European Energy, and Ms Gill Campbell, Assistant Director, European Energy Security, Department of Energy and Climate Change | Security of gas supply | 30/11/2009 | Online only |
| Sub-Committee B | Jonathan Moor, Francis Morgan and Phil Dykins, Department for Transport officials | EU-US Aviation Agreement | 08/02/2010 | Online only |
| Sub-Committee B | Ian Pearson MP, Economic Secretary, HM Treasury | Europe 2020 | 22/02/2010 | Online only |
| Sub-Committee B | Jonathan Moor, Francis Morgan, David Best and Andrew Ashbourne, Department for Transport officials | EU response to the eruption of Mount Eyjafjallajokull | 26/07/2010 | Online only |
| Sub-Committee on Foreign Affairs, Defence and Development Policy (Sub-Committee C) | Baroness Taylor of Bolton, Minister for International Defence and Security, MoD | EU defence related issues | 26/11/2009 | Online only |

| | | | | |
|---------------------------------------------------------------------------|---------------------------------------------------------------------|-------------------------------------------|------------|---------------------------------------------------------------------------------------------------------------------------------|
| Sub-Committee C | Chris Bryant MP, Minister for Europe, FCO | European External Action Service | 25/03/2010 | Online only |
| Sub-Committee C | David Lidington MP, Minister for Europe, FCO | European External Action Service | 07/07/2010 | Online only |
| Sub-Committee on Agriculture, Fisheries and Environment (Sub-Committee D) | Dr Gerben Janse, Swedish Forestry Agency | Commission's Forestry Green Paper | 07/07/2010 | Online only |
| Sub-Committee D | Professor Sir David Read, University of Sheffield | Commission's Forestry Green Paper | 14/07/2010 | Online only |
| Sub-Committee D | Mike Dudley, Forestry Commission | Commission's Forestry Green Paper | 14/07/2010 | Online only |
| Sub-Committee on Home Affairs (Sub-Committee F) | Meg Hillier MP, Parliamentary Under-Secretary of State, Home Office | Stockholm Programme: home affairs aspects | 17/03/2010 | European Union Select Committee, 25 th report (2008–09): <i>The Stockholm Programme: home affairs</i> (HL Paper 175) |

APPENDIX 5: INTERPARLIAMENTARY MEETINGS

| Date | Event | Location | Delegation |
|-------------------|------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/11/09–09/11/09 | Defence Committee Chairs (CODCC) | Stockholm | Lord Teverson |
| 16/11/09–17/11/09 | Joint Parliamentary Meeting: <i>The Stockholm Programme</i> | Brussels | Lord Bowness Lord Maclennan of Rogart Lord Harrison |
| 03/12/09 | Tripartite meeting of Lords, MPs and MEPs | House of Lords | Lord Roper Lord Bowness Baroness Cohen of Pimlico Lord Dykes Lord Freeman Lord Jopling Lord Paul Lord Richard Lord Sewel Lord Teverson Lord Trimble |
| 18/01/10 | EC-UK | House of Lords | Lord Roper |
| 26/01/10 | Combating late payment | Brussels | Lord Bowness |
| 04/02/10–05/02/10 | COSAC Chairs | Madrid | Lord Roper |
| 24/02/10–26/02/10 | Foreign Affairs Committee Chairs (COFACC) | Madrid | Lord Teverson |
| 16/03/10–17/03/10 | Post crisis strategy for jobs and growth/modernising the “global financial architecture” | Brussels | Baroness Cohen of Pimlico |

| | | | |
|-------------------|---------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------------------------|
| 30/05/10–01/06/10 | COSAC | Madrid | Lord Roper |
| 02/06/10 | External Action Service | Brussels | Lord Roper |
| 07/06/10–08/06/10 | Joint Parliamentary Meeting: <i>Towards a European Energy Community for the 21st Century</i> | Brussels | Lord Roper |
| 04/07/10–05/07/10 | COSAC Chairs | Brussels | Lord Roper |
| 15/09/10–16/09/10 | High-level conference EU-Africa, convened by Belgian Parliament | Brussels | Lord Teverson |
| 20/09/10–21/09/10 | Finance Committee Chairs | Brussels | Lord Harrison |
| 28/09/10 | Foreign Affairs (AFET) Committee meeting on scrutiny of Common Security and Defence Policy | Brussels | Lord Roper |
| 30/09/10 | Constitutional Affairs (AFCO) Committee meeting on transnational lists for elections and citizens initiatives | Brussels | Lord Bowness |
| 03/10/10–04/10/10 | Environment Committee Chairs | Brussels | Lord Carter of Coles |
| 04/10/10–05/10/10 | LIBE Committee meeting on scrutiny of Europol and Eurojust | Brussels | Lord Bowness |
| 12/10/10 | Meeting with Foreign Affairs Committee of Finnish Parliament | House of Lords | Lord Teverson |
| 18/10/10–19/10/10 | Foreign Affairs Committee Chairs (COFACC) | Brussels | Lord Teverson |
| 24/10/10–26/10/10 | COSAC | Brussels | Lord Roper Baroness O’Cathain Lord Carter of Coles |
| 26/10/10 | Recognition of professional qualifications (Internal Market Committee) | Brussels | Baroness Young of Hornsey Baroness O’Cathain |
| 27/10/10 | Interparliamentary meeting on Contract Law | Brussels | Lord Bowness |

APPENDIX 6: SCRUTINY OVERRIDES

| Document | Title | Date of EM | Date of override | Department |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|------------------|------------|
| 13706/09 | Council Regulation on the Community Patent | 19/11/09 | 04/12/09 | BIS |
| 11907/09 | Council Regulation amending Regulation (EC) No. 43/2009, as regards fishing opportunities and associated conditions for certain fish stocks | 31/07/09 | 27/07/09 | DEFRA |
| 11895/09 | Council Regulation excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) No. 1342/2008 | 03/08/09 | 27/07/09 | DEFRA |
| 12933/09 | Recommendation from the Commission to the Council authorising the Commission to open negotiations on behalf of the Community with a view to concluding a Fisheries Partnership Agreement with the Solomon Islands | 23/09/09 | 22/09/09 | DEFRA |
| 13262/09 | Council decision on the establishment of the Community position to be adopted in the Commission for the Conservation of Southern Bluefin Tuna | 23/09/09 | 22/09/09 | DEFRA |
| 13325/09 | Council Decision on the establishment of the Community position to be adopted in the South East Atlantic Fisheries Organisation | 29/09/09 | 02/10/09 | DEFRA |
| 12882/09 | Council Regulation fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2010 | 28/09/09 | 19/10/09 | DEFRA |
| 12108/08 | Regulation of the EP and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) | 27/08/08 01/05/09 SEM | 26/10/09 | DEFRA |
| 13266/09 | Council Regulation opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2010 to 2012 | 12/10/09 | 26/10/09 | DEFRA |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| 13542/09 | Council Decision on the establishment of the Community position to be adopted in the North East Atlantic Fisheries Commission | 08/10/09 | 26/10/09 | DEFRA |
| 14291/09 | Council Decision establishing the position to be adopted on behalf of the EC with regard to the proposal for the adoption of Regional action plans in the framework of the implementation of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities | 20/10/09 | 26/10/09 | DEFRA |
| 14729/09 | Council Decision on the signing, on behalf of the EC, of the Agreement on Port State measures to prevent, deter and eliminate Illegal, Unreported and Unregulated fishing (IUU fishing) | 11/11/09 | 20/11/09 | DEFRA |
| 15086/09 | Council Regulation fixing for the 2010 fishing year the guide prices and Community producer prices for certain fishery products pursuant to Regulation (EC) No. 104/2000 | 26/11/09 | 30/11/09 | DEFRA |
| 16810/09 | Council Decision repealing Council Decision No. 2009/473/EC concerning the conclusion of an Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the EC and the Republic of Guinea | 17/12/09 | 22/12/09 | DEFRA |
| 15375/09 | Council Decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MIR604 (SYN-IR604-5) pursuant to Regulation (EC) No. 1829/2003 of the European Parliament and of the Council | 11/11/09 | 20/11/09 | DH (FSA) |
| Unnumbered EM | Common Position 2009/573/CFSP amending Common Position 2006/795/CFSP concerning restrictive measures against the Democratic People's Republic of Korea | 14/09/09 | 27/07/09 | FCO |
| Unnumbered EM | Council Joint Action amending Joint Action 2009/137/CFSP extending the mandate of the European Union Special Representative in Kosovo | 07/08/09 | 07/08/09 | FCO |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| Unnumbered EM | Council Common Position increasing restrictive measures in respect of Burma | 12/08/09 | 13/08/09 | FCO |
| Unnumbered EM | Council Joint Action replacing Joint Action 2007/406/CFSP on the Security Sector Reform Mission in the Democratic Republic of Congo | 14/09/09 | 15/09/09 | FCO |
| Unnumbered EM | Council Joint Action extending the mandate of the European Union's Special Representative in the former Yugoslav Republic of Macedonia (FYROM) | 27/08/09 | 15/09/09 | FCO |
| Unnumbered EM | Council Joint Action amending Joint Action 2007/405/CFSP on the EU Police Mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of Congo (EUPOL RD Congo) | 13/10/09 | 19/09/09 | FCO |
| 12744/09 | Council Decision extending the period of application of the measures in Decision 2007/641/EC concluding consultations with the Republic of Fiji Islands under Article 96 of the ACP-EC Partnership Agreement and Article 37 of the Development Cooperation Instrument | 23/09/09 | 24/09/09 | FCO |
| Unnumbered EM | Council Common Position 2009/788/CFSP concerning restrictive measures against the Republic of Guinea | 19/11/09 | 27/10/09 | FCO |
| 15227/09 | Council Decision concerning the conclusion of the Agreement between the Government of the Russian Federation and the EU on the protection of classified information | 12/11/09 | 16/11/09 | FCO |
| 11802/09 | Council Decision amending Council Decision of 20 January 2009 providing Community medium term financial assistance for Latvia | 23/07/09 | 10/07/09 | HMT |
| Unnumbered EM | Draft Council Decision on the signing on behalf of the EU on Agreement between the EU and the USA on the processing and transfer of Financial Messaging Data from the EU to the US for purposes of the Terrorist Finance Tracking Programme (SWIFT Agreement) | 19/11/09 | 30/11/09 | HMT |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------------|-------------------|
| 15427/09 | Proposal for a Council Decision providing macro-financial assistance to Bosnia-Herzegovina | 24/11/09 | 30/11/09 | HMT |
| 13648/09 | Regulation of the EP and the Council on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Board | 15/10/09 | 02/12/09 | HMT |
| 13645/09 | Council Decision entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board | 15/10/09 | 02/12/09 | HMT |
| 13652/09 | Regulation of the EP and the Council establishing a European Banking Authority | 15/10/09 | 02/12/09 | HMT |
| 13653/09 | Regulation of the EP and of the Council establishing a European Insurance and Occupational Pensions Authority | 15/10/09 | 02/12/09 | HMT |
| 13654/09 | Regulation of the EP and of the Council establishing a European Securities and Markets Authority | 15/10/09 | 02/12/09 | HMT |
| 9981/10 | Communication from the Commission to the EP, the Council, the European Economic and Social Committee and the Committee of the Regions—A Digital Agenda for Europe | 22/06/10 | 31/05/10 | BIS |
| 14989/09 | Regulation of the EP and of the Council laying down harmonised conditions for the marketing of the construction products | 09/11/09 | 25/05/10 | DCLG |
| 8519/10 | Council Decision on the European Capital of Culture event for the year 2014 | By agreement, no EM submitted. | 10/05/10 | DCMS |
| 9553/10 | Commission Recommendation authorizing the Commission to open negotiations on behalf of the European Union for the renewal of the protocol to the Fisheries Partnership Agreement with The Seychelles | 25/05/10 | 31/05/10 | DEFRA |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| 8658/10 | Council Decision on the signature, on behalf of the European Union, of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean | 27/05/10 | 09/06/10 | DEFRA |
| 7776/10 | Council Decision on the signature and provisional application of a Geneva Agreement on Trade in Bananas between the European Union and Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Venezuela | 31/03/10 | 10/05/10 | DFID |
| 8281/10 | Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the EU Role in Global Health | 23/06/10 | 10/05/10 | DFID |
| 8246/10 | Communication from the Commission to the Council and the European Parliament on an EU policy framework to assist developing countries in addressing food security challenges | 09/06/10 | 10/05/10 | DFID |
| 8250/10 | Communication from the Commission to the Council and the EP on Humanitarian Food Assistance | 02/06/10 | 10/05/10 | DFID |
| 9255/10 | Council Decision on the signature, on behalf of the EU, of the Agreement amending, for the second time, the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005 | 07/06/10 | 14/06/10 | DFID |
| 10383/10 | Council Decision on the position to be adopted by the European Union within the ACP-EC Council of Ministers concerning the transitional measures applicable from the date of signing to the date of entry into force of the Agreement amending for the second time the Partnership Agreement between the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as first revised in Luxembourg on 25 June 2005 | 11/06/10 | 14/06/10 | DFID |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| 8910/10 | Communication from the Commission to the EP, Council, the European Economic and Social Committee, and the Committee of the Regions—A twelve-point EU action plan in support of the Millennium Development Goals | 07/06/10 | 14/06/10 | DFID |
| 9296/10 | Decision of the Council and the representatives of the Governments of the Member States of the EU, meeting within the Council on the signature and provisional application of the Protocol to Amend the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part | 22/06/10 | 24/06/10 | DFT |
| 9233/10 | Proposal for a Council Decision on Guidelines for the Employment Policies of the Member States—Part II of the Europe 2020 Integrated Guidelines | 03/06/10 | 17/06/10 | DWP |
| Unnumbered EM | Council Decision extending restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova | 15/02/10 | 22/02/10 | FCO |
| Unnumbered EM | Council Decision appointing the European Union Special Representative for Afghanistan | 22/03/10 | 22/03/10 | FCO |
| 8463/10 | Council Decision on the release to international organisations and other third parties of EU classified information and documents generated for the purposes of EU missions established by the Council | 06/07/10 | 26/04/10 | FCO |
| 7459/10 | Council Decision adjusting the allowances provided for in Decision 2003/479/EC and Decision 2007/829/EC concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council | 15/07/10 | 26/04/10 | FCO |
| Unnumbered EM | Council Decision renewing restrictive measures against Burma/Myanmar | 02/06/10 | 26/04/10 | FCO |
| Unnumbered EM | Council Decision concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP | 02/06/10 | 26/04/10 | FCO |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| Unnumbered EM | Council Regulation imposing certain specific restrictive measures directed against certain natural and legal persons, entities and bodies in view of the situation in Somalia | 02/06/10 | 26/04/10 | FCO |
| 7701/10 | Proposal for a Council decision on the position to be adopted by the European Union within the ACP-EC Council of Ministers concerning the accession of the Republic of South Africa to the revised ACP-EC Partnership Agreement | 07/04/10 | 26/04/10 | FCO |
| Unnumbered EM | Council Decision 2010/274/CFSP of 12 May 2010 amending and extending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EUBAM Rafah) | 28/06/10 | 12/05/10 | FCO |
| Unnumbered EM | Council Decision on the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) | 17/05/10 | 17/05/10 | FCO |
| Unnumbered EM | Council Decision amending and extending Joint Action 2008/112/CFSP on the European Union mission in support of security sector reform in the Republic of Guinea Bissau (EU SSR GUINEA BISSAU) | 21/05/10 | 25/05/10 | FCO |
| 9513/10 | Council concerning the signing and conclusion of an Agreement between the Principality of Liechtenstein and the European Union on security procedures for exchanging classified information | 03/06/10 | 03/06/10 | FCO |
| 8824/10 | Council Regulation (EU) amending Regulation (EC) No 234/2004 concerning certain restrictive measures in respect of Liberia | 27/05/10 | 07/06/10 | FCO |
| 9014/10 | Council Decision concerning the conclusion of consultations with the Republic of Madagascar under Article 96 of the ACP-EC Partnership Agreement | 24/05/10 | 07/06/10 | FCO |
| Unnumbered EM | Council Decision amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO | 02/06/10 | 08/06/10 | FCO |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| Unnumbered EM | Council Decision amending and extending Joint Action 2007/405/CFSP on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo | 10/06/10 | 11/06/10 | FCO |
| Unnumbered EM | Council Decision on the EU Integrated Rule of Law mission for Iraq, EUJUST LEX—IRAQ | 11/06/10 | 14/06/10 | FCO |
| Unnumbered EM | Council Decision concerning the signing and conclusion of the Agreement between the European Union and the Islamic Republic of Afghanistan on the Status of the European Union Police Mission in Afghanistan (EUPOL Afghanistan) | 08/06/10 | 14/06/10 | FCO |
| Unnumbered EM | Council Decision concerning the signing and conclusion of the Agreement between Montenegro and the European Union on security procedures for exchanging and protecting classified information | 08/06/10 | 14/06/10 | FCO |
| 9796/10 | Council Regulation amending Regulation (EC) No. 2488/2000 maintaining a freeze of funds in relation to Mr Milosevic and those persons associated with him | 21/06/10 | 24/06/10 | FCO |
| 9832/10 | Council Regulation (EU) amending Regulation (EC) No. 1412/2006 concerning certain restrictive measures in respect of Lebanon | 21/06/10 | 24/06/10 | FCO |
| 9581/10 | Council Regulation (EU) No. .../2010 amending Regulation (EC) No. 1763/2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) | 21/06/10 | 24/06/10 | FCO |
| 10500/10 | Proposal for a Council Decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122x1507xNK603 (DAS-59122-7xDAS-O15O7xMON-OO6O3-6) | 23/06/10 | 29/06/10 | DH (FSA) |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| 10505/10 | Council Decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize Bt11xGA21 (SYN-BTO11-1xMON-00021-9) | 23/06/10 | 29/06/10 | DH (FSA) |
| 10503/10 | Council Decision renewing the authorisation for continued marketing of products containing, consisting of, or produced from genetically modified maize Bt11 (SYN-BTO11-1), authorising foods and food ingredients containing or consisting of field maize Bt11 (SYN-BTO11-1) | 23/06/10 | 29/06/10 | DH (FSA) |
| 10502/10 | Council Decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON89034xNK603 (MON-89O34-3xMON-006O3-6) | 23/06/10 | 29/06/10 | DH (FSA) |
| 10501/10 | Proposal for a Council Decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 88017 x MON 810 (MON-88O17-3 x MON-0081O-6) | 23/06/10 | 29/06/10 | DH (FSA) |
| 10499/10 | Proposal for a Council Decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507x59122 (DAS-O15O7-1xDAS-59122-7) | 23/06/10 | 29/06/10 | DH (FSA) |
| 17702/09 | Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Programme | 09/02/10 | 09/02/10 | HMT |
| 6243/10 | Proposal for a Council Decision amending Decision 2009/459/EC of 6 May 2009 providing financial assistance to Romania | 24/02/10 | 16/02/10 | HMT |
| 6244/10 | Council Decision amending Decision 2009/459/EC of 6 May 2009 providing Community medium-term financial assistance for Romania | 24/02/10 | 16/02/10 | HMT |

| Document | Title | Date of EM | Date of override | Department |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|-------------------|
| 5985/09 | Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing | 16/02/10 | 16/03/10 | HMT |
| 9606/10 | Council Regulation establishing a European financial stabilisation mechanism | 15/07/10 | 09/05/10 | HMT |
| 12886/09 | Council Regulation on administrative cooperation and combating fraud in the field of value added tax (Recast) | 29/09/09 | 08/06/10 | HMT |
| 9231/10 | Council Recommendation on broad guidelines for the economic policies of the Member States and of the Union—Part I of the Europe 2020 Integrated Guidelines | 09/06/10 | 17/06/10 | HMT |
| 7110/10 | Communication from the Commission—Europe 2020—A strategy for smart, sustainable and inclusive growth | 15/03/10 | 17/06/10 | HMT |
| 11173/10 | Council Decision on the signature of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program | 24/06/10 | 25/06/10 | HMT |
| 16801/09 | Initiative for a Directive of the EP and of the Council on the rights to interpretation and to translation in criminal proceedings. ADD 1 As Above—Explanatory Memorandum ADD 2 As Above—Detailed statement in accordance with Article 5 | 30/12/09 | 04/06/10 | MOJ |
| 8143/10 | Proposal for a Council Decision No. .../2010/EU authorising enhanced cooperation in the area of law applicable to divorce and legal separation | 25/05/10 | 04/06/10 | MOJ |
| 8176/10 | Council Regulation (EU) implementing enhanced cooperation in the area of the law applicable to divorce and legal separation | 25/05/10 | 04/06/10 | MOJ |

APPENDIX 7: AGREED CONDITIONS FOR SUPPLY OF LIMITE DOCUMENTS

Limité documents

The Government accepted a recommendation from the House of Lords European Union Committee in their report on “Codecision and national parliamentary scrutiny”, 17th report, 08–09, that the Committee should be able to see EU documents carrying a limité distribution marking. The House of Commons European Scrutiny Committee had also pressed the Government for sight of these documents. Agreement by the Government to provide these texts was signalled in the debate on the European Union Committee’s report which was held on 28 January 2010 and formally confirmed in a letter to the Chairmen of both scrutiny committees from Chris Bryant MP, Minister for Europe dated 23 March 2010. Both Committees welcome the government’s initiative, while reserving a final view on the new arrangements until there is experience of the way they work in practice. The following paragraphs provide background, context and the handling arrangements for sharing these documents with the Committees.

What does Limité mean?

Limité is not a security classification level, but a distribution marking. The Council Secretariat guidance on handling limité documents with a limité marking says that documents marked in this way may be given to any member of a national administration of a member state and the Commission. Limité documents may not, however, be given to any other person, the media, or the general public without specific authorisation, nor may they be published in any way which makes them accessible in the public domain.

Advice on handling

Documents are marked limité in three main types of cases: when they contain a reference to a legal opinion; when they contain specific views expressed by Member States; or when they contain drafting proposals which are of a provisional nature, which are evolving. It is for a Member State to decide whether to share limité documents with their national Parliaments. However, they must remain limité and must not be used by the Parliamentary Committees in any way which discloses the detail of the document.

Sharing limité documents with the Scrutiny Committees.

Many documents on the development of negotiations of a proposal will have a limité marking, particularly those proposals under the ordinary legislative procedure (formerly codecision) including for example the trilogue texts which set out the positions of the Council, Commission and the European Parliament, when trying to reach a compromise on changes to agree legislation. Releasing such texts will be a feature of the way in which the Government has undertaken to keep the Committees better informed of the passage of proposals through this procedure, either at the points in the process where the Government has undertaken to update the Committees or on those occasions when the Government has received a specific request for further information, or in other cases where the lead Department judges it appropriate. See section 3.5. for further details of the stages of the procedure where limité documents may help in updating the Committees on developments.

Summary of the conditions attached to the sharing of these texts

- (i) Limité documents can be shared with the scrutiny committees and are made available on the Government's authority
- (ii) They cannot be deposited and subject to an explanatory memorandum as this makes their content public
- (iii) The Committees cannot publish or comment directly on any limité document shared with the Committees in a way that puts the detail into the public domain but they will use the information to inform their overall scrutiny of a proposal
- (iv) It is for each department to ensure that this handling caveat is clear in any correspondence with the Committee when using a limité text to inform the committees of developments. The following short statement is an example of standard text that can be used when sending a limité text to the Committees: "The attached document [add description] is being provided to the Committee under the Government's authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limité marking. It cannot be published, nor can it be reported on in any way which would bring detail contained in the document into the public domain."
- (v) These principles apply equally whether sending limité documents to the clerks at official level or to the Committees formally.