



HOUSE OF LORDS

European Union Committee

1st Report of Session 2017–19

Report on 2016–17

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The European Union Committee

The European Union Committee is appointed each session “to scrutinise documents deposited in the House by a Minister, and other matters relating to the European Union”.

In practice this means that the Select Committee, along with its Sub-Committees, scrutinises the UK Government’s policies and actions in respect of the EU; considers and seeks to influence the development of policies and draft laws proposed by the EU institutions; and more generally represents the House of Lords in its dealings with the EU institutions and other Member States.

The six Sub-Committees are as follows:

Energy and Environment Sub-Committee
External Affairs Sub-Committee
Financial Affairs Sub-Committee
Home Affairs Sub-Committee
Internal Market Sub-Committee
Justice Sub-Committee

Membership

The Members of the European Union Select Committee are:

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<u>Lord Boswell of Aynho (Chairman)</u>	<u>Baroness Kennedy of The Shaws</u>	<u>Baroness Verma</u>
<u>Baroness Brown of Cambridge</u>	<u>The Earl of Kinnoull</u>	<u>Lord Whitty</u>
<u>Baroness Browning</u>	<u>Lord Liddle</u>	<u>Baroness Wilcox</u>
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<u>Lord Cromwell</u>	<u>Lord Selkirk of Douglas</u>	
<u>Baroness Falkner of Margravine</u>	<u>Baroness Suttie</u>	

Further information

Publications, press notices, details of membership, forthcoming meetings and other information is available at <http://www.parliament.uk/hleu>.

General information about the House of Lords and its Committees is available at <http://www.parliament.uk/business/lords>.

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You can follow the Committee on Twitter: [@LordsEUCom](https://twitter.com/LordsEUCom).

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SUMMARY

The European Union Committee of the House of Lords scrutinises the UK Government's policies and actions in respect of the EU; considers and seeks to influence the development of policies and draft laws proposed by the EU institutions; and represents the House of Lords in its dealings with the EU institutions and other Member States.

Following the 23 June 2016 referendum, the focus of the Committee's work has shifted to scrutinising the implications of Brexit. During the 2016–17 Session, this has included:

- Publication of 15 reports on the implications of Brexit across a wide range of policy fields, including trade, financial services, UK-Irish relations, the impact on Gibraltar and on the Crown Dependencies, the Brexit financial settlement and the UK's contribution to the EU budget, agriculture, fisheries, environment and climate change, UK-EU movement of people, the acquired rights of EU citizens, security and police cooperation, and civil justice.
- Two reports setting out the principles which we believe should underpin parliamentary scrutiny of the Brexit negotiations.
- Hearing evidence from 312 witnesses and receiving 351 written submissions.
- An unprecedented intensity of interparliamentary dialogue with our colleagues in the devolved legislatures, in the European Parliament, and in other national parliaments, with 14 interparliamentary meetings on the implications of Brexit alone.
- An unprecedented level of media and social media coverage of and interest in the Committee's work, with an over four-fold increase in media articles, and a doubling of the Committee's Twitter following.

The Committee has also continued to fulfil its scrutiny responsibilities, and has examined 140 EU documents and legislative proposals in detail, as well as publishing reports on unaccompanied migrant children in the EU and the legality of EU sanctions.

The Committee has an important role to play in scrutinising the ongoing Brexit negotiations. Achieving a successful outcome is vital to the United Kingdom's long-term prosperity and its future place in the world. We believe that this will be made more likely if Parliament is an active contributor to the process, and we therefore continue to seek to cast light upon the negotiations, questioning and holding the Government to account throughout.

Report on 2016–17

CHAPTER 1: INTRODUCTION

1. This report describes the work undertaken by the European Union (EU) Committee and its Sub-Committees over the 2016–17 Session. Since the 23 June 2016 referendum on whether the UK should remain in or leave the EU, the Committee has sought to examine the implications of Brexit across a wide range of policy areas, publishing 17 Brexit-related reports, all agreed unanimously, which taken as a whole amount to the one of the most wide-ranging and detailed analyses of Brexit yet to appear. We summarise this work in Chapter 2.
2. While Brexit has dominated the Committee’s workload, we have also continued to fulfil our responsibilities to consider European Union documents and other matters relating to the European Union. During the 2016–17 Session, we scrutinised 140 EU legislative proposals and documents, and conducted inquiries on unaccompanied migrant children in the EU and the legality of EU sanctions. We reflect on this work in Chapter 3.
3. Our Brexit reports, in particular, have influenced the public policy debate, in Government and in Parliament, and have attracted an unprecedented level of interest and media coverage. They have been accompanied by an enhanced level of interparliamentary dialogue with colleagues in the devolved legislatures, the European Parliament and other national parliaments. We summarise the impact of our work in Chapter 4.
4. The EU Committee, which dates back to 1974, is, with its Sub-Committees, the largest Committee in either House, involving 73 Members and 24 staff. We have published an Annual Report each session since 2003 to explain how we use those valuable resources, underlining our continuing accountability to the House, and, through the House, to the public.
5. We are convinced that Select Committees of both Houses have an important part to play in scrutinising the ongoing Brexit negotiations. In the final chapter of this report we outline how we propose in coming months to approach this task.
6. In the longer term, there will need to be a debate on whether and how the House of Lords should scrutinise the future relationship between the UK and the EU. We look forward to contributing to that debate.

The European Union Committee

7. The Committee’s terms of reference, along with the underpinning Scrutiny Reserve Resolution, can be found at Appendix 3. The Committee seeks to inform the House of Lords, to hold the Government to account, to influence the European institutions, and to engage with stakeholders. Committee staff promote these objectives by means of the Committee’s website (<http://www.parliament.uk/hleu>) and its Twitter account ([@LordsEUCom](https://twitter.com/LordsEUCom)). The House of Lords Press Office provides support in media relations.
8. Finally, the House of Lords is represented in Brussels by a National Parliament Representative, who forms part of the UK’s National Parliament Office,

based in the European Parliament in Brussels. The National Parliament Representative's job is twofold: informing this Committee of the activities of the European and other national parliaments, as well as the other EU institutions; and informing our European colleagues of the work being undertaken by the Committee and the House. This includes distributing our substantive reports and liaising with other national parliaments' officials about subsidiarity issues.

9. **We make this report to the House for information.**

CHAPTER 2: SCRUTINY OF BREXIT

Introduction

10. Brexit dominated the European Union Committee’s work programme in 2016–17. In the run-up to the 23 June 2016 referendum we published a report assessing the Cameron Government’s proposals for EU reform, and reviewing the ‘new deal for the UK’ agreed by the European Council in February of that year.¹ Seven weeks before the referendum we also published a report analysing the process whereby the UK would, in the event of a ‘leave’ vote, withdraw from the EU.² Following the vote to leave, that hypothetical scenario became a reality.
11. Our terms of reference require us to consider “matters relating to the European Union”, and we therefore concluded, in the wake of the referendum result, that we would best contribute to public debate, and to effective scrutiny of the Government’s implementation of the electorate’s decision, by devising an entirely new programme of cross-cutting inquiries, addressing the key themes that we expect to arise in the Brexit negotiations. In so doing we sought to build on the unique structure of the EU Committee, its six sectoral sub-committees, its 73 Members, and its large and expert staff.
12. We published an outline of our proposed work programme in our first report of the session, published on 22 July, just a month after the referendum.³ In that report we listed 29 “key themes”, and stated our ambition to produce a series of focused reports on these themes. In this chapter we reflect on the delivery of that work programme, and on the key lessons learned.

Brexit reports

Overview

13. In total we published 17 Brexit-related reports in the 2016–17 Session, including two reports on the principles underpinning parliamentary scrutiny, and 15 thematic reports. Our work was cut short by the Prime Minister’s decision to call a general election for 8 June 2017, and the dissolution of Parliament on 3 May 2017, at which point a further eight inquiries, at various stages of planning or in some cases nearing completion, were paused.
14. Taken as a whole, our work, despite the interruption of the general election, represents arguably the most wide-ranging and detailed analysis of Brexit yet published. Our 15 thematic reports covered the following themes:
 - The main options for future trade with the EU
 - Trade in goods
 - Trade in non-financial services
 - Financial services
 - The Brexit financial settlement and UK contributions to the EU budget

1 European Union Committee, *The EU referendum and EU reform* (9th Report, Session 2015–16, HL Paper 122)

2 European Union Committee, *The process of withdrawing from the European Union*, (11th Report, Session 2015–16, HL Paper 138)

3 European Union Committee, *Scrutinising Brexit: the role of Parliament* (1st Report, Session 2016–17, HL Paper 33)

- UK-Irish relations
 - Gibraltar
 - The Crown Dependencies
 - Fisheries
 - Agriculture
 - Environment and climate change
 - The ‘acquired rights’ of UK and EU citizens
 - Civil justice cooperation
 - Police and security cooperation
 - UK-EU movement of people.
15. Inquiries on the following Brexit-related themes were paused when Parliament was dissolved, and will be resumed in the new Parliament:
- The impact of Brexit upon devolution
 - Financial regulation
 - Farm animal welfare
 - Competition and state aid
 - The European Arrest Warrant and jurisdiction of the Court of Justice of the European Union
 - Data protection
 - Sanctions policy
 - Consumer rights.

We also expect to launch other Brexit-related inquiries early in the new Parliament, as well as following up the findings of reports that have already been published.

Brexit: parliamentary scrutiny

16. Our first two reports focused on parliamentary scrutiny of Brexit.⁴ We sought to set out the key stages of Brexit, identifying at each stage the opportunities for parliamentary engagement, and the challenges Parliament would face. We focused on the negotiations between the UK and the EU, recognising that committee scrutiny of the negotiations, while drawing on long traditions of scrutiny across both Houses, would break new ground. We sought to find a middle ground between parliamentary ‘micro-management’ of the negotiations on the one hand, and a purely retrospective role, limited to establishing accountability after the fact, on the other:

⁴ European Union Committee, *Scrutinising Brexit: the role of Parliament* (1st Report, Session 2016–17, HL Paper 33) and *Brexit: parliamentary scrutiny* (4th Report, Session 2016–17, HL Paper 50)

“Within this middle ground, Parliament, while respecting the Government’s need to retain room for manoeuvre, should be able both to monitor the Government’s conduct of the negotiations, and to comment on the substance of the Government’s negotiating objectives as they develop. Only if these principles are accepted will Parliament be able to play a constructive part in helping the Government to secure the best outcome for the United Kingdom. Such scrutiny will also contribute to a greater sense of parliamentary ownership of the process, strengthening the Government’s negotiating position and increasing the likelihood that the final agreement will enjoy parliamentary and public support.”⁵

17. We reached that conclusion in October 2016 and, notwithstanding the many subsequent parliamentary debates, the decision of the Supreme Court in the *Miller* case that parliamentary approval for the triggering of Article 50 was required, and the passage of the European Union (Notification of Withdrawal) Act 2017, we stand by it. It is disappointing that the Government, despite warm words about providing Parliament at least the same amount of information on the negotiations as the European Parliament receives from the Commission, and despite its concessions during the passage of the Article 50 Bill, has failed to bring forward proposals to ensure effective parliamentary scrutiny of the negotiations. In its response to our report, which appeared in January, the Government said that “in due course, the Government expects to be able to set out how it will enable information flows to work in practice”.⁶ No further announcement has been made. The cancellation of our scheduled meeting with the Secretary of State on 22 March (because of the terrorist attack in Westminster that day) meant we were unable to ask questions on this issue before the end of the last Parliament, and thanks to pre-election purdah restrictions we have yet to receive a response to a follow-up letter sent to seek further information on the Government’s plans.

18. Nor does the Government appear yet to have taken account of the position of the EU side, initially set out in comments by the Commission’s chief negotiator, Michel Barnier, and formally confirmed by the General Affairs Council (GAC) on 22 May 2017, that it will conduct the negotiations as transparently as possible.⁷ Not only have the GAC and the Commission made a commitment to keep the European Parliament “closely and regularly informed throughout the negotiations”, including through the transmission of documents and regular meetings, but they have explicitly authorised the transmission of documents to national parliaments of the EU-27. This could include documents originating from the UK—raising the possibility that even if the Government refuses to share documents relevant to the negotiations with Parliament, those same documents will emerge, in uncontrolled and unpredictable ways, from Brussels. Information will be a powerful tool, even a weapon, in the coming months. If the Government is to retain any control over that information it will need at least to match the level of transparency achieved by the EU.

5 European Union Committee, *Brexit: parliamentary scrutiny* (4th Report, Session 2016–17, HL Paper 50), para 19

6 Letter from Rt Hon David Davis MP, Secretary of State for Exiting the European Union to Lord Boswell of Aynho regarding European Union Committee Brexit: parliamentary scrutiny report, dated 20 December 2016: <http://www.parliament.uk/documents/lords-committees/eu-select/Government-response-brexit-parly-scrutiny.pdf>

7 Council of the European Union, ‘Guiding principles for transparency in negotiations under Article 50 TEU’, 22 May 2017: <http://data.consilium.europa.eu/doc/document/XT-21023-2017-INIT/en/pdf> [accessed 22 June 2017]

The withdrawal agreement

19. Following the Prime Minister’s letter formally notifying the European Council of the UK’s intention to withdraw from the EU, and the European Council’s adoption of its guidelines for the negotiations, it appears that three issues at least will figure in any withdrawal agreement. The first is the need to determine the rights of EU and UK nationals resident in each other’s countries, a total of more than four million citizens, who currently benefit from the extensive rights afforded by the EU principle of free movement of people. The second issue is the need to reach agreement on any outstanding financial liabilities attaching to the UK, as a result of commitments entered into during its EU membership. Both these issues arise as a direct consequence of the act of withdrawal. There is also recognition on both sides that the unique circumstances of the island of Ireland mean that measures to protect the Northern Ireland peace process, and to mitigate the impact of Brexit upon those living on either side of the Irish land border, should feature early in negotiations. We published reports on all three issues.

‘Acquired rights’

20. The rights of EU nationals currently resident in the UK, and of UK nationals resident in the EU, over four million citizens in total, have been the subject of much debate in Parliament and beyond. Our report on *Brexit: acquired rights*,⁸ following an inquiry by the Justice Sub-Committee, concluded that, contrary to assurances given during the referendum campaign, the doctrine of ‘acquired rights’ under international law would provide little protection to those currently enjoying rights under EU law. We therefore judged that, in order to provide legal certainty, “the withdrawal agreement concluded under Article 50 should set out the EU rights that are to be maintained post-Brexit”.
21. We concluded that, in respect of citizenship rights, “absolute reciprocity should apply and be guaranteed”. Yet at the same time we underlined that the Government was “under a moral obligation to provide certainty and legal clarity to all EU nationals working, living and studying in the UK, who contribute so significantly to the economic and cultural life of the UK”. We therefore urged the Government, as a first step towards concluding a reciprocal agreement, to give “a unilateral guarantee now that it will safeguard the EU citizenship rights of all EU nationals in the UK when the UK withdraws from the EU”. We also addressed the obstacles that, under current immigration rules, would stand in the way of EU nationals seeking to establish an entitlement to permanent residence in the UK. We supported the view of witnesses from across the political spectrum that the criteria applied to EU nationals resident in the UK should be “reasonable, flexible and cost-effective”.⁹
22. It is regrettable that, while both sides acknowledged the need to reach agreement as early as possible in negotiations on the status of UK and EU citizens, and despite pressure from across the political spectrum, the Government repeatedly refused to offer a unilateral guarantee to EU citizens lawfully resident in the UK, insisting instead that it would wait for reciprocal “future guarantees”, to be agreed by the two sides.¹⁰ We trust that

8 European Union Committee, *Brexit: acquired rights* (10th Report, Session 2016–17, HL Paper 82)

9 *Ibid.*, para 122

10 HC Deb, 13 March 2017, [col. 41](#), Rt Hon David Davis MP, Secretary of State for Exiting the EU

a rapid and binding resolution of this issue will be agreed now that formal negotiations have begun, and the respective positions of the EU and UK have been published.

The EU budget

23. The Financial Affairs Sub-Committee’s report on *Brexit and the EU budget* was published on 4 March 2017.¹¹ The question of the ‘Brexit bill’—that is to say, the UK’s settlement of any outstanding financial commitments arising out of its EU membership—remains highly controversial. Our report had three aims: first, to quantify those commitments; second, to establish whether, post-Brexit, the UK would be legally obliged to honour them; and, third, to frame this issue in the context of the wider negotiations on a future UK-EU relationship.
24. Our attempt to quantify the UK’s commitments underlined the complexity of the EU’s budget, which allows disagreement even over the UK’s ‘share’ of that budget—with some witnesses using a gross figure, and others taking into account either the rebate or UK receipts from the budget. Nor are budgetary contributions hypothecated: it is impossible, therefore, to identify a specific UK contribution to, say, the EU’s pension liabilities. Against this backdrop, we could conclude only that it was “possible to arrive at various, widely ranging, figures for any EU claim against the UK”.¹²
25. On the question of legal liability, we again heard conflicting evidence, and we therefore sought the view of our Legal Adviser. On this basis, we concluded that “as a matter of EU law, Article 50 TEU allows the UK to leave the EU without being liable for outstanding financial obligations under the EU budget and related financial instruments, unless a withdrawal agreement is concluded which resolves this issue”. We further noted that it was “questionable whether an international court or tribunal could have jurisdiction”.¹³
26. We also emphasised that “the political and economic consequences of the UK leaving the EU without responding to claims under the EU budget are likely to be profound”.¹⁴ This conclusion was overlooked in much of the media coverage of our report, but is an essential rider to our assessment of the legal arguments. A refusal by the UK to reach agreement on its budgetary liabilities would preclude agreement on any other issue (including on such matters as citizens’ rights and the protection of the Northern Ireland peace process). It would lead directly to a ‘no deal’ Brexit, poisoning the relationship between the UK and the EU for many years to come. The final paragraph of our report puts this key issue into context:

“But this is more than a negotiation on withdrawal, and more than a trial of strength. It is also a negotiation about establishing a stable, cooperative and amicable relationship between the UK and the EU, so as to promote the security, safety and well-being of all the peoples of Europe. Such a relationship is inconceivable without good will. The Government will need to approach the forthcoming negotiations in that spirit.”¹⁵

11 European Union Committee, *Brexit and the EU budget* (15th Report, Session 2016–17, HL Paper 125)

12 *Ibid.*, para 97

13 *Ibid.*, paras 135–136

14 *Ibid.*, para 137

15 *Ibid.*, para 205

UK-Irish relations

27. The Select Committee’s report on *Brexit: UK-Irish relations*¹⁶ addressed the impact of Brexit upon Ireland, North and South, and on both east-west and north-south relations. We highlighted the economic consequences of Brexit on both sides of the Irish land border, given the constant movement of goods and people across the border; we also looked at the maintenance of the Common Travel Area—a shared objective of both UK and Irish governments—and the importance of EU support and programmes to maintain the progress made under the peace process. We called on all parties to the negotiation “to give official recognition to the special, unique nature of UK-Irish relations in their entirety, including the position of Northern Ireland, and the North-South and East-West structure and institutions established under the Belfast/Good Friday Agreement”. To this end, we proposed that the UK and Ireland be invited to negotiate a draft bilateral agreement, to be incorporated in the final withdrawal agreement, subject to the approval of EU partners.
28. Outside Ireland, the impact of Brexit upon UK-Irish relations had been almost wholly overlooked during the referendum campaign, so it is gratifying that since our report appeared it has been recognised by both the Government and the EU as one of the top priorities for a withdrawal agreement under Article 50 TEU.¹⁷ But this recognition also presents a risk: as ministers have noted, the status of the Irish land border cannot be separated from the longer-term issue of a future UK-EU trade agreement. We regret, in this context, that our proposal for a more flexible, informal bilateral negotiation between the UK and Ireland, subject to the agreement of the other EU Member States, has not been taken up.

*UK-EU trade**The main options for trade*

29. We published a series of reports looking at the future UK-EU trading relationship. The first of these, *Brexit: the options for trade*,¹⁸ was published in December 2016, before the Prime Minister announced the Government’s intention to leave the Single Market and the customs union and pursue a UK-EU free trade agreement. It was the result of an inquiry conducted jointly by our External Affairs and Internal Market Sub-Committees, and outlined the UK’s current trading relationship with the EU. It evaluated the main options open to the UK post-Brexit: Single Market membership via the European Economic Area; membership of the customs union; a UK-EU free trade agreement; or reliance upon World Trade Organization (WTO) rules.
30. We approached the task with an open mind, and did not recommend any one option above the others. What was clear to us, however, was that “liberalisation of trade ... requires states to agree to limit the exercise of their sovereignty”. In other words, there will be “trade-offs between market

16 European Union Committee, *Brexit: UK-Irish relations* (6th Report, Session 2016–17, HL Paper 76)

17 See Theresa May MP, Letter to Donald Tusk triggering Article 50, 29 March 2017: <https://www.gov.uk/government/publications/prime-ministers-letter-to-donald-tusk-triggering-article-50/prime-ministers-letter-to-donald-tusk-triggering-article-50> [accessed 22 June 2017], and European Council, *European Council (Art. 50) guidelines for Brexit negotiations*, adopted 29 April 2017: <http://www.consilium.europa.eu/en/press/press-releases/2017/04/29-euco-brexit-guidelines/> [accessed 22 June 2017]

18 European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

access and the exercise of sovereignty”. The extent of that trade-off will be a matter for negotiation.

31. We were also clear that the top priority for the Government should be to negotiate the UK’s future trading relationship with the EU, and, in parallel, to negotiate the UK’s schedules at the WTO. Trade agreements with other countries, however important in the longer-term, will “inevitably be contingent on what is negotiated with the EU and at the WTO”. Finally, we highlighted the difficulty of reaching a comprehensive agreement within the two years allowed under Article 50 TEU, and urged the Government to establish “a clear ‘game plan’ for a future transitional agreement”, to reduce instability and build confidence in the economy.

Trade in goods and trade in non-financial services

32. The two sub-committees then embarked on more detailed, separate follow-up inquiries. The External Affairs Sub-Committee looked at trade in goods, and the Internal Market Sub-Committee at trade in non-financial services. Both reports appeared in March 2017, by which time the then Government had announced its intention for the UK to leave the Single Market and customs union, and to negotiate a comprehensive UK-EU free trade agreement.
33. Our report on *Brexit: trade in goods*¹⁹ analysed the likely impact of tariff and non-tariff barriers upon UK-EU trade. We heard detailed evidence from representatives of six major sectors of the economy: chemicals and pharmaceuticals, capital goods and machinery, food and beverages, oil and petroleum, automotive, and aerospace and defence. We described the damaging effect of tariffs upon highly integrated supply chains, and explored the costs that could fall on UK businesses through the imposition of non-tariff barriers, such as rules of origin. While welcoming the Government’s aim, in the forthcoming Repeal Bill, to preserve existing EU laws in force, we again emphasised the need for “a trade-off between the UK’s desire to make domestic laws, and its wish to pursue close trade relations with the EU”.²⁰ We also repeated our call for the Government “to establish at the outset of negotiations a clear strategy for a future transitional agreement”.²¹
34. The Internal Market Sub-Committee’s inquiry into the impact of Brexit upon trade in non-financial services underlined the heavy reliance of the services sector, which accounts for almost a third of UK exports, upon access to the EU Single Market. In our report²² we noted that certain sectors, such as aviation and broadcasting, were not covered by WTO rules, and that there was no precedent for providing access by means of a free trade agreement. Any UK-EU free trade agreement would thus have to be “uniquely comprehensive”. We also noted the limitations of the forthcoming Repeal Bill, which, while it may preserve existing EU laws in force, “will not, on its own, secure either the mutual recognition of UK and EU standards, or the level of equivalence required to ensure continued trade in services”. We again urged the Government to seek a transitional agreement, to avoid a regulatory ‘cliff-edge’, and concluded that the Government had under-

19 European Union Committee, *Brexit: trade in goods* (16th Report, Session 2016–17, HL Paper 129)

20 *Ibid.*, summary

21 *Ibid.*, para 307

22 European Union Committee, *Brexit: trade in non-financial services* (18th Report, Session 2016–17, HL Paper 135)

estimated the linkage between trade in services and the free movement of persons. We noted that the EU-27 might “take the view that comprehensive access to the Single Market in services is dependent upon some degree of movement of persons”, and urged the Government to retain “room for manoeuvre” on this key issue.²³

Financial services

35. The Financial Affairs Sub-Committee addressed the future of UK-EU trade in another key sector of the economy, financial services. The report²⁴ noted that many financial services providers did not themselves fully understand the extent of their reliance upon ‘passporting’ rights, which allow them, if authorised by regulators in the UK, to provide services across the EU without further authorisation. Such firms may in future have to rely upon the third-country ‘equivalence’ regime. This is “available to a smaller number of activities than those able to use the passport, and entails a potentially laborious equivalence process, which is vulnerable to political influence”.²⁵ We highlighted the unpredictable impact of such a development upon London’s ‘eco-system’ of financial services, which supports not just the UK economy but that of the whole EU, and the risk that, if London loses its pre-eminence as a financial sector, its business will go to New York rather than the EU. We again touched on the need to achieve an orderly transition, and the risk that, in the absence of such assurances, “firms may pre-empt uncertainty by relocating or restructuring, for instance by establishing subsidiaries or transferring staff”.²⁶

Wider UK-EU relations

36. The Government has indicated that, alongside a comprehensive free trade agreement, it wishes to negotiate a continuing UK-EU relationship in areas of common vital interest, such as security. Yet at the same time it has identified ending the jurisdiction of the Court of Justice of the European Union (CJEU) as one of the fundamental drivers of its Brexit strategy. We published two reports exploring the tension between these objectives.

Security and police cooperation

37. The Home Affairs Sub-Committee’s report on Brexit: security and police cooperation appeared in December 2016.²⁷ Two months previously the Secretary of State for Exiting the EU had identified “maintaining the strong security co-operation we have with the EU” as one of the Government’s top four overarching objectives in the negotiations on Brexit. Moreover, the UK’s opt-out from EU justice and home affairs measures means that in this area the UK is only bound by measures, such as the European Arrest Warrant or the Prüm decisions, that the Government, with the approval of both Houses of Parliament, has decided are in the UK’s national interest.
38. In our report we outlined the options for continuing participation in those measures identified by UK law enforcement agencies as their top priorities. In some areas, such as the transfer of Passenger Name Records, there are

23 *Ibid.*, para 292

24 European Union Committee, *Brexit: financial services* (9th Report, Session 2016–17, HL Paper 81)

25 *Ibid.*, para 39

26 *Ibid.*, para 109

27 European Union Committee, *Brexit: future UK-EU security and police cooperation* (7th Report, Session 2016–17, HL Paper 77)

precedents for EU agreements with third countries. In several areas, though, particularly in respect of data sharing, there are no precedents for third country access. And while Norway and Iceland have concluded extradition agreements with the EU approximating to the European Arrest Warrant, these have taken many years to negotiate and in some cases are not yet in force.

39. At the same time, we warned against approaching negotiations on security cooperation with a “false sense of optimism”, noting that “there will in practice be limits to how closely the UK and EU-27 can work together if they are no longer accountable to, and subject to oversight and adjudication by, the same supranational EU institutions, notably the CJEU”.²⁸ This issue remains unresolved, and towards the end of the session the Home Affairs Sub-Committee launched a short follow-up inquiry, focusing on the European Arrest Warrant, to explore the options for judicial oversight further. This inquiry was paused upon the dissolution of Parliament, but has now been resumed.

Civil justice

40. The Justice Sub-Committee explored another key component of the rights currently enjoyed by UK and EU citizens in its inquiry into *Brexit: justice for families, individuals and businesses?*²⁹ The report underlined the reciprocity inherent in the mutual recognition of court judgments across the EU. This mutual recognition means that millions of UK and EU citizens have effective access to justice across the EU, in areas such as family law, employment rights, or contractual disputes.
41. Once it is accepted that the mutual recognition of judicial decisions is desirable, it appears evident, *a fortiori*, that it must be underpinned by some form of judicial oversight, to settle disputes and uphold common standards. The Government, in evidence to the inquiry, stood fast by its policy that the CJEU should have no jurisdiction in the UK post-Brexit, but left us “unable to discern a clear policy” for putting alternative arrangements for mutual recognition of judgments in place. Indeed, the Minister did not even acknowledge that domestic legislation, such as the forthcoming Repeal Bill, “would not provide for the reciprocal nature” of existing arrangements.³⁰

Domestic policies post-Brexit

42. Brexit also presents an opportunity for the Government to develop distinctive domestic policies in areas hitherto controlled at EU level. In respect of the free movement of EU nationals—a key issue in the referendum campaign—the legal rights conferred upon EU citizens under the treaties will cease upon Brexit, and the Government will need to apply a new system of controls. In other areas, such as the environment, agriculture or fisheries, the Government will need to develop domestic policies alongside the devolved administrations.
43. In all these areas, Brexit presents opportunities: the Government will be able to devise new policies, better reflecting domestic needs and priorities. Our reports sought to identify the opportunities, as well as identifying

28 *Ibid.*, para 38

29 European Union Committee, *Brexit: justice for families, individuals and businesses?* (17th Report, Session 2016–17, HL Paper 134)

30 *Ibid.*, para 97

the continuing inter-dependencies between the UK and the EU, whether economic, environmental or geographical.

Fisheries

44. In the Energy and Environment Sub-Committee’s report on *Brexit: fisheries*³¹ we addressed one of the most disliked and, arguably, least effective EU instruments, namely the Common Fisheries Policy (CFP). It was clear from our inquiry that few stakeholders in the UK will regret the passing of the CFP, and that many saw Brexit, after which the UK will be responsible under international law for managing its Exclusive Economic Zone, reaching up to 200 nautical miles from the coast, as “an opportunity for the UK to adopt a new fisheries management regime, tailored to UK conditions”.³² But fish do not respect national boundaries. We therefore warned that “failure to recognise that shared stocks require shared management could lead to overfishing and over-exploitation of these stocks”, and urged the Government to continue to cooperate with the EU and to adopt a “science-based approach” to determining fish quotas. We also noted that UK-EU trade in fish and fish products is vital to the UK fishing industry, and urged the Government to ensure that the sector is included as a priority area within negotiations on free trade agreement.

Environment and climate change

45. The Energy and Environment Sub-Committee’s inquiry into environment and climate change explored the complex interlinking of UK and EU environmental policies.³³ EU environmental law covers issues as varied as biodiversity, chemicals regulation, and recycling targets, while its climate change policies cover matters including energy efficiency of appliances, low carbon technologies and emissions trading. We noted the concerns of stakeholders that environmental protections would be weakened post-Brexit. We also concluded that the forthcoming Repeal Bill, which is intended to ensure continuity, by transposing existing EU environmental regulation into domestic law, will not in itself be able to replicate the enforcement regime currently provided by the EU institutions. We therefore urged the Government to introduce an “effective and independent” domestic enforcement regime, underpinned by strong judicial oversight, post-Brexit.
46. We also considered the wider, international implications of Brexit. Climate change is a global issue, which demands global action, and hitherto the UK’s participation in that action has largely been coordinated through the EU. Post-Brexit the UK will need to reassess how it can meet its climate change obligations in the most cost-effective way, including whether it continues to participate in the EU Emissions Trading Scheme. It will also need to establish new alliances, if it is to preserve its status as “a global leader on climate action”.³⁴

31 European Union Committee, *Brexit: fisheries* (8th Report, Session 2016–17, HL Paper 78)

32 *Ibid.*, para 24

33 European Union Committee, *Brexit: environment and climate change* (12th Report, Session 2016–17, HL Paper 109)

34 *Ibid.*, para 155

Agriculture

47. The Energy and Environment Sub-Committee’s report on agriculture was published immediately before the dissolution of Parliament on 3 May.³⁵ Despite recent reforms, the Common Agricultural Policy (CAP) has been much criticised as costly, bureaucratic and ineffective, and there is no doubt that Brexit presents an opportunity for the UK “to review and improve its agriculture, environment, and food policy, better meeting the needs of the agriculture sector, the environment and consumers”.³⁶ But achieving this outcome will be challenging. The EU is the UK’s biggest trading partner in food and agricultural products, and there is no prospect in the short term of offsetting this with increased trade with third countries. Maintaining the economic viability of the UK farming sector, while avoiding the temptation to cut costs by lowering standards (which could in turn lead to the imposition of non-tariff barriers to trade with the EU), will therefore require the Government “to balance the sometimes conflicting needs and expectations of farmers, consumers and trading partners with respect to quality and costs”.³⁷
48. This inquiry also exposed the tensions within the UK that may arise as a result of the repatriation of competences currently exercised at EU level (including over agriculture), but which are devolved under the terms of the devolution settlements. While we supported the devolution of agriculture policy, which allows the devolved administrations to tailor policies to the varying needs of farmers and the land, we noted that maintaining the integrity of the UK single market will demand continuing coordination across the UK, and also that farming policies will have to respect future international trade agreements.³⁸

Migration

49. The Home Affairs Sub-Committee’s report on UK-EU movement of people considered the options open to the Government in setting a post-Brexit immigration policy for EU nationals.³⁹ We noted that the restoration of national control over immigration policy—a key objective of the Government—would not in itself lead to a reduction in net migration. At present almost three-quarters of EU national migrants come to work, or to look for work, and the main drivers for such migration are therefore economic. We warned that a simple extension of the ‘points based system’ that currently applies to non-EU nationals could impose significant costs upon employers, leading to labour shortages in some sectors. We therefore concluded that there might be “benefits to the UK in offering preferential treatment to EU nationals compared to non-EU nationals in the UK’s future immigration regime”—not least, because such an approach might help to secure reciprocal preferential treatment for the many UK nationals seeking to live and work in the EU.

35 European Union Committee, *Brexit: agriculture* (20th Report, Session 2016–17, HL Paper 169)

36 *Ibid.*, para 21

37 *Ibid.*, para 152

38 *Ibid.*, paras 189–191

39 European Union Committee, *Brexit: UK-EU movement of people* (14th Report, Session 2016–17, HL Paper 121)

The Overseas Territories and the Crown Dependencies

50. Finally, two short reports by the Select Committee shone a light on territories that will be profoundly affected by Brexit, but whose interests barely figured in the referendum campaign.

Gibraltar

51. Gibraltar is the only British Overseas Territory to be part of the EU (and the only one whose citizens had a vote in the referendum), and in the referendum 96% of votes cast in Gibraltar were to remain in the EU. It benefits substantially from access to the EU Single Market in services, and its economy relies heavily upon the 10,000 workers who cross into Gibraltar daily from the neighbouring region of Spain. Gibraltar thus faces an uncertain future, and we stressed that the UK Government has “a moral responsibility to ensure Gibraltar’s voice is heard, and its interests respected, throughout the Brexit process”.⁴⁰
52. The Committee plans to hold an evidence session on the impact of Brexit on the other Overseas Territories early in the new session.

The Crown Dependencies

53. The Crown Dependencies (The Isle of Man and the Bailiwicks of Jersey and Guernsey⁴¹) are part neither of the UK nor the EU, yet enjoy a unique relationship with the latter thanks to Protocol 3 to the UK’s Treaty of Accession—in simple terms, they are part of the customs union and are essentially within the EU Single Market for the purposes of trade in goods. Protocol 3 will cease to have effect upon UK withdrawal from the EU, meaning that the Crown Dependencies’ special relationship with the EU, as currently constituted, will come to an end. Our report⁴² urged the Government to ensure that the Crown Dependencies are kept fully informed of the progress of Brexit negotiations, and stressed the Government’s constitutional obligation to ensure that their interests are properly represented.

Key themes

54. Our Brexit work continues, with several inquiries being paused when the general election was announced. But certain common themes are already clear.

The need for an agreement

55. The Prime Minister and ministerial colleagues have on a number of occasions argued that ‘no deal is better than a bad deal’. It is clear to us, from almost all the evidence heard across 17 inquiries, that ‘no deal’—the breakdown of negotiations under Article 50 TEU and the automatic termination of the UK’s EU membership after two years—would be disastrous for the UK and for millions of individual UK and EU citizens. It would also severely harm the EU, which would lose privileged access to an important export market, and to Europe’s and the world’s largest centre of financial services. It would mean an end to cooperation on internal security, putting lives at risk from

40 European Union Committee, *Brexit: Gibraltar* (13th Report, Session 2016–17, HL Paper 116), para 110

41 Comprising Guernsey, Alderney and Sark.

42 European Union Committee, *Brexit: the Crown Dependencies* (19th Report, Session 2016–17, HL Paper 136)

terrorists and other criminals, and would diminish both the UK and the EU on the wider international stage.

56. Some may argue that the possibility that the UK could avoid meeting its outstanding commitments to the EU budget—the ‘Brexit bill’—would be a benefit of ‘no deal’. We believe, in contrast, that the issue of the ‘Brexit bill’ only underlines the vital interest that both sides have in conducting a fair and constructive negotiation, leading to a comprehensive and lasting agreement.

A pragmatic balance

57. There is no doubt that many stakeholders, particularly those representing industry and both the financial and non-financial services sectors, would prefer the UK to remain a member of the Single Market. This would give them stability and certainty, avoiding the creation of new tariff and non-tariff barriers to trade, facilitating the continuing free movement of labour and access to skills, ensuring consistency between UK and EU regulatory standards, avoiding time-consuming paperwork at the customs border, and so on. The previous Government, though, ruled out Single Market membership, on the grounds that it would entail continuing adherence to EU law and the jurisdiction of the CJEU, and would fail to give effect to the electorate’s wish to ‘take back control’.
58. Underlying the Government’s decision is the need to strike a balance: privileged access to markets comes at a price, which is set out in the terms of any free trade agreement. As one witness reminded us, when it comes to trade agreements, “There is no free lunch”⁴³—there is always a trade-off between liberalising trade and the exercise of national sovereignty. The new Government will need to compromise on sovereignty, and it will need to justify such compromises to Parliament and to the wider public. This will require courage, tempered with pragmatism.

Transition

59. Given that continuing Single Market membership has been ruled out, the economy will need to adapt. That process of adaptation will take time, and a transition period—what the Prime Minister has called “a phased process of implementation”—will be needed.
60. Moreover, the vast weight of the evidence heard by the Select Committee and the sub-committees suggests that it will not be possible to achieve the Government’s aim of negotiating a comprehensive free trade agreement within the two years allowed under Article 50 TEU, three months of which have already passed. The best that can be hoped for is that the ‘framework’ of the future UK-EU relationship can be agreed within that time, paving the way for more detailed negotiations, which will probably take some years to complete.
61. Thus ‘transition’ will be more than an implementation phase: the two sides will need to adopt a bridging arrangement, ensuring stability and allowing the UK and the EU to continue to trade, and their economies to grow, pending the final settlement of the terms of the comprehensive agreement. There was little sign that the previous Government had seriously considered

43 Dr Ulf Sverdrup, Director, Norwegian Institute of International Affairs—see European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72), para 3

this requirement; it is vital that the new Government engages more seriously with the need for transition.

Timing

62. The Government has sought to link agreement on the withdrawal agreement—the terms of the ‘divorce’—with agreement on the future UK-EU relationship. As the Prime Minister put it in her letter triggering Article 50, “we believe it is necessary to agree the terms of our future partnership alongside those of our withdrawal from the EU”.⁴⁴
63. The European Council, in contrast, has insisted on phased negotiations, beginning with the key elements of the withdrawal agreement, which include providing certainty to citizens and businesses on the “immediate effects” of UK withdrawal (in particular its impact on ‘acquired rights’), and settling “the rights and obligations the United Kingdom derives from commitments undertaken as a Member State” (in other words, the ‘Brexit bill’). Only when “sufficient progress” has been achieved on the withdrawal agreement will the European Council mandate the Commission to open the next phase of negotiations, on the framework for the future UK-EU relationship.⁴⁵
64. Our reading of Article 50 TEU falls somewhere between these two positions. Article 50(2) TEU requires that the withdrawal agreement should “take account of the framework” of the withdrawing Member State’s “future relationship with the Union”. How detailed that “framework” will be is unclear. The prospect of a comprehensive free trade agreement being negotiated in full within two years is remote, but we recall that in our 2016 report on *The process for withdrawing from the European Union*, published ahead of the referendum, expert witnesses, including a former Judge of the CJEU, interpreted the wording of Article 50 as requiring coordination between the withdrawal agreement and the negotiations on a future relationship.
65. The Secretary of State for Exiting the EU, Rt Hon David Davis MP, was quoted on 14 May as describing the sequencing of negotiations as “the row of the summer”.⁴⁶ In the event, when formal negotiations began on 19 June the two sides agreed to focus initially on citizens’ rights and the financial settlement.⁴⁷ There could, however, still be disagreements as negotiations proceed, and both sides will need to show flexibility to avoid unnecessary sources of delay.

Devolution and the UK ‘single market’

66. The issue of devolution has come up repeatedly during our inquiries. The UK, like the EU, is a political Union, made up of diverse nations and regions: frustration with the perceived centralising bureaucracy of Brussels

44 Theresa May MP, Letter to Donald Tusk triggering Article 50, 29 March 2017: <https://www.gov.uk/government/publications/prime-ministers-letter-to-donald-tusk-triggering-article-50/prime-ministers-letter-to-donald-tusk-triggering-article-50> [accessed 22 June 2017]

45 European Council, *European Council (Art. 50) guidelines for Brexit negotiations*, adopted 29 April 2017: <http://www.consilium.europa.eu/en/press/press-releases/2017/04/29-euco-brexit-guidelines/> [accessed 22 June 2017]

46 Henry Mance, ‘David Davis warns Brexit timetable will be ‘row of the summer’’, *Financial Times* (14 May 2017): <https://www.ft.com/content/01396086-38ae-11e7-821a-6027b8a20f23> [accessed 19 June 2017]

47 European Commission, *Terms of Reference for the Article 50 TEU negotiations*, agreed 19 June 2017: https://ec.europa.eu/commission/sites/beta-political/files/eu-uk-art-50-terms-reference_agreed_amends_en.pdf [accessed 20 June 2017]

could easily be translated into frustration with Westminster and Whitehall. Brexit thus needs to deliver more flexible policy-making, better reflecting the needs and interests of the nations and regions of the UK. But it also needs to acknowledge that any ‘single market’—whether at EU or UK level—requires a level of coordination if it is to function efficiently.

67. The White Paper on what was at that point known as the ‘Great Repeal Bill’ acknowledged this tension. It described the Government’s determination to ensure that “the effective functioning of the UK single market is maintained ... that no new barriers to living and doing business within our own Union are created as we leave the EU”. But it also set out the Government’s commitment to “work closely with the devolved administrations to deliver an approach that works for the whole and each part of the UK”.⁴⁸ Keeping these objectives in balance will be an immense challenge, and is the subject of the Select Committee’s forthcoming report on Brexit: devolution.

⁴⁸ Department for Exiting the European Union, *Legislating for the United Kingdom’s withdrawal from the European Union*, Cm 9446, March 2017, paras 4.3, 4.4: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604516/Great_repeal_bill_white_paper_accessible.pdf [accessed 22 June 2017]

CHAPTER 3: SCRUTINY OF EU DOCUMENTS AND OTHER WORK

Introduction

68. Beyond the Committee’s Brexit-related work, the Committee has continued to fulfil its responsibilities to consider European Union documents and other matters relating to the European Union. This section of the report highlights some of the most significant aspects of this work during the 2016–17 Session.

Other reports

69. As well as the 17 Brexit-related reports set out in the previous chapter, the Committee also published policy reports on unaccompanied migrant children in the EU and on the legality of EU sanctions.⁴⁹

Unaccompanied migrant children in the EU

70. In February 2016, the Home Affairs Sub-Committee launched an inquiry into the plight of unaccompanied migrant children in the EU. The Committee heard evidence from a wide range of practitioners and experts in the field, visiting Brussels in April to take evidence from MEPs, NGOs, intergovernmental organisations and the Commission. In May, in a session arranged with the help of Save the Children and the Children’s Society, Members met a number of unaccompanied migrant children and young adults who had arrived as children.
71. The report was published on 26 July 2016.⁵⁰ We identified a number of underlying, cross-cutting problems affecting unaccompanied migrant children. These have contributed to deplorable reception conditions, while prolonged uncertainty about children’s legal status has left them ‘living in limbo’. This has in turn exposed vulnerable children to smugglers and human traffickers—it is conservatively estimated that at least 10,000 unaccompanied migrant children are currently missing in the EU. Our report called for integrated child protection systems focused on the best interests of the child, improved data collection and sharing, and more effective cooperation between EU institutions, Member States, EU Agencies, regional and local authorities, NGOs and individual professionals.
72. The report was debated on the floor of the House on 1 November 2016, and a response from the Government was received the same day.

The legality of EU sanctions

73. In February 2017, we published a short report for information on *The legality of EU sanctions*, following a short inquiry by the Justice Sub-Committee.⁵¹ Based on evidence from key actors in the field, including lawyers who have represented both the Council of Ministers and individuals who are the subject of EU sanctions listings, the report acknowledged the importance of EU sanctions as a foreign policy tool and as a means of persuading individuals and regimes to change their behaviour. But we also suggested

49 The other report published during the session was the European Union Committee, *Report on 2015–16* (3rd Report, Session 2016–17, HL Paper 35)

50 European Union Committee, *Children in crisis: unaccompanied migrant children in the EU* (2nd Report, Session 2016–17, HL Paper 34)

51 European Union Committee, *The legality of EU sanctions* (11th Report, Session 2016–17, HL Paper 102)

that the Council introduce a codified standard of proof for the imposition of sanctions, and that the Member States show more caution in re-listing on amended reasons individuals who have succeeded in the Courts in having their listings overturned. We urged the Government to assist effective scrutiny of EU sanctions regimes by sharing with Parliament the open-source material used as evidence by the Council when imposing sanctions.

74. The Government responded in April, accepting many of our arguments, but challenging our main findings regarding the re-listing of individuals and the sharing of open-source material with Parliament. In a letter dated 6 April, we told the Government that we “remain unconvinced” by its counter-arguments. We also called on the Government to draw on the report’s findings in its current public consultation on the UK’s post-Brexit approach to sanctions.

Scrutiny of EU documents

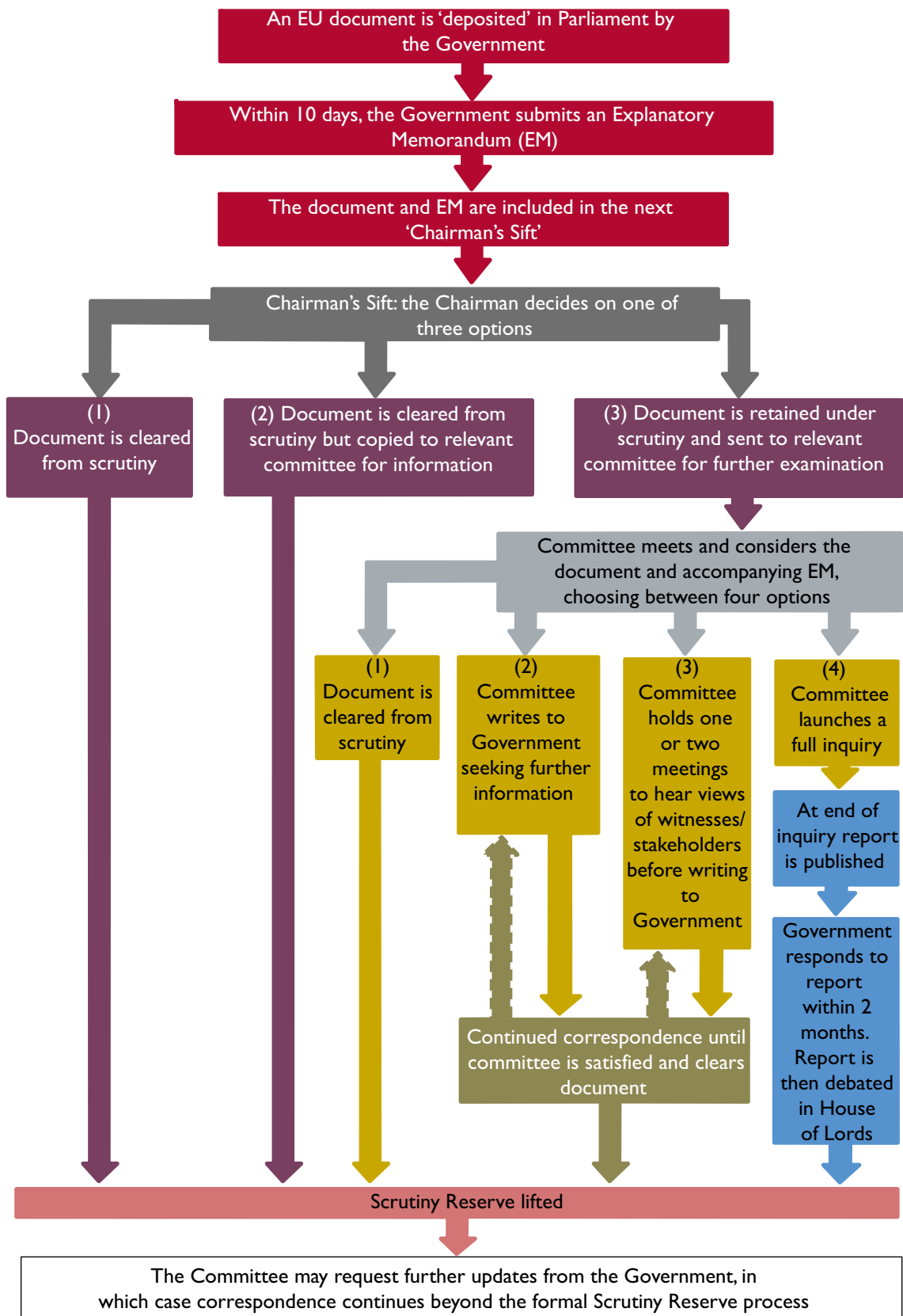
75. This Committee and the European Scrutiny Committee in the House of Commons have agreed with the Government the types of documents that need to be deposited by the Government in Parliament for consideration, including all legislative proposals made by the European Commission.
76. During the 2016–17 Session, the Chairman sifted 763 Explanatory Memoranda (EMs) relating to deposited documents, of which 140 (18%) were referred to the Select Committee or a Sub-Committee for examination. The figures for the previous session were 746 and 213 (29%) respectively. This demonstrates how, in the wake of the referendum, the Committee has sought to streamline its approach to scrutiny, concentrating its efforts on the most significant documents and proposals. Yet, notwithstanding the referendum result, the Committee’s scrutiny function remains vital. Any legislative proposals that come into force before UK withdrawal takes effect will form part of the *acquis* which the Government has indicated it will incorporate into UK law through the forthcoming Repeal Bill. If they come into force after UK withdrawal, then they potentially lead to regulatory divergence between the UK and the EU, which could have an impact upon future cooperation or trade. In either case, parliamentary scrutiny of the proposals is essential.
77. The distribution of scrutiny of Explanatory Memoranda among the Sub-Committees is shown in Table 1.

Table 1: Explanatory Memoranda considered by Sub-Committee

Committee	Number of EMs considered
Select Committee	5
Energy and Environment	20
External Affairs	11
Financial Affairs	29
Home Affairs	27
Internal Market	34
Justice	14
Total	140

78. The scrutiny of documents that have been sifted for examination is a substantial undertaking. Typically, examination includes an exchange of correspondence with the relevant minister, but it can also result in a one-off evidence session or a seminar with stakeholders to discuss important issues raised by the document. Where appropriate, the Committee may produce a short report on its findings. A flow-chart, illustrating in simplified form the scrutiny process as a whole, is set out below.

Figure 1: The scrutiny process



Scrutiny overrides

79. Scrutiny overrides occur when ministers give agreement to proposals without waiting for the House of Lords European Union Committee or the House of Commons European Scrutiny Committee to complete their scrutiny work. In certain circumstances they can be difficult or impossible to avoid, for example in fast-moving international situations (which is why the FCO is generally responsible for most overrides). But in other cases overrides can represent a failure either of the proper conduct of EU scrutiny by Parliament, or of the Government to respect its commitments to Parliament. Table 2 shows the number of scrutiny overrides, broken down by Department, from January 2011 to December 2016.

Table 2: Scrutiny overrides by Department⁵²

Period	Total	Departments responsible
Jan–June 2011	33	FCO (30); Defra (2); HMT (1)
July–Dec 2011	41	FCO (36); HMT (4); DFT (1)
Jan–June 2012	46	FCO (33); HMT (5); Defra (3); BIS (2); HO (2); MOD(1)
July–Dec 2012	19	FCO (15); HMT (3); BIS (1)
Jan–June 2013	25	FCO (23); BIS (1); HMT (1)
July–Dec 2013	18	FCO (15); BIS (2); Defra (1)
Jan–June 2014	23	FCO (19); BIS (4)
July–Dec 2014	45	FCO (34); BIS (5); CO (3); HMT (1); HO (1); MOJ (1)
Jan–June 2015	54	FCO (46); MOJ (3); BIS (2); HMT (1); DCMS (1); HO (1)
July–Dec 2015	50	FCO (42); HMT (7); DCMS (1)
Jan–June 2016	36	FCO (29); BIS (3); DCMS (1); Defra (1); HO (1); MOJ (1)
July–Dec 2016	25	FCO (22); DCMS (1); Defra (1); HMT (1)

80. There were 61 overrides during 2016 as a whole—the lowest total during a calendar year since 2013, and a reduction from 104 in 2015. During the 2016–17 session itself, there were 51 overrides (FCO 41; BEIS 3; DCMS 2; Defra 2; MOJ 1; HO 1; HMT 1). This was the lowest sessional figure since 2013–14. As in previous sessions, a large majority of overrides were in relation to FCO scrutiny items.
81. Notwithstanding these encouraging trends, some regrettable overrides occurred following scrutiny failures on the part of the Government. For instance, the Justice Sub-Committee’s scrutiny of the proposed Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws did not progress smoothly. In February 2017,

52 Cabinet Office (CO); Department for Business, Energy and Industrial Strategy (BEIS); Department for Business, Innovation and Skills (BIS); Department for Culture, Media and Sport (DCMS); Department for Environment, Food and Rural Affairs (Defra); Department for Transport (DFT); Foreign and Commonwealth Office (FCO); HM Treasury (HMT); Home Office (HO); Ministry of Defence (MOD); Ministry of Justice (MOJ)

citing “rapid progress” in the Council, the Minister decided to override the scrutiny reserve. In a letter dated 14 March 2017, the Committee expressed its disappointment with the Minister’s decision, arguing that denying Members an opportunity to consider the latest text “was not how we expect Government to behave”. The letter also invited the Minister to appear and explain her decision. In April, following an apology from the Minister and undertakings that the Department for Business, Energy and Industrial Strategy had put safeguards in place to avoid a similar occurrence, the Committee decided that it was no longer necessary to hear from the Minister in person.

82. The Home Affairs Sub-Committee also experienced overrides during the session. The most notable was on proposals for the signature and conclusion of an EU-US Umbrella Agreement on data protection in law enforcement, which was raised with the Minister in a dedicated evidence session on 1 February 2017. Other notable overrides included a Council Decision permitting Europol to conclude an operational agreement with Denmark, rushed through in order to beat the May 2017 deadline for concluding operational agreements under the old Europol Council Decision rather than the new Europol Regulation.
83. The scrutiny reserve in respect of the Council Directive on tax avoidance was overridden on 17 June 2016. A waiver had been issued by the Financial Affairs Sub-Committee on 18 May to allow the Government to vote in favour of the measure at Council on 25 May. In the event, agreement was reached on 17 June but the Government did not take the opportunity to seek clearance or a further waiver before that meeting.

Other scrutiny issues

84. The Committee has encountered a number of other issues with Government departments in the handling of scrutiny.
85. The Energy and Environment Sub-Committee has expressed concern that Departments, particularly Defra, are overwhelmed by their Brexit workload, which is manifesting itself in late responses, poorly drafted letters and poor handling of the scrutiny process. Committee staff have several times corresponded with departmental officials about the poor quality of EMs and factual inaccuracies contained in scrutiny documents. For instance, officials noted that an EM on a Commission Report on the implementation of food waste legislation had been copied from a 2013 document, without being updated.
86. The Home Affairs Sub-Committee wrote to the Minister for Digital and Culture, Rt Hon Matt Hancock MP, complaining at his failure to answer the Committee’s questions about the General Data Protection Regulation, and the handling of the override on the EU-US Umbrella Agreement on data protection in law enforcement referred to above. The Sub-Committee invited the Minister and the Permanent Secretary of the Department for Culture, Media and Sport, to appear before it in a one-off evidence session regarding that Department’s handling of scrutiny. The session was pre-empted by Dissolution.
87. A proposal for a Regulation regarding the rules for wholesale roaming markets was deposited by DCMS in summer 2016. The Internal Market Sub-Committee wrote to the Minister in October 2016 noting that it

expected to receive an EM on a related Implementing Act, which would establish Fair Use and Sustainability policies to underpin the abolition of mobile roaming charges ('roam-like-at-home'). The Implementing Act was never deposited, and the Minister's response instead asked the Committee for scrutiny clearance for the Implementing Act, to be agreed at an upcoming Communications Committee meeting.⁵³ The same letter failed to request clearance on the proposed roaming Regulation.

88. The Sub-Committee wrote to the Minister in December 2016 to express its disappointment that the Implementing Act had not been deposited, and asking a number of policy questions. No response was received, and when the Minister wrote in February 2017 to confirm that a General Approach on the roaming Regulation had been agreed, fair use policies and the Implementing Act were not mentioned.
89. The External Affairs Sub-Committee considered the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union on 12 January 2017. The Sub-Committee wrote to the Minister, Lord Price CVO to express disappointment at the lack of detail in the Explanatory Memorandum, which was light on policy implications, and to request further information on Market Economy Status for China, the EU's commitments at the WTO, and the timeline for the proposal. The Committee was not satisfied with Lord Price's response, and requested oral evidence on the issue. Amanda Brooks, Director (Trade Remedies, Access and Controls), Trade Policy Group, Department for International Trade, gave evidence on 2 February. The Committee wrote again to Lord Price on 2 February and 2 March, and continues to hold the proposal under scrutiny.
90. These examples suggest that standards may be slipping within Government in its fulfilment of its parliamentary scrutiny obligations. While we understand the Government's focus on Brexit, which is placing an extraordinary strain on resources, we have responded by approaching scrutiny with a lighter touch, sifting fewer documents for detailed scrutiny and showing considerable flexibility in clearing documents expeditiously or allowing waivers. The Government, regardless of Brexit, must in return honour its obligations to uphold proper parliamentary scrutiny, and we look to these issues being addressed and corrected early in the new session.

The scrutiny work of the Committees

91. We now consider the scrutiny work undertaken by each of the EU Committees.

Cross-cutting issues

The Commission Work Programme

92. In October 2016, the Commission published its Work Programme for 2017, entitled *Delivering a Europe that protects, empowers and defends*. The Select Committee invited each of the Sub-Committees to scrutinise the proposals within their remits. This fed into a composite letter from the Select Committee to the Commission, sent on 1 February 2017.

⁵³ The Communications Committee (COCOM) assists the Commission in carrying out its executive powers.

93. In that letter, the Committee welcomed the Commission’s focus “on the important things” and on “doing things better”. The Committee therefore welcomed the overall approach adopted in the Work Programme, and the Commission’s commitment to making sure that existing European laws are properly applied and enforced and remain fit for purpose, and to ensuring that principles of better regulation, accountability and transparency continue to be applied. This included the continued commitment to introducing a reduced number of new proposals, to withdraw existing dossiers or subject them to the REFIT programme. The Committee welcomed the commitment to a joint declaration by the European Parliament, Commission and Council setting out the top priorities and objectives for the year ahead. The Committee also stressed the importance of providing national parliaments with an opportunity to comment on the Work Programme.

Energy and Environment

Clean energy

94. In 2016, as part of its Clean Energy for All Europeans initiative, the Commission brought forward proposals in the field of energy policy.⁵⁴ These included measures on electricity market design, renewable energy, energy efficiency and energy governance, all designed to implement the 2030 climate and energy framework. The Energy and Environment Sub-Committee began to scrutinise this package in the session, though the proposals are at a relatively early stage of development and contain elements that have yet to be fully clarified. They are therefore likely to form a significant part of the Sub-Committee’s scrutiny work in the new session.

EU Emissions Trading System

95. The Sub-Committee continued to scrutinise the EU Emissions Trading System (ETS), which will be entering the next phase of implementation in 2021. The Sub-Committee questioned the effectiveness of the scheme and the amendments proposed for the new phase, which will run from 2021–2030+.
96. The Sub-Committee is seeking clarification as to what plans, if any, the Government has to continue participating in the EU aviation ETS, or, in the absence of continued participation in the scheme, how the Government intends to mitigate greenhouse gas emission from aviation in the period between the UK leaving the EU and the new, global mechanism for off-setting emissions from aviation, which is expected to come into force from 2021 onwards.
97. The Sub-Committee also scrutinised the revision of the Effort Share Decision, which regulates emissions from sectors that are not covered by the EU ETS (such as agriculture and transport). The revision seeks to ensure the EU meets its commitments under the Paris Agreement. The Sub-Committee investigated the inclusion of land use in the revised methodology, and is querying the effect of the UK’s withdrawal from the EU on the proposed allocation of emissions reductions.

⁵⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank: Clean Energy for All Europeans, [COM\(2016\) 0860 final](#).

Fertilisers

98. The Sub-Committee also continued to scrutinise a draft Regulation on fertilisers. The proposal would set limits on the amount of cadmium that fertilisers can contain. The Government favours a higher threshold for cadmium content than that proposed by the Commission, but has failed to explain why this higher threshold is needed. The Sub-Committee took evidence from the Minister, George Eustice MP, and a senior official from Defra in January 2017.

One-off sessions

99. The Committee took evidence from Professor Christopher Elliot, founder of the Institute for Global Food Safety, on food integrity and food fraud. The session explored the highly integrated food supply chains that exist on a European and global scale, and the impact that food fraud can have on the integrity of those supply chains.
100. To inform its future inquiry work, the Committee also conducted a one-off session with Professor Michael Grubb and Antony Froggatt of Chatham House, exploring the implications of Brexit on energy and climate change policy. A similar session focusing on the environment was conducted with Martin Nesbit of the Institute for European Environmental Policy, Dr Charlotte Burns and Professor Andrew Jordan. The Sub-Committee hosted a round table discussion in April 2017 to inform its forthcoming short report on Brexit and farm animal welfare.

*External Affairs**EU trade defence instruments, dumped imports and Market Economy Status for China*

101. The External Affairs Sub-Committee considered EU proposals on the modernisation of EU trade defence instruments, protection against dumped imports, and Market Economy Status (MES) for China. Following an exchange of letters with Lord Price CVO, Minister of State for Trade Policy, the Sub-Committee took oral evidence from Amanda Brooks, Director (Trade Remedies, Access and Controls), Trade Policy Group, Department for International Trade, on 2 February 2017. The Committee asked about the UK Government's view on MES for China, the methodology for calculating anti-dumping margins, and the new UK trade remedy framework after Brexit. Following the session the Sub-Committee wrote to the Government to request regular updates on these issues.

Libya and Operation Sophia

102. On 7 July 2016 the Sub-Committee heard evidence from Peter Millett, British Ambassador to Libya, on the political and security situation in Libya. It also followed up on its 2016 report on 'Operation Sophia', the EU naval mission that seeks to prevent people-smuggling across the central Mediterranean from Libya to Italy. It took evidence on 30 March 2017 from Joseph Walker-Cousins, Senior Fellow, the Institute for Statecraft, and officials from the Foreign and Commonwealth Office and the Department for International Development. The Sub-Committee will publish a short follow-up report in the new Parliament.

Franco-British meeting on the Lancaster House Treaties

103. In July 2016 Lord Stirrup represented the Sub-Committee at the biannual Franco-British parliamentary meeting on the Lancaster House Treaties in Paris. The meeting brought together members of the French Assemblée Nationale, the French Sénat, the House of Commons and the House of Lords. The Lancaster House Treaties, signed in 2010, established close co-operation on defence issues between the two countries, both at the operational and industrial levels. In February 2017 Baroness Verma and Lord Stirrup represented the Sub-Committee at the Franco-British parliamentary meeting in London, hosted by the House of Commons. Discussion focused on defence procurement and nuclear co-operation.

*Financial affairs**Securitisations*

104. The European Commission launched the Securitisations Regulation in autumn 2015, and the Sub-Committee has held it under scrutiny since that time. The Regulation is part of the Capital Markets Union initiative and is designed to regulate more closely the conversion of loans or assets into securities. The Financial Affairs Sub-Committee's scrutiny has focused on the implications of the European Parliament's efforts, as part of the ongoing negotiations on the draft Regulation, to introduce a range of additional strictures (such as on risk retention) that diverge from existing international standards.

Banking package

105. On 23 November 2016 the Commission proposed a suite of amendments to existing financial regulations such as the Capital Requirements Regulation and Directive, and Bank Recovery and Resolution Directive, referred to collectively as the 'banking package'. These amendments primarily seek to harmonise international standards with existing EU regulations, and in some cases they seek to prevent Member State supervisors from imposing additional standards. Negotiations are still at an early stage, but Sub-Committee scrutiny to date has focused on the elements of the package that diverge from the Financial Stability Board agreement on which many of the revisions are based.

Tax Transparency Directive

106. This proposal seeks to require large multinational enterprises operating in the EU to publish details of their country-by-country activities, thereby increasing tax transparency and encouraging payment of the proper amount of tax in the appropriate territory. The Sub-Committee saw it as a pragmatic step towards tackling tax avoidance, while the Government was particularly concerned by the proposal to require country-by-country reporting of a company's activities in certain non-EU jurisdictions that were deemed to be 'non-cooperative'. Recent negotiations have revolved around the respective roles of the Commission and the Council in drawing up the list of such jurisdictions.

Common Consolidated Corporate Tax Base

107. In late 2016 the Commission revived a proposal to create a Common Consolidated Corporate Tax Base, the previous attempt having met resistance

in the Council. In its correspondence with the Committee, the Government stated its opposition to the proposal, and progress in Council appears to have been slow.

VAT

108. In spring 2016 the Commission published its VAT Action Plan, which proposed a number of short- and medium-term measures to reduce business burdens and to tackle VAT fraud. This was followed by legislative measures later in the year, including to harmonise the VAT treatment of physical and electronic publications, which the Sub-Committee welcomed. Changes to Low Value Consignment Relief are likely to affect the UK once it has left the EU: the Sub-Committee has sought further details from the Government.

Central counterparties

109. The Commission has proposed a new regulation on the recovery and resolution of central counterparties (CCPs), which would enact a regime comparable to that in the Bank Resolution and Recovery Directive (BRRD). Initial scrutiny has examined the overlap between the proposed legislation and the UK's existing regime for resolving distressed CCPs.

Interparliamentary dialogue

110. The Chairman of the Financial Affairs Sub-Committee, Baroness Falkner of Margravine, attended the Inter-Parliamentary Conference on Stability, Economic Coordination and Governance in the EU in Bratislava on 16–18 October 2016. On 24–25 January 2017 the Sub-Committee visited Brussels to take evidence from MEPs and other experts as part of its inquiry into Brexit and the EU budget. On 9 February 2017 members of the Committee met a delegation of EPP members of the European Parliament's ECON Committee in Westminster.

Internal market

Digital Single Market

111. Over the past year the European Commission has continued to take forward its Digital Single Market Strategy, which aims to create an internal market for the online sale of goods and services throughout Europe.
112. In June 2016 the Internal Market Sub-Committee considered a Communication on the second major package of Digital Single Market initiatives focusing on the strategy's third pillar, which aims to encourage the update of digital technologies by industry. The Committee welcomed the Commission's focus on engagement with industry, closer coordination between national and European initiatives, and use of the Better Regulation REFIT process, noting that this aligned well with the findings of the Committee's 2016 report on *Online Platforms and the Digital Single Market*.⁵⁵
113. In late 2016 the Government committed to sending quarterly updates on the Digital Single Market Strategy to scrutiny committees of both Houses. The first of these updates was received in March 2017.

⁵⁵ European Union Committee, *Online Platforms and the Digital Single Market* (10th Report, Session 2015–16, HL Paper 129)

Connectivity package

114. In September 2016 the European Commission proposed a package of measures aiming to place the EU at the forefront of Internet connectivity. The most significant elements of this package included a draft Directive for a European Electronic Communications Code and proposed reforms to the Body of European Regulators for Electronic Communications (BEREC).
115. The Sub-Committee held a one-off evidence session with Ofcom, BT Group Plc, Telefónica S.A., and Viber Media in February 2017, and also received written evidence from the UK Competitive Telecommunications Association. This evidence was used to inform a letter to the Commission outlining the Sub-Committee’s concerns regarding the implications of the proposals for investment and competition, digital exclusion areas, the universal service obligation, spectrum management, and ‘Over The Top’ services.

Posting of workers

116. In March 2016 the European Commission proposed to amend the Posting of Workers Directive, with a view to ensuring that posted workers across the EU should receive the same rates of pay as native workers, thereby promoting the principle that “the same work at the same place should be remunerated in the same manner”. The Sub-Committee found that the proposal raised important questions about how to balance the equal treatment of workers across the EU with competitiveness and free movement in the Single Market, and pressed the Government to provide a more thorough analysis of the proposal’s policy implications and to clarify its position on this initiative.
117. The Sub-Committee did not consider that the proposal breached the principle of subsidiarity but negotiations were delayed after 14 Member State Parliaments and Chambers, mostly from eastern Europe, issued Reasoned Opinions, thereby triggering a ‘yellow card’. After reviewing the proposal, the Commission indicated its intention to proceed, and working group discussions recommenced in September 2016. The Sub-Committee continued to seek further information on the Government’s assessment of the economic and legal implications of the proposal, as well as its justification for opting out of aspects related to the Rome I Regulation despite the lack of a Title V legal base.

Vehicle emissions

118. In June 2016, the Internal Market Sub-Committee visited the Millbrook vehicle emissions testing laboratory, as part of its scrutiny of a series of EU measures proposed following the Volkswagen emissions scandal in 2015. Members toured the facility’s full-scale crash test laboratory and test track. Members also visited the technology innovation centre, Transport Systems Catapult, to see a demonstration of a driverless car prototype.

*Home Affairs**Security Union*

119. In November 2016, the Home Affairs Sub-Committee was the first parliamentary committee to take evidence from the UK’s new European Commissioner, Sir Julian King, in connection to his responsibilities for the Security Union. On the Security Union, the Committee is currently

scrutinising proposed changes to the Anti-Money Laundering Directive and the Cash Control Regulation, among others.

Data protection

120. In February 2017, the Sub-Committee decided to launch an inquiry on Brexit and the EU Data Protection Package, following a one-off evidence session with the Minister for Digital and Culture, the Rt Hon Matt Hancock MP. The Sub-Committee is also scrutinising proposals related to data protection, including the Commission’s Communication on exchanging and protecting data in a globalised world, and a proposed Regulation on the processing of personal data by EU agencies.

Other scrutiny

121. In May 2016 the Sub-Committee decided to undertake a short inquiry to consider whether the United Kingdom should opt into the Commission’s proposal to reform the Dublin Regulation, which sets out the rules for determining which Member State is responsible for deciding on any asylum application made in the EU. In the wake of the June 2016 referendum, however, the question of whether the UK should opt into specific proposals in the field of Justice and Home Affairs was subsumed into wider questions about future UK-EU relations. The Sub-Committee therefore decided to terminate its inquiry, though it continues to hold a range of documents relating to the reform of the Common European Asylum System under scrutiny, including the proposals for a new Dublin Regulation and for a new Eurodac Regulation.
122. The Sub-Committee also continues to scrutinise proposed reforms to Schengen Border Management, for example the proposal for a European Travel Information and Authorisation System.

Justice

Scrutiny work

123. The EU Justice Sub-Committee began its consideration of a proposed Inter-Institutional Agreement that will reform the regulation and interaction of ‘lobbyists’ with the EU Institutions and a proposed Regulation introducing the mutual recognition of confiscation and freezing orders. The Justice Sub-Committee also continued its consideration of the Commission’s significant legislative proposals addressing the introduction of consumer protection rights for the purchase of digital content and the online sale of goods, and of the EU legislation providing for the EU’s accession to the Istanbul Convention on violence against women. In relation to the latter, the Committee continued to press the Government to explain why having signed the Convention in 2012 it had not yet ratified it here.

Corporate social responsibility

124. As part of ongoing cooperation with the French Assemblée Nationale on its proposed Green Card calling for EU legislation on Corporate Social Responsibility, Lord Cromwell travelled to Paris to represent the EU Justice Sub-Committee in discussions with the Assemblée.

CHAPTER 4: THE IMPACT OF OUR WORK

Influencing the debate

125. Our primary aim in our Brexit work has been to “stimulate informed debate in the House and beyond”.⁵⁶ We adopted that aim against the backdrop of the Government’s repeated refusal to give a ‘running commentary’ on its approach to Brexit, so a supporting aim of our work was to probe and cast light on the Government’s analysis of the key issues, thereby influencing its approach to the negotiations themselves.
126. Judged against those aims, we believe that our work has been largely successful. It was vital, in the aftermath of the referendum, and within the context of continuing controversy over Parliament’s role in authorising the notification of UK withdrawal under Article 50 TEU, and in approving any withdrawal agreement, that Parliament should also engage with the substance of Brexit, exposing the Government’s thinking to rigorous scrutiny, and giving stakeholders an opportunity to put their views on the record. Our inquiries and reports exemplify that parliamentary engagement, and have set a benchmark for committees of both Houses.
127. We have sought in particular to promote debate internally, within Parliament. With events moving so quickly, we suspended our normal practice of waiting up to two months for the Government to respond to a report before tabling a motion for debate. Instead we tabled motions immediately upon publication, and sought early debates, while offering as much flexibility as possible in the timing or organisation of those debates. For instance, we debated our report on *Brexit: parliamentary scrutiny* jointly with the Constitution Committee’s report on *The invoking of Article 50*,⁵⁷ while we used a Question for Short Debate to secure an early debate on our report on *Brexit: Gibraltar*.
128. Table 3 sets out the report debates that took place during the 2016–17 Session, including on reports published during the 2015–16 Session. In total, there were nine debates on EU Committee Brexit-related reports in the last session, with a further seven debates on other EU Committee reports. Debates lasted over two-and-a-half hours on average, with a total of 240 speeches from across the House. The percentage of speakers who were not members of the relevant EU Committee was over 63%.

56 European Union Committee, *Scrutinising Brexit: the role of Parliament* (1st Report, Session 2016–17, HL Paper 33), para 36

57 Constitution Committee, *The invoking of Article 50* (4th Report, Session 2016–17, HL Paper 44)

Table 3: Report debates

Report	Date of debate	Total members participating ⁵⁸	Members of the relevant committee	Other members of the House	Length of debate
Europe in the world: Towards a more effective EU foreign and security strategy	7 June 2016	17	6	11	3 hours
EU energy governance	13 June 2016	9	5	4	2 hours 32 minutes
The EU referendum and EU reform/ The process of withdrawing from the European Union	15 June 2016	31	6	25	4 hours 48 minutes

58 In the form of substantive speeches

Report	Date of debate	Total members participating	Members of the relevant committee	Other members of the House	Length of debate
The EU action plan against migrant smuggling/ Operation Sophia, the EU's naval mission in the Mediterranean: an impossible challenge	15 June 2016	20	11	9	2 hours 42 minutes
Children in crisis: unaccompanied migrant children in the EU	1 November 2017	13	5	8	2 hours 24 minutes
Completing Europe's Economic and Monetary Union	9 November 2016	10	4	6	1 hour 34 minutes

Report	Date of debate	Total members participating	Members of the relevant committee	Other members of the House	Length of debate
Online platforms and the Digital Single Market	9 November 2016	6	3	3	1 hour 14 minutes
Brexit: parliamentary scrutiny⁵⁹	22 November 2017	22	4	18	3 hours 40 minutes
Responding to price volatility: creating a more resilient agricultural sector	22 November 2016	9	4	5	1 hour 37 minutes
Brexit: fisheries	16 January 2017	13	7	6	2 hours 8 minutes
Brexit: future UK-EU police and security cooperation	7 February 2017	16	3	13	3 hours 24 minutes

⁵⁹ Debate held jointly on this report and the Constitution Committee report on *The Invoking of Article 50*.

Report	Date of debate	Total members participating	Members of the relevant committee	Other members of the House	Length of debate
Brexit: financial services	9 February 2017	10	4	6	1 hour 41 minutes
Brexit: the options for trade	2 March 2017	18	13	5	3 hours 17 minutes
Brexit: Gibraltar	21 March 2017	18	3	15	1 hour 27 minutes
Brexit: environment and climate change	23 March 2017	14	4	10	2 hours 28 minutes
Brexit and the EU budget	6 April 2017	14	6	8	2 hours 35 minutes
Average		15	5.5	9.5	2 hours 32 minutes

129. More broadly, while the Government’s consultations on Brexit have been conducted, for perhaps understandable reasons, largely in private, our inquiries have been a transparent process, allowing stakeholders in sectors as diverse as fisheries, law enforcement, aviation, manufacturing and financial services an opportunity to put their priorities and concerns on the public record. Even though time has been short, so that committees have not been able to publish formal calls for evidence, the response rate has been impressive. A total of 663 witnesses have responded to our Brexit-related inquiries, and 84 public meetings have been held to take evidence, at which 312 witnesses have appeared in person.
130. The impact of our reports upon Government is more difficult to assess, particularly given ministers’ continuing reticence to reveal their negotiating strategy and objectives. It is clear, though, from the number of comments by ministers on our reports, that our reports have been read across Government. For instance, a range of ministers, including the Chancellor of the Exchequer and ministers at the Department for Exiting the EU, commented on our report on *Brexit and the EU budget*.⁶⁰

Media coverage

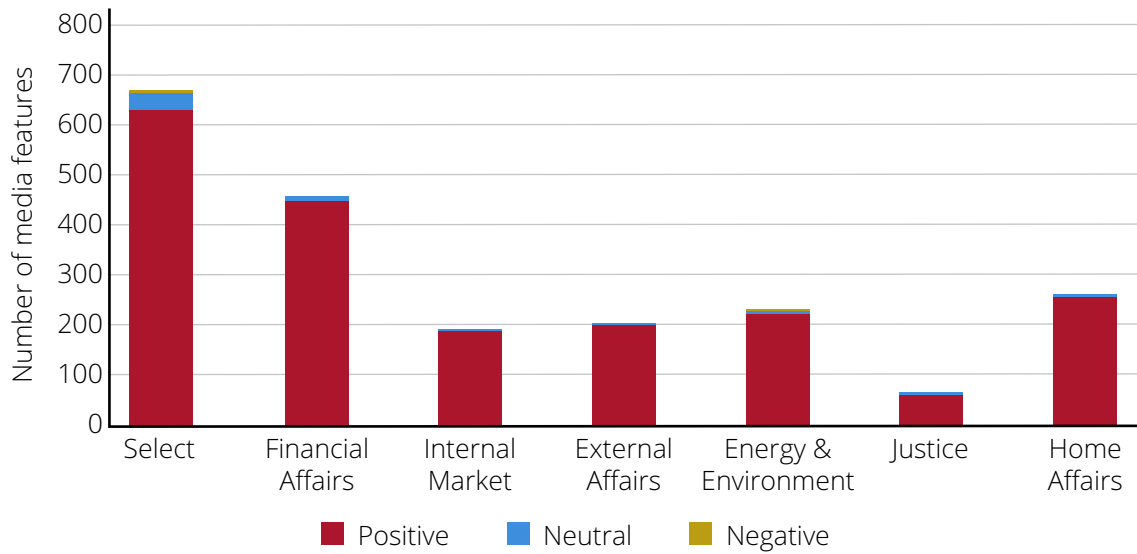
131. The 2016–17 Session also saw a significant increase in media coverage for the Committee’s Brexit reports, with our first ‘wave’ of six Brexit reports, which were published on successive days in the week beginning 12 December 2016, having a particularly dramatic impact.
132. It is important at the outset to underline the quality of media coverage of our Brexit reports, which showed that they were stimulating and influencing debate rather than merely generating headlines. For example, *The Guardian* created a bespoke (and unprecedented) ‘Lords Brexit reports’ online section, bringing together commentary on our reports, and thereby demonstrating the value of our cross-cutting and comprehensive programme of Brexit-themed inquiries.⁶¹ Moreover, the first report to appear, the Select Committee’s report on *Brexit: UK-Irish relations*, was launched simultaneously in London and Dublin, and was the subject of editorials on both sides of the Irish Sea.⁶² Richard Curran in the *Irish Independent* described it as signalling a “sea change in Anglo-Irish relations”, and there can be no doubt that it contributed to putting the future of UK-Irish relations firmly at the centre of Brexit negotiations.
133. As for the quantity of media coverage, the total number of articles about the EU Committees increased from 413 in 2015–16 to 1,861 in 2016–17. The number of positive articles increased from 390 to 1,851 in the same period.
134. Figure 2 shows the incidence and sentiment of media coverage in 2016–17, broken down by Committee, while Figure 3 shows the level of coverage for each Committee compared with 2015–16. All committee activity is included, not just Brexit work—though that work is the largest component.

60 See for instance the Chancellor of the Exchequer’s comments on the *Today* programme, 29 March 2017

61 ‘Lords Brexit reports’, *The Guardian*: <https://www.theguardian.com/politics/lords-brexit-reports> [accessed 23 May 2017]

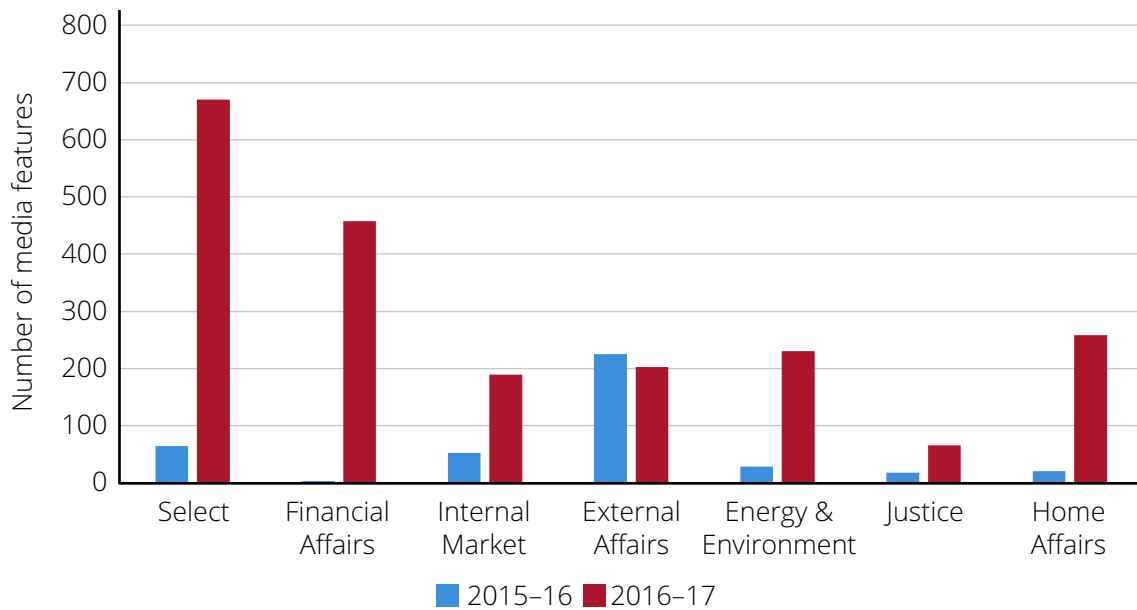
62 In *The Guardian*, *The Financial Times*, *The Irish Times*, and the Irish edition of *The Times*.

Figure 2: Media coverage by Committee and sentiment of that coverage for 2016–17 Session



Source: House of Lords Press Office

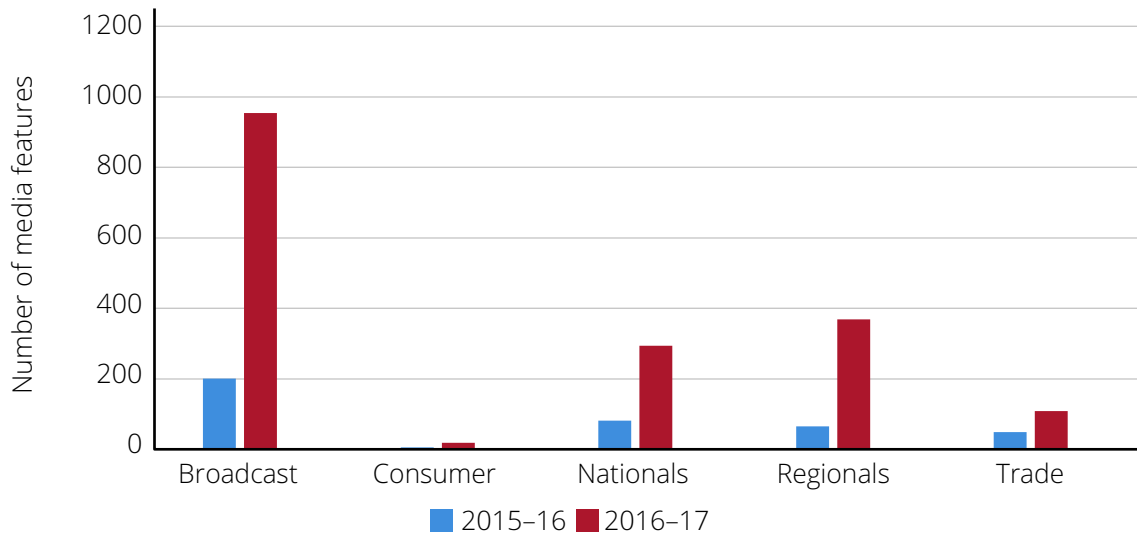
Figure 3: Media coverage by Committee for 2015–16 and 2016–17 Sessions



Source: House of Lords Press Office

135. Breaking down total coverage by media type shows that the 2016–17 Session saw particularly significant increases in broadcast and regional coverage. This is shown in Figure 4.

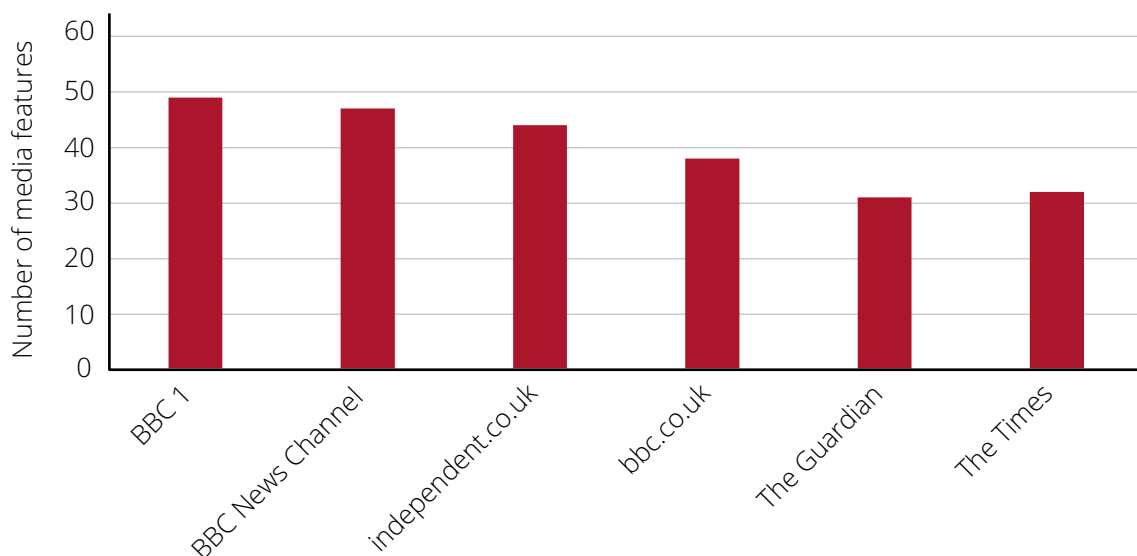
Figure 4: Committee coverage by media type for 2015–16 and 2016–17 Sessions



Source: House of Lords Press Office

136. Figure 5 shows the media outlets with the most incidence of coverage of all Lords EU Committees.

Figure 5: Leading sources of national coverage



Source: House of Lords Press Office

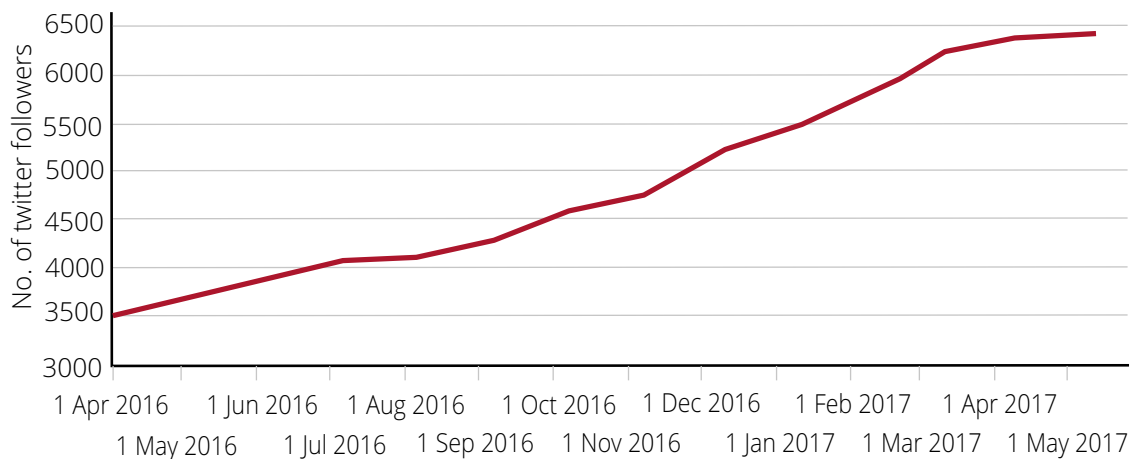
Social media coverage

137. In October 2014 a dedicated Twitter account for the Lords EU Committee was launched, with the handle @LordsEUCom. The account is maintained by Committee staff, and is used to communicate our scrutiny and inquiry work, as well as events such as international conferences, debates in the House and other relevant news. The two main aims of the account are:

- To raise awareness of the Committee and its work among those with an interest in EU issues, particularly individual members of the public; and
- To enable the staff of the Committee to promote the Committee’s work more directly to non-UK, particularly Brussels-based, organisations who might be unlikely to follow the existing House of Lords corporate Twitter account.

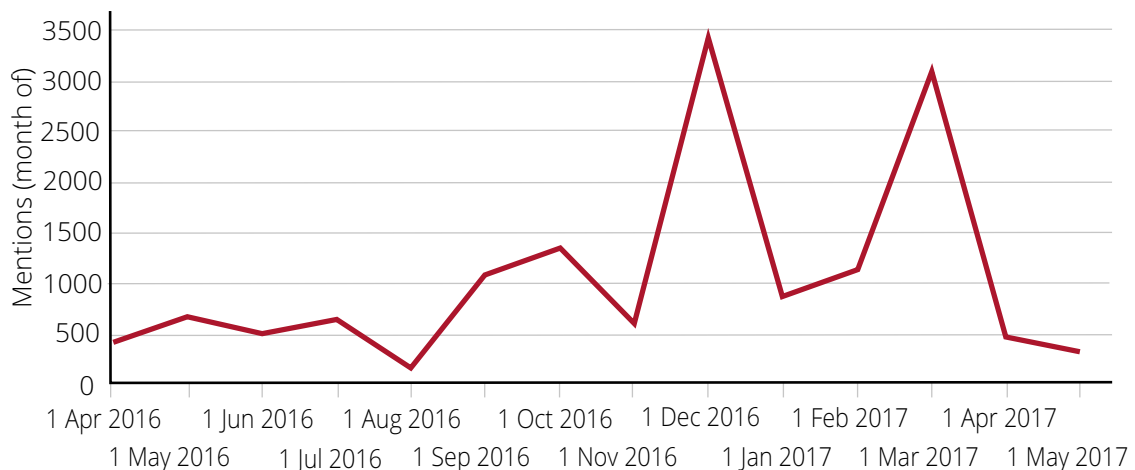
138. Success on social media can be measured in many ways. The simplest measure is total following. As Figure 6 shows, this rose consistently through the session. The rate of increase slowed after the dissolution of Parliament (at which point activity on the account was suspended), though there was a new influx of followers shortly before the State Opening of Parliament on 21 June (not reflected on this graph), taking the total following above 7,500.

Figure 6: Number of Twitter followers

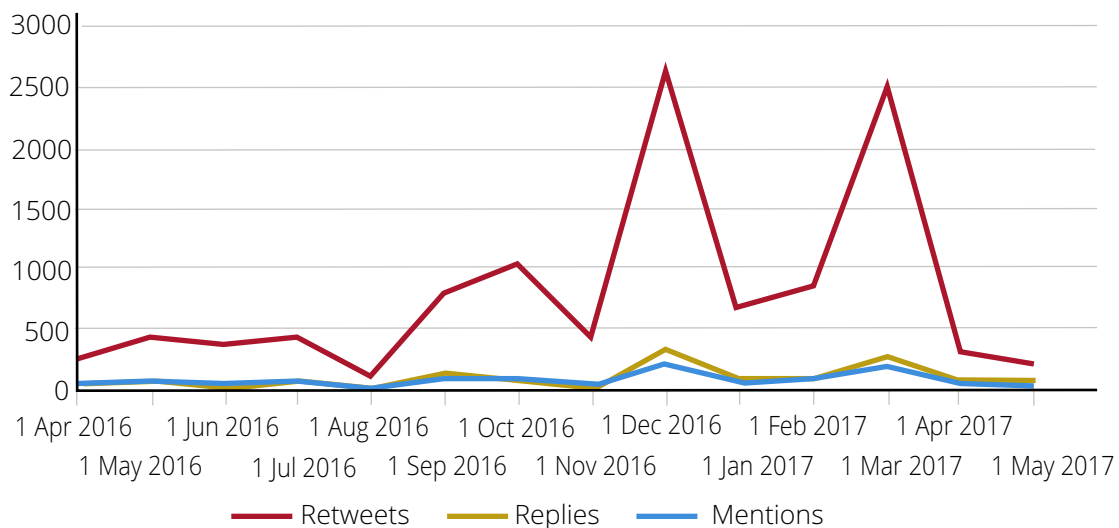


Source: House of Lords Press Office

139. Total following only tells part of the story: within the overall increase in followers, the Twitter account has continued to gain followers from EU institutions (including Commissioners and MEPs), other national parliaments, think-tanks, commentators, commercial organisations, and members of the general public—many of whom engage actively with our output.
140. The number of followers rose particularly rapidly during ‘Brexit week’ in December 2016, during which the EU Committee Twitter account posted 179 tweets and retweets, using in the process a more diverse range of images and graphics. These tweets were in turn retweeted 3,578 times.
141. Figures 7 and 8 illustrate the reach of the Twitter account.

Figure 7: Number of Twitter mentions (by month)

Source: House of Lords Press Office

Figure 8: Number of retweets, replies and mentions

Source: House of Lords Press Office

Interparliamentary cooperation

142. The Committee has also intensified its ongoing interparliamentary engagement, in particular in the context of Brexit. The Committee was represented at EU-level interparliamentary conferences, such as the Conference of European Affairs Committees of National Parliaments of the EU (COSAC), which was held in The Hague in June 2016 and in Bratislava in November, and bilateral meetings were held, both in London and in other capitals, with colleagues from the French Sénat, the German Bundesrat, the Dutch Tweede Kamer, the Irish Oireachtas, the Latvian Saeima, the Danish Folketing and the Portuguese Assembleia. The Committee has continued to engage with members of the European Parliament, including in a visit to Strasbourg, and in other fora.
143. The Committee also focused on intra-UK interparliamentary relations, with the Select Committee making visits in the course of the session to Belfast,

Cardiff and Edinburgh in the context of its inquiries into the implications of Brexit for UK-Irish relations and for devolution.

144. The European Chairs UK (ECUK) forum is an opportunity for the chairs 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 importance of this forum has been amplified in the context of Brexit. During the 2016–17 Session, the ECUK forum met in Cardiff in November 2016, and in March 2017 in a meeting hosted by the House of Lords. Together with the other members of the forum, we are investigating ways in which the work of the ECUK can be intensified during the Brexit negotiations.
145. Tripartite meetings bring together members of our Committee, members of the European Scrutiny and Exiting the EU Committees in the Commons, and UK MEPs. Members of the Committee attended a Tripartite meeting in Brussels in November, where Brexit was top of the agenda. The next Tripartite, to be hosted by the House of Lords, was scheduled for June 2017, but was postponed because of the general election, and will now take place in the autumn.
146. Members of the Committee also attended plenary and committee meetings of the British-Irish Parliamentary Assembly, in the context of that Assembly's own inquiries into the implications of Brexit for British-Irish relations.
147. Appendix 5 sets out in full the Committee's interparliamentary engagement during the 2016–17 Session.

CHAPTER 5: LOOKING AHEAD TO THE NEW SESSION

148. The result of the general election held on 8 June has raised significant questions over the previous Government's plans for delivering Brexit. It is too early to answer these questions, but it is already clear that, with at least eight bills relating to Brexit forming part of the Queen's Speech on 21 June 2017, these issues will dominate the domestic legislative agenda throughout the extended two-year session of Parliament. At the same time, the Government's loss of its majority means that it will need to have regard to a wide range of opinions in Parliament and beyond. The Government's likely reliance upon support from the Democratic Unionist Party may also influence how it goes about mitigating the effects of Brexit upon Northern Ireland.
149. Against this uncertain backdrop, and bearing in mind the commencement of formal negotiations between the UK Government and the European Commission on 19 June 2017, detailed and robust parliamentary scrutiny of the progress of the negotiations will be needed more than ever in the coming months. We will play our part in that scrutiny, cooperating wherever possible with other select committees in both Houses. We will seek to bring transparency to the process, in order both to hold the Government to account for its conduct of the negotiations, and to ensure that Parliament and the public can properly influence the outcome.
150. We will not be able to achieve these legitimate objectives unless the new Government is prepared to honour the last Government's commitments to match the level of transparency being shown by the EU institutions.
151. **We call on the new Government, as a matter of urgency, to bring forward specific proposals in fulfilment of the Secretary of State for Exiting the EU's commitment to provide the Westminster Parliament with at least as much information as the Commission provides to the European Parliament.**
152. We will continue to publish thematic reports on important issues arising in the Brexit negotiations. We will resume those inquiries that were paused at the dissolution of Parliament, which are listed at paragraph 15 of this report. We will launch new inquiries looking at different aspects of Brexit, while continuing to monitor progress on the core issues upon which we have already reported, including efforts to safeguard the rights of EU and UK nationals, and the settlement of any outstanding UK contributions to the EU budget.
153. Over time we will also turn our attention to longer term issues, such as the institutional structures for supporting the UK-EU relationship post-Brexit, whether judicial or quasi-judicial, or intergovernmental, as well as considering the options for future interparliamentary cooperation. When the time comes, we will scrutinise whatever agreements emerge from the Brexit negotiations, with a view to informing the 'meaningful votes' that the previous Government undertook to hold in both Houses before ratification.
154. We will also continue to perform our core function of scrutinising EU documents. As we have noted, the EU policies and legislation that are currently under discussion will be important to the UK, whether they come into force before or after Brexit. It is vital therefore both that the Government

continues to devote sufficient resource to supporting parliamentary scrutiny, and that scrutiny committees remain fully engaged with the process. At the same time, we acknowledge the demands that Brexit is placing on all departments, and we will continue to adopt a proportionate approach to scrutiny. In accordance with the practice adopted over the last 12 months, we will recommend reasoned opinions on EU legislation or debates on opt-in decisions only in exceptional circumstances.

155. **New EU laws and policies are still vitally important to the UK. While we acknowledge the successful completion of the Brexit negotiations is the new Government’s highest objective, we call on the Government at the same time to ensure that sufficient resources are available to support effective parliamentary scrutiny for as long as the UK remains part of the EU.**
156. The past session has seen a significant increase in the intensity of interparliamentary dialogue. This has reflected an understandable interest of parliamentarians across the EU in political developments in the UK—an interest that is likely to continue in the coming session. It is in the interests of all that we should continue to promote this dialogue—we are far more likely to secure a successful Brexit if parliamentarians in the UK and in the EU can communicate freely and share their priorities and concerns. We will therefore continue both to welcome parliamentarians from the EU to Westminster, and to send EU Committee Members to other capitals.
157. As part of this effort, we will also continue to develop a closer dialogue with the European Parliament, while respecting its distinct responsibilities in the context of the Brexit negotiations.
158. As our inquiry on *Brexit: devolution* has demonstrated, Brexit underlines the need for enhanced dialogue between the governments and legislatures of the UK itself. We have well-established channels of communication with colleagues in the House of Commons, and we visited Belfast, Cardiff and Edinburgh over the course of the past session, as well as holding meetings of committee chairs within the ECUK forum. We will consider in coming months whether existing structures for intra-UK dialogue are adequate, or whether they need to be strengthened in the run-up to Brexit.
159. **Brexit has increased the need for close dialogue between the Westminster Parliament, the European Parliament, and the parliaments of the other 27 EU Member States. We will continue to treat such dialogue as a high priority in the coming session. We will, in due course, also consider the institutional structure for maintaining close interparliamentary relations post-Brexit.**
160. **Brexit affects the devolved legislatures in the UK as much as it does the Westminster Parliament. In partnership with our colleagues around the UK, we will consider whether the existing structures for intra-UK interparliamentary dialogue are adequate, or whether they need to be strengthened in the run-up to Brexit.**
161. Finally, we are conscious that Brexit is a challenge facing the whole House of Lords, not just the EU Committee. Other Select Committees, notably the Constitution Committee, the Science and Technology Committee and the Joint Committee on Human Rights, have already undertaken important

work on Brexit, and other Committees will become more involved in the coming session. It is vital that the work of Select Committees is coordinated, to ensure that the House's resources are used to best effect, and we therefore welcome the appointment by the Liaison Committee of an Informal Brexit Liaison Group, composed of the chairs of Select Committees and chaired by the Senior Deputy Speaker.

162. We also note that during the new session the Liaison Committee will conduct a full review of committee work in the House of Lords. We will contribute constructively to the review, and will seek to ensure that, as we approach Brexit, the resources of the EU Committees are used flexibly and efficiently to support the vital work of the House as a whole.
163. **We will contribute constructively to the forthcoming Liaison Committee review of the committee work of the House of Lords. We will also seek to ensure that the resources of the EU Committees are used flexibly and efficiently in the coming session, to support the work of the whole House in scrutinising Brexit.**

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members of the EU Select Committee for the 2017–19 Session

Baroness Armstrong of Hill Top
 Lord Boswell of Aynho (Chairman)
 Baroness Brown of Cambridge
 Baroness Browning
 Lord Crisp
 Lord Cromwell
 Baroness Falkner of Margravine
 Lord Jay of Ewelme
 Baroness Kennedy of The Shaws
 The Earl of Kinnoull
 Lord Liddle
 Baroness Neville-Rolfe
 Lord Selkirk of Douglas
 Baroness Suttie
 Lord Teverson
 Baroness Verma
 Lord Whitty
 Baroness Wilcox
 Lord Woolmer of Leeds

Declarations of interest

Baroness Armstrong of Hill Top
Chair, Changing Lives (a charity based in Tyneside which may benefit from European Union funds)
Member, Advisory Board, GovNet Communications (publisher and event organiser)
Trustee, Africa Governing Initiative Trustee, Voluntary Service Overseas
Joint owner of a property in Spain

Lord Boswell of Aynho (Chairman)
In receipt of salary as Principal Deputy Chairman of Committees, House of Lords
Shareholdings as set out in the Register of Lords' Interests
Income is received as a Partner (with wife) from land and family farming business trading as EN & TE Boswell at Lower Aynho Grounds, Banbury, with separate rentals from cottage and grazing
Land at Great Leighs, Essex (one-eighth holding, with balance held by family interests), from which rental income is received
House in Banbury owned jointly with wife, from which rental income is received
Lower Aynho Grounds Farm, Northants/Oxon; this property is owned personally by the Member and not the Partnership

Baroness Brown of Cambridge
Vice Chancellor of Aston University (to September 2016): significant research income, ERDF Funding from EU. Large number of EU (non-UK) staff and students. EIB Loan
Vice Chair, Committee on Climate Change
Chair, Adaptation Sub-Committee, Committee on Climate Change
Chair, Henry Royce Institute for Advanced Materials
Chair, STEM Learning Ltd

Non-Executive Director, Green Investment Bank Non-Executive Director, Offshore Renewable Energy Catapult

Baroness Browning

Chair of the Advisory Committee on Business Appointments

Lord Crisp

No relevant interests declared

Lord Cromwell

Vice-President, Barclays Wealth and Investment Management (private banking services to individuals, families and charities) (interest ceased 15 June 2016)

Partner (not Head of Holding) in a farming partnership in Leicestershire with remuneration exceeding the registration threshold (from 6 April 2016)

Divisional Director, Brewin Dolphin plc (private client investment management) (from 1 January 2017)

Shareholdings as set out in the Register of Lords' Interests

Baroness Falkner of Margravine

Visiting Professor, King's College London

Member, Advisory Board, Cambridge YouGov Stone (market research and events agency)

Member, British Steering Committee: Koenigswinter, The British-German Conference

Vice President, Liberal International: The International Network of Liberal Parties (interest ceased in May 2017)

Member, Advisory Board, Demos

Ownership of a house in Italy, jointly owned with member's husband

Member, House of Lords Foreign Policy Network

Lord Jay of Ewelme

Trustee (Non-Executive Director) Thomson Reuters Founders Share Company Chairman, Positive Planet (UK)

Member, European Policy Forum Advisory Council

Member, Senior European Experts Group

Patron, Fair Trials International

Baroness Kennedy of The Shaws

Chair, Justice

Earl of Kinnoull

Executive Consultant, Hiscox Group (insurance)

Trustee, Blair Charitable Trust (running of Blair Castle and estate; a farm subsidy is received under the EU farm subsidy scheme)

Trustee, Red Squirrel Survival Trust and Director of associated private company (in receipt of EU funds)

Director, Horsecross Arts Limited (Perth) and trustee of related registered charity (in receipt of EU funds)

Member of Supervisory Board, Fine Art Fund Group funds

Farmland and associated cottages in Perthshire from which rental income is received and a farm subsidy is received under the EU farm subsidy scheme Shareholdings in Hiscox Ltd and Schroders PLC (fund management)

Lord Liddle

Co-Chair, Policy Network and Communications Ltd (think-tank)

Member, Cumbria County Council

Pro-Chancellor (chair of Board), Lancaster University

Personal assistant at Policy Network carries out secretarial work which includes work in relation to the member's parliamentary duties

Baroness Neville-Rolfe

Commercial Secretary (Minister of State) at Her Majesty's Treasury (interest ceased 15 June 2017) (interest as Minister of State at the Department for Business, Energy and Industrial Strategy ceased 21 December 2016)

Governor, London Business School

Lord Selkirk of Douglas

Director, Lennoxlove House Limited (remunerated as a Director)

Chairman of Directors, and Director, Douglas-Hamilton (D Share) Ltd (small family company: agriculture and property; the Member's financial interest derives from his directorship, which is now paid as an annual sum above the registration threshold)

President, Scottish Veterans' Garden City Association (national charity)

Chairman, Scottish Advisory Committee, Skill Force (national charity)

Diversified investment portfolio in McInroy & Wood Income Fund managed by third party

Baroness Suttie

Associate with Global Partners Governance Limited in respect of their Foreign and Commonwealth Office contract to provide mentoring and training for parliamentarians and their staff in Jordan

Trustee, Institute for Public Policy Research (IPPR)

Campaign Council Member, British Influence

Lord Teverson

In receipt of a pension from the European Parliament

Director, KCS Trade Print Ltd (card & label products)

Director, Wessex Investors Ltd

Director, Wessex Hotel Operators Limited (interest ceased 27 April 2016)

Director, KCS Holdings Ltd

Director, Anchorwood Developments Limited (property)

Board Member, Marine Management Organisation

Trustee, Regen SW (renewable energy agency for South West England)

Board Member, Policy Connect (think-tank)

Baroness Verma

No relevant interests declared

Lord Whitty

President, Road Safety Foundation

Chair, Cheshire Lehmann Fund

President, Environmental Protection UK

Member, GMB

Vice President, Local Government Association

Vice President, Chartered Institute for Trading Standards

Baroness Wilcox

Shareholdings as set out in the Register of Lords' Interests

Lord Woolmer of Leeds

No relevant interests declared

A full list of Members' interests can be found in the Register of Lords Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>

APPENDIX 2: SELECT COMMITTEE AND SUB-COMMITTEE MEMBERS IN 2016–17

Select Committee

Baroness Armstrong of Hill Top	Baroness Morris of Bolton (until September 2016)
Lord Boswell of Aynho (Chairman)	Baroness Prashar
Baroness Brown of Cambridge	Lord Selkirk of Douglas
Baroness Browning	Baroness Suttie
Baroness Falkner of Margravine	Lord Teverson
Lord Green of Hurstpierpoint	Lord Trees
Lord Jay of Ewelme	Baroness Verma (from September 2016)
Baroness Kennedy of The Shaws	Lord Whitty
Earl of Kinnoull	Baroness Wilcox
Lord Liddle	Lord Woolmer of Leeds (from December 2016)
Lord McFall of Alcluith (until July 2016)	

Energy and Environment Sub-Committee

Lord Cunningham of Felling	Lord Selkirk of Douglas
Lord Curry of Kirkharle	Baroness Sheehan
Viscount Hanworth	Lord Teverson (Chairman)
Lord Krebs	Lord Trees
Duke of Montrose	Viscount Ullswater
Lord Rooker	Baroness Wilcox

External Affairs Sub-Committee

Baroness Armstrong of Hill Top	Lord Risby
Lord Balfe	Lord Stirrup
Baroness Brown of Cambridge	Baroness Suttie
Lord Dubs	Baroness Symons of Vernham Dean
Lord Horam	Lord Triesman
Baroness Morris of Bolton (Chairman) (until September 2016)	Baroness Verma (Chairman) (from September 2016)
Earl of Oxford and Asquith	

Financial Affairs Sub-Committee

Lord Butler of Brockwell	Earl of Lindsay
Lord Callanan	Lord McFall of Alcluith (until July 2016)
Lord De Mauley	Baroness Mobarik (until July 2016)
Lord Desai (from July 2016)	Lord Shutt of Greetland
Baroness Falkner of Margravine (Chairman)	Lord Skidelsky
Lord Fink (from September until November 2016)	Duke of Wellington (from November 2016)
Lord Haskins	Lord Woolmer of Leeds
Baroness Liddell of Coatdyke (from December 2016)	

Home Affairs Sub-Committee

Baroness Browning	Lord O'Neill of Clackmannan
Lord Condon	Baroness Pinnock
Lord Cormack	Baroness Prashar (Chairman)
Baroness Janke	Lord Ribeiro
Lord Jay of Ewelme	Lord Soley
Baroness Massey of Darwen	Lord Watts

Internal Market Sub-Committee

Lord Aberdare	Lord Mawson
Baroness Donaghy	Baroness Noakes
Lord German	Baroness Randerson
Lord Green of Hurstpierpoint	Lord Rees of Ludlow
Lord Lansley	Lord Wei
Lord Liddle	Lord Whitty (Chairman)

Justice Sub-Committee

Lord Cromwell	Baroness Neuberger
Baroness Hughes of Stretford	Baroness Newlove
Lord Judd	Lord Oates
Baroness Kennedy of The Shaws (Chairman)	Lord Polak
Earl of Kinnoull	Lord Richard
Baroness Ludford	Baroness Shackleton of Belgravia

APPENDIX 3: TERMS OF REFERENCE, SCRUTINY RESERVE RESOLUTIONS AND ASHTON-LIDINGTON UNDERTAKINGS

Terms of reference

16 May 2013

- (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 co-operation 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—
 - (a) 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
 - (b) 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—
 - (a) agreement to a programme, plan or recommendation for European Union legislation;
 - (b) political agreement;
 - (c) agreement to a general approach;

- (d) 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
 - (e) 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—
- (a) if he considers that it is confidential, routine or trivial, or is substantially the same as a proposal on which scrutiny has been completed;
 - (b) if the European Union Committee has indicated that agreement need not be withheld pending completion of scrutiny; or
 - (c) 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.

Scrutiny of opt-ins

Ashton-Lidington undertakings

The “Ashton-Lidington undertakings”, originally reflecting commitments made by the then Leader of the House, Baroness Ashton of Upholland, in 2008, require Government departments to produce an EM within 10 working days of the publication of any proposal to which the UK opt-in applies, and to indicate the Government’s preliminary views on whether they will opt in. The Government will not reach a final view on the matter for eight weeks following publication, and will take account of any views expressed within that time by the EU Select Committee or the European Scrutiny Committee of the House of Commons. A Resolution formalising the eight-week scrutiny reserve was adopted on 30 March 2010, and is reproduced below.

Where the Committee makes a report to the House that it recommends for debate, the Government also undertakes to arrange a debate as soon as possible, on an amendable motion. The procedure for handling such reports was agreed by the House on 16 March 2010.⁶³

On 20 January 2011, the Minister for Europe, the Rt Hon David Lidington MP, made a Written Statement undertaking that the Government would continue to honour the Ashton undertakings, and would also extend them.⁶⁴ He committed to making “a written statement to Parliament on each opt-in decision, and the reasons for it”, and undertook to make an oral statement “where appropriate and

63 Procedure Committee, *The Lisbon Treaty: procedural implications; Standing Order 19; Private notice questions; Guidance on motions and questions* (2nd Report, Session 2009–10, HL Paper 51)

64 HL Deb, 20 January 2011, col [WS20-22](#)

necessary”. He urged the Houses’ EU Committees to “take full advantage of their existing right to call a debate on an amendable motion on any opt-in decision”. He also undertook to set aside Government time for a debate where there was a “particularly strong Parliamentary interest”. In addition, the Government’s commitments were extended to proposals to opt out of Schengen-building measures under Article 5(2) of Protocol 19, which had not been specifically mentioned in the Ashton undertakings.

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—
 - (a) in every such case, to the European Union Committee at the first opportunity after giving that authorisation; and
 - (b) 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 4: REPORTS PUBLISHED AND REPORT DEBATES

Report [Sub-Committee Responsible]	Published	Government response received	Debated in the House of Lords
Scrutinising Brexit: the role of Parliament (1st Report, Session 2016–17, HL Paper 33) [Select]	22 July 2016	26 January 2017	22 November 2016
Children in crisis: unaccompanied migrant children in the EU (2nd Report, Session 2016–17, HL Paper 34) [Home Affairs]	26 July 2016	1 November 2016	1 November 2016
Report on 2015–16 (3rd Report, Session 2016–17, HL Paper 35) [Select]	28 July 2016	N/A	N/A
Brexit: parliamentary scrutiny (4th Report, Session 2016–17, HL Paper 50) [Select]	20 October 2016	26 January 2017	22 November 2016
Brexit: the options for trade (5th Report, Session 2016–17, HL Paper 72) [Internal Market and External Affairs]	13 December 2016	28 February 2017	2 March 2017
Brexit: UK-Irish relations (6th Report, Session 2016–17, HL Paper 76) [Select]	12 December 2016	Not yet received	Not yet debated
Brexit: future UK-EU security and police cooperation (7th Report, Session 2016–17, HL Paper 77) [Home Affairs]	16 December 2016	Not yet received	7 February 2017
Brexit: fisheries (8th Report, HL Session 2016–17, Paper 78) [Energy and Environment]	17 December 2016	14 March 2017	16 January 2017
Brexit: financial services (9th Report, Session 2016–17, HL Paper 81) [Financial Affairs]	15 December 2016	20 March 2017	9 February 2017
Brexit: acquired rights (10th Report, Session 2016–17, HL Paper 82) [Justice]	14 December 2016	Not yet received	Not yet debated

Report [Sub-Committee Responsible]	Published	Government response received	Debated in the House of Lords
The legality of EU sanctions (11th Report, Session 2016-17, HL Paper 102) [Justice]	2 February 2017	6 April 2017	N/A
Brexit: environment and climate change (12th Report, Session 2016-17, HL Paper 109) [Energy and Environment]	14 February 2017	16 April 2017	23 March 2017
Brexit: Gibraltar (13th Report, Session 2016-17, HL Paper 116) [Select]	1 March 2017	Not yet received	21 March 2017
Brexit: UK-EU movement of people (14th Report, Session 2016-17, HL Paper 121) [Home Affairs]	6 March 2017	Not yet received	Not yet debated
Brexit and the EU budget (15th Report, Session 2016-17, HL Paper 125) [Financial Affairs]	4 March 2017	Not yet received	6 April 2017
Brexit: trade in goods (16th Report, Session 2016-17, HL Paper 129) [External Affairs]	14 March 2017	Not yet received	Not yet debated
Brexit: justice for families, individuals and businesses? (17th Report, Session 2016-17, HL Paper 134) [Justice]	20 March 2017	Not yet received	Not yet debated
Brexit: trade in non-financial services (18th Report, Session 2016-17, HL Paper 135) [Internal Market]	22 March 2017	Not yet received	Not yet debated
Brexit: the Crown Dependencies (19th Report, Session 2016-17, HL Paper 136) [Select]	23 March 2017	Not yet received	Not yet debated
Brexit: agriculture (20th Report, Session 2016-17, HL Paper 169) [Energy and Environment]	3 May 2017	Not yet received	Not yet debated

APPENDIX 5: INTERPARLIAMENTARY MEETINGS

Date	Event	Location	Delegation
12–14 June 2016	LV COSAC	The Hague	Baroness Armstrong of Hill Top Lord Boswell of Aynho Baroness Falkner of Margravine
10–11 July 2016	COSAC Chairpersons conference	Bratislava	Lord Boswell of Aynho
11–12 July 2016	Franco-British parliamentary meeting on the Lancaster House Treaties	Paris	Lord Stirrup
12 July 2016	Committee meeting with the Turkish Parliament Foreign Affairs Committee	London	Lord Boswell of Aynho Lord Balfe Baroness Brown of Cambridge Baroness Browning Baroness Falkner of Margravine Lord Green of Hurstpierpoint The Earl of Kinnoull Lord McFall of Alcluith Baroness Prashar Lord Selkirk of Douglas Baroness Suttie Lord Teverson Lord Whitty Baroness Wilcox
16–18 October 2016	Interparliamentary conference on stability, economic coordination and governance in the European Union	Bratislava	Baroness Falkner of Margravine

Date	Event	Location	Delegation
17 October 2016	Committee meeting on Brexit: UK-Irish relations with Northern Ireland Assembly Committee on the Executive Office	Belfast	Baroness Armstrong of Hill Top Lord Boswell of Aynho Baroness Browning Lord Jay of Ewelme Lord Selkirk of Douglas Lord Whitty Baroness Wilcox
18 October 2016	Committee meeting on Brexit: UK-Irish relations with Irish Oireachtas Committees on European Affairs and Implementation of the Good Friday Agreement	Dublin	Baroness Armstrong of Hill Top Lord Boswell of Aynho Baroness Browning Lord Jay of Ewelme Lord Selkirk of Douglas Lord Whitty
19 October 2016	Meeting on Brexit with the French Sénat European Affairs Committee	Paris	Lord Green of Hurstpierpoint Lord Jay of Ewelme
13–15 November 2016	LVI COSAC	Bratislava	Lord Boswell of Aynho Lord Teverson
28 November 2016	European Parliament LIBE Committee interparliamentary committee meeting on scrutiny of Europol	Brussels	Lord Soley
30 November 2016	Tripartite	Brussels	Lord Boswell of Aynho Baroness Browning Baroness Falkner of Margravine Earl of Kinnoull Baroness Wilcox

Date	Event	Location	Delegation
5 December 2016	European Chairs UK Forum	Cardiff	Lord Boswell of Aynho
22–23 January 2017	COSAC Chairpersons conference	Valletta	Lord Boswell of Aynho
1 February 2017	Committee meeting on Brexit: devolution with Scottish Parliament Culture, Tourism, Europe and External Relations Committee	Edinburgh	Lord Boswell of Aynho Lord Selkirk of Douglas Baroness Suttie Lord Whitty Baroness Wilcox
6 February 2017	Committee meeting on Brexit with the Dutch Tweede Kamer Committee on European Affairs	London	Baroness Armstrong of Hill Top Lord Boswell of Aynho Baroness Brown of Cambridge Baroness Falkner of Margravine Lord Jay of Ewelme The Earl of Kinnoull Lord Liddle Baroness Suttie Lord Teverson Baroness Verma Baroness Wilcox

Date	Event	Location	Delegation
6 February 2017	Committee meeting on Brexit with the French Sénat Brexit Committee	London	Baroness Armstrong of Hill Top Lord Boswell of Aynho Baroness Brown of Cambridge Baroness Falkner of Margravine Lord Jay of Ewelme The Earl of Kinnoull Lord Liddle Baroness Suttie Lord Teverson Baroness Verma Baroness Wilcox
7 February 2017	Committee meeting on Brexit: devolution with National Assembly of Wales External Affairs and Additional Legislation Committee	Cardiff	Baroness Armstrong of Hill Top Lord Boswell of Aynho Lord Jay of Ewelme Earl of Kinnoull Lord Selkirk of Douglas Lord Whitty
21 February 2017	Franco-British parliamentary meeting on the Lancaster House Treaties	London	Lord Stirrup Baroness Verma
28 February 2017	European Parliament LIBE Committee interparliamentary committee meeting on scrutiny of Europol	Brussels	Lord Soley
6 March 2017	European Chairs UK Forum	London	Lord Boswell of Aynho

Date	Event	Location	Delegation
23–24 March 2017	Interparliamentary meeting of Chairpersons of Committees on Social Affairs	Floriana	Lord Whitty
5 April 2017	Meeting on Brexit with German Bundesrat Committee on European Affairs	Berlin	Baroness Falkner of Margravine Lord Jay of Ewelme
5 April 2017	Meeting on Brexit with Portuguese Assembleia da Republica European Affairs Committee	Lisbon	Lord Boswell of Aynho
6 April 2017	Interparliamentary meeting of Chairpersons of Economic and Environmental Affairs Committees	Valletta	Lord Teverson
24 April 2017	Committee meeting on Brexit with the Latvian Saeima European Affairs Committee	London	Lord Boswell of Aynho Baroness Brown of Cambridge Baroness Browning Baroness Falkner of Margravine Lord Jay of Ewelme Baroness Kennedy of The Shaws Lord Selkirk of Douglas Lord Teverson Baroness Verma Lord Whitty Baroness Wilcox

Date	Event	Location	Delegation
24 April 2017	Committee meeting on Brexit with the Danish Folketing European Affairs Committee	London	Lord Boswell of Aynho Baroness Brown of Cambridge Baroness Browning Baroness Falkner of Margravine Lord Jay of Ewelme Baroness Kennedy of The Shaws Lord Selkirk of Douglas Lord Teverson Baroness Verma Lord Whitty Baroness Wilcox